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Ordinance: 22-2036-ORD

407 E. Laurel Avenue
Foley, AL 36535

File Number: 22-0419

Enactment Number: 22-2036-ORD

AN ORDINANCE PROHIBITING CAMPING IN CERTAIN PUBLIC PLACES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOLEY AS FOLLOWS:

SECTION 1. That Chapter 11 of the Code of the City of Foley is hereby amended by adding the following new Article VI and the following sections:

Chapter 11, Article VI - Camping

Sec. 11-150. Definitions.

For purposes of Chapter 11, Article VI, the following terms will have the following meanings:

(1) "Camp" or "Camping" means to prepare to use, or to use, an area outside of a habitable structure as a site for living accommodations using some form of shelter.

(2) "Living accommodations" means to sleep, rest and/or store personal belongings.

(3) "Shelter" means anything intended, designed or being used to help protect a person or their belongings from outdoor weather conditions or to make living outside more comfortable. The term "shelter" includes, but is not limited to, such things as a vehicle, trailer, tent, tarpaulin, lean-to, sleeping bag, bedroll, mats, blankets, boxes, and/or plastic bags. The term "shelter" does not mean articles of clothing being worn by a person.

Sec. 11-151. Camping prohibited; exceptions.

(a) It shall be unlawful for any person to intentionally or knowingly camp on public property in the corporate limits or police jurisdiction of the City of Foley, including parks, right of ways, or any other City-owned property, without the express permission of the City Council or Mayor.

(b) It shall be unlawful for any person to intentionally or knowingly camp on publicly or privately owned property in the corporate limits or police jurisdiction of the City of Foley without the express consent of the owner or tenant of the property.

(c) The actor's intent or knowledge may be established through evidence

of activities commonly associated with preparing, using, or sustaining living accommodations, including, but not limited to: (1) cooking or having cooking equipment; (2) making a fire; (3) storing assorted personal belongings; (4) digging or making changes to the land to accommodate a person staying for an extended period of time; (5) sleeping; and/or (6) having materials for or erecting some form of shelter. The actor's intent or knowledge may also be established by their refusal to cease the conduct prohibited by this Article when directed by the owner, tenant, or law enforcement officer.

Sec. 11-152 - Penalties; Defenses.

(a) Any person found guilty of violating any provision of this Article shall, upon conviction for such violation, be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00), and, in addition thereto, such person may, at the discretion of the court, be imprisoned for a period not to exceed six (6) months. Each calendar day of camping constitutes a separate offense under this Article.

(b) An accused may raise as an affirmative defense at trial that they did not have the criminal intent to violate this Article if they can prove to the satisfaction of the Court that, at the time of their arrest or citation, that they: (i) were experiencing involuntary homelessness; (ii) had tried to avail themselves of a homeless shelter or approved camping site in Baldwin County or a surrounding county; and (iii) that no homeless shelter or approved camping site was available to them in Baldwin County or a surrounding county.

SECTION 2. That the provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the part or parts that remain.

SECTION 3. That this Ordinance shall be effective within the corporate limits and the police jurisdiction of the City of Foley immediately upon its adoption and publication as required by law.

PASSED, APPROVED AND ADOPTED this 6th day of September 2022.

President's Signature _____

Date _____

Attest by Clerk _____

Date _____

Mayor's Signature _____

Date _____