

ORDINANCE NO. 1613

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FOUNTAIN VALLEY AMENDING FOUNTAIN VALLEY MUNICIPAL CODE SECTION 8.55.040, REPEALING SECTION 8.55.045, AND AMENDING SECTION 12.08.095 TO REMOVE LIMITATIONS ADOPTED AFTER *MARTIN V. CITY OF BOISE* AND TO CODIFY A 60-DAY STORAGE PERIOD FOR PERSONAL PROPERTY

WHEREAS, following the Court of Appeals' decision in *Martin v. City of Boise*, local governments were prohibited from enforcing anti-camping laws against any individual unless the local jurisdiction had enough shelter beds for every unhoused individual in the jurisdiction; and

WHEREAS, following *Martin v. Boise*, City's unhoused population expanded, and unhoused persons refused offers by City to relocate to shelters or temporary housing; and

WHEREAS, in 2024, the United States Supreme Court decided *Grants Pass v. Johnson*, which reversed *Martin v. Boise*. In so doing, the Court held that the Eighth Amendment does not prohibit a local government from criminalizing camping in public places and that said ban on camping was not "cruel and unusual punishment;" and

WHEREAS, the United States Supreme Court found that the states and local governments are may determine for themselves how best to deal with the unhoused crisis; and

WHEREAS, "essential considerations of federalism," mandate that the people and their elected leaders decide how best to handle a pressing social question like homelessness; and

WHEREAS, the City of Fountain Valley desires to take a compassionate approach to the unhoused, and provide those persons with positive reinforcement, services, outreach, and assistance in obtaining temporary and permanent housing, and City has spent millions of dollars proving services via staff time, City Net, and in joining the cities of Garden Grove and Westminster in constructing and operating the Central Cities Navigation Center; and

WHEREAS, some unhoused persons reject offers of services and shelter from the City, choosing instead to remain in public areas; thereby removing those areas from the public use for which they were intended; and

WHEREAS, criminal enforcement is one tool the City may use to address the unhoused crisis, and may be necessary for persons who refuse adequate alternatives.

NOW, THEREFORE, the City Council of the City of Fountain Valley does hereby **ORDAIN** as follows:

Section 1. Fountain Valley Municipal Code Section 8.55.040 is amended to read as follows:

It is unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in any public area. Any personal property, including camp facilities and camp paraphernalia, stored in any public area may be removed by the City. Any personal property, including camp facilities and camp paraphernalia, that is removed by the City will be stored for a period of sixty calendar days unless the property is abandoned or cause exists to destroy or dispose of the property immediately. City may destroy or otherwise dispose of any personal property, including camp facilities and camp paraphernalia, left in storage for over sixty calendar days.

Section 2. Fountain Valley Municipal Code Section 8.55.045 is repealed.

Section 3. Fountain Valley Municipal Code Section 12.08.095 is amended to read as follows:

No person shall store or leave personal property in any city park after its posted closing time or closing event unless said person receives written permission from the city manager, community services director, or city council. City park closing times or closing events shall be set forth via separate council resolution. Any personal property stored or left in any city park after its posted closing time or closing event without written permission from the city manager, community

services director, or city council may be removed by city. City shall store said removed personal property for a period of sixty calendar days unless the property is abandoned or cause exists to destroy or dispose of the property immediately. City may destroy or otherwise dispose of any personal property left in storage for over sixty calendar days.


Section 4. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 5. The City Clerk shall certify to the adoption of this Ordinance and cause it to be published as required by law.


PASSED AND ADOPTED by the City Council of the City of Fountain Valley at a regular meeting this 3rd day of September, 2024.

Ayes:	Constantine, Cunneen, Harper, Bui, Grandis
Nays:	None
Absent:	None
Abstain:	None

ATTEST:




Rick Miller
City Clerk



Glenn Grandis
Mayor

APPROVED AS TO FORM:
HARPER & BURNS LLP



Colin Burns
Attorney for the City