

(Published in The Journal Record _____, 2022)

ORDINANCE NO. _____

ORDINANCE RELATING TO MISCELLANEOUS PROVISIONS AND OFFENSES, AMENDING CHAPTER 30 OF THE OKLAHOMA CITY MUNICIPAL CODE, 2020, BY ENACTING A NEW ARTICLE XIX, ENCAMPMENTS; TO INCLUDE THE FOLLOWING SECTIONS; SECTION 30-477, DEFINITIONS; SECTION 30-478, ENCAMPMENT IN A PUBLIC PLACE OR ON PRIVATE PROPERTY PROHIBITED; SECTION 30-479, DEFENSES TO UNLAWFUL ENCAMPMENT IN A PUBLIC PLACE OR ON PRIVATE PROPERTY; SECTION 30-480, PENALTY; AND SECTION 30-481, PROCEDURE FOR ENFORCEMENT OF THIS ARTICLE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OKLAHOMA CITY:

SECTION 1. That Chapter 30 of the Oklahoma City Municipal Code, 2020, is hereby amended by the enactment of a new Article XIX to read as follows:

CHAPTER 30.

MISCELLANEOUS PROVISIONS AND OFFENSES

ARTICLE XIX. ENCAMPMENTS

§ 30-477. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Encampment* or *encamp* means any one or more of the following conditions occurring in an outdoor place:
 - (a) The use of fabric, metal, cardboard, or other materials as a tent or other temporary structure for living accommodation purposes or human habitation; or
 - (b) The use of a heating device; or
 - (c) The accumulation of personal property (other than durable medical equipment) that would not fit in a container three feet high, three feet wide, and three feet deep.
- (2) *Durable medical equipment* means equipment customarily used for medical purposes, able to withstand repeated use, and generally not useful to a person in the absence of illness or injury. Non-exclusive examples of such equipment include wheelchairs, canes, crutches, and portable oxygen tanks.
- (3) *Heating device* means a fire, stove, grill, heater, open flame, or other container or device capable of generating heat.

(4) *Public place* means an outdoor area located within the City that is owned, managed, or controlled by the City, a public school district, a county government, the State of Oklahoma, or the Federal government, to which the public has access, including public rights-of-way, public parks, public streets, public sidewalks, public hiking trails, public biking trails, public transit facilities, public bridges, public underpasses, and public parking lots.

§ 30-478. Encampment in a public place or on private property prohibited.

- (a) Encampment in a public place located within the City without the verifiable permission of the City Council or the City Manager or his designee, of an authorized officer of the specific public school district, of an authorized officer of the county government, of an authorized officer of the State, or of an authorized officer of the Federal government, as applicable based on which public entity owns, manages, or controls the public place, is prohibited, constitutes a trespass as defined by Subsection 30-31(7)(j) of this Code, and is unlawful. The prohibition stated in this Subsection (a) shall not apply to an encampment located in a public place if the encampment has been authorized by statute, ordinance, rule, regulation, permit, resolution, executive order, or any other official action.
- (b) Encampment on private property without the verifiable permission of the record owner or other person in lawful possession of such property is prohibited and constitutes a trespass as defined by Subsection 30-31(7)(j) of this Code and is unlawful.

§ 30-479. Defenses to unlawful encampment in a public place or on private property.

It is an affirmative defense to a prosecution for violation of Section 30-478 of this article that a person at the time of the violation:

- (a) Had the verifiable permission of the City Council or City Manager or his designee, of an authorized officer of the specific public school district, of an authorized officer of the county government, of an authorized officer of the State, or of an authorized officer of the Federal government, as applicable based on which public entity owns, manages, or controls the public place, to encamp or otherwise be present in such public place; or
- (b) Had the verifiable permission of the record property owner or the person in charge of the private property to encamp or otherwise be present on such property; or
- (c) An emergency or necessity reasonably required that person's presence in the public place or on the private property to prevent a different and greater or more significant and immediate harm to that person or someone else.

Any person who raises the affirmative defense of having verifiable permission to encamp or otherwise be present in a public place or on private property, as allowed by Subsections (a) and (b) of this section, must produce in court written proof of permission or sworn testimony of the required public officer, or of the record owner or person in lawful possession of the private property. It is no defense to a violation of this article that a person mistakenly, but in good faith, believed that they had permission, lawful authority, or a right to encamp on the public or private property.

§ 30-480. Penalty.

Any person convicted of violating Section 30-478 of this article shall be guilty of a Class "a" offense.

§ 30-481. Procedure for enforcement of this article.

- (a) A police officer may issue a citation and/or make an arrest for a violation of this article if, prior to issuing the citation or making the arrest:
 - (1) The officer has tendered a written warning to the person stating that a failure to comply with the City's prohibition against encampment may result in the issuance of a criminal citation to the person and/or in the person's arrest, or a written notice has been posted in a clearly visible location at the encampment site; and
 - (2) The officer has provided a reasonable time for the person to comply with the prohibition, but the person has not complied.
- (b) The written warning required by subsection (a)(1) of this section may be accompanied by written information regarding the availability of medical treatment, mental health treatment, drug or alcohol addiction services, or general social services (including temporary shelter, other housing services, and other services that might be available).
- (c) The City shall not protect from damage or theft any unattended personal property belonging to a person who is arrested for violating this article.

§§ 30-482--485. Reserved.

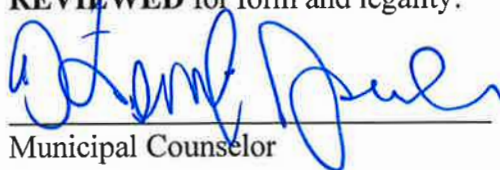
INTRODUCED AND CONSIDERED in open meeting of the Council of The City of Oklahoma City the ____ day of _____, 2022.

PASSED by the Council and **SIGNED** by the Mayor of The City of Oklahoma City this ____ day of _____, 2022.

ATTEST: (Seal)

CITY CLERK

MAYOR

REVIEWED for form and legality.


Municipal Counselor