

**ITEM 11 ATTACHMENT A
ORDINANCE NO. 2021-394**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA, ADDING CALABASAS MUNICIPAL CODE CHAPTER 9.38 "USE OF THE PUBLIC RIGHTS OF WAY AND PROTECTION OF SCHOOLCHILDREN, BUS STOPS, CRITICAL INFRASTRUCTURE, AND WILDFIRE RISK AREAS."

WHEREAS, it is the obligation of the City to keep its public rights of way clean and available for public use, and to protect the public health, safety, and welfare and access by City constituents and personnel; and

WHEREAS, a principal threat to the public health, safety, and welfare is the potential destruction of, damage to, or interference with the public right-of-way that is critical to the provision of public services such as law enforcement, fire prevention, educational services, transportation, and utilities; and

WHEREAS, increased obstruction of public property obscures adverse and illegal activity from public view, contributes substantially to the accumulation of litter, clutter and visual blight, can interfere with pedestrian circulation, can obstruct or interfere with the lawful use of public spaces by the general public for their intended recreational uses, and inhibit the effective regulation and enforcement against illegal activities; and

WHEREAS, the City desires to establish its ability to prevent individuals from camping, loitering, or blocking the public right-of-way at particular times and locations in order to reduce the risk of interference with the provision of services and comply with the Americans with Disabilities Act of 1990; and

WHEREAS, youth are particularly endangered by persons camping, loitering, or blocking the public right-of-way, which can interfere with youth's ability to use the public right-of-way and increases the risk of vehicular accident by forcing youths onto the highway; and

WHEREAS, the City desires to protect minor children from these potentially deleterious effects and allow for the safe passage of youths to and from school; and

WHEREAS, the City has invested significant public resources in the development and maintenance of bus stops, including benches, and the City desires to deter the misuse of bus stops, which discourages and impedes others from using public transit; and

WHEREAS, destruction of, damage to, or interference with, critical infrastructure is often caused by persons whose activities are not permitted or authorized in, on, or near critical infrastructure; and

WHEREAS, wildfires are often caused by persons whose activities are not permitted or authorized in, on, or near wildfire risk areas; and

WHEREAS, the City must appropriately consider competing interests and formulate policy to best protect public health, safety, welfare, property, and the environment, with limited resources; and

WHEREAS, it is the purpose and intent of the City Council to provide standards for outdoor living which are intended to be as compatible as possible with the protection and preservation of health, safety, and welfare of the inhabitants of the City; and

WHEREAS, the City desires to continue to offer specialized services, and outreach programs to those who appear in need, or to those request service assistance; and

WHEREAS, the City desires to adopt an ordinance to establish its ability to prevent individuals from camping, loitering, or blocking the public right-of-way at particular times and locations at or near youth-serving facilities, bus stops, critical infrastructure, and wildfire risk areas.

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

SECTION 1. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. The City Council hereby finds and determines that there is no possibility the adoption of this ordinance will have a significant effect on the environment. Accordingly, under the provisions of § 15061(b)(3) and § 15378(b)(5) of Division 6 of Title 14 of the California Code of Regulations, the CEQA Guidelines, the adoption of this ordinance is not subject to the requirements of the California Environmental Quality Act.

SECTION 3. The City Council hereby adds Chapter 9.38 to the Calabasas Municipal Code to read as follows:

“9.38 – Protection of Schoolchildren, Bus Stops, Critical Infrastructure, and Wildfire Risk Areas

9.38.010 – Definition of Specialized Terms and Phrases.

“Bus stop” means any place where the City or other governmental entity has directed the placement of a sign designating a location where shuttle, trolley, bus service, or other form of public transit stop to service and transport passengers.

“Bus stop area” means the area at a bus stop occupying the entire width of the sidewalks that extends 20 feet before a bus stop sign or bus stop route sign, or, for bus stops furnished with shelter or shelters, the footprint of the shelters, and the entire width of the sidewalk that extends 10 feet before and 10 feet after the footprint of the shelter. The footprint of a shelter is defined by vertical plans, perpendicular to the ground, extending down from the outermost edges of the shelter overhang or roof.

“Camping” means to pitch or occupy camp facilities, to live temporarily or occupy a portion of property for living accommodation purposes, as exemplified by remaining for prolonged or repetitious periods of time with one’s personal possessions (including, but not limited to, clothing, sleeping bags, bed rolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, and similar materials) sleeping or making preparations to sleep, storing personal belongings as above defined, or regularly cooking or consuming meals.

“Critical Infrastructure” means any real property or facility, whether privately or publicly owned, as designated by the City Council by resolution, that the City Council determines in its discretion is so vital and integral to the operation or functioning of the city that its damage, incapacity, disruption, or destruction would have a debilitating impact on the public health, safety, or welfare. Critical infrastructure may include, but is not limited to, government buildings, such as schools, fire stations, police stations, jails, or courthouses; hospitals; structures, such as antennas, bridges, roads, train tracks, drainage systems, or levees; or systems, such as computer networks, public utilities, electrical wires, natural gas pipes, telecommunication centers, or water sources.

“School Route” shall mean any public road that is significantly used for transportation to and from any public or private school. The City shall adopt a resolution and make publicly available a map of all designated school routes.

“Store” means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

“Wildfire risk area” has the same meaning as in California Code of Regulations, title 24, part 9, section 202.

“Youth-serving facility” means child day care facilities, preschools, public or private primary or secondary schools, Public Libraries, and City playgrounds and parks.

9.38.020 – Prohibition on Camping in Public Right-of-way.

A. No person shall camp, sit, lie, loiter, sleep, or store their belongings in or upon any public highway, green belt, median island, alley, sidewalk, crosswalk or other public place or way open for pedestrian or vehicular travel or appurtenant thereto:

(1) in such a manner that impedes passage, as provided by the Americans with Disabilities Act of 1990, Pub. L, No. 101-336, 104 Stat. 328 (1990), as amended from time to time; or

(2) in a manner that obstructs or unreasonably interferes with the use of the right-of-way; or

(3) in a manner that obstructs any portion of any street or other public right-of-way open to use by motor vehicles, or any portion of a bike lane, bike path, or other public right-of-way open to use by bicycles or pedestrians, by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, anywhere within the street, bike lane, bike path, or other public right-of-way; or

(4) in a manner that blocks or impedes access to City-owned or leased equipment or buildings, or impedes City staff from performance of inspection, maintenance, or repairs of City-owned property; or those portions of a right-of-way that are required by local, state, or federal law to be free of obstruction for first responders, including but not limited to members of law enforcement, fire agencies, or emergency-medical-services agencies.

B. The provisions of this section do not prohibit a person from sitting upon a public highway, green belt, median island, alley, sidewalk, crosswalk, or other public place if:

1. Temporarily necessitated by any disability of such person;

2. Such person is viewing a legally conducted parade or similar permitted temporary event; or

3. Such person is seated for less than one hour on a bench lawfully installed for such purpose; or

4. Such person is engaged in expressive activity.

C. Nothing in this chapter shall be construed as to prohibit camping in public campgrounds under a permit authorized by other provisions of law or ordinance.

9.38.030 – Location-Specific Regulations. The following provisions apply separately from the requirements of Section 9.38.030 of this Code.

- A. No person shall camp, lie, loiter, sleep, or store their belongings within ten feet near or in or upon any bus stop or bus stop area during the posted hours of bus service for more than a total of one hour during any given twelve-hour period.
- B. Subsection (A) does not apply to any person:
 - 1. Unable to comply with the direction of a law enforcement officer due to a medical condition or emergency;
 - 2. Engaged in expressive activity;
 - 3. Engaged in maintenance, repair, or construction activity on behalf of a governmental entity or a public utility; or
 - 4. Under the age of six years old who is lying down in a baby carriage, stroller, or carrier, or is lying down while being held or carried by a person who is not lying down.
- C. To limit traffic congestion and protect the safety of children traveling to and from and in and around youth-serving facilities from potential adverse safety impacts due, in part, to sidewalk congestion, no person shall camp, sit, lie, loiter, sleep, or store their belongings in or upon any public highway, bike path, pedestrian path, green belt, median island, alley, sidewalk, crosswalk, or other public place or way open for pedestrian or vehicular travel that is in or within two-hundred-fifty (250) feet of a school route during the period extending one hour before the start of classes and ending one hour after the end of classes.
- D. To protect the health and safety of schoolchildren, no person shall camp, sit, lie, loiter, sleep, or store their belongings in or upon any public highway, bike path, pedestrian path, green belt, median island, alley, sidewalk, crosswalk or other public place or way open for pedestrian or vehicular travel in or within two-hundred-fifty (250) feet of a youth-serving facility at any time.
- E. To prevent wildfires, no person shall camp, sit, lie, loiter, sleep, or store their belongings in or upon a wildfire risk area.
- F. No person shall camp, sit, lie, loiter, sleep, or store their belongings in or upon fifty (50) feet of critical infrastructure as defined by the City Council.
- G. To protect the health and safety of users of public transits, no person shall camp, lie, loiter, sleep, or store their belongings in or upon any method of public transportation that runs in the City. Violations of

the City's Public Transportation Rules and Regulations may be punished under Section 9.38.040 and result in being removed from public transportation.

- H. Nothing in this chapter is intended to prohibit or make unlawful the activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes; and nothing is intended to prohibit or make unlawful the activities of a property owner or other lawful user if such activities are expressly authorized by the Code or other laws, ordinances, and regulations.
- I. No person shall camp, sit, lie, loiter, sleep, or store their belongings in or upon any public highway, bike path, pedestrian path, green belt, median island, alley, sidewalk, crosswalk, or other public place or way open for pedestrian or vehicular travel in any location in the City, if at the time of enforcement, there is available alternative shelter space.
- J. No person shall camp, sit, lie, loiter, sleep, or store their belongings within ten feet of any operation or utilizable driveway or loading dock.
- K. No person shall camp, sit, lie, loiter, sleep, or store their belongings within ten feet of any fire hydrant, fire plug, or other fire department connection.
- L. No person shall camp, sit, lie, loiter, sleep, or store their belongings within fifty (50) feet of a designated facility that provides shelter, safe sleeping, or safe parking to homeless persons, or that serves as a homeless services navigation center.
- M. No person shall camp, sit, lie, loiter, sleep, or store their belongings in or upon any public highway, bike path, pedestrian path, green belt, median island, alley, sidewalk, crosswalk, or other public place or way open for pedestrian or vehicular travel that has signage prohibiting such activities. The City Council may designate a section of the public right-of-way as prohibiting such activities under this section if a section of the right-of-way poses a particular and on-going threat to public health or safety. Such circumstances may include, but are not limited to: (i) the death or serious bodily injury of any person at the location due to a hazardous condition; (ii) repeated serious or violent crimes at the location; or (iii) the occurrence of fires that resulted in a fire department response to the location. For each such location, a prohibition pursuant to this subdivision shall be effective for a period of time specified in the resolution, but not to exceed one year.

9.38.040 – Summary Abatement

- A. In addition to any other lawful authority, any violation of section 9.38.020 or section 9.38.030 may be abated by the City or any law enforcement officer upon 24 hours of prior notice. Any violation of section 9.38.030 may be abated immediately by the City or any law enforcement officer without prior notice if the violation poses an imminent threat to public health or safety.
- B. Abatement pursuant to subsection A of this section may include, but is not limited to, removal of camp facilities, camp paraphernalia, personal property, garbage, hazardous waste, infectious waste, junk, or debris; and securing the perimeter of the property with fencing, gates, or barricades to prevent further occurrences of the nuisance activity.
- C. Regardless of the City's authority to conduct abatement pursuant to this section, every owner, occupant, or lessee of real property, and every holder of any interest in real property, is required to maintain the property in compliance with local, state, and federal law; and is liable for violations thereof.
- D. The cost of abatement, including all administrative costs of any action taken hereunder, may be assessed against the subject premises as a lien, made a personal obligation of the owner, or both, in accordance with procedures in Section 8.20.160.
- E. The abatement authority provided in this chapter shall be cumulative and in addition to any other procedures provided by the laws of the City or the State for the abatement of any of the conditions described in this chapter, and abatement pursuant to the provisions of this chapter shall not prejudice or affect any other action, civil or criminal, for the abatement of any such condition.

9.38.050 – Violation—Penalty.

- A. Every person violating any provision of this chapter is guilty of a misdemeanor, punishable, after lawful conviction, by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.
- B. Nothing in this chapter shall be construed to prevent a person from being prosecuted, convicted, or sentenced for a violation of any lesser or related city, state, or federal statutes which might impose different penalties.

9.38.060 – Ability-to-Pay Determination.

- A. Any fine issued under Section 9.38.050 will be accompanied with a notice of and instruction regarding the right to request an ability-to-pay determination.
- B. If the requestor is receiving public benefits under Government Code section 68632, subdivision (a), or has a monthly income which is 125 percent or less than the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services, the Public Works Director will limit the total amount of the requestor's administrative fine to 20 percent of the total and may:
 - 1. Allow the person to complete community service in lieu of paying the total administrative fine; or
 - 2. Waive the administrative fine; or
 - 3. Offer an alternative disposition.

SECTION 4. Severability Clause:

Should any section, clause, or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

SECTION 5. Effective Date:

This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937 and shall supersede any conflicting provision of any City of Calabasas ordinance.

SECTION 6. Certification:

The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2021.

James Bozajian, Mayor

ATTEST:

Maricela Hernandez, City Clerk
Master Municipal Clerk
California Professional Municipal Clerk

APPROVED AS TO FORM:

Matthew T. Summers
Colantuono, Highsmith & Whatley
City Attorney