

Ordinance 2017-05

SHORT TITLE:

An ordinance enacting Provo City Code Chapter 9.18. Prohibiting Camping on Public Property. (17-020)

I

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	DAVID SEWELL	✓		
CW 2	GEORGE STEWART	✓		
CD 1	GARY WINTERTON	✓		
CD 2	KIM SANTIAGO	✓		
CD 3	DAVID KNECHT	✓		
CD 4	KAY VAN BUREN	✓		
CD 5	DAVID HARDING	✓		
TOTALS		7	0	0

This ordinance was passed by the Municipal Council of Provo City, on the 21<sup>st</sup> day of February 2017, on a roll call vote as described above. Signed this 01 March 2017.

  
Chair

II

APPROVAL BY MAYOR

This ordinance is approved by me this 6 March 2017.

  
Mayor

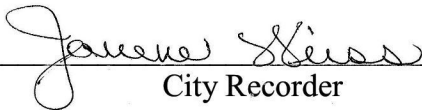
Ordinance 2017-05

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the 7th day of March 2017, with a short summary being published on the 25<sup>th</sup> day of February, 2017, in The Daily Herald, a newspaper circulated in Provo, Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2017-05.



  
\_\_\_\_\_  
City Recorder



41 constitute cruel and unusual punishment in violation of the constitutional rights of the homeless;  
42 and

43  
44 WHEREAS, the Provo City Police Department is committed to safeguarding the rights of  
45 all people and, in furtherance of this goal, works in partnership with other agencies and  
46 community groups who have an interest in the well-being of homeless persons; and

47  
48 WHEREAS, on February 7, 2017, and February 21, 2017, the Municipal Council held  
49 duly noticed public meetings to ascertain the facts regarding this matter, which facts are found in  
50 the meeting records; and

51  
52 WHEREAS, after considering the facts presented to the Municipal Council, the Council  
53 finds (i) Provo City Code Chapter 9.18 should be enacted as set forth below; and (ii) such action  
54 reasonably furthers the health, safety and general welfare of the citizens of Provo City.

55  
56 NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as  
57 follows:

58  
59 PART I:

60  
61 Provo City Code Chapter 9.18 Prohibited Camping on Public Property is hereby enacted  
62 as follows and replaces the previously repealed Chapter 9.18 Parking Strips:

63  
64 **Chapter 9.18. ~~Parking Strips~~ Prohibited Camping On Public Property**

65 **9.18.010. Definitions.**

66 **9.18.020. Sleeping on Public Property Without Authorization Prohibited.**

67 **9.18.030. Camping on City Public Property Without Authorization Prohibited.**

68 **9.18.040. Removal of Unlawful Campsite.**

69 **9.18.050. Removal, Disposition and Release of Personal Property.**

70 **9.18.060. Enforcement and Mitigation.**

71 **9.18.070. Application to City Property Outside City Limits.**

72  
73 **9.18.010. Definitions.**

74 For the purpose of this Chapter the following terms, phrases, words, and their derivations  
75 shall have the meaning given herein:

76 “**Available overnight shelter**” means a public or private facility, with all necessary  
77 Provo City occupancy approvals, open to an individual or a family experiencing homelessness  
78 with an available overnight space to house the individual or family at no charge. Overnight  
79 shelter space shall be considered available if the individual is not permitted to use otherwise

80 available overnight shelter space due to the individual’s voluntary actions, including, but not  
81 limited to, intoxication, drug use, unruly behavior, or violation of shelter rules.

82 “**Camp**” or “**camping**” means to set up or to remain in or at a campsite.

83 “**Campsite**” means any place where bedding, sleeping bag, or other material used for  
84 bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of  
85 maintaining a place to dwell or sleep, whether or not such place incorporates the use of any tent,  
86 lean-to, shack, or any other structure, or any vehicle or part thereof.

87 “**Parking Strip**” means the area between a curb, or a place where a curb would be  
88 located if improvements were installed, and a where a sidewalk is located or would be installed.

89 “**Personal Property**” means any tangible item reasonably recognizable as belonging to a  
90 person and having apparent utility or monetary value.

91 “**Public Property**” means any real property, building, or structure owned, used or leased  
92 by Provo City or any department thereof, including, but not limited to, any sidewalk, street,  
93 parking strip, alley, lane, public right-of-way, park, open space, bench, equipment, and other  
94 similar property.

95 “**Reasonable notice**” means notice reasonably calculated under all the circumstances to  
96 apprise a person that camping is prohibited at a particular location and, where personal property  
97 is deposited, affording the person time to gather their personal property and depart.

98  
99 **9.18.020. Sleeping on Public Property Without Authorization Prohibited.**

100 Provo City finds that sleeping on sidewalks, streets, parking strips, alleys, lanes, rights-  
101 of-way and within doorways is unsafe as it obstructs pedestrian and/or vehicular traffic, and may  
102 place the person sleeping and/or the public in danger of harm. Therefore, except as may be  
103 otherwise expressly authorized by the City:

104 (1) No person may sleep on any public sidewalk, street, parking strip, alley, lane, or  
105 public right-of-way.

106 (2) No person may sleep in any publicly used ingress or egress to public property.

107 (3) A violation of this subsection after a request to cease and desist shall be unlawful  
108 and shall give rise to any remedy provided by law.

109  
110 **9.18.030. Camping on City Public Property Without Authorization Prohibited.**

111 No person may camp in or upon any public property, nor any property owned by other  
112 governmental entities that have posted notice prohibiting camping, unless:

113 (1) the person has the authorization of owner of the property to camp at that location;

114 (2) camping is specifically authorized by the issuance of a special event permit in  
115 accordance with Provo City Code Chapter 6.20;

116 (3) camping is done for the purpose of watching a public parade in compliance with  
117 all the requirements of Provo City Code Section 9.14.220;

118 (4) camping is necessary after the formal proclamation of an emergency in  
119 accordance with Provo City Code Section 2.10.280;

- 120 (5) camping is otherwise specifically authorized by Provo City Code; or  
121 (6) the individual is on public property other than a sidewalk, street, parking strip,  
122 alleyway, lane, or public right of way, and there is no available overnight shelter.

123

124 **9.18.040. Removal of Unlawful Campsite.**

125 Upon discovery of a campsite on public property, removal of the campsite by the  
126 authorized agents of Provo City may occur if:

127 (1) after reasonable notice, the individual refuses to remove their personal property  
128 from the premises;

129 (2) personal property appears to be abandoned;

130 (3) there is probable cause for law enforcement officials to believe that illegal  
131 activities other than camping are occurring at the campsite; or

132 (4) there is immediate danger to human life, health or safety, including, but not  
133 limited to, possible contamination of public or private property by unsanitary and/or hazardous  
134 materials.

135

136 **9.18.050. Removal, Disposition and Release of Personal Property.**

137 Upon removal of a campsite, all litter, including items having no apparent utility or  
138 monetary value and items in an unsanitary condition, may be immediately discarded. All other  
139 personal property shall be gathered, retained, and released, with notice being provided to the  
140 property owner, in accordance with Utah Code Title 24, the Forfeiture and Disposition of  
141 Property Act; Utah Code Title 77, Chapter 24A, Lost or Mislaid Personal Property; and relevant  
142 Provo Police Department policy.

143

144 **9.18.060. Enforcement and Mitigation.**

145 In enacting this Chapter, it is not Provo City’s intent to criminalize homelessness nor  
146 violate a homeless person’s constitutional rights. Likewise, the City does not wish to prohibit the  
147 ordinary recreational use of the parks such as picnicking on a blanket, or resting or sleeping in a  
148 park during normal park hours. Enforcement of this Chapter shall be undertaken to avoid such  
149 results.

150 Upon conviction for a violation of this Chapter, in addition to any other factors deemed  
151 appropriate by the Court, the Court shall consider in mitigation whether or not the person  
152 immediately removed all personal property and litter, including, but not limited to, bottles, cans,  
153 and garbage from the campsite after being informed it was in violation of the law.

154

155 **9.18.070. Application to City Property Outside City Limits.**

156 This Chapter applies to public property owned by Provo City that is located outside the  
157 City’s municipal limits.

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159

160 PART II:

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162 A. If a provision of this ordinance conflicts with a provision of a previously adopted  
163 ordinance, this ordinance shall prevail.

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165 B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be  
166 severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or  
167 invalid, the remainder of the ordinance shall not be affected thereby.

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169 C. The Municipal Council hereby directs that the official copy of the Provo City Code be  
170 updated to reflect the provisions enacted by this ordinance.

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172 D. This ordinance shall take effect immediately after it has been posted or published in  
173 accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah  
174 Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

175

176 END OF ORDINANCE.