

ORDINANCE NO. 01-10-15

AN ORDINANCE OF THE CITY OF COOPER, TEXAS REGULATING PUBLIC USE OF RECREATIONAL VEHICLES FOR OVERNIGHT CAMPING AT HARMON PARK; FIXING PENALTIES FOR VIOLATION HEREOF; GRANTING AUTHORITY TO THE MAYOR TO EXECUTE THIS ORDINANCE AND ALL INSTRUMENTS REQUISITE IN IMPLEMENTING THIS ORDINANCE; AND AUTHORIZING CITY SECRETARY TO AUTHENTICATE MAYOR'S SIGNATURE TO THIS ORDINANCE AND ANY INSTRUMENTS REQUISITE IN IMPLEMENTING THIS ORDINANCE.

WHEREAS, the City Council of the City of Cooper, Texas finds that it is in the best interest of the health, safety and welfare of its citizens to regulate and prevent camping in public places.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COOPER, TEXAS:

Section 1: The Code of Ordinances of the City of Cooper, Texas is amended to include the following section:

Sec. 001. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Camp means living in a parked Recreational Vehicle.

Public park camp site means dedicated camping area or Recreational Vehicle pad sites.

Recreational Vehicle or RV includes any licensed camp trailer, travel trailer, motor home or fifth wheel designed to provide temporary living quarters for recreational camping or travel use, constructed with integral wheels to make it mobile and/or towable by motor vehicle.

Sec. 002. Authorized Acts.

Designated park facilities in Harmon Park are available on a first come first served basis for overnight camping in Recreational Vehicles. No reservations are taken.

Availability for public use. The designated campgrounds or Recreational Vehicle pad sites in Harmon city park shall be open to and for public use for overnight use in Recreational Vehicles at all hours of the day subject to the restrictions provided under previous ordinances from the City of Cooper and to such other restrictions due to inclement weather, the condition of the campground, the presentation of special events and like causes, as may be determined by the City of Cooper or any member appointed by the City of Cooper.

Sec. 003. Limitations on use.

Right to limit uses is hereby reserved. The right to use, or exercise any privilege at or in connection with, any campground in the city parks, including the Harmon Park, is limited by the extent of the facilities available, and is hereby reserved to the City in the public interest the right to deny any person the use of, or the exercise of, any facilities which are unavailable either because of the absence of such facilities or because existing facilities are then being fully utilized by others.

Sec. 004. Use limited to Recreational Vehicles.

The campgrounds or Recreational Vehicle pad sites in the Harmon parks shall be available for limited camping exclusively for the use of citizens of the City of Cooper, tourists, and other visitors to the city and shall not be available for commercial use or for use by any persons plying any vocation or business within the City or County, nor shall same be used by the public as a vehicle parking area, picnic area or general park recreation area without the consent of the Park Superintendent.

Sec. 005. Enforcement and collection of fees.

The City of Cooper, at its discretion, may appoint a person to act as park superintendent for Harmon Park. Either the park superintendent, or his agent shall, collect all fees and charges and enforce the conditions on limit of stay. In the absence of a park superintendent, the City Manager is responsible for the collection of all fees and charges and enforce the conditions on limit of stay.

Sec. 006. Fees.

Fees. The following schedule of daily fees or charges for camping in the city parks shall be and such is hereby adopted and established as follows, to-wit:

One to seven days \$25.00/day

Limits of stay. The maximum length of stay in said campgrounds shall not be more than 7 consecutive days; any requests for extensions on length of stay shall be made to and approved by the Mayor of Cooper, Delta County, Texas.

SECTION 2: Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of Two Hundred Dollars (\$200.00) for each offense.

SECTION 3: The Mayor of the City of Cooper, Texas is hereby authorized to sign this ordinance, and to sign all instruments requisite in implementing this ordinance. Further, the City Secretary of the City of Cooper, Texas is hereby authorized to attest to the signature of the Mayor of the City of Cooper, Texas to said ordinance.

SECTION 4: Should any word, phrase, paragraph, section or provision of this ordinance be held to be void or unconstitutional, the same shall not affect the validity of the remaining provisions of this ordinance which shall remain in full force and effect.

SECTION 5: All provisions of the ordinances of the City of Cooper in conflict with the provisions of this ordinance be, and the same are hereby repealed, and all other provisions of the ordinances of the City of Cooper not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6: This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.


IT IS ACCORDINGLY SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Cooper, Texas, on the 13 day of October, 2015.



Scotty Stegall, Mayor

ATTEST:



Emily Howse, City Secretary

APPROVED AS TO FORM:



Edgar J. Garrett, Jr., City Attorney

POST-SESSION UPDATE: STATEWIDE PUBLIC CAMPING BAN PROPOSED RULES AND OPEN PUBLIC COMMENT PERIOD

Starting September 1, [H.B. 1925](#) makes it a Class C misdemeanor for a person to camp on public city property without first obtaining effective consent from the city. This bill makes changes to the Texas Penal Code, Government Code, and Local Government Code, defines what it means to “camp,” establishes the process by which a city may give “effective consent,” and establishes rules for enforcement.

What is “camping?”

Under H.B. 1925 to “camp” is “to reside temporarily in a place, with shelter.” For purposes of this bill, “shelter” includes the following: a tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets or any form of temporary or permanent shelter designed to protect a person from bad weather, other than clothing or handheld devices, i.e., items like raincoats and umbrellas.

Is this a Camping Ban?

Not for nothing, the bill defines itself as a “camping ban,” yet the bill allows cities to consent to a person camping on public property for an array of purposes, including:

1. Recreational purposes
2. Sheltering homeless individuals
3. Beach access
4. Providing emergency shelter during a declared disaster

How does a city give “effective consent” to camping? This is where the bill gets a little tricky, because the process for giving effective consent *depends on the purpose* (from the list above) for which the person wishes to camp.

Purpose: Recreational or Emergency Camping. To allow camping for recreational purposes or for emergency shelter during a disaster, the bill gives no guidance. Presumably, a city would approve a process by which a person who wishes to camp for these purposes would apply for a permit, and that permit is evidence of the city’s consent. Speak to your city attorney regarding specifics of adopting such a policy.

Purpose: Camping on the beach: To consent to beach camping, a city with authority over a public beach must have a “beach access plan” approved pursuant to Section 61.015 of the Natural Resources Code. This law has been in place since the 1970s. One assumes that beach towns would have adopted such plans years ago, but given this new camping ban, an update to the beach access plan might be advisable. Consult your city attorney before taking specific action.

Purpose: Sheltering Homeless Individuals. This is where most of the action in H.B. 1925 is happening. A city may only give effective consent for a homeless person to camp on public property for the purpose of shelter, if the Texas Department of Housing and Community Affairs (TDHCA) approves a plan covering a defined area identified for camping by the city that complies with Subchapter PP, Chapter 2306, Texas

Government Code, which was a new subchapter created by this bill. For a plan to be approved, it must include information related to the following five areas:

1. Local Health Care: The availability of local health care for the homeless campers, including access to Medicaid and mental health services.
2. Indigent Services: The availability of indigent services for proposed homeless campers.
3. Public Transportation: The availability of reasonably affordable public transportation.
4. Law Enforcement: Local law enforcement in the area.
5. Mental Health Authority Coordination: Steps the city has taken in coordination with local mental health authority related to homeless campers.

No Homeless Camping in Parks: Under no circumstances, can TDHCA approve a plan that would allow a park to be used for camping by homeless individuals.

TDHCA Proposed Rules and Comment Period: The TDHCA has proposed rules fleshing out the process for plan submission, review, and adoption related to consenting to homeless camping. The proposed rules can be found [here](#). The period for public comment on these rules is currently open. The proposed rules flesh out the information the TDHCA will require with regard to the five categories listed above.

The public comment period will be open until August 23, 2021, to receive input on the proposed rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or email brooke.boston@tdhca.state.tx.us. All comments must be received by 5:00 P.M. August 23, 2021.

Additional Duties for Law Enforcement: The bill puts a number of duties on a law enforcement officer that is issuing a citation under this section including the following:

1. The officer must advise the person of an alternative place where they may camp;
2. If appropriate, the officer must contact an appropriate city official or nonprofit organization to provide the person with: (1) information regarding the prevention of human trafficking; or (2) any service that would reduce the likelihood of the person continuing to camp in public; and
3. If a person is arrested or detained solely for a camping offense, the arresting officer shall ensure that the person's personal property is preserved.

Cities Can Be More Stringent, but not Less: This bill does not preempt existing city regulations which are compatible with and equal to or more stringent than the bill. It also prohibits a city from adopting a policy prohibiting or discouraging the enforcement of a public camping ban. If a court determines that a city has adopted a prohibited policy, that city would be barred from receiving state grant funds for the fiscal year following that determination.