

AN ORDINANCE TO AMEND CHAPTER 46 “OFFENSES AND MISCELLANEOUS PROVISIONS” OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Chapter 46 “Offenses and Miscellaneous Provisions” of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Chapter 46 “Offenses and Miscellaneous Provisions” of the Code of Ordinances of the City of New Bern be and the same is hereby amended by adding Section 46-11 “Camping on public property prohibited” as follows:

“Sec. 46-11. Camping on public property prohibited.

(a) Purpose. The streets and public areas within the city should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes interferes with the rights of others to use the areas for which they were intended. Such activity can constitute a public health and safety hazard, which adversely affects neighborhoods and commercial spaces. The purpose of this section is to maintain streets, parks, and other public areas within the city in a clean, sanitary, and accessible condition and to protect the health, safety, and public welfare of the community while recognizing that subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the city. Nothing in this section is intended to interfere with otherwise lawful and ordinary uses of public property.

(b) Authority. This section is enacted pursuant to the authority granted in G.S. §160A-174. Nothing in this section is intended to deter individuals from lawfully exercising any freedom guaranteed under the Constitution of the United States or of the State of North Carolina.

(c) Definitions. Unless otherwise specifically provided or unless otherwise clearly required by the content, the words and phrases defined below shall have the meaning indicated when used in this chapter.

Camp or camping means making preparation to sleep (including the laying down of bedding for the purpose of sleeping), or residing in or using public property for private living accommodations, such as erecting tents or other temporary structures or objects providing shelter; parking of a motor vehicle, motor home or trailer, or mooring of a vessel or any other type of structure for living accommodation purposes; regularly cooking or preparing meals; or other similar activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participant, in conducting these activities, is in fact using the area for camping purposes regardless of the intent of the participant or the nature of any other activities in which he or she may be engaging.

Public park means all city parks, playgrounds, pocket-parks, and plazas.

Public property means (i) any property owned or controlled by the city, including but not limited to, public parks, recreation facilities, streets, alleys, rights-of-way, greenways, bicycle lanes, parking lots, sidewalks, plazas, docks, piers, boardwalks, walkways, yards, cemeteries and city buildings and adjoining public grounds, and (2) any state street, highway and right-of-way, specifically including under any state bridge or overpass located within the city.

(d) Unlawful activities on public property.

1. Except pursuant to a permit issued pursuant to Article II of Chapter 50 or Article III of Chapter 66 of the city code, it shall be unlawful:

a. To sleep, camp or stay overnight in or on any public property.

b. To place tents, temporary shelters or other camping gear on public property owned by the city regardless of whether the tents are occupied and/or contain bedding or camping gear. Umbrellas or unenclosed tents of a “pop-up” nature may be used in city parks subject to compliance with applicable provisions of the North Carolina State Building Code, or park rules or regulations.

c. To leave one’s personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for any prolonged length of time on public property. The term storing personal property shall not include parking a bicycle or other mode of transportation.

2. Exceptions.

a. This section shall not be construed to prohibit the following behavior:

(1) Persons sitting or lying down as a result of a medical emergency;

(2) Persons in wheelchairs sitting on sidewalks;

(3) Persons sitting down while attending parades;

(4) Persons sitting down while patronizing sidewalk cafes; or

(5) Children sleeping in the care of an accompanying adult.

b. This section shall not be enforced as to outdoor facilities designated for use for temporary housing or other accommodations in an emergency, as declared by the city or other governmental agency or official authorized by law to make such declaration.

(e) Enforcement.

1. Whenever an officer has probably cause to believe that a violation of this section 46-11 has occurred, the officer shall advise the person of the violation and may offer the person an opportunity to be transported by an officer to a shelter, if available. If a shelter is available and the person elects to be transported to a public shelter, the officer may make available such transportation as may be available for such purpose.

2. Camping as defined in this section is deemed a public nuisance, and the city may summarily remove a temporary shelter, bedding, and personal property if the owner cannot be located, or if the owner refuses to remove such materials and personal property.

3. All personal property removed from a camp on public property shall inventoried and stored by the police department. The personal property shall be stored for a minimum of ten (10) days during which it will be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed for ten (10) days may be disposed of consistent with police department policies. For purposes of this subsection, personal property means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be held by the police department pursuant to department policies.

(f) Penalty.

a. Any person who violates any of the provisions of this section 46-11 shall be guilty of a misdemeanor and be subject to a fine not to exceed \$50.00 pursuant to G.S. §160A-175 and G.S. §14-4, provided that a written warning shall be issued for a first violation of this section.

b. This section 46-11 may also be enforced through the issuance of a civil penalty as provided in section 1-8 of the city code, or through injunctive or other equitable relief, or a combination of remedies.

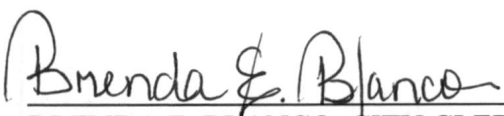
(g) Severability. If any provision of this section is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and shall continue in full force and effect.

SECTION 2. This ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 25th DAY OF MARCH, 2025.



JEFFREY T. ODHAM, MAYOR



BRENDA E. BLANCO, CITY CLERK