

ORIGINAL

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1704

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO AMENDING CHAPTER XVIII OF THE NOVATO MUNICIPAL CODE (“TRAFFIC”) TO ADD SUBSECTION 18-16 (“MEDIAN REGULATIONS”) TO PROVIDE RULES FOR THE USE OF MEDIANS TO PROMOTE TRAFFIC SAFETY

WHEREAS, the City Council desires to amend Chapter XVIII (“TRAFFIC”) of the Novato Municipal Code to add subsection 18-16 (“Median Regulations”) to provide rules for the use of medians to promote the safety of both pedestrians and motorists; and

WHEREAS, in developing this Ordinance, City Council acknowledges and abides by the constitutional principles relating to regulation of activity on public and private property. This ordinance is not intended to suppress or infringe upon any expressive activities protected by the First Amendment of the United States Constitution or the Liberty of Speech Clause of the California Constitution. Instead, the City desires to enact reasonable, content-neutral time, place and manner regulations that address the need to prevent dangerous and hazardous situations from arising and to promote pedestrian and vehicular safety; and

WHEREAS, the function of medians is to enhance traffic safety by separating traffic streams, to guide turning movements, and to provide a visual separation between driving lanes and help direct traffic; and

WHEREAS, the City has received complaints about safety concerns caused by pedestrians lingering or loitering on medians; and

WHEREAS, the City’s Chief of Police and Traffic Engineer have surveyed medians within City and determined that lingering or loitering on narrow medians less than four feet in width is unsafe and hazardous for both pedestrians and motorists while medians greater than four feet in width provide sufficient refuge from potential traffic hazards; and

WHEREAS, the City has determined that pedestrians lingering or loitering on the narrow medians of less than four feet in width endanger themselves due to their close proximity to moving traffic and may increase the risk of distracting motorists while driving. This increases the likelihood of vehicle crashes, pedestrian-involved crashes, and congestion and blockage of streets which delay and obstruct the free flow of travel. The City has determined these issues constitute substantial traffic safety problems; and

WHEREAS, the City has also determined that obstructing the traffic and directional signals or signs located on medians of any size will cause traffic safety issues. Traffic devices commonly installed in medians include regulatory signs and equipment such as turn prohibitions and signal indications, and warning devices such as reflectorized delineators which, if blocked, are a traffic safety concern; and

WHEREAS, by enacting this Ordinance the City Council does not intend to interfere with the exercise of free speech rights of those engaged in solicitation, demonstrations, or other forms of protected speech. Rather, this Chapter regulates the conduct of lingering or loitering on narrow medians to minimize the safety hazards associated with such conduct for both pedestrians and motorists; and

WHEREAS, the restrictions of this Ordinance are content-neutral and are narrowly tailored to serve a significant governmental interest of traffic safety, but still provide ample alternative avenues of communication, including on sidewalks or on medians larger than four feet in width.

NOW THEREFORE, the City Council of the City of Novato does hereby ordain as follows:

SECTION 1. CODE AMENDMENT.

Chapter XVIII entitled "TRAFFIC" of the Novato Municipal Code is hereby amended to add Section 18-16 entitled "MEDIAN REGULATIONS" to read in its entirety as follows:

18-16.1 - Definitions

For purposes of this section, the terms listed below shall have the following meaning:

- a. "Median" means a paved or planted raised area located in the center of a roadway, dividing the roadway according to the direction of travel.
- b. "Linger" means to remain on a median longer than two traffic signal cycles, or, for locations without a traffic signal, for longer than three minutes, except in an emergency or for public works.
- c. "Loiter" means to stand or linger on a median for any purpose other than to safely and lawfully cross the street, except in an emergency or for public works.
- d. "Public Works" means work or maintenance performed by the City, a State agency, public utility, their respective contractors, or other authorized public agency.

18-16.2 Lingering and Loitering Prohibited On Narrow Medians

- a. To ensure the safety of both pedestrians and motorists, it is unlawful, prohibited, and a violation of this code for any person to linger or loiter on a less than four feet in width portion of any median located within any public roadway, as medians of this size are not designed to accommodate prolonged pedestrian use.
- b. The only exceptions to this prohibition are for the following circumstances: (1) to cross a roadway; (2) for emergencies; or (3) as is necessary for public works.

18-16.3- Obstructing Traffic Signs and Signals Prohibited On All Medians

- a. To ensure the safety of both pedestrians and motorists, it is unlawful, prohibited, and a violation of this code for any person to block traffic signs and signals located on or within any median for more than two traffic signal cycles, or, for locations without a traffic signal, for longer than three minutes, so the traffic signs and signals located on medians remain adequately visible to approaching motorists and to reduce hazards between motorists and pedestrians.
- b. The only exceptions to this prohibition are for the following circumstances: (1) for emergencies; or (2) as is necessary for public works.

18-16.4 Severability

If any part of this section or the application thereof to any person is held invalid, the remainder of this section and the application of such provisions to other persons shall not be affected thereby.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The City Council finds that the adoption of this ordinance is exempt from the California Environmental Quality Act (“CEQA”) under California Code of Regulations, Title 14 Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. The ordinance amends the municipal code to comply with state law. The adoption of this ordinance does not entitle new development or any changes to the physical environment.

SECTION 3. SEVERABILITY.

If any section, subsection, clause, sentence, word or phrase of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of remaining portions of this ordinance. The city council declares that it would have passed and adopted this ordinance and each of the provisions thereof irrespective of the fact that any one or more such provisions, sections, subsections, phrases or clauses be declared invalid and/or unconstitutional.

SECTION 4. PUBLICATION, EFFECTIVE DATE, AND ENFORCEMENT.

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption,

or

publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

This ordinance shall become effective and enforceable thirty (30) days after the date of its passage and adoption.

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THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on the 12^h day of September 2023, and was passed and adopted at a regular meeting of the Novato City Council on the 26th day of September, 2023 by the following vote, to wit:

AYES: Councilmembers Eklund, Farac, Milberg, O’Connor, Wernick
NOES: Councilmembers
ABSTAIN: Councilmembers
ABSENT: Councilmembers

Susan Dennis

Mayor of the City of Novato

Attest:

Jana McDowell
City Clerk of the City of Novato

Approved as to Form:

Gary B. Bell
City Attorney of the City of Novato