

ORDINANCE NO. 3113

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING MUNICIPAL CODE CHAPTER 12.42 RELATED TO CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS

THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 12.42 of the Whittier Municipal Code is hereby amended to read as follows:

“12.42.020 - Definitions.

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

- A. "Abandoned personal property" means personal property that the owner surrenders, relinquishes, or disclaims. Indicia of abandoned personal property shall include, but not be limited to: personal property that its owner has indicated he/she does not want; and personal property left on private real property for any period of time without the permission of the real property owner or current tenant.
- B. "Alley" shall have the same meaning as California Vehicle Code Section 110.
- C. "Block" shall mean 500 feet.
- D. "Bulky Item" means any item, with the exception of an operational bicycle, operational stroller or operational walker, crutch or wheelchair, that is too large to be moved by or carried on a person, including but not limited to, a shed, structure, constructed Tent, E Z up, canopy, mattress, couch, chair, other furniture or appliance. A container with a volume of no more than 60 gallons used by an individual to hold Personal Property shall not in itself be considered a Bulky Item.
- E. "Camp" means to pitch or to occupy camp facilities; to use or store camp paraphernalia for habitation purposes, to use any property set forth in Section 12.42.030 for habitation purposes such as sleeping activities, or making preparations to sleep, including laying down of bedding for purposes of sleeping.
- F. "Camp facilities" include, but are not limited to, tents, huts or temporary shelters.
- G. "Camp paraphernalia" includes, but is not limited to, tarpaulins, umbrellas, cots, beds, bedding, sleeping bags, hammocks or non-city designated cooking facilities, kitchen utensils, camping stoves, portable barbeques and similar equipment, extra clothing, personal hygiene items, and/or shopping carts, strollers, wheeled suitcases or similar mobile containers used to transport and/or store other items of camp paraphernalia.

- H. "Chief of police" or "police chief" means the chief of police of the Whittier police department or designee.
- I. "City clerk" shall mean the Whittier city clerk or designee.
- J. "City treasurer" shall mean the Whittier city treasurer or designee.
- K. "City manager" shall mean the Whittier city manager or designee.
- L. "Dwelling" shall mean more than one of the following activities and when it reasonably appears, in light of all the circumstances, that a person is using a vehicle as a place of residence or accommodation:
 - Possessing inside or on a vehicle items that are not associated with ordinary vehicle use, such as a sleeping bag, bedroll, blanket, sheet, pillow, kitchen utensils, cookware, cooking equipment, and bodily fluids. Obscuring some or all of the vehicle's windows. Preparing or cooking meals inside or on a vehicle, as a place of residence or accommodation.
- M. "House trailer" shall include any motor vehicle, boat, recreational vehicle or other vehicular device designed for use as a human habitation but shall not include a manufactured home, as that term is defined in 42 U.S.C. § 5402 (National Manufactured Housing Construction and Safety Standards Act of 1974), or its successor provisions.
 - "Park" means a park, reservation, playground, recreation center or any other area in the city owned, maintained or used by the city for the purpose of public rest, play, enjoyment, active or passive recreation, or assembly, including the Greenway Trail, and shall include all buildings and structures located thereon or therewith.
- O. "Public area" means and includes all property that is owned, managed or maintained by the City and shall include, but is not limited to, any street, alley, park, public right-of-way, recreational area, any place open to the public view or other place to which the public has access.
- P. "Public works director" means the public works director of the City of Whittier or designee.
- Q. "Personal property" means tangible personal belongings. Tangible personal belongings include any movable or tangible thing that is subject to ownership; property or chattels that can be seen, weighed, measured, felt, or touched, such as cooking utensils, money, medication, documents, clothing, luggage and books. For the purposes of this chapter, personal property shall not include real property, vehicles, bicycles or animals.
- R. "Real property" means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land. Real property includes land, buildings and easements.
- S. "Store", "Stored", "Storing" or "Storage" means to put Personal property aside or accumulate for use when needed, to put for safekeeping and/or to place or leave in a Public Area. Moving Personal property to another location in a Public Area or returning Personal property to the same block on a daily or regular basis shall be considered Storing and shall not be considered to be removing the Personal property from a Public Area. This definition shall not include any Personal Property that, pursuant to statute, ordinance, permit, regulation or other authorization by the City or State, is Stored with permission of the City or state on real property that is owned or controlled by the City.

- T. "Street" shall have the same meaning as California Vehicle Code Section 591.
- U. "Tent" means a collapsible shelter made of fabric such as nylon or canvas or a tarp stretched and sustained by supports, which is not open on all sides and which hinders an unobstructed view behind or into the area surrounded by the fabric. In order to qualify as a Tent for purposes of this subsection, a Tent, when deconstructed, must be able to fit into a 60-gallon container with the lid closed.
- V. "Unattended" means no Person is present with the Personal Property who asserts or claims ownership over the Personal Property. Conversely, property is considered "Attended" if a Person is present with the Personal Property and the Person claims ownership over the Personal Property.
- W. "Unclaimed personal property" means personal property that has been turned in to the chief pursuant to Section 12.42.050, and that has not been claimed within a period of ninety (90) days by its true owner or finder.
- X. "Vehicle" means any motor vehicle, trailer, house car or trailer coach as defined by the California Vehicle Code.

12.42.040 - Unlawful camping—Use of vehicles for dwelling prohibited on city streets.

- A. No person shall use a Vehicle for Dwelling as follows:
 - 1. Between the hours of 8:00 p.m. and 7:00 a.m. on any City street; or
 - 2. At any time within one Block radius of any edge of a lot containing a park or licensed school, pre-school or daycare.
- B. The prohibition of this section shall not apply:
 - 1. In the event of an emergency, including a city declared emergency or natural disaster, such as a flood or earthquake.
 - 2. To events that are approved or sponsored by the city.
 - 3. To camping grounds and parks designated for mobile home or recreational vehicle use.

12.42.050 - Storage of personal property in public areas.

- A. No person shall Store any Unattended Personal Property in a Public Area. With pre-removal notice as specified in Subsection 12.42.070.A., the City may impound any Unattended Personal Property in a Public Area, regardless of volume. Post-removal notice shall be provided as set forth in Subsection 12.42.070.B.
- B. No person shall Store any Personal Property in a Public Area in such a manner as to obstruct City operations, including street or sidewalk maintenance or cleaning, or park or landscaping maintenance, repair or irrigation. Without prior notice, the City may temporarily move Personal Property, whether Attended or Unattended, which is obstructing City operations in a Public Area during the time necessary to conduct the City operations. The City may also impound Personal Property that is obstructing City operations in a Public Area. Post-removal notice shall be provided as set forth in Subsection 12.42.070.B.
- C. No person shall Store any Personal Property in a Public Area in such a manner that it does not allow for passage as required by the Americans with

Disabilities Act of 1990 as amended from time to time (ADA). Without prior notice, the City may move and may immediately impound any Personal Property, whether Attended or Unattended, Stored in a Public Area in such a manner that it does not allow for passage as required by ADA. Post-removal notice shall be provided as set forth in Subsection 12.42.070.B.

- D. No person shall Store any Personal Property within ten feet of any operational and useable entrance, exit, driveway or loading dock. Without prior notice, the City may move and may immediately impound any Personal Property, whether Attended or Unattended, Stored in a Public Area within ten feet of any such area. Post-removal notice shall be provided as set forth in Subsection 12.42.070.B.
- E. No person shall Store in a Public Area that has clearly posted closure time any Personal Property after the posted closure time. Without prior notice, the City may move and may immediately impound any Personal Property, whether Attended or Unattended, Stored in a Public Area within ten feet of any such area. Post-removal notice shall be provided as set forth in Subsection 12.42.070.B.
- F. No person shall Store any Personal Property in a Public Area if the Personal Property, whether Attended or Unattended, constitutes an immediate threat to health or safety of the public. Without prior notice, the City may remove and may discard any Personal Property Stored in a Public Area if the Personal Property poses an immediate threat to the health or safety of the public.
- G. No person shall Store any Personal Property in a Public Area if the Personal Property, whether Attended or Unattended, constitutes an evidence of a crime or contraband. Without prior notice, the City may remove and may discard any Personal Property that constitutes an evidence of a crime or contraband.
- H. No person shall Store any Bulky Item in a Public Area. Without prior notice, the City may move and may discard any Bulky Item, whether Attended or Unattended, Stored in a Public Area unless the Bulky Item is designed to be used as a shelter. For any Bulky Item that is designed to be used as a shelter, with pre-removal notice as specified in 12.42.050.D - H the City may remove and discard the Bulky Item, whether Attended or Unattended. If the Bulky Item violates Subsections 12.42.050.D – H. herein, even if it is designed to be used as a shelter, without prior notice, the City may remove and discard the Bulky Item, whether Attended or Unattended.
- I. Any person violating this section shall be guilty of an infraction.

12.42.080 - Ban on Erection of Tents during Certain Daytime Hours.

No person shall erect, configure or construct a Tent in any Public Area from 7:00 a.m. to 8:00 p.m. (except during rainfall). A person must take down, fold, and completely remove or put away any Tent erected, configured or constructed in any Public Area between the hours of 7:00 a.m. and 8:00 p.m. (except during rainfall). Without prior notice, the City may deconstruct and may impound any Tent, whether Attended or Unattended, located in any Public Area in violation of this subsection or in violation of Subsections 12.42.050 hereof. The City shall provide post-removal notice for any impounded Tent as set forth in Subsection 12.42.070.B.

12.42.210 - Penalties.

- A. Any person violating any of the provisions of this chapter shall be guilty of an infraction.
- B. The remedies set forth in subsection A of this section shall be in addition to any other existing remedies for code enforcement and nuisance abatement actions, including, but not limited to, administrative citations or any action at law or equity.

SECTION 2. Any provision of the Whittier Municipal Code or appendices thereto inconsistent with the provisions of the Ordinance, to the extent of such inconsistencies and no further, are repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Whittier hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall take effect 30 days after its adoption and shall be published pursuant to law.

APPROVED AND ADOPTED this 25th day of February 2020.

JOSEPH A. VINATIERI, Mayor

ATTEST:

RIGOBERTO GARCIA JR., City Clerk
(seal)

Date: _____