

**ORDINANCE NO. 2023-1020**

**AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON REVISING AND REPLACING CHAPTER 9.16 OF THE DEER PARK MUNICIPAL CODE IN ITS ENTIRETY; ADOPTING PROVISIONS RELATED TO CAMPING AND STORING PERSONAL PROPERTY WITHIN THE CITY; CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.**

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**WHEREAS**, pursuant to Article XI, Section 11 of the Washington Constitution and RCW 35A.11.020, the City of Deer Park ( the “City”) is authorized to regulate public property, including parks, public rights-of-way, and all other public property within the City; and

**WHEREAS**, public property is intended to be used by the public for public purposes including daily City operations, park recreational use, pedestrian, bicycle and vehicular transportation, and other public uses; and

**WHEREAS**, camping without adequate sanitation services, such as sewer, water, and garbage, presents a public health and safety concern; and

**WHEREAS**, it is important to maintain public property consistent with its intended use while balancing the needs of those experiencing homelessness with the impact on the entire community; and

**WHEREAS**, pursuant to *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019) the Ninth Circuit Court of Appeals held: (1) that the Eighth Amendment to the United States Constitution prohibits cities from enforcing Ordinances that criminalize camping on all public property at all times; and (2) it is permissible for cities to enforce an ordinance that criminalizes camping in certain locations at all times, but only if the cities also do not enforce the prohibition of camping in other locations when there is no available shelter; and

**WHEREAS**, this Ordinance is intended to comply with the Court’s decision in *Martin v. Boise*; and

**WHEREAS**, if no overnight shelter is available, then the provisions of this Ordinance will not be enforced, except in those areas specifically noted; and

**WHEREAS**, the City Council has reviewed the issues regarding homelessness and has determined that adoption of this Ordinance is in the best interest of the public health, safety, and welfare of the citizens of the City; NOW THEREFORE

**THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** Chapter 9.16 of the Deer Park Municipal Code (“DPMC”) is hereby amended in its entirety to read as follows:

**Chapter 9.16  
Regulating Public Camping**

Sections:

- 9.16.010 Purpose.
- 9.16.015 Definitions.
- 9.16.020 Unlawful camping.
- 9.16.025 Storage of personal property in public places.
- 9.16.030 Removal of unauthorized encampments and individual camps
- 9.16.040 Penalty for violations.
- 9.16.050 Enforcement suspended.
- 9.16.060 Severability.

**9.16.010 Purpose.**

It is the purpose of this chapter to prevent harm to the health and safety of the public and environment, and to promote the public health, safety and general welfare and environment by keeping public streets, sidewalks, parks, and other City-owned and/or City-maintained public property within the City readily accessible to the public, and to prevent use of City-owned and/or City-maintained public property for camping purposes or storage of personal property which interferes with the rights of others to use the areas for the purposes for which they were intended.

**9.16.015 Definitions.**

The following definitions are applicable in this chapter unless the context requires otherwise:

“Actively engaged in the process of exiting homelessness” means an individual is presently participating in the activities necessary to achieve housing, whether temporary or permanent. The City of Deer Park recognizes that availability of permanent housing, transitional housing and treatment services will impact an individual’s ability to successfully move out of homelessness into housing; and therefore, there are no specific timelines outlined within Chapter 9.16 DPMC. Such status shall be determined by the Mayor or their designee. When determining whether an individual is actively engaged in the process of exiting homelessness, the Mayor or their designee shall take into account whether the individual is:

1. In a HUD-approved local database (currently the “Community Management Information System” (“CMIS”)) with an active enrollment in an outreach project and/or coordinated entry; or
2. Working with a non-CMIS entering service provider; or
3. Actively working with a street outreach project towards permanent housing or any other intervention requested by the individual (for example, treatment). “Actively working” includes:
  - a. The outreach worker is building rapport with the individual and has not yet entered any enrollment into CMIS; or
  - b. The outreach worker and individual are: (i) in the documentation gathering phase for purposes of accessing housing or treatment facilities, and (ii) the individual is attending required appointments in order to achieve housing or treatment options; or
4. Participating in any other activity, program, or process deemed necessary to secure permanent housing.

“Available overnight shelter” means a public or private shelter, with an available overnight space, open to an individual or family unit experiencing homelessness at no charge. If an individual or family unit cannot use available space because of the individual’s or family member’s sex, familial or marital status, religious beliefs, disability, or a shelter’s length -of-stay restrictions, the space is not considered to be available.

“Camp” means to pitch, erect or occupy camp facilities, or to use camp paraphernalia or both, for the purpose of, or in such a way as will facilitate, remaining overnight, or parking a camper, recreational vehicle, trailer, or other vehicle for the purpose of remaining overnight.

“Camp facilities” include, but are not limited to, tents, huts, temporary shelters, campers, recreational vehicles, or trailers.

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

“Contraband” means any property that is unlawful to produce or possess.

“Litter” shall have the same meaning as used in RCW 70A.200.030 (6) and (11) as it currently exists or may hereafter be amended.

“Park or park facility” means any real property, building, structure, equipment, sign, shelter, swimming pool, vegetation, playground, or other physical property owned or controlled by the City for park purposes. Park or park facility includes all associated areas, including but not limited to parking lots for parks and pools.

“Personal property” means an item that is:

1. Reasonably recognizable as belonging to a person;
2. In its present condition has apparent utility and/or value; and
3. Is not hazardous or unsanitary.

“Right-of-way” shall have the same meaning as is stated in DPMC 17.06.340.

“Solid waste” shall have the same meaning as used in RCW 70A.205.015(24) as adopted or may be amended.

“Store” means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

“Stormwater drainage facility” for the purposes of this Chapter means any structure or configuration of the ground that is used or by its location becomes a place where stormwater flows or is accumulated, including but not limited to curbs, gutters, catch basins, ponds, open drainage ways, and their appurtenances.

“Trail” means a public path or walkway constructed for the primary purpose of allowing recreational non-motorized transportation.

“Unauthorized encampment” means two or more camp facilities in an identifiable area which appear to be used for unlawful camping. For purposes of this chapter an identifiable area includes areas where the camp facilities are in sight of each other and/or areas where each camp facility is located within 300 feet of another camp facility.

**9.16.020 Unlawful camping.**

It is unlawful for any person to camp in the following City-owned and/or City-maintained areas, except as otherwise provided by the DPMC or where specifically designated:

- A. Any right-of-way;
- B. Any trail, park, or park facility;

- C. Any publicly owned parking lot or publicly owned area, improved or unimproved;
- D. Any publicly owned stormwater drainage facility; or
- E. Any other City-owned or City-maintained property.

**9.16.025 Storage of personal property in public places.**

It is unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following City-owned and/or City-maintained areas, except as otherwise provided by the DPMC:

- A. Any right-of-way;
- B. Any trail, park, or park facility;
- C. Any publicly owned parking lot or publicly owned area, improved or unimproved;
- D. Any publicly owned stormwater drainage facility; or
- E. Any other City-owned or City-maintained property.

This section shall not apply to vehicles, including trailers, recreational vehicles, and campers, which are unoccupied and parked in rights-of-way, unless otherwise prohibited by law.

**9.16.030 Removal of unauthorized encampments and individual camps.**

Upon a determination by law enforcement or designated City personnel that an area constitutes an unauthorized encampment or that an individual is engaged in unlawful camping or storage of personal property in public places, the personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed subject to the following provisions:

A. If the unauthorized encampment, unlawful camping, or unlawful storage of personal property results in an immediate and significant risk of harm to any person or impedes pedestrian or vehicular traffic, then police, City staff, or contracted agent may immediately remove any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste, which shall be stored or disposed in the same manner as set forth in DPMC 9.16.030(B)(2).

B. Prior to removing property from an unauthorized encampment or unlawful camp, or removing personal property unlawfully stored on City-owned or City-maintained public property other than those specified in DPMC 9.16.030(A), the following shall occur:

1. The City shall post at least a 48-hour advanced notice, which shall include the following:

a. The address or location of the unauthorized encampment, unlawful camping, or unlawful storage of personal property;

b. A statement that camping or storage activity is prohibited by DPMC 9.16.020, 9.16.025, and/or 9.16.030;

c. A statement that any individual continuing to use the area for unlawful camping or storage of personal property may be subject to criminal penalties pursuant to Chapter 9.16 DPMC;

d. A statement that any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste remaining after the notice period is subject to removal and, as may be applicable, temporary storage by the City.

2. At the end of the 48-hour notice period, any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed by City personnel or agents thereof.

a. Any personal property that is removed shall be stored by the City for at least 60 days prior to being disposed.

b. Notice of where personal property removed from the encampment may be claimed shall be posted at the location.

c. If the name and contact information for the owner of a particular item of personal property can reasonably be identified, the City shall attempt to contact the identified owner and provide notice that the item has been removed and how to claim the item.

d. Any contraband located at the area shall be seized and properly disposed or retained as evidence of criminal activity.

e. Any litter or solid waste found at the area shall be properly disposed.

C. Any individual who receives a notice under this section, or whose property is removed from an area pursuant to this section, has a right to meet with the Mayor or their designee to raise any concerns, objections, or extenuating circumstances. At the conclusion of the meeting, the City representative shall prepare a written decision detailing the individual's concerns, as well as the City's response. Notice and procedure to set up a meeting shall be posted at or near the encampment site. If an individual requests a meeting prior to

removal of property, the removal of the individual's property shall be stayed pending resolution of the meeting; provided, that removal may still occur if the personal property, camping paraphernalia, camp facilities, or other property, contraband, litter, and solid waste constitutes an immediate threat to the public health, safety, or welfare.

**9.16.040 Penalty for violations.**

Violation of any of the provisions of Chapter 9.16 DPMC is a misdemeanor, and shall be punished upon conviction of such violation by a fine of not more than \$1,000 or by confinement not to exceed 90 days, or by both such fine and confinement.

**9.16.050 Enforcement suspended.**

A. Except as otherwise provided in this section, enforcement of criminal provisions of this chapter shall be suspended any time there is no available overnight shelter that accept patrons from the City, to the extent such available space or beds are required by law. In such circumstances, all provisions of this chapter shall continue to apply to camping, storage of personal property, including camp facilities and camp paraphernalia, and unauthorized encampments at the following:

1. The real property containing City Hall (Spokane County parcel numbers 28023.0402 and 28023.0403); the Deer Park Maintenance Shop (Spokane County parcel number 28022.1903); the City Wastewater Treatment Lagoons (Spokane County parcel numbers 29354.0010 and 29363.0009); the City Airport (Spokane County parcel numbers 39310.0001, 39303.0004, and 39325.0003); Perrin Field (Spokane County parcel number 28022.1103); Swinyard Park (Spokane County parcel numbers 28023.1701 and 28023.1601); the City Baseball Fields (Spokane County parcel numbers 28122.0007 and 28013.0086); Mix Park (Spokane County parcel numbers 28031.6001, 28031.2415, 28031.2404, 28031.1101, and 28031.2433 ); County Club Park (Spokane County parcel number 28012.1354); Arcadia Park (Spokane County parcel number 28024.0004); Erickson Arboretum (Spokane County parcel number 29363.0009); Deer Park Golf Course (Spokane County parcel number 29365.0052); Shamrock Glen Park (Spokane County parcel number 28013.2801); and, Deer Park Meadows Park (Spokane County parcel number 29353.3815);

2. Park facilities, including but not limited to all buildings, structures, equipment, signs, shelters, swimming pools, water recreation facilities, playgrounds, bathrooms, courts or designated sports fields available for reservation, or any

other fixture or improvement and the real property within 30 feet of such facilities. Unless constructed as a part of such park facility, natural vegetation shall not be considered to be a “park facility” for purposes of this section;

3. Public rights-of-way and City-owned real property within 30 feet of such rights-of-way; and

4. Publicly owned stormwater drainage facilities.

B. Enforcement of the criminal provisions of this chapter may also be temporarily suspended by law enforcement or the city manager or designee for the purpose of allowing an individual actively engaged in the process of exiting homelessness to continue working towards exiting homelessness; provided, that such suspension shall not authorize any individual to be located at any of the locations identified in DPMC 9.16.050(A). Such suspension may only occur during the period while an individual is actively engaged in the process of exiting homelessness. Nothing in this section shall guarantee or create rights to have enforcement of this chapter waived or suspended for any individual found to be violating the terms of this chapter. This section shall not preclude enforcement of this chapter against a person actively engaged in exiting homelessness where the violation results in a significant risk of harm to any person or impedes pedestrian or vehicular traffic, or where the person violates any other federal, state, or local law. Further, nothing in this section shall preclude the City to require an individual to move from any location identified in DPMC 9.16.050(A) to other available public property. Failure to work toward exiting homelessness and/or failure to follow other park and City regulations will result in immediate enforcement of Chapter 9.16 DPMC subject to shelter bed availability as required by law.

The City Council may adopt such rules and procedures necessary to identify individuals actively engaged in exiting homelessness and to notify the Spokane County Sheriff’s Office of such individuals.

C. Nothing in this chapter shall preclude enforcement of any other federal, state, or local laws, including enforcement of Chapter 12.26 DPMC.

**9.16.060 Severability.**

If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances is not affected.



**Section 2.** Ordinance 914 is hereby repealed.

**Section 3.** If any section, sentence, clause, or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

**Section 4.** This Ordinance shall take effect and be in full force five (5) days after this Ordinance or a summary thereof consisting of the title is published.

Approved by the City Council of the City  
of Deer Park, Washington, at an Open Public  
Meeting the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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MAYOR TIMOTHY VERZAL

ATTEST/AUTHENTICATED:

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DEBY CRAGUN, CITY CLERK/TREASURER

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

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CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK : \_\_\_\_\_  
FIRST READING : \_\_\_\_\_  
SECOND READING : \_\_\_\_\_  
THIRD AND FINAL READING : \_\_\_\_\_  
PASSED BY THE CITY COUNCIL : \_\_\_\_\_  
PUBLISHED : \_\_\_\_\_  
EFFECTIVE DATE : \_\_\_\_\_  
ORDINANCE NO. : 2023-1020

**SUMMARY OF ORDINANCE NO. 2023-1020**

of the City of Deer Park, Washington

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On the \_\_\_\_\_ day of \_\_\_\_\_, 2023, the City Council of the City of Deer Park, Washington, passed Ordinance No. 2023-1020. A summary of the content of said ordinance, consisting of the title, provides as follows:

**AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON REVISING AND REPLACING CHAPTER 9.16 OF THE DEER PARK MUNICIPAL CODE IN ITS ENTIRETY; ADOPTING PROVISIONS RELATED TO CAMPING AND STORING PERSONAL PROPERTY WITHIN THE CITY; CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.**

The full text of this Ordinance will be mailed upon request.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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CITY CLERK/TREASURER, DEBY CRAGUN