

CITY COUNCIL OF THE CITY OF OXNARD  
ORDINANCE NO. 2955

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA, AMENDING ARTICLE XV TO  
CHAPTER 7 OF THE OXNARD CITY CODE RELATING TO PUBLIC LIBRARY RULES  
OF CONDUCT AND EXCLUSION PROCESS.

WHEREAS, the City Council has adopted library rules of conduct through passage of Ordinance No. 2888 in 2014, codified in Chapter 7 Article XV of the Oxnard City Code ; and

WHEREAS, since passage of the ordinance, issues have arisen requiring amendments to the rules of conduct; and

WHEREAS, the monopolization and improper use of public space within the library denies other patrons access to a public facility; and

WHEREAS, the use of bicycles, shopping carts and other similarly sized items interfere with staff and patron use of and access to the library and create public safety issues from time to time.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

PART 1. Article XV of Chapter 7 of the Oxnard City Code is hereby amended to read as follows:

**ARTICLE XV. PUBLIC LIBRARY RULES OF CONDUCT AND EXCLUSION PROCESS**

**SEC. 7-270. PURPOSE.**

It is the intent of the city council in enacting this article to protect the rights of library customers, staff and volunteers. Library customers, staff and volunteers using library buildings, materials, and services have at least the following rights:

(A) To use library buildings, materials and services without being unreasonably disturbed or impeded by others;

(B) To use and work in library buildings that are safe, secure, sanitary, and attractive; and

(C) To use and work with library materials and equipment, which are accessible and in good condition in a quiet and orderly atmosphere conducive to every customer's exercise of his or her right to receive and read recorded communication.

**7-271. DEFINITIONS.**

For purposes of this article, the following words shall have the following meanings:

- (A) LIBRARY - The Oxnard Public Library and each and all of its branch libraries.
- (B) LIBRARY CUSTOMER - A member of the public who uses library facilities, materials and services.
- (C) LIBRARY BUILDING - Any building, structure or enclosure in which the library keeps, displays and makes available for inspection or borrowing printed or audio-visual material or information or information that is kept in other form, but for purposes of this article, does not include the exterior appurtenances to such building, structure or enclosure nor land on which such building, structure or enclosure is located.
- (D) LIBRARY MANAGER - The person appointed by the city manager to be responsible for the overall administration of the library.
- (E) LIBRARY FACILITY - A library building, all exterior appurtenances to such building and the real property upon which the library building and exterior appurtenances are located.
- (F) LIBRARY PRIVILEGES - Access to any printed or audio-visual material or information that is kept in any other form at a library facility and the right to physically enter and be present in any library building.
- (G) LIBRARY STAFF - Public employees who work for the city and are assigned to work at library facilities.
- (H) LIBRARY VOLUNTEER - A member of the public who volunteers and works at library facilities.
- (I) RULES OF CONDUCT - The activities identified in and prohibited by section 7-272.
- (J) SERIOUS VIOLATION OF THE RULES OF CONDUCT - Engaging in activities prohibited by law at a library facility or violating any other rule of conduct that poses an immediate threat to the safety of any person or to the orderly operation of the library.

**SEC. 7-272. RULES OF CONDUCT.**

In order to protect the rights of library customers, staff and volunteers, the following activities, that a reasonable person would find disruptive to the normal functions being carried on at the library, are prohibited:

- (A) Engaging in activities prohibited by law including but not limited to:
  - (1) Cal. Penal Code Section 415 (Fighting; Causing Loud Noise or Using Offensive Words in a Public Place);
  - (2) Cal. Penal Code Section 484 (Theft);

- (3) Cal. Penal Code Section 490.5 (Theft of Library Books and Materials);
  - (4) Cal. Penal Code Section 594 (Vandalism);
  - (5) Cal. Penal Code Section 602.1(b) (Interfering with Library Business);
  - (6) Cal. Penal Code Section 602q (Refusing or Failing to Leave a Library Building);
  - (7) Cal. Penal Code Section 647 (Lewd and Dissolute Conduct, Solicitation, Loitering, Public Intoxication);
  - (8) Cal. Education Code Section 19910 (Maliciously Damaging Library Materials);
  - (9) Cal. Education Code Section 19911 (Failure to Return Materials After Notice);
  - (10) Cal. Government Code Section 7597(a) (Smoking Any Tobacco Product Inside a Library Building or Within Twenty-five Feet of a Main Exit, Entrance, or Operable Window of a Library Building) including vaping and cannabis use;
  - (11) Cal. Health & Safety Code Section 11550 (Under the Influence of a Controlled Substance);
  - (12) Health and Safety Code 11364(a) (possession of an instrument used for smoking or injecting a controlled substance.)
- (B) Engaging in any activity or behavior (either oral or physical) that is loud, disruptive, disturbing, offensive, intimidating, threatening, unsafe or annoying and which unreasonably interferes with another person's use of any library facility or with the ability of library staff or volunteers to perform their duties including creating excessive or unnecessary noise, (including cell phone use, and headphones), using loud, abusive, threatening or insulting language, screaming, running, verbal or physical threats, having body odor constituting a nuisance to other persons or engaging in any other activity or behavior that unreasonably disturbs and inhibits others from using library buildings, materials or services;
- (C) Eating or drinking, including any alcoholic beverage, in unauthorized public areas within any library building;
- (D) Sleeping, appearing to sleep, lying down, loitering or interfering with free passage within any library building, at the entrance or exit of any library building;
- (E) Littering or leaving personal items unattended within any library building or at the entrance or exit of any library building;
- (F) Leaving a child under the age of twelve unattended within any library building. This prohibition shall not apply to a child's unattended participation in library programs or services;

(G) Distributing or posting printed materials, soliciting signatures for petitions or conducting surveys within any library building;

(H) Not using library space, stairways, aisles, furniture or equipment for its intended purpose (e.g., placing one's feet on library desks, tables or chairs) or otherwise monopolizing (using more than one seat or table space per person) library space, stairways, aisles, doorways, equipment, seating or tables to the exclusion of other patrons or staff;

(I) Moving library furniture or equipment without permission from Library Staff;

(J) Using library building restrooms or water fountains for inappropriate purposes such as loitering, bathing, shampooing, hair processing, doing laundry, changing clothes, shaving, personal hygiene, illegal drug use etc.;

(K) Skateboarding or rollerblading in or about any library facility;

(L) Bringing any animal into any library building, with the exception of a service animal accompanying a person with disabilities. As defined, a "service animal" is individually trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The animal's work or tasks must directly relate to the handler's disability. Service animals are expected to be under the control of the owner and leashed at all times;

(M) Photographing, audio recording or filming within any library building without permission from the library manager except at governmental meetings open to the general public;

(N) Leaning on railings or security gates within any library building;

(O) Throwing items over railings located within any library building;

(P) Failing to wear shoes and garments on the upper and lower torso of the body at all times within any library building;

(Q) Entering any library building with firearms or other dangerous weapons with the exception of those individuals authorized to possess weapons in a local public building or open public meeting pursuant to Cal. Penal Code Section 171b;

(R) Disseminating, downloading, viewing or printing from public library computers illegal materials including but not limited to obscene or harmful matter as those terms are used in Cal. Penal Code Sections 331 et seq. and 313 et seq.;

(S) Bringing into the library a bicycle, utility cart, wagon, shopping cart (as defined in Oxnard City Code section 7-166) or items of a similar size which interfere with patron and staff use and access within the library facility. Wheeled conveyances such as strollers and wheelchairs are only permitted if being used for the transport of a person.

Other items that may not be brought into Oxnard Public Libraries include, but are not limited to:

- Skateboards, inline skates, shoes with built-in wheels, collapsible scooters, hover boards, and other similar devices unless carried while on library property;
- Items including but not limited to suitcases, bags, coolers with or without wheels that are collectively larger than 9 inches x 14 inches x 22 inches -- including handles and wheels;
- Trailer-like object that is pushed or towed;
- Sleeping bags, tarps, bed rolls, mats, blankets, mattresses;
- Televisions and monitors;

(T) Using public space to conduct commercial activity;

(U) Using public space to conduct group instruction with more than three participants without approval from the Library Manager;

(V) Using more than one library electrical receptacle, allowing charging cords to interfere with aisles, leaving electronic devices unattended, using electronic devices or other personal equipment that is disruptive, noisy or unsafe;

(W) Damaging, removing, altering or bypassing Library software or hardware;

(X) Using another person's library card;

(Y) Possessing items deemed unsanitary;

(Z) Violating a term or condition of a warning notice or an exclusion notice;

(AA) Engaging in sexual misconduct such as exposure, threatening touching or touching;

(BB) Possessing drug paraphernalia or alcoholic beverages.

### **SEC. 7-273. RULES OF CONDUCT ENFORCEMENT.**

(A) General provisions. A library customer is subject to exclusion from the library or may otherwise have his or her library privileges restricted or suspended if he or she (or a person under his or her control or direction) violates any of the rules of conduct specified in section 7-272 within 90 days after he or she was given a verbal warning for a violation of the rules of conduct and a subsequent written warning notice of a violation of the rules of conduct. Serious violations of the rules of conduct, as determined by the library manager, may result in the issuance of a written warning notice without a verbal warning.

(B) Persons authorized to issue warning or exclusion notices. The library manager shall designate those library staff authorized to issue warning and exclusion notices.

(C) Issuance of warning or exclusion notices.

(1) Warning notice. After the issuance of a verbal warning to a library customer for a violation of the rules of conduct or immediately upon the occurrence of a serious rule of conduct violation, library staff designated by the library manager may issue a written warning notice for a

rule of conduct violation. The warning notice shall specify that the recipient must leave the library for the remainder of the day, and that in the event a second violation of the rules of conduct occurs within 90 days of the date of issuance of the warning notice, that person shall be subject to exclusion from the library facility for a period of time not to exceed two years or the loss of some or all of his or her library privileges as the library manager may determine to be appropriate. The warning notice shall also contain information concerning the right to appeal. The person to whom the warning notice is issued shall sign a written acknowledgment of its receipt. If the recipient refuses to sign, the person issuing the warning notice shall make a written record of refusal.

(2) Exclusion notice. If a library customer has received a warning notice as set forth in section (C)(1) above and again violates a rule of conduct within 90 days of the date of issuance of the warning notice, library staff designated by the library manager may issue a written exclusion notice excluding the person from the library facility or setting forth the loss of some or all of his or her library privileges as the library manager may determine to be appropriate. If the person is excluded from the library facility, the exclusion shall be for a period of no less than one month and no more than two years. The exclusion notice shall specify the person that is to be excluded from the library facility, the period of the exclusion, the time the exclusion is to commence, and library privileges being lost and the specified period of loss, and information concerning the right to appeal the exclusion notice. The person to whom the exclusion notice is issued shall sign a written acknowledgment of its receipt and allow his or her photograph to be taken. If the recipient refuses to sign or take a photograph, the person issuing the exclusion notice shall make a written record of the refusal.

#### **SEC. 7-274. APPEAL PROCEDURE.**

(A) The individual to whom a warning or exclusion notice is issued shall have the right to an appeal from the issuance of the notice.

(B) A notice of appeal of a warning notice or an exclusion notice must be filed, in writing, with the Cultural and Community Services Director within five calendar days of the issuance of the warning or exclusion notice. The notice of appeal shall state the following:

- (1) The appellant's name;
- (2) The appellant's address and a telephone number where he or she can be reached;
- (3) A concise statement as to why the appellant believes that the issuance of the warning notice or the exclusion notice was invalid or unjustified; and
- (4) A copy of the warning notice or exclusion notice shall be attached.

(C) A hearing on the appeal shall be held no more than 15 calendar days after the filing of the appeal, no one except the Cultural and Community Services Director may postpone the hearing date at the request of the appellant or the library staff for good cause. The appellant shall be provided notice of the hearing date, time, and location at least five calendar days prior to the

hearing date. The hearing shall afford a reasonable opportunity for the appellant to be present and present evidence that the warning notice or exclusion notice is invalid or unjustified.

(D) Copies of all library staff documents to be used by the library staff at the hearing shall be made available to the appellant at least five calendar days prior to the hearing.

(E) At the hearing on the appeal, the library staff shall have the burden to show by a preponderance of evidence that the warning notice or exclusion notice was based on and justified by a violation of the rules of conduct described in section 7-272. The Cultural and Community Services Director shall conduct the hearing in an informal fashion and shall not be bound by the technical rules of evidence.

(F) Within 30 calendar days of the conclusion of the hearing, the library manager shall issue and mail the appellant a written decision containing a statement of the reasons on which the decision is based. The written decision shall include a notice that the parties have 90 days to pursue a petition for a writ of administrative mandamus of the decision under Cal. Code of Civil Procedure Sections 1094.5 and 1094.6. The library manager shall serve a copy of such decision to the city manager. The decision of the Cultural & Community Services Director shall be final.

**SEC. 7-275. VIOLATION OF WARNING OR EXCLUSION NOTICE.**

Any person who violates a provision of a warning notice or an exclusion notice to stay away from the library by physically entering a library facility during the exclusion period is guilty of a misdemeanor punishable as set forth in section 1-10 of this code."

PART 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

PART 3. The City Council determines and finds that this ordinance is exempt from the California Environmental Quality Act under section 15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

PART 4. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five (5) days before the City council's adoption of the ordinance.

///  
///  
///  
///

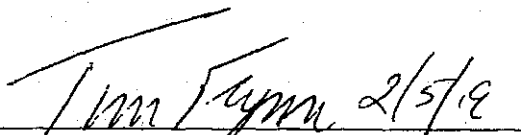
PART 5. The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. 2955 was first read on January 15, 2019, and finally adopted on February 5, 2019, to become effective thirty days thereafter.

AYES: Councilmembers Basua, Flynn, Lopez, MacDonald, Madrigal, Perello and Ramirez.


NOES: None.

ABSENT: None.

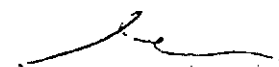
ABSTAIN: None.

  
\_\_\_\_\_  
Tim Flynn, Mayor

ATTEST:

  
\_\_\_\_\_  
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Stephen M. Fischer, City Attorney