

**CITY OF MONTPELIER
ENCAMPMENT RESPONSE POLICY:
Part I. HIGH SENSITIVITY AREAS**

Policy Summary:

The City of Montpelier and its staff shall take a general non-involvement approach to any found emergency sleeping camp sites, with the particular lens of not criminalizing people creating shelter due to a lack of housing. Staff will intervene and ask encampments to relocate if they are found in “high-sensitivity areas” meeting specific health and safety criteria as outlined in this policy. Staff shall offer to connect people sleeping in “high-sensitivity areas” to any available overnight shelters (a public or private shelter, with an available overnight space, for an individual experiencing homelessness, at no charge).

This Policy Aims To:

1. Establish criteria for determining “high-sensitivity areas,” where encampments are presumed to cause unreasonably high levels of health and safety impacts due to the nature of the location;
2. Emphasize the continued illegality of emergency sleeping encampments, except during times when shelter space is full.

High-Sensitivity Areas:

“High-sensitivity areas” are locations where the health and safety impacts of encampments have a heightened potential to degrade public safety, public health, environmental protection, or critical infrastructure or have the potential to create significant obstruction to residences, businesses, emergency routes, and rights-of-ways.

These areas include public facilities where the presence of encampments could disrupt environmentally sensitive areas, City operations, School operations, and/or present a health or

safety concern to City Staff, School Staff, or Montpelier residents using the facilities. They may also be areas that present significant safety concerns for those who are sleeping.

An encampment in an area that meets this definition is in a per se “high sensitivity area.” In addition to this definition, City Staff shall use any of the following factors for determining whether an encampment is located in a “high-sensitivity area”:

- ***Public health factors:***

- Confirmed case of infectious disease(s) present at encampment;
- Excessive animal or vermin vector hazards (e.g., rats) present at encampment;
- Presence of biological vector hazards (e.g., blood, fecal matter) present at encampment;
- Camping on or encroachment of the grounds of a facility tied to public health (e.g., water treatment or water resource recovery facility) where such activity is interfering or likely to interfere with the operations, integrity, or public health obligations of the facility;
- Notice of public health emergency at a site of an encampment declared by a local, state, or federal public health entity present at encampment; or
- Need for cleaning or restoration, at the encampment site, as identified by City staff.

- ***Public safety factors:***

- Location of an encampment at or on ground adjoining a school, childcare facility, adult day-care facility, or other public facility with serving a young or vulnerable population;
- Location of encampment is on privately owned land and the City has been requested to intervene;
- Location of encampment is on public land where individuals have a private easement or ownership interest or where the City owes a duty to maintain

said lands in perpetual care to the benefit or partial benefit of private individuals (i.e. City cemeteries);

- Location is within 50 feet of the property boundaries of private property (unless adjoining owner consents); Montpelier water treatment facility, Montpelier water resource recovery facility, or Montpelier-Roxbury School District property;
- Individual is a registered sex offender and the location is in violation of his or her on-going terms of probation, parole, or release;
- Location of encampment obstructs or impedes the right-of-way, lane of traffic, bike lane, hydrant, or ADA access;
- Location of encampment such that First Responders (including, but not limited to, Fire, Police, and any health care workers), are impeded in performing their essential government functions;
- Pervasive criminal activity present at encampment;
- Damage to essential infrastructure (e.g., reservoirs, bridges, public utilities, drainage and sewer systems) present at encampment;
- Excessive amounts of waste/garbage/debris as determined by City Staff present at encampment;
- Excessive fire hazards and/or calls for service as determined by Fire and/or Police, including unpermitted outside fires present at encampment;
- Presence of open electrical splices or illegal wiring present at encampment; or
- Storage of tires, gasoline, or propane tanks, and unsafe storage of combustible materials or accumulation of combustible waste present at encampment.

- ***Environmental protection factors:***

- Location of encampment is in an area that is protected, deemed sensitive, or protected from development by federal, state, or local law, such as a wetland, vernal pool, or steep slope;
- The Location of the encampment is within a federal, state, or locally recognized wildlife habitat area;
- The Location of the encampment is interfering with a park, wilderness environment or wildlife habitat;
- The Location of the encampment is in an area where there is concern with erosion;
- The Location obstructs or impedes an established outdoor activity or use, such as mountain biking or hiking;
- Location is an area that the Parks Commission, City Staff, or the Conservation Commission have deemed to be environmentally sensitive or fragile; or
- There is evidence of impairment of a natural resource(s) as a result of the encampment.

Purpose of Designation:

Any designation or action taken under this policy is not intended to penalize an individual found camping under emergency circumstances. Rather this designation is to prioritize the removal and relocation of such individuals in recognition of the public health, public safety, and/or environmental protection issues implicated by the site or circumstances.

Nothing in this policy is intended to permit or affirmatively allow individuals to camp or locate a campsite on public property owned by, controlled by, or within the boundaries of the City

of Montpelier. This policy is intended to address emergency situations where individuals without other resources have been left with no other option apart from camping.

The City recognizes that individuals in these emergency circumstances may not know or be aware that they are siting an encampment in a high sensitivity area. The purpose of this designation and policy is, in part, to educate and assist such individuals in connecting with community services and/or relocating to a site that will not implicate the factors listed above. This policy shall at all times be interpreted and implemented in a manner that affords dignity and care to the individual being asked to move or relocate.

City Intervention:

Encampments determined to be in “high-sensitivity areas” will be subject to intervention, and asked to move or relocate, given their potential degradation to the environment, public safety, public health, or critical infrastructure and/or their presence being an obstruction to egress or presenting specific safety risks.

CITY OF MONTPELIER
ENCAMPMENT RESPONSE POLICY:

Part II. CITY STAFF PROTOCOL

Summary:

Staff shall report any seen encampments, regardless of their location, to the City Manager's Office and the Police Department, who will in turn report the location to the Peer Support Outreach Worker (currently through Good Samaritan Haven) to ensure emergency sleepers can be accounted for in case of an emergency, and to ensure service providers are aware of people who may need connection to further support services.

This Section Aims To:

1. Determine findings that will prompt intervention; and
2. Provide guidance on addressing unreasonable health and safety risks, promoting voluntary compliance, and strategies to address non-compliance.

General City Approach if Staff Encounters an Emergency Sleeping Encampment on

City Owned Property:

- If a City staff member identifies an encampment, regardless of its location on City land, they are asked to leave the campsite alone, other than reporting its location and site description to the City Manager's Office, the Police Department, and their Department Director via email.
 - Copy the following on the email: Department Director, Bill Fraser, Chief Brian Peete, Captain Eric Nordenson, Cameron Niedermayer
- After receiving a report of an encampment, the City Manager's Office will notify the Peer Support Outreach Worker (currently through Good Samaritan Haven).

- This email should note the location, site description, and if the site will require mitigation or other action from the City. This would include whether the site has been identified as a “high-sensitivity area.”
- After receiving a report that a camp is located in a “high-sensitivity area” or if the encampment will prompt an intervention the City Manager’s Office and the Police Department will then coordinate their response as outlined in this policy’s **“Compliance”** section.
- Further outlines for intervention to any campsite is outlined in this policy under **“Findings Prompting Intervention”**.

If a campsite is deemed uninhabited by City Staff, Staff will apply the **“Unattended Camp Clean-Up Protocol Policy”**, which is attached here as **APPENDIX 1**.

General Public Safety Considerations:

- If there are any public safety emergencies requiring a fire, medical, and/or police response at any encampments, it is to be immediately reported to 911, and those departments shall respond according to the ordinances, codes, statutes, and/or regulations under which they operate and are authorized to enforce.
- Regarding public safety considerations that are not necessarily public safety emergencies (e.g. accumulation of trash/debris, right-of-way obstructions, distancing of tents/vehicles/structures, etc.), the City Manager’s Office, in consultation with Department Directors from Public Works, Fire, Police, the Health Officer, and City Council as needed, shall determine the level of intervention depending on specific findings, outlined here in the **“Findings Prompting City Interventions”** section.
- The City will aim to help facilitate public safety by adding trashcans and sharps containers at known encampment sites as needed and available, as determined by findings outlined in the **“APPENDIX 2: City of Montpelier Encampment Response Form”** for each specific situation.

- Departments that are most likely to interact with camps (Parks & Trees, Recreation, Police, Fire, and DPW) will be given copies of the Washington County Survival Guide, which can be distributed as needed to encourage connection to County-wide resources.

Compliance:

The City must balance the rights of individuals who are emergency sleeping against its fundamental duty to maintain public safety, public health, and environmental protection. If a City staff member encounters or receives a complaint of an encampment that may be in a high-sensitivity area or have public health or safety findings, they will notify their department director, the City Manager's Office, and the Police Department.

The City Manager's Office, and the Police Department, and the Department Director will organize the following response:

- Staff will only engage with campsites when social service agencies are normally open and available (typically 8am-5pm)
- Staff will ask the camper to relocate voluntarily
- If the camper does not comply with voluntary relocation, the following steps should be taken:
 - Call a representative from an appropriate partner agency, so they can be on site to provide connections to other local services as available from State and local community agencies.
 - o The first response should come from the Peer Support Outreach Worker, if they are available.
 - If they are not available, or if they need backup or support, responding City staff should convene an on-site meeting with representatives from community partners or other City Departments as available and appropriate
 - Shelter, or a shelter referral, must be offered

- Use the attached “Encampment Response Form” (Appendix 2) to document their observations and conclusions.
- If the encampment residents are unwilling or unable to voluntarily comply, the City may intervene in ways, including but not limited to:
 - Seek out restorative justice opportunities as appropriate and available sleeping
 - Posting the area against Trespassing and having the individuals cited and/or removed in coordination with the State’s Attorney
- City staff will also convene an after-action meeting to determine how we can improve our response.

Except when urgent health and safety concerns require shorter notice, encampment residents will be given 24 hours to relocation or accept an offer of shelter or alternative housing if such referrals are available. All declinations will be documented.

Outreach efforts and service offers will continue, as resources allow, with the goal of ending the individual’s unsheltered status. During this 24-hour period, encampment residents will receive notice that they must remove and relocate any personal possessions. Anything remaining after that time will be subject to the retention policy outlined in the **“APPENDIX 1: Unattended Camp Clean-Up Protocol Policy”**.

APPENDIX 1: Unattended Camp Clean-Up Protocol Policy

Summary:

When City of Montpelier Staff encounters an unattended camp site on City owned land, the City Staff will take the following steps to both ensure the safety and security of the individual(s) and the public land. This policy aims to address the unique needs of people who are experiencing homelessness in the City of Montpelier with the City's overall responsibilities to keep public land protected.

In this policy, "Staff" refers to staff from the department who manages the land an unattended campsite is located on (for example, the Parks & Trees Department would handle camp sites in Hubbard Park). If the land is not maintained by any specific Departments, the City Manager's office, in partnership with the Montpelier Department of Public Works would address the issue.

If an unattended camp site is in a "high-sensitivity" area, as defined in the Encampment Response Policy, the same protocol applies, but with a 3-day (72-hour) time limit for relocation or clean-up.

Procedure:

1. When staff encounter an unattended campsite, they will first announce themselves as City Staff. If no one is present at the campsite, staff will leave a laminated packet prominently displayed on the encampment that includes the following information:
 - a. That sleeping is not permitted in High-Sensitivity Areas of City Property or on Privately owned land (without permission from owner),
 - b. The time/date staff visited, and the time/date that staff will return to the site to remove the encampment, which will be 7 days (168 hours) after the initial visit, unless contact has been made and other arrangements have been made,
 - c. A note will be left explaining that any materials taken in the cleaning of the encampment will be stored out of the elements and labeled if the material is not removed during the 7-day (168-hour) time limit,
 - d. A copy of the Washington County Survival Guide and other supportive materials.

2. Staff will take photos of the encampment, including proof that the notice has been left.
 - a. Staff should attach these photos in an email and send them to their Supervisor and their Department Director.
3. After leaving the notice, staff will notify the Montpelier Police Department and the City Manager's office of the encampment, its location, its contents, and the intention of staff to revisit the site in 7 days (168 hours).
4. After the 7-day (168 hour) period, if the encampment has not been removed, staff will take the following steps:
 - a. Take a photo of the encampment before beginning cleaning
 - b. Leave a notice in a protective covering explaining the above, giving contact information for how to reach the Department to retrieve the items, and leave another copy of the Washington County Survival Guide. Staff will assign the box a number and write the number on the notice
 - c. Remove the encampment and bring it back to the Recreation Center Building basement to be stored for 90 days
 - d. Take a photo after the encampment has been removed
 - e. Notify the CMO and the Montpelier Police Department that the encampment has been dismantled,
 - f. **ALL dismantled camps will be brought to and stored in the Rec Center Basement**
55 Barre Street Montpelier, VT 05602
5. Unclaimed Property- Disposal of:
 - a. When personal property has been in the custody and possession of the City of Montpelier for a period of 30 days, and when reasonable efforts and opportunities have been allowed for the owner to reclaim such property, and no reasonable claim of ownership has been made, the City is empowered and authorized to dispose of such property. Disposal may also include donation of the items.



**CITY OF MONTPELIER
ENCAMPMENT RESPONSE POLICY
Council Approved September 22, 2021**

Contact Numbers:

Good Samaritan: (802) 479-2294

Another Way: (802) 229-0920

Washington County Mental Health: (802) 479-4055

Montpelier Police: (802) 223-3445

Montpelier Parks: (802) 223-7335

Montpelier Recreation: (802) 225-8699

Montpelier City Manager's Office: (802) 223-9502 or (802) 262-6250

Montpelier DPW: (802) 223-9508

APPENDIX 2: City of Montpelier Encampment Response Form

Location: _____

Date and Time of Meeting: _____

Staff/Community Partners Present:

1. General Description of the Encampment Site:

2. General Staff Observations of Encampment:

3. Noted High-Sensitivity Concerns:

4. Health and Safety Findings:

5. Interaction, (if Any), with Unhoused Camper:

6. Next Steps:

Operational policy to address camping in high sensitivity or prohibited areas

Purpose

To set forth policies and procedures supplemental to BCO § 22-7. This policy is intended to be binding on the city and used in conjunction with the requirements of BCO § 22-7, which shall take precedence when there is an unreconcilable conflict between the two. The definitions and processes set forth in § 22-7 shall be applicable to this policy.

Procedures Where Camping is Sufficiently Posted as Prohibited

1. If the City learns of or receives of a report of active camping on public property that is sufficiently posted as prohibited, the Community Affairs Liaison (for purposes of this policy, the term “Community Affairs Liaison” means the Community Affairs Liaison, their designee, or any City employee with appropriate training), and if appropriate other persons with training (i.e., social worker, mental health worker, uniformed police officer) shall go to the camp site to document that the area is sufficiently posted as required by BCO § 22-7 and to attempt to make outreach to the occupant(s). These officers shall, regardless of the determination of sufficiency of posting, also provide information to the residents on the available resources. If there is no individual at the site with whom to speak, the officers shall post a written notice informing residents of the site visit, the reason for the visit, and a summary of the resources that may be available.
2. Documentation of the findings regarding the location, camping site, the sufficiency of posting, and the interactions with the residents and the information provided—if any – shall be made on a public record. There shall be such a record made regardless of whether or not the camp is determined to be in a sufficiently posted area. The filing of the record shall be taken prior to the taking of any further action unless the situation is an emergency, meaning there is an imminent danger of serious harm to a person, the property of someone other than the camper, or the environment that cannot be otherwise abated or mitigated by less drastic measures. If such an emergency exists and immediate action taken, the record shall be filed as soon as practicable, with the documentation of the emergency included with specificity.
3. Upon a determination that the camp site is on land where camping is sufficiently posted as being prohibited, the Liaison shall provide the residents with the notice required by BCO § 22-7(e)(1). The notice shall state the day and time by which the camp must be removed. The determination may be made in the field at the time of investigation if the record of the findings is made and stored in compliance with the Vermont Access to Public Records Act prior to the issuance of the notice. The notice shall be served by giving it to the residents and if a resident is not present, the Liaison shall post or securely place the notice safely on or near to an appropriate nearby item in a manner that is reasonably calculated to provide notice to that absent person. The notice and its service shall be documented in writing and photographically as a public record.
4. In the event that removal of the camping site warranted under the requirements of § 22-7, at the time of removal the Liaison shall provide an additional notice to the residents identifying the city department or office that is responsible for the removal, stating that the items will be stored for at least 90 days in a facility that is environmentally appropriate for the storage of valuable, personal identification documents and similar documents, the location and address where collected items will be stored, how and when they may be reclaimed, and the Liaison’s contact information. The notice shall also provide contact information for local social service organizations serving unsheltered residents, the Coordinated Entry Screening Form (CESF), with instructions and information on other available community resources.
5. The Liaison shall ensure that each individual resident has been referred via receipt of the CESF or begun the Coordinated Entry process, including the completion of the Coordinated Entry assessment.

6. If residents have not left the camping site or removed their property by the date and time specified in the notice, then alternative shelter or a shelter referral shall and must be offered and thereafter an enforcement action may be commenced. The Liaison shall be present. A civil municipal complaint ticket may be issued and the property may be removed and stored. Property determined to be trash shall be photographed and described in a document to be stored as a public record before the property is disposed of. There shall be no removal or ticket issued without confirmation and documentation stored as a public record by the removal team that the required notices have been served.

Procedures Where Camping is in High Sensitivity Areas

1. If the City learns of or receives a report of active camping on public property that is in a high sensitivity area, the Community Affairs Liaison (for purposes of this policy, the term “Community Affairs Liaison” means the Community Affairs Liaison, their designee, or any City employee with appropriate training), and if appropriate other persons with training (i.e., social worker, mental health worker, uniformed police officer) shall attempt to make outreach to the camp site to document that the area is in a high sensitivity area as defined by BCO § 22-7. These officers shall, regardless of the determination of the existence of camping in a high sensitivity area, also provide information to the residents on the available resources. If there is no individual at the site with whom to speak, the officers shall post a written notice informing residents of the site visit, the reason for the visit, and a summary of the resources that may be available.

2. Documentation of the findings and conclusions regarding the location, camping site, the listing and reasoning of the factors related to the presence or not of exigent circumstances and whether or not the camp is in a high sensitivity area, the determination of whether or not a camp is in a high sensitivity area, and the interactions with the residents and the information provided—if any – shall be made on a public record prior to the taking of any further action. There shall be such a record made regardless of whether or not the camp is determined to be in a high sensitivity area. The filing of the record shall be taken prior to the taking of any further action unless the situation is an emergency, meaning there is an imminent danger of serious harm to a person, the property of someone other than the camper, or the environment that cannot be otherwise abated or mitigated by less drastic measures. If such an emergency exists and immediate action taken, the record shall be filed as soon as practicable, with the documentation of the emergency included with specificity.

3. Upon a determination that the camp site is in a high sensitivity area, the Liaison shall provide the residents with the notice required by BCO § 22-7(e)(2). The notice shall state the day and time by which the camp must be removed. The determination may be made in the field at the time of investigation if the record of the findings and conclusions is made and stored in compliance with the Vermont Access to Public Records Act prior to the issuance of the notice. The notice shall be served by giving it to the residents and if a resident is not present, the Liaison shall post or securely place the notice safely on or near to an appropriate nearby item in a manner that is reasonably calculated to provide notice to that absent person. The notice and its service shall be documented in writing and photographically as a public record.

4. In the event that removal of the camping site warranted under the requirements of § 22-7, at the time of removal the Liaison shall provide an additional notice to the residents identifying the city department or office that is responsible for the removal, stating that the items will be stored for at least 90 days in a facility that is environmentally appropriate for the storage of valuable, personal identification documents and similar documents, the location and address where collected items will be stored, how and when they may be reclaimed, and the Liaison’s contact information. The notice shall also provide contact information for local social service organizations serving unsheltered residents, the Coordinated Entry Screening Form (CESF), with instructions and information on other available community resources.

5. The Liaison shall ensure that each individual resident has been referred via receipt of the CESF or begun the Coordinated Entry process, including the completion of the Coordinated Entry assessment.

6. If residents have not left the camping site or removed their property by the date and time specified in the notice, then alternative shelter or a shelter referral shall and must be offered and thereafter an enforcement action may be commenced. The Liaison shall be present. A civil municipal complaint ticket may be issued and the property may be removed and stored. Property determined to be trash shall be photographed and described in a document to be stored as a public record before the property is disposed of. There shall be no removal or ticket issued without confirmation and documentation stored as a public record by the removal team that the required notices have been served.

Procedures when a camp site is on land owned by a person or entity other than the City

1. The Liaison shall notify the City Attorney's Office as soon as a report is made in which it is not clear if the camp site is on City owned or controlled property.
2. The City Attorney's Office shall identify the property owner.
3. If the owner is confirmed to be a person or entity other than the City, the City Attorney's Office shall inform the Liaison who shall contact the owner. The Liaison shall provide assistance to the owner as appropriate.

Additional procedures

1. City staff shall report any seen encampments, regardless of their location, to the Liaison, who will in turn report the location to the appropriate agency, entity, or person to ensure emergency sleepers can be accounted for in case of an emergency, and to ensure service providers are aware of people who may need connection to further support services. A record of this report shall be made and stored as a public record.
2. If there are any public safety emergencies requiring a fire, medical, and/or police response at any camp site, it is to be immediately reported to 911, and those departments shall respond according to the ordinances, codes, statutes, and/or regulations under which they operate and are authorized to enforce.
3. The City will facilitate public health and safety by adding trashcans, port-a-lets, and sharps containers at known camp sites as needed and available.
4. Departments that are most likely to interact with camps (Parks, Police, Fire, and DPW) will be given a resource guide which can be distributed to encourage connection to County-wide resources.
5. If a City staff member encounters or receives a complaint of a camp site that may be in a prohibited area, they will notify their department supervisor who will act in accordance with departmental chain of command procedures to ensure that the Liaison is promptly notified.
6. The Liaison shall attempt to contact the camp occupant(s) to provide contact information for local social service organizations serving houseless residents, the Coordinated Entry Screening Form with instructions, and information on any other available resources. Generally, an appropriate City employee shall accompany the Liaison on the initial outreach attempt and the use of a uniformed police officer should be limited. The Liaison shall only engage with a camp site when social service agencies are normally open and available (typically 8 a.m. – 5 p.m.)
7. If people are present during the initial outreach effort, then appropriate social services agencies should be called and, if possible, immediately be requested to come to the camp site to provide additional information on available resources. The Liaison shall make sure that each camping individual has been referred via receipt of the CCH Coordinated Entry Screening Form or begun the Coordinated Entry process, including the completion of the Coordinated Entry assessment.
8. If no one is present during the initial outreach, the Liaison shall leave the Liaison's contact information, contact information for local social service organizations serving unhoused residents, the Coordinated Entry Screening Form with

instructions, information about other available resources, and the time and date the a subsequent outreach attempt shall be made. The information shall be left in a laminated or other protective material to protect it from the elements. If people are present during a subsequent outreach attempt, then appropriate social service agencies shall be called and requested to immediately come to the camp site to provide additional information on the resources that are available.

9. The Liaison, BPD, CEDO and appropriate social services agencies will make every effort to consult with one another and make sure that all appropriate social service organizations have been contacted and the social service providers have visited the camp site to assist where possible and the individual(s) have been referred through receipt of the Coordinated Entry Screen Form or begun the Coordinated Entry process, including the completion of the Coordinated Entry assessment, and efforts have been made to implement the City's Housing First Policy. This process shall occur whether or not the City takes enforcement action pursuant to BCO § 22-7.

10. The Liaison may contact the City Attorney's Office to assist in the preparation of reports, notices, and other necessary documents. The Liaison and Attorney's Office may create additional procedures and protocols needed to effectuate the requirements of the ordinance and this procedure.

11. City officials removing and storing camp site occupants' possessions shall tag the property with the date, location of the removal, and all other available information related to the item's owner. Items shall be stored in the manner that is reasonably calculated to protect the integrity of the possession and its usability after the storage is completed. The items shall be listed in a log and a photographic record, catalogued by tag number, date and location of removal. The owner of the property shall be given the information needed to recover their property.

12. City officials shall remove trash, hazardous, and other materials in the manner required by law.

13. The Liaison shall be the custodian of the records of stored items and the other records associated with the removal of items. The Liaison shall be the point of contact with the person whose items are stored. People inquiring about lost, removed, or collected items should be referred to the Liaison. The Liaison shall work with people to recover their items from storage and assist in the arrangements of the delivery or pickup of the items within a reasonable amount of time after the request to recover the items. If the owner expresses an emergent need to recover the items, the Liaison shall facilitate the recovery in the soonest possible time. In the event that the owner loses possession of the information needed to recover their property, the owner shall provide information sufficient to provide the Liaison with a reasonable opportunity to locate the property. The Liaison shall maintain a record of recovered items and the person who recovers it, along with contact information that is accurate at the time of recovery.

14. The Liaison shall convene an after-action meeting to determine how to improve the City's policies and procedures and recommend any changes in policies, procedures, and ordinances deemed important.

CITY OF BURLINGTON

SHELTERING ON PUBLIC LANDS: OUTREACH AND REMOVAL POLICY AND PROCEDURES

Section I – Purpose:

The City of Burlington is committed to supporting and maintaining a safe public environment for all residents and visitors of Burlington, both those who live in hard-wall-shelters and those who do not. To those ends, the City will take steps to ensure that individuals without hard-wall-shelters are provided with information on available resources and are given the assistance necessary to go through the Coordinated Entry process. The City also has an affirmative commitment to support the dignity of all people, including those without hard-wall shelters.

The City will try to ensure that individuals are not permitted to camp or set up residences in areas where camping is prohibited under Burlington’s Code of Ordinances or that are otherwise permanently posted, such as in the Urban Reserve. However, generally, an encampment that is on public property and not in a prohibited area and that does not present exigent circumstances will only be noticed for removal if certain criteria are met and outreach efforts are made consistent with the following policy and procedures.

Section II – Procedures for Areas Where Camping is Specifically Prohibited:

1. If the City learns of or receives a report of an active encampment on public property in a part of the City where camping is specifically prohibited through Burlington’s Code of Ordinances or permanent posting, the Community Affairs Liaison (for purposes of this policy, the term “Community Affairs Liaison” means the Community Affairs Liaison, their designee, or any City employee with appropriate training), and usually a uniformed police officer, shall attempt to make outreach to the encampment to provide information on available resources and written notice that camping in that area is prohibited and that if they continue camping in the specifically prohibited area beyond a specified date they may face ticketing, no trespass orders, other legal action, and removal of any remaining items not found to be refuse or hazardous.
2. The notice shall also briefly state the agency responsible for the clean-up, that remaining items will be stored for at least thirty days and if unclaimed within that time will be disposed of, the location and address where the collected items will be stored and how and when they may be reclaimed, and the Community Affairs Liaison’s contact information. The notice shall also provide contact information for local social service organizations serving unsheltered residents, the Coordinated Entry Screening Form with instructions, and information on other available community resources.
3. The Community Affairs Liaison shall ensure that each camping individual has been referred via receipt of the CCHA Coordinated Entry Screening Form or begun the Coordinated Entry process, including the completion of the Coordinated Entry assessment.
4. If there is no individual at the site with whom to speak, the Community Affairs Liaison shall post or securely place the written notice as described above in #1 on or near any items. If possible, the notice should be provided to campers in person. The Community Affairs

Liaison will take and file photographs demonstrating where and when the notices were posted.

5. If the campers have not left or removed their property by the date/time specified, they may be ticketed if they have violated an ordinance, and/or they may receive a notice of trespass if one is warranted. The City will dispose of any trash and remove any property left at the site. City staff will ensure the Community Affairs Liaison has attempted outreach and notice before enforcing the no-camping rules in these areas.

Section III – Procedures for Areas Where Camping is not Specifically Prohibited:

Sub-Section A – Outreach:

1. If the City learns of or receives a report of an active encampment in a part of the City where camping is not specifically prohibited, the Community Affairs Liaison, or designee, shall attempt to make outreach to the encampment to provide contact information for the Community Affairs Liaison, contact information for local social service organizations serving unsheltered residents, the Coordinated Entry Screening Form with instructions, and information on other available resources. . Generally, an appropriate City employee shall accompany the Community Affairs Liaison on this initial outreach attempt, and the use of a uniformed police officer should be limited.
2. If people are present during this initial outreach attempt, then appropriate social services agencies should be called and, if possible, immediately come to the encampment to provide additional information on available resources. The Community Affairs Liaison shall make sure that each camping individual has been referred via receipt of the CCHA Coordinated Entry Screening Form or begun the Coordinated Entry process, including the completion of the Coordinated Entry assessment
3. The Community Affairs Liaison should note where the encampment is located.
4. If no one is present during this initial outreach, then the Community Affairs Liaison should leave the Community Affairs Liaison's contact information, contact information for local social service organizations serving unsheltered residents, the Coordinated Entry Screening Form with instructions, information about other available resources, and make additional outreach attempts as necessary. If people are present during a subsequent outreach attempt, then appropriate social services agencies should be called and, where possible, immediately come to the encampment to provide additional information on what resources are available.
5. The BPD, Community and Economic Development Office (CEDO) and appropriate social services agencies will make every effort to consult and make sure all appropriate social service organizations have been contacted, social service providers have visited the encampment to assist where possible, the individual(s) have been referred via receipt of the Coordinated Entry Screening Form or begun the Coordinated Entry process, including the completion of the Coordinated Entry assessment, and efforts have been made to implement the City's Housing First Policy. The process described in Sub-Section A will happen whether or not the City believes that removal may be necessary.

Sub-Section B – Removal Criteria and Procedures:

As approved by City Council on February 7, 2022

1. If a City department determines that there is a reason to remove the items of individuals camping on public land based on one of the following criteria, that department should contact the City Attorney's Office for an initial review. The criteria that serve as a basis for removal are as follows:
 - a. Risks to health or safety related to living conditions;
 - b. Risks to the site's ecology;
 - c. The nature, quantity, and location of any structures on the site, as structures generally will be removed from public property, although temporary tents or lean-tos that are kept in good condition may not require removal;
 - d. The amount or nature of possessions or materials on the site, such as trash, furniture, or large numbers of bags, may warrant removal;
 - e. Interference with the ability of others to use the property;
 - f. Inconsistency with the intended public use of the site;
 - g. Repeated or serious legal or criminal violations at the site; and
 - h. Other severe or pervasive issues that may warrant removal.
2. The City Attorney's Office will first identify the property owner. If the encampment is not on City property, then the BPD should contact the property owner and provide assistance as needed. If the City Attorney's Office determines that the encampment is on City property, then the involved City department shall write a brief narrative describing the situation and reason(s) for removal in conjunction with other relevant City departments and the City Attorney's Office. If appropriate, the City department(s) should collect and preserve photographic documentation necessary to support the determination of need for removal.
3. If the City Attorney advises that the items may be removed under the circumstances and in accordance with this policy, and the removal is not an emergency, the Community Affairs Liaison shall provide or post an initial notice at the site notifying the campers that the City is considering removing their items from the site and the reasons therefor, that the decision will be made within the next three workdays, and that they should contact the Community Affairs Liaison with any questions about or objections to the removal. The initial notice shall advise the campers of the reasons for the potential removal, with at least a sentence describing the reasons for the removal with reasonable particularity. Before that notice is posted, the department requesting removal will ensure that the Mayor's Office has received a copy of the narrative justifying removal and the initial notice and will notify any other City department that may be affected by the potential removal. The Community Affairs Liaison will communicate with the Mayor's Office if any questions or objections are received within the three-workday initial posting period.
4. If no objection is received within the three work days, or the Mayor determines that removal is warranted despite an objection, the Mayor shall make a determination, based on the narrative requesting removal and advice from the City Attorney, BPD, and other departments, whether to proceed with removal, and the Mayor's Office shall notify the requesting department of the Mayor's decision.
5. Once the Mayor decides that an encampment can be removed from City property, the Community Affairs Liaison shall provide the encampment with a written notice to remove property by a specified date/time that explains that the City will remove any property remaining in the area on that specific date/time. The specified date/time shall, absent exigent

circumstances or emergency, allow people a reasonable time to move, at least seven calendar days. The notice shall also briefly state the reasons for the removal, the agency responsible for the clean-up, that remaining items will be stored for at least thirty days and if unclaimed within that time will be disposed of, the location and address where the collected items will be stored and how they may be reclaimed, the hours and days of the week when items may be reclaimed, and the Community Affairs Liaison's contact information. The notice will be posted or securely placed on or near any campsite or items. If possible, the notice should be provided to campers in person. The Community Affairs Liaison will take photographs demonstrating where and when the notices were posted.

6. If the following steps have not been taken prior to posting of the notice, the BPD and CEDO shall solicit assistance from social service organizations to seek voluntary movement from those camping on the site prior to the date/time for removal. This assistance should include:
 - a. Sending the Community Affairs Liaison (or designee) and appropriate social services agencies to engage with the campers.
 - b. Confirming that relevant social service organizations are aware and engaged, and that opportunities for housing are offered if available. Ensuring that social services workers are available to work with campers to remove and, if possible, transport their items.
7. Before posting the notice, DPW and/or Parks shall confirm that there will be sufficient personnel and equipment necessary for the removal on the date/time included in the notice.

Sub-Section C. Emergencies or Exigent Circumstances

1. If a requesting department seeks immediate removal because of an emergency or exigent circumstances, the City Attorney's Office shall be consulted and shall advise whether the circumstances can warrant consideration of an emergency or exigent removal. Circumstances that may warrant emergency or exigent removal include, but are not limited to, any immediate health, safety, or ecological concern where significant harm has occurred or is likely to occur if the items are not removed immediately, or a current situation where the encampment is inhibiting the construction of a permitted project,
2. In an emergency or exigent circumstances, attempts should be made to receive direction from the Mayor's Office ahead of time, but if Mayor's Office direction cannot be received, the property may be moved to another location and trash, hazardous material, and unusable items may be discarded. Notice of the move shall be posted at the location for at least seven days after the move. If taken into storage, the notice of removal shall briefly state the reasons for the removal, the agency responsible for the clean-up, that remaining items will be stored for at least thirty days and if unclaimed within that time will be disposed of, the location and address where the collected items will be stored and how and when they may be reclaimed, and the Community Affairs Liaison's contact information. The notice will be posted or securely placed on or near any campsite or items. If posting of a notice before removal is not possible, a post-removal notice with the information above shall be posted at the location for at least seven days after the removal.

Section IV – Removed Property

1. When the City removes an encampment, it will discard any item that reasonably appears, to the City employees conducting the removal, to be trash, presents a health or safety hazard, or will become a hazard during storage (for example, wet bedding materials).
2. Items that are not trash or hazardous will be tagged with the date, location of the removal, and any other available information related to the item owner. Such items include but are not limited to: radios, audio and video equipment, phones, bed rolls, tents, sleeping bags, tarps, canvas, mats, blankets, pillows, medication, personal papers, photographs, books, backpacks or other storage containers, clothing, towels, shoes, toiletries, clocks, bicycles, and eye glasses.
3. City employees may consolidate those items at the site for pick-up by the owner according to prior arrangement or will move them to a storage location for a period of thirty (30) days. Items not claimed within 30 days will be discarded.
4. The City will maintain a log or photos of removed items, catalogued by tag number, date, and location of removal.

Section V – Recovery of Stored Property:

1. People inquiring about lost, removed, or collected items should be referred to the Community Affairs Liaison.
2. The Community Affairs Liaison will work with people seeking to recover their items from City storage to arrange for delivery or pickup within a reasonable amount of time. If the person expresses an emergent health or safety need to recover their items, the Community Affairs Liaison will facilitate the recovery of their items as soon as possible.
3. To recover property, the person must describe the items with particularity. No identification is required to recover items, but a record of removed items will indicate who recovered the items.

Section VI - Limitations of Policy:

This policy is intended to address encampments where individuals without hard-wall-shelters are or recently have been living or sleeping. If a City employee discovers items on public property and there is no evidence that a person without hard-wall-shelter is currently or recently has been living or sleeping at that location, this policy shall not apply. Similarly, this policy does not address City policies on related topics such as trespasses on public land or regular removal of trash from public parks consistent with this policy.

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Two

An Ordinance in Relation to

PARKS –
Camping in Parks or Other Municipal Lands (REVISED)

ORDINANCE _____

Sponsor: Councilor Magee
Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all
stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 22, Parks, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Section 22-7, Camping in parks prohibited, thereof to read as follows:

Sec. 22-7 Camping in lands enumerated as parks or other municipal lands ~~parks prohibited~~

~~(a) It shall be unlawful for any person to camp in any public park in the city unless otherwise authorized by this code. Camping may occur at public areas designated as campsites by the parks and recreation department.~~

~~(b) The term "to camp" shall include the placing of any bedding, sleeping bag or other material at a site to serve as a sleeping area; the placing of any tent, lean to, other structure or vehicle at a site to serve as a sleeping or living area; or the use of any public park for sleeping between the hours of 10:00 p.m. and 7:00 a.m.~~

(a) Purpose, Policy, and General Provisions.

The purpose of these provisions is to support and maintain a safe public environment for those camping on lands enumerated as city parks or on other lands, including land owned or controlled by the City of Burlington. These provisions address traditional camping in designated campsites and other camping, including by persons who may be unhoused and have no other place to live but in public places.

It is the policy of the City to attempt to end houselessness while ensuring that the immediate needs of those experiencing houselessness are met and their civil rights are respected and protected because safe, decent, and affordable housing is a human right. It is the policy of the City that everyone can live with dignity in a stable, inclusive, eco-friendly place to call home and that the City has an affirmative duty to support this dignity. It is the policy of the City that no person should be arrested for sleeping or camping on public property and that sleeping or camping as a result of houselessness should not be criminalized.

To effectuate this purpose and policy, the City shall take steps, including but not necessarily limited to those set forth in this section, to ensure that houseless individuals are provided with information on available resources, are given the assistance necessary to meet their immediate needs (i.e., sanitation), and are offered help to go through the applicable processes to obtain assistance, including housing. Notwithstanding that the City may try to ensure that individuals do not camp or set up residences in areas prohibited under the

Burlington Code of Ordinances or areas that are permanently posted, such as in the Urban Reserve, a camp site that is not in a prohibited area and does not present exigent circumstances shall not be subject to removal unless certain criteria are met, and outreach efforts are made consistent with the provisions of this section. Furthermore, where exigent circumstances exist in the period from October 1 – May 1, there shall be no removals for any person who is not eligible for state provided emergency housing, unless 1) the City provides, at a minimum, an alternative location to shelter within City borders, 2) transportation for person and property to that location, and 3) direct support with moving any and all belongings to the new location.

(b) Definitions.

(1) **Camping** shall mean the placing and use of any bedding, sleeping bag or other material at a place to serve as a sleeping area as well as the placing and use of any tent, lean to, or other structure or vehicle at a site to serve as a sleeping or living area.

(2) **Sufficiently posted** shall mean signs or placards designed and situated as to give reasonable notice that camping is prohibited on the area, such signs to be posted at a minimum at the corners of and at the regularly used entry points to the property.

(3) **High sensitivity area** shall mean a location where the health and safety impacts of camping create exigent circumstances.

(4) **Exigent circumstances** shall mean conditions of a camping site that pose an immediate and substantial threat to human life, health, and property, or the ecology and environmental sensitivity of the area on and/or directly impacted by the site.

The conditions constituting exigent circumstances must be related to an individual camping site unless the conditions created by more than one individual site when added together pose the exigent circumstance that can only be remediated by treating the sites as a single site.

Conditions that can be readily remediated shall not be deemed exigent circumstances unless they rise to an immediate and substantial threat using the public health, safety and environmental factors stated below and the resident of the site has been given notice of this, notice of the least restrictive means necessary to remediate the threat, has been offered public assistance to help and a reasonable time to remediate the exigency, and has refused or failed to remediate the condition in the reasonable time. These notices, offers of assistance, and time to remediate shall be given prior to any enforcement action. The time given shall comply with the procedures stated in this section.

The following public health, public safety, and environmental factors shall be used to determine the existence of exigent circumstances if they pose immediate and substantial threats:

Public health:

- Confirmed case of infectious disease(s) present at a camp site;
- Excessive animal or vermin vector hazards (e.g., rats) present at a camp site;
- Presence of biological vector hazards (e.g., blood, fecal matter) present at a camp site;

- Camping on or encroachment of the grounds of a facility tied to public health (e.g., water treatment or water resource recovery facility) where such activity is interfering or likely to interfere with the operations, integrity, or public health obligations of the facility;
- Notice of public health emergency at a camp site declared by a local, state, or federal public health entity present at encampment; or

Public safety:

- Location at or on ground adjoining a school, childcare facility, adult day-care facility, or other public facility serving a young or vulnerable population;
- Location on privately owned land and the City has been requested to intervene or within 50 feet of the property boundaries of private property, unless adjoining owner consents;
- Location on public land where individuals have a private easement or ownership interest or where the City owes a duty to maintain said lands in perpetual care to the benefit or partial benefit of private individuals (i.e. City cemeteries);
- Location on Burlington City or School facility and associated property;
- Individual is a registered sex offender and the location is in violation of their on-going terms of probation, parole, or release;
- Location obstructs or impedes in a not insignificant, infrequent, or incidental manner, the access and use of a residence, business, emergency route, right-of-way, lane of traffic, bike lane, hydrant, or ADA access;
- Location is such that First Responders (including, but not limited to, Fire, Police, and any health care workers), are impeded in performing their essential government functions;
- Damage to or substantial potential to damage essential infrastructure (e.g., reservoirs, bridges, public utilities, public safety buildings, water treatment and drainage and sewer systems);
- Excessive amounts of waste/garbage/debris;
- Substantial/Serious fire hazards;
- Substantial unsafe storage of combustible materials.

Environmental protection:

- Location is in an area that is protected, deemed sensitive, or protected from development by federal, state, or local law, such as a wetland, vernal pool, or steep slope;
- Location within a federal, state, or locally recognized wildlife habitat area;
- Location substantially interferes with a park, wilderness environment or wildlife habitat;
- Location is in an area where there is reasonable and significant concern with erosion;
- Location obstructs or substantially impedes an established outdoor activity or use, such as mountain biking or hiking;
- Location is in an area that city or other public officials have deemed to be environmentally sensitive or fragile; or
- There is evidence of impairment of a natural resource(s) as a result of the camp site.

(c) Camping.

(1) Camping in any public park with designated campsites shall be regulated by the city's applicable ordinances, rules and regulations.

(2) In all other lands owned or controlled by the city, it shall be unlawful to camp if the camp site is in a high sensitivity area or the property is sufficiently posted to provide notice that camping is prohibited.

(d) Enforcement.

A violation of this section is subject to the removal of the camp site. An enforcement action shall be initiated only upon a certification by the enforcement officer specifying the underlying facts supporting the conclusion that the site is in a high sensitivity or on a sufficiently posted area of the city where camping is prohibited.

Such enforcement action (issuance of a civil municipal complaint and actions to remove a camp) shall only be available if the enforcement officer has acted in compliance with the “Procedures for determining that camping is prohibited and taking enforcement action” and any operational policies adopted by the city to address camping or setting up residences in areas where it is prohibited.

In situations where there are persons residing in multiple camps in reasonable proximity to one another to constitute a community-like setting, a violation determination and enforcement action shall be based on the individual conditions in each camping site and the certification shall state the particulars that make camping in the individual site prohibited. In the event that the conditions created by numerous individual sites when added together pose the immediate and substantial threat(s) that can only be remediated by treating the sites as a single site, the certification shall specify how the individual camp site contributes to the immediate and substantial threat posed by the camping sites when taken together.

(e) Procedures for determining that camping is prohibited and taking enforcement action.

The following procedures shall be followed by the city when it is determining that camping is prohibited. The City recognizes that individuals may not know or be aware that they are camping in a prohibited or a high sensitivity area. The purpose of these procedures is, in part, to educate and assist such individuals in connecting with community services and/or relocating to a site that is not prohibited. This policy shall at all times be interpreted and implemented in a manner that affords dignity and care to the individual being asked to move or relocate.

(1) Areas that are sufficiently posted to provide notice that camping is prohibited.

(A) The enforcement officer shall document and record the locations of the signs giving notice that camping is prohibited in the particular area, referencing the facts that make it clear that a reasonable person in the community would know that camping is prohibited in the particular location where the camp site is located.

(B) The enforcement officer shall give a notice of the postings to the camper(s) informing them that camping is prohibited in this area and provide them with the locations and other facts found that substantiate that the camp site area has been sufficiently posted declaring that no camping is permitted. The notice shall also provide them with information regarding public assistance that is available to help secure alternative shelter, programs, and necessities, including information regarding access to bathroom and cleaning facilities at night. This information shall provide a Vulnerability Index-Service Prioritization Decision Assistance Tool (VI-SPDAT) to all campers with a written notice of location, person, and email address where this assessment form can be delivered. The notice shall include

information detailing the currently available shelter space within the City and other local options for shelter.

(C) The notice shall provide at least 30 days for the camp site to be removed unless there is an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property. If the officer determines that there is an emergency situation, then the officer shall state that in the notice along with the underlying facts supporting that determination.

(D) The notice shall inform the resident(s) of the camp that they have 14 days to appeal the determination that the area was sufficiently posted such that it was clear that camping was prohibited. The notice shall include an appeal form and state where the appeal can be filed. Appeals can be filed at the administrative office of any city department, which shall forward the appeal request to the Parks Commission, which shall expeditiously hear the appeal and make a written determination as to the validity of the notice based on the preponderance of the evidence. The appeal hearing shall be recorded and the records of the proceeding and decision shall be kept as a public record.

(E) In the event that an emergency situation is determined and the officer determines that the camp must be removed to prevent imminent danger to life or serious damage to property, then if the camper(s) does not remove their property in the time needed to abate the danger, then alternative shelter or a shelter referral shall and must be offered and thereafter the property shall be seized and removed to a secure storage location by the officer and the camper(s) shall be given notice of where and when they can reclaim their property. Seized property shall be stored for 90 days in accordance with the Vermont lost property statute, 27 V.S.A. ch. 11.

In the event that no emergency situation is determined, and either no appeal has been taken or the commission has ruled in favor of the enforcement officer, and the camp has not been voluntarily removed by the camper(s) within the time given in the notice, then alternative shelter or a shelter referral shall and must be offered and thereafter the enforcement officer may seize and remove the camper(s)' property and store it in a secure storage location and provide the camper(s) with a notice of where and when they can reclaim their property. Seized property shall be stored for 90 days in accordance with the Vermont lost property statute, 27 V.S.A. ch. 11.

(F) In the event that an emergency situation is determined, the officer shall document the situation related to the emergency at the deadline given to abate the danger and if the danger has been abated, then a new notice shall be given with a revised date for removal, which shall be no less than 30 days after the first notice was given.

(G) The notices, offer of assistance, and time to appeal and remove shall be given prior to any enforcement action, including removal.

(2) High Sensitivity Areas.

(A) The enforcement officer shall determine and document the underlying facts that allow them to determine that a camp site is in a high sensitivity area.

(B) The officer shall give notice to the camper(s) of the determination that their site is in a high sensitivity area, attaching the documentation and statements of facts that substantiate it, and also informing them that they have 30 days to remove the camp site from the area. If there is an emergency situation requiring swift action to prevent danger to life or serious damage to property, the notice shall state that and provide a time for the removal of the camp site commensurate with the emergency.

(C) The notice shall inform the resident(s) of the camp that they have 14 days to appeal the determination that the area is of high sensitivity. The notice shall include an appeal form and state where the appeal can be filed. Appeals can be filed at the administrative office of any city department, which shall forward the appeal request to the Parks Commission, which shall expeditiously hear the appeal and make a written determination as to the validity of the notice based on the preponderance of the evidence. The appeal hearing shall be recorded and the records of the proceeding and decision shall be kept as a public record.

(D) The notice shall detail how the conditions rise to an immediate and substantial threat based on the public health, safety and environmental factors stated in this ordinance. It shall also provide the resident with information on the possible least restrictive means that can be used to remediate the threat.

The notice shall also provide information regarding other public assistance that is available to help remediate the threats or secure alternative shelter, programs, and necessities, including information regarding access to bathroom and cleaning facilities at night. The notice shall provide a Vulnerability Index-Service Prioritization Decision Assistance Tool (VI-SPDAT) to all campers with a written notice of location, person, and email address where this assessment form can be delivered. The notice shall include information detailing the currently available shelter space within the City and other local options for shelter.

For conditions related to sanitation the notice shall inform them of the availability of trash collection bags at designated locations provided by the city and where the city will conduct regular and on-call trash pickups, and provide access to conveniently located “sharps containers,” and access to bathroom and cleaning facilities at night.

(E) The notice shall provide at least 30 days for the camp site to be removed unless there is an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property. The notice shall provide a reasonable time to remediate the immediate and substantial threats and shall state the underlying facts supporting the determination of an emergency.

(F) The notice shall state that if the camper refuses or fails to remediate the condition in the reasonable time provided, the camp site will be subject to an enforcement action, including a fine and removal of the camp by the city.

(G) In the event that an emergency situation is determined and the officer determines that the camp must be removed to prevent imminent danger to life or serious damage to property, then if the camper(s) does not remove their property in the time needed to abate the danger, then alternative shelter or a shelter referral shall and must be offered and thereafter the property shall be seized and removed to a secure storage location by the officer and the camper(s) shall be given notice of where and when they can

reclaim their property. Seized property shall be stored for 90 days in accordance with the Vermont lost property statute, 27 V.S.A. Ch. 11.

In the event that no emergency situation is determined, and either no appeal has been taken or the commission has ruled in favor of the enforcement officer, and the camp has not been voluntarily removed by the camper(s) within the time given in the notice, then alternative shelter or a shelter referral shall and must be offered and thereafter the enforcement officer may seize and remove the camper(s)' property and store it in a secure storage location and provide the camper(s) with a notice of where and when they can reclaim their property. Seized property shall be stored for 90 days in accordance with the Vermont lost property statute, 27 V.S.A. Ch. 11 and take other enforcement action as is deemed appropriate.

(H) In the event that an emergency situation is determined, the officer shall document the situation related to the emergency at the deadline given to abate the danger and if the danger has been abated, then a new notice shall be given with a revised date for removal, which shall be no less than 30 days after the first notice was given.

(I) The notices, offers of assistance, and time to remediate shall be given prior to any enforcement action.



CITY OF BURLINGTON, VERMONT
CITY COUNCIL COMMUNITY DEVELOPMENT &
NEIGHBORHOOD REVITALIZATION COMMITTEE
c/o Community & Economic Development Office
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401
802-865-7144 VOX • 802-865-7024 FAX • www.burlingtonvt.gov/cedo

Councilor Zoraya Hightower, Chair, Ward 1

Councilor Sarah Carpenter, Ward 4

Councilor Joe Magee, Ward 3

CDNR Worksession Meeting

Tuesday, October 25th, 2022

5:00 PM – 7:00 PM

****Virtual meeting only****

Attend via Zoom by clicking the link below:

<https://zoom.us/j/98148964235>

Telephone: +1 929 205 6099

Meeting ID: 981 4896 4235

To participate in public forum please email Christine Curtis before or during the meeting: ccurtis@burlingtonvt.gov. Comments can also be made during the meeting by using the raise hand function or the chat function.

Draft Agenda

1. Approve agenda
2. Approve minutes: 10/3/22
3. Public Forum
4. Camping in Parks or Other Municipal Lands: Ordinance, Policy and Procedures Review
5. Schedule November meeting/upcoming agenda items
6. Adjournment

The programs and services of the City of Burlington are accessible to people with disabilities.
For accessibility information, call 865-7144. For questions about the meeting,
contact Christine Curtis at ccurtis@burlingtonvt.gov

Comparison of Proposed Change to Burlington's Camping Ordinance

Prepared by Councilors Magee and Bergman

This document compares the draft ordinance change with the City's current camping policy and the City of Montpelier's camping policy.

Line numbers in proposed ordinance	Draft Ordinance Change	Current Burlington Policy	Montpelier Policy
Why an Ordinance?			
3-11	Strike all amendment to the current ordinance prohibiting camping in parks.	Found by the VT Superior Court to be non-binding on the City.	Not an ordinance, therefore could be considered as more of a suggestion and not something that could be relied on.
(a) Purpose, Policy, General			
14-17	Makes clear that the policy would pertain to all municipal lands, not just parks. This leaves no gap in coverage and removes ambiguity and guess work.	Focuses on areas that are permanently posted or those where camping is prohibited, it does not clearly state that it applies to all municipal land, but that is the effect.	Policy focuses on camping without specifying public or private land, but their definition of "high sensitivity area" includes private land.
19-24	This statement makes clear the City's efforts to end houselessness, ensure immediate needs of houseless folks are met, and that their civil rights are protected. This section makes it City policy that safe, decent, and affordable housing is a human right.	Only speaks about "supporting and maintaining a safe public environment for all."	Says the City will take a "general non-involvement approach...with the particular lens of not criminalizing people due to lack of housing." pp. 1, 2-5
26-37	Sets a general policy to provide information related to resources, aid needed to meet immediate needs, and offer help to apply for assistance. It also says that a site that does not meet the "exigent circumstances" criteria shall not be removed. And, from Oct. 1 to May 1 removals should not be made if the individual(s) are not eligible for emergency shelter. Minimizes arbitrary enforcement.	Indefinite and vague Open to arbitrary and inconsistent enforcement Says the City will "try to ensure that individuals are not permitted to camp" and that "generally an encampment that is on public property will only be noticed for removal if certain criteria are met and outreach efforts are made" Does not currently have a moratorium on removals during cold weather months	Specificity helps avoid arbitrary and inconsistent enforcement, but the overall framework is insufficient Does not have a moratorium in place for removals during cold weather months

Line numbers in proposed ordinance	Draft Ordinance Change	Current Burlington Policy	Montpelier Policy
(b) Definitions			
41-43	Camping: uses the definition as stated in the existing ordinance, leaving out the prohibition on sleeping in any public park between 10pm and 7am	Does not have a definition of camping. The purpose and application of the current policy means that sleeping in any public park between 10pm and 7am is subject to removal regardless of impact Ban opens the door to arbitrary and inconsistent enforcement since posting is not required and harm is not a trigger.	Montpelier does not define camping or encampment, and sleeping is not prohibited. The striking of the automatic removal allowed by the current ordinance is consistent with Montpelier's policy.
45-47	Sufficiently Posted: signage required to be placed at the corners of and regularly used entrances to the property. This is to provide ample warning that camping is expressly prohibited.	Refers to areas that are "otherwise permanently posted, such as the Urban Reserve." It does not define "permanently posted" or provide clarity on what that looks like.	Does not call out posted areas or connect posting to automatic removal.
49-66	Exigent Circumstances: These are the criteria for camp removal from an area that is not posted. The conditions have to pose "an immediate and substantial threat to life, health, property, or the ecology or environmental sensitivity of an area impacted by the camp site" Prohibits collective punishment by addressing the individual campsite creating the conditions. Provides an opportunity and offer of support to remediate the concerns. 14 day appeal window	Provides general criteria that do not require "an immediate and substantial threat" Does not define a minimum threshold of concerns that require removal. No provision for remediation or prohibition on collective punishment. Only provides 3 days to object to a removal decision.	There is no right to remediate and no statement on individual or collective actions.

Line numbers in proposed ordinance	Draft Ordinance Change	Current Burlington Policy	Montpelier Policy
68-112	Lists <i>Exigent Circumstances</i> in three categories, including locations and conditions related to public health, public safety, and environmental protection	Vague and open ended, with no specific mention of locations that would be cause for removal	Public safety factors include factors not in our proposal related to wiring, combustible materials, and criminal activity. Montpelier focuses on “high sensitivity area” without regard to an immediate and substantial threat determination, but speaks to “heightened potential” of harm or potential to create “significant” obstructions.
(c) Camping			
114-119	This section provides the basic regulation for camping in designated camp sites (same as now) and prohibiting camping in posted and high sensitivity areas. This recognizes that people will need and choose to live outdoors, and unless there is harm that meets the threshold, camping should be allowed.	The policy uses vague and ambiguous terms: “will try to ensure that individuals are not permitted to camp our set up residences” and “generally an encampment...will only be noticed for removal if...” Does not define a threshold of harm or potential harm	Does not permit camping generally. It assumes people are camping because they face an emergency, which may not be the case.
(d) Enforcement			
122-140	Outlines enforcement actions (removal), which can only be initiated after following procedures and operational policy. This eliminates selective application of policy and procedure. It also eliminates punishment of all based on the actions of an individual.	Allows for collective punishment, and does not clearly indicate that procedures have to be followed. Policy allows for ticketing and notice of trespass.	More definitive than the current Burlington policy, but still uses less definite language.

Line numbers in proposed ordinance	Draft Ordinance Change	Current Burlington Policy	Montpelier Policy
(e) Procedures for determining that camping is prohibited			
142-149	Sets the requirement that procedures are followed because those who are camping might not realize that it is prohibited. Sets the purpose of the policy as education and assistance, not criminalization.	Does not require procedures to be followed. Language is aspirational, not mandatory.	There is a roughly equivalent section in the staff protocol on page 6 that provides the aim, and is in line with the overall policy for high sensitivity areas.
(e)(1) Areas that are sufficiently posted to provide notice that camping is prohibited			
151-202	Requires documentation of posting and other facts to show someone would know camping is prohibited. Notices, offers of assistance and time to remediate must be given prior to enforcement. Allows 30 days to remove the camp unless there is an emergency that requires more immediate action. That emergency must be documented in the notice. Alternative shelter or shelter referral must be offered, and if items remain at the end of the 30 day (or emergency) window, belongings can be removed and must be stored for 90 days	Requires nothing around sufficient posting. Time for removal is open ended, with no criteria or guidance. Includes a notice of the department responsible, along with a statement that possessions will be stored for at least 30 days before being disposed. Calls for a copy of the Coordinated Entry Referral Form to be left at the site. Community Affairs Liaison must ensure the process has been initiated for CE. There is no appeals process	Does not contemplate posting, but on the sensitivity of the land where camping is happening. There is no appeal process. There is a 24-hour period set for re-location
(e)(2) High Sensitivity Areas			

Line numbers in proposed ordinance	Draft Ordinance Change	Current Burlington Policy	Montpelier Policy
204-269	Notice shall provide residents with the least restrictive means that can be used to remediate the issue causing removal. For conditions related to sanitation, the notice shall include info on the availability of collection bags, sharps containers and access to bathroom and cleaning facilities.	Does not require City to provide information on how to remediate or abate issues to avoid relocation. No commitment to provide sanitation or other assistance. There is a 3 day appeal process that contains no right to a hearing or standards for review. Only 30 day storage of belongings	Contains a provision to facilitate public health by providing additional trash cans and sharps containers. Allows for mitigation actions to address issues and prevent removal action.



CITY OF BURLINGTON, VERMONT
CITY COUNCIL COMMUNITY DEVELOPMENT &
NEIGHBORHOOD REVITALIZATION COMMITTEE
c/o Community & Economic Development Office
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401
802-865-7144 VOX • 802-865-7024 FAX • www.burlingtonvt.gov/cedo

Councilor Zoraya Hightower, Chair, Ward 1

Councilor Sarah Carpenter, Ward 4

Councilor Joe Magee, Ward 3

Committee members: Chair Zoraya Hightower (ZH) Sarah Carpenter (SC), Joe Magee (JM)

City staff: Christine Curtis

Other Attendees: Sarah Russell, Marcella Gange, CEDO; Gail Rafferty; Joel Baird; Dalton Bassett

**CDNR Worksession Meeting
Tuesday, October 25th, 2022**

5:00 – 7:00 PM

Virtual Zoom

Draft Minutes

Meeting Started at 5:05 PM

1. Approve agenda

MOTION by Councilor Magee, SECOND by Councilor Carpenter, to approve the agenda

VOTING: unanimous; motion carries.

2. Approve minutes: 10/3/22

MOTION by Councilor Magee, SECOND by Councilor Carpenter, to approve the minutes

VOTING: unanimous; motion carries.

3. Public Forum (occurred after agenda item 4.)

- Gail Rafferty asked Sarah Russell about what staff are being referred to – Sarah responded DPW, Parks and Police staff are included in workgroup
- DPW and Parks staff are doing actual camping removal

- Gail Rafferty stated that she wants to make sure that children come up in these conversations – safety of children in parks needs to be considered
- Gail suggested designating City land for campers
- JM stated that camping needs to be prohibited on City playgrounds
- Joel Baird stated that this is a policy issue – tackle issue of where campers can go, they do not belong in City parks – keep ordinance as is and take on the task of finding another location for people to go and camp
- SC asked about the pros and cons of designated camping sites
- Sarah Russell stated that there can be creative approaches – allowing 1 – 2 tents in certain locations, deploy outreach to designated locations
- Dalton Bassett stated that he speaks to unhoused folks very often – campers are not present in these conversations and may have answers to a lot of questions administration has – ask campers where they would like to go
- ZH stated that this topic needs to be approached with empathy and to remember what the human cost is to the decision that administration makes

4. Camping in Parks or Other Municipal Lands: Ordinance, Policy and Procedures Review

- JM discussed the process for identifying items in the ordinance and comparing them to current policies and then proposing why an ordinance change makes sense at this time
- SC asked what is not working with the current policy and are we open to allowing explicit camping in the City and if so, where
- JM stated this is proposed as an ordinance change due to the response of the Sears Lane encampment removal that happened last year – this brought a lot of the current policies inconsistencies to light
- The proposed ordinance defines when and how an encampment can be removed – will eliminate ambiguity around the process that currently exists
- SC stated that questions need to be answered first: is camping allowed in Burlington or not and if so, where will it be allowed
- ZH asked about the administrations memo that was drafted by the City Attorney's office – has not been shared with Councilors as of yet

- Next meeting – invite administrative staff: CA's office, Parks Department to include in the conversation
- Sarah Russell stated that there is a workgroup model to discuss these issues and working through interdepartmental communication
- Need for sharps containers placed throughout the City of Burlington
- Mayor's office wants focus on rapid removal especially in City parks
- Emergency removal has been discussed and included in current assessment
- Sarah Russell asked if it is appropriate to engage other agencies in the City to get their views on changing policies and ordinances
- ZH suggested Councilors joining workgroup that Sarah Russell facilitates
- Next steps: email campaigns/legislators in Chittenden County to have a worksession to discuss current Burlington camping issues – Councilors to join Sarah's workgroup meeting – meetings are 60 minutes long every other Wednesday (November 9th) at 10am, Parks & Rec building
- Sarah Russell to schedule meeting in November with community partners -- December 1st Homeless Alliance meeting

5. Schedule November meeting/upcoming agenda items

- Thursday, November 17th at 5 PM
 1. Business and Workforce Development Department – ARPA funded Small Business revolving loan fund

6. Adjournment

MOTION by Chair Hightower to adjourn meeting at 6:40 PM.

VOTING: unanimous; motion carries.