

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Ron Nelson, Captain *RN*

**DATE:** December 21, 2011 (CC Meeting of 1/18/12)

**SUBJECT:** Consider an Ordinance Amending Section 10.08.010, Applicability of Provisions, of Chapter 10.08, Private Roads and Parking Facilities, of Title 10, Vehicles and Traffic, of the Moorpark Municipal Code

**SUMMARY**

Moorpark Municipal Code (MMC) Section 10.08.010, which authorizes the enforcement of California Vehicle Codes (CVC) on both private roads and off-street parking facilities open to the public, was first approved by the Moorpark City Council on October 30, 1984 through the adoption of Ordinance No. 30. The ordinance was first numbered as MMC Sections 12.02.010 (pertaining to private roadways) and 12.02.020 (pertaining to private parking facilities), but was later amended as MMC Sections 10.08.010.A and 10.08.010.B. There is a need to amend some of the language in MMC Sections 10.08.010.A and 10.08.010.B to be more consistent with the current California Vehicle Code. Section 10.08.010.B is also proposed to be revised to remove the reference to CVC 22507.8 to permit handicapped parking enforcement consistent with State law.

**DISCUSSION**

MMC Section 10.08.010.B currently allows for the enforcement of specific traffic laws in private off-street parking facilities open to the public, such as local shopping centers. The section references CVC Section 21107.8(a), which empowers cities and counties with the ability to adopt local ordinances or resolutions so that specific traffic laws may be enforced on the private properties. These specific CVC laws include Sections 22350 (Basic Speed Law), 23103 (Reckless Driving), 23109 (Speed Contest), and the provisions of Division 16.5 (Off-Highway Vehicles). Our MMC adds one section to the list that is not mentioned in CVC Section 21107.8(a), that being 22507.8 (Handicapped Parking). In order for these traffic laws to be enforceable, the private off-street parking facilities open to the public must, pursuant to CVC 21107.8(b), also have signs posted at all entrances stating that the area is subject to public traffic regulations and control. The reference to the handicapped parking (CVC 22507.8) is not mentioned in the list of

specific traffic laws that require a City ordinance. In fact, CVC section 21107.8(d) specifically states:

*Section 22507.8 may be enforced without enactment of an ordinance or resolution as required under subdivision (a) or the posting of a notice at each entrance to the offstreet parking facility as required in Subdivision (b).*

The handicapped parking reference as written in MMC Section 10.08.010.B establishes a requirement that private off-street facilities must have signs posted as referenced in CVC 21107.8(b) in order for handicapped parking violators to be cited. Nearly all private off-street parking facilities open to the public in the City have handicapped parking stalls; however, not all of these parking facilities are Vehicle Code enforceable through resolution or ordinance, and therefore lack the proper signs required for Vehicle Code enforcement. This sets up the situation where persons parking in handicapped parking stalls without the proper handicapped placard cannot be cited when signs are not posted pursuant to CVC 21107.8(b).

By removing the reference to CVC 22507.8 in our MMC, handicapped parking restrictions may be enforced in all privately owned off-street parking facilities.

The original City ordinance allowing for the enforcement of traffic laws was adopted in 1984, before the development of the majority of the City's current commercial and industrial centers. Both Sections 10.08.010.A and 10.08.010.B contain a reference to an attached exhibit for the Varsity Park Shopping Center. Since that time, newer commercial shopping centers have been developed. Traffic enforcement in these newer centers has been allowed through the adoption of separate City Council resolutions, which is consistent with the provisions of the CVC. Reference to an exhibit and the Varsity Park Shopping Center is proposed to be deleted in both Sections 10.08.010.A and 10.08.010.B, and a general description of privately owned and maintained roads and off-street parking facilities has been added in lieu of an exhibit.

Attached is a draft ordinance showing the proposed changes in legislative format. The legislative formatting will be removed from the ordinance if adopted. The City Attorney has reviewed and approved the changes to the MMC.

The usual practice is for the City Council to adopt a resolution for enforcement of the CVC, and a separate agenda report will be submitted at the time of second reading of the ordinance requesting adoption of a resolution to continue the CVC traffic enforcement in the Varsity Park Shopping Center.

**FISCAL IMPACT**

None.

**STAFF RECOMMENDATION**

1. Introduce Ordinance No.\_\_\_\_\_ for the first reading, waive full reading, and schedule second reading and adoption for February 1 2012; and
2. Direct staff to prepare a resolution for the meeting of February 1, 2012, to continue traffic enforcement in the Varsity Park Shopping Center with an effective date corresponding to that of the ordinance.

Attachment: Draft Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING SECTION 10.08.010, APPLICABILITY OF PROVISIONS, OF CHAPTER 10.08, PRIVATE ROADS AND PARKING FACILITIES, OF TITLE 10, VEHICLES AND TRAFFIC, OF THE MOORPARK MUNICIPAL CODE

WHEREAS, Sections 10.08.010.A and 10.08.010.B of Section 10.08.010, Applicability of Provisions, of the Moorpark Municipal Code (MMC) require updating for consistency with the California Vehicle Code (CVC); and

WHEREAS, proposed revisions to Section 10.08.010.A include deleting reference to an attached exhibit and the Varsity Park Shopping Center and adding a description that privately owned and maintained roads are herein described as including all those designated by city council resolution as subject to the provisions of the California Vehicle Code, unless the owner has caused to be erected a notice consistent with Section 21107.6(b) and any sections amendatory or supplementary thereto; and

WHEREAS, proposed revisions to Section 10.08.010.B include deleting reference to an attached exhibit and the Varsity Park Shopping Center, adding a description of privately owned and maintained off-street parking facilities as including all those designated by City Council resolution as subject to the CVC, and deleting reference to CVC Section 22507.8; and

WHEREAS, deletion of reference to CVC Section 22507.8 in MMC Section 10.08.010.B will allow for the enforcement of handicapped parking restrictions in all off-street parking facilities open for use of the public for purposes of vehicular parking, consistent with CVC Section 21107.8(d); and

WHEREAS, CVC Section 21107.8(d) specifically states that Section 22507.8 may be enforced without enactment of an ordinance or resolution as required under subdivision (a) or the posting of a notice at each entrance to off-street parking facilities; and

WHEREAS, a public hearing on this matter was convened pursuant to the requirements of CVC Sections 21107.6(a) and 21107.8(c) and notice of said public hearing was provided to the property owner of the Varsity Park Shopping Center as required by the CVC.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 10.08.010, of the MMC is amended in its entirety to read as follows:

**“10.08.010 Applicability of provisions.**

A. Pursuant to the provisions of Section 21107.6 of the California Vehicle Code, and any sections amendatory or supplementary thereto, the city council finds and declares that there are privately owned and maintained roads, ~~as described in this section,~~ within the city, which are generally held open to the public for purposes of vehicular traffic to serve commercial establishments, and such privately owned and maintained roads are herein described as including all those designated by city council resolution as subject to the provisions of the California Vehicle Code, unless the owner has caused to be erected a notice consistent with Section 21107.6(b) and any sections amendatory or supplementary thereto. ~~The provisions of the California Vehicle Code shall apply to such roads. The roads are as shown on the exhibits attached to the ordinance codified in this chapter and incorporated in this subsection by this reference: Exhibit 1. Varsity Park Shopping Center.~~

B. Pursuant to California Vehicle Code Section 21107.8, and any sections amendatory or supplementary thereto, the city council finds and declares that there are privately owned and maintained off-street parking facilities, ~~as described in this section,~~ including those owned and maintained by the city that, which are generally held open for use of the public for purposes of vehicular parking, and such privately owned and maintained off-street parking facilities are herein described as including all those designated by city council resolution as subject to the California Vehicle Code. Sections 22507.8-22350, 23103, 23109 and the provisions of Division 16.5 (commencing with Section 38000) of the California Vehicle Code shall apply to such privately owned and maintained off-street parking facilities, provided that the owner or operator has caused to be posted in a conspicuous place at each entrance to such that off-street parking facility a notice as required by Section 21107.8(b) of the California Vehicle Code and any sections amendatory or supplementary thereto, not less than seventeen (17) inches by twenty-two (22) inches in size with lettering not less than one (1) inch in height, to the effect that such off-street parking facility is subject to public traffic regulation and control. The off-street parking facilities are as shown on the exhibits attached to the ordinance codified in this chapter and incorporated in this subsection by this reference: Exhibit 1. Varsity Park Shopping Center.”

SECTION 2. Severability. If any section, subsection, subdivision, sentence, clause, or portion of this ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 3. Effective Date. This ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Janice Parvin, Mayor

ATTEST:

\_\_\_\_\_  
Maureen Benson, City Clerk