

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 17, OFFENSES AND MISCELLANEOUS PROVISIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Section 17-2, Reserved, is amended by deleting the same in its entirety and substituting with the following:

Sec. 17-2. Camping on Public Property

- a. *Purpose.* The streets and public areas within the city should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes interferes with the rights of others to use the areas for which they were intended. Such activity can constitute a public health and safety hazard, which adversely affects neighborhoods and commercial spaces. Camping on private property without the owner's consent, without proper sanitary measures, and for other than a minimal duration adversely affects private property rights as well as public health, safety, and welfare of the city. The purpose of this section is to maintain streets, parks, and other public and private areas within the city in a clean, sanitary, and accessible condition and to protect the health, safety, and public welfare of the community while recognizing that subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the city. Nothing in this section is intended to interfere with otherwise lawful and ordinary uses of public or private property.
- b. *Definitions.* As used in this section:

Available Overnight Shelter means a public or private shelter with available overnight space, open to an individual or family unit experiencing homelessness at no charge.

Camp or Camping means sleeping, making preparations to sleep (including lying down or the laying down of bedding for the purpose of sleeping), and/or storing personal belongings; the placement of tents, huts, tarps; parking of a motor vehicle, motor home or trailer, or mooring of a vessel or any other type of structure for living accommodation purposes. Camping as defined in this section is deemed a public nuisance, and the city may summarily remove a temporary shelter, bedding, or personal belongings.

Camp Facilities include, but are not limited to, tents, huts, vehicles, vehicle camping outfits, or temporary shelter.

Establish means setting up or moving equipment, supplies, or materials onto public or private property to “camp” or operate camp facilities.

Maintain means keeping or permitting equipment, supplies, or materials to remain on public or private property to camp or operate camp facilities.

Operate means participating or assisting in establishing or maintaining a camp or camp facility.

Ordinary High-Water Mark means the average level of the water attained in annual seasonal flow.

Park or Park Facilities means any areas set aside for recreational uses, areas conserved for their scenic interest, playgrounds, beaches, recreation centers, golf courses, and any other areas owned or operated by the City of Fayetteville and which are intended for active or passive recreational purposes. The word “park” shall also include any parking lot adjacent to any park, any buildings, equipment, plants, or other facilities located in any park, and any landscaped public area and/or right-of-way.

Private Property means all privately-owned property including, but not limited to, streets, sidewalks, alleys, and improved or unimproved land.

Public Property means all city-owned property including, but not limited to, streets, sidewalks, alleys, improved or unimproved land, and parks.

Store means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

Trail Facility means any Class 1 trail, bicycle or multi-use trail, or natural trail that is owned, maintained, or operated by the city, including any area or access point adjoining the trail which the city owns or maintains an easement.

Unattended Property means no person is present with the personal property that asserts or claims ownership over the personal property. Conversely, the property is considered “attended” if a person is present with the personal property and the person claims ownership over the personal property.

Vehicle for the purpose of this chapter shall be defined by N.C.G.S. § 20-4.01 as it now exists or may hereafter be amended.

- c. *Unlawful Camping on Public Property.* It shall be unlawful for any person to camp on public property as follows:
 - 1. When an overnight shelter is available, it is unlawful to camp upon any city-owned property, including, without limitation, streets, sidewalks,

parking lots, parking structures, easements, open spaces, parks, cemeteries, real property within or below one hundred feet (100') above the ordinary high water marker of any lake, waterway, river, stream, pond, or reservoir, or corporation yards.

2. Any encampment on publicly-owned property within the city that is deemed a high risk to the public's health and safety will be posted "No Trespass", removed, and cleaned.
- d. *City Manager Permit.* The city manager may, as provided in section 30-4.E.7 of chapter 30, issue a temporary permit to allow camping on city-owned or private property in connection with a special event.
 - e. *Enforcement.* Any sworn law enforcement officer shall have the authority to enforce this section.
 1. *Penalty.* Any person who violates any of the provisions of this section shall be guilty of a misdemeanor as provided in G.S. § 14-4 and, upon conviction, shall be subject to a maximum fine of \$500.00 per occurrence, imprisonment, or both.
 2. *Severability.* If any provision of this section is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and shall continue in full force and effect.

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code or Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

ADOPTED this the _____ day of _____, 2022.

CITY OF FAYETTEVILLE

MITCH COLVIN, Mayor

ATTEST:

PAMELA J. MEGILL, City Clerk