ORDINANCE
O-15-24

AN ORDINANCE AMEDING TITLE XIII: GENERAL OFFENSES CHAPTER 130: OFFENSES AGAINST PUBLIC PEACE AND SAFETY 130.09 URBAN CAMPING AND IMPROPER USE OF PUBLIC AND PRIVATE PLACES

WHEREAS, Section 130.09, Urban Camping and Improper use of public and private places, needs to be amended/revised so that definitions and rules align; and

WHEREAS, Ordinances are adopted by its governing body and can be amended or repealed through the adoption of a new ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lincolnton that Title XIII, GENERAL OFFENSES, CHAPTER 130, OFFENSES AGAINST PUBLIC PEACE AND SAFETY, 130.09 URBAN CAMPING AND IMPROPER USE OF PUBLIC AND PRIVATE PLACES be amended and enacted to read as follows (**NOTE**: amended text ~~struck through~~ and/or highlighted) :

§ 130.09 URBAN CAMPING AND IMPROPER USE OF PUBLIC AND PRIVATE PLACES.

(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. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

~~AVAILABLE SHELTER. A public or private shelter, with an available overnight space, open to an individual or family unit experiencing homelessness at no charge. A shelter shall not be considered available when the individual cannot occupy said space due to overcapacity, exhaustion of stay limitations, or when religious observance is required as~~

~~a condition of gaining shelter. If the individual cannot utilize the overnight shelter space due to voluntary actions including, but not limited to, intoxication, drug use, unruly behavior, or violation of shelter rules, the overnight shelter space shall be considered available.~~

CAMP. Residing in or using a public street, sidewalk, public park or private land for private living accommodations, such as erecting tents or other temporary structures or objects providing shelter; parking of a motor vehicle, motor home or trailer, or mooring of a vessel or any other type of structure for living accommodation purposes; sleeping in a single place for any substantial prolonged period of time; regularly cooking or preparing meals; or other similar activities. Camping as defined in this section is deemed a public nuisance, and the city may summarily remove a temporary shelter, bedding, or personal belongings.

OTHER PUBLIC PROPERTY. Includes all public or municipal buildings, facilities, structures, properties upon which the buildings, facilities or structures are located, lots, parcels, and any other public properties.

PRIVATE PROPERTY. All privately-owned property including, but not limited to, streets, sidewalks, alleys, and improved or unimproved land.

PUBLIC PARK. Includes all municipal parks, public playgrounds, public plazas, attractions and monuments.

PUBLIC STREET. Includes all public streets, highways, rights-of-way, public sidewalks, public benches, public parking lots and medians.

STORING PERSONAL PROPERTY. Leaving one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for any substantial prolonged length of time. The term STORING PERSONAL PROPERTY shall not include parking a bicycle or other mode of transportation.

TEMPORARY SHELTER. Tents, tarps, or any type of structure or cover that provides partial shelter for persons, animals or personal property from the elements.

(C) Rules.

(1) Unlawful camping on public property.

(a) Permit required. ~~So long as a public or private shelter is available,~~ It shall be unlawful to camp or stay overnight in or on any city park, greenway, street, or any other city property without first receiving a permit from the Director of Parks and Recreation. Camping shall include, but not be limited to, the use of park land, greenway, street, public right-of way, or under any bridge or viaduct, or any other city property for living accommodations, such as sleeping, storing personal belongings, making fires, digging, or cooking.

(b) Removal of campsite. Upon discovery of an unattended campsite, removal of the campsite by the city may occur under the following circumstances:

1. Prior to removing the campsite, the city shall post a notice, 24 hours in advance.

~~2. At the time that a 24-hour notice is posted, the city shall may inform a local agency that delivers social services to homeless individuals where the notice has been posted.~~

~~3. The local agency may arrange for outreach workers to visit the campsite where a notice has been posted to assess the need for social service assistance in arranging shelter and other assistance.~~

~~4~~2. All personal property shall be given to the Police Department whether 24-hour notice is required or not. The property shall be stored for a minimum of ~~14~~ 7 days during which it will be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed for ~~14~~ 7 days may be disposed of. For purposes of this division, PERSONAL PROPERTY means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to the Police Department.

~~5~~3. The 24-hour notice required under division (b)1. of this section shall not apply:

a. When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring.

b. In the event of an exceptional emergency such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety.

c. Application outside city. This chapter applies to acts committed on property owned by the city that is located outside the city.

(2) No tents or temporary shelters on public property.

(a) It shall be unlawful to place tents, temporary shelters or other camping gear on public property owned by the city regardless of whether the tents are occupied and/or contain bedding or camping gear without a permit.

(b) Umbrellas or unenclosed tents of a "pop-up" nature may be used in city parks subject to compliance with applicable provisions of the N.C. State Building Code, or park rules or regulations.

~~(2)~~(3) Unlawful camping on private property.

(a) It is unlawful to camp upon private property within the city except as otherwise provided in this section.

(b) This section shall not apply to persons camping upon their own land or to persons camping with the written consent of the owner of the land, provided that such written consent is in their possession at the time and is shown upon demand of any peace officer. No person shall camp, or permit to camp, on private property for a period of time exceeding five consecutive days without an interruption of at least seven consecutive non-camping days. For purposes of this section, camping for any portion of a day shall count as a full camping day.

~~(3)~~(4) Unlawful storing of personal property. It shall be unlawful to leave one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for any substantial prolonged length of time. The term storing personal property shall not include parking a bicycle or other mode of transportation.

~~(4)~~(5) Exceptions. This section shall not be construed to prohibit the following behavior:

(a) Persons sitting or lying down as a result of a medical emergency;

(b) Persons in wheelchairs sitting on sidewalks;

(c) Persons sitting down while attending parades;

(d) Persons sitting down while patronizing sidewalk cafes; or

(e) Children sleeping while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage.

~~(5)~~(6) Enforcement. Any sworn law enforcement officer shall have the authority to enforce this section.

(a) Penalty. Any person who violates any of the provisions of this section shall be guilty of a Class 3 misdemeanor and be subject to a maximum fine not to exceed $500 pursuant to G.S. § 160A-175 and as provided in G.S. § 14-4.

(b) 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.

(c) 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.

(Ord. O-11-23, passed 8-3-2023)

This ordinance shall be effective upon adoption.

This the 1st day of August, 2024.

By: _____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney