

ORDINANCE NO. 7596

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 10-3, ARTICLE IV, SECTION 10-3-45 PROHIBITING CAMPING ON MUNICIPAL FACILITIES AND PUBLICLY OWNED PROPERTY AND PROVIDING AFFIRMATIVE DEFENSES; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, buildings, structures, and their accessory grounds, lawns, plazas, porches, and parking lots owned by the City of Amarillo, (hereinafter "municipal facilities") or other governmental entities ("public property") exist for the sole purpose of conducting the business of and operations of local government; and,

WHEREAS, citizens, public employees, vendors, contractors, and others must be assured of free ingress and egress to municipal facilities and other public property for the intended purposes of those facilities and properties; and,

WHEREAS, the experience of other U.S. cities is instructive, indicating that camping at, in, or on a municipal facility or other public property has negative secondary effects: obstruction of the public purposes of such facilities; poses a health and sanitation risk; creates a security issue; creates a noise, sight, and smell nuisance; and is intimidating to other persons desiring to peaceably enter that municipal facility or public property for its intended purposes, to-wit: to carry on business with the government—all being against and counter to the public purpose intended for each municipal facility and public property; and,

WHEREAS, there are alternative venues available, both within and near the city of Amarillo which are specifically equipped (such as sanitation, safety, security, and other) for persons to camp overnight; and,

WHEREAS, the City of Amarillo and other governmental entities conduct public hearings, forums, and meetings in designated rooms at designated facilities, during which public speech and redress of grievances not only allowed, but actively encouraged, in the due course of government business; and,

WHEREAS, the City of Amarillo has traditionally allowed the use of the front steps of City Hall, lawn, and parking lot for expressive activity during daylight hours on days and in ways that do not interfere with the conduct of normal public business and operations of City Hall or other municipal facilities; and,

WHEREAS, there are alternative venues and means of communicating expressive messages both to the general public and government officials other than by camping on or in a municipal facility with the attendant negative secondary effects identified above; and,

WHEREAS, no person, group, topic, or viewpoint is entitled to any greater preference or deference in the use of municipal facilities than any other for demonstrations, pickets, or other similar activity; and,

WHEREAS, the City Council finds that the provisions of this ordinance are a reasonable time, place, and manner restriction that balances the First Amendment rights of citizens as well as the rights of non-expressing citizens and public employees to each be able to go about their intended business with the government at facilities that are provided for the conduct of public business; and,

WHEREAS, the City Council has heretofore created and appointed the Ad Hoc Advisory Subcommittee, Continuum of Care, and charged its members with reviewing Sec. 10-3-45 and making recommendations to the Council; and,

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Published
4/15/16
4/22/16
Effective
5/2/16

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WHEREAS, citizens, public employees, vendors, contractors, and others must be assured of free ingress and egress to municipal facilities and other public property for the intended purposes of those facilities and properties; and,

WHEREAS, the experience of other U.S. cities is instructive, indicating that camping at, in, or on a municipal facility or other public property has negative secondary effects: obstruction of the public purposes of such facilities; poses a health and sanitation risk; creates a security issue; creates a noise, sight, and smell nuisance; and is intimidating to other persons desiring to peaceably enter that municipal facility or public property for its intended purposes, to-wit: to carry on business with the government—all being against and counter to the public purpose intended for each municipal facility and public property; and,

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WHEREAS, the City Council finds that the provisions of this ordinance are a reasonable time, place, and manner restriction that balances the First Amendment rights of citizens as well as the rights of non-expressing citizens and public employees to each be able to go about their intended business with the government at facilities that are provided for the conduct of public business; and,

WHEREAS, the City Council has heretofore created and appointed the Ad Hoc Advisory Subcommittee, Continuum of Care, and charged its members with reviewing Sec. 10-3-45 and making recommendations to the Council; and,

WHEREAS, the Ad Hoc Advisory Subcommittee, Continuum of Care, has dutifully and diligently performed the charge given, and has made substantive, important recommendations to the City Council and the community;

WHEREAS, the City Council has determined thereas the following amendments are necessary and appropriate to protect the health, safety and welfare of the citizens of the City of Amarillo.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS:

SECTION 1. The Amarillo Municipal Code, Chapter 10-3, Article IV Section 10-3-45 be and hereby is amended to read as follows:

Sec. 10-3-45. Camping on Municipal Facilities and Public Property.

(a) Definitions. The following term shall have the meaning shown.

(1) *Camp or Camping* means and includes to stay in, on, or at a Municipal Facility or upon Public Property between the hours of 12 midnight and 5:00 a.m., unless permission has been given by the entity that owns or controls such facility or property. There is no required or minimum equipment or supplies necessary to constitute the act of camping, vehicle.

(2) *Municipal Facility* shall mean and include, for purposes of this section, every structure, building, or land owned by the City of Amarillo for the purposes of conducting any business or operation of municipal government, and includes all accessory areas such as but not limited to porch, steps, ramps, grounds, walks, lawn, yard, plaza, parking lot. It includes but is not limited to City Hall, the Simms Building, libraries, police and fire stations, civic/convention center complex; fleet service center, water towers, water and sewage treatment plants. For purposes of this section, the term does not include a park.

(3) *Public property* means such places as are described in (2) above, but which are owned or controlled by another governmental entity.

(4) “Available beds” means the available and specifically designated as sleeping quarters for persons who are homeless. The Amarillo Homeless Management Information System (AHMIS) Report shall establish the number of Available Beds for each reporting year. (5) “Shelter Space” is synonymous with Available Beds.

(6) “Unsheltered Person means an individual with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground.

(7) "Unsheltered Population" means the number of persons determined to be unsheltered in the City by the most recent annual Point-in-Time count required by the U.S. Department of Housing and Urban Development.

(b) Offense. It is hereby declared to be a class C misdemeanor offense for a person to Camp:

(1) in, upon, or at a Municipal Facility; (excluding designated areas provided for public employees or volunteers for their use within the scope of their duties); or

(2) in, upon, or at a public right-of-way including a sidewalk, street, alley, highway, culvert, or any other Public property.

(c) Abatement. Camping in, upon, or at a Municipal Facility or Public Property in violation of this section is a nuisance that may be abated by summary removal of tents, bedding, and other personal belongings and equipment.

(d) Affirmative Defenses It is an affirmative defense that a person was Camping:

(1) by temporarily parking a recreational vehicle, bus, pick-up camper, travel trailer, or similar vehicle or trailer: (i) in a lawful manner, time, and place on a public street in accordance with applicable state law and City ordinance, or (ii) in a parking lot adjacent to the Amarillo Civic/Convention Center for the duration of an event at the Amarillo Civic/Convention Center Complex (including set up and take down for such an event), provided that such person: is a vendor, tenant, producer, cast, crew, or exhibitor for such an event; and who obtains a permit from the Director of the Civic/Convention Center Complex; and, complies with all applicable rules and rents established by the Director; or, (iii) in, on, or at such other location that is owned or under the control of another governmental entity, when and as may be permitted by that entity,

(2) in a public park if, when, and as such activity may be allowed by park rules and in strict compliance with the terms thereof.

(3) If a person is an Unsheltered Person and if sufficient Shelter Space is unavailable because there are inadequate Available Beds for the Unsheltered Population, as determined by the Annual Report of Available Beds.

(e) Annual Report of Available Beds. The Health and Human Services Director or designee shall prepare and maintain a complete listing of all service providers for Unsheltered Persons within the corporate limits of the City. Each service provider shall provide their total available beds and these shall be determined to be the total "available beds" as defined by this ordinance. The annual report shall be maintained in the official records of the City, and shall be available for public review.

The annual report may be revised by the Health and Human Services director or designee in the event a service provider materially changes the total available beds provided.

(f) Intent.

(1) This ordinance is not intended to deny or to unduly restrict any person's temporary use of a public sidewalk or other traditional public forum for demonstrations, pickets, marches, and other lawful expressive activity, provided that such person does not Camp in violation of this section, obstruct passage to other persons or vehicles, or otherwise violate applicable state law or city ordinance.

(2) This ordinance is not intended to deem the status of involuntary homelessness (whether temporary or permanent) as a violation of this or any other City ordinance, but to make the prohibited acts defined in this ordinance subject to reasonable and prudent enforcement to protect the public, health, safety and welfare.

(3) Nothing herein shall be deemed to authorize or allow a person or persons to camp, stand, sit, or lie in or upon a Municipal Facility, or Public Property, or a public right-of-way in such a way as to interfere with the use or operation of such Municipal Facility or Public Property or public right of way for the intended purposes and to carry on public business, and for the benefit of the public desiring to peaceably enter a Municipal Facility or Public Property for its intended purposes.

Sec. 10-3-45 10-3-46 to 10-3-60. Reserved

SECTION 2. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 3. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.


SECTION 4. Penalty. A violation of this ordinance is an offense punishable in accordance with Section 1-1-5 of this code of ordinances.

SECTION 5. Publishing and Effective Date. This ordinance shall be published and become effective according to law.

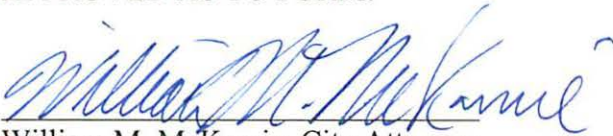
INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the 5 day of April, 2016; and PASSED on Second and Final Reading the 12 day of April, 2016.


Paul Harpole, Mayor

ATTEST:


Frances Hibbs, City Secretary

APPROVED AS TO FORM:


William M. McKamie, City Attorney


Amarillo Globe-News
P.O. Box 2091 Amarillo, Texas 806-376-4488
Legal Notice

Amarillo Daily News

CITY OF AMARILLO
ATTN ACCTG DEPT - GEN ACCT LEGALS
PO Box 1971
AMARILLO TX 79105

REFERENCE: 1000501044
G3559016 OrdNo7596

THE STATE OF TEXAS
BEFORE ME, a Notary Public in and for the State of Texas,
personally appeared


LEGAL CLERK of the Amarillo Globe-News Publishing Company,
after being by me duly sworn did dispose and state that the
above statement is true and correct and the attached was
published on the dates set forth therein.

NOTICE OF PASSAGE OF ORDINANCE

Ordinance No. 7596 passed on April 12, 2016 amending the Amarillo Municipal Code, Chapter 10-3, Article IV, Section 10-3-45 prohibiting camping on municipal facilities and publicly owned property and providing affirmative defenses; providing for severability; providing for a repealer clause; providing a penalty; providing an effective date.

It is an offense to violate any part of this ordinance, punishable upon conviction in accordance with Section 1-1-5 of the Amarillo Municipal Code of Ordinances.

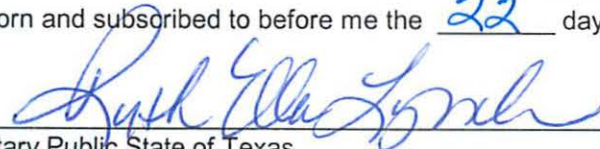
This ordinance shall become and be effective on and after ten (10) days following the date of its second publication as required by the Charter of the City of Amarillo but in no event later than May 2, 2016.

Frances Hibbs, City Secretary

PUBLISHED ON: 04/15
04/22

FILED ON: 04/15/2016

Sworn and subscribed to before me the 22 day of April 20 16


Notary Public State of Texas

