

ORDINANCE NO. 2025-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING SECTION 10.08.005 (DEFINITIONS) AND ADDING SECTION 10.08.012 (SAFE USE OF MEDIANS) TO CHAPTER 10.08 (USE OF PUBLIC PROPERTY AND INTERFERENCE WITH PUBLIC ACCESS) TO TITLE 10 (OFFENSES AND NUISANCES) OF THE NEWPORT BEACH MUNICIPAL CODE, RELATING TO THE PROTECTION OF PEDESTRIANS, VEHICLE TRAFFIC AND LANDSCAPING

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs, subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and further grants the City Council the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, numerous medians in Newport Beach have been enhanced with landscaping and design improvements to promote visual aesthetics, environmental quality, and community character;

WHEREAS, the standing or walking on improved medians can cause significant damage to irrigation systems, vegetation, decorative hardscape, and other improvements, resulting in increased maintenance and replacement costs borne by the City and its taxpayers;

WHEREAS, the presence of pedestrians on medians, particularly those that are not designed for pedestrians, poses a substantial safety hazard to both pedestrians and motorists because the pedestrians distract drivers, especially in areas with high traffic volumes and limited sight distances;

WHEREAS, the Federal Highway Administration (FHWA) recommends installing medians or pedestrian refuge islands to improve safety and help protect the public and drivers, particularly in areas with multilane intersections and a significant mix of pedestrian and vehicle traffic, provided that the medians or refuge islands are, at a minimum, 48 inches wide (FHWA, *Proven Safety Countermeasures*);

WHEREAS, many arterial roads, streets, and intersections in the City - including Pacific Coast Highway, MacArthur Boulevard, Dover Drive, Jamboree Road, San Miguel

Drive, San Joaquin Hills Road, Avocado Avenue, Newport Coast Drive, Newport Boulevard, and West/East Balboa Boulevard - feature raised medians to facilitate traffic flow and enhance pedestrian safety;

WHEREAS, it is unsafe for any person to stand or walk on any unraised median or raised/improved median that lacks an improved, flat, raised surface of more than forty-eight (48) inches in width and forty-eight (48) inches in length, as such medians do not provide adequate protection for pedestrian use; and

WHEREAS, the City Council finds that this ordinance is necessary to preserve the integrity of public landscaping, reduce avoidable replacement/maintenance costs, enhance traffic safety, and protect both pedestrians and motorists from the unsafe use of medians that are not designed for pedestrian use.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: The table for contents for Chapter 10.08 (USE OF PUBLIC PROPERTY AND INTERFERENCE WITH PUBLIC ACCESS) of the Newport Beach Municipal Code is hereby amended and shall read as follows:

Chapter 10.08
USE OF PUBLIC PROPERTY AND INTERFERENCE WITH PUBLIC ACCESS

Sections:

- 10.08.005 Definitions.**
- 10.08.010 Sitting, Lying, or Sleeping or Storing, Using, or Maintaining or Placing Personal Property in the Public Rights-of-Way.**
- 10.08.012 Safe Use of Medians.**
- 10.08.015 Public Assemblage—Blocking Entrance.**
- 10.08.020 Molesting Pedestrians.**
- 10.08.030 Use of Public Property for Commercial Purposes.**
- 10.08.040 Shining of Lights Into Dwelling.**

Section 2: Section 10.08.005 (Definitions) of Chapter 10.08 (USE OF PUBLIC PROPERTY AND INTERFERENCE WITH PUBLIC ACCESS) of the Newport Beach Municipal Code is hereby amended and shall read as follows:

10.08.005 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning set forth in this section:

“Beach” or “beaches” means any public ocean front or bay front beach within the City, including ocean or bay public piers, public floats, public wharves, or public strands adjoining public ocean front or bay front beach areas.

“Cancer treatment center” means a facility for the treatment of cancer located in a mixed-use horizontal zone.

“College” means an institution of higher education, including a community or junior college, college or university including, but not limited to, Orange Coast College and Coastline College.

“Day care center” shall have the same meaning as set forth in Section 1.08.120.

“Improved Median” means the portion of any median that contains landscaping, irrigation, or decorative hardscape including, but not limited to, stamped or patterned concrete, pavers or bricks, and permeable paving.

“Landscaped area” means all improved landscaped areas, except for open grass areas.

“Median” means any area within a public roadway that separates opposing lanes of traffic and is not intended for vehicular travel.

“Pedestrian refuge island” means a raised area specifically designed to provide a safe place for pedestrians to pause while crossing multilane streets, often in the form of an island, constructed in the middle of a road to provide a place to wait for an adequate gap in incoming traffic before finishing the second phase of crossing. For purposes of this chapter, the Public Works Director shall determine if an island is a pedestrian refuge island. A copy of all islands determined to be a pedestrian refuge island shall be kept on file with the City Clerk.

“Personal property” means any tangible property, and includes, but is not limited to, goods, materials, merchandise, tents, huts, temporary shelters, tarps, bedding, sleeping bags, hammocks, sheds, structures, mattresses, couches, chairs, other furniture, appliances, and personal items such as household goods, luggage, backpacks, and

clothing. Personal property does not include property that is secured inside of a motor vehicle; items expressly authorized by a public entity to be on public property owned or controlled by the public entity; or items authorized to be on public property pursuant to this Code, a license, or permit issued by the City.

“Public plaza” means an open public area that is owned or controlled by the State, the County, the City, or other public entity that has been physically improved, which allows access to the beach, a boardwalk, or public pier, and where people can gather. A public plaza does not include the sandy and rocky portions of the beach, areas with grass or soft landscaping, or a public park.

“Public property” means all property owned or controlled by the State, the County, the City, or other public entity including, but not limited to, any publicly owned or controlled building, structure, restroom, bridges, beach, parking garage, parking lot, passageway, pier, public right-of-way, public plaza, driveway, landscaped area, parkway, median, greenbelt, open space, public park, or park facility.

“Public rights-of-way” or “public right-of-way” means the area or areas on, below, or above a public roadway, public highway, public street, public sidewalk, public path, public trail, public plaza, public bike lane or path, public boardwalk, public alleyway, or a utility easement in which the City has interest.

“Raised Median” means a median that includes a paved or concrete surface elevated above the level of the adjacent travel lanes.

“School” shall have the same meaning as set forth in Section 1.08.120.

“Store,” “stored,” “storing” or “storage” means to put personal property aside, to accumulate for use when needed or to put for safekeeping. Moving personal property to another location on public property or returning personal property within one thousand (1,000) feet from a location where a person previously received a citation for violation of Section 10.08.010 within a thirty (30) day period shall be considered storing personal property and shall not be considered to be removing the personal property from public property.

“Tent” means any tarp, cover, hut, structure, enclosure or shelter, made of any material that is not open on all sides, and which hinders an unobstructed view behind or into the area surrounded by the tarp, cover, hut, structure, enclosure, or shelter. A tent does not include any shade covering used in accordance with Section 11.08.020.

“Unattended” means no person is present with the personal property who asserts or claims ownership over the personal property. Personal property left outside of a building or shelter at a public park or on the sandy/rocky portion of any beach shall not be considered “unattended” unless there is no person present who asserts or claims ownership over the personal property for one hour or more.

Section 3: Section 10.08.12 (Safe Use of Medians) of Chapter 10.08 (USE OF PUBLIC PROPERTY AND INTERFERENCE WITH PUBLIC ACCESS) is added to the Newport Beach Municipal Code and shall read as follows:

10.08.012 Safe Use of Medians.

A. Purpose. The purpose of this section is to promote public safety and preserve City infrastructure by prohibiting unsafe or damaging conduct on medians, particularly those that are landscaped, have decorative hardscape, or are not designed for pedestrian occupancy. The City has determined that the presence of individuals on such medians presents a safety hazard to both pedestrians and motorists and causes damage to public landscaping and decorative hardscape improvements.

B. Prohibited Conduct. Except as provided in subsection C, it is unlawful for any person to stand or walk on any median within the City under any of the following conditions:

1. The median is not a raised median;
2. The location where the person is standing or walking is an Improved Median; or
3. The location where the person is standing or walking does not provide a flat paved or concrete surface area that is more than forty-eight (48) inches in width by forty-eight (48) inches in length.

C. Exceptions. This section shall not apply to:

1. City employees or contractors including, but not limited to, emergency personnel, performing their duties, maintenance, or other authorized work;
2. A person standing or walking in a designated pedestrian refuge island; or

3. If the vehicular traffic on the street or intersection is prohibited or limited for a City sponsored event or an event for which the City has issued a special event permit.

Section 4: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 5: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 7: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 8: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 9th day of September, 2025, and adopted on the 23rd day of September, 2025, by the following vote, to-wit:

AYES: _____

NAYS: _____

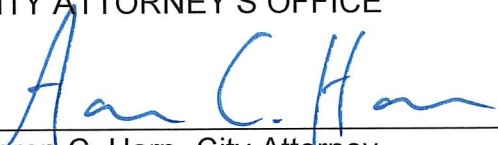
ABSENT: _____

Joe Stapleton, Mayor

ATTEST:

Molly Perry, Interim City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp, City Attorney