

CITY OF UNION GAP, WASHINGTON
ORDINANCE NO. 2984

AN ORDINANCE of the City of Union Gap, Yakima County, Washington. Adopting a new Chapter 8.54 to the Union Gap Municipal Code regarding regulation of camping on public property, and other matters relating thereto,

WHEREAS, pursuant to Article XI, Section 11 of the Washington Constitution and RCW 35A. 11. 020, the City of Union Gap (City) is authorized to regulate public property, including City Hall, parks, public rights-of-way, and all other public property within the City; and

WHEREAS, camping on public property, including City Hall, parks, public rights-of-way, and other public property, is a public health and safety concern due to interference with other intended uses, such as daily operations of the City, park recreational activities, pedestrian, bicycle and vehicular traffic, and other public uses; and

WHEREAS, camping without adequate sanitation services, such as sewer, water, and garbage, presents a public health and safety concern due to increased risk of spread of disease and potential for citizens contracting illnesses; and

WHEREAS, public property is intended for, and should be, available to the public for its intended purposes, including daily City operations, park recreational use, pedestrian, bicycle and vehicular transportation, and other public areas; and

WHEREAS, camping in such public areas does not allow the public to use those areas for the intended purposes; and

WHEREAS, camping should only occur in designated campgrounds with property facilities; and

WHEREAS, pursuant to *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019) the Ninth Circuit Court of Appeals (1) determined that the United States Constitution prohibits imposition of criminal penalties for sitting, sleeping, or lying outside on public property, on homeless individuals who could not obtain shelter; and (2) identified that ordinances prohibiting sitting, lying, or sleeping outside at particular times or in particular locations may be constitutionally permissible since other public space would still be available, regardless of available shelter space; and

WHEREAS, the City Council hereby finds that the regulatory requirements established by the proposed amendments are necessary for the preservation of the public peace, health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNION GAP, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. **Findings.** The City Council hereby finds that the recitals set forth above are hereby adopted as findings for this Ordinance and incorporated herein as such.

Section 2. **Adoption.** Title 8 of the UGMC is hereby amended by adding a new chapter, to be designated “Chapter 8.54 Regulating Public Camping” as set forth below:

8.54.010 Purpose.

It is the purpose of this chapter to prevent harm to the health and safety of the public and to promote the public health, safety and general welfare by keeping public streets, sidewalks, parks, and other public property within the City readily accessible to the public, and to prevent use of 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.

8.54.015 Definitions.

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

“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.

“camp facilities” include, but are not limited to, tents, huts, temporary shelters, campers, recreational vehicles, or trailers.

“camp paraphernalia” includes, but is not limited to tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.

“contraband” means any property that is unlawful to produce or possess.

“litter” shall have the same meaning as used in RCW 70.93.030(6) and (11) as adopted or may be amended.

“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.

“personal property” means an item that is:

1. reasonably recognizable as belonging to a person;
2. in its present condition has apparent utility and/or value; and
3. is not hazardous or unsanitary.

“right-of-way” shall have the same meaning as is stated in UGMC 17.02

“solid waste” shall have the same meaning as used in RCW 70.95.030(22) as adopted or may be amended,

“store” means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

“trail” means a public path constructed for the primary purpose of allowing recreational nonmotorized transportation.

“unauthorized encampment” means two 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 structure.

8.54.020 Unlawful camping.

It is unlawful for any person to camp in the following areas, except as otherwise provided by the Union Gap Municipal Code or where specifically designated by the owner of such property:

- A. Any right-of-way;
- B. Any trail, park, or park facility;
- C. Any publicly-owned parking lot or publicly-owned area, improved or unimproved; or
- D. Any public area where camping obstructs or interferes with the intended public use of the property.

8.54.025 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 areas, except as otherwise provided by the Union Gap Municipal Code:

- A. Any right-of-way;
- B. Any trail, park, or park facility;
- C. Any publicly-owned parking lot or publicly-owned area, improved or unimproved; or
- D. Any public area where storage of personal property obstructs or interferes with the intended public use of the 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.

8.54.030- Unauthorized encampments. Upon a determination by law enforcement that an area constitutes an unauthorized encampment, the personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed subject to the following provisions:

- A. If the unauthorized encampment is on park or park facilities, City Hall, or is at a location which results in a significant risk of harm to any person, then police may immediately remove any personal property, camping paraphernalia, camp facilities, and all other

property, contraband, litter, and solid waste, which shall be stored in the same manner as set forth in UGMC 8.54.030(B)(2).

B. Prior to removing property from an unauthorized encampment on public property other than park property or park facilities, City Hall, or at a location which results in a significant risk of harm to any person, the following shall occur:

I. The City shall post at least a 48- hour advanced notice, which shall include the following:

- a. The address or location of the unauthorized encampment;
- b. A statement that camping in the area is prohibited by UGMC 8.54.020, 8.54.025, and/ or 8.54.030;
- c. A statement that any individual continuing to use the area for unlawful camping may be subject to criminal penalties pursuant to chapter 8.54 UGMC.
- d. A statement that any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste remaining at the encampment after the notice period is subject to removal by the City.

2. At the end of the 48-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.

- a. Any personal property that is removed shall be stored by the City for at least 60 days prior to being disposed.
- b. Notice of where personal property removed from the encampment may be claimed shall be posted at the location.
- c. 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.
- d. Any contraband located at the encampment shall be seized and properly disposed or retained as evidence of criminal activity.
- e. Any litter or solid waste found at the encampment shall be properly disposed.

C. Any individual who receives a notice under this section, or whose property is removed from an encampment, has a right to meet with the City Manager or designee to raise any concerns, objections, or extenuating circumstances. At the conclusion of the meeting, the City representative shall prepare a written decision detailing the individual's concerns, as

well as the City's response. Notice and procedure to set up a meeting shall be posted at or near the encampment site.

8.54.040- Penalty for violations. Violation of any of the provisions of chapter 8.54 UGMC 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.

8.54.050 Enforcement suspended. Except as otherwise provided in this section, enforcement of criminal provisions of this chapter shall be suspended for persons who are indigent and homeless any time there is no space or beds available in regional homeless shelters that accept patrons from the City, 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 real property described in UGMC 8.54.030 (A).

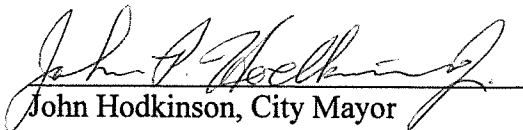
8.54.060 Severability. If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances is not affected.

Section 3. Other sections unchanged. All other provisions of Title 8 UGMC not specifically referenced hereto shall remain in full force and effect.

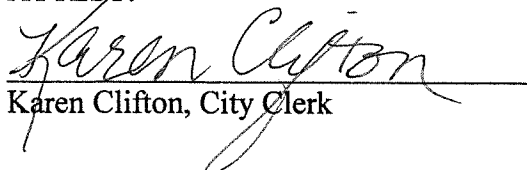
Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 5. Effective Date. This ordinance shall become effective five (5) days after its passage and publication as required by law.

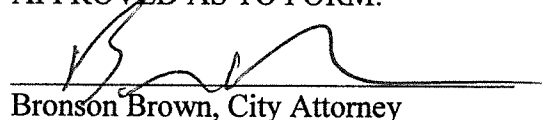
Ordained BY THE CITY COUNCIL this 10th day of February, 2020.


John Hodkinson, City Mayor

ATTEST:


Karen Clifton, City Clerk

APPROVED AS TO FORM:


Bronson Brown, City Attorney