

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 4833

AN ORDINANCE TO AMEND CHAPTERS 12.04 AND 12.08 OF THE GRAND JUNCTION MUNICIPAL CODE AND SECTION 21.06.010 OF THE ZONING AND DEVELOPMENT CODE REGARDING CAMPING ON PUBLIC PROPERTY/PUBLIC PLACES

RECITALS:

Chapter 12, Sections 4 and 8 of the Grand Junction Municipal Code (“GJMC”) establish laws, rules and regulations for the City’s parks and Riverfront – those sections are necessary to maintain and promote the public health, safety and welfare, to provide for the continued effective management of public property within the City, and to provide for the continued enjoyment and accessibility of those public places by City residents and the public at large. Section 21.06.010 of the Zoning and Development Code relates to allowed use of public right of way and private parking lot use; the use of public areas, parks, streets and the Riverfront for camping purposes interferes with the rights of others to use those areas for the purposes for which they were intended.

The use of public property for camping causes the City to incur increased costs for policing, maintenance, sanitation pickup and removal, animal control, protection of the environment and other problems which arise from camping in undeveloped areas and without proper facilities for that use.

The purpose of this ordinance is to assist in maintaining the City in a clean, sanitary and accessible condition; to adequately protect the health, safety and public welfare of the community and to preserve, protect and enhance the natural resource of the Colorado and Gunnison Rivers (“Riverfront”) for many recreational and other proper uses. The City Council intends to maintain the use of park property and other public property for their intended uses; however, the prohibition of camping is not intended to prohibit such ordinary recreational use of the parks such as picnicking on a blanket or resting or sleeping in a park during park hours. It is intention of the City Council to prohibit use of public property for the purpose of maintaining a temporary place to live.

Because parks, the Riverfront and other public places have been used by the homeless as camps, the City affirms its commitment to protecting the constitutional rights of the homeless and accordingly this ordinance recognizes that when overnight shelters are full a homeless person who has no access to private spaces has no alternative but to sleep in a public space. Accordingly, the City shall not engage in enforcement of this ordinance which might have the effect of criminalizing homelessness or constitute cruel and unusual punishment in

violation of the Eighth Amendment when there is no shelter space available.

The City is committed to safeguarding the rights of all people and in furtherance of this goal works with other agencies and community groups who have an interest in the well-being of homeless persons and when Grand Junction Police Officers contact homeless the officers are encouraged to provide homeless persons with information as to the availability of shelter or other services and to the extent reasonably practicable not enforce this ordinance when there is no shelter space available, as the same is defined herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

Chapters 12.04 and 12.08 shall be revised as follows (additions are shown in bold print and deletions marked with strike through notations):

Definitions.

For the purpose of this Chapter the following terms, phrases, words and their derivations shall have the meaning provided herein:

"Available Overnight Shelter" means a public or private facility, with all necessary or required City occupancy approvals, open to a person(s) or a family experiencing homelessness with an available overnight space to house the person(s) or family at no charge or a nominal charge (presumptively \$5.00 or less per person.) Overnight shelter space shall be considered available if the person(s) is not permitted to use otherwise available overnight shelter space due to the person's voluntary actions, including, but not limited to, intoxication, drug use, unruly behavior, or violation of shelter rules.

"Camp" or "Camping" means to set up or to remain in or at an Encampment.

"Encampment" means any place where bedding, sleeping bag(s) or other things used for bedding purposes, or any stove or fire is placed, established or maintained for the purpose of maintaining a place to stay or sleep, whether or not such place incorporates the use of any tent, lean-to, shack, or any other cover, structure or elements of a structure or any vehicle or part thereof. Ordinary use of a park such as resting or sleeping in a park during normal park hours, picnicking on a blanket or using parks for other lawful uses does not constitute Encampment.

"Overnight Use" means the use of public lands and/or trails pursuant to a permit issued by the City Manager or his designee for an event/programming by and through the City Parks Department for an activity authorized to be conducted overnight.

"Parking Strip" means the area between a curb, or a place where a curb would be located if improvements were installed, and where a sidewalk is located or would be installed.

"Personal Property" means any tangible item reasonably recognizable as belonging to a person and having reasonably apparent utility or monetary value.

"Public Property" means any real property, building or structure owned, used or leased by the City or any Department thereof and/or the Downtown Development Authority (DDA) including, but not limited to, any sidewalk, street, parking strip, alley, lane, public right-of-way, park, open space, breezeway, bench, shade shelter, restroom, playground and other similar property.

"Reasonable Notice" means notice reasonably calculated under all the circumstances to apprise a person that Camping is prohibited at a particular location and, where Personal Property is deposited, affording the person no less than 24 hours to gather his/her Personal Property and depart.

Sleeping on Public Sidewalk, Street, Parking Strip, Alley, Lane or Public Right of Way Without Authorization Prohibited.

Sleeping on a public sidewalk, street, parking strip, alley, lane or public right of way or in any publicly used ingress or egress to Public Property is unsafe as it may obstruct pedestrian and/or vehicular traffic and may place the person sleeping and/or the public in danger of harm. Therefore, except as may be otherwise expressly authorized by the City:

- (1) No person may sleep on any public sidewalk, street, parking strip, alley, lane, breezeway or public right-of-way.**
- (2) No person may sleep in any publicly used ingress or egress to Public Property.**
- (3) A violation of this section after a request to cease and desist shall be unlawful and shall give rise to any remedy provided by law.**

Camping on Public Property Without Authorization Prohibited.

No person may Camp in or upon any Public Property, nor any property owned by other governmental entities that have posted notice prohibiting Camping unless:

- (1) The person has the authorization of the owner of the property to Camp at that location; or**
- (2) Camping An Overnight use is specifically authorized by the issuance of a use permit in accordance with Parks Department regulations ~~GJMC 21.02.120~~; or**
- (3) Camping is otherwise specifically authorized by GJMC; or**
- (4) The camper(s) is(are) on Public Property other than a sidewalk, street, parking strip, alleyway, lane, breezeway or public right-of-way, and there is no Available Overnight Shelter; or**
- (5) Camping is necessary after the formal declaration of an emergency in accordance with City Charter or a declaration of the Governor.**

Removal of Unlawful Encampment(s).

Upon discovery of an Encampment(s) on Public Property, removal of the Encampment by the City and/or its authorized agent(s) may occur if:

- (1) After Reasonable Notice, the person(s) fails or refuses to remove his/her Personal Property from the location of the Encampment(s); and
- (2) Personal property appears to be abandoned; or There is reasonable suspicion for law enforcement officers to believe that illegal activity(ies) other than Camping are occurring at the Encampment; or
- (3) There is imminent danger to human life, health or safety, including, but not limited to, possible contamination of private or Public Property by unsanitary and/or hazardous conditions and/or materials.

Removal, Disposition and Release of Personal Property.

Upon removal of an Encampment, all debris, including items having no reasonably apparent utility or monetary value and items in an unsanitary condition, may be immediately discarded. All other Personal Property shall be gathered, retained, and released, all in accordance with the Reasonable Notice being provided to the property owner. Unclaimed property may be disposed in accordance with GJMC 2.44.020 *et. seq.*

Enforcement and Mitigation.

By enacting this Chapter, it is neither the City's intent to criminalize homelessness nor violate a homeless person's constitutional rights. Likewise, the City does not propose to prohibit the ordinary use of the parks such as resting or sleeping in a park during normal park hours, picnicking on a blanket or using parks or other Public Property for lawful uses. Enforcement of this Chapter shall be undertaken to avoid such results.

Upon conviction for a violation of this Chapter, in addition to any other factors deemed appropriate by the Prosecutor and the Court, the Court shall consider in mitigation whether or not the person immediately removed all Personal Property and litter, including, but not limited to, bottles, cans and garbage from the encampment after being informed the camping was in violation of the law.

Application to City Property Outside City Limits.

This Chapter applies to Public Property owned by the City that is located outside the City's municipal limits.

Sections 12.08.050, 12.08.140 and 21.06.010 shall be amended as follows with all other provisions of such Chapters and Sections to remain in full force and effect:

12.08.050 Regulations.

(e) The riverfront regulations promulgated hereunder shall include, but not necessarily be limited to, prohibiting motorized vehicles, except wheelchairs, maintenance of emergency vehicles, on the trails; prohibiting boats, vessels or craft in the waterways; closing the trails at set times; prohibiting glass containers; prohibiting the possession, consumption or use of spirituous liquor, requiring animals to be leashed; prohibiting animals or animals of certain species; and allowing camping overnight use in accordance with permit, and vending or commercial activities by permit only.

12.08.140 Regulations relating to trails, lands and waters.

(b) No person shall:

(7) ~~Camp, park a motor vehicle, trailer or camper on Riverfront lands or trails, with the intention or for the purpose of camping unless: such is by the authority of a camping permit issued by the Department of Parks and Recreation of the City of Grand Junction. Possession of a valid camping permit shall authorize the use of the Riverfront lands and trails subject to the terms and conditions imposed thereon by the Director or his designee. "Camp" means the use of camping equipment or facilities such as tents, tarpaulins or temporary shelters or the use of temporary cooking and bedding facilities such as open fires, camp stoves and cots, bedrolls, hammocks or sleeping bags.~~

(i) The person has the authorization of the owner of the property to camp at that location; or

(ii) Camping Overnight use is specifically authorized by the issuance of a use permit in accordance with GJMC 21.02.120; or

(iii) Camping or overnight use is otherwise specifically authorized by GJMC; or

(iv) There is no Available Overnight Shelter; or

(v) Camping is necessary after the formal declaration of an emergency in accordance with City Charter or a declaration of the Governor.

"Camp" or "Camping" means to set up or to remain in or at an Encampment.

"Encampment" means any place where bedding, sleeping bag(s) or other things used for bedding purposes, or any stove or fire is placed, established or maintained for the purpose of maintaining a place to stay or sleep, whether or not such place incorporates the use of any tent, lean-to, shack, or any other cover, structure or elements of a structure or any vehicle or part thereof. Ordinary use of the trail system such as resting or sleeping on a bench during normal trail hours or using the trails for other lawful uses does not constitute Encampment.

“Available Overnight Shelter” means a public or private facility, with all necessary or required City occupancy approvals, open to a person(s) or a family experiencing homelessness with an available overnight space to house the person(s) or family at no charge or a nominal charge (presumptively \$5.00 or less per person.) Overnight shelter space shall be considered available if the person(s) is not permitted by a public or private facility to use otherwise Available Overnight Shelter space due to the person’s actions.

For persons under the age of 21 experiencing homelessness, *The House* shall, for purposes of this Ordinance, be considered the only Available Overnight Shelter.

“Overnight Use” means the use of public lands and/or trails pursuant to a special permit where an event is authorized to last overnight.

21.06.010 Infrastructure standards.

(b)(4)(iv) Public Right-of-Way and Private Parking Lot Use.

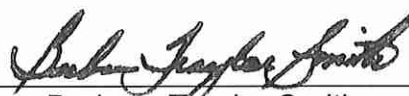
~~(iv) Overnight camping shall not be allowed in a public right-of-way or in any private parking lot made available to the public, unless specifically permitted by the City for such use. Parking of an RV or any vehicle for more than 72 hours shall not be allowed in a public right-of-way or on any vacant lot.~~

Sunset Clause. Within sixty days of the third anniversary of the adoption of this ordinance the City Council shall consider the effectiveness of the ordinance at achieving its stated purposes. Without further action by the City Council, the terms and provisions of this ordinance shall expire on the third anniversary of the effective date hereof without subsequent action by the City Council.

Introduced the 19th day of December, 2018.

Heard on second reading the 20th day of February, 2019 and

Continued for deliberations and decision to the 17th day of April, 2019.



Barbara Traylor Smith
Mayor and President of the City Council

ATTEST:



Wanda Winkelmann
City Clerk



I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4833 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 19th day of December, 2018 and the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 20th day of February, 2019, at which Ordinance No. 4833 was read, and considered and on the 17th day of April was adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 19th day of April, 2019.


Deputy City Clerk

Published: December 21, 2018
Published: April 19, 2019
Effective: May 19, 2019