



TOWN OF ELIZABETH

PATRICK G. DAVIDSON, TOWN ADMINISTRATOR

TO: Honorable Mayor, Mayor Pro Tem, and Board of Trustees
FROM: Patrick Davidson, Town Administrator
DATED: February 11, 2025
SUBJECT: Prohibition Against Public Camping

BACKGROUND

Challenges have been made through the Courts that local ordinances which prohibited public camping were a violation of the United States Constitution. Specifically, the argument was that the prohibition against public camping on public property was “cruel and unusual punishment” under the Eighth Amendment of the United States Constitution. This question was resolved by the United States Supreme Court in the case of City of Grants Pass, Oregon v. Johnson, 144 S. Ct. 2022 (June 28, 2024).

In the decision, the Supreme Court held that: (1) municipalities may impose criminal penalties for sleeping and camping outside, even when no shelter alternative is available, and (2) the Eighth Amendment *limits the types of punishment* a municipality may impose and has no relation to the *types of behavior* a municipality chooses to criminalize.

ANALYSIS

The Town of Elizabeth may, should it so choose, specifically prohibit public camping on public property.

STAFF RECOMMENDATION

The Town Attorney and Staff recommend that a specific ordinance be adopted to prohibit camping on public property.

BUDGET CONSIDERATIONS

N/A

ATTACHMENTS

An Ordinance Amending Section 11-6-90 of the Town of Elizabeth Municipal Code Regarding the Prohibition Against Public Camping.

ORDINANCE 25-03

AN ORDINANCE AMENDING SECTION 11-6-90 OF THE TOWN OF ELIZABETH MUNICIPAL CODE REGARDING THE PROHIBITION AGAINST PUBLIC CAMPING

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF ELIZABETH, COLORADO, THAT:

Section 1. Section 11-6-90 of the Elizabeth Municipal Code is hereby amended to read as follows:

Sec. 11-6-90. Camping on public property is prohibited.

(a) Legislative intent.

(1) To protect the public health, safety, and welfare of the Town and its residents by prohibiting undesirable activities or conduct on public property which may substantially interfere with the public's use and enjoyment of such public places.

(2) To allow for the removal of personal property reasonably believed to be the result of unauthorized camping upon reasonable and adequate notice and providing an opportunity for individuals to retrieve removed personal property upon request to the Town.

(b) In this Section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

Camp means to reside or dwell temporarily in a place with shelter. The term *shelter* includes without limitation any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing. The term *reside or dwell* includes without limitation conducting such activities as eating, sleeping, or the storage of personal possessions.

Personal property means any item that is reasonably recognizable as belonging to a person and that has apparent utility, including without limitation personal identification, eyeglasses, money, or jewelry.

Public place means any street, alley, sidewalk, pedestrian or transit mall, bike path, greenway, or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, or other recreational facility; or any other grounds, buildings, or other facilities owned or leased by the Town or by any other public owner, regardless of whether such public property is vacant or occupied and actively used for any public purpose.

(c) It is unlawful for any person to camp upon any public property, except in a location where camping has been expressly allowed pursuant to a permit or as otherwise authorized by the Town.

(d) No officers of the Town of Elizabeth Police Department shall issue a citation, make an arrest, or otherwise enforce this Section against any person unless the officer orally requests or orders the person to refrain from the alleged violation of this Section and, if the person fails to comply after receiving the oral request or order, the officer tenders a written request or order to the person warning that if the person fails to comply the person may be cited or arrested for a violation of this Section.

(e) Cleanup of unauthorized camping sites. Upon violation of this Section, officers may remove and store all unclaimed personal property found at an unauthorized camping site. Illegal items, such as illicit drugs and any items that reasonably appear to be evidence of a crime, will be turned over to the appropriate law enforcement agency. Any items otherwise not regarded as having apparent utility or that are in an unsanitary condition will be immediately discarded. Removal of personal property under this Section shall be executed pursuant to the following procedure:

(1) At least seventy-two (72) hours prior to the proposed cleanup date, the Town will post a notice stating the date and time of the cleanup. The notice will be posted in the general vicinity of the personal property to be removed.

(2) In the event of the existence of a condition posing an imminent danger of damage or injury to or loss of life, limb, property or health, the Town shall provide a notice of cleanup no more than twenty-four (24) hours prior to the proposed cleanup date.

(3) Personal property removed from illegal camp sites shall be stored in a secure location and shall be held for a period of at least thirty (30) days from the date the cleanup occurred.

(4) After the thirty (30) day storage period elapses, unclaimed personal property will be disposed of by either discarding, recycling, or otherwise disposing of such items as determined by the Chief of Police.

Section 2. Severability. If any section, paragraph clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 3. The Board of Trustees hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The

Board of Trustees further determines that the Ordinance bears a rational relation to the proper legislative objective sought to be attained.

Section 4. This Ordinance shall become effective thirty (30) days after publication.

Read and approved at a meeting of the Board of Trustees of the Town of Elizabeth, Colorado, this _____ day of _____, 2025.

Passed by a vote of _____ for and _____ against and ordered published.

Angela Ternus, Mayor

ATTEST:

Michelle M. Oeser, Town Clerk