

Sept. 27, 2018

## **Urban camping ordinances in western states declared mostly unenforceable**

Tempe determined to preserve intended use of public spaces while helping homeless

The City of Tempe is working to adapt to an early September decision by the 9<sup>th</sup> U.S. Circuit Court of Appeals in an Idaho case that has effectively rendered unenforceable many municipal urban camping ordinances in Arizona and other western states.

Tempe's urban camping ordinance, which was originally passed in 1997 and updated in 2018, prohibits the unpermitted use of public property "as a temporary or permanent place of dwelling...or as a living accommodation at any time." The ordinance lists indications of camping to include, "burning a fire, carrying on cooking activities, storing personal belongings, laying down bedding for sleeping, using tents or temporary shelters for shelter..."

Tempe's prohibition on urban camping applies to all persons, whether homeless or not. The city has enforced the prohibition on all persons who are found to be in violation of the urban camping ordinance. However, the code provision may not now be applied to criminally enforce the urban camping prohibition against homeless persons if they would have no available shelter to stay in.

The jurisdiction of the court covers Arizona and eight other states. The ruling, issued by a three-judge panel of the court, determined that it would be unconstitutional for law enforcement agencies to enforce urban camping ordinances when there are no available shelters or other designated locations for homeless individuals to sleep. The court said that doing so is a violation of the Eighth Amendment of the U.S. Constitution, which prohibits "cruel and unusual punishments." The case was brought by a homeless individual who believed his rights were violated by the enforcement of two Boise, Idaho, ordinances.

According to the decision, "...as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter."

The city believes its current urban camping ordinance is now currently unenforceable as long as there is no shelter space available to homeless individuals in the city.

Today, Tempe staff across multiple departments are moving forward in light of the decision by adapting continued efforts to address homelessness and preserve public spaces.

### **Determined action to end homelessness**

Homelessness is a challenging, complex, national issue that Tempe has been redoubling its efforts to address over the last three years. Tempe is approaching this effort with patience, compassion and commitment because homeless individuals and families frequently are impacted by mental or physical health issues, past trauma and addiction.

Multiple city departments are coordinating the effort for Tempe. They have researched the size and scope of homelessness in our community and they are continuing to come up with solutions and implement them. Tempe Police and the city's HOPE homeless outreach team and CARE 7 crisis response team work closely to approach homeless individuals, develop relationships and encourage them to accept services. The city is working to increase the amount of housing options and other services that are available in Tempe and the region. According to regional and city statistics, there are estimated to be about 600-1,100 homeless people in Tempe.

Tempe has seen many successes with helping and housing individuals and the City Council has invested in these efforts through the annual city budget process:

- During the 2017-18 fiscal year, 103 people in Tempe were permanently housed through the HOPE homeless outreach program, which was an average of about nine permanent housing move-ins per month. That is a remarkable achievement, given the time it takes to move people into housing when they may have no income, no job, bad credit or negative rental history, mental illness or other barriers to housing.
- A total of 22 families (which included 55 children) were assisted in the 2017-18 fiscal year with case management, housing assistance as available, financial coaching, childcare and more.
- HOPE employees alone have had meaningful interactions with 624 unduplicated homeless individuals so far in 2018, to provide assistance with housing, securing benefits and more.

Tempe's determination to end homelessness does not mean there will never be another homeless person in the city. It refers to homelessness being rare overall, lasting briefly for each affected individual and occurring once in a person's life. Ending homelessness means that the efficiency and availability of services locally and regionally is enough to exceed the need.

For more information, visit [www.tempe.gov/EndingHomelessness](http://www.tempe.gov/EndingHomelessness).

### **Residents have a right to clean, safe parks**

Our compassion as a community about homelessness must be balanced with everyone's right to enjoy quality of life. That is why Tempe works to continuously improve, maintain and patrol parks citywide.

Tempe is adapting to the recent court decision and we take its impacts and intentions seriously. Prior to the court decision, Tempe had dedicated extra efforts to ensure that all park users comply with the law and with community standards. Future measures are being explored as well. Ongoing and future measures include:

- **Adding extra police patrols** – Officers are assigned extra park patrols, depending on other calls for service.
- **Enforcing curfew** – Most Tempe parks are open from 6 a.m. to 10 p.m. Police officers enforce those hours for every person regardless of status.
- **Enforcing existing prohibitions** – Activities such as drinking alcohol or using illegal drugs, being disruptive and unlawful use of water facilities are still prohibited by City Code. Tempe Police enforce those rules uniformly and fairly.

- **Examining new policies** – The city is looking at whether there are new policies, which would apply to everyone, that could maintain safe, clean public spaces for public use.
- **Researching private security** – Prior to the decision, Tempe Police had been looking into hiring private security personnel to patrol city parks that experience a high volume of illegal behaviors that are disturbing to area residents. The private security teams would supplement Tempe Police officers.
- **Developing a code of conduct for parks** – Based on the prohibitions listed in the City Code, Tempe is developing a code of conduct about the intended use of park assets. For example, playground equipment could be listed as an asset that is designed for children to play on and run around. The code of conduct would serve as a tool for the private security teams for approaching people who may not be violating the law but who are behaving in a way that is contrary to these expectations.

Residents should call 9-1-1 for emergencies in parks or 480-350-4311 for non-emergency issues in parks.

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