

THOUSAND OAKS CITY COUNCIL



Supplemental Information Packet

Cynthia M. Rodriguez

Agenda Related Items - Meeting of June 11, 2019
Supplemental Packet Date: June 11, 2019

5:00 P.M.

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed, typically a minimum of two—one available on the Thursday preceding the City Council meeting and the second on Tuesday at the meeting. The Thursday Supplemental Packet is available for public inspection in the City Clerk Department, 2100 E. Thousand Oaks Boulevard, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). Both the Thursday and Tuesday Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2100 E. Thousand Oaks Boulevard.

Americans with Disabilities Act (ADA):

In compliance with the ADA, if you need special assistance to participate in this meeting or other services in conjunction with this meeting, please contact the City Clerk Department at (805) 449-2151. Assisted listening devices are available at this meeting. Ask City Clerk staff if you desire to use this device. Upon request, the agenda and documents in this agenda packet, can be made available in appropriate alternative formats to persons with a disability. Notification at least 48 hours prior to the meeting or time when services are needed will assist City staff in assuring reasonable arrangements can be made to provide accessibility to the meeting or service.



City Attorney's Office
MEMORANDUM

2100 Thousand Oaks Boulevard • Thousand Oaks, CA 91362
Phone 805/449.2170 • Fax 805/449.2175 • www.toaks.org

TO: Andrew P. Powers, City Manager
FROM: Tracy M. Noonan, City Attorney
DATE: June 11, 2019
SUBJECT: Item No. 7.N. – Ordinance Amending Thousand Oaks Municipal Code Sections 5-8.08 & 5-8.09 of Title 5, Chapter 8 Miscellaneous Offenses Regarding Camping and Sitting and Standing in Public Places (Introduced 5/21/19, 5-0)

The following is the revised proposed ordinance for second reading, with the amendments proposed by the City Attorney's Office on May 21, 2019.

2019 JUN 11 PM 5: 02
CITY CLERK DEPARTMENT
CITY OF THOUSAND OAKS

TO COUNCIL 6-11-19
AGENDA ITEM NO. 7N
MEETING DATE 6-11-19

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF THOUSAND OAKS AMENDING
THOUSAND OAKS MUNICIPAL CODE SECTIONS
5-8.08 & 5-8.09 OF TITLE 5, CHAPTER 8
MISCELLANEOUS OFFENSES REGARDING
CAMPING AND SITTING AND STANDING IN PUBLIC
PLACES

The City Council of the City of Thousand Oaks does hereby ordain as follows:

Part 1.

Title 5, Chapter 8 of the Thousand Oaks Municipal Code is hereby amended to read as follows:

Chapter 8

Sec. 5-8.08. Regulation of camping.

(a) Purpose. Public places within the City of Thousand Oaks should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for which they were intended. Such action can constitute a public health and safety hazard which adversely impacts public property, neighborhoods and commercial areas. The purpose of this section is to maintain public places within the City of Thousand Oaks in a clean and accessible condition, to prevent the accumulation of trash and debris, and to reduce the risk of both structural and brush fires.

(b) Definitions. Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning and application of the words and phrases used in this section.

(1) "Camp" means to pitch or occupy camp facilities; or to use camp paraphernalia, for living purposes in an outdoor area. The act of sleeping on its own does not constitute camping.

(2) "Camp facilities" include, but are not limited to, tents, huts, unapproved shacks or temporary shelters.

(3) "Camp paraphernalia" includes, but is not limited to, tents or tent-like structures, cots, beds, hammocks or personal cooking facilities and similar equipment. This definition shall not include blankets, sleeping bags or bedrolls.

(4) "Open Space" means any parcel or area of land or water which is essentially unimproved and devoted to an open space use, allowing uses only as listed in Section 9-4.2105, and which is designated on the local open space plan as any of the following:

- (i) for the preservation of natural resources;
- (ii) for the managed production of resources;
- (iii) for outdoor recreation;
- (iv) or public health and safety.

(5) "Public place" means public property, improved or unimproved, and includes, but is not limited to, open space, parks, plazas, parking lots, highways, streets, bridges, alleys, driveways, sidewalks, and walkways.

(6) "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

(c) Unlawful camping. It shall be unlawful for any person to camp, occupy camp facilities or use camp paraphernalia in any public place, except as otherwise provided in this section.

(d) Storage of personal property in public places. It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in any public place, improved or unimproved, except as otherwise provided by the City Council, or except by permission of the property owner. Nothing herein shall be construed to allow storage where otherwise prohibited by this Code.

(e) Cooking. No person shall cook food in any public place, except as otherwise allowed by the Municipal Code or by specific permit. This section shall not prohibit cooking in areas designated for such purposes.

(f) Approved uses. This section shall not limit or be construed to limit the use of public parks, public open space, City streets, parking lots or other public property for such use of camp facilities and camp paraphernalia which use is specifically authorized by the property owner.

(g) Property Removal. Designated City employees may remove personal property unlawfully stored or found on public places as outlined in subdivision (b)(5) above or found in an unlawful encampment as follows.

(1) The location of any personal property including camp facilities and paraphernalia shall be noticed as follows:

"It is illegal to store personal property on a public place such as public open space, parks and parking lots. If this personal property is not removed within 72 hours of the date of this posting, THE PERSONAL PROPERTY SHALL BE DEEMED INTENTIONALLY ABANDONED AND SUBJECT TO REMOVAL AND POSSIBLE DESTRUCTION."

(2) City personnel may remove any personal property unlawfully stored or remaining in a public place after the posting period has expired.

(3) Personal property which has been abandoned, poses an imminent threat to public health or safety, is contraband or which is evidence of a crime shall not be subject to the above notice requirements and shall be removed immediately by City personnel or police and stored or destroyed according to the provisions below.

(h) Personal Effects.

(1) Personal effects for purposes of this chapter 5-8.08, means personal property consisting of the following items.

- (i) Medication, medical devices, eye glasses or other prescription lenses;
- (ii) Sleeping bag or bed roll which is sanitary and non-verminous;
- (iii) Tents in usable and reasonably good condition;
- (iv) Clothes stored in a manner protecting them from the elements, which are not unsanitary, soiled, or verminous;
- (v) Non-perishable food items; and
- (vi) Personal property with an estimated individual fair market value of at least Fifty no/100ths (\$50.00) Dollars.

(2) At the time of removal of unlawfully stored or remaining personal effects in the encampment, City personnel shall conspicuously post and date a notice either at the exact location from which the personal effects were removed or at another nearby location giving the following information.

- (i) A list of personal effects removed;
- (ii) A telephone number for information on retrieving personal effects;
- (iii) An address where the personal effects are temporarily stored;
- (iv) The length of time during which the personal effects may be claimed.

(3) Following removal of unlawfully stored or remaining personal effects, City personnel shall do the following:

- (i) Maintain an inventory identifying the personal effects; where the personal effects were approximately located; and the reasonable value of each item;
- (ii) Place the removed personal effects in containers labeled in a manner facilitating identification by City personnel and owner and which reasonably protect such property from damage or theft; and
- (iii) Store removed personal effects in an area designated by City for a period of ninety (90) days.

(4) Personal property stored by the City which is claimed within ninety (90) days from removal shall be released to the person claiming ownership providing they identify the property and the approximate location where the property was left.

(5) Disposition of property.

- (i) Property which remains unclaimed after 90 days may be dedicated for public use or may be given to a local nonprofit agency for charitable use.

- (ii) All other unlawfully stored or found personal property removed from an unlawful encampment is deemed intentionally abandoned and may be summarily abated and destroyed.

Sec. 5-8.09. Prohibition on sitting and lying in certain public places.

(a) Purpose/Findings.

(1) Public streets, sidewalks and walkways are created and maintained for the primary purposes of enabling pedestrians and vehicles to safely and efficiently move about from place to place, facilitating deliveries of goods and services, and providing all potential customers and visitors with convenient access to goods and services, as well as a place to recreate and engage in free public speech in shared civic space;

(2) Except as provided for in this Section, sitting or lying on public streets, sidewalks or walkways interferes with the primary purposes of the public street, sidewalk or walkway, threatens public safety and damages the public welfare;

(3) Pedestrians, particularly the elderly, disabled, and vision-impaired, are put at increased risk when they must see and navigate around individuals sitting or lying upon the public sidewalk;

(4) In some circumstances, people sitting or lying on sidewalks deter many members of the public from frequenting those areas. This, in turn, contributes to an erosion of the essential economic viability of those areas. Business failures and relocations can cause vacant storefronts contributing to a spiral of deterioration and blight which harms the public health, safety and welfare;

(5) There are numerous other places within the City where sitting can be accommodated without unduly interfering with the safe flow of pedestrian traffic, impairing commercial activity, threatening public safety or harming the public welfare. These other places include city parks, numerous public benches and other seating facilities, plazas, portions of sidewalks not intensively used by pedestrians, common areas open to the public, and private property with the permission of the property owner;

(6) The City recognizes that there is a fundamental need to sleep and desires to accommodate that need while also satisfying the needs of the general public to travel freely and safely throughout the City.

(7) The limited regulation of sitting or lying down on sidewalks in is both reasonably necessary and appropriately balances the public interest and individual rights.

(8) Designated Open Space contains ecologically sensitive habitats, including many protected plant and wildlife species as well as fresh water supplies. Except as provided for in this Section, human presence in Open Space other than on designated trails can seriously damage or destroy these habitats as well as increase the risk of wildfire danger and possible injuries from threatened wildlife.

(b) Definitions.

(1) Obstruct pedestrian or vehicular traffic” means to walk, stand, place an object, sit or lie in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact.

(2) Public place” means public property, including, but is not limited to, publicly owned parking lots and driveways, highways, streets, bridges, alleys, sidewalks, walkways, and City owned areas generally accessible to the public.

(c) Prohibitions. Except as provided in this Section:

(1) No person shall sit or lie down upon a public place or in doorways or entrances to buildings in such a way as to impede pedestrian or vehicular traffic.

(2) No person shall place any chair, stool, or other object upon any public place or in doorways or entrances to buildings except as provided for in this Code or permit issued by the City.

(3) No person shall be permitted to sleep in a public place between the hours of 6:00 a.m. to 10:00 p.m.

(4) No person shall be permitted to sleep in a public place between the hours of 10:00 p.m. to 6:00 a.m. unless there are no sleeping spaces practically available in any shelter or if there does not exist any viable alternative to sleeping in a public place.

(5) No person shall be permitted to sleep in Open Space as defined in Section 5-8.08(b)(4) at any time.

(d) Exceptions. The prohibitions in subsection (c) of this section shall not apply in the following cases and to the following persons:

(1) Persons operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to an applicable, valid permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted in a public place;

(2) Any conduct which is in conformity with the terms of any permit granted pursuant to this Code; and

(3) Persons patronizing dining establishments with seating areas in the public right of way which have been permitted pursuant to this Code.

(e) Picketing or protesting. It is not the intent of this section to prohibit protesting, picketing, demonstrating, signature gathering, voter registration, leafleting, or any other lawful activity permitted under the laws of the United States of America, State of California, or by the National Labor Relations Act in connection with a labor dispute.

Part 2.
(Uncodified)
Severability

If any section, subsection If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this title; it being hereby expressly declared that this title, and each section, subsection, sentence, clause and phrase hereof, would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Part 3
(Uncodified)
Continuation

Amendment herein of any provision of Chapter 23 of Title 5 of the Thousand Oaks Municipal Code will not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this ordinance's effective date. Any such amended part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this ordinance.

Part 4
(Uncodified)
Effective Date

This Ordinance shall take effect on July 12, 2019.

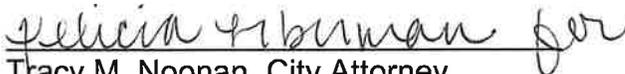
PASSED AND ADOPTED this 21st day of May, 2019.

Robert McCoy, Mayor
City of Thousand Oaks, California

ATTEST:

Cynthia M. Rodriguez, City Clerk

APPROVED AS TO FORM:



Tracy M. Noonan, City Attorney

APPROVED AS TO ADMINISTRATION:



Andrew P. Powers, City Manager

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