



Council Communication

Meeting Date: August 13, 2024

Department: Legal Department

File #: 24-236

Subject: Communication from the City Manager and Corporation Counsel with a Request to Receive and File a First Reading of an Ordinance Prohibiting Unauthorized Camping on Public Property within the City of Peoria.

Background:

A recent U.S. Supreme Court opinion has clarified that an ordinance adopted by the City of Grant's Pass, Oregon prohibiting camping on public property did not implicate the protections of the Eighth Amendment of the U.S. Constitution against cruel and unusual punishment. While other Constitution protections may apply to the enforcement of such ordinances, there is greater clarity on the authority of municipalities to regulate camping on public property. In Illinois, the Bill of Rights for the Homeless Act provides protections for persons experiencing homelessness. Any municipal ordinance must attend to those protections in order to withstand judicial review.

The City has experienced significant challenges in abating camping on public property. Without support from the Illinois Department of Transportation, the City has been unable to utilize trespass notices and enforcement to abate encampments. Without this tool, encampments have remained in place until sanitary conditions posed an immediate threat to health of the camp occupants, emergency responders and the general public. The cost to the City for abatement of encampments from December 2022 through October 2023 was \$30,789.00.

ENCAMPMENT ABATEMENT

Date	Location	Work Order Amounts:
December 1, 2022	Corner of NE Adams & Fayette	\$4,000.00
January 17, 2023	I-74 Encampment	\$2,034.00
January 18, 2023	I-74 Encampment	\$1,359.00
February 13, 2023	I-74 Encampment	\$654.00
March 30, 2023	I-74 Encampment	\$575.00
March 30, 2023	I-74 Encampment	\$195.00
April 12, 2023	1500 Block Knoxville IDOT Lot	\$2,170.00
June 22, 2023	I-74 Encampment	\$129.00
June 30, 2023	I-74 Encampment	\$449.00
July 20, 2023	1500 Block Knoxville IDOT Lot	\$650.00
August 7, 2023	I-74 Landmark	\$12,000.00
September 1, 2023	I-74 Fayette	\$600.00
September 12, 2023	1500 Block Knoxville IDOT Lot	\$4,300.00
September 28, 2023	I-74 Fayette	\$174.00
October 24, 2023	1500 Block Knoxville IDOT Lot	\$1,500.00
		\$30,789.00

Additionally, the calls for emergency medical and fire response to the encampments is significant:

(See PFD Encampment Response pdf below)

The City has an obligation to all of the residents to protect their health and safety within the limitations of the City's resources. Persons camping on public property are exposed to the elements without the benefit of sanitary sewer, water, heat, respite from high temperatures, etc. The encampments quickly become inundated with human waste, trash and debris, including used hypodermic needles, broken bottles and other items posing significant threat to the health and safety of any persons in or near the encampments. The City participates in a coordinated network of social service and outreach organizations that offers alternatives to those within the encampments to take steps towards re-housing.

As a means to promote utilization of re-housing options, and to protect the health and safety of the occupants of the encampments, the City's first responders and the general public, the Ordinance Prohibiting Camping on Public Property is offered to provide a progressive method of interdicting camping on public property.

Those camping in violation of the ordinance will be warned prior to citation, and the penalties increase with repeated violations. If they fail to vacate the encampment after the warning, citations may issue. Abatement of encampments will be preceded by a warning, unless immediate abatement is required for removal of dangerous items. Personal belongings will be stored for thirty (30) days prior to disposal, and may be retrieved by the owners by making arrangements through the Community Development Department.

While the third violation within 180 days carries a potential jail term, that determination is within the discretion of the Court. The maximum jail term is 6 months pursuant to the Illinois Municipal Code. In comparison, the violation of the Trespass provisions of the Illinois Criminal Code is a Class A misdemeanor, which carries a potential year in jail on the first violation, again, within the discretion of the Court.

Financial Impact:

The enforcement of the ordinance should reduce the abatement costs and emergency response costs.

Neighborhood Concerns:

Many neighbors of the encampments have been asking the City to interdict these blights more efficiently.

Impact If Approved:

The persistent encampments may be abated much sooner than present options allow.

Impact if Denied:

The status quo of lengthier duration of encampments will likely continue.

Alternatives:

N/A

Which critical success factor(s) from the Comprehensive Plan does this Recommendation implement?:

Have an efficient government

Attachments:

[First Reading Ordinance Prohibiting Camping on Public Property](#)
[PFD Encampment Response](#)

ORDINANCE NO.

AN ORDINANCE PROHIBITING UNAUTHORIZED CAMPING ON PUBLIC
PROPERTY WITHIN THE CITY OF PEORIA

WHEREAS, the City of Peoria, Illinois (the "City") is a municipal corporation and a home-rule unit of local government pursuant to Article V II, Section 6 of the Illinois State Constitution of 1970; and

WHEREAS, it is the intent of the City Council in enacting this section to make certain ordinance updates relating to the quality of life in Peoria's public spaces, to maintain and further expand the economic vitality of the City of Peoria, and to protect the safety of the general public by imposing restrictions on camping on public property within the City of Peoria; and

WHEREAS, the City Council of the City of Peoria has determined that unauthorized camping or engaging in activities associated with human habitation on or near public trails, public parks, public streets, and other areas of public property within the City of Peoria has a tendency to cause interference with the public's ability to utilize and enjoy those public assets, has a tendency to interfere with the City's ability to maintain such areas of public property, and has a tendency to cause significant damage to such areas of public property; and

WHEREAS, the City Council of the City of Peoria has determined that unauthorized camping or engaging in activities associated with human habitation on or near public trails, public parks, public streets and other areas of public property within the City of Peoria that are not equipped with appropriate facilities to support such activities has the potential to and does create unsanitary conditions and other conditions that present a substantial risk of danger to the health and safety of those engaging in such activities, to neighboring property owners, to others attempting to utilize such areas of public property, and to the general public; and

WHEREAS, the City Council of the City of Peoria has determined that unauthorized camping or engaging in activities associated with human habitation on or near public trails, public parks, public streets and other areas of public property within the City of Peoria has required the City on numerous occasions to engage in abatement of encampments, including removal of litter, human waste and personal belongings, all at considerable expense to the City of Peoria; and

WHEREAS, at 775 ILCS 45/1 et seq., there exists a statute known as the Bill of Rights for the Homeless Act; and

WHEREAS, said Bill of Rights for the Homeless Act at 775 ILCS 45/10(a)(1), declares a person experiencing homelessness has the right to use and move freely in public spaces, in the same manner as any other person and without discrimination on the basis of his or her housing status; and

WHEREAS, said Bill of Rights for the Homeless Act, at 775 ILCS 45/10(a)(7) further declares a person experiencing homelessness has the right to reasonable expectation of privacy in his or her personal property to the same extent as personal property in a permanent residence; and

WHEREAS, the Peoria City Council finds 775 ILCS 45/5 declares unfair discrimination based on the status of homelessness contrary to the policy of the State of Illinois; and

WHEREAS, the Bill of Rights for the Homeless Act therefore permits municipalities to regulate equal use and free movement by all persons within public spaces, where that regulation applies equally to homeowners, residential tenants, and homeless persons; and

WHEREAS, the Peoria City Council finds it complies with the Bill of Rights for the Homeless Act by permitting all persons regardless of housing status to use and to move freely in

public spaces with their personal property, while prohibiting all persons from camping in public spaces; and

WHEREAS, the Peoria City Council finds it complies with 775 ILCS 45/10(a) and a reasonable expectation of privacy in personal property, by issuing warnings to persons storing personal property in public places before removing that personal property, and by assuring owners of personal property they may retrieve their property within a reasonable time after it is so moved; and

WHEREAS, the Peoria City Council finds prohibiting camping in public spaces does not restrict interstate travel, where that prohibition applies equally to long-time residents of the City and to visitors; and

WHEREAS, the City Council for the City of Peoria finds that it is in the best interest of public health, safety, and general welfare that said provisions prohibiting unauthorized camping on public property within the City of Peoria be adopted as provided herein, consistent with the requirements of Illinois Statutes; and

WHEREAS, the Peoria City Council is advised there is a recent opinion of the U.S. Supreme Court in case of City of Grants Pass v. Johnson, which provides the City legal guidance concerning ordinances that ban camping in public spaces, which this Ordinance is intended to incorporate; and

WHEREAS, the Peoria City Council finds now is the appropriate time to act regarding camping in public spaces.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY

OF PEORIA, in the County of Peoria and State of Illinois, as follows:

Section 1: That the following provisions of the City Code of Ordinances of the City of Peoria, Illinois, are hereby adopted to read as follows:

Chapter 20, Article IV Section 20-120

CAMPING ON PUBLIC PROPERTY

(a) Purpose

The purpose of this chapter is to prevent harm to the health and safety of the public and to promote the public health, safety, and general welfare by prohibiting unauthorized camping and storage of personal property on public property within the City, which interferes with the right of others to use the areas for the purposes for which they were intended.

(b) Definitions

The following definitions shall apply in the interpretation and enforcement of this chapter:

Bridge means a structure, including the approaches thereto, erected in order to afford passage over any obstruction in any public road, railroad, or other right-of-way, or to afford passage under or over existing public roads, railroads, or other rights-of-way.

Camp or camping means to pitch, use, or occupy camp facilities, or to use camp paraphernalia, or both, for the purpose of habitation, Camp or camping does not include the use of public property or public facilities for recreational use or for authorized public or private events that involve the use of tents, awnings, or other structures in connection with such recreational use or authorized public or private event.

Unauthorized encampment means the collection of camp facilities, camp paraphernalia, and/or personal property used for unauthorized camping in violation of this Ordinance.

Camp facilities include, but are not limited to, tents, huts, temporary shelters, campers, recreational vehicles, or trailers. Camp facilities do not include tents, huts, or temporary shelters, when used temporarily in a park for recreation or play during daylight hours when the park is open to the public.

Camp paraphernalia includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, blankets, mattresses, or cooking facilities and similar equipment.

Park means any publicly owned area controlled by the City or other governmental entity for park purposes. Park also includes all associated areas, including but not limited to parking lots for parks.

Public Property means, without limitation, any real property, building, structure, equipment, sign, shelter, vegetation, greenspace, playground, bench, trail, picnic shelters, recreational and athletic fields, and public open space, including all associated areas such as parking lots, controlled, or owned by the City of Peoria or any other governmental entity or agency.

. Store or storing means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location. leaving one's personal property such as, without limitation, clothing, bedrolls, cookware, sleeping bags, luggage, shopping carts, knapsacks, or backpacks, unattended for more than one hour.

Street means any highway, lane, road, street (including adjacent shoulders, medians, and terrace areas), right-of-way, sidewalk, boulevard, alley, and every way or place in the City open as a matter of right to public pedestrian and vehicular travel.

(c) Unlawful Camping or Storage of Personal Property in Public Places

A. It shall be unlawful for any person to camp, or to engage in the activity of unauthorized camping, or to store personal property, including camp facilities or camp paraphernalia as defined in this Section of the Ordinance, within the following areas:

1. Any street; or
2. Any bridge; or
3. Any park; or
4. Any public property, improved or unimproved; or
5. Any public property where camping obstructs or interferes with the intended public use of the property.

(d) Enforcement; Warnings; Removal and Confiscation of Debris and Personal Property

The Director of Community Development, Chief of Police, or their designee(s), will have responsibility for the enforcement of the camping restrictions herein. Nothing in this chapter shall prevent the Director of Community Development, Chief of Police, or their designee(s), from obtaining voluntary compliance by way of warning, notice, education, or coordination with other willing public or private entities and/or community members.

1. Prior to issuing any citation pursuant to this Chapter, the investigating code enforcement official or officer shall provide a verbal and written warning to cease such unlawful conduct and a verbal and written referral for possible alternatives to their present camping practices, such as, (without limitation), transportation, shelter, and/or contact information to public or private agencies who may be able to provide services or support. Any public or private entities who wish to assist the Community Development or Peoria Police Department ("Department") in effectively and humanely

transitioning individuals from unauthorized encampments on public property to an environment consistent with City Ordinance should contact the Community Development Department or Police Department with a description of what services they can provide and effective contact information. The Community Development Department will develop and maintain a policy to include procedural guidance regarding the implementation of this Ordinance. The policy shall be published on the City's website and implemented no later than 30 days after the passage of this ordinance. The policy shall provide for the collection of relevant data that may be used to review and revise the policy every three (3) years, or as needed. Said revision shall be made in the same manner the policy is developed.

2. The Community Development Personnel and Police Officers may exercise discretion to delay enforcement of this ordinance or abatement of any encampment, consistent with the policy described above.
3. Upon a determination by code enforcement or law enforcement that an area constitutes an unauthorized encampment, regardless of whether an individual is cited for a violation of this Ordinance, City officials shall have the right to remove any debris, contraband, or personal property that creates a legitimate health and safety concern, or that creates an immediate and substantial danger to the environment. No warning is required prior to such confiscation relating to health and safety concerns.
4. Materials confiscated pursuant to this Ordinance that are unsanitary or a danger to the health and safety of any person may be immediately disposed of. Otherwise, the Departments shall provide 24-hour written notice prior to confiscating property. The Departments shall retain personal property confiscated pursuant to this Ordinance in a

manner consistent with the handling of other confiscated property and must not dispose of such personal property for a period of at least 30 calendar days, during which time the owner may retrieve such property from the Departments, pursuant to the procedure outlined in the policy. Nothing prevents Department members from disposing of property with the consent of the property owner. When Department members have received consent to dispose of property, City officials shall assist the Department members when necessary.

(e) Penalties:

- A. Any person who violates a provision of this chapter may be punishable by a fine of no less than one hundred dollars (\$100.00) but no more than two hundred fifty dollars (\$250.00). All fines under this Ordinance may be satisfied by cash payment or community service.
- B. Any person who commits a second violation of this chapter, which occurred within a rolling one hundred eighty (180) day period of a violation, may be punishable by a fine of no less than two hundred fifty dollars (\$250.00) but no more than five hundred dollars (\$500.00). All fines under this Ordinance may be satisfied by cash payment or community service.
- C. Any person who commits a third or subsequent violation of this chapter, which occurred within a rolling one hundred eighty (180) day period of a violation, may be punishable by a fine of no less than five hundred dollars (\$500.00) but no more than seven hundred fifty dollars (\$750.00) 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).

D. Each occurrence of a violation of this chapter or, in the case of a continuous violation, each day a violation occurs or continues, may constitute a separate offense and may be punished separately.

This Ordinance shall take effect upon passage and may be published in pamphlet form by the Office of the City Clerk.

Adopted this day of , 2024.

APPROVED:

Mayor

ATTEST:

Clerk

Peoria Fire Department



Encampment/Homeless Incidents of 2023

Land between mansion and OYO

Date	Incident type	Description	Response
February 25, 2023	Encampment Fire	Large fire in the tents with injuries	Eng 1, Eng 2, Eng 3, Truck 1, Rescue 1, Battalion 1, Battalion 5, I-5
April 15, 2023	EMS medical call	Overdose	Engine 1, Engine 10, Battalion 1
May 1, 2023	EMS medical call	Difficulty breathing	Engine 1
May 6, 2023	EMS medical call	Altered level of consciousness	Engine 1
June 7, 2023	EMS medical call	full arrest- no pulse	Engine 1, Truck 1
June 8, 2023	Encampment Fire	large fire in the tents, woods	Engine 1, Engine 10, Engine 3, Truck 1, Rescue 1, Battalion 1, Investigator 3
June 18, 2023	EMS medical call	overdose	Engine 1, Engine 10
June 19, 2023	EMS medical call	fighting/altercation	Truck 1
June 20, 2023	EMS medical call	general weakness	Engine 1
June 22, 2023	EMS medical call	altered level of consciousness	Engine 10
June 23, 2023	EMS medical call	chest pain	Engine 1
July 4, 2023	EMS medical call	general weakness	Engine 1
July 4, 2023	EMS medical call	chest pain	Engine 10
August 4, 2023	EMS medical call	fighting/altercation	Engine 1
August 16, 2023	Fire Call	Smoke in the area	Engine 1, Truck 1, Battalion 1
August 17, 2023	EMS medical call	difficulty breathing	Engine 1
September 13, 2023	EMS medical call	Chest pain/difficulty breathing	Engine 1
September 13, 2023	EMS medical call	Assault with injury-arm pain	Engine 1

Comments: 15 EMS/Medical calls with 3 drug overdoses and 1 full cardiac arrest. 2 fires with 1 injury

Landmark location:

Date	Incident type	Description	Response
April 28, 2023	EMS medical call	Difficulty breathing	Engine 13
April 30, 2023	EMS medical call	General Weakness	Engine 13
May 15, 2023	EMS medical call	Chest pain	Engine 13
June 2, 2023	Encampment Fire	Tent on fire	Engine 13, Engine 3, Truck 1, Battalion 1, Investigator 5
July 3, 2024	EMS medical call	Altered level of consciousness	Engine 13
July 15, 2023	EMS medical call	General Weakness	Engine 13
July 25, 2023	EMS medical call	General Weakness	Engine 3

Comments: 6 EMS/medical calls with 2 drug overdoses; 1 fire

Fayette Street location:

August 3, 2023	EMS medical call	Chest pain	Engine 1
August 24, 2023	EMS medical call	General weakness	Engine 1
September 5, 2023	EMS medical call	Altered level of consciousness	Engine 1
September 23, 2023	EMS medical call	Altered level of consciousness	Truck 1
September 27, 2023	Encampment Fire	Fire in a tent	Engine 1, Truck 1, Battalion 1
October 10, 2023	EMS medical call	General weakness	Engine 1

Comments: 5 EMS/Medical calls and 1 Fire

Washington Street location:

August 3, 2022	EMS medical call	Altered level of consciousness	Engine 1
September 4, 2022	EMS medical call	General weakness	Truck 1
March 2, 2024	Fire	Fire in a homeless shelter	Engine 1, Engine 2, Engine 3, Truck 1, Battalion 1, Rescue 1

Comments: 2 EMS/Medical calls, 1 Fire

Springdale Cemetary location:

January 26, 2024	Fire	Fire in a homeless shelter	Engine 10, Engine 1, Truck 1, Battalion 3, I-3
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