

ORDINANCE NO. _____

AN ORDINANCE of the City Council of the City of Camas adding a new Chapter 12.34 of the Camas Municipal Code related to unlawful camping and storage of personal property on public property and repealing Camas Municipal Code Section 12.32.090.

WHEREAS, pursuant to Article XI, Section 11 of the Washington Constitution and RCW 354.11.020, the City of Camas is authorized to regulate public property, including City Hall, the Community Center, parks, public rights-of-way, and all other public property within the City; and

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

WHEREAS, camping without adequate sanitation services, such as sewer, water, and garbage, presents a public health and safety concern; and

WHEREAS, it is important to maintain public property consistent with its intended use while balancing the needs of those experiencing homelessness with the impact on the entire community and avoiding environmental impacts to the City waterways and sensitive lands; and

WHEREAS, pursuant to *Martin v. City of Boise*, the Ninth Circuit Court of Appeals held: (1) that the Eighth Amendment to the United States Constitution prohibits cities from enforcing Ordinances that criminalize camping on all public property at all times; and (2) it is permissible for cities to enforce an ordinance that criminalizes camping in certain locations at all times, but only if the cities also do not enforce the prohibition of camping in other locations when there is no available shelter; and

WHEREAS; this Ordinance is intended to comply with the Court's decision in *Martin v. Boise* by limiting the areas; and

WHEREAS, law enforcement will comply with *Martin v. City of Boise* by making an inquiry of individuals, in certain situations and places as set forth herein, to ascertain whether they are homeless and offer them safe and legal shelter; and

WHEREAS, if no overnight shelter is available, then the provisions of this Ordinance will not be enforced, except in those areas specifically noted; and

WHEREAS, the City of Camas will continue to treat homeless individuals with respect, and dignity, striving to minimize harm and trauma, and in recognition that compassion in the truest sense is best served by enforcing reasonable limitations on the use of public facilities while offering assistance to those who find themselves in unfortunate circumstances; and

WHEREAS, the City has entered into an agreement with other local jurisdictions to create the “Ending Community Homelessness Organization” and is a participant in the Clark County Council for the Homeless which leads the regional effort to prevent and end homelessness in Clark County including the receipt of funding available for local organizations for the purpose of improving the coordination of existing services, including programs offering available overnight shelter for individuals experiencing homelessness; and

WHEREAS, the City by and through Chapter 12.32 of the Camas Municipal Code has heretofore adopted certain provisions related to time and place use of parks, including a general prohibition of camping as set forth in Section 12.32.090 which, by this Ordinance, shall be repealed and replaced by the specific terms herein;

NOW, WHEREFORE, THE COUNCIL OF THE CITY OF CAMAS DO ORDAIN AS FOLLOWS:

Section I

A new Chapter 12.34 of the Camas Municipal Code entitled “Unlawful Camping and

Storage of Personal Property on Public Property” is hereby added to the Camas Municipal Code to provide as follows:

Chapter 12.34 Unlawful Camping and Storage of Personal Property on Public Property

Sections:

- 12.34.010 Purpose.
- 12.34.020 Definitions.
- 12.34.030 Unlawful camping or Storage of Personal Property in public places.
- 12.34.040 Penalty for Violations.
- 12.34.050 Enforcement.

12.34.010 Purpose.

The purpose of this Chapter is to prevent harm to the health or safety of the public and to promote the public health, safety and general welfare by prohibiting camping and storage of personal property on public property, which interferes with the rights of others to use the areas in the manner for which it is intended.

12.34.020 Definitions.

The following definitions are applicable to this Chapter:

- A. "Available Overnight Shelter" means a public or private shelter, with an available overnight space, open to an individual experiencing homelessness at no charge. Available Overnight Shelter also includes a hotel or motel that is temporarily made available to an individual experiencing homelessness at no charge.
- B. "Camp" means to pitch, use, or occupy camp facilities for the purposes of habitation, as evidenced by the use of camp paraphernalia.
- C. "Camp facilities" include, but are not limited to, tents, huts, temporary shelters. "Camp facilities" does not include tents, huts, or temporary shelters when used temporarily in a park for recreation or play during daylight hours when the park is open to the public.
- D. "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks or cooking facilities or equipment.
- E. "Park" means such properties and facilities as defined in Section 12.32.005 of the Code. Park also includes all associated areas, including parking lots for parks.
- F. "Public Property" means any real property, building, structure, equipment, sign, shelter, vegetation, trail, and public open space, including all associated areas such as parking lots, controlled or owned by the City or any other governmental agency.

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

H. "Street" means any highway, lane, road, street, right-of-way, sidewalk, boulevard, alley, and every way or place in Camas open as a matter of right to public pedestrian and vehicular travel.

12.34.030 Unlawful Camping or Storage of Personal Property in public places.

A. It shall be unlawful for any person to camp or to store personal property, including camp facilities or camp paraphernalia, in the following areas:

1. Any park; or
2. Any street; or
3. Any public property, improved or unimproved.

12.34.040 Penalty for Violations.

- A. Violation of any of the provisions of this Chapter is a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. Notwithstanding, the maximum fine imposed for a first conviction for violation of this Chapter shall be no more than one hundred dollars (\$100.00).
- B. Prior to imposing any fine for violation of this Chapter, the Court shall make an inquiry into a person's ability to pay. The Court is explicitly authorized to impose a requirement to perform community service in lieu of paying a fine.

12.34.050 Enforcement.

- A. A violation of CMC 12.34.030 shall be enforced at all times within 100 feet of the nearest edge of the Columbia River, Washougal River, Lacamas Lake, Lacamas Creek, and Round Lake; within any part of Crown Park, Forest Home Park, Dorothy Fox Park, Grass Valley Park, and Prune Hill Sports Park; or within 200 feet of any play or sports field, playground equipment, or picnic areas or shelters within any other designated City Park.
- B. Except as provided in subsection (A) of this Section, a violation of CMC 12.34.030 shall be enforced as follows:
1. Prior to issuing any citation or arrest pursuant to this Chapter, the investigating officer shall inquire whether the unlawful camping and storage of personal property is due to homelessness. If the officer learns that such is the case, the officer shall determine, in accordance with relevant department policy, there is Available Overnight Shelter to accommodate the subject of the investigation. If the officer determines there is no Available Overnight Shelter, the officer shall

not issue a citation.

2. If the officer determines there is Available Overnight Shelter, the officer may, within their discretion:
 - a. Provide directions to the shelter location; or
 - b. Offer one-time transport to the shelter locations.
3. Any individual who refuses to accept the shelter space offered is subject to citation or arrest pursuant to Section 12.34.040.

Section II

Camas Municipal Code Section 12.32.090 is hereby repealed.

Section III

This ordinance shall take force and be in effect five (5) days from and after its publication according to law.

PASSED by the Council and APPROVED by the Mayor this _____ day of _____, 2022.

SIGNED: _____
Mayor

ATTEST: _____
Clerk

APPROVED as to form:

City Attorney