

ORDINANCE NUMBER _____

An ordinance of the Missoula City Council adding Chapter 12.60, to adopt regulations governing camping on City Right-of-way and other City Property, and repealing Chapter 12.40.010.B, which conflicts with the provisions of the new Chapter 12.60.

Be it ordained that Subsection 12.40.010.B in Chapter 12.40 is repealed, and that Chapter 12.60 be adopted as follows:

12.60.010 Definitions.

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

- A. “Camping” or “camp” is defined as means to pitch, erect, create, use or occupy camp structures for the purpose of habitation.
- B. “Camp structure” or “camp structures” is defined to mean a soft-sided structure intended to provide more than rudimentary protection from the elements such as tents.
- C. “City property” means real property owned by the City of Missoula or an entity chartered, administered, or otherwise owned or operated by the City of Missoula.
- D. “Unsheltered Individual” means an individual having no means to acquire one’s own permanent or temporary housing or shelter; the availability of congregate shelter space does not qualify as shelter for the purposes of this provision.
- E. “Vehicle” means any vehicle as defined in 10.02.390, MMC, including any motor home, camping trailer, tent trailer, truck camper, camper van, car camper, or other recreational vehicle with or without motive power designed for use as temporary living quarters.

12.60.20 Camping on Public Streets in the City Limits.

- A. Camping Permitted Rules. An Unsheltered Individual may camp in a Vehicle on public streets in the City so long as they comply with the rules and requirements of this Chapter.
- B. Vehicle Camping Permit. The City shall establish a permit system to regulate the use of public streets in the City for Vehicle camping. Upon application for a permit, City staff shall determine compliance with the Time and Place regulations set forth in subsection C. and D. The City shall actively monitor for compliance with the Manner regulations set forth in subsection E. The Mayor or their designee is authorized to adopt administrative rules concerning the permit process, and is additionally authorized to close certain public streets to camping, by posting of signs notifying the public of such prohibition, at the Mayor’s or designee’s sole discretion. The notice and posting rules of this Chapter do not apply to routine maintenance and repair of streets, surface transportation infrastructure, or public utility infrastructure, and may require Vehicle campers to move to a new location to allow the project to proceed.

C. Vehicle Camping Time Regulations. Permits for camping in a Vehicle on public streets in the City shall be issued for a period not to exceed 30 days. In the event that the Manner regulations of subsection E. are complied with, the permit may be reissued for up to two additional 30-day periods. In no event shall a Vehicle camping on a public street be located on the same named street for more than 90 days. Regardless of whether the permitted Vehicle has moved through the course of this period, after ninety days the Vehicle may not occupy that named street and must move to a different named street. A person using an unpermitted Vehicle for camping on a public street must move the Vehicle to a different named street after 120 hours.

D. Vehicle Camping Place Regulations. Only one Vehicle may be permitted on a block. In the absence of a defined block, the permit may only be issued if the Vehicle is 150 feet from another Vehicle being used for camping purposes. No more than three Vehicles used for camping purposes per quarter mile of public street. An Unsheltered Individual camping in a Vehicle public streets in the City shall not camp:

1. Adjacent to or immediately across from any parcel or lot containing a residential dwelling.
2. Within 100 feet of a public entrance of any commercial business or non-profit organization.
3. Within 300 feet of (approximately the length of a City block) of any shelter facility (e.g. those providing shelter to unhoused populations, victims of domestic violence, transitional housing, etc...).
4. Adjacent to or immediately across from the boundary of any public park.
5. Adjacent to or immediately across from any parcel or lot containing any public or private school, including secondary, elementary, or preschool, or any lot or parcel containing a daycare.
6. In violation of any posted parking signs or painted curbs prohibiting parking or otherwise limiting the hours of parking.
7. In a bike lane; median; sidewalk; public pathway or trail.

E. Vehicle Camping Manner Regulations.

1. The immediate area surrounding the Vehicle being used for camping on public streets in the City must be maintained in a clean and orderly manner. A clean and orderly manner includes, but is not limited to, all waste, debris and trash being in a container. Personal items, when not actively being used, must be stored inside the Vehicle.
2. No waste, sewage, debris, trash, personal items, or additional vehicles or trailers may be discarded or stored in the right of way, except as outlined in 4, below. Pet waste must be properly disposed of and pets must be leashed.

3. No fires are permitted within the public right-of-way.
4. Generators must be stored and located on a paved surface. Fuel must be in containers designed for the fuel stored therein.
5. Camping within the paved surface of a street may only be done in a Vehicle. Camping on the paved surface of any street in a tent, tarp, or in only sleeping bags, blankets, or other rudimentary forms of protection from the elements, is prohibited.
6. No structures may be built or maintained on the public right-of-way pursuant to Title 12, MMC.

12.60.30 Camping on City Property

- A. Regulated Camping on City Property Allowed. An Unsheltered Individual may camp in a camp structure on City property so long as they comply with the rules and requirements of this Chapter. The rules of this Section only apply to camping on City property, and do not apply to the mere act of sitting, lying or sleeping on City property where such activity is done for limited periods and not involving a camp structure.
- B. Mayor to Develop a Program to Support Urban Camping. In order to allow Homeless Individuals without Access to Shelter to camp successfully pursuant to this Section, where feasible, the Mayor is directed to develop a program to (1) provide lockers/small storage spaces that may be assigned to such individuals; (2) provide for trash collection services in areas used by such individuals; (3) provide for permanent or temporary bathrooms for use by such individuals; and (4) provide other similar services or support to allow clean, safe, and sanitary camping on City property. The Mayor shall have discretion in how the program developed pursuant to this subsection is designed and implemented; however, the Mayor should engage with service providers and nonprofits serving unsheltered individuals, as well as representatives from the unsheltered community, to determine the needs and wants of that community prior to adopting any such program. The Mayor shall periodically provide a report to the City Council concerning this program and engagement with the service providers.
- C. Rules Governing Camping on City Property. An Unsheltered Individual camping on City property must comply with the following time, place and manner regulations:
 1. *Time:* An Unsheltered Individual may camp between the hours of 8 p.m. and 8 a.m. After 8 a.m., an Unsheltered Individual must dismantle the camp structure and remove all personal property and camp structures from the camp site until 8 p.m.
 2. *Place:* No camping in camp structures on City property is permitted, regardless of the availability of shelter space, in the following locations:
 - a. Within 100 feet (approximately the length of a regulation basketball court) of a structure containing a residential dwelling unit (as defined by the 2021

International Building Code, as amended and adopted by the Montana Department of Labor and Industry).

- b. Within 100 feet of a public entrance of any commercial business or non-profit organization.
 - c. Within 300 feet (approximately the length of a standard City block) of any parcel or lot containing any public or private school, including secondary, elementary, or preschool, or any lot or parcel containing a daycare.
 - d. Within 300 feet of any shelter facility (e.g. those providing shelter to unhoused populations, victims of domestic violence, transitional housing, etc...)
 - e. Within 300 feet of an area designated by the Mayor as safe parking sites or designated temporary camping sites.
 - f. Within conservations lands regulated by Chapter 12.40.
 - g. Within McCormick Park, Caras Park, and Westside Park, Jacob's Island Bark Park, and MRL Park, and in other parks not listed no camping within 100 feet of a: playground; splash deck; paved sport court; athletic fields and diamonds (which include only fields and diamonds that are lined for official games; and is not intended to include fields that may occasionally be used for casual play or practice); fishing or skating ponds; dog park; aquatic facility (including splash decks and buildings/facilities that house pools); bandshell; pavilion or other covered structure located within a park regulated by Chapter 12.40.
 - h. On or within 10 feet of a bike lane, public pathway, trail, or trailhead, or so as to block free passage on a sidewalk (sidewalks must have six feet of clear, unobstructed space).
 - i. Within 50 feet of the water's edge for the Clark Fork River, Bitterroot River, Rattlesnake Creek, or Grant Creek, including any side channels or backwaters thereof, where those waterways are located within City limits.
 - j. Areas temporarily or permanently signed no camping due to environmental degradation or because of public health, safety and or welfare concerns.
3. *Manner*: An Unsheltered Individual camping or utilizing a camp structure on City property (for the purposes of this subsection referred to as "campers") shall abide by the requirements of this subsection. Failure to abide by the affirmative requirements outlined below shall be a violation enforceable as laid out in this Chapter.
- a. Campers must maintain access to private property or businesses, leaving entrances/exits unobstructed.
 - b. Campers must keep property clean, sanitary and safe, and thus must properly dispose of all garbage, debris, unsanitary or hazardous materials, sewage, drug paraphernalia, syringes, or other evidence of conspicuous drug use in accordance with the provisions of Chapter 8.28. Personal items, when not

actively being used, must be stored inside a camp structure. Pet waste must be properly disposed of and pets must be leashed.

- c. Campers shall not start or maintain any fire for the purpose of burning any combustible material. CSA or ULC approved portable camp cooking stoves that have a maximum flame length not exceeding 15 cm are allowed and not considered prohibited fires.
- d. Campers shall not camp within the paved boundaries of a street.
- e. Campers shall only use camp structures that are readily and easily portable, such as tents and similar packable structures; and shall not erect, install, place, leave or set up any type of permanent or temporary fixture or structure (for example wood or pallet structures) in or upon City property.
- f. Campers must protect sensitive environmental areas, for example by: (1) not dumping or disposing of waste or garbage in rivers, ponds, waterways or wetlands; (2) not damaging vegetation/trees or infrastructure; and (3) not digging, excavating, terracing soil, cutting vegetation/trees, altering the ground or infrastructure or other cause environmental damage in or around a camp structure.

12.60.040 Designated Temporary Camping Sites and Safe Parking Sites

- A. Mayor to Investigate Designating Camping/Parking Sites. The Mayor is directed to investigate the possibility of designating temporary camping sites and safe parking sites on City property or on private property where the owner of the property is voluntarily willing to allow use of their property under agreed upon terms and conditions enforceable by the City. If the Mayor deems it feasible, practicable, and in the public interest, the Mayor shall bring a proposal to City Council to designate temporary camping sites and safe parking sites on City property or on private property where the owner of the property is voluntarily willing to allow use of their property under agreed upon terms and conditions enforceable by the City.
- B. Rules for Temporary Camping Sites. In the event a temporary camping site is located on City property, no more than 30 camp spots may be located within each site. Individual camp spots should be no more than 10'x10' in size. The City shall provide bike racks for bikes, so that they will not be stored within the camp spot. The camp shall have a central cook space, so that cooking does not occur within a camp spot. The City shall develop rules for the possession and storage of volatile chemicals (e.g. propane, gas, etc...). The Fire Department shall develop and post rules concerning the use of heat sources within the camping site. No open drug use or disruptive behavior shall be allowed within the camp site. The Mayor, or their designee, shall develop other rules of occupancy for the site, including quiet hours that run from at least 10:00pm to 7:00am.
- C. Rules for Safe Parking Sites. The Mayor is authorized to make rules concerning safe parking sites either generally or based upon the circumstances of each site.

D. Agreements with Property Owners Authorized. The Mayor is authorized to execute agreements with private property owners to allow limited camping on private property where the owner of the property is voluntarily willing to allow use of their property for such purposes. Such agreements shall spell out the rules governing the use of the property for such a program, including a maximum number of occupants of a site, rules of occupancy for the site, as well as how campers will be selected for the site (e.g. owner's selection/designation; lottery; first come-first serve, etc...). The City shall enforce the terms of such agreements, including, when requested by the owner of their designated agent, the removal of individuals who violate the rules of occupancy.

12.60.050 Enforcement.

A. Policy Goal and Required Pre-Enforcement Actions. The City believes that enforcement of the rules applicable to an Unsheltered Individual is best achieved through a graduated response with enhanced resources and incentives provided before citations or judicial enforcement is pursued. The City believes that any enforcement action should be compassionate and should attempt to minimize adverse impacts on the individuals subject to the enforcement to the extent feasible and practicable under the circumstances.

1. *Site Assessment and Monitoring Process.* The City shall develop and implement a site assessment, monitoring, and prioritization process to evaluate sites to determine whether enforcement action is justified or whether monitoring and connecting to services may remediate the documented problems.
2. *Required Outreach.* Before conducting an enforcement or abatement action against an individual a city official enforcing this Chapter must:
 - i. Refer an Unsheltered Individual camping on City property or public streets to an available shelter facility or other available temporary housing;
 - ii. Inquire whether the Unsheltered Individual has a caseworker or other established relationships with mental health, substance abuse or other supportive service provider and attempt to contact the applicable caseworker/service-provider, or ensure that other service providers provide this information; and
 - iii. Provide information, in written or verbal format, concerning other available support services for individuals in the situation of the Unsheltered Individual creating the enforcement concern.

B. Violations.

1. *Written Warning Required.* For a first violation of any provision of Chapter 12.60, a violator will be given a written warning identifying the provisions of Chapter 12.60 that were violated. Where possible, the written warning should provide suggested remedies that may correct the violation as well as a timeframe

to correct the violation. The written warning and associated municipal infraction under this Section must occur no less than 24 hours apart.

2. *Violations to Be Enforced as a Municipal Infraction; Criminal Charges not Authorized.* A second or subsequent violation of Chapter 12.60, after a prior written warning or after a prior judgment as a municipal infraction under this Subsection within the previous year, may be enforced as a municipal infraction under Chapter 12.01 of the Missoula Municipal Code. If the City or private party incurs costs to remediate the area around an individual's camp structure due to violations of the Time, Place, and Manner requirements above, those costs may be imposed as restitution in lieu of the civil penalty provided by Section 7-1-4150, MCA.
3. *Deferred Prosecution Agreement or Deferred Imposition of Sentence for First Citation.* The City shall offer a deferred prosecution agreement or the Municipal Court shall impose a deferred imposition of sentence to an individual for their first citation issued to enforce the terms of this Chapter. If no further offenses under this Chapter occur for a period of six months after the deferred prosecution agreement is executed or the deferred imposition of sentence is imposed, the City shall move to dismiss the citation.
4. *Penalty Authorized.* No violation of this Chapter shall be considered a criminal offense; violations of this Chapter shall only be enforced as a municipal civil infraction. Further, City Council directs the Mayor to investigate the feasibility of creating, and if feasible, implementing a Community Service Program and the City desires to impose required community service and/or restitution in lieu of civil penalties; however, where the interests of justice are furthered by the imposition of a civil penalty, the state law defined penalties for municipal infractions are authorized (Section 7-1-4150, MCA). Jail time is not an authorized penalty under this Chapter.

C. Abatement.

1. *120-Hour Notice for Unsanitary or Unsafe Conditions on City Streets.* Except as provided in subsection 2 and 3 below, for violations necessitating abatement due to violations of the regulations set out in this Chapter or otherwise due to unsanitary or unsafe conditions, the City may abate or cause to be abated any debris, trash, camp structure, property, or item left on City property or the public right-of-way by posting a 120-hour notice on or near the camp structure. After 120 hours, any property remaining will be considered abandoned. No notice is required to abate a violation posing an imminent risk to public health or safety.
2. *72-Hour Notice for Unsanitary or Unsafe Conditions on City Property (Not Including Streets).* Except as provided in subsections 1 and 3 herein, for violations necessitating abatement due to violations of the regulations set out in

this Chapter or otherwise due to unsanitary or unsafe conditions, the City may abate or cause to be abated any debris, trash, camp structure, property, or item left on City property (not including City streets) by posting a 72-hour notice on or near the camp structure. After 72 hours, any property remaining will be considered abandoned. No notice is required to abate a violation posing an imminent risk to public health or safety.

3. *24-Hour Notice for Violations of Time or Place Regulations.* The City may remove or cause to be removed any camp structure in violation of the Time or Place regulations after posting a 24-hour notice on or near the camp structure. After 24 hours, any property remaining will be considered abandoned. No notice shall be required if the camp structure is impeding or obstructing traffic or poses an imminent risk to public health or safety.
4. *Notice Contents.* Where notice is required prior to abatement, the notice shall contain information related to the regulation being violated, possible remedies that would resolve the need for abatement, and the timeframe to come into compliance. The notice shall also contain the following statement:

You must remove your belongings from the site within the timeframe stated on the notice. You should not leave behind any belongings you want to keep. All belongings left behind will be removed by the City. Items that are clearly discarded or valueless, hazardous, soiled, or subject to rotting or spoiling will be discarded. The City will store remaining personal property for a period of 30 days. The City will post an Impound Notice if belongings are stored during the clean-up process.

If you think your belongings were stored, you can claim them by following the directions on the Impound Notice after the clean-up is complete. Information about how to claim your belongings is also available on the City's website. You may retrieve any stored belongings without being asked about your criminal background or outstanding warrants.

5. *Procedure During Abatement.* When shelter is available, the City shall provide shelter service information to any person occupying the area to be abated. The City shall evaluate reasonable requests for additional time or assistance to remove items and may accommodate those requests to the extent practicable. Any person who returns to an encampment during an abatement shall be allowed to remove their personal property from the site. The City shall document the abatement through photograph or video recording before the abatement begins and at the time of completion. The City shall also photograph or video record all items to be stored.

6. *Weather During Abatement.* Staff shall monitor the weather leading up to the event to determine whether there may be extreme weather events (such as extreme heat, cold, rain or snow) that could create health or safety risks to unhoused individuals or staff during the abatement event, and if such risks exist the abatement should be delayed under the event passes.
7. *Abandoned Personal Property.* Unclaimed or abandoned items found in an abatement site shall be eligible for storage if: circumstances indicate that the item belongs to a person, the item has apparent utility in its current condition and circumstances (i.e. the item is not damaged, deteriorating, or falling apart), and the item can be safely retrieved from the site.
 - i. Examples of items potentially eligible for storage include identification and associated paperwork, medication stored in medication bottles with identifying information, and items that reasonably appear to have sentimental value in their current condition. An item need not be in a new or perfect condition to have apparent utility.
 - ii. An eligible item found during an abatement shall be put into storage and be able to be reclaimed for a period of 30 days, unless it meets one the following disqualifying conditions:
 1. hazardous, including items contaminated with human waste, animal waste, or bugs, explosives, weapons, liquids, drug paraphernalia, or mold;
 2. likely to become hazardous in storage, including perishables, wet materials that might become moldy, and items covered in mud;
 3. practically un-storable, due to large size, weight, or other similar characteristic;
 4. contraband or stolen; or
 5. is on the City's current list, published on the City's website, of common types of items that, in the experience of City staff, individuals regularly abandon during abatement, and there is no contrary indication as to the specific item.
 - iii. The City shall place a notice of the location to claim stored items at the abatement site. A person may retrieve stored items based on a description with sufficient specificity to demonstrate ownership. A person may retrieve stored items without inquiry into the person's criminal background or outstanding warrants.
8. *Towing Vehicles; Costs.* In the event a Vehicle camp structure belonging to an Unsheltered Individual is towed and/or impounded by the city, no fees will be

associated with the towing or impoundment; however any costs incurred by the City to cleanup public or private property surrounding the towed vehicular camp structure, due to accumulation of garbage and refuse around the vehicle, must be paid to the City before the vehicle is released. In the event the city tows or causes to be towed the same vehicular camp structure more than two (2) times due to violations of this Chapter, costs of towing and impoundment may be assessed.

- 9. *Rescheduled Abatements.* If abatement is delayed or rescheduled, the City may conduct abatement within ten days of the posted Notice of Clean-Up without reposting a new Notice of Clean-Up. If abatement is delayed longer, the City shall repost a Notice of Clean-Up with a new date.

D. Authority to Enforce.

- 1. *Citation Authority.* Citations for a municipal infraction under this Chapter may be issued and enforced by any city law enforcement officer, code enforcement officer, or parking enforcement officer.
- 2. *Abatement/Removal Authority.* Determinations regarding abatement or emergency removal without notice shall be made by the Director of Public Works, the Director of Parks and Recreation, or the Director of Community Planning, Development, and Innovation or their designee.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been for any reason declared invalid or unconstitutional. If any portion of this ordinance is declared invalid or unlawful, then the remaining ordinance provisions shall remain in full force and effect.

EFFECTIVE DATE

This Ordinance shall be effective 30 days after its date of final adoption.

First reading and preliminary adoption on the ____ day of _____, 2024, by a vote of ____ eyes ; ____ nays; ____ abstaining; and ____ absent.

Second and final reading and adoption on the ___ day of _____, 2024 by a vote of ___ ayes; ___ nays; ___ abstentions; and ___ absent.

ATTEST:

APPROVED:

Claire Trimble
City Clerk

Andrea Davis
Mayor

(SEAL)