

Meeting Date: 06/26/18 (20)

ORDINANCE NO. 10544 (N.S.)

AN URGENCY ORDINANCE AMENDING SECTION 32.1501 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO TEMPORARY AREA RESTRICTIONS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. On September 26, 2017, Chapter 15, section 32.1501 was added by urgency ordinance to the County Code of Regulatory Ordinances. Section 32.1501 authorizes the Chief Administrative Officer or designee, in consultation with the Sheriff or designee, to issue Temporary Area Restrictions in the unincorporated areas of the County. This amendment would extend that authority to property in incorporated areas that is controlled and/or managed by the County of San Diego pursuant to Government Code section 25353. Some of these properties are traditional public fora for First Amendment expression. The County's Waterfront Park is a popular location for political gatherings, protests and demonstrations.

Section 2. Pursuant to Government Code section 25123, this ordinance is declared to be an urgency measure necessary for the immediate preservation of the public peace, health, safety and welfare in order to ensure the County can quickly respond to anticipated civil disturbances on property in incorporated areas that is controlled and/or managed by the County of San Diego pursuant to Government Code section 25353 such as the County's Waterfront Park. The following facts support the adoption of this urgency measure:

(a) There is a scheduled immigration policy protest and march commencing in the Waterfront Park at the County Administration Center on June 30th, beginning at 11:00 am. The march is called "Families Belong Together". A similar protest and march was held at the San Diego Civic Center on June 23, 2018, drawing several thousand participants.

(b) There has been and will continue to be wide-spread advertising and media coverage of this and other immigration protests at many cities across the United States during the weekend of June 30, 2018 and July 1, 2018.

(c) Over the past several weeks, there have been numerous immigration protests which have been highlighted on local and national media. This past weekend, protesters attempted to deny access to and interrupt the operation of Federal detention facilities by blocking roads and stopping traffic in Florida, Texas and California.

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(d) On Saturday, June 24, 2018 approximately 500 persons protested at the Otay Mesa federal detention facility. During this event approximately 10 protesters chained themselves together and blocked the roadway for about an hour before being arrested by the California Highway Patrol.

(e) Based on information and intelligence from the demonstrations and protests described above, these events can attract counter-protestors and become highly contested, with participants attempting to interfere with each other, prevent expression of opinion, impeding or blocking each other and engaging in physical confrontation – all while impeding and interfering with day-to-day area activities and law enforcement.

(f) The Sheriff's Department has advised that the demonstration this Saturday, June 30 is highly likely to draw counter-demonstrators to the same location at the Waterfront Park, greatly increasing the potential for physical conflict. The County of San Diego fully supports the exercise of First Amendment rights of speech and assembly and through this amendment will expand the ability of protestors to safely exercise their rights.

(g) As found when adopting section 32.1501, civil disturbances in multiple counties and cities across the country have involved conflicts between persons armed and equipped with items intended for use as weapons and other implements of riot, including but not limited to knives and daggers; shields; poles, sticks, dowels and baseball bats; pepper spray; axes and axe handles; Tasers; torches; clubs; bricks and rocks; firearms and others.

(h) It is necessary for the immediate preservation of the public peace, health, safety and welfare, the safety of the protestors, the general public and law enforcement to ensure the Chief Administrative Officer is authorized to issue a Temporary Area Restriction (TAR) for the Waterfront Park and County Administration Center to prevent persons from possessing items generally considered an "implement of riot" that may be utilized as a weapon.

(i) Ordinances, other than urgency ordinances, must be introduced and adopted at separate regular meetings of the Board of Supervisors. (Government Code section 25131.) Unless enacted as an urgency measure, this amended section 32.1501 would not be effective until 30 days after the second meeting.

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Section 3. The County of San Diego fully supports the safe exercise of First Amendment rights of speech and assembly. This Amendment will enable the Chief Administrative Officer to better protect the safety and security of persons exercising their First Amendment rights by authorizing the Chief Administrative Officer, in consultation with the Sheriff or designees, to issue Temporary Area Restrictions on real property controlled and/or managed by the County of San Diego pursuant to Government Code section 25353 in addition to the unincorporated areas.

Section 4. The Board of Supervisors hereby finds that the immediate enactment --and effective date-- of this ordinance is necessary for the preservation of the public peace, health, safety and welfare.

Section 5. San Diego County Code of Regulatory Ordinances section 32.1501 is amended to read as follows:

#### **CHAPTER 15. TEMPORARY AREA RESTRICTIONS**

##### **SEC. 32.1501. CHIEF ADMINISTRATIVE OFFICER AUTHORITY TO ISSUE TEMPORARY AREA RESTRICTIONS**

(a) The Chief Administrative Officer or the Chief Administrative Officer's designee, after consulting with the Sheriff or the Sheriff's designees, is authorized to issue Temporary Area Restrictions as are necessary to preserve public health, public safety and property during events planned, proposed, anticipated or being held in the unincorporated areas of the County, or on property controlled and managed by the County pursuant to Government Code section 25353.

(b) Temporary Area Restrictions issued pursuant to this section shall be narrowly-tailored and consistent with the First Amendment to the United States Constitution, the California Constitution and State law.

(c) Temporary Area Restrictions shall be limited to establishing perimeters and/or separations for such events and prohibiting or otherwise limiting items that have been known to be used as weapons or implements of riot.

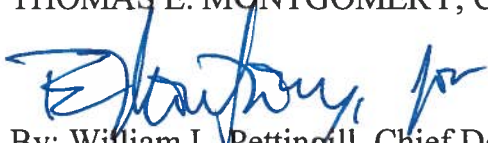
(d) Temporary Area Restrictions issued by the Chief Administrative Officer pursuant to this section shall be conspicuously posted in the areas subject to the order and on the County's public website at least 24 hours prior to implementation and enforcement.

(e) Failure to obey any Temporary Area Restriction issued pursuant to this section shall be a violation of this Code.

Section 6. By virtue of the urgency findings set forth herein, which constitute an emergency for the immediate preservation of the public peace, health and safety pursuant to Government Code Section 25123, this Ordinance shall become effective immediately upon its adoption.

APPROVED AS TO FORM AND LEGALITY

THOMAS E. MONTGOMERY, COUNTY COUNSEL



By: William L. Pettingill, Chief Deputy

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 26<sup>th</sup> day of June, 2018.



KRISTIN GASPAR  
Chairwoman, Board of Supervisors  
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Gaspar, Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this 26<sup>th</sup> day of June, 2018.

DAVID HALL  
Clerk of the Board of Supervisors

By C. Rodriguez  
Chrystal Rodriguez, Deputy



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