

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 220276

Amending Chapter 50, Code of Ordinances, by repealing Section 50-103, Trespassing on golf courses, parks and trails, and Section 50-161, Loitering, and enacting in lieu thereof new sections of like number and subject matter, and by repealing Section 50-107, Tenting without consent of landowner, and enacting a new section of like number and subject matter, titled Camping and storage of personal property on public, vacant or unenclosed property.

WHEREAS, City encourages the use of public spaces and facilities within the City by all members of the community; and

WHEREAS, unregulated camping within the City limits creates unsanitary, unhealthy, disorderly, and dangerous conditions that may affect both the campers and the general public; and

WHEREAS, unregulated camping within the City limits tends to degrade or even destroy the property where it occurs, particularly in situations where an encampment is large and ongoing; and

WHEREAS, unregulated camping within the City limits detracts from the use of the property its intended purposes; and

WHEREAS, on November 4, 2021, the City Council passed Resolution No. 210993, directing the City Manager, in coordination with the City's Houseless Task Force, to develop standard operating procedures concerning encampments on public property in Kansas City, and to propose any appropriate, corresponding amendments to the City Code in order to effectuate such procedures; and

WHEREAS, in the course of the City Manager's and Houseless Task Force's work to develop standard procedures concerning such encampments, City Code Sections 50-107 and 50-161 were identified for potential revisions, with the goal of ensuring City's ability to lawfully regulate such activities in a manner that respects the dignity and rights of all persons; and

WHEREAS, the City finds that limited camping prohibitions will best serve the public's health, safety, and general welfare, and intends to revise Section 50-107 in a manner that provides only limited prosecution for sleeping outside when shelter is unavailable; and

WHEREAS, this committee substitute also proposes revisions to Section 50-103 that will add a subsection prohibiting unpermitted tenting, camping and other habitation structures in City parks; and;

WHEREAS, the changes to Section 50-161 will clarify that, for a person to be guilty of a loitering in traffic violation, they must knowingly obstruct, impede, interfere with, hinder or delay the reasonable movement of vehicular or pedestrian traffic, and that a person shall not be guilty of loitering unless such person has been given a reasonable opportunity to comply with an order from law enforcement to move on or disperse; and NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 50, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 50-103, Trespassing on golf courses, parks and trails, and Section 50-161, Loitering, and enacting in lieu thereof new sections of like number and subject matter, to read as follows, and by repealing Section 50-107, Tenting without consent of landowner, and enacting a new section of like number and subject matter, titled Camping and storage of personal property on public, vacant or unenclosed property, to read as follows:

Sec. 50-103. Trespassing on golf courses, parks and trails.

(a) *Golf courses.* It shall be unlawful for any person, except employees of the parks and recreation department in the performance of their duties, to trespass, loiter or be upon any golf course under the control and supervision of the board of parks and recreation commissioners, or upon any lands in such park within 100 yards of any fairway or any putting green of any golf course, except upon park roads; provided that this shall not apply to persons actually engaged in playing golf upon such courses, with permission under the rules of the board of parks and recreation commissioners, or to persons accompanying persons actually engaged in playing golf thereon, or to persons following an authorized golf tournament thereon.

(b) *Closure of parks and trails.* It shall be unlawful for any person, except government employees in the performance of their duties or others authorized or permitted by the Parks Department, to enter or remain in any park or trail when such park or trail is not open to the public. The city manager may post signs giving notice of the provisions of this subsection on city property adjacent to these parks.

(c) *Camping or tenting in parks.* No person shall, for purposes of habitation, erect or maintain any tent, lean-to, assembly of camping equipment, or other structure within any City park, parkway or trail, unless licensed or permitted by the City to do so. For purposes of this subsection, habitation may be evidenced by the presence of such tent, lean-to, assembly of camping equipment, or other structure, as well as bedding materials, campfires, cooking materials, storage of clothing or other personal belongings or items that are gathered together in a manner where it appears to a reasonable person that the site is being used for habitation purposes.

Sec. 50-107. Camping and storage of personal property on public, vacant or unenclosed property

(a) *Purpose.* This section is intended to protect the public health, welfare, and safety by reserving open spaces and facilities within the City limits for their intended purposes and consistent with the public or private owner's ability to lawfully establish such purposes and control such property. Public property within the City should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for their intended purposes and is deleterious to the public peace, health, safety, and welfare. The use of these areas for camping endangers the public, obstructs the intended uses for the public at large, contributes to blight, and can cause damage to public property and surrounding areas. Similarly, camping on private property without an owner's consent can endanger the public, interfere with intended

uses for such property, contribute to blight, and cause damage to such property and the surrounding areas. This section is intended to avoid unsafe and potentially disorderly conditions, unsanitary and unhealthful conditions, and the degradation or destruction of open spaces and facilities within the City.

(b) *Definitions.* The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section unless it is apparent from the context that another meaning is intended.

- (1) "Camp" or "camping" means, for purposes of habitation, erecting, maintaining or making preparations to erect or maintain any tent, lean-to, assembly of camp facilities or camp paraphernalia, or other structure, storing personal property (including but not limited to clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware or similar material), or making any fire using Bunsen burners or other heating items, or regularly cooking meals. Such activities constitute camping when it reasonably appears, in light of all the circumstances, that the person taking one or more of these actions on certain property does so with the intent to use such property for one or more nights as a living accommodation.
- (2) "Camp facilities" include, but are not limited to, tents, huts, or similar temporary shelters consisting of any material with a top or roof or any other upper covering or that is otherwise enclosed by sides that is of sufficient size for a person to fit underneath or inside while sitting or lying down and includes the use of a tarp or other material tied or affixed to a structure or bush to create an enclosed area.
- (3) "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, or non-City designated cooking or heating facilities and similar equipment.
- (4) "Inclement weather" means a weather condition causing a major disruption to transportation or the operations of government or businesses within a relevant area in the City. Examples include, but are not limited to, floods, blizzards, tornadoes, heavy snow, ice storms, windstorms, and excessive heat.
- (5) "Immediate hazard" means an encampment where one or more persons camping outdoors on property owned by the City are at risk of serious injury or death beyond that caused by increased exposure to the elements, or their presence creates a risk of serious injury or death to others, or the encampment presence is causing imminent compromise to the structural integrity of the surrounding location. Immediate hazard encampments may include but are not limited to encampments at highway shoulders and off-ramps, areas exposed to moving vehicles, areas that can only be accessed by crossing driving lanes outside of a legal crosswalk, landslide prone areas, along or on top of river levees, or other areas where the lack of sanitation facilities results in human solid or liquid waste being discharged therein.

- (6) "Obstruction" means one or more persons, camp facilities, camp paraphernalia or other personal property that are placed on property owned by the City either in such a manner as to either obstruct, impede, interfere with, hinder or delay the reasonable movement of vehicular or pedestrian traffic, or otherwise in violation of Sec. 50-161 (Loitering); or during a time when such property or facility is closed to the public;
- (7) "Personal property" means any tangible property and includes, but is not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, blankets, sleeping bags, personal items such as household items, luggage, backpacks, clothing, food, documents, and medication.
- (8) "Public property" means any property within the City that is owned by the City or any other public entity, excluding any such property that is owned by another public entity and on which camping activities are expressly allowed by law.
- (9) "Public utilities" means any outdoor, water, sewer, or electrical outlets or fixtures on government owned, maintained, or operated properties located within the City that are not designated for public use.

(c) *Unlawful camping.* It shall be unlawful for any person to either camp on public or vacant or unenclosed property, or to use or occupy public utilities within the City, except as otherwise provided in this section, specifically designated by City Council, or, for private property, evidenced by a written lease or other written consent from the owner. It is a violation of this section to set up provisions for the purpose of camping whether or not a full night is actually spent at the location. This prohibition applies without regard to the nature of any other activities in which such persons may also be engaging.

(d) *Storage of personal property.* It shall be unlawful for any person to store personal property on any public or vacant or unenclosed property within the City, except as otherwise provided in this section, specifically designated by City Council, or, for private property, evidenced by a written lease or other written consent from the owner. This prohibition applies without regard to the nature of any other activities in which such persons may also be engaging.

(e) *Offer of housing, shelter and services.* Before directing a person to remove camp facilities, before removing the camp facilities, and before issuing any citation for a violation of this section, a police officer, law enforcement officer, or enforcing employee of the City shall offer information to the occupant(s) regarding any available housing or shelter and other health and human services that such officer or employee reasonably believes are relevant to the occupant(s) and their individual circumstances.

(f) *Exemption for necessity on public property.* The provisions of subsections (c) and (d) of this section shall not apply to any person camping by necessity on public property, including, for example, those instances in which every shelter in the local area is at capacity. The City Manager may establish additional guidelines to determine whether an individual is camping by

necessity. However, if an individual is camping by necessity on public property, the following criteria for safe camping shall apply:

- (1) No person shall camp or store personal property on any public property from 7:00 a.m. to 8:00 p.m. (except during inclement weather). A person must take down, fold, and completely remove or put away any camp facilities, camp paraphernalia and personal property on any public property between the hours of 7:00 a.m. and 8:00 p.m. (except during inclement weather). At no time shall any person camp or store personal property so as to obstruct access to a street, sidewalk, park playground, public utility, public right-of-way open for vehicular or pedestrian travel or governmental use, or other public property:
 - i. By camping or storing, using, maintaining or placing personal property in a manner that does not allow for passage as required by the Americans with Disabilities Act of 1990, as amended from time to time; or
 - ii. By camping or storing, using, maintaining or placing personal property within ten feet of any operational or utilizable entrance, exit, driveway, or loading dock; or
 - iii. By creating any barrier with string, wire, rope, cable, or chain, or other attachment or appurtenance upon City-owned trees, light poles, fences, equipment or other public facilities.
- (2) The use of public utilities is prohibited.

(g) *Other exemptions.* The provisions of this section shall not apply in the event of an emergency, including a City-declared emergency or natural disaster, such as a fire or earthquake, nor to any employee of the City or any public utility or governmental agency who is required to enter or be in such areas in the course of their employment.

(h) *Notice before removal of property.* The City shall provide the following notice in connection with the removal of any camp facilities, camp paraphernalia or other personal property in violation of this section:

- (1) *Pre-removal notice.* Except as otherwise specified in subsection (h)(2), notice of intent to remove any camp facility, camp paraphernalia or other personal property in violation of this section shall be provided no fewer than 48 hours before removal is scheduled to commence. Such notice shall be in writing and shall be posted on or near the camp facility or other items to be removed, so as reasonably to communicate the notice to persons living at such site but not present during the attempt to serve notice. Such notice shall contain, in English and any other language the City determines would further the purpose of the notice:
 - i. The location of the camp facility or other items to be removed;

- ii. The date and time the notice was provided;
- iii. A statement that the camp facility or other items to be removed are in violation of this section;
- iv. The date and time that removal is scheduled to commence (a minimum of 48 hours after notice is provided);
- v. Information about any housing or shelter and other outreach services available for occupants of the camp facility or other persons camping and the phone number and address to contact in order to obtain the housing or shelter or other health and human services;
- vi. A warning that any items remaining on the site at the time of the scheduled removal that present a health or safety risk if stored, such as items soiled by bodily fluids, items that are moldy, items infested by insects or vermin, and food, will be disposed of immediately at such time;
- vii. A warning that any items remaining on the site 12 hours after the removal is scheduled to commence will be deemed abandoned and may be removed and disposed of without further notice;
- viii. A statement that City assumes no liability for personal property removed from this site.

(2) *Exemption for pre-removal notice for obstructions and immediate hazards.* Any camp facility, camp paraphernalia or other personal property in violation of this section that qualify as an obstruction or immediate hazard may be removed immediately and without notice. However, if any such item is determined to be under control of a person present at the site of the obstruction or immediate hazard, oral notice to immediately remove any such item shall, reasonably possible, be given to the individual. If an obstruction or immediate hazard is not immediately removed by City personnel, a notice shall, to the extent practicable, be posted on or near the camp facility or other items to be removed as soon as reasonably possible, stating in English and any other language the City determines would further the purpose of the notice:

- i. The date the notice was posted;
- ii. That the items must be immediately removed and are subject to removal by the City without further notice;
- iii. A warning that any items remaining on the site at the time of the removal that present a health or safety risk if stored, such as items soiled by

bodily fluids, items that are moldy, items infested by insects or vermin, and food, will be disposed of immediately at such time;

- iv. Where any personal property removed by the City and not eligible for immediate disposal may be stored;
 - v. How any stored personal property may be claimed;
 - vi. A statement that City assumes no liability for personal property removed from this site.
- (3) *Post-removal notice.* After removal of any camp facility, camp paraphernalia or other personal property in violation of this section, City shall, to the extent practicable, prominently post notice at such site that states, in English and any other language the City determines would further the purpose of the notice:
- i. The date the removal was performed;
 - ii. Whether personal property was stored by the City;
 - iii. Where any personal property is stored;
 - iv. How any stored personal property may be claimed by its owner;
 - v. That any such property that was stored by City and not claimed will be destroyed after 14 days;
 - vi. A statement that City assumes no liability for personal property removed from this site.
 - vii. Contact information for outreach personnel who can assist individuals with shelter alternatives and other services.

This notice shall not be removed by the City for a minimum of 10 days.

i. *Personal property.* Any person present at the time of removal of any camp facility, camp paraphernalia or other personal property in violation of this section may retain their property except that items constituting an immediate threat to the health or safety of the public or items that constitute evidence of a crime or contraband may be seized as permitted by law. Any items remaining on the site at the time of the removal that present a health or safety risk if stored, such as items soiled by bodily fluids, items that are moldy, items infested by insects or vermin, and food, will be disposed of immediately at such time. The following provisions also apply to the handling of any camp facility, camp paraphernalia or other personal property that is in violation of this section:

- (1) *Items from an obstruction or immediate hazard.* If any such item is a part of an obstruction or immediate hazard, and City has complied with the provisions of subsections (h)(2) and (h)(3), such items may be removed immediately by City, and shall be stored by City for no fewer than 14 days at a site that is accessible by public transportation. The City shall maintain a log of any such property removed from an encampment. Each item logged shall be kept until the personal property is recovered by its owner, or the property is discarded as permitted under this section. The log shall indicate to whom the property was released and the date of release, or, in the event the property is not recovered, the date of destruction or disposal. Such property may be recovered at the location where the property is stored by the individual describing such personal property sought with particularity. No formal legal identification, such as displaying a valid driver's license, will be required as a before an individual can recover such property. If there are no circumstances indicating a competing claim of ownership, the property shall be released to the individual seeking its recovery. Any such item that is not recovered after 14 days, excluding the date the property was stored, may be destroyed, disposed of, or discarded by the City.
- (2) *Other items.* If any camp facility, camp paraphernalia or other personal property was not part of an obstruction or immediate hazard, and City has complied with the provisions of subsections (h)(1) and (h)(3), any such items remaining unclaimed on the site after the passage of both the 48-hour minimum notice period in subsection (h)(1) and the 12 additional hours after the removal process was scheduled to begin will be deemed abandoned may be removed and disposed of by City without further notice.

j. *Additional Procedures.* The City Manager, or the City Manager's designee, may issue regulations or guidelines necessary or appropriate to aid in the enforcement and implementation of this section and may create any additional procedures consistent with this section as are necessary or appropriate to protect the property rights of individuals whose property is taken into custody pursuant to this section.

Sec. 50-161. Loitering.

(a) It shall be unlawful for any person, either alone or in concert with others, to stand or otherwise position themselves in any public place in such manner so as to knowingly obstruct, impede, interfere with, hinder or delay either:

- (1) the reasonable movement of vehicular or pedestrian traffic;
- (2) the reasonably free and uninterrupted use of property or business lawfully conducted by anyone in or upon or facing or fronting on any such public place or building, if such act prevents the reasonably free and uninterrupted ingress, egress and regress, therein, thereon and thereto.

(b) When any person knowingly commits either of the acts enumerated in subsection (a) of this section, a police officer or any law enforcement officer may order that person to stop committing any such act and to move on or disperse. Any person who fails or refuses to obey such an order, after being given a reasonable opportunity to do so, shall be guilty of a violation of this section.

Approved as to form and legality:



Bret Kassen
Associate City Attorney

COMPARED VERSION
COMMITTEE SUBSTITUTE TO ORIGINAL ORDINANCE

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 220276

Amending Chapter 50, Code of Ordinances, by repealing Section 50-107, ~~Tenting without consent of landowner, and 103, Trespassing on golf courses, parks and trails, and~~ Section 50-161, Loitering, and enacting in lieu thereof new sections of like number and subject matter, ~~which will limit to private and by repealing Section 50-107, Tenting without consent of landowner, and enacting a new section of like number and subject matter, titled Camping and storage of personal property on public, vacant or unenclosed property.~~

WHEREAS, City encourages the prohibition on tenting without consent of landowner, and, for a loitering in traffic violation, require use of public spaces and facilities within the City by all members of the community; and

WHEREAS, unregulated camping within the City limits creates unsanitary, unhealthy, disorderly, and dangerous conditions that a person willfully obstruct, impede, interfere with, hinder or delay the reasonable movement of vehicular may affect both the campers and the general public; and

WHEREAS, unregulated camping within the City limits tends to degrade or pedestrian traffic, and prevent a person from being guilty of loitering unless such person has been given a reasonable opportunity to comply with an order from law enforcement to move on or disperse, after receiving actual notice or even destroy the property where notice was directed to them and was reasonably likely to come to such person's attention. it occurs, particularly in situations where an encampment is large and ongoing; and

WHEREAS, unregulated camping within the City limits detracts from the use of the property its intended purposes; and

WHEREAS, on November 4, 2021, the City Council passed Resolution No. 210993, directing the City Manager, in coordination with the City's Houseless Task Force, to develop standard operating procedures concerning encampments on public property in Kansas City, and to propose any appropriate, corresponding amendments to the City Code in order to effectuate such procedures; and

WHEREAS, in the course of the City Manager's and Houseless Task Force's work to develop ~~such~~ standard procedures concerning such encampments, City Code Sections 50-107 and 50-161 were identified for various potential revisions ~~in order to effectuate such procedures, consistent,~~ with the recommendations goal of ensuring City's ability to lawfully regulate such activities in a manner that respects the City Manager dignity and Houseless Task Force rights of all persons; and

WHEREAS, ~~Sections 50-107 and 50-161 appear in the Chapter on Offenses and Miscellaneous Provisions within the Code of Ordinances; and~~ City finds

~~WHEREAS, to clarify that the prohibition on tenting without consent of landowner in limited camping prohibitions will best serve the public's health, safety, and general welfare, and intends to revise Section 50-107 in a manner that provides only apply to private property limited prosecution for sleeping outside when shelter is unavailable; and~~

~~WHEREAS, this committee substitute also proposes revisions to Section 50-103 that will add a subsection prohibiting unpermitted tenting, camping and other habitation structures in City parks; and;~~

~~WHEREAS, for the changes to Section 50-161, to will clarify that, for a person to be guilty of a loitering in traffic violation, they must willfully knowingly obstruct, impede, interfere with, hinder or delay the reasonable movement of vehicular or pedestrian traffic, and that a person shall not be guilty of loitering unless such person has been given a reasonable opportunity to comply with an order from law enforcement to move on or disperse, after receiving actual notice or where notice was directed to them and was reasonably likely to come to such person's attention;; and NOW, THEREFORE,~~

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 50, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 50-107, ~~Tenting without consent of landowner~~103, ~~Trespassing on golf courses, parks and trails~~, and Section 50-161, Loitering, and enacting in lieu thereof new sections of like number and subject matter, to read as follows: ~~and by repealing Section 50-107, Tenting without consent of landowner, and enacting a new section of like number and subject matter, titled Camping and storage of personal property on public, vacant or unenclosed property, to read as follows:~~

Sec. 50-107. ~~Tenting without consent~~ 103. ~~Trespassing on golf courses, parks and trails.~~

~~(a) Golf courses. It shall be unlawful for any person, except employees of private landowner, the parks and recreation department in the performance of their duties, to trespass, loiter or be upon any golf course under the control and supervision of the board of parks and recreation commissioners, or upon any lands in such park within 100 yards of any fairway or any putting green of any golf course, except upon park roads; provided that this shall not apply to persons actually engaged in playing golf upon such courses, with permission under the rules of the board of parks and recreation commissioners, or to persons accompanying persons actually engaged in playing golf thereon, or to persons following an authorized golf tournament thereon.~~

~~(b) Closure of parks and trails. It shall be unlawful for any person, except government employees in the performance of their duties or others authorized or permitted by the Parks Department, to enter or remain in any park or trail when such park or trail is not open to the public. The city manager may post signs giving notice of the provisions of this subsection on city property adjacent to these parks.~~

~~(c) Camping or tenting in parks. No person shall put or keep and maintain or occupy any tent, lean-to, tarpaulin or other structure, for purposes of habitation or place of, erect or~~

maintain any tent, lean-to, assembly of camping equipment, or other structure within any City park, parkway or trail, unless licensed or permitted by the City to do so. For purposes of this subsection, habitation may be evidenced by the presence of such tent, lean-to, assembly of camping equipment, or other structure, as well as bedding materials, campfires, cooking materials, storage of clothing or other personal belongings or items that are gathered together in a manner where it appears to a reasonable person that the site is being used for habitation purposes.

Sec. 50-107. Camping and storage of personal property on public, vacant or unenclosed property

(a) Purpose. This section is intended to protect the public health, welfare, and safety by reserving open spaces and facilities within the City limits for their intended purposes and consistent with the public or private owner's ability to lawfully establish such purposes and control such property. Public property within the City should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for their intended purposes and is deleterious to the public peace, health, safety, and welfare. The use of these areas for camping endangers the public, obstructs the intended uses for the public at large, contributes to blight, and can cause damage to public property and surrounding areas. Similarly, camping on private property without an owner's consent can endanger the public, interfere with intended uses for such property, contribute to blight, and cause damage to such property and the surrounding areas. This section is intended to avoid unsafe and potentially disorderly conditions, unsanitary and unhealthful conditions, and the degradation or destruction of open spaces and facilities within the City.

(b) Definitions. The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section unless it is apparent from the context that another meaning is intended.

- (1) "Camp" or "camping" means, for purposes of habitation, erecting, maintaining or making preparations to erect or maintain any tent, lean-to, assembly of camp facilities or camp paraphernalia, or other structure, storing personal property (including but not limited to clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware or similar material), or making any fire using Bunsen burners or other heating items, or regularly cooking meals. Such activities constitute camping when it reasonably appears, in light of all the circumstances, that the person taking one or more of these actions on certain property does so with the intent to use such property for one or more nights as a living or lodging, either temporarily or accommodation.
- (2) "Camp facilities" include, but are not limited to, tents, huts, or similar temporary shelters consisting of any material with a top or roof or any other upper covering or that is otherwise, upon any privately-owned grounds within the city. However, no person shall be enclosed by sides that is of sufficient size for a person to fit

underneath or inside while sitting or lying down and includes the use of a tarp or other material tied or affixed to a structure or bush to create an enclosed area.

- (3) "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, or non-City designated cooking or heating facilities and similar equipment.
- (4) "Inclement weather" means a weather condition causing a major disruption to transportation or the operations of government or businesses within a relevant area in the City. Examples include, but are not limited to, floods, blizzards, tornadoes, heavy snow, ice storms, windstorms, and excessive heat.
- (5) "Immediate hazard" means an encampment where one or more persons camping outdoors on property owned by the City are at risk of serious injury or death beyond that caused by increased exposure to the elements, or their presence creates a risk of serious injury or death to others, or the encampment presence is causing imminent compromise to the structural integrity of the surrounding location. Immediate hazard encampments may include but are not limited to encampments at highway shoulders and off-ramps, areas exposed to moving vehicles, areas that can only be accessed by crossing driving lanes outside of a legal crosswalk, landslide prone areas, along or on top of river levees, or other areas where the lack of sanitation facilities results in human solid or liquid waste being discharged therein.
- (6) "Obstruction" means one or more persons, camp facilities, camp paraphernalia or other personal property that are placed on property owned by the City either in such a manner as to either obstruct, impede, interfere with, hinder or delay the reasonable movement of vehicular or pedestrian traffic, or otherwise in violation of this section if they are the owner of such grounds or have a Sec. 50-161 (Loitering); or during a time when such property or facility is closed to the public;
- (7) "Personal property" means any tangible property and includes, but is not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, blankets, sleeping bags, personal items such as household items, luggage, backpacks, clothing, food, documents, and medication.
- (8) "Public property" means any property within the City that is owned by the City or any other public entity, excluding any such property that is owned by another public entity and on which camping activities are expressly allowed by law.
- (9) "Public utilities" means any outdoor, water, sewer, or electrical outlets or fixtures on government owned, maintained, or operated properties located within the City that are not designated for public use.

(c) Unlawful camping. It shall be unlawful for any person to either camp on public or vacant or unenclosed property, or to use or occupy public utilities within the City, except as otherwise provided in this section, specifically designated by City Council, or, for private property, evidenced by a written lease or other written consent from the owner thereof. It is a violation of this section to set up provisions for the purpose of camping whether or not a full night is actually spent at the location. This prohibition applies without regard to the nature of any other activities in which such persons may also be engaging.

(d) Storage of personal property. It shall be unlawful for any person to store personal property on any public or vacant or unenclosed property within the City, except as otherwise provided in this section, specifically designated by City Council, or, for private property, evidenced by a written lease or other written consent from the owner. This prohibition applies without regard to the nature of any other activities in which such persons may also be engaging.

(e) Offer of housing, shelter and services. Before directing a person to remove camp facilities, before removing the camp facilities, and before issuing any citation for a violation of this section, a police officer, law enforcement officer, or enforcing employee of the City shall offer information to the occupant(s) regarding any available housing or shelter and other health and human services that such officer or employee reasonably believes are relevant to the occupant(s) and their individual circumstances.

(f) Exemption for necessity on public property. The provisions of subsections (c) and (d) of this section shall not apply to any person camping by necessity on public property, including, for example, those instances in which every shelter in the local area is at capacity. The City Manager may establish additional guidelines to determine whether an individual is camping by necessity. However, if an individual is camping by necessity on public property, the following criteria for safe camping shall apply:

- (1) No person shall camp or store personal property on any public property from 7:00 a.m. to 8:00 p.m. (except during inclement weather). A person must take down, fold, and completely remove or put away any camp facilities, camp paraphernalia and personal property on any public property between the hours of 7:00 a.m. and 8:00 p.m. (except during inclement weather). At no time shall any person camp or store personal property so as to obstruct access to a street, sidewalk, park playground, public utility, public right-of-way open for vehicular or pedestrian travel or governmental use, or other public property:
 - i. By camping or storing, using, maintaining or placing personal property in a manner that does not allow for passage as required by the Americans with Disabilities Act of 1990, as amended from time to time; or
 - ii. By camping or storing, using, maintaining or placing personal property within ten feet of any operational or utilizable entrance, exit, driveway, or loading dock; or

iii. By creating any barrier with string, wire, rope, cable, or chain, or other attachment or appurtenance upon City-owned trees, light poles, fences, equipment or other public facilities.

(2) The use of public utilities is prohibited.

(g) Other exemptions. The provisions of this section shall not apply in the event of an emergency, including a City-declared emergency or natural disaster, such as a fire or earthquake, nor to any employee of the City or any public utility or governmental agency who is required to enter or be in such areas in the course of their employment.

(h) Notice before removal of property. The City shall provide the following notice in connection with the removal of any camp facilities, camp paraphernalia or other personal property in violation of this section:

(1) Pre-removal notice. Except as otherwise specified in subsection (h)(2), notice of intent to remove any camp facility, camp paraphernalia or other personal property in violation of this section shall be provided no fewer than 48 hours before removal is scheduled to commence. Such notice shall be in writing and shall be posted on or near the camp facility or other items to be removed, so as reasonably to communicate the notice to persons living at such site but not present during the attempt to serve notice. Such notice shall contain, in English and any other language the City determines would further the purpose of the notice:

i. The location of the camp facility or other items to be removed;

ii. The date and time the notice was provided;

iii. A statement that the camp facility or other items to be removed are in violation of this section;

iv. The date and time that removal is scheduled to commence (a minimum of 48 hours after notice is provided);

v. Information about any housing or shelter and other outreach services available for occupants of the camp facility or other persons camping and the phone number and address to contact in order to obtain the housing or shelter or other health and human services;

vi. A warning that any items remaining on the site at the time of the scheduled removal that present a health or safety risk if stored, such as items soiled by bodily fluids, items that are moldy, items infested by insects or vermin, and food, will be disposed of immediately at such time;

- vii. A warning that any items remaining on the site 12 hours after the removal is scheduled to commence will be deemed abandoned and may be removed and disposed of without further notice;
 - viii. A statement that City assumes no liability for personal property removed from this site.
- (2) Exemption for pre-removal notice for obstructions and immediate hazards. Any camp facility, camp paraphernalia or other personal property in violation of this section that qualify as an obstruction or immediate hazard may be removed immediately and without notice. However, if any such item is determined to be under control of a person present at the site of the obstruction or immediate hazard, oral notice to immediately remove any such item shall, reasonably possible, be given to the individual. If an obstruction or immediate hazard is not immediately removed by City personnel, a notice shall, to the extent practicable, be posted on or near the camp facility or other items to be removed as soon as reasonably possible, stating in English and any other language the City determines would further the purpose of the notice:
- i. The date the notice was posted;
 - ii. That the items must be immediately removed and are subject to removal by the City without further notice;
 - iii. A warning that any items remaining on the site at the time of the removal that present a health or safety risk if stored, such as items soiled by bodily fluids, items that are moldy, items infested by insects or vermin, and food, will be disposed of immediately at such time;
 - iv. Where any personal property removed by the City and not eligible for immediate disposal may be stored;
 - v. How any stored personal property may be claimed;
 - vi. A statement that City assumes no liability for personal property removed from this site.
- (3) Post-removal notice. After removal of any camp facility, camp paraphernalia or other personal property in violation of this section, City shall, to the extent practicable, prominently post notice at such site that states, in English and any other language the City determines would further the purpose of the notice:
- i. The date the removal was performed;
 - ii. Whether personal property was stored by the City;

- iii. Where any personal property is stored;
- iv. How any stored personal property may be claimed by its owner;
- v. That any such property that was stored by City and not claimed will be destroyed after 14 days;
- vi. A statement that City assumes no liability for personal property removed from this site.
- vii. Contact information for outreach personnel who can assist individuals with shelter alternatives and other services.

This notice shall not be removed by the City for a minimum of 10 days.

i. *Personal property.* Any person present at the time of removal of any camp facility, camp paraphernalia or other personal property in violation of this section may retain their property except that items constituting an immediate threat to the health or safety of the public or items that constitute evidence of a crime or contraband may be seized as permitted by law. Any items remaining on the site at the time of the removal that present a health or safety risk if stored, such as items soiled by bodily fluids, items that are moldy, items infested by insects or vermin, and food, will be disposed of immediately at such time. The following provisions also apply to the handling of any camp facility, camp paraphernalia or other personal property that is in violation of this section:

- (1) *Items from an obstruction or immediate hazard.* If any such item is a part of an obstruction or immediate hazard, and City has complied with the provisions of subsections (h)(2) and (h)(3), such items may be removed immediately by City, and shall be stored by City for no fewer than 14 days at a site that is accessible by public transportation. The City shall maintain a log of any such property removed from an encampment. Each item logged shall be kept until the personal property is recovered by its owner, or the property is discarded as permitted under this section. The log shall indicate to whom the property was released and the date of release, or, in the event the property is not recovered, the date of destruction or disposal. Such property may be recovered at the location where the property is stored by the individual describing such personal property sought with particularity. No formal legal identification, such as displaying a valid driver's license, will be required as a before an individual can recover such property. If there are no circumstances indicating a competing claim of ownership, the property shall be released to the individual seeking its recovery. Any such item that is not recovered after 14 days, excluding the date the property was stored, may be destroyed, disposed of, or discarded by the City.
- (2) *Other items.* If any camp facility, camp paraphernalia or other personal property was not part of an obstruction or immediate hazard, and City has complied with the provisions of subsections (h)(1) and (h)(3), any such items remaining

unclaimed on the site after the passage of both the 48-hour minimum notice period in subsection (h)(1) and the 12 additional hours after the removal process was scheduled to begin will be deemed abandoned may be removed and disposed of by City without further notice.

j. *Additional Procedures.* The City Manager, or the City Manager's designee, may issue regulations or guidelines necessary or appropriate to aid in the enforcement and implementation of this section and may create any additional procedures consistent with this section as are necessary or appropriate to protect the property rights of individuals whose property is taken into custody pursuant to this section.

Sec. 50-161. Loitering.

(a) It shall be unlawful for any person, either alone or in concert with ~~another or~~ others, to stand or otherwise position themselves in any public place in such manner so as to ~~willfully~~knowingly obstruct, impede, interfere with, hinder or delay either:

- (1) the reasonable movement of vehicular or pedestrian traffic;~~or~~
- (2) the reasonably free and uninterrupted use of property or business lawfully conducted by anyone in or upon or facing or fronting on any such public place or building, if such act prevents the reasonably free and uninterrupted ingress, egress and regress, therein, thereon and thereto.

(b) When any person ~~willfully~~knowingly commits either of the acts enumerated in subsection (a) of this section, a police officer or any law enforcement officer may order that person to stop committing any such act and to move on or disperse. Any person who fails or refuses to obey such an order, after being given a reasonable opportunity to do so, shall be guilty of a violation of this section. ~~However, no person shall be in violation of this section unless such person has been given a reasonable opportunity to comply with such order after they received actual notice or where notice was directed to them and was reasonably likely to come to such person's attention.~~

Approved as to form and legality:

Bret Kassen
Associate City Attorney