

ORDINANCE NO. 4895

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO CAMPING AND CREATING A NEW CHAPTER TO THE ELLENSBURG CITY CODE ENTITLED "5.70 REGULATING PUBLIC CAMPING."

WHEREAS, Article XI, section 11 of the Washington State Constitution authorizes the City to make and enforce in its limits all such local police, sanitary and other regulations as are not in conflict with general laws; and

WHEREAS, the City of Ellensburg is a non-charter optional code city as provided in Title 35A RCW and incorporated under the laws of the state of Washington; and

WHEREAS, the City of Ellensburg has a homeless population that lives in its public areas using makeshift and temporary shelters and tents; and

WHEREAS, the City of Ellensburg has experienced public health, safety, and welfare problems that are associated with the homeless population camping on City-owned property; and

WHEREAS, camping without adequate sanitation services, such as sewer, water, and garbage, presents a significant public health and safety concern due to increased risk of spread of disease and potential for citizens contracting illnesses; and

WHEREAS, public property is intended for, and should be, available to the public for its intended purposes, including daily City operations, park recreational use, pedestrian, bicycle and vehicular transportation, and other public uses; and

WHEREAS, the City Council recognizes the importance of working with outside and contracted agencies to create permanent overnight shelter space for the homeless population; and

WHEREAS, the City Council wishes to protect the public health, safety and welfare of its residents and visitors by identifying public areas and rights of way that are not suitable for overnight camping;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. Findings. The City Council hereby finds that the recitals set forth above are hereby adopted as findings for this Ordinance and incorporated herein as such.

Section 2. A new chapter entitled "5.70 Regulating Public Camping" is hereby added to the Ellensburg City Code to read as follows:

Chapter 5.70
REGULATING PUBLIC CAMPING

Sections

- 5.70.010 Purpose.**
- 5.70.020 Definitions.**
- 5.70.030 Unlawful camping.**
- 5.70.040 Storage of personal property in public places.**
- 5.70.050 Removal of unauthorized encampments and individual camps.**
- 5.70.060 Penalty for violations.**
- 5.70.070 Enforcement suspended.**
- 5.70.080 No public duty created.**
- 5.70.090 Severability.**

5.70.010 Purpose.

It is the purpose of this chapter to prevent harm and to promote the public health, safety and general welfare and environment by keeping public streets, sidewalks, parks, and other city-owned and/or city-maintained public property and public rights-of-way within the city readily accessible to the public, and to prevent use of city-owned and/or city-maintained public property for camping purposes or storage of personal property which interferes with the rights of others to use the areas for the purposes for which they were intended.

5.70.020 Definitions.

The following definitions are applicable in this chapter unless the context otherwise requires:

“Camp” or “camping” means to pitch, erect, or occupy camp facilities, or to use camp paraphernalia or both, for the purpose of, or in such a way as will facilitate, taking up temporary residence overnight; or parking a camper, recreational vehicle, trailer, or other vehicle for the purpose of taking up temporary residence overnight.

“Camp facilities” include, but are not limited to, tents, huts, temporary shelters made of any material, campers, recreational vehicles, or trailers.

“Camp paraphernalia” includes but is not limited to tarpaulins, cots, beds, sleeping bags, hammocks and/or cooking facilities and similar equipment.

“City” means the city of Ellensburg.

“Contraband” means any item, material, or substance that is unlawful to produce or possess.

“Litter” shall have the same meaning as used in RCW 70A.200.030(6) and (11) as adopted or may be amended.

“Park or park facility” means any building, structure, equipment, sign, shelter, swimming pool, vegetation, playground, real property, or other physical property owned or controlled by the city for park purposes. Park or park facility includes all associated areas, including but not limited to parking lots for parks.

“Personal property” in addition to its common meaning, means an item that is:

1. Reasonably recognizable as belonging to a person;
2. In its present condition has apparent utility and/or value; and
3. Is not unsanitary.

“Right-of-way” shall have the same meaning as is stated in ECC 15.130.180.

“Solid waste” shall have the same meaning as used in RCW 70A.205.015(22) as currently enacted or may be amended.

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

“Trail” means a public path owned, operated, or maintained by the city for the primary purpose of walking, biking or other non-vehicular travel.

“Unauthorized encampment” means two or more camp facilities in an identifiable area which appear to be used for unlawful camping. For purposes of this chapter an identifiable area includes areas where the camp facilities are in sight of each other and/or areas where each camp facility is located within 300 feet of another camp facility.

“Vehicle” means the same as defined in RCW 46.04.670, as currently enacted or hereafter amended.

5.70.030 Unlawful camping.

A. It is unlawful for any person to camp, occupy camp facilities for purposes of habitation, or use camp paraphernalia in the following areas, except as otherwise provided by the Ellensburg City Code or where specifically designated:

1. Any street, alley, sidewalk or right-of-way;
2. Any trail, park, or park facility, except as authorized by the Parks & Recreation Director pursuant to ECC 2.34.160(J);
3. Any publicly owned parking lot or publicly owned area, improved or unimproved; or
4. Any other city-owned or city-maintained property.

B. It is unlawful for any person to occupy a vehicle for the purpose of camping while that vehicle is parked in the following areas, except as otherwise provided by ordinance or as permitted pursuant to ECC 2.34.160(J):

1. Any park;
2. Any street, alley or right-of-way; or
3. Any publicly owned or maintained parking lot or other publicly owned or maintained area, improved or unimproved.

5.70.040 Unlawful storage of personal property in public places.

A. It is unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following city-owned and/or city-maintained areas, except as otherwise provided by the Ellensburg City Code:

1. Any right-of-way;
2. Any trail, park, or park facility;
3. Any publicly owned parking lot or publicly owned area, improved or unimproved; or
4. Any other city-owned or city-maintained property.

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

5.70.050 Removal of unauthorized encampments and individual camps.

A. The personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and/or solid waste located at an unauthorized encampment may be removed subject to the following provisions:

1. Upon a determination by law enforcement or designated city personnel that an area constitutes an unauthorized encampment or that an individual is engaged in unlawful camping or storage of personal property in public places.
2. Property which presents an immediate and substantial risk of harm. If the unauthorized encampment, unlawful camping, or unlawful storage of personal property results in an immediate and significant risk of harm to any person or impedes pedestrian or vehicular traffic, then police, city staff and/or its contracted agent may immediately remove any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste, which shall be stored or disposed in the manner as set forth below in subsection (3)(b) below.
3. Except as stated in subsection (A)(2) above, prior to removing property from an unauthorized encampment or unlawful camp, or removing personal property unlawfully stored on city-owned or city-maintained public property, the following shall occur:
 - a. The city shall post at least a 48-hour advanced notice, which shall include the following:
 - i. The address or location of the unauthorized encampment, unlawful camping, or unlawful storage of personal property;
 - ii. A statement that camping or storage activity is prohibited by ECC 5.70.030 and/or 5.70.040;
 - iii. A statement that any individual continuing to use the area for unlawful camping or storage of personal property may be subject to criminal penalties pursuant to ECC 5.70.060;
 - iv. A statement that any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste remaining after the notice period is subject to removal and, as may be applicable, temporary storage by the city.
 - b. At the end of the 48-hour notice period, any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed by city personnel or agents thereof. Furthermore:

- i. Any personal property that is removed shall be stored by the city for at least sixty (60) days prior to being disposed of;
- ii. Notice of where personal property removed from the encampment may be claimed shall be posted at the location;
- iii. If the name and contact information for the owner of a particular item of 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 to claim the item;
- iv. Any contraband located at the area shall be seized and properly disposed or retained as evidence of criminal activity; and
- v. Any litter or solid waste found at the area shall be properly disposed of.

5.70.060 Penalty for violations.

Violation of any of the provisions of this chapter is a misdemeanor and shall be punished upon conviction of such violation by a fine of not more than \$1,000 or by confinement not to exceed 90 days, or by both such fine and confinement. Each and every day, or portion thereof, that the violation continues shall constitute a separate violation.

5.70.070 Enforcement suspended.

A. Except as otherwise provided in this section, there shall be no enforcement of criminal provisions of this chapter when there is no available overnight shelter space or beds available in homeless shelters located in the city. The space is considered available if the individual could not use the space due to voluntary actions such as intoxication, drug use or unruly behavior.

B. Notwithstanding subsection (A) above, all provisions of this chapter shall continue to apply to camping, storage of personal property, including camp facilities and camp paraphernalia, and unauthorized encampments at the following:

1. The following real property owned by the city:

- a. The Ellensburg City Hall (Kittitas County parcel number 197433);
- b. The City Library and Hal Holmes Community Center (Kittitas County parcel number 107033);
- c. Unity Park (Kittitas County Parcel Number 146933) and Friendship Park (Kittitas County Parcel Number 066933);
- d. The Public Works & Utility Department's Shop and Warehouse Facility (Kittitas County parcel numbers 326833 and 518633); and

e. The Wastewater Treatment Facility and associated property adjacent to or in proximity of the facility and/or the Yakima River (Kittitas County parcel numbers 168733, 188733, 178733, 228733, 698733, 598733, 028733, 258733, 17163).

2. Park facilities, including but not limited to all buildings, structures, equipment, shelters, swimming pools, water recreation facilities, playgrounds, bathrooms, courts or designated sports fields available for reservation; and

3. Public rights-of-way and city-owned real property within 30 feet of such rights-of-way.

C. Nothing in this chapter shall preclude enforcement of any other federal, state, or local laws, including enforcement of Chapter 2.34 ECC.

5.70.080 No public duty created.

A. It is expressly the purpose of this chapter to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons or individual who will or should be especially protected or benefited by the terms of this chapter.

B. Nothing contained in this chapter is intended nor shall be construed to create or form the basis of any liability on the part of the city or its officers, employees, or agents for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees, or agents.

5.70.090 Severability.

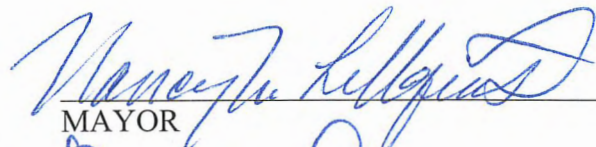
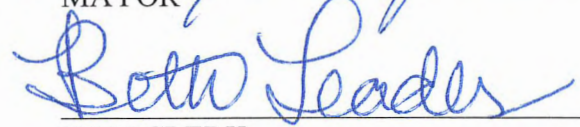
If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances is not affected.

Section 2. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 3. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

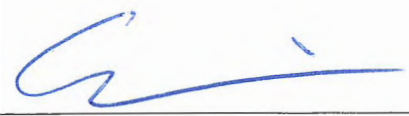
Section 4. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 6th day of September, 2022.


MAYOR

CITY CLERK

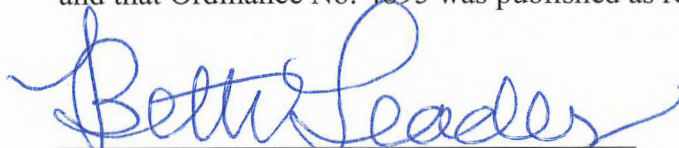
ATTEST:

Approved as to form:


CITY ATTORNEY

Publish: 9-10-2022

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4895 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4895 was published as required by law.


BETH LEADER