

ORDINANCE NO. 2024-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS ADDING CHAPTER 9.24 TO TITLE 9 OF THE CITY OF WINTERS MUNICIPAL CODE RELATED TO ENCAMPMENTS WITHIN THE CITY LIMITS

WHEREAS, the City Council of the City of Winters ("City") finds that the City has a legitimate and compelling interest in protecting the public health, welfare and safety of its residents, as well as preserving the same within the City and other public property; and

WHEREAS, public rights-of-way and public property are generally intended for public use and travel. The City Council is the authority for public rights-of-way within the City; as such, the City must consider the safety of pedestrians and motorists travelling on roadways and sidewalks, including to and from neighboring properties, businesses, and residences. The City has had increasing concerns regarding safety due to camping on or in City rights-of way and City property in or near streets, roads, sidewalks, and public access points; and

WHEREAS, encampments such as tents and other habitable structures persist and have become a problem on City property. Such encampments are unsafe and unhealthy for the people living in them, and they make public spaces and the surrounding neighborhoods and businesses intimidating, less safe, and less healthy for families, residents, and visitors to City facilities; and

WHEREAS, maintaining accessible and safe access to City facilities for everyone is an important public safety objective. Tents and other habitable structures erected for temporary shelter often exhibit the following public safety hazards, all of which present public health risks and can become vectors for disease, illness, and rodents: (1) solid waste from discarded food and other garbage; (2) the presence of syringes; (3) accumulation of waste (hazardous and bio-hazardous waste); (4) unsanitary food storage; and (5) lack of potable running water for personal hygiene; and

WHEREAS, in addition to the foregoing concerns, tents and other habitable, temporary shelters provide a shield for criminal activity and expose members of the public and law enforcement to increased risk of assault and other threats to personal safety. This risk extends not only to members of the public seeking to access City facilities for lawful purposes, but also to nearby residents, business owners, and pedestrians; and

WHEREAS, the City must appropriately consider various interests and formulate policy to best protect public health, safety, welfare, property, and the environment, with limited resources; and

WHEREAS, the City Council acknowledges the lack of nightly shelter beds and housing currently available regionally and recognizes the systemic lack of state and federal investment in shelter and public health services for those experiencing homelessness; and

WHEREAS, the City Council acknowledges that it is currently unavoidable that some people will live or shelter for survival outdoors until they are able to access affordable or free

shelter or housing. In Winters, this has typically meant camping, sometimes for extended periods of time, on City rights-of-way and City property; and

WHEREAS, the City Council has heard reports from residents of negative interactions between those using City rights-of-way and City property as sleeping and living accommodations and pedestrians traveling on paths towards, and locations near, bridges and creeks, which have resulted in damaging activities that if left unaddressed would result in negative impacts to the environment and ecological and water quality; and

WHEREAS, the City's rights-of-way and public areas are not intended for shelter or camping, and individuals who make shelter in these areas create health and safety risks for themselves and for persons encountering encampments; and

WHEREAS, the City Council recognizes the difficult challenge of balancing the needs of the residents and public at large to access clean and sanitary public areas, as well as the assurance of safe travel with the needs of individuals who have no alternatives for living accommodations and the storage of their personal property, but also balancing those needs with the concerns of residents that using such property as living and sleep accommodations and storing personal property interferes with the rights of other members of the public to use public areas for their intended purposes and can create a public health or safety hazard that adversely affects those who use public areas; and

WHEREAS, at the February 6, 2024 City Council regular meeting, the City Council held a discussion on the processes and programs for addressing the unhoused in the City, current City responses, and additional resources that may be employed in further addressing these challenges. During the meeting, members of the community addressed the Council with their concerns regarding the impacts of encampments on Putah Creek, Downtown businesses, and the health, safety and welfare of residents. Following public comment, the City Council expressed support for a proposed ordinance regulating encampments within the City limits to be brought back for consideration and potential adoption; and

WHEREAS, the City has determined that this ordinance is necessary to protect the public health, welfare and safety of residents of the City, by enacting regulatory restrictions on using public rights-of-way for sleeping or living accommodations at designated locations; and

WHEREAS, the City now desires to proceed with the process of enacting this ordinance for the purpose of protection of the public health, welfare and safety of its residents; and

WHEREAS, the City Council has considered the report from City staff and all public comments on the need to enact an ordinance prohibiting unlawful encampments on public and private property and authorizing the removal of such encampments when encampment occupants are provided notice and the opportunity to retrieve removed personal belongings.

THE CITY COUNCIL OF THE CITY OF WINTERS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The above recitals are adopted as findings of the City Council in enacting this ordinance.

Section 2. Chapter 9.24 of the Winters Municipal Code is hereby added in its entirety as follows:

Chapter 9.24
ENCAMPMENTS WITHIN THE CITY LIMITS

9.24.010. Definitions.

For purposes of this chapter, the following definitions shall apply.

“Camp” or “camping” means to pitch, erect, or occupy an encampment, or to use camp paraphernalia or both, for the purpose of, or in a way that facilitates outdoor sheltering for living accommodation purposes or for remaining outdoors overnight.

“Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, hammocks or non-City designated cooking facilities, including but not limited to fueled cooking equipment, flammable gas canisters, combustible liquid containers, or similar items.

“City property” means all real property owned or leased by the City or any agency or department thereof, irrespective of whether such real property is located within an incorporated area.

“Encampment” means a tent or any similar temporary structure consisting of any material with a top or roof or any other upper covering or that is otherwise enclosed by sides that is of sufficient size for a person to fit underneath or inside while sitting or lying down and includes the use of a tarp or other material tied to a structure or bush to create an enclosed area. Encampment includes any camp paraphernalia.

“Enforcing employee” means the employee of the City authorized to enforce this chapter.

“Housing” means placement in a shelter or another housing option provided by the City or Yolo County.

“Personal property” means any tangible property, and includes, but is not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, blankets, sleeping bags, personal items such as household items, luggage, backpacks, clothing, food, documents, and medication.

“Shelter” means temporary shelter or another shelter option.

9.24.020. - Prohibition.

A. Camping on City Property Prohibited at All Times. It shall be unlawful at all times of the day for any person to camp or to place an encampment in or on the following City property:

1. Inside any public building, inside any fully-fenced area attached to a public building, or within twenty-five feet (25') of any entrance or exit to a public building;

2. Within fifty feet (50') of any house or other permanent structure used as a residence;
3. Within one hundred feet (100') of the property line of any property used as a school, preschool, playground, daycare, or other licensed childcare facility;
4. City creeks and creek embankments within City limits;
5. Within one hundred feet (100') of critical infrastructure, including water wells, storm drain basins, and bridges;
6. Within a Very High Fire Severity Zone, as established in accordance with California Government Code §§ 51178 and 51179;
7. Within any public park, except as authorized under Chapter 12.12 of this Code;
8. Within any public highway, road, or street; and,
9. Within any public sidewalk, easement, or right of way, where the presence of the person or their property thereon hinders or obstructs the free passage, access, or movement of any persons, bicycles, or vehicles travelling or attempting to pass along the same right of way.

B. Camping on City Property Prohibited at Certain Times. As to any City property not specifically identified in subsection (A) above, it shall be unlawful for any person to camp or to place an encampment in or on any City property daily between the hours of 7:00 a.m. and 9:00 p.m.

C. Exceptions.

1. Absent exigent circumstances related to immediate threats to the public health, safety, or welfare, the provisions of this section will not be enforced against indigent homeless persons sitting, lying, or sleeping on City property when no housing or shelter is available.
2. The provisions of this section shall not apply to camping or the placement of an encampment on City property pursuant to and in compliance with a permit or other written authorization signed by the City Manager or other City employee with authority to provide such permits or authorizations.

D. Camping on Private Property. It shall be unlawful for any person to camp or to place an encampment on any private property without first obtaining the written permission of the owner or other person(s) in lawful possession of the property.

9.24.030. - Offer of Housing, Shelter and Services.

Prior to directing a person to remove an encampment or prior to removing the encampment, the enforcing employee shall offer information to the occupant(s) regarding any available housing or shelter and other health and human services that said employee reasonably believes are relevant to the occupant(s) and their individual circumstances.

9.24.040. - Enforcement.

The prohibitions of Section 9.24.020 may be enforced by: (1) the Winters Police Department; or (2) the City's Code Enforcement Division. The City Manager, or a department designated by the City Manager, may issue regulations or guidelines necessary or appropriate to aid in the enforcement and implementation of this chapter and may create any additional procedures consistent with this chapter necessary or appropriate to protect the property rights of individuals whose property is taken into custody pursuant to this chapter.

9.24.050. - Notices.

The enforcing employee shall provide occupants of an encampment notice of intent to remove the encampment at least 24 hours in advance of any action to remove the encampment. Notice shall be in writing and shall be served personally on the occupant(s) of the encampment present when the enforcing employee attempts to serve notice. In addition, the enforcing employee shall post the notice on or near the encampment, so as reasonably to communicate the notice to persons living at the encampment but not present during the attempt to serve notice. The notice shall contain the following information:

1. The location of the encampment;
2. The date and time notice was served or posted;
3. A statement that the encampment violates this chapter;
4. An advisement that the City will remove the encampment 24 hours after the date and time of the notice;
5. Information about any housing or shelter and homeless services available for occupants of the encampment and the phone number and address to contact in order to obtain the housing or shelter or other health and human services;
6. An advisement that any personal property remaining at the encampment site when the enforcing employee returns to remove the encampment will be impounded for no fewer than 90 days and will be discarded thereafter if not claimed; and,
7. The address, phone number, and operating hours of the location where the personal property will be stored and may be retrieved and that the City will charge no fee for storage or retrieval.

9.24.060. - Personal Property.

A person occupying an encampment who is present at the time the enforcing employee is removing the encampment may retain his or her personal property except that items constituting an immediate threat to the health or safety of the public or items that constitute evidence of a crime or contraband may be seized, as permitted by law. Any personal property seized shall be stored for no less than 90 days, with the following exceptions:

1. Items that present a health or safety risk if stored, such as items soiled by bodily fluids, items that are moldy, items infested by insects or vermin, and food, need not be stored and may be discarded; and,
2. Items that constitute evidence of a crime or contraband may be seized and discarded, as permitted by law.

9.24.070. - Other laws and orders.

Nothing in this chapter shall be construed to limit the City's authority to enforce any other federal, state, or local law.

Section 3. Conflicting Laws. To the extent that there is any conflict between the provisions of this Ordinance and any provision of the Winters Municipal Code, an ordinance, or a resolution or policy, all such conflicting provisions shall be superseded by this Ordinance.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 5. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA"), pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 6. Effective Date and Publication. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance to be posted or published as prescribed by law. This Ordinance shall take effect thirty (30) days following its adoption.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Winters City Council this 2 day of April, 2024.

AYES: Council Members Casavecchia, Scianna, Mayor
Pro Tem Vallecillo, Mayor Biasi

NOES: None

ABSENT: Council Member Jesse Loren

ABSTAIN: None

A handwritten signature in blue ink that reads "Bill Biasi". The signature is written in a cursive style with a horizontal line underneath.

Bill Biasi, Mayor

ATTEST:

A handwritten signature in blue ink that reads "Jenny Katz". The signature is written in a cursive style with a horizontal line underneath.

City Clerk

