

**ORDINANCE NO. 665**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
ADDING CHAPTER 8.26 TO TITLE 8 OF THE MORRO BAY  
MUNICIPAL CODE REGULATING CAMPING AND STORAGE OF  
PERSONAL PROPERTY ON PUBLIC PROPERTY TO MITIGATE HARM  
TO PUBLIC HEALTH, SAFETY AND WELFARE**

**THE CITY COUNCIL  
City of Morro Bay, California**

**WHEREAS**, the City of Morro Bay ("City") encourages the use of open spaces and facilities within the City by all members of the community; and

**WHEREAS**, camping in undesignated campsites within the City limits creates unsanitary, unhealthy, disorderly, and dangerous conditions that may affect both the campers and the general public; and

**WHEREAS**, camping in undesignated campsites within the City limits tends to degrade and even destroy the property upon which the camping is occurring, particularly in situations where an encampment is large and ongoing; and

**WHEREAS**, camping in undesignated campsites within the City limits detracts from the use of the property for its intended purposes; and

**WHEREAS**, the City has the authority to adopt regulations to ensure the public's health, safety, and general welfare, and desires to regulate camping within the City; and

**WHEREAS**, a federal Ninth Circuit Court of Appeals decision, *Martin v. City of Boise*, 920 F.3d 584 (9<sup>th</sup> Cir. 2019) ("Martin"), prohibits criminal prosecution for sleeping outside on public property when adequate shelter is not reasonably available for persons involuntarily experiencing homelessness, based upon an interpretation of the Cruel and Unusual Punishments Clause of the U.S. Constitution's Eight Amendment; and

**WHEREAS**, the federal Ninth Circuit court suggested in its decision in *Martin* that the prohibition on criminal prosecution would not apply to individuals who have reasonable access to adequate temporary shelter; and

**WHEREAS**, the Ninth Circuit court in *Martin* suggested that even when adequate shelter is unavailable, an ordinance establishing reasonable time, place and manner regulations on sitting, lying or sleeping may be allowed under the U.S. Constitution when the regulations are to address legitimate public health and safety concerns; and

**WHEREAS**, the federal Ninth Circuit court in the case of *Johnson v. City of Grants Pass*, 72 F.4<sup>th</sup> 868 (9<sup>th</sup> Cir. 2023) (“Grants Pass”) expanded upon its decision in *Martin* to prohibit civil enforcement for sleeping outside when adequate shelter is not reasonably available for persons involuntarily experiencing homelessness if civil enforcement can lead to criminal enforcement; and

**WHEREAS**, for many years the City has invested significant funds, resources and time to assist persons experiencing homelessness to find temporary and permanent shelter and necessary public health services to address the causes of their homelessness, has sought to address the underlying issues contributing to homelessness and has striven to be a part of the solution. These City of Morro Bay actions and efforts have included:

1. City staff and City Manager participation on committees and sub-committees with service groups, County non-profits, and County Public Health Services to address causes of homelessness and work towards solutions.
2. Assignments of officers to the police department as a homeless liaison to address needs of the unhoused within the City limits.
3. Provision of connections to County Public Health Nurse and Doctors.
4. Facilitating connections to local and regional outreach services to assist with mental health needs, drug and alcohol counselors, probation and parole services, connections to permanent housing (THEMA, CAPSLO, 805 Street Outreach, Esteros Bay Alliance for Care, Salvation Army, SLO Food Bank, County Public Health and Behavioral Health services).
5. Monthly meetings with Estero Bay Alliance for Care (EBAC), a local, ad-hoc volunteer organization started in 2011 by Morro Bay Council Members to include different agencies and community organizations with the intent to study and address social issues in the Estero Bay area. EBAC membership includes a current Morro Bay City Council member, representatives from the Police Department, Social Services, local churches, health care organizations, the Food Group, various other active organizations, such as the Community Resource Connections office, and legal services organizations.
6. The City of Morro Bay supports with financial and staffing resources a one-of-a kind weekly community dinner - where all are welcome - in an effort to support our community needs.
7. In 2022, the Morro Bay City Manager created a City homeless working group comprised of City department heads, staff and homeless outreach service groups to address homelessness in Morro Bay. One of the first items the team addressed was the need for continued outreach and case management. The City conducted a recruitment for Homeless Outreach Case Manager. The Homeless Outreach Case Manager is one step in the City’s efforts to meet the San Luis Obispo Countywide plan to address homelessness adopted by the County Homeless Services Oversight Council in 2022.
8. The Homeless Outreach Case Manager assists those experiencing homelessness to navigate services and to connect to resources that they need to secure housing, as well as

shelter and transitional housing resources when available (e.g., ID Cards, financial benefits, transportation to service meetings and appointments). Duties include to make contact with unhoused or people struggling with housing in the field, build rapport and provide opportunities for assistance to those seeking help. The case manager schedules and provides transportation to appointments for drug and alcohol services, county probation, state parole, behavioral health, CAPSLO, ECHO, and THMA.

9. City of Morro Bay provides annual funding to San Luis Obispo County Department of Social Services and Public Health.
10. Regular meetings with homeless outreach groups such as CAPSLO, THMA, County Public Health, Salvation Army, Veteran Services, 805 Street Outreach, and EBAC.
11. The City committed \$25,000 in housing impact in lieu fees to the HASLO Atascadero Rd Housing Project.
12. The City has transferred the City's portion of the National Opioid Settlement back to San Luis Obispo County to manage a regional effort to combat opioid related issues that directly impact our unhoused population.

**WHEREAS**, despite the City's efforts the Police and Fire Departments have found that a significant number of the City's homeless population routinely decline the City's offers of help for various reasons including many people experiencing homelessness refuse to accept services and refuse to move from encampments. Some of the homeless actually have access to temporary shelter but choose not to use it, and, therefore, of the City's estimated population of persons experiencing homelessness, the Police and Fire Departments estimates less than ten percent of the City's homeless population would be categorized as involuntarily homeless; and

**WHEREAS**, the City has experienced significant and continuing threats to public health and safety resulting from persons experiencing homelessness sleeping and camping in unauthorized locations in the City, including the following:

1. Homeless encampments raise a number of public health concerns related to waste, sanitation and disease transmission. Homeless people, like all other people, generate solid waste during their daily activities of food preparation and consumption, shelter building and maintenance and storing their possessions. Though without any place or method of proper storage or disposal, the resulting piles of trash become food sources for rodents, breeding grounds for pathogens, fuel for fires, and unattractive nuisances to the public.
2. The opportunity for the spread of communicable diseases is increased in homeless encampments lacking basic sanitation services and waste collection, with some diseases such as hepatitis A and typhus more likely to occur in homeless populations.
3. Health and safety issues are presented by the violation of fire, building, electrical and other codes and standards for the public health and safety, including the unauthorized and unpermitted use of electrical and utility connections, due to the potential and reality of unsafe and unhealthy conditions in encampments, posing life, safety, fire and health threats to both the occupants of the encampments, the general public and emergency responders.

4. Health and safety issues are exacerbated and compounded by larger encampments as there is an exponential increase in these health and safety issues the larger the encampment, including but not limited to both accumulation of trash and debris as well as the greater likelihood of the spread of disease.
5. The City regularly receives a large volume of emails, phone calls and in-person complaints regarding the encampments in the City, and the frequency and number of these complaints has been increasing greatly recently and in the last year.
6. The homelessness problem in Morro Bay impacts crime rates. Homelessness related crime rates are significant both in terms of crimes against the homeless and also crimes committed by the homeless. The Morro Bay Police Department estimates a call volume of 60% of total calls for service are related to our unhoused population.
7. Business owners and residents near encampments are confronted by trash, used needles, and human waste, and increased instances of open drug use, property damage, theft, and break-ins. They have seen their property values decline, their small businesses fail, and their public spaces become uninhabitable.
8. Businesses and residences near encampments experience physical impediments to access to public and private property which both impedes emergency responses, evacuation of occupants during an emergency, and general public access, as well as exacerbates the likelihood of conflict, intimidations and threats to the public safety for both the unhoused as well as all members of the public, and furthermore the collection of biohazard materials, human waste, trash and rubbish near businesses and residential areas contributes to a general decline in public health, safety and welfare.
9. Encampments near emergency shelters established for emergency evacuations during events such as winter rain storms can cause barriers to access for evacuees.
10. Encampments near active construction sites, areas with heavy vehicle use, and similar areas pose unique threats to both the unhoused as well as the operators of construction equipment and vehicles through unintentional yet predictable collisions and threats to health and safety.
11. Encampments on or near public utilities and critical infrastructure, such as stormwater, water and sewer infrastructure, fire stations, electrical wires and natural gas pipelines, pose unique safety, environmental and security issues and are generally closed to the public or have limited public access for safety, environmental and security reasons.
12. Unauthorized connections or taps to public utilities, as well as violation of fire, building, electrical and other codes and standards, create unsafe conditions and a potential life safety hazard for the occupant, the general public and emergency responders.
13. Encampments pose immense public health concerns as the rates of overdoses from drugs like fentanyl and heroin have increased substantially among the unhoused and encampments can provide an environment conducive to illegal drug consumption.
14. Abandoned encampment cleanups are performed by police officers with police equipment and City staff in an attempt to maintain and or control the spread of large

encampments and this taxes public resources while unnecessarily exposing first responders and City staff to unhealthy and unsafe situations.

15. Fires in unsafe locations for cooking and warming occur at encampments increasing the risk of fires posing a threat to safety and health.
16. Accumulation of biohazard and medical waste occurs in and around encampments and these items end up in our creeks, storm drains, waterways, and beaches posing a direct threat to health and safety.
17. Severe blockage of storm drains due to excessive encampment debris leads to increased roadway and stream flooding and drain blockages during storms causing threats to health and safety.
18. During times of severe storms, unhoused camps are located in and evacuated from low lying, unsafe areas, and storm drains due to increased risk of flooding, rapid water movement, and blockage of storm drains, posing safety threats to the residents of the encampments; and

**WHEREAS**, in light of these significant and continuing threats to public health and safety, the City seeks to adopt reasonable time, place and manner regulations in a manner consistent with the federal Ninth Circuit court's decisions in *Martin* and *Grants Pass*; and

**WHEREAS**, the City finds that reasonable camping regulations for public property will best serve the public's health, safety, and general welfare.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS.** The recitals set forth above are true and correct and are hereby adopted as findings in support of this Ordinance as if fully set forth herein.

**SECTIONS 2. NEW CHAPTER 8.26 ADDED TO CODE.** Chapter 8.26 is added to Title 8 of the Morro Bay Municipal Code to read as follows:

**"CHAPTER 8.26 – PUBLIC PROPERTY CAMPING REGULATIONS**

**8.26.010 FINDINGS AND PURPOSE**

- A. As the City continues to offer assistance and services to persons experiencing homelessness, the City must appropriately consider various interests and formulate policy to best protect public health, safety, welfare, property, and the environment, with its limited resources.
- B. The City Council acknowledges that at the time of the adoption of this ordinance, there is a lack of nightly shelter beds and housing available regionally for persons experiencing homelessness and recognizes the systemic lack of state and federal investment in shelter and public health services for those experiencing homelessness.

- C. The City Council acknowledges that it is currently unavoidable that some persons will live or shelter for survival outdoors until they are able to access affordable or free shelter or housing. In Morro Bay, this has typically meant sheltering, sometimes for extended periods of time, on City rights-of-way and City property, and at times on other public agency property such as the California Department of Parks and Recreation property.
- D. Public rights-of-way and public property are generally intended for public use and travel. The City Council is the authority for rights-of-way within the City; as such, the City must consider the safety of motorists and pedestrians travelling on roadways and sidewalks, including to and from neighboring properties, businesses, and residences.
- E. The City owns limited property where camping can or should be allowed for reasons including but not limited to public health and safety concerns and issues created by the impact of camping on public property.
- F. The City has had increasing concerns regarding public health and safety due to camping on or in rights-of way and public property in or near streets, roads, sidewalks, schools, residences, businesses, critical infrastructure, public access points and similar locations. Public utility properties (e.g., stormwater, water, sewer) are environmentally and operationally sensitive and generally closed to the public or have limited access for safety, environmental and security reasons.
- G. Over the long term and working with other governmental agencies and non-profit organizations, the City's goal is that people should not have to live outside and there should be safer options because long-term camping for survival and sheltering outside is not a solution for people without homes.
- H. It is the purpose and intent of the City Council to provide standards for camping and survival sheltering on City rights-of-way and public property, which are intended to be as compatible as possible with the needs of everyone in Morro Bay to be healthy, safe, and have access to public places.
- I. Smaller camp sites support both the health and safety of people who are camping for survival on public property as well as the health and safety of the public.
- J. It is the purpose and intent of the City Council to provide standards for camping and survival sheltering on City rights-of-way and public property which will address issues such as fire risk, unsanitary conditions, health risks, public infrastructure security, public access impediments, trash, waste and public safety hazards to both people camping as well as neighboring businesses, residents and community members, as well as environmental degradation, which have occurred with longer-term camping in the City.
- K. It is the intent of the City to evaluate each removal of an Established Campsite with considerations of public health and safety, including for the people who are sheltering in the camps, potential user conflicts, and available resources. The City intends to use a team approach and coordinate with other governmental agencies and non-profit organizations as appropriate. When the City requires a person experiencing homelessness to remove an Established Campsite, through these regulations, it intends to provide the person

adequate time to remove the Established Campsite before the City removes the Established Campsite, to secure any personal property with reasonable utility or reasonable value for the person to retrieve at a later date, and to clean the former Established Campsite to address threats to public health and safety.

#### **8.26.020 DEFINITIONS**

The following words and phrases, when used in this Chapter, shall have the meaning ascribed to them by this section unless it is apparent from the context that another meaning is intended.

- A. "Camp" or "Camping" means residing in or using any public property for one or more nights for living accommodation purposes, such as sleeping activities or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or using any tents, or storing personal belongings (including but not limited to clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, and similar material), or making any fire using Bunsen burners or other heating items, or regularly cooking meals. These activities constitute camping when it reasonably appears, in light of all the circumstances, that a person is using public property as a living accommodation for one or more nights, with the intent to camp.
- B. "Camp Facilities" include, but are not limited to, tents, huts, or similar temporary shelters consisting of any material with a top or roof or any other upper covering or that is otherwise enclosed by sides that is of sufficient size for a person to fit underneath or inside while sitting or lying down and includes the use of a tarp or other material tied or affixed to a structure or bush to create an enclosed area.
- C. "Camp Materials" includes but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, shopping carts, recyclable material and/or non-City designated cooking or heating facilities and similar equipment, or personal possessions that would facilitate one's use of a park, public property, or any portion of the public right-of-way as a temporary residence.
- D. "Critical Infrastructure" means real property or a facility, whether privately or publicly owned, that the City Manager designates as being so vital and integral to the operation or functioning of the City or in need of protection that its damage, incapacity, disruption, or destruction would have a debilitating impact on the public health, safety, or welfare. Critical infrastructure may include, but is not limited to, government buildings, such as fire stations, police stations, jails, or courthouses; hospitals; structures, such as antennas, bridges, roads, train tracks, drainage systems, or levees; or systems, such as computer networks, public utilities, electrical wires, natural gas pipes, telecommunication centers, or water sources.

- E. "Enforcement Personnel" means the employee(s) of the City, including but not limited to sworn police officers, authorized by the City to seek compliance with, and enforce, the regulations, requirements and rules of this Chapter.
- F. "Established Campsite" means a location or locations in the public right-of-way or on City property where a Camp, Camps, and/or Camp Materials have been set up for twenty-four (24) hours or more.
- G. "Fire Severity Zones" means mapped area as defined by the Office of State Fire Marshal that designates zones (based on factors such as fuel, slope, and fire weather) with varying degrees of fire hazard (i.e., moderate, high, and very high).
- H. "Greywater" means untreated wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines and the like. It does not include any toilet discharge, unhealthy bodily wastes, or manufacturing wastes.
- I. "Hazardous Water" means sewage, toilet discharge, unhealthy bodily wastes, manufacturing wastes and the like.
- J. "Landscaped Area" means any manicured or natural ground covered areas including but not limited to flower beds, bushes, brush areas, or shrubs.
- K. "Personal Property" means any tangible property and includes, but is not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, blankets, sleeping bags, personal items such as household items, luggage, backpacks, clothing, food, documents, and medication.
- L. "Playground" means any park or recreational area specifically designed to be used by children that has play equipment installed, or any similar facility located on public or private school grounds, or on City, county, or State park grounds.
- M. "Public Property" means any publicly owned property in the City, whether improved or unimproved, including, but not limited to, any of the following: public alleyways; public parking lots; public passageways; public streets; public rights-of-way; park Playgrounds; freeway on-ramps and off-ramps; publicly owned, maintained, or operated parks; publicly owned, maintained, or operated landscaped areas or greenbelts; publicly owned fences, trees, light poles, or equipment boxes; publicly owned, maintained, or operated open spaces including, but not limited to, public facilities or buildings of any kind; public sidewalks, curbs, and gutters; public educational institutions; or other government owned, maintained, or operated properties located within the City.



- N. "Public Utilities" means every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof, as defined by Public Utilities Code section 216, and as amended.
- O. "Rights-of-Way" means all City-owned or controlled rights-of-way, whether in fee title or as holder of a public easement for right-of-way or public access purposes. Public rights-of-way include but are not limited to any public road, street, sidewalk, or private street or other property that is subject to a public access easement dedicated or granted to the City for vehicular use, pedestrian use, utilities or other means, and any planter strip or landscaped area located adjacent to or contained within streets that is part of the public right-of-way.
- P. "School" means any institution, facility or organization, whether public or private, that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education. School for purposes of this section does not include a vocational or professional institutions of higher education, including a community or junior college, college, or university. The setback shall be calculated from the school property boundaries.
- Q. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- R. "Transportation Facility Loading Area" means that area within 200 feet of where trains, buses or any form of public transportation loads or unloads passengers.
- S. "Vehicle" means a "motor vehicle" as defined by California Vehicle Code, section 415 and includes a "recreational vehicle" as defined by California Health and Safety Code, section 18010(a).

#### **8.26.030 TIME, PLACE AND MANNER REGULATIONS**

Persons who do not have any other permanent residence or domicile and/or are involuntarily experiencing homelessness are permitted to camp on public property or rights of-way, provided the camping is occurring in compliance with the following time, place and manner regulations and consistent with any administrative rules and policies promulgated by the City Manager, or designee, adopted after the Effective Date of this Ordinance, in accordance with this Chapter.

- A. **Time.** Unless otherwise specified, any Camping or Camp, where allowed, may only occur for 24-hours at a time in any one location. After 24 hours in one location, the Camp and all

associated Camp Materials must be moved at least one street block or 600 feet, whichever is greater, to another allowed location.

**B. Place.** Camping is not allowed at any time in any of the following places:

1. Within 200 feet of a residentially zoned property boundary or within any area zoned Residential, as determined by the City of Morro Bay Zoning Map and the Morro Bay Municipal Code.
2. Within any Mixed Use Overlay Zone, as determined by the City of Morro Bay Zoning Map and the Morro Bay Municipal Code.
3. Any place where Camping, a Camp, or Camp Materials create a physical impediment preventing emergency or non-emergency ingress, egress or access to public or private property, including but not limited to, on public sidewalks or other public rights-of-way, driveways providing access to vehicles, and entrances or exits from buildings and/or other real property.
4. Any vehicle lane, bicycle lane, or roundabout within any public rights-of-way or Transportation Facility Loading Area.
5. Within 1000 feet from any shelter both established for emergency evacuations as well as approved under the Morro Bay Municipal Code and/or approved consistent with any applicable provision of State or federal law.
6. On any street or public rights-of-way, the City has closed to camping due to construction, heavy vehicle use, or other use of the roadway that is incompatible with camping in the rights-of-way. The City does not need to close a street to vehicle traffic, to close a street to camping under this section.
7. Within, or within 200 feet of, any School.
8. Within, or within 200 feet of, any Playground.
9. Within, or within 200 feet of, any area designated as Visitor Serving Commercial (VSC), as determined by the City of Morro Bay Zoning Map and the Morro Bay Municipal Code.
10. At the following public property: Morro Bay City Hall, Morro Bay Community Center, Morro Bay Veterans Hall, Morro Bay Public Library, Morro Bay Centennial Parkway and Stairway, and such further designations made in writing by the City Manager, or her or his designee, upon the written recommendation of the Morro Bay Police Chief and the Morro Bay Fire Chief.
11. Within, or within 200 feet of, Critical Infrastructure.
12. Within, or within 200 feet of, either a very high Fire Severity Zone or a high Fire Severity Zone.

**C. Manner.** Camping, when and where allowed, is subject to all of the following limitations and regulations:

1. Individuals, Camp Materials, Camps, or personal property may not obstruct, block, prevent access to, or impede: sidewalk accessibility or passage; clear vision of moving vehicles or bicycles; usage of fire hydrants; usage or function of Public Utilities, Critical Infrastructure, or other City infrastructure; or, otherwise obstruct, block, prevent access to, or impede the use of the Rights-of-Way for vehicular, pedestrian, bicycle, or other passage.
2. A Camp or Camping shall be limited to a spatial footprint of no greater than 12 feet by 12 feet, or 144 square feet, and shall have a smaller footprint if necessary to comply with the restrictions set forth in this Chapter. The intent of this section is to allow a person to sleep protected from the elements and maintain the essentials for living, while still allowing others to use public spaces as designed and intended.
3. To prevent larger Camping sites from forming and the impacts to public health and safety that can result, a Camp shall not be within a one hundred fifty (150) foot radius of any other Camp.
4. Individuals may not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no reasonable utility or reasonable value, as determined by the City, in public rights-of-way, on City property, or on any adjacent public or private property.
5. Open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, or heating deemed unsafe by the Morro Bay Fire Department, or the Morro Bay Police Department, are prohibited. Types of flameless cooking stoves and other flameless devices for keeping warm, as consistent with this subsection, are permitted.
6. Dumping of Greywater or Hazardous Water into any facilities or places not intended for Greywater or Hazardous Water disposal is prohibited. This includes but is not limited to City streets, public rights-of-way, public waterways and storm drains, which are not intended for disposal of Greywater or Hazardous Water.
7. Unauthorized connections or taps to Public Utilities, including but not limited to such connections or taps that cross over City property, roadways, rights-of-way, driveways, streets, sidewalks, and fences, are prohibited.
8. Violations of building codes, fire codes, and other relevant codes or standards for health and safety, are prohibited.
9. Obstruction of, or attachment of Camp Materials or personal property to, fire hydrants, utility poles, Public Utilities infrastructure, public infrastructure, fences, trees, vegetation, vehicles, or buildings is prohibited.

10. Individuals may not build or erect structures, whether by using plywood, wood materials, pallets, or other materials. Items such as tents, and similar items used for shelter that are readily portable, are not structures for purposes of this section.

11. Storage of personal property such as vehicle tires, bicycles, or associated components (except as needed for an individual's personal use), gasoline, generators, lumber, household furniture, propane tanks, combustible material or gases, or other items or materials, is prohibited, other than what is related to camping, sleeping, or keeping warm and dry.

12. Digging, excavation, terracing of soil, alteration of ground, water or infrastructure, or damage to vegetation or trees is prohibited.

13. All animals, in the custody, ownership or companionship of an individual, must be leashed or crated at all times.

14. Camps shall consist of no more than two persons, two animals (e.g., dogs) that are leashed or crated at all times, and one tent.

#### **8.26.040 ENFORCEMENT**

**A. Voluntary Compliance.** Before enforcement actions are taken in respect to this Chapter (with the exception of enforcement of subsection (B)(3)), the enforcement personnel shall make a good faith effort to contact the person violating this Chapter and provide a reasonable opportunity to cure or remedy the alleged violation. Enforcement Personnel shall make a good faith effort to determine whether the person subject to enforcement has been referred to service providers and/or local non-profit assistance organizations and make a referral if it appears none has been made. The following shall be communicated to the person in a manner designed to help them understand the alleged violation:

1. A written or verbal description or identification of the activity constituting the alleged violation and identification of the recipient as being the person responsible for the violation;
2. A written or verbal statement that the enforcement personnel has determined the activity to be a violation;
3. A written or verbal statement of the action required to fix the violation and the time and/or date by which the violation must be fixed; and
4. A written or verbal statement advising that if the violation is not fixed within the time specified, enforcement actions may be imposed.

#### **B. Notice of Violation**

1. **72 Hour Notice.** Prior to implementing any of the enforcement mechanisms provided for in this Chapter to remove an Established Campsite and/or Camp Facilities because of violations of this Chapter, the Enforcement Personnel shall provide occupants of an Established Campsite or Camp Facilities, at least 72 hours in advance of any action to

remove the Established Campsite or Camp Facilities, notice both to remove the camp within 72 hours consistent with the requirements of this Chapter as well as of the intent by the City to remove the Established Campsite or Camp Facilities in no less than 72 hours (the “notice”). The notice shall be in writing and shall be posted on or near the Established Campsite or Camp Facilities, so as to reasonably communicate the notice to persons living at the Established Campsite or Camp Facilities but not present during the attempt to provide notice. In addition, the Enforcement Personnel shall make a good faith effort to personally provide the written notice to the occupant(s) of the Established Campsite or Camp Facilities present at the time the Enforcement Personnel posts the notice. Failure of the occupant(s) of the encampment to comply with the notice’s requirements to remove the camp within 72 hours consistent with the requirements of this Chapter shall constitute a violation of this Chapter. The notice shall contain the following information:

- a. The location of the Established Campsite or Camp Facilities;
- b. The date and time notice was posted;
- c. A statement that the Established Campsite or Camp Facilities violates this Chapter;
- d. An advisement that the City will remove the Established Campsite or Camp Facilities 72 hours after the date and time of the notice;
- e. Information about any housing, shelter or homeless services available for occupants of the Established Campsite or Camp Facilities, the phone number and address to contact in order to obtain such housing, shelter or homeless services, if available, and information about obtaining free transportation, if available, to such housing, shelter or homeless services;
- f. An advisement that any personal property remaining at the Established Campsite or Camp Facilities site when the Enforcement Personnel returns to remove the Camp Facilities will be impounded for no fewer than 90 days, or as provided for by applicable law, and will be discarded thereafter if not claimed; and
- g. The address, phone number, and operating hours of the location where the personal property will be stored and may be retrieved, being a storage facility and depending on the property potentially with the Morro Bay Police Department, and that the City will charge no fee for storage or retrieval.

2. **Less Than 72 Hour Notice.** The notice detailed above may establish a shorter time for the removal of the encampment if the Enforcement Personnel have determined the conditions at the Established Campsite or Camp Facilities requires removal of the Established Campsite or Camp Facilities in less than 72 hours to avoid a potential emergency, such as possible site contamination by hazardous materials or when there is reasonable potential danger to human life or safety. Failure of the occupant(s) of the encampment to comply with the notice’s requirements to remove the camp consistent with the requirements of this Chapter shall constitute a violation of this Chapter.

**3. Illegal Activity or Exceptional Emergency.** Enforcement personnel may remove an Established Campsite or Camp Facilities without providing the notice described above in the following circumstances:

- a. When there is probable cause for law enforcement officials to believe that illegal activity, other than camping, is occurring at an Established Campsite or Camp Facilities, or in the immediate vicinity of an Established Campsite or Camp Facilities; or
- b. When there is probable cause for law enforcement officials to believe that the property that comprises an Established Campsite or Camp Facilities is being used or is intended to be used to commit or facilitate the commission of otherwise illegal activity; or
- c. In the event of an exceptional emergency, such as significant evidence of site contamination by hazardous materials or when there is immediate danger to human life or safety.

**C. Removal of an Established Campsite or Camp Facilities.** If the occupant(s) fail to comply with the request for voluntary compliance set forth in subsection A above, and after the enforcement personnel comply with the requirements set forth in subsection B above, any Camp, Camp Materials, or personal property in violation of any of the standards in this Chapter may be removed or cleaned-up by the City or its designated contractors, and the enforcement personnel may take appropriate actions to remove an Established Campsite or Camp Facilities and enforce this Chapter, consistent with the following:

1. When removing Camp Facilities, or individuals, Camp Materials, or personal property from an Established Campsite, enforcement personnel will make reasonable efforts to remove individuals without the use of force or citation.
2. When removing personal property, the City shall make reasonable efforts to determine if the property belongs to an individual and has any reasonable utility or reasonable value. The City shall make reasonable efforts to identify which Established Campsite the property was removed from, to aid in connecting people with their property. Items that are perishable, that have no reasonable use or value, that are not identifiable as belonging to an individual, or that are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, discarded, and need not be stored.
3. Weapons, drug paraphernalia, or other contraband, and items that appear to be either stolen or evidence of a crime, shall be provided to law enforcement officials.
4. Following removal of personal property from City property or rights-of-way, the City shall post a notice at or as near as possible to the location the property was collected and on the City's website, stating where the personal property is being stored, and listing the phone number and hours a person claiming ownership can collect or make arrangements to collect their personal property.
5. After an Established Campsite or Camp Facilities has been removed, then at the recommendation of the Police Chief or Fire Chief on the basis of public health and safety, the City Manager may order that no camp be set up in that same location or a

100-foot radius for up to 30 days. The City shall post signs informing the public that camping is prohibited at the location for the specified period of time.

**D. Removal and Storage of Personal Property or Camp Materials During Removal of an Established Campsite or Camp Facilities.** Personal property or Camp Materials may be removed from City rights-of-way, City property, or a Camp, during removal of an Established Campsite or Camp Facilities pursuant to Section C above, if in violation of the provisions of this Chapter, as provided for herein.

1. Personal property removed from City rights-of-way or City property and unclaimed at the time of removal will be stored by the City for a minimum of ninety (90) days, or the duration (if shorter in time) allowed by applicable State or federal law, counting from the day of the removal as day one.
2. Items that are perishable, that have no reasonable use or value, that are not identifiable as belonging to an individual, or that are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, discarded, and will not be stored. Property discarded, dumped, or otherwise abandoned in the City rights-of-way or on public property may be immediately discarded.
3. The City will store personal property at a storage facility at or near a designated City facility, where people can reasonably retrieve belongings. Notwithstanding any otherwise applicable City policy or procedure, all items collected and stored pursuant to this Chapter that reasonably appear to have a monetary value at the time of collection of less than one thousand dollars (\$1,000) shall be stored at a storage facility, and items that reasonably appear to have a monetary value at the time of collection of one thousand dollars (\$1000) or more shall be separately stored for safekeeping with the Morro Bay Police Department ("MBPD").
4. The City will make reasonable efforts to provide a range of times the storage facility will be available for people to collect their personal property. The City may dispose of any personal property (whether stored at the storage facility or with the MBPD) that remains unclaimed after ninety (90) days, or the duration (if shorter in time) allowed by applicable State or federal law, counting from the day of the removal as day one.

#### **8.26.050 VIOLATIONS**

A citation for a violation of Chapter 8.26 shall be for an infraction. At the City's discretion, it may issue Administrative Citations under Chapter 1.03. Citations will be issued only when other means of achieving compliance have been unsuccessful or are not practicable for the particular situation.

#### **8.26.060 SUSPENSION OF ENFORCEMENT**

The City Manager, or designee, is specifically authorized to modify or suspend enforcement of any section or part of this Chapter in the event of a declared emergency, pursuant to

administrative rules or policies, weather conditions (including but not limited to extreme heat or cold), or for any other reason within the City Manager's authority, regardless of whether an emergency has been declared. In addition, the City Manager may suspend the enforcement of regulations contained in this Chapter when the City Manager, or designee, has determined a person does not have access to shelter and is engaged in case management or behavioral health services, or when necessary or appropriate to respond to a person's disability, or as further set forth in City's administrative policies implementing this Chapter 8.26 adopted by the City Manager, or designee, pursuant to Section 8.26.090.

#### **8.26.070 ADOPTION OF ADMINISTRATIVE RULES**

The City Manager, or designee may adopt administrative rules or policies governing or guiding enforcement of this Chapter, consistent with the intent of this Chapter, including but not limited to ensuring consistent and appropriate enforcement for various circumstances. These administrative rules or policies should ensure that enforcement is tailored to various circumstances, including but not limited to situations where a person has a disability under the Americans with Disabilities Act, where minor children are present or otherwise involved, where a person has employment obligations that may relate to their ability to comply with this Chapter, or for other reasons that may support discretion in enforcement.

#### **8.26.80 METHODS OF ENFORCEMENT NOT EXCLUSIVE**

Methods of enforcement for violations of this Chapter are not exclusive and may consist of multiple enforcement mechanisms where legally authorized and appropriate. However, the intent of the City is to always resolve violations at the lowest possible level, and to engage to seek compliance and solve problems while maintaining the dignity of all involved."

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

**SECTION 4. POTENTIAL CONFLICTS.** All ordinances, parts of ordinances, City resolutions or policies, and the like, in conflict with those sections amended or added herein to the Morro Bay Municipal Code, are hereby expressly superseded by this ordinance, with the exception of Section 8.24.010(D) of the Morro Bay Municipal Code.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be in full force and effect thirty (30) days after its passage and adoption.



**SECTION 6. CERTIFICATION.** The City Clerk shall certify as to the passage and adoption of this ordinance, and the City Clerk shall cause the same to be posted and codified in the manner required by law.

**INTRODUCED** at a regular meeting of the City Council held on the 12th day of December 2023, which was continued to December 13, 2023, by motion of Council Member Barton and seconded by Council Member Landrum.

**PASSED AND ADOPTED** on the 9th day of January, 2024, by the following vote:

AYES:	Wixom, Barton, Edwards, Ford, Landrum
NOES:	None
ABSENT:	None
ABSTAIN:	None
RECUSE:	None

  
CARLA WIXOM, Mayor

ATTEST:

  
DANA SWANSON, City Clerk

APPROVED AS TO FORM:

  
CHRIS F. NEUMEYER, City Attorney

STATE OF CALIFORNIA           )  
COUNTY OF SAN LUIS OBISPO   )  
CITY OF MORRO BAY            )

I, Dana Swanson, CITY CLERK OF THE CITY OF MORRO BAY, DO HEREBY CERTIFY that the foregoing Ordinance No. 665 was duly adopted by the City Council of the City of Morro Bay at a regular meeting of said Council on the 9th day of January 2024, and that it was so adopted by the following vote:

AYES:           Wixom, Barton, Edwards, Ford, Landrum  
NOES:           None  
ABSENT:        None  
ABSTAIN:       None  
RECUSE:        None

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this 10<sup>th</sup> day of Jan., 2024



\_\_\_\_\_  
DANA SWANSON, City Clerk