

THE CITY OF SEAGOVILLE, TEXAS

ORDINANCE NO. 38-2019

AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS AMENDING THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE 13.11 TITLED “UNAUTHORIZED CAMPING AND OBSTRUCTION” TO CHAPTER 13 TITLED “OFFENSES AND NUISANCES”; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Seagoville (“City”) adopts and enforces ordinances and regulations to protect the health, safety, and welfare of its citizens and property within the City; and

WHEREAS, the Council finds that unauthorized camping or obstruction can result in circumstances posing a threat to public health and safety, including the health and safety of those camping; and

WHEREAS, the Council finds that unauthorized camping or obstruction can create substantial risks to the environment; and

WHEREAS, the Council further finds that unauthorized camping or obstruction disrupts residents, business, tourism, and the quality of life in the City contributing to loss of access to and enjoyment of public areas and private property within the City

WHEREAS, the Council additionally finds that unauthorized camping or obstruction can block or obstruct the safe access of pedestrians and vehicles to buildings, passageways, and public infrastructure; and

WHEREAS, the Council finds that the City has a compelling interest in protecting the health and safety of all residents and visitors within the City, including the health and safety of those unlawfully camping or obstructing, in ensuring free movement of pedestrians and vehicles without undue delay or obstruction or exposure to danger, in protecting the environment and public and private property, and in ensuring that public spaces are protected and available for equal access and use by all.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

SECTION 1. The Code of Ordinances of the City of Seagoville, Texas, Chapter 13 “Offenses and Nuisances” is hereby amended to add a new Article 13.11 “Unauthorized Camping and Obstruction” to read as follows:

Chapter 13. Offenses and Nuisances

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Article 13.11. Unauthorized Camping and Obstruction

Sec. 13.11.001 Definitions.

In this article:

- (a) Public Area means a building, structure or any improved or unimproved real property/land owned by the City or another governmental entity and also includes an outdoor area accessible to the public. Public area includes but is not necessarily limited to a street, highway, park, parking lot, alleyway, sidewalk, pedestrian way, trail, culvert or storm drain, traffic island, median strip, median island, intersection island, any part of an accessibility ramp, sloped area under a highway, any portion of a bridge or overpass, rights-of-way of streets, highways, railroads, or light rail tracks or crossings, transit stops, shelters, platforms, or stations, passenger loading zones, customer services zones, valet zones, construction zones, and common areas of a school, apartment building, office building, transportation facility, or business.
- (b) Private Property means a building, structure, or any improved or unimproved real property/land located within the City boundaries and not owned by the City or another governmental entity.
- (c) Camp or Camping means the use of a public area or private property not owned by the user for living accommodation purposes including storing personal belongings for an extended period of time, making a camp fire, using a tent or shelter or other structure for a living accommodation or for shelter or partial shelter from the elements, carrying on cooking activities, or digging or earth breaking activities. A person is camping if it reasonably appears, based on the totality of the circumstances, that the person conducting the activity is using a public area or private property not owned by the person for living accommodation purposes, regardless of the person's intent or engagement in other activities.
- (d) Obstruct, obstructing, or obstruction means intentionally, knowingly, or recklessly renders impassable or impeding the reasonable use of a public area making usage of such area unreasonably inconvenient or hazardous for others.
- (e) Authorization means written permit or permission from the City in the case of a public area and, in the case of private property, the written permission of at least one of the owners of record of the private property.

Sec. 13.11.002 Offense of Unauthorized Camping or Obstruction

Except as provided in Section 13.11.003, a person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section and having been given a reasonable opportunity by a law enforcement officer to correct the violating conduct, the person:

- (a) Without authorization camps in a public area or on private property not owned by the person and the person is materially endangering property or the health, safety, or welfare of another person or of himself or herself, or
- (b) Obstruct the reasonable use of a public area making usage of such area unreasonably inconvenient or hazardous for others.

Sec. 13.11.003 Defenses

It is an affirmative defense to prosecution that:

- (a) a person owns the private property or public area or has secured a permit or permission of the City to camp in public areas owned by the City or for property not owned by the City the permission of at least one of the property owners of record to camp in the public area or private property or
- (b) A person is engaging in permitted camping or cooking in a park in compliance with City ordinances and park regulations;
- (c) A person is engaged in obstruction because of a medical emergency or a physical manifestation of a disability;
- (d) A person is obstructing a sidewalk by operating or patronizing a commercial establishment that lawfully conducts business on the sidewalk; or
- (e) A person is engaged in obstruction because the person is waiting in line for goods, services, or a public event.

Sec. 13.11.004 Enforcement Procedure

Unless a law enforcement officer determines that there is an imminent health or safety threat or an imminent threat of destruction of property, before citing a person for a violation of this section, prior to issuing a citation the law enforcement officer must make a reasonable effort to:

- (a) Notify the person that the conduct violates this article;
- (b) Provide the person with a reasonable opportunity to comply with the prohibition;
- (c) If reasonable and appropriate, advise the person, to the best of the law enforcement officer's knowledge, of available shelter in the vicinity; and
- (d) Contact, if reasonable, available, and appropriate, a city designee who has the authority to offer to transport the person to an area where shelter or other services are available.

Sec. 13.11.005 Penalty

An offense under this article shall be a misdemeanor and upon conviction is punishable by a fine not to exceed five hundred dollars (\$500.00) for each offense, and each and every day such violation shall continue shall constitute a separate punishable offense.

SECTION 2. All resolutions, ordinances, policies and provisions of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. Should any word, phrase, paragraph, section or phrase of this ordinance or of the Code of Ordinances, as amended hereby, be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal, or invalid, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. Any person, firm, or corporation violating any provisions or terms of this ordinance or the Code of Ordinances as amended hereby shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense and each and every day such violation is continued shall be deemed to constitute a separate offense.

SECTION 6. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

PASSED AND ADOPTED by the City Council of the City of Seagoville, Texas at a meeting on the 2nd day of December, 2019, at which a quorum was present and for which due notice was given.

APPROVED:



Dennis K. Childress, Mayor

ATTEST:



Kandi Jackson, City Secretary

APPROVED AS TO FORM:



Victoria W. Thomas, City Attorney
(TM112169 111319)

