

ORDINANCE NO. 3007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, ADDING SECTION 10.64.040 (IMPROPER USE OF BENCHES, PUBLIC STRUCTURES AND LANDSCAPED AREAS) TO THE WHITTIER MUNICIPAL CODE RELATING TO PEDESTRIAN USE AND OCCUPATION OF PUBLIC BENCHES, MONUMENTS, LANDSCAPED AREAS; AND AMENDING SECTION 1.08 OF THE WHITTIER MUNICIPAL CODE RELATING TO PENALTIES

WHEREAS, the City of Whittier has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the city, Cal. Const. art. XI, § 7;

WHEREAS, Article II, Section 200 of the City of Whittier's Charter empowers the City to make and enforce all laws and regulations with respect to municipal affairs;

WHEREAS, the City Council finds that the use and occupation of public structures and landscaped areas within the city concerns the public's peace, morals and welfare of the City and, further, is a municipal affair as the City's public funds are expended to erect and maintain such public structures and landscaped areas;

WHEREAS, the City of Whittier maintains benches within the City for the purpose of providing pedestrians with a place to rest from standing and walking;

WHEREAS, the City of Whittier maintains various public structures, including but not limited to monuments, fountains and picnic tables within the City for the purpose of enhancing the visual appeal and enjoyment of certain public areas;

WHEREAS, the City of Whittier maintains various landscaped areas within the city for the purpose of enhancing the visual appeal of certain public areas; and

WHEREAS, the City Council of the City of Whittier finds that the purposes of these public areas and structures are frustrated by their improper use, such as standing or walking across them; this prevents the use of the structures and landscaped areas for their intended use, and increases the need for maintenance and cleanup of the structures and landscaped areas.

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

SECTION 1. Section 10.64.040 of Chapter 10.64 – Pedestrians - of Title 10 (Vehicles and Traffic), of the Whittier Municipal Code is hereby added as follows:

10.64.040 - IMPROPER USE OF BENCHES, PUBLIC STRUCTURES AND LANDSCAPED AREAS.

- A. No person, after having been notified by a peace officer or city employee that he or she is in violation of this Section shall:
 - 1. Walk or stand upon any public bench;
 - 2. Walk, stand, sit or lie upon any monument, decoration, artwork, drinking fountain, bike rack, trash receptacle, median, fire hydrant, planter, berm, utility cabinet, railing, fence or upon any other public structure not designed or customarily used for such purposes; or
 - 3. Walk, stand, sit or lie upon any public lawn, landscaped area or planted area posted with signs that forbid such conduct.
- B. For purposes of this Section, the following definitions apply:
 - 1. “Benches” means any device made of wood, metal, concrete or a combination thereof, provided by the city and designed for the seating of pedestrians.
 - 2. “Public structure” means any device provided by the city and affixed to the ground or a building including, but not limited to benches, tables, sculptures, artwork, lampposts, railway structures, hydrants, or tree box.
 - 3. “Landscaped areas” means an area that contains outdoor plants, turf or other vegetation, including the design features adjacent to the landscaped area, which may or may not include an irrigation system.
 - 4. “Peace officer” means any peace officer of the Whittier Police Department, as provided in the California Penal Code.
 - 5. “City employee” means any employee of the City of Whittier acting within the course and scope of his or her employment.

SECTION 2. Violations of this Section shall be punished pursuant to Chapter 1.08 (General Penalty) of the Whittier Municipal Code.

Subdivision (A)(19) of Section 1.08.015 (Enforcement as Misdemeanor or Infraction) of Chapter 1.08 (General Penalty) of Title 1 (General Provisions) is hereby added as follows:

- 19. Section 10.64.040, improper use of benches, public structures and landscaped areas.

SECTION 3. 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 4. 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 5. 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 once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AND ADOPTED this 13th day of August 2013.

BOB HENDERSON, Mayor

ATTEST:

KATHRYN A. MARSHALL
City Clerk-Treasurer

CITY OF WHITTIER)
) SS
 STATE OF CALIFORNIA)

I, Kathryn A. Marshall, City Clerk-Treasurer in and for the City of Whittier, California, hereby certify that the foregoing ordinance was duly introduced at a regular meeting of the City Council of the City of Whittier on the 23rd day of July 2013, and adopted at a regular meeting of the City Council of the City of Whittier on the 13th day of August 2013 by the following roll call vote:

AYES: J.A. Vinatieri F. Dutra C. Warner
 R.L. Henderson
 NOES: None
 ABSENT: O. Newcomer

WITNESS my hand and the official seal of the City of Whittier, California, this _____ day of _____ 2013.

 KATHRYN A. MARSHALL
 City Clerk-Treasurer

Published as required by law: August 27, 2013.