



**CITY OF WASHINGTON, ILLINOIS**  
**City Council Meeting**

**Meeting Date:** October 21, 2024

**Prepared By:** Michael D. McCoy

**Agenda Item:** Ordinance Regulating Public Camping in the City of Washington

**Discussion:** Attached is a proposed City of Washington Camping Ordinance, modeled after the Illinois Municipal League Model Draft Ordinance, concerning public camping in the City of Washington. This proposed Ordinance has been reviewed by City Attorneys and made to be incorporated into the new city code structure

**Fiscal Impact:** None

**Action Requested:** City Council approval.

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

**AN ORDINANCE REGULATING PUBLIC CAMPING WITHIN CORPORATE BOUNDARIES AND OTHER ACTIONS IN CONNECTION THEREWITH FOR THE CITY OF WASHINGTON, ILLINOIS**

WHEREAS, estimates provide that, in 2020, there were approximately 10,431 Illinoisans experiencing homelessness. ILL. OFF. TO PREVENT & END HOMELESSNESS, ILL. DEP'T HUM. SERVS., HOME ILLINOIS: ILLINOIS' PLAN TO PREVENT AND END HOMELESSNESS (2022), available at <https://perma.cc/QV8K-3XGK>; and,

WHEREAS, a 2022 study by the United States (U.S.) Department of Housing and Urban Development estimated that 9,212 people were experiencing homelessness in Illinois in January 2022, with an estimated 20.6% of those homeless persons being unsheltered, meaning they have no form of shelter on which to rely. OFF. POL'Y DEV. & RSCH., U.S. DEP'T HOUS.& URB. DEV., PIT ESTIMATES OF HOMELESSNESS IN THE U.S. (2022), available at <https://www.huduser.gov/portal/sites/default/files/xls/2007-2022-PIT-Counts-by-State.xlsx>; and,

WHEREAS, the estimates provided by the U.S. Department of Housing and Urban Development “likely underestimate the size of the homeless population because identifying people experiencing homelessness is inherently difficult.” U.S. GOV'T ACCOUNTABILITY OFF., GAO-20-433, HOMELESSNESS: BETTER HUD OVERSIGHT OF DATA COLLECTION COULD IMPROVE ESTIMATES OF HOMELESS POPULATION (2020), available at <https://perma.cc/7ZUQ-U5CE>.

WHEREAS, the American Public Health Association has recognized homelessness as a public health issue, since research shows that homeless individuals (1) suffer “higher mortality rates and chronic disease loads” than non-homeless populations; (2) “overuse emergency services, leading to higher costs for treatment” for all persons; and, (3) with no form of shelter “can exacerbate conditions such as diabetes and hepatitis C . . . .” *Housing and Homelessness as a Public Health Issue*, Am. Pub. Health Ass'n (Nov. 7, 2017), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2018/01/18/housing-and-homelessness-as-a-public-health-issue>; see also Bernard Beall et al., *Invasive Pneumococcal Disease Clusters Disproportionally Impact Persons Experiencing Homelessness, Injecting Drug Users, and the Western United States*, 226 J. Infectious Diseases 332 (2022), available at <https://doi.org/10.1093/infdis/jiac058>. (finding that “invasive pneumococcal disease” was “disproportionally represented” in the homeless population when compared against populations not experiencing homelessness); and,

WHEREAS, the U.S. Interagency Council on Homelessness has noted that people “who experience homelessness die nearly 30 years earlier than the average American—and often from easily treatable illnesses.” *Homelessness Data & Trends*, U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, <https://www.usich.gov/guidance-reports-data/data-trends> (last visited July 15, 2024); and,

WHEREAS, the City of Washington is a home rule municipality pursuant to the Constitution of the State of Illinois of 1970, as amended; and,

WHEREAS, pursuant to Section 1-1-4 of the Illinois Municipal Code (65 ILCS 5/1-1-4), the City of Washington has those powers conferred upon it by the Illinois Municipal Code; and,

WHEREAS, the Section 1-2-1 of the Illinois Municipal Code (65 ILCS 5/1-2-1), provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and,

WHEREAS, Section 1-2-1.1 of the Illinois Municipal Code (65 ILCS 5/1-2-1.1) empowers the corporate authorities of the municipality to pass ordinances to regulate any matter that is expressly within the powers granted to the municipality by making the violation a misdemeanor punishable by up to six (6) months of incarceration; and,

WHEREAS, Section 1-1-10 of the Illinois Municipal Code (65 ILCS 5/1-1-10) empowers the corporate authorities of the municipality to exercise all powers granted to it expressly, by necessity, by the Illinois Municipal Code, by Illinois statute, or by the Illinois Constitution; and,

WHEREAS, Section 11-20-5 of the Illinois Municipal Code (65 ILCS 5/11-20-5) empowers the corporate authorities of each municipality to “do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of diseases”; and,

WHEREAS, Section 11-60-2 of the Illinois Municipal Code (65 ILCS 5/11-60-2) empowers the corporate authorities of each municipality to define, prevent and abate nuisances; and,

WHEREAS, Section 3-102 of the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/3-102) obligates the City of Washington to “exercise ordinary care to maintain public property in a reasonably safe condition.” *Bubb v. Springfield Sch. Dist.* 186, 167 Ill. 2d 372, 377 (1995) (citing 745 ILCS 10/3-102); and,

WHEREAS, the Local Governmental and Governmental Employees Tort Immunity Act generally immunizes municipalities from damages claims where the public property was not being used in the manner intended and permitted by the municipality. *See Wojdyla v. City of Park Ridge*, 148 Ill. 2d 417, 421–22 (1992) (*quoting* 745 ILCS 10/3-102(a)) (“Thus, for a pedestrian to be protected in the present circumstances by the statute, he must be an intended and permitted user of the property under the control of the city.”); and,

WHEREAS, in *City of Grants Pass, Oregon v. Johnson*, 603 U.S. \_\_\_, 144 S. Ct. 2202 (2024), the United States Supreme Court held that the criminalization of “public camping”, as defined in the City of Grants Pass’s ordinance, did not unconstitutionally infringe on the Eighth Amendment rights of homeless and otherwise unhoused persons within said City; and,

WHEREAS, in *Johnson*, the United States Supreme Court acknowledged that homelessness is a “complex and serious social issue” whose “causes are many” and which “cries out for effective responses” to combat it. *Johnson*, 603 U.S. \_\_\_, slip op. at 10, 34; and,

WHEREAS, in *Johnson*, the United States Supreme Court relied heavily on the “stepwise” escalation of penalties in Grants Pass’s ordinance to uphold its constitutionality. *Id.* at 11, 16–17; and,

WHEREAS, in view of the foregoing, the City Council of the City of Washington believe that it is appropriate, necessary and in the best interests of the City of Washington and its residents, that the City of Washington implement a Public Camping Prohibition and related enforcement mechanisms, to address the myriad public concerns that public camping creates.

NOW, THEREFORE, be it ordained, by the City Council of Washington, Illinois as follows:

**Section 1.** The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

**Section 2.** Chapter 38, Article II, of the Washington Municipal Code is hereby amended to add the title “Division 1. Generally” before Sec. 38-21.

**Section 3.** Chapter 38, Article II, of the Washington Municipal Code is hereby amended by adding “Division 2. Public Camping” Secs. 38-28 to 38-36 as follows:

“Division 2. Public Camping

**Sec. 38-28. Definitions.**

For purposes of this Division, the following words and phrases shall have the following meanings ascribed to them respectively:

“Bedding” means a sleeping bag, or any other material, used for bedding purposes.

“Campsite” means any physical space that is not within an established structure, where Bedding or any stove or fire is placed, established or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack or any other structure, or any vehicle or part thereof.

“Exempt Personal Property” means items which would otherwise constitute Personal Property under the terms of this Division, but which (i) has no apparent utility or monetary value; (ii) Personal Property which is unsanitary to store or otherwise maintain; (iii) any weapon possessed illegally; (iv) drug paraphernalia; (v) items appearing to be stolen or otherwise appearing to be evidence of a crime; (vi) items which the person cannot demonstrate the requisite lawful authority to possess; and, (vii) any items of food which can reasonably be expected to spoil or otherwise perish within the next 30 days.

“Personal Property” means any item reasonably recognizable as belonging to a person and having apparent utility or monetary value, except for Exempt Personal Property.

“Public Camping” means to cause or participate in the establishment of, or the act of remaining in or at, a Campsite.

**Sec. 38-29. Intent.**

In an effort to address public health concerns, the City hereby declares it necessary or expedient for the promotion of health or the suppression of diseases, to regulate Public Camping, within the corporate limits of the City.

**Sec. 38-30. Public Camping Declared Nuisance.**

Public Camping is hereby declared to be a nuisance within the City of Washington.

**Sec. 38-31. Public Camping Not Intended Use of Public Property.**

Except for those parcels of property specifically designated by the City in any subsequent ordinance, the City hereby declares that none of its property is permitted nor intended to be used for Public Camping.

**Sec. 38-32. Public Camping Prohibited.**

(a) No person may sleep, nor otherwise engage in Public Camping, on a public sidewalk, street, alley, lane, other public right-of-way, park, bench, or any other publicly-owned property, nor on or under any bridge or viaduct, at any time.

(b) No person may sleep, nor otherwise engage in Public Camping, in any pedestrian or vehicular entrance to public or private property abutting a public right-of-way.

(c) No person may sleep, nor otherwise engage in Public Camping, on any real property owned or otherwise maintained by the City.

(d) No person may park a vehicle overnight within the City for the purpose of sleeping or otherwise engaging in Public Camping in said vehicle.

(e) For the purposes of this Division, the act of parking or leaving a vehicle parked for two consecutive hours, and/or remaining within a public vehicle on any property under the jurisdiction of the City for the purpose of Public Camping, for two consecutive hours without permission from the City Council or Mayor, between the hours of midnight and 6:00 a.m., shall be considered a violation of this Division.

**Sec. 38-33. Exceptions to Prohibition.**

Notwithstanding the foregoing provisions of this Division, it shall not be a violation to engage in Public Camping when done (i) in a manner specifically authorized by this Code; (ii) after a formal declaration of the City in emergency circumstances; or, (iii) upon resolution of the City Council the same may exempt a special event from the prohibitions of this Division, if the City Council finds such exemption to be in the public interest and consistent with the goals and objectives of the City Council and with such conditions imposed as the City Council deems necessary. Any conditions imposed will include a condition requiring that the applicant provide evidence of adequate insurance coverage and

agree to indemnify the City for any liability, damage or expense incurred by the City as a result of the activities of the applicant. Any findings by the City Council shall specify the exact dates and location covered by the exemption.

**Sec. 38-34. Removal of Campsite.**

Removal of a Campsite in violation of this Division may occur under the following circumstances:

- (a) Prior to removing a Campsite, the City shall post a notice, 24-hours in advance of the removal, unless immediate removal of the Campsite is deemed to be necessary for one of the reasons in subparagraphs 1-4, below. If such immediate removal is undertaken, the basis for causing the immediate removal of such Campsite should be adequately documented by the appropriate person(s).
  - (1) immediate removal of the Campsite is necessary to maintain access to a property;
  - (2) immediate removal of the Campsite is necessary to maintain the sanitary condition of a property;
  - (3) immediate removal of the Campsite is necessary because the Campsite is an obstruction to any public right-of-way; or,
  - (4) immediate removal of the Campsite is necessary because the Campsite poses a risk to the health and safety of the City and its residents.
- (b) Upon any action pursuant to Section 38-34(a), above, the person causing such action to be taken shall inform an appropriate agency delivering social services to homeless individuals in the City, of the location of the Campsite and the persons found to be in violation of this Division, so said agency may determine whether or not it would be appropriate to offer its services to those persons.
- (c) If a 24-hour notice has been posted, and the 24-hour notice period has passed, then the Campsite, as well as all Personal Property thereon, shall be removed by the appropriate person(s) acting on behalf of the City.
- (d) No portion of this Division shall be construed to prohibit any person found to be engaging in Public Camping from removing their Personal Property from the Campsite; however, such Personal Property that constitutes Exempt Personal Property and which a reasonably prudent law enforcement officer, exercising the applicable constitutional standard, would conclude that said Exempt Personal Property constitutes items appearing to be stolen or otherwise appearing to be evidence of a crime, and/or items which the person cannot demonstrate the requisite lawful authority to possess, may be retained and stored as evidence.

**Sec. 38-35. Disposition and Release of Personal Property.**

- (a) All Personal Property removed from any Campsite which is not Exempt Personal Property shall be stored by the appropriate law enforcement agency of the City, for a minimum of 30 days, during which time it shall be reasonably available for and released to an individual confirming ownership.
- (b) All Exempt Personal Property may be disposed of or retained as evidence by the appropriate law enforcement agency of the City.

**Sec. 38-36. Penalty; Mitigation.**

- (a) The penalty for any person's first violation of this Division within a rolling twenty-four (24) month period shall be \$75.
- (b) The penalty for any person's second violation of this Division within a rolling twenty-four (24) month period shall be \$150.
- (c) The penalty for any person's third violation of this Division within a rolling twenty-four (24) month period shall be \$350.
- (d) The penalty for any person's fourth violation of this Division within a rolling twenty-four (24) month period shall be \$500.
- (e) The penalty for any person's fifth violation of this Division within a rolling twenty-four (24) month period shall be \$750.
- (f) The penalty for any person's sixth or subsequent violation of this Division within a rolling twenty-four (24) month period may be a monetary penalty of \$750 or incarceration for a period not exceeding the maximum time allowed pursuant to Section 1-2-9 of the Illinois Municipal Code (65 ILCS 5/1-2-9).
- (g) The City is hereby empowered to exercise all powers afforded to it, at law or in equity, to collect any fines assessed against a person pursuant to this Division, including but not limited to seeking incarceration of said person for a period of time that conforms with Section 1-2-9 of the Illinois Municipal Code (65 ILCS 5/1-2-9).
- (h) In the imposition of any penalty pursuant to this Division, the penalty shall be mitigated by whether or not the person immediately removed all Personal Property and litter, including but not limited to bottles, cans, and garbage, from the Campsite after the person was informed that the person was in violation of this Division.
- (i) A separate offense of this Division shall be deemed committed on each day on which a violation occurs or continues.

- (j) In addition to any other remedy provided by law or this Division, any person found in violation of this Section may be immediately removed from the premises where the Campsite is located.

Sec. 38-37 – 38-57. Reserved.”

**Section 4.** All ordinances, resolutions and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

**Section 5.** If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

**Section 6.** The headings/captions identifying the various sections and subsections of this Ordinance are for reference only and do not define, modify, expand or limit any of the terms or provisions of the Ordinance.

**Section 7.** The clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code (65 ILCS 5/1-2-4).

PASSED THIS \_\_\_\_ day of \_\_\_\_\_, 2024.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSTENTIONS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk