

CITY OF KENNEWICK
ORDINANCE NO. 5959

AN ORDINANCE RELATING TO REGULATING PUBLIC CAMPING AND
ADDING CHAPTER 9.54 TO THE KENNEWICK MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Chapter 9.54 of the Kennewick Municipal Code, be, and the same hereby is, added to
read as follows:

CHAPTER 9.54 REGULATING PUBLIC CAMPING

9.54.010	Purpose.
9.54.015	Definitions.
9.54.020	Unlawful camping.
9.54.025	Storage of personal property in public places.
9.54.030	Removal of unauthorized encampments and individual camps.
9.54.040	Penalty for violations.
9.54.050	Enforcement suspended.
9.54.060	Severability.

9.54.010 Purpose.

It is the purpose of this chapter to prevent harm to the health and safety of the public and environment, and to promote the public health, safety and general welfare and environment by keeping public streets, sidewalks, parks, and other City-owned and/or City-maintained public property within the City readily accessible to the public, and to prevent use of City-owned and/or City-maintained public property for camping purposes or storage of personal property which interferes with the rights of others to use the areas for the purposes for which they were intended.

(Ord. 5959 Sec 1., 2021)

9.54.015 Definitions.

The following definitions are applicable in this chapter unless the context otherwise requires:

- (1) *Actively Engaged in the Process of Exiting Homelessness*: “Actively Engaged in the Process of Exiting Homelessness” means an individual is presently participating in the activities necessary to achieve housing, whether temporary or permanent. The City of Kennewick recognizes that availability of permanent housing, transitional housing and treatment services will impact an individual’s ability to successfully move out of homelessness into housing; and therefore, there are no specific timelines outlined within Chapter 9.54 KMC. Such status

shall be determined by the city manager or designee. When determining whether an individual is actively engaged in the process of exiting homelessness, the city manager or designee shall take into account whether the individual is:

- (a) Actively working with or enrolled in a Benton and Franklin County Health and Human Services outreach program for emergency shelter and/or transitional housing; or
 - (b) Working with the Housing Authority or similar service provider seeking transitional housing; or
 - (c) Actively working with a street outreach program towards permanent housing or any other intervention requested by the individual (for example, treatment); or
 - (d) Participating in any other activity, program, or process deemed necessary to secure permanent housing.
- (2) *Camp*: “Camp” means to pitch, erect or occupy camp facilities, or to use camp paraphernalia or both, for the purpose of, or in such a way as will facilitate, remaining overnight, or parking a camper, recreational vehicle, trailer, or other vehicle for the purpose of remaining overnight.
- (3) *Camp Facilities*: “Camp Facilities” include, but are not limited to, tents, huts, temporary shelters, campers, recreational vehicles, or trailers.
- (4) *Camp Paraphernalia*: “Camp Paraphernalia” includes but is not limited to tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.
- (5) *Contraband*: “Contraband” means any property that is unlawful to produce or possess.
- (6) *Emphasis Area*: “Emphasis Area” means an identifiable area where the City has removed an encampment and has designated an encampment-prohibited area by installing signage as provided in KMC 9.54.030(3).
- (7) *Litter*: “Litter” shall have the same meaning as used in KMC 10.08.050 as adopted or may be amended.
- (8) *Park or Park Facility*: “Park or Park Facility” means any real property, building, structure, equipment, sign, shelter, swimming pool, vegetation, playground, or other physical property owned or controlled by the City for park purposes. Park or park facility includes all associated areas, including but not limited to parking lots for parks and pools.
- (9) *Personal Property*: “Personal Property” means an item that is:
- (a) Reasonably recognizable as belonging to a person;
 - (b) In its present condition has apparent utility and/or value; and
 - (c) Is not hazardous or unsanitary.
- (10) *Right-of-way*: “Right-of-way” shall have the same meaning as is stated in KMC 18.09.1820.

- (11) *Solid waste*: “Solid waste” shall have the same meaning as used in RCW 70A.205.015(22) as adopted or may be amended.
- (12) *Storm Water Drainage Facility*: “Storm Water Drainage Facility” shall have the same meaning as is stated in KMC 14.28.010(7).
- (13) *Store*: “Store” means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- (14) *Trail*: “Trail” means a public path constructed for the primary purpose of allowing recreational non-motorized transportation.
- (15) *Unauthorized Encampment*: “Unauthorized Encampment” means one or more camp facilities in an identifiable area which appear to be used for unlawful camping. For purposes of this chapter an identifiable area includes areas where the camp facilities are in sight of each other and/or areas where each camp facility is located within 300 feet of another camp facility.

(Ord. 5959 Sec 1., 2021)

9.54.020 Unlawful camping.

It is unlawful for any person to camp in the following City-owned and/or City-maintained areas, except as otherwise provided by the Kennewick Municipal Code or where specifically designated:

- (1) Any right-of-way;
- (2) Any trail, park, or park facility;
- (3) Any publicly owned parking lot or publicly owned area, improved or unimproved;
- (4) Any publicly owned storm water drainage facility; or
- (5) Any other City-owned or City-maintained property.

(Ord. 5959 Sec 1., 2021)

9.54.025 Storage of personal property in public places.

It is unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following City-owned and/or City-maintained areas, except as otherwise provided by the Kennewick Municipal Code:

- (1) Any right-of-way;
- (2) Any trail, park, or park facility;
- (3) Any publicly owned parking lot or publicly owned area, improved or unimproved;
- (4) Any publicly owned storm water drainage facility; or
- (5) Any other City-owned or City-maintained property.

This section shall not apply to vehicles, including trailers, recreational vehicles, and campers, which are unoccupied and parked in rights-of-way, unless otherwise prohibited by law.

9.54.030 Removal of unauthorized encampments and individual camps.

Upon a determination by law enforcement or designated City personnel that an area constitutes an unauthorized encampment or that an individual is engaged in unlawful camping or storage of personal property in public places, the personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed subject to the following provisions:

- (1) If the unauthorized encampment, unlawful camping, or unlawful storage of personal property results in an immediate and significant risk of harm to any person or impedes pedestrian or vehicular traffic, then police, City staff, or contracted agent may immediately remove any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste, which shall be stored or disposed in the same manner as set forth in KMC 9.54.030(2)(b).
- (2) Prior to removing property from an unauthorized encampment or unlawful camp, or removing personal property unlawfully stored on City-owned or City-maintained public property other than those specified in KMC 9.54.030(1), the following shall occur:
 - (a) The City shall post at least a 72-hour advanced notice, which shall include the following:
 - (i) The address or location of the unauthorized encampment, unlawful camping, or unlawful storage of personal property;
 - (ii) A statement that camping or storage activity is prohibited by KMC 9.54.020 and/or 9.54.025;
 - (iii) A statement that any individual continuing to use the area for unlawful camping or storage of personal property may be subject to criminal penalties pursuant to Chapter 9.54 KMC;
 - (iv) A statement that any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste remaining after the notice period is subject to removal and, as may be applicable, temporary storage by the City.
 - (b) At the end of the 72 hour notice period, any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed by City personnel or agents thereof.
 - (i) Any personal property that is removed shall be stored by the City for at least 60 days prior to being disposed.
 - (ii) Notice of where personal property removed from the encampment may be claimed shall be posted at the location.
 - (iii) If the name and contact information for the owner of a particular item of personal property can reasonably be identified, the City

shall attempt to contact the identified owner and provide notice that the item has been removed and how to claim the item.

- (iv) Any contraband located at the area shall be seized and properly disposed or retained as evidence of criminal activity.
- (v) Any litter or solid waste found at the area shall be properly disposed.

(3) The City may identify a specific area as an Emphasis Area.

- (a) An area may not be identified as an Emphasis Area and enforcement of an Emphasis Area shall not commence until an encampment or obstruction removal has occurred, the area is otherwise free of encampments, and the area has been signed as an Emphasis Area.
- (b) If an area has been designated an Emphasis Area, the area will be inspected by the City at least once per week. The area will be signed. The signage shall identify:
 - (i) The location of the Emphasis Area;
 - (ii) Camping is prohibited in the Emphasis Area;
 - (iii) Any camping material and/or storage of personal property found in the Emphasis Area may be removed without further notice;
 - (iv) Where any personal property removed is stored; and
 - (v) How any stored personal property may be claimed by its owner.
- (c) Individuals camping in an Emphasis Area and their encampment associated personal property may be removed immediately as outlined in KMC 9.54.030(2)(b)(i)-(v).
- (d) The City shall identify no more than 10 Emphasis Areas at any one time.

(Ord. 5959 Sec 1., 2021)

9.54.040 Penalty for violations.

Violation of any of the provisions of Chapter 9.54 KMC is a misdemeanor, and shall be punished upon conviction of such violation by a fine of not more than \$1,000 or by confinement not to exceed 90 days, or by both such fine and confinement.

(Ord. 5959 Sec 1., 2021)

9.54.050 Enforcement suspended.

- (1) Except as otherwise provided in this section, enforcement of criminal provisions of this chapter shall be suspended any time there is no space or beds available in regional homeless shelters that accept patrons from the City, or there are no emergency shelter vouchers through the Benton and Franklin Health and Human Services available, to the extent such available space or beds are required by law.

In such circumstances, all provisions of this chapter shall continue to apply to camping, storage of personal property, including camp facilities and camp paraphernalia, and unauthorized encampments at the following:

- (a) The real property containing City Hall; Public Works Facilities, Kennewick Police Station, all Fire Stations, Water and Waste Water Treatment Plants, all City Parks, Community Center, _____;
 - (b) Park facilities, including but not limited to all buildings, structures, equipment, signs, shelters, swimming pools, water recreation facilities, playgrounds, bathrooms, courts or designated sports fields available for reservation, or any other fixture or improvement and the real property within 30 feet of such facilities. Unless constructed as a part of such park facility, natural vegetation shall not be considered a “park facility” for purposes of this section;
 - (c) Public rights-of-way and City-owned real property within 30 feet of such rights-of-way; and
 - (d) Publicly owned storm water drainage facilities.
- (2) Enforcement of the criminal provisions of this chapter may also be temporarily suspended by law enforcement or the city manager or designee for the purpose of allowing an individual actively engaged in the process of exiting homelessness to continue working towards exiting homelessness; provided, that such suspension shall not authorize any individual to be located at any of the locations identified in KMC 9.54.050(1). Such suspension may only occur during the period while an individual is actively engaged in the process of exiting homelessness. Nothing in this section shall guarantee or create rights to have enforcement of this chapter waived or suspended for any individual found to be violating the terms of this chapter. This section shall not preclude enforcement of this chapter against a person actively engaged in exiting homelessness where the violation results in a significant risk of harm to any person or impedes pedestrian or vehicular traffic, or where the person violates any other federal, state, or local law. Failure to work toward exiting homelessness and/or failure to follow other park and City regulations will result in immediate enforcement of Chapter 9.54 KMC subject to shelter bed availability as required by law. The city manager or their designee may adopt such rules and procedures necessary to identify individuals actively engaged in exiting homelessness and to notify the Kennewick police department of such individuals.
- (3) Nothing in this chapter shall preclude enforcement of any other federal, state, or local laws.

(Ord. 5959 Sec 1., 2021)

9.54.060 Severability.

If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, or the application of

the provision to other persons or circumstances is not affected.
(Ord. 5959 Sec 1., 2021)

Section 2. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 21st day of December, 2021, and signed in authentication of its passage this 21st day of December, 2021.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5959 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this 22nd day of
December, 2021.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION_____