

APPROVED
MAY 20 2015

REPORT OF GENERAL MANAGER

NO. 15-113

DATE May 20, 2015

BOARD OF RECREATION
AND PARK COMMISSIONERS

C.D. Various

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: AMENDED DRAFT ORDINANCE ADDING SECTIONS 63.44.B.26 AND I.13 TO CHAPTER VI OF THE LOS ANGELES MUNICIPAL CODE TO BAN BULKY ITEMS, TENTS AND THE STORAGE OF PERSONAL PROPERTY IN PARKS

R. Adams	_____	V. Israel	_____
R. Barajas	_____	*K. Regan	<u>KK</u>
H. Fujita	_____	N. Williams	_____

M. [Signature]
General Manager

*as amended
see attached*

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Recommend that the Los Angeles City Council (Council) adopt an ordinance amending Los Angeles Municipal Code (LAMC) Section 63.44.B.26 and I.13, as originally transmitted pursuant to Rule 38, and attached to this Report (Attachment A), amending Sections 63.44.B.26 and I.13 of the LAMC to prohibit bulky items in parks, as well as tents and the storage of personal property;
2. Make the legislative findings stated in the above referenced Code sections of the draft ordinance in support of its enactment;
3. Recommend that the Council, if it chooses to enact the draft ordinance, make the legislative findings stated in the above mentioned Code sections of the draft ordinance in support of its enactment; and,
4. Upon Commission, and Council approval of the draft ordinance, direct the General Manager to create uniform standards for posting of appropriate signs in parks making public notice of the ban on bulky items, tents, and the storage of personal property in parks, and to instruct staff to implement the new ordinance provisions.

SUMMARY:

The problem of bulky items, trash, and personal property dumping in parks has been ongoing, and detracts from the public's ability to both enjoy parks and utilize them safely. While LAMC provisions do address illegal dumping, recently and more frequently, bulky items and personal

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property have been brought into parks and simply left there. The LAMC amendments contained in the draft ordinance are aimed at addressing this problem.

On February 12, 2015, the City Council requested that the Office of the City Attorney transmit a draft ordinance amending Sections 63.44.B.26 and I.13 of the LAMC to ban bulky items, tents, and the storage of personal property in parks.

This draft ordinance is substantively consistent with the recently transmitted ordinance amending LAMC Section 56.11 relating to the storage of personal property in public areas and the City's procedure for notice and removal of such property.

Provisions Related to Storage of Personal Property in Parks

The purpose of this draft ordinance is to maintain parks in clean, sanitary, and accessible condition, prevent the misappropriation of parks for personal use, and promote public health and safety by ensuring that parks remain readily accessible for recreational purposes by articulating the process to remove unauthorized stored property, including specifying the requirements for pre- and post-removal notice, process for the owner to claim property, and the amount of time removed property will be held by the City, as well as the conditions upon which such property may be discarded by the City. The draft ordinance contains the following provisions:

- (1) Prohibition on the unauthorized storage of personal property in parks.
- (2) In any park in which the City posts a sign requiring removal of personal property before the park closes, the City may remove personal property remaining in the park after closure. In any park that does not have a posted sign, the City may provide 24-hours written notice, and if the owner has not removed his or her personal property, the City may impound it. Removal by the owner does not include moving the property to another location in a park, to the same park on a daily or regular basis or to another public area. Property removed by the City shall be held by the City for 90 days after which unclaimed property may be discarded.
- (3) Allows for the immediate removal, without notice, and in some instances the immediate discard of, certain property. Specifically, personal property that poses an immediate health and safety risk, such as items which are unsanitary (e.g., have the potential to harbor vermin infestation or spread disease), clearly trash, flammable or hazardous materials may be removed and discarded without notice.
- (4) Property which constitutes evidence of a crime or contraband also may be removed without notice.

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- (5) The draft ordinance does not impact personal property that is stored on public property pursuant to a statute, ordinance, permit, regulation or other authorization by the City or state.

Ban on Bulky Items and Tents

Pursuant to the draft ordinance, bulky items may not be brought into a park without a permit and any unauthorized bulky item in a park may be removed and discarded by the City without notice.

The attached amended draft ordinance includes a provision which prohibits individuals from erecting tents in parks. Sunshades or umbrellas that are open on all sides are not addressed by this ordinance and will continue to be permitted in City parks.

Additional Provisions Included in the Amended Draft Ordinance

The amended draft ordinance also prohibits any person from erecting barriers against or attaching any personal property to any real property in a park such as a building, pole, bench or tree.

The amended draft ordinance specifies and limits those sections of the ordinance, which if violated, constitute a criminal offense. These include the following: (1) failure of an individual to remove his or her property from a public area after having received the requisite 24-hour notice; (2) attachment of personal property to public property; and (3) activity which constitutes illegal dumping under state or City law.

Should the Board approve this draft Ordinance, the Office of the City Attorney has requested that the City Clerk place the draft ordinance on the first available agenda of the City Council for action.

CALIFORNIA ENVIRONMENTAL QUALITY ACT RECOMMENDATIONS:

The Board's actions in this matter are exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines section 15378 because the ordinance is not a project in that it represents general policy and/or procedure making.

COUNCIL RULE 38 REFERRAL:

A copy of the draft ordinance was transmitted by the Office of the City Attorney, pursuant to Council Rule 38, to the Department of Recreation and Parks, The Los Angeles Police Department, and the Department of Public Works for their comments.

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FISCAL IMPACT STATEMENT:

There is no fiscal impact to the Department's General Fund.

Report prepared by Kevin Regan, Assistant General Manager, Operations Branch.

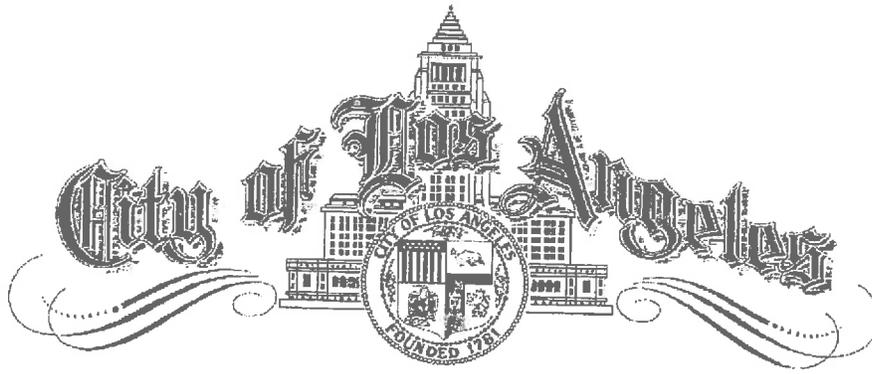
EXCERPT FROM THE MINUTES OF THE SPECIAL MEETING
BOARD OF RECREATION AND PARK COMMISSIONERS
May 20, 2015

15-113

AMENDED DRAFT ORDINANCE ADDING SECTIONS 63.44.B.26 AND I.13 TO CHAPTER VI OF THE LOS ANGELES MUNICIPAL CODE TO BAN BULKY ITEMS, TENTS AND THE STORAGE OF PERSONAL PROPERTY IN PARKS

Commissioner Sanford moved, and Commissioner Alvarez seconded, the Motion to amend the definition of “Bulky Item” in Subdivision 26(b)(1), to exclude picnic tables and chairs.

City Attorney Valerie Flores clarified that Subdivision 13(b)(1) will be similarly amended to maintain consistent language throughout the ordinance.



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 15 - 0 1 5 0
MAY 19 2015

REPORT RE:

**DRAFT ORDINANCE AMENDING SUBSECTIONS B AND I OF SECTION 63.44
OF CHAPTER VI OF THE LOS ANGELES MUNICIPAL CODE TO RESTRICT
THE POSSESSION OR USE OF NON-PERMITTED BULKY ITEMS AND TENTS
AND TO PROHIBIT THE STORAGE OF PERSONAL PROPERTY WITHIN THE
LIMITS OF ANY PARKS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 14-1656

Honorable Members:

On February 12, 2015, the City Council requested this Office to transmit a draft ordinance amending Sections 63.44.B.26 and I.13 of the Los Angeles Municipal Code (LAMC) to ban bulky items, tents and the storage of personal property in parks.

We now transmit the enclosed draft ordinance for Council's consideration. This draft ordinance is substantively consistent with the recently transmitted ordinance amending LAMC Section 56.11 relating to the storage of personal property in public areas and the City's procedure for notice and removal of such property.

Provisions Related to Storage of Personal Property in Parks

The purpose of this draft ordinance is to maintain parks in a clean, sanitary and accessible condition, prevent the misappropriation of parks for personal use, and promote the public health and safety by ensuring that parks remain readily accessible for recreational purposes. The draft ordinance articulates the process to remove unauthorized stored property, including specifying the requirements for pre- and post-removal notice, the process for the owner to claim property, and the amount of time removed property will be held by the City, as well as the conditions upon which such property may be discarded by the City. The draft ordinance contains the following provisions:

(1) Prohibition on the unauthorized storage of personal property in parks.

(2) In any park in which the City posts a sign requiring removal of personal property before the park closes, the City may remove and impound personal property remaining in the park after closure. In any park that does not have a posted sign, the City may provide 24-hours written notice, and if the owner has not removed his or her personal property, the City may impound it. Removal by the owner does not include moving the property to another location in a park or to another public area. Property removed by the City shall be held by the City for 90 days after which unclaimed property may be discarded.

(3) Property that poses an immediate health and safety risk may be removed and discarded without notice. Examples include property that is unsanitary (e.g., have the potential to harbor vermin infestation or spread disease), flammable, hazardous or clearly consists of trash.

(4) Property which constitutes evidence of a crime or contraband also may be removed without notice.

(5) The draft ordinance does not impact personal property that is stored on public property pursuant to a statute, ordinance, permit, regulation or other authorization by the City or state.

Ban on Bulky Items and Tents

Pursuant to the draft ordinance, bulky items may not be brought into a park without a permit and any unauthorized bulky item in a park may be removed and discarded by the City without notice.

The enclosed draft ordinance includes a provision which prohibits individuals from erecting tents in parks. Sunshades or umbrellas that are open on all sides are not addressed by this ordinance and will continue to be permitted in parks.

Additional Provisions Included in the Draft Ordinance

The draft ordinance also prohibits any person from erecting barriers against or attaching any personal property to any real property in a park such as a building, pole, bench or tree.

Unless otherwise specified, violation of any Los Angeles Municipal Code provision constitutes a misdemeanor. The draft ordinance *specifies* and *limits* those sections of the ordinance, which if violated, constitute a criminal offense. These include the following: (1) bringing of Bulky Items into a park; (2) failure of an individual to remove his or her attended property from a public area after having received the requisite 24-hour notice or after park closure; (3) attachment of personal property to public property; and (4) activity which constitutes illegal dumping under state or City law.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Recreation and Parks, the Los Angeles Police Department, and the Department of Public Works with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Valerie Flores at (213) 978-8149. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney 

DM:VLF:ac
Transmittal

ORDINANCE NO. _____

An ordinance amending Subsections B and I of Section 63.44 of Chapter VI of the Los Angeles Municipal Code to restrict the possession or use of non-permitted bulky items and tents, and to prohibit the storage of personal property within the limits of any Park, including a Park consisting of beaches and water recreation areas.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Subdivision 26 is added to Subsection B of Section 63.44 of the Los Angeles Municipal Code to read as follows:

26. Bulky Items, Tents and Storage of Personal Property in Parks.

(a) Declaration of Legislative Intent - Purpose.

Parks should be accessible and available to residents and the public at large for their intended recreational uses. Bringing bulky items into a Park and the unauthorized use of a Park for the storage of personal property interferes with the rights of other members of the public to use Parks for their intended purposes and can create a public health or safety hazard that adversely affects the Park and those who use the Park for recreational activities. The purpose of this section is to maintain Parks in clean, sanitary and accessible condition, to prevent harm to the health or safety of the public, to prevent the misappropriation of Parks for personal use, and to promote the public health and safety by ensuring that Parks remain readily accessible for their intended recreational uses.

(b) Definitions.

The definitions contained in this subsection shall govern the construction, meaning and application of words and phrases used in this section.

(1) **“Bulky Item”** means any item that is too large to fit in one of the City’s 60 gallon trash containers with the lid closed, including, but not limited to, a mattress, couch, chair or other furniture or appliance.

(2) **“Person”** means any individual, group, business, business trust, company, corporation, joint venture, joint stock company, partnership, entity, association, club or organization composed of two or more individuals (or manager, lessee, agent servant, officer or employee).

(3) **“Personal Property”** means any and all tangible property, and includes, but is not limited to, goods, materials, merchandise, Tents, tarpaulins, bedding, sleeping bags, hammocks, and personal items such as luggage, backpacks, clothing, documents, medication and household items.

(4) **“Store,” “Stored” or “Storing”** means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

(5) **“Tent”** means any tarpaulin, cover, structure or shelter, made of any material which is not open on all sides and which hinders an unobstructed view behind or into the area surrounded by the tarpaulins, cover, structure or shelter.

(c) **Prohibition on Bulky Items in a City Park.**

No Person shall bring into any Park any Bulky Item without a permit therefor.

(d) **Prohibition on Erecting a Tent in a City Park.**

Except for areas expressly designated for camping, no person shall erect, configure or construct a Tent in any Park.

(e) **Ban on Attachments.**

No Person shall erect any barrier against or lay string or join any wires, ropes, chains or otherwise attach any Personal Property to any of the City's real or personal property or trees or plants in a Park, including, but not limited to, a building or portion or protrusion thereof, playground equipment, sports equipment, exercise equipment, fencing, netting, trash can, gazebo, pagoda, pole, post, bike rack, drinking fountain, sign, table, bench, tree, bush, shrub or plant, without the City's prior written consent.

(f) **Removal of Stored Personal Property; Discarding of Stored Personal Property.**

(1) No Person shall Store Personal Property in any Park.

(2) All Stored Personal Property remaining in any Park after closing may be removed by the City.

(3) Personal Property placed in a Park shall be deemed to be Stored Personal Property if it has not been removed from the Park prior to the daily closure of the Park. Moving Personal Property to another

location in the same Park or another Park or any other Public Area as defined in Los Angeles Municipal Code Section 56.11, shall not be considered removing the Personal Property from the Park. The City may remove such Stored Personal Property after providing notice pursuant to Subsection (g) herein. This section shall not apply to Personal Property that remains in the Park after the Park closes pursuant to statute, ordinance, regulation, permit, contract or other authorization by the City.

(4) The City may remove and discard any non-permitted Bulky Item from a Park without prior notice.

(5) In the event Personal Property placed in a Park poses an immediate threat to the health or safety of the public, the City may remove and discard it without prior notice.

(g) **Pre-Removal Notice.** Notice of the City's removal of Personal Property will be provided as follows:

(1) By erecting in a Park at least one sign in a conspicuous place providing notice that any Personal Property remaining in the Park after the Park closes may be removed and impounded and may be discarded by the City if not claimed within 90 days of the City's removal of the Personal Property; or

(2) By placing on or near the Personal Property, a written notice containing the following:

(i) A general description of the Personal Property to be removed;

(ii) The location from which the Personal Property will be removed;

(iii) The date and time the notice was posted;

(iv) A statement that the Personal Property has been Stored in violation of Section 63.44.B.26 and will be removed by the City if the Person who Stored the Personal Property in the Park does not remove the Personal Property from the Park within 24 hours;

(v) The location where the removed Personal Property will be stored, 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); and

(vi) A statement that the City may discard the Personal Property if not claimed within 90 days after the City's removal of it.

(h) **Post Removal Notice.** Upon the City's removal of Personal Property, written notice shall be placed conspicuously in the area from which the City removed the Personal Property. The written notice shall contain the following:

(1) A general description of the Personal Property removed by the City;

(2) The date and approximate time the Personal Property was removed by the City;

(3) A statement that the Personal Property was Stored in violation of 63.44.B.26;

(4) The location where the removed Personal Property will be impounded, including a telephone number and internet website of the City through which a Person may receive information as to impounded Personal Property; and

(5) A statement that removed Personal Property may be discarded if not claimed within 90 days of the City's removal of it.

(i) **Failure to Remove Attended Personal Property.**

It shall be unlawful to fail to remove from a Park attended Stored Personal Property within 24 hours of receiving written notice pursuant to Subsection (f)(2) or after closure of the Park, in any Park with a sign posed pursuant to Subsection (g).

(j) **Storage and Disposal.**

(1) Except as specified herein, impounded Personal Property shall be moved to a place of storage;

(2) Except as specified herein, impounded Personal Property shall be held by the City for 90 days, after which time, if not claimed, it may be discarded. The City shall not be required to undertake any search for, or return of, any Personal Property held by the City for longer than 90 days;

(3) The City shall maintain a record of the date any Personal Property was discarded.

(k) Repossession.

The owner or any other person entitled to the Personal Property removed by the City may repossess the Personal Property prior to its disposal upon submitting satisfactory proof of ownership or entitlement to the Personal Property. A Person may establish proof of ownership by, among other methods, describing the location where and date when the Personal Property was Stored in a Park and providing a specific and detailed description of the Personal Property. Valid, government-issued identification is not required to claim removed Personal Property.

(l) Illegal Dumping.

Nothing herein precludes the enforcement of any law prohibiting illegal dumping, including but not limited to, California Penal Code Section 374.3, and Los Angeles Municipal Code Sections 41.14, 63.44.B.13 or 190.02, or any successor statutes proscribing illegal dumping.

(m) Certain Penalties Inapplicable.

Los Angeles Municipal Code Section 11.00 shall not apply to violations of this section except as to violations of Subsections (c), (d), (e), (i) and (l).

(n) Severability. If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a 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 section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 2. A new Subdivision 13 is added to Subsection I of Section 63.44 of the Los Angeles Municipal Code to read as follows:

13. Bulky Items, Tents and Storage of Personal Property in Beach Parks.

(a) Declaration of Legislative Intent - Purpose.

Beach Parks should be accessible and available to residents and the public at large for their intended recreational uses. Bringing bulky items into a Beach Park and the unauthorized use of a Beach Park for the storage of personal property interferes with the rights of other members of the public to use Beach Parks for their intended purposes and can create a public health or safety hazard that adversely affects the Beach Park and

those who use the Beach Park for recreational activities. The purpose of this section is to maintain Beach Parks in clean, sanitary and accessible condition, to prevent harm to the health or safety of the public, to prevent the misappropriation of Beach Parks for personal use, and to promote the public health and safety by ensuring that Beach Parks remain readily accessible for their intended recreational uses.

(b) Definitions.

The definitions contained in this subsection shall govern the construction, meaning and application of words and phrases used in this section.

(1) **“Bulky Item”** means any item that is too large to fit in one of the City’s 60 gallon trash containers with the lid closed, including, but not limited to, a mattress, couch, chair or other furniture or appliance.

(2) **“Person”** means any individual, group, business, business trust, company, corporation, joint venture, joint stock company, partnership, entity, association, club or organization composed of two or more individuals (or manager, lessee, agent servant, officer or employee).

(3) **“Personal Property”** means any and all tangible property, and includes, but is not limited to, goods, materials, merchandise, Tents, tarpaulins, bedding, sleeping bags, hammocks, and personal items such as luggage, backpacks, clothing, documents, medication and household items.

(4) **“Store,” “Stored” or “Storing”** means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

(5) **“Tent”** means any tarpaulin, cover, structure or shelter, made of any material which is not open on all sides and which hinders an unobstructed view behind or into the area surrounded by the tarpaulins, cover, structure or shelter.

(c) Prohibition on Bulky Items in a City Beach Park.

No Person shall bring into any Beach Park any Bulky Item without a permit therefor.

(d) Prohibition on Erecting a Tent in a City Beach Park.

Except for areas expressly designated for camping, no person shall erect, configure or construct a Tent in any Beach Park.

(e) **Ban on Attachments.**

No Person shall erect any barrier against or lay string or join any wires, ropes, chains or otherwise attach any Personal Property to any of the City's real or personal property or trees or plants in a Beach Park, including, but not limited to, a building or portion or protrusion thereof, playground equipment, sports equipment, exercise equipment, fencing, netting, trash can, gazebo, pagoda, pole, post, bike rack, drinking fountain, sign, table, bench, tree, bush, shrub or plant, without the City's prior written consent.

(f) **Removal of Stored Personal Property; Discarding of Stored Personal Property.**

(1) No Person shall Store Personal Property in any Beach Park.

(2) All Stored Personal Property remaining in any Beach Park after closing may be removed by the City.

(3) Personal Property placed in a Beach Park shall be deemed to be Stored Personal Property if it has not been removed from the Beach Park prior to the daily closure of the Beach Park. Moving Personal Property to another location in the same Beach Park or another Beach Park or any other Public Area as defined in Los Angeles Municipal Code Section 56.11, shall not be considered removing the Personal Property from the Beach Park. The City may remove such Stored Personal Property after providing notice pursuant to Subsection (g) herein. This section shall not apply to Personal Property that remains in the Beach Park after the Beach Park closes pursuant to statute, ordinance, regulation, permit, contract or other authorization by the City.

(4) The City may remove and discard any non-permitted Bulky Item from a Beach Park without prior notice.

(5) In the event Personal Property placed in a Beach Park poses an immediate threat to the health or safety of the public, the City may remove and discard it without prior notice.

(g) **Pre-Removal Notice.** Notice of the City's removal of Personal Property will be provided as follows:

(1) By erecting in a Beach Park at least one sign in a conspicuous place providing notice that any Personal Property remaining in the Beach Park after the Beach Park closes may be removed and impounded and may be discarded by the City if not claimed within 90 days of the City's removal of the Personal Property; or

(2) By placing on or near the Personal Property, a written notice containing the following:

(i) A general description of the Personal Property to be removed;

(ii) The location from which the Personal Property will be removed;

(iii) The date and time the notice was posted;

(iv) A statement that the Personal Property has been Stored in violation of Section 63.44.B.26 and will be removed by the City if the Person who Stored the Personal Property in the Beach Park does not remove the Personal Property from the Beach Park within 24 hours;

(v) The location where the removed Personal Property will be stored, 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); and

(vi) A statement that the City may discard the Personal Property if not claimed within 90 days after the City's removal of it.

(h) **Post Removal Notice.** Upon the City's removal of Personal Property, written notice shall be placed conspicuously in the area from which the City removed the Personal Property. The written notice shall contain the following:

(1) A general description of the Personal Property removed by the City;

(2) The date and approximate time the Personal Property was removed by the City;

(3) A statement that the Personal Property was Stored in violation of 63.44.B.26;

(4) The location where the removed Personal Property will be impounded, including a telephone number and internet website of the City through which a Person may receive information as to impounded Personal Property; and

(5) A statement that removed Personal Property may be discarded if not claimed within 90 days of the City's removal of it.

(i) Failure to Remove Attended Personal Property.

It shall be unlawful to fail to remove from a Beach Park attended Stored Personal Property within 24 hours of receiving written notice pursuant to Subsection (f)(2) or after closure of the Beach Park, in any Beach Park with a sign posed pursuant to Subsection (g).

(j) Storage and Disposal.

(1) Except as specified herein, impounded Personal Property shall be moved to a place of storage;

(2) Except as specified herein, impounded Personal Property shall be held by the City for 90 days, after which time, if not claimed, it may be discarded. The City shall not be required to undertake any search for, or return of, any Personal Property held by the City for longer than 90 days;

(3) The City shall maintain a record of the date any Personal Property was discarded.

(k) Repossession.

The owner or any other person entitled to the Personal Property removed by the City may repossess the Personal Property prior to its disposal upon submitting satisfactory proof of ownership or entitlement to the Personal Property. A Person may establish proof of ownership by, among other methods, describing the location where and date when the Personal Property was Stored in a Beach Park and providing a specific and detailed description of the Personal Property. Valid, government-issued identification is not required to claim removed Personal Property.

(l) Illegal Dumping.

Nothing herein precludes the enforcement of any law prohibiting illegal dumping, including but not limited to, California Penal Code Section 374.3, and Los Angeles Municipal Code Sections 41.14, 63.44.B.13 or 190.02, or any successor statutes proscribing illegal dumping.