

ORDINANCE NO. 2431

INTRODUCED BY: ALLEN-THOMAS, DAVIS, DOUGLAS, FORD, HURST, HUSEMAN, MADERA, NOBLE

AN ORDINANCE AMENDING THE COMMERCE CITY REVISED MUNICIPAL CODE BY ADDING A SECTION RESTRICTING UNAUTHORIZED URBAN CAMPING

WHEREAS, the City of Commerce City (“City”), is an urbanized municipality containing a variety of zoning districts including industrial, commercial, residential, and planned unit developments, encompassing a wide variety of land uses and population densities;

WHEREAS, communities along the Front Range, including the City and other communities in the Metro Denver area, are experiencing a crisis with regard to providing affordable housing options;

WHEREAS, despite the City’s efforts and programming to provide affordable housing, including those efforts through its Urban Renewal Authority and the lawful utilization of its ability to influence development, the housing crisis, in conjunction with multiple other factors, has caused an increase in persons experiencing homelessness within City limits, and as a result, an increase in camping on private and public property resulting in secondary impacts to the City and its residents, including costs to the City;

WHEREAS, the establishment of outdoor urban encampments has created hazardous conditions for persons living in such encampments, caused environmental degradation, and in some cases, damage to private and public property, including City facilities, and further interfered with the public use of the property, including, but not limited to, the free movement of persons in the public right of way;

WHEREAS, through multiple concurrent initiatives of the City, the City desires to assess the reasons and causes for homelessness, continue to identify persons experiencing homelessness in the City, and provide such persons with meaningful human services and shelter through partner entities and organizations and City programs, while simultaneously protecting private and public property and facilities from damage and degradation;

WHEREAS, as a precursor to providing shelter and needed human services, and in order to protect those private and public properties, the City desires a reasonable and justifiable means to facilitate interaction with homeless persons and facilitate the provision of such services;

WHEREAS, placing a reasonable restriction on camping in the City provides such a tool while further providing the City an opportunity to address the significant secondary effects or urban camping;

WHEREAS, the intent of this ordinance is not punitive, but instead to provide meaningful assistance to persons experiencing homelessness, and in doing so the City Council encourages understanding, compassion, and mercy on the part of City Prosecutors and the Commerce City Municipal Judges with regard to this ordinance and the overall goals to be achieved as reflected herein; and

WHEREAS, the City Council finds it necessary to enact a reasonable restriction on camping on private and public property within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

SECTION 1. Findings. The recitals to this ordinance are incorporated as findings of the City Council. This ordinance is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. Amendment to the Commerce City Revised Municipal Code. Chapter 12, Article III of the Commerce City Revised Municipal Code is hereby amended to add Section 12-3012 – Unauthorized camping on public property restricted, in the form attached hereto.

SECTION 3. Policy and Procedure. The City Manager shall establish policy and procedure, and cause the same to be published on the City web page, addressing the means and manner by which campsites and encampments will be remediated, including provisions addressing notice, the removal and return of personal property, the disposal of trash and hazardous materials, and the remediation of the associated grounds, as may be reasonably necessary in their discretion.

SECTION 4. Repealer. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency.

SECTION 5. Saving Clause. If this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

SECTION 6. Effective Date. This ordinance shall be effective thirty (30) days after the public posting of the policy and procedure referenced herein at Section 2 on the City’s web page.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 19TH DAY OF SEPTEMBER 2022.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 7TH DAY OF NOVEMBER 2022.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk

CHAPTER 12 – PUBLIC PEACE AND SAFETY

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ARTICLE III – OFFENSES INVOLVING PROPERTY

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Section 12-3012. Unauthorized camping on public property restricted

- (a) It shall be unlawful for any person to camp on private property without the express written consent of the property owner or the owner's agent, except in any location where camping has been expressly authorized by the city.
- (b) It shall be unlawful for any person to camp on any public property, except in any location where camping has been expressly authorized by the city.
- (c) No city employee authorized to issue a citation shall issue a citation, make an arrest, or otherwise enforce this section against a person camping on public property unless:
 - (1) A city employee or a law enforcement official has issued the person in a camp a verbal or written order, including a publicly posted notice, to move from the camp and take their property with them; and
 - (2) The city has a shelter option available for the person ordered to move from the camp and the person has been offered placement in the shelter option; and
 - (3) *Exception to this section.* If a person is offered a shelter option and refuses to go to the shelter option and the person refuses or fails to move from the camp location when ordered this person may be issued a citation and is subject to arrest.
- (d) Any person convicted of violating this section shall not be subject to the general penalty provisions as provided in sections 3-2100, *et seq.*
- (e) For purposes of this section:
 - (1) *Camp or camping* means the use of property for the purpose of unauthorized overnight occupancy, or to reside or dwell on public property with shelter overnight, or the use of public property for the purpose of overnight occupancy or longer occupancy. The term "shelter" as used in this definition includes, without limitation, any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing. The term "reside or dwell" includes, without limitation, conducting such activities as eating, sleeping, or the storage of personal possessions. Evidence of unauthorized camps includes, but is not limited to, sleeping, or making preparations to sleep by laying out personal belongings, bedding, bedroll(s), blanket(s), sleeping pad(s), sleeping bag(s), erecting or occupying a tent, makeshift shelter, lean-to, tarpaulin, enclosure, or other structure used for overnight living purposes, or any form of cover or protection from the elements other than clothing, or making preparations for a fire or making a fire (except for fires at sites specifically designated or authorized for a fire by the parks, recreation and golf department (PRG), setting up or using a camp stove, cooking device, or other type of heating source (except

for grills and personal grills permitted in designated areas by PRG). Camp or camping can include using a vehicle for overnight occupancy where overnight occupancy or overnight camping violates city code or a city rule or regulation or is not otherwise authorized by the city. Camping does not include napping during the day or picnicking.

- (2) *Public property* means, by way of illustration but not limited to, a highway, highway median, any street, street median, road, road median, alley, sidewalk, strips of land between streets and sidewalks, lanes, catch basins, pedestrian or transit mall, bike path, greenway, public parking lot, or any other structure or area encompassed within the public right-of-way; any park, parkway, open space, natural area, trail, beach, playground, or other publicly owned recreation facility; a municipal watercourse, bodies of water, watercourses, stormwater infrastructure such as, but not limited to, pond areas, bridges, pipes, inlets and culverts; or any other grounds, buildings, or other facilities owned or leased by the city or by any other public entity, regardless of whether such public property is vacant or occupied and actively used for any public purpose.