

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A NEW SECTION TO BE NUMBERED 94-122 TO THE CITY CODE PERTAINING TO PROHIBITING UNAUTHORIZED CAMPING ON PUBLIC OR PRIVATE PROPERTY AND ADDING ARTICLE IV, SECTIONS 114-106 THROUGH 114-112 TO CHAPTER 114 PERTAINING TO ABATING UNAUTHORIZED CAMPS ON PUBLIC PROPERTY

WHEREAS, the act of unauthorized camping on public or private property tends to endanger the health and safety of those engaged in such camping as well as the public at large; and

WHEREAS, the unauthorized use of public or private property for camping where the property in question is neither intended nor designed as a camp site, campground, or site for temporary human habitation tends to impair, obstruct, and otherwise detract from the use of the property for its intended purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 94-122 which section reads as follows:

Sec. 94-122. – Unauthorized camping on public or private property prohibited.

- (1) It shall be unlawful for any person to camp on private property without the express written consent of the property owner or the owner's agent.**
- (2) It shall be unlawful for any person to camp on any public property, except in any location where camping has been expressly authorized by the department having control, management, and supervision of the public property.**
- (3) No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce this section against a person camping on public property unless:**
 - a. City staff or a law enforcement official have issued a person in a camp a verbal or written order to move from the camp and take their property with them; and**
 - b. The person ordered to move from the camp has been offered placement in a shelter. The City will use an Outreach Team to contact the occupants of the camp on the day of the abatement, encourage the**

occupants to leave the camp immediately and take their property with them, offer each occupant placement in a source of shelter, offer other services to the occupants, and offer to transport the occupants to a source of shelter and for other services.

c. The person has refused or failed to move from the camp property and refused the offer for placement in a shelter.

(4) Any person convicted of violating this section shall be subject to the penalty provisions as provided in section 1-13 of the City Code.

(5) For purposes of this section:

a. *Camp or camping* means the temporary use of property for the purpose of unauthorized overnight occupancy, or to reside or dwell temporarily in a place, with shelter, or the temporary use of property for the purpose of overnight occupancy or longer occupancy. The term "shelter" includes, without limitation, any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing. The term "reside or dwell" includes, without limitation, conducting such activities as eating, sleeping, or the storage of personal possessions. Evidence of unauthorized camps includes, but is not limited to, sleeping, or making preparations to sleep by laying out personal belongings, bedding, bedroll(s), blanket(s), sleeping pad(s), sleeping bag(s), erecting or occupying a tent, makeshift shelter, lean-to, tarpaulin, enclosure, or other structure used for human habitation, or any form of cover or protection from the elements other than clothing, or a fire (except for fires at sites specifically designated or authorized for a fire by the Parks, Recreation and Open Space (PROS) Department), camp stove, or other heating source or cooking device (except for grills and personal grills permitted in designated areas by PROS). Camping does not include napping during the day or picnicking. Camp or camping can include using a vehicle for overnight occupancy where overnight occupancy or overnight camping violates City Code or a City rule or regulation or is not otherwise authorized by the City.

b. *Public property* means, by way of illustration, but not limited to a highway, highway median, any street, street median, road, road median, alley, sidewalk, strips of land between streets and sidewalks, lanes, catch basins, pedestrian or transit mall, bike path, greenway, public parking lot, or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, open space, natural area, trail, beach, playground, or other publicly owned recreation facility; a municipal watercourse, bodies of water,

watercourses, stormwater infrastructure such as, but not limited to, bridges, pipes, inlets and culverts; or any other grounds, buildings, or other facilities owned or leased by the city or by any other public entity, regardless of whether such public property is vacant or occupied and actively used for any public purpose.

- c. “Watercourse” means a channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir, or lake which storm runoff and flood water flows either regularly or infrequently. This includes major drainage ways for carrying storm runoff.

Section 2. The City Code of the City of Aurora, Colorado, is hereby amended by adding an Article, to be numbered IV, to Chapter 114, which Article reads as follows:

Chapter 114. – Solid Waste

Article IV. - Abating Unauthorized Camps from Public Property

Section 3. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-106 which section reads as follows:

Sec. 114-106. – Definitions.

City means the City of Aurora, Colorado, its departments, employees, and agents.

City Manager means the City Manager of the City of Aurora, Colorado, or designee.

City owned property means any property owned, leased, or controlled by the City.

Contaminated property includes, but is not limited to, personal property that poses a threat to the health or safety to any person present, the public, or the surrounding neighborhood, unsanitary clothing, unsanitary sleeping bags, unsanitary bedding, unsanitary blankets, tents not structurally sound, and temporary makeshift shelters.

Garbage means any rejected or waste household food, offal, swill, kitchen refuse, and every refuse accumulation of animal, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking and dealing in or storing of food, or meat, fish, fowl, fruit, or vegetable.

Camp, camping, or encampment means the temporary use of property for the purpose of unauthorized overnight occupancy, or to reside or dwell temporarily in a place, with shelter, or the temporary use of property for the purpose of overnight occupancy or longer occupancy. Camping does not include napping during the day or picnicking.

Evidence of unauthorized camps or unauthorized camping includes, but is not limited to:

- sleeping, or making preparations to sleep by laying out personal belongings, bedding, bedroll(s), blanket(s), sleeping pad(s), sleeping bag(s);
- erecting or occupying a tent, makeshift shelter, lean-to, tarpaulin, enclosure, other structure used for human habitation, or any form of cover or protection from the elements other than clothing; or
- a fire (except for fires at sites specifically designated or authorized for a fire by the Parks, Recreation and Open Space (PROS) Department), camp stove, or other heating source or cooking device (except for grills and personal grills permitted in designated areas by PROS). Camping does not include napping during the day or picnicking.

Immediate threat to the health or safety of the public means a condition, substance, or object in an unauthorized camp which creates a risk of injury, serious injury, or death to either the occupants of the camp, city staff or agents, the surrounding neighborhood, or other members of the public. Conditions, substances, or objects that pose an immediate threat to the health or safety of the public may include, but are not limited to:

1. Evidence of open flames, fires, or fire damage.
2. Butane cylinders.
3. Propane tanks.
4. Hazardous material.
5. Combustible material or kindling.
6. Piles of trash, discarded materials, or litter.
7. Uneaten, rotten, or discarded food.
8. Evidence of rodent infestations.
9. Discarded clothing.
10. Unsanitary or soiled clothing, sleeping bags, blankets, or other sleeping materials.
11. Human waste.
12. Hypodermic needles.
13. Furniture not designed or intended for outdoor use.
14. Tents, makeshift structures, lean-to, tarpaulin, enclosures, or other shelters used for human habitation within the 100-year floodplain, within 100 feet of the edge of a watercourse, in/under stormwater infrastructure such as, but not limited to, bridges, pipes, inlets, and culverts, except in locations expressly permitted by the Water Department.
15. Unsafe, not structurally sound, makeshift shelters or structures used for human habitation.
16. Camp locations that impede or interfere with stormwater maintenance.
17. Camp locations at risk of being flooded due to an imminent threat of flooding.
18. Camp locations in the path of a wildfire or in a mandatory evacuation zone.

19. **Camp layouts that prevent emergency services access.**
20. **Camp layouts that have no adequate evacuation route.**
21. **A violation of the International Fire Code, International Building Code, or International Electrical Code that constitutes an immediate hazard or a threat to public health or public safety.**
22. **A violation of a Public Health Order or Public Health Code that constitutes an immediate threat to the health or safety of the occupants or the surrounding area.**
23. **Evidence of an unauthorized connection or access to public utilities.**
24. **Evidence of an unauthorized an electrical connection or electrical use.**
25. **Evidence of a nuisance code violation.**
26. **Camps that physically undermine or erode public infrastructure.**

***Litter* means any rubbish, waste material, garbage, trash, debris, or noxious foreign substance, whether solid or liquid, of every form, size, or description, except snow and ice.**

***Outreach Team* means a Professional Mental Health Agency, Professional Mental Health Personnel, Service Provider or Agency receiving city funds to reach out to and provide shelter or services to individuals or families experiencing homelessness, or individuals or families in unauthorized camps.**

***Personal property* means an item that is readily apparent as belonging to an individual and has apparent value or utility in its present condition. Examples of personal property include, but is not limited to, structurally sound tents, clothing, shoes, jackets, tarpaulins, sleeping bags, bedrolls, blankets, backpacks, duffel bags, assembled bicycles, tools, watches, jewelry, audio/visual equipment, medications, toiletries, eyeglasses, purses, handbags, books, and baby strollers. Personal property does not include building materials, metal, shopping carts, disassembled bicycles, makeshift shelters, rigid plastic, garbage, trash, rubbish, debris, litter, or waste.**

***Private property* includes, but is not limited to, the following locations owned by private individuals, firms, corporations, institutions, or organizations: yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots, and recreation facilities.**

***Public property* means, by way of illustration, but not limited to a highway, highway median, any street, street median, road, road median, alley, sidewalk, strips of land between streets and sidewalks, lanes, catch basins, pedestrian or transit mall, bike path, greenway, public parking lot, or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, open space, natural area, trail, beach, playground, or other publicly owned recreation facility; a municipal watercourse, bodies of water, watercourses, stormwater infrastructure such as, but not limited to, bridges, pipes, inlets and culverts; or any other grounds, buildings, or other facilities owned or leased by the city or by any other public entity,**

regardless of whether such public property is vacant or occupied and actively used for any public purpose.

Public right-of-way means an area of land dedicated to the public in fee simple title conveyed to the city for drainage, pedestrian, utility, street lighting, landscaping, roadway, or other purposes.

Reside or dwell means and includes, without limitation, conducting such activities as eating, sleeping, making preparation to sleep, or the storage of personal possessions. Residing or dwelling does not include napping during the day or picnicking.

Shelter means and includes, without limitation, a tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing.

Temporary storage area means an unsecured, unmonitored area on or near an unauthorized camp site for the temporary storage of uncontaminated personal property with apparent value or utility that does not pose a threat to the public health or safety.

Temporary structure means a tent, makeshift shelter, lean-to, tarpaulin, enclosure, or other structure used for human habitation or to provide cover or protection from the elements.

Trash, rubbish, debris means all accumulations of waste; refuse; rejected animal, mineral or vegetable matter; manure; ashes; wastepaper; cans; bottles; broken china; sawdust; leaves; grass cuttings; shrubbery and tree trimmings; algae or growth of any vegetation that may create a slick surface for pedestrians; shavings and packing material; weeds; partially wrecked, junked or discarded vehicles; and appliances or parts thereof which are not or cannot be used for their intended purposes; sweepings; liquid or chemical waste; or any other waste material, including construction or demolition waste, or an item that has no apparent value or utility in its present condition, contaminated property, property in an unsanitary condition, furniture, disassembled bicycles, shopping carts, and property that appears to have been discarded. The fact that property is unattended does not necessarily mean that it has been discarded.

Watercourse means a channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir, or lake which storm runoff and flood water flows either regularly or infrequently. This includes major drainage ways for carrying storm runoff.

Waste shall mean the useless, unused, unwanted, or discarded material resulting from normal community activities, or materials which by their presence may injuriously affect the health, safety, and comfort of persons and depreciate property values in the vicinity thereof.

Section 4. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-107 which section reads as follows:

Sec. 114-107. – Abatement of unauthorized camps.

- (1) The City Manager is authorized to remove or order the removal of any unauthorized camp from public property.**
- (2) Unauthorized camps that are an immediate threat to the health or safety of the public may be abated by order of the City Manager.**
- (3) Unauthorized camps may be abated by order of the City Manager for any of following reasons:**
 - **The camp presents an immediate threat to the health or safety of the public.**
 - **When City staff has reasonable, articulable, detailed evidence-based facts the camp is being used for ongoing criminal activity.**
 - **There are evidence-based facts of intentional property damage caused by the occupants of the unauthorized camp.**
 - **There are evidence-based facts of unauthorized use of privately-owned property or public infrastructure to physically support a structure used for human habitation, i.e., using a fence to support a lean-to structure.**
 - **When the location of the unauthorized camp creates a fire hazard due to proximity of the camp to nearby grass or tree-lined areas during extreme dry conditions as determined by Aurora Fire Rescue.**
 - **When the unauthorized camp is in a park facility, open space, natural area, or trail not specifically designated or authorized by the Director of Parks, Recreation and Open Space for overnight camping.**
 - **When the unauthorized camp is on public property posted with “No Trespass”, “No Overnight Camping”, or “No Camping” signs.**
 - **Evidence based facts the camp is being used for on-going criminal activity.**
 - **Camps that will cost more than \$1,000 to abate.**
 - **Camp locations that cause more than \$1,000 in property damage.**
 - **Camp locations that interfere with, obstruct, or prevent maintenance of the property by staff.**
- (4) Evidence-based facts must be in writing and must provide a reasonably detailed explanation of the factual basis of the matter.**

Section 5. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-108 which section reads as follows:

Sec. 114-108. – Prerequisites for abatement of abating unauthorized camps.

Available shelter space. The City of Aurora, Colorado, (“City”) must have enough shelter space available for all the individuals and families in an unauthorized camp before an unauthorized camp can be abated.

Section 6. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-109 which section reads as follows:

Sec. 114-109. – Notice requirements.

- (1) Verbal notices shall be provided to all occupants present in an unauthorized camp advising the occupants of the date and time of the abatement with an order the occupants must immediately leave the camp and remove their property. The date of the abatement may occur on the date in the notice or within the next ten (10) days if there is not sufficient shelter option available for all the occupants on the date of abatement or due to weather delays. Any occupant present in the camp on the day of the abatement shall be advised of a shelter option and that services are available for them Any occupant refusing to leave the unauthorized camp will be violating City Code and could be issued a criminal citation.**
- (2) Written notices shall be hand delivered to all occupants present in an unauthorized camp advising the occupants of the date and time of the abatement with an order the occupants must immediately leave the camp and remove their property. The date of the abatement may occur on the date in the notice or within the next ten (10) days if there is not sufficient shelter option available for all the occupants on the date of abatement or due to weather delays. Any occupant present in the camp on the day of the abatement shall be advised of a shelter option and that services are available for them Any occupant refusing to leave the unauthorized camp will be violating City Code and could be issued a criminal citation.**
- (3) Written notices shall also be attached to unattended property.**
- (4) Written notices shall be posted around the camp at intervals sufficient to advise anyone entering the camp of the intended date and time of the camp abatement. The city shall not repost notices if they are torn down prior to the abatement.**

Section 7. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-110 which section reads as follows:

Sec. 114-110. – Minimum notice period before an unauthorized camp may be abated.

A minimum of 72-hours’ notice is required between the date the verbal and written notices have been provided to the occupants of a camp and the beginning of the abatement process.

Section 8. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 114-111 which section reads as follows:

Sec. 114-111. – Use of the Outreach Team and the Homelessness Program Manager.

- (1) The Outreach Team shall visit an unauthorized camp as soon as possible after the initial notification of the location of the unauthorized camp. The Outreach Team shall contact every occupant of the camp, offer placement in a shelter space, offer services to the occupants, encourage the occupants to seek assistance, and advise the occupants they need to immediately move and take their property with them. The Outreach Team shall document the date and time of each site visit. The Outreach Team shall offer transportation to occupants who want services or shelter.**
- (2) On the day of the abatement or the night before the abatement the Outreach Team will visit the camp, offer a shelter option to every occupant present, offer services, encourage the occupants to seek assistance, offer transportation to services and a shelter option, and encourage the occupants to immediately move from the camp site and take their property with them.**

Section 9. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 10. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 11. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ, AND ORDERED PUBLISHED this _____ day of _____, 2021.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2021.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Tim Joyce RLA

TIM JOYCE, Assistant City Attorney