

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY
OF SANTA BARBARA ADDING CHAPTER 9.96
TO THE MUNICIPAL CODE TO REGULATE THE
STORAGE OF PERSONAL PROPERTY IN
PUBLIC PLACES

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION 1. Title 9 of the Santa Barbara Municipal Code is amended by adding
Chapter 9.96 to read as follows:

9.96.010 Findings and Purposes.

_____ The public streets, rights-of-way, sidewalks, paseos, parks and other publicly-
owned or controlled property within the City should be readily accessible and available to
residents, businesses, and the public at large for their intended purposes. The use of
public places for private storage of personal property is inconsistent with use for public
purposes and denies public use and enjoyment of public areas by exclusively occupying
public property for private storage. Storage of personal property on public streets,
sidewalks, and ways can block use by travelers. Further, the storage of personal property
in commercial areas effects economic vitality by affecting aesthetics, access, and safety,
thereby causing a steady cycle of decline as residents and tourists go elsewhere to meet,
shop, and dine.

The purpose of this Chapter is to protect the public health, safety, and welfare by maintaining public access to and enjoyment of public spaces by assuring that public spaces within the City are used for their designed and intended purposes and remain accessible to all citizens, businesses and visitors in the City in a clean, sanitary, safe, and accessible condition. The authority granted in this Chapter is in addition to section 10.56.010, which provides that any miscellaneous property found in a public place in violation of any rules, regulations, and ordinances may be declared as a nuisance and removed and impounded. Nothing in this Chapter is intended to interfere with otherwise lawful and ordinary uses of public property.

9.96.020 Definitions.

The following definitions apply to the interpretation of this Chapter.

A. CITY EMPLOYEE. Any full or part-time employee or contractor of the City having responsibility for enforcement of this Chapter.

B. BULKY PERSONAL PROPERTY. Personal property, whether an individual item or group of items in the same location that exceeds an amount of property that could fit in a four cubic foot container. For reference only, four cubic feet is approximately the capacity of the largest commercially available backpack.

C. PERSONAL PROPERTY. As defined in Section 1.04.110 of this Code. However, for purposes of this Chapter, personal property does not include:

1. Operational personal transportation or mobility devices, such as bicycles, walkers, wheelchairs, strollers, scooters, and trailers attached to an operation bicycle.

2. Motor vehicles.

D. PUBLIC AREA. Property that is owned, managed, or maintained by the City, including, but not be limited to, any public street, sidewalk, plaza, parking lot, park, beach, building, or structure.

E. STORE; STORED; STORING; OR STORAGE. To put aside or accumulate for use when needed, to put for safekeeping, or to place or leave for more than four hours. Placement of personal property, including bulky personal property, in accordance with rules or regulations established for placement of items for collection and disposal by a solid waste collection and disposal company franchised by the City is not considered storing or storage as used in this Chapter. Authorized use of personal property in accordance with applicable rules and regulations governing public areas is not considered storing or storage as used in this Chapter.

F. UNATTENDED. No person is present with the personal property who asserts or claims ownership over the personal property. Indicia of unattended personal property includes, but is not limited to, the act of leaving the personal property in a public area so that it may be appropriated by the next comer. Property is not considered "attended" if a person is present with the personal property and the person claims ownership over the personal property.

9.96.030 Storage of Personal Property Prohibited.

A. It is unlawful:

1. To store any unattended personal property in a public area.
2. To store any attended bulky personal property in a public area.
3. To leave any unattended personal property in a: crosswalk; curb ramp; designated access way for persons with disabilities; pedestrian pathway; on-or off-street area designed or designated for parking of vehicles of any type; business entryway; bicycle lane; travel lane of any street; landscaped or planted area of a street or sidewalk; an area within ten feet of a fire hydrant; railroad crossing, bus stop; or in a public area so as to obstruct City operations, including street or sidewalk maintenance, repair, or cleaning.
4. To store any personal property attended or unattended within five feet of any operational and utilizable entrance, exit, driveway or loading dock.
5. To attach, chain, or tie any personal property to any public facility, equipment, or structure, including, but not limited, to a pole, bench, news rack, bicycle rack, trash can, sign, tree, mail box, or fence.
6. To leave unattended any personal property in a public park, building, parking lot, or other facility during any time that it is closed to the public.
7. To leave any unattended personal property in a location with signs posted in accordance to section 9.96.050(C).

B. Nothing in this Section precludes storage of personal property authorized by the City or pursuant to statute, ordinance, permit, or regulation.

9.96.040 Abatement of Stored Personal Property.

A. A violation of Section 9.96.030 is a public nuisance that may be abated by a City Employee as provided in this Section.

1. With pre-removal notice as specified in Subsection 9.96.050(A), a City employee may impound any unattended personal property stored in a public area, regardless of volume, in violation of Section 9.96.030(A)(1). Post-removal notice shall be provided as set forth in Subsection 9.96.050(B), below.

2. With pre-removal notice as specified in Subsection 9.96.050(A), a City employee may impound any bulky personal property in a public area, stored in violation of Section 9.96.030(A) (2). Post-removal notice shall be provided as set forth in subsection 9.96.050(B), below.

3. Without pre-removal notice, a City employee may impound any personal property, which is left attended or unattended in a travel way in violation of Section 9.96.030(A) (3).

4. Without pre-removal notice, a City employee may order the removal of or impound any personal property stored, attended or unattended, in a public area within five feet of any operational entrance, exit, driveway or loading dock in violation of

Section 9.96.030(A) (4). Post-removal notice shall be provided as set forth in Subsection 9.96.050 (B) for property which is impounded.

5. Without pre-removal notice, a City employee may impound any personal property attached, chained or tied to public property of any kind in violation of Section 9.96.030 (A) (5). Post-removal notice shall be provided as set forth in Subsection 9.96.050(B).

6. Without pre-removal notice, a City employee may impound any personal property which is left, attended or unattended, in a public area after the posted closure time, in violation of Section 9.96.030(A)(6). Post-removal notice shall be provided as set forth in Subsection 9.96.050(B).

7. A City employee may impound any unattended personal property left in posted areas in violation of Section 9.96.030(A)(7).

B. A City employee may order a person claiming ownership of personal property to abate a violation of this Chapter by immediately removing the property. Moving and then leaving personal property unattended at another public area less than three-hundred feet shall not be considered abatement of stored personal property.

9.96.050 Notice.

A. **Pre-removal Notice.** Except when immediate removal is authorized by Section 9.96.040, unattended personal property stored in violation of this Chapter shall be impounded only after a pre-removal notice is left at or near the location of the personal

property. Pre-removal notice shall be deemed provided if a written notice is provided to the person who is storing or claims ownership of the personal property, or is posted conspicuously on or near the personal property and the actual removal commences no less than four hours after the pre-removal notice is posted. The written notice shall contain the following:

1. A general description of the personal property to be removed.

2. The location from which the personal property will be removed.

3. The date and time the notice was posted.

4. A statement that the personal property has been stored in violation of the specific code section.

5. A statement that the personal property may be impounded if not removed from public areas within four hours.

6. A statement that moving personal property to another location in a public area shall not be considered removal of personal property from a public area.

7. The address where the removed public property will be located, including a telephone number and the internet website of the City through which a person may receive information as to impounded personal property as well as information as to voluntary storage location(s).

8. A statement that impounded personal property may be discarded if not claimed within ninety days after impoundment.

B. **Post-removal Notice.** Upon the removal of stored personal property, written notice shall be conspicuously posted in the area from which the personal property was removed. The written notice shall contain the following:

1. A general description of the personal property removed.
2. The date and approximate time the personal property was removed.
3. A statement that the personal property was stored in a public area in violation of the specific code section.
4. The address where the removed personal property will be located, including a telephone number and internet website of the City through which a person may receive information as to impounded personal property.
5. A statement that impounded personal property may be discarded if not claimed within ninety days after impoundment.

C. **Pre-removal Notice by Signage.** In order to implement the pre-removal signage notice requirements of section 9.96.030 (A)(7), the Public Works Director or his or her designee, after consultation with the Police Chief or his or her designee, shall have the responsibility to identify those areas within the City to be posted with signage giving pre-removal notice. Each posted sign shall provide the surrounding radius within which unattended property is prohibited up to a maximum of fifty feet. Signs may be posted only when the Public Works Director determining after consultation with the Police Chief concludes that a given area should be posted for one or more of the following reasons:

i) to protect the public from the risk of mass casualties caused by hidden explosives or bio-agents; ii) to protect sensitive habitat and environment from pollution or contamination caused by stored personal property; iii) to facilitate routine City operations in an area that has been subject to repeated incidents of personal property dumping or storage. The Public Works Director or his or her designee shall keep sufficient records to document the reason(s) for posting at a particular location and shall remove the sign should the reason(s) no longer exist.

9.96.060 Storage and Disposal.

A. Except as specified herein, personal property impounded by the City will be taken to a place of storage.

B. Except as specified herein, the City will store impounded personal property for ninety days, after which time, if not claimed, it may be discarded. The City is not required to undertake any search for, or return, any impounded personal property stored for longer than ninety days.

C. Any personal property may be disposed of immediately and without notice, when such property is perishable or is contraband, or constitutes an immediate threat to the public health or safety.

9.96.070 Retrieval of Personal Property.

The owner of impounded personal property may retrieve the personal property prior to its disposal upon submitting satisfactory proof of ownership. A person may

establish satisfactory proof of ownership by, among other methods, describing the location from and date when the personal property was impounded from a public area, and providing a reasonably specific and detailed description of the personal property. Valid, government-issued identification is not required to claim impounded personal property. No storage fee shall be charged by the City for any impounded personal property under this Chapter.

9.96.080 Obstruction or Interference with City Employees.

It is unlawful to willfully resist, delay or obstruct a City employee from moving, removing, impounding or discarding personal property stored in a public area in violation of Section 9.96.030.

9.96.090 No Preclusion of Any Public Safety Actions.

Nothing in this Chapter is intended to preclude any peace officer or City employee from immediately removing or otherwise disposing of any personal property in a public area when the officer or employee has reasonable cause to believe from the totality of the circumstances that the property presents an immediate threat to public safety, is evidence of a crime, is evidence in a criminal investigation, or is contraband.

9.96.100 Enforcement.

A person will not be subject to criminal prosecution for violation of section 9.96.030(A), unless the person engages in prohibited conduct after having been notified

by a peace officer or City employee charged with code enforcement that the conduct violates that section and given a reasonable opportunity to abate.