ORDINANCE NO. 2025-06

AN ORDINANCE OF THE CITY OF TOPPENISH, WASHINGTON, CREATING A NEW SECTION 10.36.020 OF THE TOPPENISH MUNICIPAL CODE (TMC) RELATING TO "SITTING, LYING ON SIDEWALK IN THE DESIGNATED ZONE," INCLUDING IDENTIFICATION OF THE STREETS SURROUNDING AND WITHIN THE DESIGNATED ZONE IDENTIFIED IN SAID SECTION 10.36.020.

WHEREAS, the Toppenish City Council possesses authority under RCW 35.22.280 and the Constitution of the State of Washington, Art. 11 § 11, to adopt ordinances regulating the use of public rights of way, streets, and other public places; and

WHEREAS, this authority was clarified in the recent court decision - *City of Grants Pass, Oregon v. Johnson et al.*; and

WHEREAS, the Toppenish City Council possesses authority under RCW 46.61.570 to adopt ordinances placing restrictions on parking within the city; and

WHEREAS, the City of Toppenish Police Department has found that new provisions within Toppenish Municipal Code (TMC) Chapter 10.36 are needed to address the growing concerns of keeping sidewalks free for commerce, community health, and public safety; and

WHEREAS, the City Council recognized that this new section 10.36.020 to the TMC would be a useful tool to equip police officers to address public safety and would support the business community as well as the City's revitalization efforts; and

WHEREAS, the City Council has endeavored to identify areas of the City that should be identified as designated zones for the said new TMC 10.36.020.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TOPPENISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Section to Municipal Code. That a new Section 10.36.020 of the Toppenish Municipal Code entitled "Sitting, Lying on Sidewalk in Designated Zone" shall be and hereby is created to read as follows:

10.36.020   Sitting, Lying on Sidewalk in Designated Zone.
(1)   Prohibition of certain activities on certain public rights-of-way.
(a)   No person may sit or lie down upon a public sidewalk or right of way, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk or right of way, during the hours between six a.m. and midnight in the zones designated in this section.
(b)   At all times it is unlawful to sit or lie on any drinking fountain, trash container, planter, bicycle rack, or any other sidewalk fixture not designed primarily for the purpose of sitting.

(c)   At all times, it is unlawful to sit or lie in any entrance to or exit from any building or parking lot, or on any loading dock.

(2)   Exceptions. The prohibition in subsection (1) of this section does not apply to any person:

(a)   Sitting or lying down due to a medical emergency or due to a sensory, mental, or physical disability;

(b)   Who, as the result of a sensory, mental, or physical disability, utilizes a wheelchair, walker, or similar device to move about a public sidewalk;

(c)   Operating or patronizing a business with permission to occupy the sidewalk;

(d)   Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to a special event or other applicable permit;

(e)   Sitting on a chair or bench supplied by a public agency or by the abutting private property owner pursuant to the appropriate permit or license;

(f)   Sitting within a bus stop zone while waiting for public or private transportation; or

(g)   Sitting on privately-owned sidewalk fixture with the permission of the owner.

(3)   No person shall be subject to enforcement under this section unless the person engages in conduct prohibited by this section within the entirety of the zone designated in this section after having been notified by a law enforcement officer that the conduct violates this section and has been given a reasonable amount of time to comply or has refused to comply. If the individual fails to comply in a reasonable time or engages in prohibited conduct in another location within the designated zone, a law enforcement officer may then enforce this section.

(4)   The zone where the conduct described in section (1) is prohibited is described as follows:

That portion of the City of Toppenish, Washington within the following described area: from the corner of Asotin Avenue and East Toppenish Avenue; thence Southwesterly along East Toppenish Ave. to the intersection of South Toppenish Avenue and Washington Avenue; Thence Northwesterly along Washington Avenue to South Beech Street; thence Southwesterly along Beech Street to Madison Avenue; Thence Northwesterly along Madison Avenue to South Elm Street; Thence Southwesterly and South along South Elm Street to the Westerly extension of West 3rd Street; thence Easterly along the Westerly extension of West 3rd Street and West 3rd Avenue to Bolin Drive; Thence North along Bolin Drive to West 2nd Avenue; Thence Easterly and Northeasterly along East 2nd Avenue to Asotin Avenue, and the terminus if the line describing the zone, which zone also includes the full width of the rights-of-way of the streets and avenues named above. See also the depiction thereof on Exhibit "A" attached hereto and incorporated herein by this reference.

(5)   This section 10.36.020 TMC does not permit any conduct which is prohibited by any regulations or provisions of the TMC regarding interference with pedestrian or vehicular traffic.

(6)   A violation of TMC 10.36.020 is a misdemeanor.

(7)   The provisions of this section are declared separate and severable. The invalidity of any clause, sentence, paragraph, section, or portion of this section, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

Section 2. Effective date. This Ordinance shall be effective five (5) days after publication as required by law.

PASSED by the Toppenish City Council at its regular meeting held on the _____ day of July, 2025.

_____
ELPIDIA SAAVEDRA, Mayor

ATTEST:

_____
HEIDI RIOJAS, CMC, City Clerk

APPROVED AS TO FORM:

_____
DANIEL B. HEID, City Attorney

EXHIBIT "A"