

URGENCY ORDINANCE NO. 3128

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, TO ALLOW ADDITIONAL ENFORCEMENT OPTIONS REGARDING VIOLATIONS OF CHAPTER 12.42, ENTITLED "CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS" AND AMENDING SECTION 1.08.015

WHEREAS, the City of Whittier, pursuant to its police power, may enact regulations for the public peace, morals, and welfare of the City; and

WHEREAS, consistent with Whittier Municipal Code section 12.42.010, the City Council finds that public streets, parks and other public areas within Whittier should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes and/or storage of personal property interferes with the rights of others to use the areas for which they were intended; and

WHEREAS, the City desires to balance the needs of residents and public at large to access clean and sanitary public areas consistent with the intended uses for parks and other public areas with the needs of individuals who have no other alternatives for the storage of personal property to retain access to a limited amount of personal property in public areas and who have no place to sleep at night; and

WHEREAS, the City desires to balance the needs of all the city's residents, maintain the public streets and public areas in blight-free conditions, to secure access to public areas and to businesses, to ensure that public property is used for its intended purposes and remains accessible to all citizens, businesses and visitors in the City of Whittier, while taking into account the vulnerable homeless population; and

WHEREAS, Chapter 12.42 of the Whittier Municipal Code prohibits camping on any street or alley, any parking lot, public area, or any park, except for designated camping areas; and

WHEREAS, the City has recently contracted with a homeless services provider to directly interact with and provide social services to people experiencing homelessness, without the need to involve police; and

WHEREAS, most municipal code violations are punishable as misdemeanors and not just as infractions; and

WHEREAS, although it is the city's preference to never require the use of police to enforce Chapter 12.42, it is expected that in some instances, homeless services providers will not be able to sufficiently resolve the relevant problems, and allowing police the additional option to enforce the law as misdemeanors and not just as infractions is in the public interest.

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

SECTION 1. Municipal Code Section 12.42.050. Subsection I of Municipal Code section 12.42.050 which currently provides "Any person violating this section shall be guilty of an infraction", is hereby deleted.

SECTION 2. Municipal Code Section 12.42.210. Subsection A of Municipal Code section 12.42.210 is revised as follows:

- A. Any person violating any of the provisions of this Chapter shall be ~~guilty of an infraction~~ subject to enforcement pursuant to Municipal Code section 1.08.010.

SECTION 3. Municipal Code Section 1.08.015. Subsection 4 of Subsection A of Municipal Code section 1.08.015 is revised as follows:

4. ~~Section 12.24.070, obstruction of public right of way.~~ (Reserved)

The following subsections of Subsection A of Municipal Code section 1.08.015 are hereby added as follows:

20. Section 12.42.030, Camping in public areas prohibited.
21. Section 12.42.040, Unlawful camping—Use of vehicles for dwelling prohibited on city streets.
22. Section 12.42.050, Storage of personal property in public areas.
23. Section 12.42.080, Ban on erection of tents.
24. Section 12.42.090, Ban on attachments to public and private property.
25. Section 12.42.110, Unlawful conduct.

SECTION 4. Repeal of Inconsistent Sections. 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 5. Environmental Review. The Council finds that adoption of this ordinance is not a "project" pursuant to California Public Resources Code Section 21065 because this ordinance merely grants additional legal authority to enforce existing laws and there is no reasonable basis to conclude that this ordinance may cause a significant effect on the environment. Therefore, no environmental review under the California Environmental Quality Act is required. Even if this ordinance were considered a project, there is no reasonable basis to conclude that this ordinance may have a significant effect on the environment.

SECTION 6. Severability. If any section, subsection, clause or phrase or portion of this code 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 all other provisions of this ordinance. The City Council of Whittier hereby declares that it would have passed the ordinance codified in this chapter, and each section, subsection, sentence, clause and phrase or portion thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases or portions thereof be declared invalid or unconstitutional.

SECTION 7. Urgency Measure. This Ordinance is declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. The City Council hereby finds that the following circumstances constitute such urgency and that this ordinance will effect the purposes behind the urgency: (i) public streets, parks and other public areas within Whittier should be immediately and readily accessible and available to residents and the public at large; (ii) the use of these areas for camping purposes and/or storage of personal property interferes with the rights of others to use the areas for which they were intended; (iii) the city has recently contracted with a homeless services provider to directly interact with and provide social services to people experiencing homelessness, without the need to involve police; (iv) although it is the city's preference to never require the use of police to enforce Chapter 12.42, it is expected that in some instances, homeless services providers will not be able to sufficiently resolve the relevant problems, and allowing police the additional option to enforce the law as misdemeanors and not just as infractions will increase the number of people who are willing to accept services from social service providers and decrease violations of Chapter 12.42; (v) as more social services are provided, there will be a commensurate decrease in the number of people who are experiencing homelessness, and it is an urgent matter to assist people in this endeavor; (vi) granting express authorization to the police to arrest for misdemeanors will immediately decrease the negative impact on public spaces, by decreasing the amount of public defecation, public urination, drug abuse, and public intoxication, and the other unsafe and unsanitary activities which occur in public parks and other locations in city streets and other negative impacts which Chapter 12.42 is designed to deter.

SECTION 9. Attestation: The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published in the manner prescribed by law. This Ordinance shall become immediately effective.

PASSED, APPROVED AND ADOPTED this 13th day of July 2021 by the following four-fifths (4/5) vote:

JOSEPH A. VINATIERI, Mayor

ATTEST:

APPROVED AS TO FORM:

Rigoberto Garcia Jr., City Clerk

Richard D. Jones, City Attorney

Date: _____

I CERTIFY THAT THE FOREGOING URGENCY ORDINANCE NO. 3128 was adopted by the City Council of the City of Whittier at the regular meeting held on the 13th day of July 2021, by the following vote:

AYES:	5	Council Members: Vinatieri, Warner, Martinez, Dutra, Bouchot
NOES:	0	
ABSTAIN:	0	
ABSENT:	0	

RIGOBERTO GARCIA JR., City Clerk
(seal)