

CITY COUNCIL REPORT



Meeting Date: August 20, 2024
 General Plan Element: *Public Services & Facilities*
 General Plan Goal: *Provide a safe environment for all citizens, visitors and private interests*

ACTION

Ordinance No. 4644. Adopt Ordinance No. 4644 amending Section 19-21 of the Scottsdale Revise Code regarding camping in public places.

BACKGROUND

In *City of Grants Pass, Oregon v. Johnson*, the US Supreme Court recently held that the City of Grants Pass's public camping ordinance did not amount to criminalization of a status (i.e., being homeless), so it was not prohibited by the US Constitution's Eighth Amendment Clause banning cruel and unusual punishment. Additionally, the Court ruled that the fines and jail time allowed by the ordinance are not considered heinous or unusual. Thus, the 8th Amendment's cruel and unusual punishment clause does not prohibit the City of Grant Pass' from passing and enforcing laws addressing public camping. As a result, the holding in *Martin v. City of Boise*, 920 F.3d 584 (2019) that people should not be criminalized merely because they are homeless has been called into doubt and is likely no longer applicable and that public camping ordinances could generally only be enforced when shelter space was available. Proposed Ordinance No. 4644 amends Section 19-21 of the Scottsdale Revised Code by removing the requirement that shelter space must be available before enforcing Scottsdale's ordinance on camping in public places. The ordinance will still contain a provision that requires an opportunity for the impacted person to be given a reasonable opportunity to relocate prior to be arrested or cited.

ANALYSIS & ASSESSMENT

The principal proposed provision amending the camping in public places ordinance is a provision striking references to available shelter space. The ordinance will no longer require there be shelter space available prior to enforcement but will require that a violator be given a reasonable opportunity to relocate prior to being arrested or cited.

In the event the City Council passes the proposed ordinance, City Human Services staff will work to conduct outreach prior to any enforcement to homeless people impacted by this ordinance to help offer them resources.

RESOURCE IMPACTS

None.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach: Adopt Ordinance No. 4644 amending Section 19-21 of the Scottsdale Revised Code regarding camping in public places.

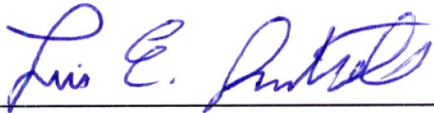
RESPONSIBLE DEPARTMENT(S)

City Attorney

STAFF CONTACTS (S)

Luis Santaella, Deputy City Attorney, lsantaella@scottsdaleaz.gov

APPROVED BY



Luis E. Santaella, Deputy City Attorney
(480) 312-2405, lsantaella@scottsdaleaz.gov

8/21/2024

Date

ATTACHMENTS

1. Ordinance No. 4644

ORDINANCE NO. 4644

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE,
MARICOPA COUNTY, ARIZONA, AMENDING SECTION 19-21 OF THE
SCOTTSDALE REVISED CODE

BE IT ORDAINED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. Scottsdale Revised Code Section 19-21 is hereby amended, as follows with new language shown in shaded format and deleted language in strikethrough format:

19-21. – Camping in public places.

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

Camp means to reside in or use a public park, public street, the McDowell Sonoran Preserve or other public place for living accommodation purposes; including, but not limited to, activities such as erecting tents or any other structure providing shelter, digging or breaking earth, laying down bedding for the purposes of sleeping, using camp paraphernalia, storing personal belongings, starting a fire, regularly cooking or preparing meals, or living in a parked vehicle.

Camp paraphernalia includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks or non-city designated cooking facilities and similar equipment.

Public park means all city parks and playgrounds.

Public street means all public streets and highways, public sidewalks, public benches, public parking lots and public parking structures.

Public place means publicly owned property including, but not limited to, the Scottsdale Civic Center, transportation facilities, schools, attractions, monuments and any improved or unimproved public area.

~~*Shelter space* includes, but is not limited to, a vacancy at a homeless shelter, hotel or motel contracted by the city to provide housing for homeless individuals, or other similar facility.~~

(b) No person shall camp in any public park, the McDowell Sonoran Preserve, public street or public place, except when specifically authorized by a permit issued by the city.

(c) A violation of this section is a class 3 misdemeanor.

(d) Prior to issuing a citation or making an arrest for this section, a peace officer shall give a person violating this section a reasonable opportunity to relocate ~~and shall also confirm that there is available shelter space.~~

PASSED AND ADOPTED by the City Council of the City of Scottsdale, Maricopa County, Arizona this _____ day of _____, 2024.

CITY OF SCOTTSDALE, an Arizona
municipal corporation

David D. Ortega, Mayor

ATTEST:

Ben Lane, City Clerk

APPROVED AS TO FORM:



Sherry R. Scott, City Attorney
By: Luis E. Santaella, Deputy City Attorney

From: [Lee Kaufheil](#)
To: [City Council](#)
Subject: August 20th Item 21 comment
Date: Monday, August 19, 2024 9:34:16 AM

External Email: Please use caution if opening links or attachments!

Hello council members,

I wanted to write in and express my opposition to consent agenda item #21 "Camping in Public Places Code Amendment Request: Adopt Ordinance No. 4644 amending Scottsdale Revised Code, Chapter 19, Offenses Miscellaneous, Article I, In General, Section 19-21, Camping in public places."

I am well aware of the ruling of the supreme court and how that has changed the rules of the 9th circuit that Arizona is a part of but I don't think it means we have to make changes to our laws or regulations. We should continue the way we've been operating with compassion and not using the recent decision to criminalize something like sleeping outdoors. These are our most vulnerable citizens and deserve the dignity of not making their existence without our borders illegal. If they are being disruptive and posing a harm there are other laws on our books that allow our public safety personnel to handle that situation.

Thank you,
-Lee Kaufheil