

AN ORDINANCE OF THE CITY OF LEON VALLEY CITY COUNCIL AMENDING THE LEON VALLEY CODE OF ORDINANCES, CHAPTER 8 OFFENSES AND NUISANCES; ADDING ARTICLE 8.15 USE OF PUBLIC AND PRIVATE PROPERTY, SECTIONS 8.15.01-8.15.08; PROVIDING FOR REPEALER; SEVERABILITY; A SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; OPEN MEETINGS CLAUSE AND PENALTY

WHEREAS, Pursuant to the Texas Local Government Code (LGC) Section 217.042, a home rule municipality may define and prohibit any nuisance. LGC Section 51.001 provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that is for the good government, peace, or order of the municipality.

WHEREAS, Texas Penal Code Section 48.05 does not preempt an ordinance, order, rule, or other regulation adopted by a municipality relating to prohibiting camping in a public place or affect the authority of a municipality to adopt or enforce an ordinance, order, rule, or other regulation relating to prohibiting camping in a public place where the ordinance, order, rule, or other regulation is compatible with and equal to or more stringent than the offense prescribed by Section 48.05.

WHEREAS, the City spends a great deal of time and money extinguishing fires created by homeless camps and in cleaning up associated trash and debris from homeless camping activities, which causes a significant threat to the public's health, safety, and welfare; and

WHEREAS, the City of Leon Valley has seen an increase in the number of homeless persons and camps in and around public streets, parks, drainage ways, and private property; and

WHEREAS, citizens have experienced traffic hazards from persons standing in the median at major intersections; and

WHEREAS, it is the intent of the City to keep areas free and clear of trash and debris, and of obstructions in rights-of-way, parks, drainage areas, and on private property, and it has been determined that amending Chapter 8 Offenses and Nuisances to add Article 8.15 defining what areas are prohibited from sleeping and camping will greatly assist in keeping these areas clear and free from trash and debris and to protect private property owners from added expense due to trash and debris; and

WHEREAS, that the amendment to Chapter 8 Offenses and Nuisances to regulate sleeping in public places and camping will be in the best interest of the citizens of Leon Valley and protect the health, safety and welfare of the citizens of Leon Valley;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS, THAT:

SECTION 1. Chapter 8 Offenses and Nuisances is hereby amended by adding Article 8.15 Use of Public and Private Property, Sections 8.15.01-8.15.08 in Exhibit A, attached hereto and incorporated herein for all intents and purposes.

SECTION 2. REPEALER CLAUSE. The provisions of the Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent by any other ordinance.

SECTION 3. SEVERABILITY CLAUSE. If any provision, section, sentence, clause, or phrase of this ordinance or application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting, and the Mayor in approving this Ordinance, that no portion thereof or provisions or regulation contained herein shall become inoperative or fall by reason of any unconstitutionally or invalidity of any portion, provision, or regulation.

SECTION 4. SAVINGS CLAUSE. The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

SECTION 5. EFFECTIVE DATE. This ordinance shall become effective on and after its passage, approval and the meeting of all publication requirements as provided by law.

SECTION 6. NOTICE OF MEETING CLAUSE. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 7. PENALTY. Any person who violates any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined as provided in Chapter 1. General Provisions, Article 1.01 Code of Ordinances, Section 1.01.009 General penalty for violations of code: continuing violations of the City of Leon Valley Code, and/or applicable state law.

PASSED AND APPROVED by the City Council of the City of Leon Valley this the 16th day of May, 2023.

APPROVED

CHRIS RILEY
Mayor

ATTEST:

SAUNDRA PASSAILAIGUE, TRMC
City Secretary

APPROVED AS TO FORM:

NICOLE WARREN
City Attorney