

**ORDINANCE NO. 2022-476**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN AMENDING ARTICLE 8, BY ADDING AND ENACTING CHAPTER 8.33 – PUBLIC CAMPING, OF THE ARVIN MUNICIPAL CODE**

**Section 1.** Recitals.

**WHEREAS**, Adoption of this Ordinance will provide uniform and comprehensive regulations and standards related to Public Camping within the Arvin Municipal Code.

**WHEREAS**, Adoption of this Ordinance is in furtherance of the City’s goals and objectives while reducing the potentially negative impacts arising from incompatible Municipal Code Chapters.

**NOW THEREFORE**, THE CITY COUNCIL OF THE CITY OF ARVIN DOES ORDAIN AS FOLLOWS:

**Section 2.** Chapter 8.33 of the Arvin Municipal Code is hereby adopted to read as follows:

**ARTICLE 8 – HEALTH AND SAFETY  
Chapter 8.33 – Public Camping**

**Section 8.33.010 – Purpose.**

The streets and public areas within the city should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for which they were intended. Such activity can constitute a public health and safety hazard which adversely impacts neighborhoods and commercial areas. Camping on private property without the consent of the owner, proper sanitary measures and for other than a minimal duration adversely affects private property rights as well as public health, safety, and welfare of the city. The purpose of this article is to maintain streets, parks and other public and private areas within the city in a clean, sanitary and accessible condition and to adequately protect the health, safety and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the city. Nothing in this article is intended to interfere with otherwise lawful and ordinary uses of public or private property.

**Section 8.33.020 – Definitions.**

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this article.

- (a) "Camp" means to utilize camp facilities and/or paraphernalia, including but not limited to laying down of bedding for the purpose of temporarily or permanently sleeping or living at that location. An activity shall constitute camping when it reasonably appears, in light of all the circumstances, the participants in conducting these activities are in fact using the area as a sleeping or living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.
- (b) "Camp facilities" include, but are not limited to, tents, huts, lean-tos, tarps, cardboard boxes or structures, vehicles, vehicle camping outfits, or temporary shelter.
- (c) "Camp paraphernalia" includes, but is not limited to, materials intended to be used as beds or bedding, blankets, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.
- (d) "City Manager" means the City Manager or designee.
- (e) "Establish" means setting up or moving equipment, supplies or materials on to public or private property to camp or operate camp facilities.
- (f) "Maintain" means keeping or permitting equipment, supplies or materials to remain on public or private property in order to camp or operate camp facilities.
- (g) "Operate" means participating or assisting in establishing or maintaining a camp or camp facility.
- (h) "Private property" means all private property including, but not limited to, streets, sidewalk, alleys, and improved or unimproved land.
- (i) "Public property" means all public property including, but not limited to, streets, sidewalks, alleys, improved or unimproved land and parks.
- (j) "Shelter space" means any temporary and available housing shelter that offers free overnight sleeping accommodations to an unsheltered individual. Shelter space shall be considered available if:
  - a. A shelter space is open and accessible;
  - b. The shelter space is within the City boundaries;
  - c. In the case of a family unit, the shelter space is open and accessible, and the shelter space requires adult men and women to sleep separately.

Shelter space shall not be considered available if:

- a. In the case of a family unit, the family would have to be separated into two or more different shelter spaces;
- b. The individual would be disqualified from accessing the shelter space due to any restrictions, rules or covenants beyond their use or control;
- or
- c. The shelter space requires mandatory participation in a program or act as a prerequisite to access or use the shelter space.

**Section 8.33.030 – Prohibited Acts.**

- (a) It is unlawful and a public nuisance for any person to camp, occupy camp facilities, or use camp paraphernalia in the following areas:
  - 1. Any public property; or

2. Any private property.
  - i. It is not intended by this section to prohibit overnight camping on private residential property by friends or family of the property owner, so long as the owner consents and the overnight camping is limited to not more than one consecutive night.
  - ii. Nothing in this article is intended to prohibit or make unlawful, activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes; and provided further, nothing is intended to prohibit or make unlawful, activities of a property owner or other lawful user if such activities are expressly authorized by this Code or other laws and regulations.
  - iii. Nothing in this article is intended to prohibit or make unlawful the mere possession of or transportation of camp facilities or camp paraphernalia on public or private property, except as provided in this article.
  - iv. The City Manager may, as provided in section 8.33.060 of this article, issue a temporary permit to allow camping on public or private property in connection with a special event.
- (b) It is unlawful and a public nuisance for any person to wash one's body or belongings in a fountain.
- (c) It is unlawful and a public nuisance to urinate or defecate in public, as per section 8.12.405 of this code.
- (d) It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following areas, except as otherwise provided by resolution of the city council or by valid license or permit:
  1. Any park;
  2. Any street;
  3. Any public parking lot or public property, improved or unimproved; and
  4. On or adjacent to any waterway.
- (e) Moving personal property to another location upon public property or returning personal property to the same block of public property on a daily basis shall be considered storing and shall not be considered to be removing the personal property from public property. This definition shall not include any personal property that, pursuant to statute, ordinance, permit, regulation or other authorization by the city or state, is stored with permission of the city or state on real property that is owned or controlled by the city.
- (f) No person shall store any personal property upon public property in such a manner as to obstruct city operations, including street or sidewalk maintenance or cleaning, or park or landscaping maintenance, repair or irrigation. Without prior notice, the city may temporarily move personal property, whether attended or unattended, which is obstructing city operations upon public property during the time necessary to conduct the city operations.

- (g) No person shall store any personal property upon public property in such a manner that it does not allow for passage as required by the Americans with Disabilities Act of 1990 as amended from time to time (ADA). Without prior notice, the city may move and may immediately impound any personal property, whether attended or unattended, stored upon public property in such a manner that it does not allow for passage as required by ADA.
- (h) No person shall store any personal property within ten feet of any operational and useable entrance, exit, driveway or loading dock. Without prior notice, the city may move and may immediately impound any personal property, whether attended or unattended, stored upon public property within ten feet of any such area.
- (i) No person shall store any personal property upon public property that has clearly posted closure time, after the posted closure time. Without prior notice, the city may move and may immediately impound any personal property, whether attended or unattended, stored upon public property within ten feet of any such area.

**Section 8.33.040 - Property removal.**

City employees as designated by the City Manager may remove personal property unlawfully stored or found on public property as outlined in Section 8.33.030 as follows:

- (a) Written notice shall be posted at the location whereupon any personal property, including camp facilities and camp paraphernalia, is unlawfully stored. Such written notice shall advise of the violation of Section 8.33.030 and provide warning that property not removed within 24 hours shall be deemed abandoned and subject to removal and possible destruction.
- (b) City personnel may remove any personal property unlawfully stored or remaining on public property after the posting period has expired. City personnel shall offer the person claiming ownership of the personal property, if any, a shelter space, if one is available, as defined by Section 8.33.020.
- (c) Personal property which poses an imminent threat to public health or safety, is contraband or which is evidence of a crime shall not be subject to the above notice requirements and shall be removed immediately by City personnel or police and stored or destroyed according to the provisions below.
- (d) At the time of removal of unlawfully stored or remaining personal property, City personnel shall conspicuously post and date a notice either at the exact location from which the personal property was removed or at another nearby location giving the following information:
  - 1. A general description of the personal property removed;
  - 2. The date and approximate time the personal property was removed;
  - 3. A statement that the personal property has been stored in violation of section 8.330.030;
  - 4. The address where removed personal property will be located, including a telephone number and the internet website of the city through which a person may receive information as to impounded personal property;

5. A statement that impounded personal property may be discarded if not claimed within 90 days after impoundment.
- (e) Following removal of unlawfully stored or remaining personal property, City personnel shall do the following:
1. Maintain an inventory identifying the personal property, where the personal property is approximately located, and a reasonable estimate of value for such personal property;
  2. Place the removed personal property in containers labeled in a manner facilitating identification by City personnel and owner and which reasonably protect such property from damage and theft;
  3. Store removed personal property in an area designated by City for a period of 90 days.
- (f) Personal property stored by the City which is claimed within 90 calendar days from removal shall be released to the person claiming ownership provided that person identifies the property and the approximate location where the property was left.
- (g) Personal property which remains unclaimed after 90 calendar days is deemed intentionally abandoned and may be summarily abated and destroyed.

#### **Section 8.33.050 - Violations**

- (a) A violation of this article is a misdemeanor, and upon conviction, confinement of up to six months in jail and/or fines of up to \$1,000 per violation, or as set forth in the Master Fee Schedule, plus payment for the City's actual costs of transporting and storing property of the violator. In addition to the remedies set forth in Penal Code section 370, et seq., the City Attorney may institute civil actions to abate a public nuisance under this article.
- (b) An individual charged with violation of this article, in lieu of being taken to jail may, at the election of the citing police officer and with the consent of the individual, be taken to a facility providing social services related to mental health, housing, and/or substance abuse treatment.
- (c) As an alternative to a fine or jail sentence, the City would encourage the Court to grant diversion or probation with a condition the offender complete a rehabilitation program.

#### **Section 8.33.060 – Exceptions**

- (a) Absent exigent circumstances posing an immediate threat to the public health, safety, or welfare, the provisions of 8.330.030(a) will not be enforced against individuals based solely upon the fact that they are sitting, lying, or sleeping on City-owned public property, when such individuals do not have access to adequate shelter space, as defined in Section 8.33.020.

#### **Section 8.33.070 – Permit for Special Event.**

The City Manager may, in his or her discretion, issue a permit to establish, maintain and operate a camp or a camp facility in connection with a special event. A special event is intended to include, but not be limited to, programs operated by the departments of the city, youth or school events, marathons or other sporting events and

scouting activities. The City Manager may consult with various city departments, the health officer and the public prior to issuing any temporary permit. Each department or person consulted may provide comments regarding any health, safety or public welfare concerns and provide recommendations pertaining to the issuance, denial or conditioning of the permit. The City may establish a reasonable fee, to be paid in advance by the applicant. The fee shall be returned if the application is denied. In exercising his or her discretion to issue a temporary permit, the City Manager may consider any facts or evidence bearing on the sanitary, health, safety and welfare conditions on or surrounding the area or tract of land upon which the proposed temporary camp or camp facility is to be located.

Any person who establishes, maintains or operates a camp or camp facility without a permit is guilty of a misdemeanor and constitutes a public nuisance. In addition to remedies provided in Penal Code section 370 et seq., the City Attorney may institute civil actions to abate a public nuisance under this article.

**Section 8.33.080 – Posting Copy of Permit.**

It is unlawful for any person to establish, maintain, conduct or carry on any camp or camp facility unless there shall be at all times posted in a conspicuous place upon the area or tract of land upon which the camp or camp facility is located a permit obtained from the City Manager in accordance with the provisions of Section 8.33.070 of this article.

**Section 8.33.090 – Power of the City Manager to Make Rules and Regulations**

The City Manager is further empowered to ascertain that the operation or maintenance of any camp or camp facilities to which a temporary permit shall apply will in no way jeopardize the public health, safety or welfare and for this purpose may make additional rules and regulations pertaining to their establishment, operation or conduct. The City Manager may also impose conditions on the establishment, maintenance and operation of the camp or camp facility, including, but not limited to, security, sanitation facilities, the number of occupants, posting of bonds or deposits, insurance, quiet hours, duration of the permit, and permitted activities on the premises. When the City Manager shall issue any permit under the terms of Section 8.33.070 of this article, the same may be revoked at any time thereafter by the City Manager if the City Manager becomes satisfied that the maintenance or continuing operation of the camp or camp facilities is adverse to the public health, safety and welfare.

**Section 3.** **Notice.** The City clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in accordance with Section 36933 of the Government Code.

**Section 4.** **Severability.** If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of McFarland hereby declares that it would have adopted this Ordinance and

each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

**Section 5. Effective Date.** This Ordinance shall take effect thirty (30) days after its adoption pursuant to California Government Code section 36937.

**Section 6. Certification; Publication.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading, except by title, at a regular meeting thereof held on the 25<sup>th</sup> day of January 2022, and adopted the Ordinance after the second reading at a regular meeting held on the 08<sup>th</sup> day of February 2022, by the following roll call vote:

AYES: CM Reyes, CM Horton, CM Franetovich, MPT Borreli, Mayor Trujillo

NOES: \_\_\_\_\_


ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ATTEST

  
CECILIA VELA, City Clerk

CITY OF ARVIN

By:   
~~OLIVIA TRUJILLO, Mayor~~  
Daniel Borreli, Mayor Pro Tem

APPROVED AS TO FORM:

By:   
NATHAN HODGES, City Attorney  
Hodges Law Group

I, \_\_\_\_\_, City Clerk of the City of Arvin, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of Arvin on the date and by the vote indicated herein.