

ORDINANCE NO. XXX-24/25

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE IV OF THE PEKIN CITY CODE TO PROHIBIT STORAGE OF PERSONAL PROPERTY AND UNAUTHORIZED CAMPING AND/OR SLEEPING ON PUBLICLY OWNED PROPERTY WITHIN THE CITY OF PEKIN

WHEREAS, the City of Pekin is a home rule municipality as described in Section 6(a), Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, the City of Pekin, as a home rule municipality, may exercise power and perform any function pertaining to its government and affairs, including, but not limited to, the power to legislate for the protection of the public health, safety, and welfare; and

WHEREAS, Chapter 5, Article IV of the Pekin City Code regulates the use of public streets, sidewalks, and other public property within the City in order to maintain and promote the public health, safety and welfare, to provide for the effective management of public property, and to provide for the continued enjoyment and accessibility of public property by all Pekin residents and the public at large; and

WHEREAS, the use of the streets, sidewalks, and other public places for storing personal property and for camping and/or sleeping purposes interferes with the rights of others to use the areas for the purposes for which these public areas were intended and can create a public health and safety hazard that adversely affects surrounding areas and the public at large; and

WHEREAS, using public property to store personal property and for camping and/or sleeping purposes causes the City to incur increased costs for policing, maintenance, sanitation, garbage removal, animal control, protection of the surrounding environment, and other problems which arise; and

WHEREAS, the City Council of the City of Pekin finds it is in the best interests of the City and its residents to prohibit storage of personal property and camping and/or sleeping on City sidewalks, streets, and public places in order to preserve those spaces for their intended uses;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS:

Section 1. The findings and recitations set forth above are found to be true and correct and are adopted herein.

Section 2. Chapter 5, Article IV of the Pekin City Code is amended by the addition of a new Division 10 as follows:

DIVISION 10. - CAMPING AND/OR SLEEPING ON PUBLIC PROPERTY

Sec. 5-4-10-1. – Purpose

The purpose of this Division is to prevent harm to the health and safety of the public and to promote the public health, safety, and general welfare by prohibiting unauthorized camping and/or sleeping on public property within the City, which interferes with the right of others to use the areas for the purpose for which they were intended.

Sec. 5-4-10-2. – Definitions.

The following definitions shall apply in the interpretation and enforcement of this Division:

Bridge means a structure, including the approaches thereto, erected in order to afford passage over any obstruction in public road, railroad, or other right-of-way, or to afford passage under or over existing public roads, railroads, or to other rights-of-way.

Camp or *camping* means to pitch, use, or occupy camp facilities, or to use camp paraphernalia, or both, for the purpose of temporary or permanent dwelling, lodging, or habitation. Camp or camping does not include the use of public property or public facilities for recreational use or for authorized public or private events that involve the use of tents, awnings, or other structures in connection with such recreational use or authorized public or private event.

Unauthorized encampment means the collection of camp facilities, camp paraphernalia, and/or personal property used for unauthorized camping in violation of this Ordinance.

Camp Facilities include, but are not limited to, tents, huts, temporary shelters, campers, recreational vehicles, or trailers. Camp facilities do not include tents, huts, or temporary shelters, when used temporarily in a park for recreation or play during the daylight hours when the park is open to the public.

Camp paraphernalia includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, blankets, **pillow(s)**, mattresses, or cooking facilities and similar equipment.

Department means the Pekin Police Department.

Park means any publicly owned area controlled by the City or other government entity for park or conservation purposes. Park also includes all associated areas, including but not limited to parking lots for parks.

Public Property means, without limitation, any real property, building, structure, equipment, sign, shelter, vegetation, greenspace, playground, bench, trail, picnic shelters, recreational athletic fields, and public open space, including all associated areas such as parking lots, controlled, or owned by the City of Pekin or any other unit of government or governmental agency.

***Sleeping* means the act of occupying a Public Property while either (1) maintaining a static, near static, or still body position and (2) appearing to be in a state of unconsciousness, with or without the use of any camp paraphernalia, for any period of time and in all instances excluding a person seated or located on Public Property for recreational opportunities.**

Street means any highway, lane, road, street, (including adjacent shoulders, medians, and terrace areas), right-of-way, sidewalk, boulevard, alley, and every way or place in the City open as a matter of right to public pedestrian and vehicular travel.

5-4-10-3. – Camping and/or Sleeping on Public Property Prohibited.

(a) It shall be unlawful for any person to camp, or to engage in the activity of camping:

(1) On, under, or within any street, sidewalk, right-of-way, park, bridge, or other public property within the City; or

- (2) In any pedestrian or vehicular entrance to public or private property abutting a public right-of-way; or
- (b) It shall be unlawful for any person to park a vehicle on any street, right-of-way, park, or any other public property between the hours of midnight and 6:00am for the purpose of sleeping or camping in said vehicle.
- (c) It shall be unlawful for any person to sleep on any publicly owned property within the City of Pekin, including but not limited to sidewalks, streets, alleys, parking lots, parks, or any other public property owned by the City of Pekin or any other unit of government or governmental agency.

Exceptions:

1. **Emergency Situations:** Where the individual is experiencing a medical emergency or is in immediate danger to health or safety, provided that such individual shall be required to leave the public property as soon as the emergency has been abated.
2. **Permitted Activities:** Any activity authorized by a special event permit or other lawful authorization by the City of Pekin or Pekin Park District, provided that the person engaging in such activity is complying with the terms of the permit or authorization.
3. **Authorized Emergency Shelters:** Individuals who are participating in or utilizing services of an emergency shelter operated or authorized by the City of Pekin.
4. **Park Recreation:** Individuals, families, or groups lawfully using parks or other designated recreational areas for their intended purposes, such as picnics, family gatherings, sporting event, or other forms of leisure. This exception does not permit or authorize sleeping as defined in this ordinance.

Sec. 5-4-10-4. – Enforcement.

- (a) The chief of police, or their designee(s), will have primary responsibility for the enforcement of this Division. Nothing in this Division shall prevent the chief of police, or their designee(s), from obtaining voluntary compliance by way of warning, notice, education, or coordination with other willing public or private entities and/or community members.
- (b) Prior to issuing any citation pursuant to this Division, the investigating officer shall provide a verbal and/or written warning to cease such unlawful conduct and a verbal and/or written referral for possible alternatives to their present camping practices, such as (without limitation), transportation, shelter, and/or contact information to public or private agencies who may be able to provide services or support. Any public or private entities who wish to assist the Department in effectively and humanely transitioning individuals from unauthorized encampments on public property to an alternative environment consistent with City Codes should contact the Department with a description of what services they can provide and effective contact information.

Sec. 5-4-10-5. – Penalties.

- (a) Any person who violates a provision of this Division shall, upon conviction thereof, be subject to a fine of no more than one hundred dollars (\$100.00).
- (b) Any person who commits a subsequent violation of this Division, which occurred within thirty (30) days of a prior violation, shall, upon conviction thereof, be subject to a fine of no more than five hundred dollars (\$500.00).
- (c) Each occurrence of a violation of this Division or, in the case of a continuous violation, each day a violation occurs or continues, may constitute a separate offense and may be punished separately.

Section 3. Chapter 5, Article IV of the Pekin City Code is hereby amended by the addition of a new Division 11 as follows:

DIVISION 11. – STORAGE OF PERSONAL PROPERTY ON CITY PROPERTY

Sec. 5-4-11-1. – Purpose.

The purpose of this Division is to maintain public areas in clean, sanitary and accessible condition, to prevent harm to the health or safety of the public, to prevent the misappropriation of public property for personal use, and to promote the public health, safety and general welfare by ensuring the public property remains readily available for its intended uses.

Sec. 5-4-11-2. – Definitions.

Personal property means any and all tangible property, including, but not limited to, items, goods, materials, merchandise, furniture, equipment, fixtures, structures, clothing, household items, camping paraphernalia. The term “personal property” shall not include (i) any garbage, litter, rubbish, or refuse, as defined in section 5-6-2-1-2 of this Code, (ii) any vehicle as defined in the Illinois Vehicle Code, (iii) a mailbox and related supporting structure located on City right-of-way adjacent to property the mailbox serves, (iv) any ground level landscaping located on City right-of-way between the curb or edge of street and the property line that is maintained by the owner or occupant of the property immediately adjacent to such City right-of-way (this exception does not permit the placement of any trees, shrubs, or bushes in the City right-of-way), or (v) any garbage collection receptacles and associated garbage from the adjacent property that is placed on the City right-of-way for pick up by the City or similar garbage collection services.

Public Property means, without limitation, any real property, building, structure, equipment, sign, shelter, vegetation, greenspace, playground, bench, trail, picnic shelters, recreational athletic fields, and public open space, including all associated areas such as parking lots, controlled, or owned by the City of Pekin or any other unit of government or governmental agency.

Street means any highway, lane, road, street, (including adjacent shoulders, medians, and terrace areas), right-of-way, sidewalk, boulevard, alley, and every way or place in the City open as a matter of right to public pedestrian and vehicular travel.

Sec. 5-4-11-3. – Storage of personal property on public property prohibited.

- (a) No person shall store, accumulate, mass together, or maintain personal property on public property. All storage of personal property as provided in this section may be impounded

by the City. In the event personal property placed on public property otherwise interferes with the safe or orderly management of the premises or poses a threat to the health, safety, or welfare of the public, such personal property may be impounded at any time by the City.

- (b) Personal property placed on public property shall be deemed to be stored personal property if it has not been removed from public property within twenty-four (24) hours of service of the written notice required by section 5-4-11-4, and the City may cause the removal or impoundment of such stored personal property. Moving the personal property to another location on public property shall not be considered removing the personal property from public property for purposes of this section. This section shall not apply to personal property placed on public property pursuant to statute, ordinance, permit, regulation, or other City authorization, which shall specifically include being on or using City parks and other City facilities or public spaces for their intended public purpose.

Sec. 5-4-11-4. – Notice prior to removal.

- (a) No personal property shall be impounded and removed from public property by the City until written notice of intent to impound or remove shall be given as provided in this section. The written notice shall contain the following:
 - (1) A description of the personal property to be removed (such description may refer to an attached photograph).
 - (2) The location of the personal property.
 - (3) The date and time the notice was served.
 - (4) The section of this Code that is being violated.
 - (5) A statement that the personal property will be impounded if not removed within twenty-four (24) hours.
 - (6) The location where the impounded property will be stored.
 - (7) A statement that impounded property will be sold or otherwise disposed of if not claimed within thirty (30) days after impoundment.
- (b) The written notice required by this section shall be deemed to have been served if a copy of the written notice is personally served on the person storing the personal property or is posted prominently and conspicuously on the stored personal property.
- (c) If a shopping cart is removed and impounded pursuant to this section, the City shall attempt to notify the retail establishment which owns such shopping cart of the location where the shopping cart may be claimed. Any shopping cart not reclaimed by the owner or owner's agent within thirty (30) days after the date of written notice may be disposed of as personal property valued at less than one thousand dollars (\$1,000.00).

- (d) Nothing in this section shall prevent immediate removal, without warning or notice, by the City of any garbage, litter, refuse, or rubbish, or of any personal property that (i) is unlawfully possessed, (ii) creates a legitimate health and safety concern, (iii) is blocking a street, sidewalk or vehicular or pedestrian entrance to public property, or (iv) creates an immediate and substantial danger to the environment.

Sec. 5-4-11-5. – Storage and disposal of impounded property.

- (a) Impounded personal property shall be moved to a place of storage designated by the Department. The owner of impounded personal property shall bear the responsibility for the risk of any loss or damage to the impounded property while it is being stored by the Department.
- (b) At least thirty (30) days prior to the disposal of impounded personal property, the City shall have served notice in writing apprising the owner of the personal property of the description and location of the impounded personal property, and that the City intends to sell, donate, or otherwise dispose of the impounded property if the owner does not reclaim the property prior to its disposal. Service of written notice shall be by personal service or by certified mail, return receipt requested, to the last known address of the owner of impounded property if the owner is known or can reasonably be determined. Where the identity or address of the owner is unknown or cannot be determined through the exercise of reasonable diligence, the notice shall be posted on the public property where the property was impounded or seized.
- (c) Impounded personal property that remains unclaimed after notice is provided pursuant to subsection (b) above may be sold by negotiation or at public auction, disposed of or sold as junk, kept by the City, or donated to any other governmental agency or charitable organization.
- (d) Any impounded personal property which is deemed unsafe, hazardous, or perishable may be disposed of immediately in any manner and without notice. Unsafe, hazardous, or perishable personal property will be deemed to include, but not be limited to, used syringes, garbage, trash, items infested with pests or soiled with bodily fluids or other biohazards, items for personal hygiene, and food.
- (e) The City shall maintain a record of the date and method of disposal of the impounded personal property, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such record shall be kept as a public record for a period of not less than one year from the date of disposal of the property.

Sec. 5-4-11-6. - Proceeds of sale.

Any proceeds from the sale of impounded property shall be held in trust for and may be claimed by the owner of the property for thirty (30) days after the sale, after which time the proceeds shall be paid into the City's general fund.

Sec. 5-4-11-7. - Reclamation of impounded property.

The owner or any person entitled to the impounded personal property may reclaim the property prior to its disposal, or may claim the proceeds from the sale thereof, upon submitting satisfactory proof of ownership or entitlement.

Sec. 5-4-11-8. - City not liable.

The City of Pekin, its officials, officers, employees, and agents shall not be liable to the owner of impounded personal property because of any disposal of property made pursuant to this Division. The remedies available to the owner of impounded personal property are limited to those provided in this section.

Sec. 5-4-11-9. - Removal of city-posted signs.

It shall be unlawful for any person to remove a sign posted by the City pursuant to the provisions of this Division unless authorized by the Police Department to do so.

Sec. 5-4-11-10. - Penalty.

Any person violating the provisions of this Division shall upon conviction thereof be subject to a fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each offense, and such person shall be deemed guilty of a separate offense for each and every day during which said violation shall continue.

Section 4. The Police Department is directed to develop and maintain a policy to include procedural guidance regarding the implementation of this Ordinance. The Department shall consult relevant professional resources and engage interested community members, service providers, or other willing public or private entities when designing and implementing this policy. The policy shall be implemented no later than 12 months after the passage of this ordinance. The policy shall provide for the collection of relevant data that may be used to review and revise the manual as needed from time to time, but in no case less than once every three (3) years. Said revision shall be made in the same manner the policy is developed.

Section 5. If any provision, clause, sentence, paragraph, subsection, or part of this Ordinance, or application thereof to any person or circumstance, shall for any reason be judged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance and the application of such provision to other persons or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, subsection, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, subsection, or part thereof had not been included.

Section 6. This Ordinance is hereby ordered to be published in pamphlet form by the City Clerk and said Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 7. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 8. This Ordinance shall be in full force and effect from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

PASSED AND APPROVED at the regular meeting of the City Council of the City of Pekin, this _____ day of _____, 20____; and upon roll call the vote was as follows:

AYES: _____ NAYS: _____ ABSTAINING: _____

APPROVED this _____ day of _____, 20____

Mayor

ATTEST:

City Clerk