

ORDINANCE 2020 - 08

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, ADOPTING
A NEW CHAPTER 9.40 ENTITLED "PUBLIC CAMPING"**

WHEREAS; the City of Sunnyside under its powers may regulate public health and safety, and may regulate abandoned vehicles and parking; and

WHEREAS, the City of Sunnyside has in recent months experienced abandoned or inoperable vehicles on city-owned property being used by persons for camping; and

WHEREAS, in an effort to provide the City of Sunnyside the ability to address this particular situation, in conjunction with recent changes in the law, the City is in need of new provisions related to public camping; and

NOW, THEREFORE, the City Council of the City of Sunnyside, Washington, do hereby ordain as follows:

Section 1: Adopted. That a new Chapter 9.40 "Public Camping" of the Sunnyside Municipal Code shall be adopted and is attached hereto as **Exhibit A** to this Ordinance.

Section 2: Severability. If any section, sentence, clause or phrase of this Ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 3: Effective Date of Ordinance. This Ordinance shall be effective five (5) days upon passage, approval, and publication as required by law.

PASSED this 24th day of August, 2020.

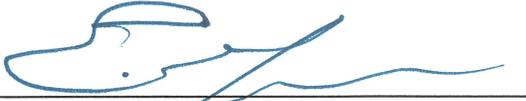


FRANCISCO GUERRERO, MAYOR

ATTEST:


JACQUELINE RENTERIA, CITY CLERK

APPROVED AS TO FORM:



KERR LAW GROUP, PLLC
Attorneys for the City of Sunnyside

Date of Publication: September 2, 2020

EXHIBIT A

Chapter 9.40 PUBLIC CAMPING

Sections:

9.40.010	Purpose.
9.40.020	Definitions.
9.40.030	Unlawful Camping.
9.40.040	Storage of Personal Property in Public Places.
9.40.050	Unauthorized Encampments.
9.40.060	Penalty for Violations.
9.40.070	Enforcement Suspended.

9.40.010 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, parking lots, 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.

9.40.020 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:

- A. Reasonably recognizable as belonging to a person;
- B. In its present condition has apparent utility and/or value; and
- C. Is not hazardous or unsanitary.

"Right-of-way" shall have the same meaning as is stated in SMC 16.24.280

"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 three hundred (300) feet of another structure.

9.40.030 Unlawful camping.

It is unlawful for any person to camp in the following areas, except as otherwise provided by this 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.

9.40.040 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 this 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 and in accordance with SMC 10.08.214.

9.40.050 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 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 Section B.
- 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:
 - 1. The city shall post at least a forty-eight-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 SMC 9.40;
 - c. A statement that any individual continuing to use the area for unlawful camping may be subject to criminal penalties pursuant to SMC 9.40.060.

- 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 forty-eight-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.
3. Any personal property that is removed shall be stored by the city for at least sixty (60) days prior to being disposed.
4. Notice of where personal property removed from the encampment may be claimed shall be posted at the location.
5. 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.
6. Any contraband located at the encampment shall be seized and properly disposed or retained as evidence of criminal activity.
7. Any litter or solid waste found at the encampment shall be properly disposed.
8. 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.

9.40.060 Penalty for violations.

Violation of any of the provisions of this Chapter is a misdemeanor, and shall be punished upon conviction of such violation by a fine of not more than one thousand dollars (\$1,000.00) or by confinement not to exceed ninety (90) days, or by both such fine and confinement.

9.40.070 Enforcement suspended.

Except as otherwise provided in this section, enforcement of provisions of this chapter shall be suspended for persons who are indigent and homeless any time there is no space or beds available in reasonably accessible homeless shelters, to the extent such available space is required by law.