

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

SUBJECT: ORDINANCE AMENDING CHAPTER 11-22 OF THE
CITY CODE, HUMAN HABITATION OF VEHICLES AND
CAMPER, CAMPING

STAFF PRESENTER: MICHAEL J. CASEY, ASSISTANT CITY ATTORNEY

AGENDA ACTION: INTRODUCTION OF ORDINANCE

ISSUE(S)

Shall the City Council adopt an ordinance amending Chapter 11-22 of the City Code and eliminate 1) the definitions of camper and human habitation, and 2) section 11-22.020 prohibiting the use of vehicles or campers for human habitation?

COUNCIL GOALS/STRATEGIES

Goal 6: Commit to Making Santa Rosa a Healthy Community Where People Feel Safe to Live, Work, and Play.



BACKGROUND

1. In 1994, the City adopted an ordinance prohibiting camping on public property except in public campgrounds or by authority of a written permit. The ordinance also prohibited the “human habitation” of vehicles or campers on public streets. Human habitation, as defined, means using a vehicle for two or more consecutive hours for eating, resting, recreating or sleeping.
2. On November 8, 2011, the City adopted an urgency ordinance regarding camping on public property in response to issues that arose during the Occupy Santa Rosa movement and public health and safety issues resulting from camping at City Hall. This ordinance set forth standards for the issuance of permits to allow camping at City Hall.
3. On December 13, 2011, the City adopted an ordinance eliminating the permitting option and established a prohibition against camping on public property.

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4. Both ordinances retained the 1994 provisions related to human habitation of vehicles and campers on public streets for more than two hours. Currently, Section 11-22.010(E) provides,

“Human Habitation’ means use of a vehicle for two or more consecutive hours for the purpose of eating, resting, recreating or sleeping.”

Section 11-22.020, Use of vehicles for human habitation prohibited, currently provides,

“It is unlawful for any person or persons to use a vehicle or camper for human habitation on or in any public street, alley way or parking area, or any privately owned off-street parking area which is held open for the common public use of retail customers.”

5. Recently, litigation has been initiated against the City challenging these provisions claiming that they are preempted by the California Vehicle Code and that they violate the liberty interest protected by due process.

ANALYSIS

1. The City currently has an ordinance that prohibits camping on public streets and public property. Initially adopted in 1994, the ordinance was essentially amended twice in the latter part of 2011 as a result of issues related to the Occupy Santa Rosa movement and camping at City Hall. The definition of human habitation and the provisions prohibiting the use of vehicles on public streets for human habitation were retained. These provisions are now being challenged in litigation.
2. Section 11-22.030 of the current ordinance makes it unlawful to camp in any public park, or on any public street or public property. This provision will remain if the proposed amendment is adopted.
3. The proposed amendment will eliminate provisions of the ordinance which have been challenged in Santa Rosa, the County and other jurisdictions regarding sleeping in vehicles.
4. The Santa Rosa Police Department has reviewed the proposed ordinance as submitted and has concluded that it will not have a direct impact on the manner in which camping on public streets and public property will be enforced. The proposed ordinance will still allow the Police Department to address the community’s expectation regarding illegal camping on public streets. The Department has also consulted with the Sonoma County Sheriff’s Office regarding proposed changes to a similar County ordinance and has determined

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that both agencies will be enforcing the respective amendments in the same manner.

RECOMMENDATION

It is recommended by the City Attorney and the Police Department that the City Council introduce an ordinance amending Chapter 11-22 Human Habitation of Vehicles and Campers, Camping of the Santa Rosa City Code.

Author: Michael J. Casey, Assistant City Attorney

Attachments:

- Redlined Version of Amended Ordinance

Chapter 11-22 ~~HUMAN HABITATION OF VEHICLES AND CAMPERS, CAMPING~~
CAMPING ON PUBLIC STREETS AND PUBLIC PROPERTY

Note

* Prior history; Ord. 2713.

11-22.010 Definitions.

For the purpose of this chapter, the following definitions shall apply:

(A) “Camp” means to place, pitch or occupy camp facilities; to live temporarily in a camp facility or outdoors; to use camp paraphernalia.

~~(B) “Camper” means a structure designed to be mounted upon a motor vehicle and to provide facilities for human habitation or camping purposes.~~

~~(C)~~ “Camp facilities” include, but are not limited to, tents, huts, vehicles, vehicle camping outfits, or temporary shelters.

~~(D)~~ “Camp paraphernalia” includes, but is not limited to, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.

~~(E) “Human habitation” means use of a vehicle for two or more consecutive hours for the purpose of eating, resting, recreating or sleeping. (Ord. 3977 § 3, 2011; Ord. 3147 § 1, 1994)~~

~~11-22.020 Use of vehicles for human habitation prohibited.~~

~~—It is unlawful for any person or persons to use a vehicle or camper for human habitation on or in any public street, alley way or parking area, or any privately owned off-street parking area which is held open for the common public use of retail customers. (Ord. 3147 § 1, 1994)~~

~~11-22.030-020 Camping on public property. Camping on public streets and public property~~

It is unlawful for any person to camp, occupy camping facilities, or use camp paraphernalia in any public park, or on any public street or on any other public property.

(Ord. 3979 § 2, 2012; Ord. 3977 § 4, 2011; Ord. 3147 § 1, 1994)

~~11-22.040-030~~ Camping on private property.

It is unlawful for any person to camp on any private property without first obtaining the written permission of the owner. (Ord. 3147 § 1, 1994)