

ORDINANCE NO. 2825

AN ORDINANCE OF THE CITY OF REDLANDS ADDING CHAPTER 12.46 TO THE REDLANDS MUNICIPAL CODE, AND AMENDING CHAPTER 12.44 OF THE REDLANDS MUNICIPAL CODE, RELATING TO UNLAWFUL CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC PLACES

WHEREAS, the City Council of the City of Redlands (the "City Council") is committed to protecting the public health, safety, welfare, and environment; and

WHEREAS, in order to meet these goals, it is necessary that the City establish regulations related to the usage of space within the City and unlawful camping while preserving the rights of individuals to use public property to exercise their First Amendment and other constitutional rights; and

WHEREAS, the City Council intends to: (1) maintain public and private streets and developed and undeveloped public property within the City in a clean, safe and accessible condition for residents and the public at large; (2) reduce the risk of preventable fire events; (3) promote and protect human sanitation and health while preserving appropriate recreational opportunities within the community; and (4) discourage or prevent the secondary impacts of vagrancy such as crime, visual blight, poor sanitation, disease and discouragement of desirable economic activity and economic development while accommodating circumstances of necessity; and

WHEREAS, the City Council finds that large amounts of personal property are being left unattended in public areas throughout the City, and that such personal property creates blight within the City, and obstructs public rights-of-way; and

WHEREAS, the City Council finds that unattended personal property in public areas interferes with access to such public areas and to businesses, and thereby negatively affects quality of life, as well as the profitable operation of such businesses; and

WHEREAS, the City Council finds that unattended personal property in public areas constitutes a threat to the health and safety of the people, as such personal property may attract vermin, and interfere with safe passage for pedestrians and the disabled across public rights-of-way as well as preventing use of public facilities such as parks, community centers, restrooms, etc.; and

WHEREAS, the City Council finds that individuals have a protectable possessory interest in property that they leave unattended in public places and parks, and that such property may include important items such as identification papers, heirlooms, medications, toiletries and clothing; and

WHEREAS, the City Council finds that the public's interests in having blight-free parks and public rights-of-way is outweighed by the more immediate interests of individuals in not having their personal belongings summarily destroyed; and

WHEREAS, Section 2080 et seq. of the California Civil Code provides for the disposition and care of lost and unclaimed property, and Section 2080.4 authorizes the City to enact its own provisions; and

WHEREAS, the City Council finds that unlawful camping in public areas, including streets and parks, causes blight, obstructs the public rights-of-way, prevents public property from being used for its intended purposes, and obstructs access to businesses and public facilities; and

WHEREAS, the City Council finds that unattended property in public areas and unlawful camping are different problems that cause blight in the City, and should be addressed in ways that are specifically tailored to each problem; and

WHEREAS, the California Supreme Court has upheld ordinances that prohibit camping and storage of personal property in public areas, Tobe v. City of Santa Ana, 9 Cal. 4<sup>th</sup> 1069 (1995); and

WHEREAS, the City currently prohibits overnight camping in City parks pursuant to Section 12.44.180 of the Redlands Municipal Code, unless a special event permit is first obtained from the City's Quality of Life Director; and

WHEREAS, the City Council finds that this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, 14 Cal. Code Regs. section 15000, et seq., because it can be seen with certainty that the adoption of this Ordinance has no potential for resulting in a significant effect on the environment, directly or indirectly;

THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 12.46, entitled "Unlawful Camping and Storage of Personal Property in Public Places," is hereby added to the Redlands Municipal Code to read as follows:

"Chapter 12.46

UNLAWFUL CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC  
PLACES

12.46.010	Declaration of Purpose
12.46.020	Definitions
12.46.030	Prohibited Acts
12.46.040	Storage of Personal Property in Public Places
12.46.050	Exceptions
12.46.060	Enforcement

12.46.010     Declaration of Purpose

A. The City Council finds that this Chapter is reasonably necessary to preserve and protect the public peace, health, safety, and the general welfare of the City, its residents, and businesses.

B. This Chapter establishes reasonable regulations related to the usage of space within the City and unlawful camping while preserving the rights of individuals to use public property to exercise their first amendment and other constitutional rights.

C. The purpose of this Chapter is to maintain public streets and property, and limited private property such as private streets and parking lots, in a clean, safe and accessible condition for residents and the public at large; to promote and protect human sanitation and health while preserving appropriate recreational opportunities within the community; and to discourage or prevent the secondary impacts of vagrancy such as crime, visual blight, poor sanitation, disease, and promote desirable economic activity and economic development while accommodating circumstances of necessity.

D. Nothing in this Chapter is intended to prohibit or make unlawful, activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes; and provided further, nothing is intended to prohibit or make unlawful, activities of a property owner or other lawful user if such activities are expressly authorized by other provisions of this Code or other laws, ordinances and regulations.

12.46.020     Definitions

A. "Camp" means to pitch, sleep in, cook in or occupy camp facilities or to use camp paraphernalia for the purpose of temporary or permanent human habitation or domicile. "Camp" shall not mean the use of any facilities or equipment which is used solely in connection with a special event conducted in accordance with a permit issued by the City under other provisions of this Code.

B. "Camp facilities" include, but are not limited to, tents, huts, or temporary shelters.

C. "Camp paraphernalia" includes, but is not limited to, collapsible shelters, cots, beds, sleeping bags, bed rolls, hammocks or barbeques, open fires, portable stoves or other cooking equipment not provided or approved by the City.

D. "Parking lot" means a land area or facility for the temporary parking of motor vehicles.

E. "Private property accessible to the public" means privately owned property in the City, improved or unimproved, that lacks a physical barrier to entry, including, but not limited to, any of the following: privately owned streets; privately owned parking lots; and property that is unenclosed and undeveloped.

F. "Public property" means any publicly owned property in the City, improved or unimproved, including, but not limited to, any of the following: public alleyways; public parking lots; public passageways; public streets; public rights-of-way; publicly owned, maintained or operated parks; publicly owned, maintained or operated landscaped areas or greenbelts; publicly owned, maintained or operated open spaces, including but not limited to, public facilities or buildings of any kind; publicly owned maintained or operated golf courses and related facilities; public sidewalks, curbs and gutters; public educational institutions; or other government owned, maintained or operated properties located within the City.

G. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location for an unreasonable amount of time.

#### 12.46.030     Prohibited Acts

A. It is unlawful for any person to camp or occupy camp facilities or use camp paraphernalia in any of the following areas within the City, except as otherwise provided herein or mandated by applicable law:

1. Any public property or public or private street or right-of-way, including sidewalks, bus stops, and public landscaping;
2. Any public yard, building setback, vacant land, or open space, or any other area open or accessible to the public, improved or unimproved;
3. Any public or private parking lot not fenced and open to the public;
4. In, on, under, or adjacent to any structure not intended for human occupancy, whether with or without bedding or camp paraphernalia, including, but not limited to, a tent, hammock or other similar protection or equipment; and
5. Under, or adjacent to, a parked vehicle on any public property or public or private parking lot.

B. It is unlawful for any person to make or kindle an open fire on public or private property accessible to the public except in an appropriate containment device provided or approved for that purpose by the City Fire Marshal and City Building Official.

C. It is not intended by this section to prohibit temporary overnight camping on private residential property by friends or family of the property owner, so long as the owner consents.

#### 12.46.040     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 areas, except as otherwise designated by the City"

1. On any public property or public or private street or right-of-way within the City;
2. On any public yard, building setback, vacant land, open space or any other public area open or accessible to the public, improved or unimproved;
3. On any public or private parking lot;

B. All stored personal property may be impounded by the City provided:

1. Immediate removal of the personal property without notice as required in paragraph 2 below is necessary to protect public health, safety, or welfare, including, but not limited to when the location of the personal property restricts for emergency response personnel or vehicles; or
2. A written notice is served on the person storing the personal property or is posted prominently and conspicuously on the stored personal property. The written notice shall contain the following:
  - a. A description of the personal property to be removed (such description may refer to an attached photograph).
  - b. The location of personal property.
  - c. The date and time the notice was posted.
  - d. The section of the Redlands Municipal Code that is being violated.
  - e. A statement that the personal property will be impounded if not removed within 24 hours.
  - f. The location where the removed property will be stored,
  - g. A statement that impounded property will be sold or otherwise disposed of if not claimed within 90 days after impoundment.
  - h. A statement that the property owner shall be responsible for all costs of removal, storage and disposal.
3. Impounded personal property shall be moved to a place of storage, and the owner shall be assessed moving, storage, and other related fees and costs. Additionally, the owner of impounded personal property shall bear the responsibility for the risk of any loss or damage to the impounded property. Any impounded property of a perishable nature may be disposed of immediately in any manner without notice after impoundment by the City.

4. At least 30 days prior to disposal of impounded personal property, the City shall serve notice in writing apprising the owner of the personal property of the description and location of the impounded personal property and the intent of the City to sell, donate, or otherwise dispose of the impounded property. Service of written notice shall be by personal service or by certified mail, return receipt requested, to the last known address of the owner of the impounded property if the owner is known or can be determined. Where the identity or the address of the owner is unknown or cannot be determined through the exercise of reasonable diligence, the notice shall be posted for three consecutive days on the public property where the property was stored or seized. If notice cannot be posted as provided heretofore, then it shall be posted on the internet website of the City for three consecutive days.

5. The owner or any other person entitled to the impounded personal property may repossess the property prior to its disposal upon submitting satisfactory proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and other expenses incurred by the City in connection with the proposed disposal of the impounded property.

6. All fees and unpaid rent, debts and charges owing and all expenses of handling, storage, appraisal, advertising, and other sale expenses incurred by the City shall be deducted from the proceeds of any sale of the impounded property. Any amount remaining shall be held in trust for the owner of the property for 30 days after sale, after which time the proceeds shall be paid into the General Fund.

C. The City shall maintain a record of the date and method of disposal of the impounded personal property, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such record shall be kept as a public record for a period of not less than one year from the date of disposal of the property.

D. The City and its officers, employees, and agents shall not be liable to the owner of impounded personal property because of any disposal of the property made pursuant to this article. The remedies available to the owner of impounded property are limited to those provided in this Chapter.

E. The provisions of this section shall not apply to any personal property or money subject to confiscation pursuant to state or federal laws or to personal property or month that constitutes evidence in an ongoing criminal investigation and/or civil proceeding pursuant to state or federal law.

#### 12.46.050     Exceptions

This Chapter shall not apply to camping, occupying camp facilities or using camp paraphernalia, or to any person storing personal property, including camp paraphernalia within the City:

A. Where the area has been designated by the City for such purposes and the activity has been permitted as a Temporary Use or Special Event pursuant to the provisions of this Code regulating temporary special events; or

B. Where a gathering, meeting or event is sponsored or conducted by the City.

12.46.060      Enforcement

A. It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Chapter. In addition to other remedies provided by law, any person violating any provision of the Chapter is deemed guilty of a misdemeanor.

B. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of or failure to comply with any of the provisions of this Chapter is committed, continued or permitted by such person, and each instance shall be deemed a punishable offense as provided in this Chapter.

C. The provisions of this Chapter shall not be construed as permitting conduct not prescribed herein and shall not affect the enforceability of any other applicable provisions of law.

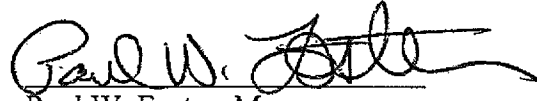
D. Any citation issued for a violation of this Chapter may be dismissed upon review by the City Manager or his or her designee if, in the interest of justice, at the time of citation issuance, all homeless shelters serving populations in the City were full to capacity, the person cited had no reasonable or adequate alternative course of action, and the person cited did not substantially contribute to the circumstances necessitating camping as his or her only reasonable course of action.”

Section 2.      Section 12.44.180 of the Redlands Municipal Code, entitled “Fires and Camping,” is hereby deleted.

Section 3.      Severability

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid or ineffective. To this end, the provisions of this Ordinance are declared to be severable.

Section 4. The Mayor shall sign this ordinance and the City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published once in the Redlands Daily Facts, a newspaper of general circulation within the City, and thereafter, this ordinance shall take effect as provided by law.

  
Paul W. Foster, Mayor

ATTEST:

  
Sam Irwin, City Clerk




I, Sam Irwin, City Clerk, City of Redlands, hereby certify that the foregoing Ordinance was duly adopted by the City Council at the regular meeting thereof, held on the 3rd day of November, 2015, by the following vote:

AYES: Councilmembers Harrison, Gilbreath, Barich, James; Mayor Foster

NOES: None

ABSENT: None

ABSTAIN: None

  
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Sam Irwin, City Clerk