

CITY OF BURLINGTON

ORDINANCE \_\_\_\_\_

Sponsor: Councilor Magee  
Public Hearing Dates: \_\_\_\_\_

In the Year Two Thousand Twenty-Two

First reading: \_\_\_\_\_

Referred to: \_\_\_\_\_

Rules suspended and placed in all stages of passage: \_\_\_\_\_

Second reading: \_\_\_\_\_

Action: \_\_\_\_\_

Date: \_\_\_\_\_

Signed by Mayor: \_\_\_\_\_

Published: \_\_\_\_\_

Effective: \_\_\_\_\_

An Ordinance in Relation to

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

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

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

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

4  
5 ~~(a) It shall be unlawful for any person to camp in any public park in the city unless otherwise authorized by~~  
6 ~~this code. Camping may occur at public areas designated as campsites by the parks and recreation~~  
7 ~~department.~~

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

12 (a) Purpose, Policy, and General Provisions.

13  
14 The purpose of these provisions is to support and maintain a safe public environment for those camping on  
15 lands enumerated as city parks or on other lands, including land owned or controlled by the City of  
16 Burlington. These provisions address traditional camping in designated campsites and other camping,  
17 including by persons who may be unhoused and have no other place to live but in public places.

18  
19 It is the policy of the City to attempt to end houselessness while ensuring that the immediate needs of those  
20 experiencing houselessness are met and their civil rights are respected and protected because safe, decent,  
21 and affordable housing is a human right. It is the policy of the City that everyone can live with dignity in a  
22 stable, inclusive, eco-friendly place to call home and that the City has an affirmative duty to support this  
23 dignity. It is the policy of the City that no person should be arrested for sleeping or camping on public  
24 property and that sleeping or camping as a result of houselessness should not be criminalized.

25  
26 To effectuate this purpose and policy, the City shall take steps, including but not necessarily limited to those  
27 set forth in this section, to ensure that houseless individuals are provided with information on available  
28 resources, are given the assistance necessary to meet their immediate needs (i.e., sanitation), and are offered  
29 help to go through the applicable processes to obtain assistance, including housing. Notwithstanding that the  
30 City may try to ensure that individuals do not camp or set up residences in areas prohibited under the

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

38  
39 **(b) Definitions.**

40  
41 (1) **Camping** shall mean the placing and use of any bedding, sleeping bag or other material at a place to  
42 serve as a sleeping area as well as the placing and use of any tent, lean to, or other structure or vehicle at a  
43 site to serve as a sleeping or living area.

44  
45 (2) **Sufficiently posted** shall mean signs or placards designed and situated as to give reasonable notice that  
46 camping is prohibited on the area, such signs to be posted at a minimum at the corners of and at the regularly  
47 used entry points to the property.

48  
49 (3) **High sensitivity area** shall mean a location where the health and safety impacts of camping create  
50 exigent circumstances.

51  
52 (4) **Exigent circumstances** shall mean conditions of a camping site that pose an immediate and substantial  
53 threat to human life, health, and property, or the ecology and environmental sensitivity of the area on and/or  
54 directly impacted by the site.

55  
56 The conditions constituting exigent circumstances must be related to an individual camping site unless the  
57 conditions created by more than one individual site when added together pose the exigent circumstance that  
58 can only be remediated by treating the sites as a single site.

59  
60 Conditions that can be readily remediated shall not be deemed exigent circumstances unless they rise to an  
61 immediate and substantial threat using the public health, safety and environmental factors stated below and  
62 the resident of the site has been given notice of this, notice of the least restrictive means necessary to  
63 remediate the threat, has been offered public assistance to help and a reasonable time to remediate the  
64 exigency, and has refused or failed to remediate the condition in the reasonable time. These notices, offers of  
65 assistance, and time to remediate shall be given prior to any enforcement action. The time given shall comply  
66 with the procedures stated in this section.

67  
68 The following public health, public safety, and environmental factors shall be used to determine the  
69 existence of exigent circumstances if they pose immediate and substantial threats:

70  
71 **Public health:**

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

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

80  
81 **Public safety:**

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

101  
102 **Environmental protection:**

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

113  
114 **(c) Camping.**

115  
116 (1) Camping in any public park with designated campsites shall be regulated by the city’s applicable

117 ordinances, rules and regulations.

118 (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

119 sensitivity area or the property is sufficiently posted to provide notice that camping is prohibited.

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**(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

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

167  
168 (C) The notice shall provide at least 30 days for the camp site to be removed unless there is an  
169 emergency situation requiring swift action to prevent imminent danger to life or serious damage to  
170 property. If the officer determines that there is an emergency situation, then the officer shall state that in  
171 the notice along with the underlying facts supporting that determination.

172  
173 (D) The notice shall inform the resident(s) of the camp that they have 14 days to appeal the determination  
174 that the area was sufficiently posted such that it was clear that camping was prohibited. The notice shall  
175 include an appeal form and state where the appeal can be filed. Appeals can be filed at the administrative  
176 office of any city department, which shall forward the appeal request to the Parks Commission, which  
177 shall expeditiously hear the appeal and make a written determination as to the validity of the notice based  
178 on the preponderance of the evidence. The appeal hearing shall be recorded and the records of the  
179 proceeding and decision shall be kept as a public record.

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

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

196  
197 (F) In the event that an emergency situation is determined, the officer shall document the situation related  
198 to the emergency at the deadline given to abate the danger and if the danger has been abated, then a new  
199 notice shall be given with a revised date for removal, which shall be no less than 30 days after the first  
200 notice was given.

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

203  
204 **(2) High Sensitivity Areas.**

205  
206 (A) The enforcement officer shall determine and document the underlying facts that allow them to  
207 determine that a camp site is in a high sensitivity area.

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209 (B) The officer shall give notice to the camper(s) of the determination that their site is in a high  
210 sensitivity area, attaching the documentation and statements of facts that substantiate it, and also  
211 informing them that they have 30 days to remove the camp site from the area. If there is an emergency  
212 situation requiring swift action to prevent danger to life or serious damage to property, the notice shall  
213 state that and provide a time for the removal of the camp site commensurate with the emergency.  
214

215 (C) The notice shall inform the resident(s) of the camp that they have 14 days to appeal the determination  
216 that the area is of high sensitivity. The notice shall include an appeal form and state where the appeal can  
217 be filed. Appeals can be filed at the administrative office of any city department, which shall forward the  
218 appeal request to the Parks Commission, which shall expeditiously hear the appeal and make a written  
219 determination as to the validity of the notice based on the preponderance of the evidence. The appeal  
220 hearing shall be recorded and the records of the proceeding and decision shall be kept as a public record.  
221

222 (D) The notice shall detail how the conditions rise to an immediate and substantial threat based on the  
223 public health, safety and environmental factors stated in this ordinance. It shall also provide the resident  
224 with information on the possible least restrictive means that can be used to remediate the threat.  
225

226 The notice shall also provide information regarding other public assistance that is available to help  
227 remediate the threats or secure alternative shelter, programs, and necessities, including information  
228 regarding access to bathroom and cleaning facilities at night. The notice shall provide a Vulnerability  
229 Index-Service Prioritization Decision Assistance Tool (VI-SPDAT) to all campers with a written notice  
230 of location, person, and email address where this assessment form can be delivered. The notice shall  
231 include information detailing the currently available shelter space within the City and other local options  
232 for shelter.  
233

234 For conditions related to sanitation the notice shall inform them of the availability of trash collection  
235 bags at designated locations provided by the city and where the city will conduct regular and on-call trash  
236 pickups, and provide access to conveniently located “sharps containers,” and access to bathroom and  
237 cleaning facilities at night.  
238

239 (E) The notice shall provide at least 30 days for the camp site to be removed unless there is an emergency  
240 situation requiring swift action to prevent imminent danger to life or serious damage to property. The  
241 notice shall provide a reasonable time to remediate the immediate and substantial threats and shall state  
242 the underlying facts supporting the determination of an emergency.  
243

244 (F) The notice shall state that if the camper refuses or fails to remediate the condition in the reasonable  
245 time provided, the camp site will be subject to an enforcement action, including a fine and removal of the  
246 camp by the city.  
247

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

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

255  
256 In the event that no emergency situation is determined, and either no appeal has been taken or the  
257 commission has ruled in favor of the enforcement officer, and the camp has not been voluntarily removed  
258 by the camper(s) within the time given in the notice, then alternative shelter or a shelter referral shall and  
259 must be offered and thereafter the enforcement officer may seize and remove the camper(s)' property and  
260 store it in a secure storage location and provide the camper(s) with a notice of where and when they can  
261 reclaim their property. Seized property shall be stored for 90 days in accordance with the Vermont lost  
262 property statute, 27 V.S.A. Ch. 11 and take other enforcement action as is deemed appropriate.

263  
264 (H) In the event that an emergency situation is determined, the officer shall document the situation  
265 related to the emergency at the deadline given to abate the danger and if the danger has been abated, then  
266 a new notice shall be given with a revised date for removal, which shall be no less than 30 days after the  
267 first notice was given.

268  
269 (I) The notices, offers of assistance, and time to remediate shall be given prior to any enforcement action.  
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