Proposed Ordinance No. 23-O-17

City of Elkhart

DATE:	July 13, 2023
TO:	Elkhart Common Council, Arvis Dawson President
FROM:	Corinne Straight, Director of Communication
RE:	Prohibiting Camping and Storage of Property in Public Spaces

The administration asks for your consideration of Proposed Ordinance No. 23-O-17 which is intended to prohibit camping and storage of personal items on public property, except in locations designed for such activities.

The Administration is mindful and sensitive to the likelihood that the proposed legislation may directly and adversely affect persons who may be experiencing homelessness. And the Administration understands that the many factors which may lead to someone becoming unhoused are complex, including unaddressed mental health issues and substance abuse which create barriers to securing and maintaining housing.

With these complexities in mind, the ordinance, as proposed, recognizes the importance of continuing ongoing collaboration with non-governmental agencies to assist individuals who may be experiencing homelessness, to facilitate the provision of shelter, housing, and other services, which may be appropriate.

The Administration intends to continue to such ongoing engagement efforts and to interact with the homeless population of the City of Elkhart with dignity, respect, and compassion.

We greatly appreciate your consideration. Staff will be available for your questions.

Proposed Ordinance No. 23-O-17

ORDINANCE NO. _____

AN ORDINANCE PROHIBITING THE CAMPING AND STORAGE OF PERSONAL PROPERTY ON PUBLIC PROPERTY EXCEPT IN DESIGNATED CAMPING AREAS

WHEREAS, many public spaces are intended for public use, including relaxation, recreation, pedestrian, bicycle and vehicular transportation, and other intended uses; and

WHEREAS, camping, as defined herein, without adequate sanitation services, such as sewer, water, and trash and waste removal, presents a public health and safety concern, arising from the increased potential for the spread of disease by members of the public, including individuals who may be experiencing homelessness; and

WHEREAS, the City of Elkhart is experiencing an increase in the use of certain public spaces being used for purposes camping and/or the storage of personal property in areas and locations which are not intended for camping or the storage of personal property; and

WHEREAS, the City of Elkhart seeks to promote and protect the public health, safety and general welfare by keeping public streets, parks, sidewalks, parking lots, and other public property, free of camping and the storage of personal property, unless such areas are specifically designated for such purposes; and

WHEREAS, the City of Elkhart is mindful that a prohibition of camping and/or the storage of personal property in public spaces which are not designated for such purposes, may directly affect persons who may be experiencing homelessness or who may not possess traditional homes; and

WHEREAS, the City of Elkhart possesses a sense of responsibility to collaborate with non-governmental agencies to assist individuals who may be experiencing homelessness, in

the need to find shelter, housing, and other services, including transportation and accommodation within overnight shelters, or transitional housing, social and health-related services, for persons who may be found camping in public spaces which are not intended for camping; and

WHEREAS, the City of Elkhart will continue to engage and interact with the homeless population of the City with dignity, respect, and compassion, and will strive to minimize the adverse effects of an ordinance prohibiting camping in public spaces which are not designated for camping; and

WHEREAS, the City of Elkhart understands that persons experiencing homelessness must sleep somewhere, including public spaces, at times when there may be no accommodations in overnight shelters, designated campgrounds, or other locations which provide an alternative to camping in unauthorized areas; and

WHEREAS, the City of Elkhart intends to exempt from the enforcement of this ordinance, any person for whom space in an overnight shelter, transitional shelter, or other accommodation is not available.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Elkhart that:

SECTION 1. Definitions.

The following definitions shall be applicable in this ordinance:

A. "Camp" or "Camping" means to pitch, erect, or occupy Camp Facilities, or to use Camp Equipment, or both, for the purpose of, or in such a way as will permit or facilitate remaining overnight for one or more nights, or parking a trailer, recreational vehicle, or other vehicle for the purpose of remaining overnight for one or more nights.

B. "Camp Facilities" include, but are not limited to, tents, huts, temporary shelters, lean-tos (cardboard or other materials), trailers, recreational vehicles, or other vehicles.

C. "Camp Equipment" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, cooking utensils, and similar equipment.

D. "Park" means any real property, as well as any building, structure, parking lot, equipment, sign, shelter, swimming pool, vegetation, playground, or other physical property owned or controlled by the City of Elkhart for park purposes.

E. "Recreational Vehicle" means a travel trailer, motor home, campers, truck camper, or camping trailer that is primarily designed or used as temporary living quarters, whether self-propelled or mounted on or drawn by another vehicle.

SECTION 2. Unlawful Camping and Storage of Camp Facilities, Camp Equipment, and Related Personal Property.

Except as otherwise provided by ordinance, it shall be unlawful for any person to Camp, occupy Camp Facilities, or to place, store, or maintain Camp Facilities, Camp Equipment, or other related personal property on any public real property of the City of Elkhart or any board or commission of the City of Elkhart, unless such designated as areas exempt from the application of this ordinance or for which camping is authorized by the City of Elkhart, including the Board of Public Works, the Parks and Recreation Board, the Redevelopment Commission, or such other board or commission of the City of Elkhart with legal possession and control of the property, including, but not limited to the following types of public property:

A. Any sidewalk, street, alley, highway, or right-of-way;

B. Any Park or trail;

C. Any publicly owned parking lot or publicly owned space, improved or unimproved; or

D. Any public area where Camping obstructs or interferes with the intended public use of the property.

This section shall not apply to vehicles, including trailers and Recreational Vehicles, which are unoccupied and legally parked in rights-of-way, unless otherwise prohibited by law.

SECTION 3. Unauthorized Camp Areas.

Upon a determination by City of Elkhart staff that property owned or controlled by the City of Elkhart is being used for Camping without authorization, the Camp Equipment, Camp Facilities, and all other personal property located at such area may be removed by City of Elkhart staff, subject to the following provisions:

A. If the unauthorized encampment poses a substantial risk of harm to any person, or to the public, the City of Elkhart staff may immediately remove any Camp Equipment, Camp Facilities, and all other personal property.

B. If an unauthorized encampment does not pose a substantial risk of harm to any person, or to the public, City of Elkhart staff may remove any Camp Equipment, Camp Facilities, and all other personal property after complying with the following procedures:

(1) The City shall post notice at the site of the encampment in a manner reasonably calculated to effectively communicate notice to the property owners, at least a 48-hours in advance of any removal of any Camp Equipment, Camp Facilities, and all other personal property, which notice shall include the following:

(a) the address or location of the unauthorized encampment;

(b) a statement that Camping or storage of personal property in the area is prohibited by ordinance;

(c) the date and time the personal property will be removed;

(d) a statement that any Camp Equipment, Camp Facilities, other personal property remaining at the encampment after the notice period is subject to removal by the City;

(e) the location to which the property will be removed; and

(f) the telephone number and name of the person or facility to be contacted regarding the recovery of the property; and

(g) a statement that the any Camp Equipment, Camp Facilities, and all other personal property remaining on the site at the scheduled removal date and time will be presumed abandoned and subject to disposal, as provided below.

(2) Upon expiration of the 48-hour notice period, any Camp Equipment, Camp Facilities, and all other personal property may be removed by City personnel or agents of the City, subject to the provisions of this ordinance.

C. Any Camp Equipment, Camp Facilities, and all other personal property removed by employees or agents of the City of Elkhart must be stored by City of Elkhart staff for a period, not less than sixty (60) days prior to being disposed. Notice of the location where any Camp Equipment, Camp Facilities, and all other personal property removed from the encampment may be claimed shall be posted at the location from which the personal property was removed in a manner reasonably calculated to effectively communicate notice to the property owners. Any litter, trash, garbage, or solid waste, or items that

constitute a substantial health hazard, found at the encampment shall be immediately disposed of in a proper manner, and need not be stored by City of Elkhart staff.

D. If the name and contact information for the owner of a particular item of any Camp Equipment, Camp Facilities, and all other personal property can reasonably be identified, the City shall attempt to contact the identified owner and provide notice that the item has been removed and how the item may be claimed.

SECTION 4. Parked Recreational Vehicles Exempt.

The provisions of this Chapter shall not apply to Recreational Vehicles legally parked on any street, on in any publicly owned parking lot or publicly owned area, improved or unimproved, if the Recreational Vehicle is not at that time being used as a temporary living quarters.

SECTION 5. Enforcement.

City employees designated by the Parks and Recreation Board, Public Safety Board, Public Works Board, Redevelopment Commission, Building Commissioner, Code Enforcement Authority, or Mayor, are authorized and empowered to enforce this ordinance on behalf of the City, including issue citations, and take any other lawful civil action to prosecute violations of this Chapter, in accordance with the provisions herein or other applicable procedural laws.

SECTION 6. Exempt from Enforcement.

Any persons who is indigent and homeless is exempt from the application of this Chapter, unless an overnight sleeping accommodation is available to such person within Elkhart County, and such person has or is provided transportation to the place of accommodation.

SECTION 7. Severability.

The provisions of this ordinance are severable, such that the invalidity of any phrase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 8. Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval and adoption according to the laws of the State of Indiana.

ORDAINED this ___ day of _____, _____ .

_____
Arvis Dawson
President of the Common Council

ATTEST:

_____
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this ____ day of _____, _____ , at ____ _____ a.m./p.m.

_____
Debra D. Barrett, City Clerk

APPROVED by me this ____ day of _____, _____ .

_____
Rod Roberson, Mayor

ATTEST:

_____
Debra D. Barrett, City Clerk