

ORDINANCE NO. 2020-6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD AMENDING SECTIONS IN ARTICLE IV OF THE LAKEWOOD MUNICIPAL CODE REGARDING PARKWAYS AND ENCROACHMENTS IN THE PUBLIC RIGHT OF WAY

THE CITY COUNCIL OF THE CITY OF LAKEWOOD DOES ORDAIN AS FOLLOWS:

SECTION 1. Sections 4221 and 4221.1 of the Lakewood Municipal Code are hereby amended to read as follows:

4221. PARKWAYS DEFINED. Parkways are defined as those areas located in that portion of dedicated roads, streets or highways which have been planted with lawn, bush, tree or plant vegetation.

4221.1. PROHIBITED ACTS ON PARKWAYS. It shall be unlawful for any person to do or commit, or to cause or permit to be done or committed, within or upon any such parkways any of the following:

- A. To pick, dig, remove, destroy, injure, mutilate, top or cut any tree or root system, or any portion thereof growing therein.
- B. To cut, break, injure, deface, remove or destroy any equipment or property therein, or sign, bench or monument placed thereon, or any portion thereof, or to make or place thereon or on any portion thereof any sign, card, mark, writing or printing, display or other similar device.
- C. To throw, place or dispose of any garbage, refuse or waste on or upon said area.
- D. To allow any vegetation, other than a City street tree, to grow to a height exceeding six (6) inches, or to place any sign, decoration, statue, lawn ornament, potted plant of any size, constructed planter, or device which will impede the safe ingress and egress of persons from vehicles parked at the curb or safe pedestrian use of the abutting sidewalk.
- E. To allow any water or electrical line, wiring, cord, or hose, to run across the parkway area from any adjacent property to any vehicle parked in the public right-of-way.
- F. To allow any storage of basketball hoops, skateboard ramps, bicycle ramps, or other sports equipment.

SECTION 2. The following new Section 4221.2 is hereby added to the LMC:

4221.2 MAINTENANCE OF PARKWAY. The owner of the adjacent property shall be responsible for the installation, maintenance and irrigation of all plant materials in the parkway, except for the planting, trimming, and removal of City street trees.

SECTION 3. Sections 4321 through 4321.3 of the LMC are hereby amended to read as follows:

4321. ENCROACHMENT ON PUBLIC RIGHTS OF WAY. The City Council does hereby find that the existence of the following encroachments on any public dedicated or acquired sidewalk, street, parkway, alley, lane, court, park or other public place is a public nuisance. It shall be unlawful for any person to construct, install, place, plant or maintain thereon the following:

- A. Fences.
- B. Hedges.
- C. Excavations below the top of curb elevation where without a permit.
- D. Sprinkler system pipes above ground elevation.
- E. Cover growth such as ivy, ice plant and other similar types of vegetation, or any plant species that have thorns, spines, or needle-like leaves.
- F. Retaining wall.
- G. Shrubs, signs and trees as well as buildings or fences where the same interfere with the use of said public right of way.
- H. Broken blacktop, concrete and paving.
- I. Gates swinging out or over the public right of way.

In parkways, only permitted city street trees, turf grass or ground cover not exceeding six inches in height, decomposed granite, loose decorative colored stone or gravel no larger than $\frac{3}{4}$ inch in size or artificial turf shall be allowed. In the event that the City or its agents perform any work in a parkway that requires the removal or displacement of any such materials, the owner of the adjacent property shall be obligated to perform such removal or displacement to give the City or its agents required access, and the City will not be responsible to repair or restore such materials that may be damaged or removed as a result of the subject work.

4321.1. EXAMINATION BY DIRECTOR OF PUBLIC WORKS. The Director of Public Works shall examine or cause to be examined every alleged encroachment on a public dedicated right of way, and if in his opinion such encroachment is a nuisance as defined herein, he shall notify in writing the owner, occupant, lessee or other person having possession of said premises that the continual maintenance or existence of such encroachment constitutes a public nuisance. Once the Director has deemed such encroachments to be a public nuisance, the Director will assign a timeframe in the Director's reasonable discretion for the removal of the items. At that time, said person or persons must remove said encroachment at his own expense within the timeframe set forth; if not so removed within said timeframe the same will be removed by the City and expense thereof charged to said person or persons.

4321.2. ABATEMENT OF NUISANCE. If said nuisance is not so abated by said person within said timeframe the Director of Public Works may cause said nuisance to be abated as provided in this Chapter.

4321.3. ACCUMULATIVE REMEDIES. The remedies set forth in Section 4321, et seq., of this Chapter in accordance with the terms and provisions of this Chapter, or in accordance with the terms and provisions of State law pertaining to the abatement of public nuisances. Any failure under the provisions of this Chapter to record the lien shall not bar collection of cost of abatement of said nuisance either by special assessment proceedings or by other means. The provisions of this Chapter constituting the cost of abatement of said nuisance a lien on said property may be modified by the City Council as it deems necessary in confirming the report of the Director of Public Works in those cases where the City Council should find that a

proportionate share or all of the share of the cost of said work should be borne by the City in the best public interest. Nothing herein contained shall bar the Director of Public Works or any other city officer having a duty to do so to summarily remove any nuisance herein defined without further notice or preceding before the City Council where the continuation of said nuisance endangers the public health, safety and welfare in the use of any publicly dedicated right of way.

SECTION 4. The following new Section 4321.4 is hereby added to the LMC:

4321.4. PROHIBITION OF STORAGE CONTAINERS. It shall be unlawful to place in any public dedicated or acquired sidewalk, street, parkway, alley, lane, court, park or other public space, any storage container, storage bin, shipping container, PODS, or similar portable storage container. "Portable storage container" means a portable, weather-resistant, commercially leased, rented or purchased receptacle designed and used for the storage or shipment of personal property, building materials or merchandise.

SECTION 5. Section 4322 of the LMC is hereby amended to read as follows:

4322. UNLAWFUL DISCHARGE OF WASTE MATERIALS AND DEPOSIT OF ROCKS, MUD, SAND, OIL OR PETROLEUM PRODUCTS ON PUBLIC ROADS, STREETS AND HIGHWAYS. It shall be unlawful for any person to place, deposit or dump, or to cause to be placed, deposited or dumped upon any public roads, streets, highways, alleys, or portions thereof within the City of Lakewood, any dirt, litter, trash, rubbish, debris, furniture, video, audio, or computer equipment, appliances, boxes, clothing, toys, household items, vehicle parts, paint or other hazardous materials, construction equipment, heavy equipment, construction machinery, construction materials, pallets, shipping containers, dumpsters or waste containers except as provided by franchise agreements, or any miscellaneous discarded items, or to cause the flow or discharge of any sewage, animal waste matter, waste matter, swimming and artificial pool drainage, industrial waste, rocks, mud, dirt, sand or unenclosed or encased oil or petroleum products, upon any public roads, streets, highways, alleys, or portion thereof, within the City of Lakewood unless pursuant to permit issued by the Director of Public Works. Animal waste matter as used herein includes the excrement and urine from any animal, including mixed water and animal waste. This section does not have reference to the following, and nothing contained in this Section shall make the following unlawful: (Amended by Ord. 2005-8)

A. The discharge or deposit of mud, rock, sand or dirt where pursuant to a construction permit issued by the City or permit issued by the Director of Public Works;

B. The discharge of oil or petroleum products or animal waste in the normal utilization by vehicles or animals of any public roads, streets and highways;

C. The discharge of any of the foregoing upon any such public road, street or highway where pursuant to permit issued by the Director of Public Works as hereinafter provided.

The Director of Public Works, or upon his refusal or failure to act, the City Manager may issue permits for the limited discharge of any of the foregoing into the public streets, roads and highways, as well as alleys, of the city of Lakewood for limited periods of time under such conditions as will reasonably insure that such discharge will not be detrimental to the public health, safety and welfare. Such permits shall be issued in accordance with the provisions, where applicable, of the Highway Permit Ordinance. A fee shall be charged for the issuance of such

permit in the amount specified in the Highway Permit Ordinance; and if none then in the amount established by the City Council by Resolution. Such permit shall specify the material to be discharged, the date, time and place of discharge, and the amount of discharge.

No person shall violate any provision of this Section or fail to comply with any of the requirements of a permit, if any, issued pursuant to this Section. Any person violating any of said provisions or failing to comply with said requirements shall be guilty of a misdemeanor, as set forth in Section 1200 of the Lakewood Municipal Code. In addition, the City Council hereby finds and determines that this Section is necessary to prevent obnoxious discharge of waste materials and other materials into public roads, streets and highways, and also to prevent obstructions to the free use of public places, roads, streets and highways, as well as to prevent interference with the comfortable enjoyment of life and property by an entire community or a considerable number of persons and that, therefore, the activity herein defined as unlawful, unless regulated pursuant to a permit, is a public nuisance.

SECTION 6. Section 4325 of the LMC is hereby amended to read as follows:

4325. TREES. The Director of Public Works shall have full power and authority over the planting, removal and maintenance of trees and shrubs in or upon any public street or public ground and shall have the right and power to establish rules and regulations relating thereto. Said Director or his delegated representative shall have the power to cause the trimming or removal of any tree or shrub in or upon any public street or public ground which is diseased or is endangered, or which may endanger the security or usefulness of any public streets or sidewalks.

SECTION 7. The City Council hereby declares it would have passed this Ordinance sentence by sentence, paragraph by paragraph and section by section, and does hereby declare the provisions of this Ordinance are severable, and if for any reason any section of this Ordinance should be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 8. The City Clerk shall certify to the adoption of this Ordinance. The City Council hereby finds and determines there are no newspapers of general circulation both published and circulated within the City and, in compliance with Section 36933 of the Government Code, directs the City Clerk to cause said Ordinance within fifteen (15) days after its passage to be posted in at least three (3) public places within the City as established by Ordinance.


ADOPTED AND APPROVED this 8th day of December, 2020, by the following roll call vote:

	AYES	NAYS	ABSENT
Council Member Croft	<u> X </u>	<u> </u>	<u> </u>
Council Member Wood	<u> X </u>	<u> </u>	<u> </u>
Council Member Pe	<u> X </u>	<u> </u>	<u> </u>
Council Member Stuckey	<u> X </u>	<u> </u>	<u> </u>
Mayor Rogers	<u> X </u>	<u> </u>	<u> </u>



Mayor

ATTEST:



Isabelle Drey
City Clerk