

COMMONWEALTH OF MASSACHUSETTS
CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending the Code of Ordinances City of Lowell, Massachusetts, with respect to Chapter 222, entitled "Peace and Good Order," by adding §222.22 entitled "Unlawful Camping on Public Property."

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

"The Code of Ordinances City of Lowell, Massachusetts" hereinafter called the "Code", adopted by the City Council on December 23, 2008, is hereby amended with respect to Chapter 222 with the establishment of a new Section 22, entitled " Unlawful Camping on Public Property," as follows:

§222.22 Unlawful camping on public property.

A. ESTABLISHED; FUNCTION AND PURPOSE.

It is unlawful for any person to camp or maintain a Campsite or Camp Materials in or on any public property or in the public right-of-way, including but not limited to any street, sidewalk, school or public park, unless specifically authorized or during a Period When Shelter Is Unavailable.

It is the purpose of this Ordinance to promote public health, public safety, general welfare, and the economic health and well-being of Lowell, its workers, visitors, students, and residents, including individuals experiencing homelessness, by prohibiting unsanctioned camping and the dangerous and unsafe conditions surrounding such Campsites.

The Ordinance seeks to improve access to housing and recovery services by restoring access to public spaces, the public right-of-way, and curtailing the existence of Campsites that shield drug trafficking, human trafficking, weapons, fire hazards, violence and other criminal activity, and that create conditions for large crowds to congregate.

This Ordinance shall apply to all Campsites and camping on public property, including, but not limited to streets, sidewalks, and public rights-of-way.

B. DEFINITIONS.

1. "To Camp" means to pitch, erect, or occupy a Campsite or to use Camp Materials, or both for the purpose of, or to facilitate, outdoor sheltering, either temporarily or permanently.
2. "Campsite" means any place upon City property where a tent, tarp, or other temporary structure is established for the purpose of maintaining an outdoor shelter.

3. “Camp Materials” means items used to establish or facilitate occupancy of a Campsite, including tents, tarps, huts, awnings, lean-tos, or other temporary structures, as well as large furniture, stoves and other cooking instruments, and/or other collections of personal property that are, or reasonably appear to be, arranged and/or used as accommodations to camp.
4. “City Property” means all property, parks, rights of way, parking lots, easements or other land owned, leased, controlled, or managed by the City of Lowell.
5. “Emergency Shelter Space” means a City-authorized location providing temporary shelter or alternative sleeping practically available to persons experiencing homelessness. Emergency Shelter Space shall be at a shelter, housing accommodation, or alternative sleeping space that maintains policies and procedures for accommodations under the Americans with Disabilities Act. If there is no Emergency Shelter Space available in the City of Lowell, Emergency Shelter Space may be provided at a City-authorized location outside the City of Lowell.
6. “Period When Shelter Is Unavailable” means a length of time in which there is no Emergency Shelter Space available to individuals experiencing homelessness.
7. “Personal Property” means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

C. CAMPING REGULATIONS.

1. No person may occupy a campsite inconsistent with the regulations in this Chapter unless specifically authorized by the City Manager in emergency circumstances. Any conditions imposed will include a condition requiring that the applicant provide evidence of adequate insurance coverage and agree to indemnify the City for any liability, damage or expense incurred by the City as a result of activities of the applicant. All specific authorizations shall include the exact dates, times, and location covered by the exemption.
2. Where the temporary placement of camping materials has been authorized, an individual that has placed camping materials on City property shall remove said materials according to the specific time limitations set forth for that location.
3. No person may sleep on public sidewalks, streets, or alleyways at any time as a matter of individual and public safety.
4. No person may sleep in any pedestrian or vehicular entrance to public or private property abutting a public sidewalk.

D. RESTRICTIONS ON UNLAWFUL CAMPING DURING A PERIOD WHEN SHELTER IS UNAVAILABLE.

The prohibition against Campsites and camping *shall not* apply during a Period When Shelter Is Unavailable, with one exception, the prohibition against Campsites and camping *shall* apply

during a Period When Shelter Is Unavailable on City Property within one thousand (1,000) feet of any public or private school.

City officials shall maintain, and regularly revise, a shelter list that is communicated to the Lowell Police Department and other City departments for the purpose of identifying available shelter space.

During a Period When Shelter Is Unavailable, or when a Campsite is specifically authorized, a Campsite or use of Camping Materials must comply with existing state and local laws to ensure the public health and safety of those in and around the Campsite.

The City Manager, in consultation with the Lowell Police Department and other relevant City Departments, is hereby authorized to promulgate any additional restrictions relative to the time, place, and manner for camping, and density of Campsites, during any Period When Shelter Is Unavailable in order to advance public safety, maintain access to the public right-of-way, and support the effective operation of facilities such as schools, shelters, and health care institutions during such periods.

E. OFFER OF SHELTER.

In the event of a violation of this Ordinance, the City shall provide, or cause to be provided, an offer of available Emergency Shelter Space to an individual experiencing homelessness and, when requested, transportation to the available Emergency Shelter Space.

Each Emergency Shelter Space offered to an individual shall be at a shelter, housing accommodation, or alternative sleeping space that maintains policies and procedures for accommodations under the Americans with Disabilities Act.

F. REMOVAL AND DISPOSITION/RELEASE OF PERSONAL PROPERTY.

Once the City has engaged an individual as described in Section E (Offer of Shelter), and the individual has either accepted or declined the offers, the City shall remove any Campsite and/or Camp Materials not removed by the individual.

Items having no apparent utility or monetary value and items in an unsanitary condition may be discarded. Weapons, drug paraphernalia, items appearing to be stolen, and evidence of a crime may be retained as evidence by the Lowell Police Department until an alternate disposition is determined. All personal property removed from a campsite which is not, disposed of, or held as evidence (as provided above), shall be stored by the Lowell Police Department for a minimum of 30 days, during which time it shall be made reasonably available for and released to an individual confirming ownership.

G. NOTICE TO INDIVIDUALS.

Immediately upon passage, the City shall distribute leaflets to individuals and post weather resistant signs in locations with a concentrated number of Campsites to provide additional actual notice of this Ordinance and the effective date. The leaflet shall contain a written copy of this Ordinance and written copies of additional resources.

Upon the effective date of the Ordinance, once the City has engaged an individual as described in Section D (Offer of Shelter), no further notice is required to enforce this Ordinance.

When the City notifies an individual located in any Campsite that a Period When Shelter Is Unavailable has ended, the individual shall have forty-eight (48) hours to remove their Camping Materials.

H. PENALTY FOR VIOLATIONS.

Individuals in violation of this Ordinance who refuse to remove or allow for the removal of Campsite or Camp Materials as described in Section E, or who reestablish a Campsite following removal pursuant to Section E, shall be subject to penalties. This Ordinance shall be enforced by the Lowell Police Department as well as any sworn law enforcement agency empowered to make an arrest within the jurisdictional boundaries of the City of Lowell. Any of the following penalties may apply:

1. All enforcement methods authorized by law, including G. L. c. 40, § 21, non-criminal disposition authorized by G. L. c. 40, § 21D, or enforcement authorized by G. L. c. 272, § 59 (Ordinances or Regulations Relating to Streets, Reservations, or Parkways; Alcoholic Beverages; Profanity; Arrest Without Warrant) if the Lowell Police or other duly authorized officer on scene determines a violation of G. L. c. 272, § 59 has occurred in their presence;
2. This Section shall go into effect seven (7) days after the date of passage to permit any individuals located in any Campsite to remove Camping Materials in order to comply with this Ordinance.

All provisions of the Code of the City of Lowell, as amended, which are consistent with this Ordinance, shall continue in effect, but all provisions of said Code inconsistent herewith, are repealed.

This Ordinance shall take effect upon its passage in accordance with the provisions of Chapter 43 of Massachusetts General Laws.

APPROVED AS TO FORM:

Corey Williams
City Solicitor



Thomas A. Golden, Jr.
City Manager

Shawn Machado
Assistant City Manager

October 15, 2024

Mayor Daniel Rourke
and
Members of the Lowell City Council

RE: Unlawful Camping on Public Property

Dear Mayor Rourke and Members of the Lowell City Council,

Enclosed with this letter please find a proposed ordinance to amend Chapter 222 of the Code of Ordinances City of Lowell by adding language to address “Unlawful Camping on Public Property”.

This ordinance amendment comes before you by way of a recent request by the City Council. Over the years, and over several City Council terms, there have been many discussions, debates, and attempts to solve this issue, which goes far beyond the City of Lowell. The proposed ordinance is intended to address, at least in part, an issue that has been and continues to be prevalent in the City of Lowell.

The Law Department has prepared a vote to authorize the passage of this proposed ordinance amendment.

Please do not hesitate to let me know if there are any questions.

Sincerely,

Thomas A. Golden, Jr.
City Manager

Cc: Corey Williams, City Solicitor