

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN ORDINANCE REPEALING AND REPLACING CHAPTER 9.66 (CAMPING) WITH CHAPTER 9.66 (CAMPING, SLEEPING IN PUBLIC AND STORAGE OF PERSONAL PROPERTY IN PARKS AND OTHER PUBLIC PLACES) OF TITLE 9 (PUBLIC PEACE, SAFETY, AND MORALS) OF THE FORT BRAGG MUNICIPAL CODE

ORDINANCE NO. 949-2019

WHEREAS, the City of Fort Bragg, pursuant to its police power, may adopt regulations to protect the health, safety and welfare of the public (Cal. Const. art XI, § 7; Govt. Code § 37100) and thereby is authorized to declare what uses and conditions constitute a public nuisance; and

WHEREAS, the City of Fort Bragg finds there is currently a well-documented homeless crisis at the local and State level, and this ordinance will protect the public by addressing certain nuisance conditions commonly associated with homelessness; and

WHEREAS, the City Council of the City of Fort Bragg finds this crisis and resulting unsanitary living conditions have created a resurgence in communicable diseases and other health and safety hazards that have been recently referred to by the Governor as “medieval;” and

WHEREAS, due to recent United States Court of Appeals for the Ninth Circuit case law, the City has been effectively unable to enforce the various provisions of the Fort Bragg Municipal Code that prohibit camping, storage of personal property and sleeping in vehicles in public areas; and

WHEREAS, the City Council of the City of Fort Bragg finds that this inability to enforce the above-referenced provisions of the Fort Bragg Municipal Code has exacerbated the homeless crisis within the City and has resulted in an intensification of unsanitary conditions of public property, including but not limited to persons camping in public places and dwelling in vehicles, which conditions constitute a public nuisance, all to the detriment of the public health, safety and welfare; and

WHEREAS, the City Council of the City of Fort Bragg finds that there is an immediate need to clarify the definitions of prohibited conduct found in the municipal code relating to prohibitions against sleeping in vehicles and camping in public areas to both provide constitutional safeguards and enable effective and timely enforcement of the prohibitions against camping and related activity on public property; and

WHEREAS, the City of Fort Bragg, pursuant to the provisions of the California Environmental Quality Act (“CEQA”) (California Public Resources Code Sections 21000 et seq.) and State CEQA Guidelines (Sections 15000 et seq., Title 14 the California Code of

Regulations) has determined that this Ordinance is not a “project” pursuant to Public Resources Code Section 21065, and that it is exempt from the provisions of CEQA pursuant to Guidelines Sections 15061(b)(3) (because it can be seen with certainty that the adoption of this Ordinance will not have an effect on the environment) and 15321 (enforcement actions by regulatory agencies).

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The foregoing recitals are true and correct and are made a part of this ordinance.
2. Adoption of this ordinance is in the best interest of the City of Fort Bragg in that this ordinance regulates certain nuisance conditions, and in so doing, promotes the public health, safety, and welfare of the residents of the City.

Section 2.

Chapter 9.66 entitled **Camping** is hereby repealed and replaced in its entirety with the following:

**CHAPTER 9.66:
CAMPING, SLEEPING IN PUBLIC AND
STORAGE OF PERSONAL PROPERTY IN PARKS
AND OTHER PUBLIC PLACES**

Section	
9.66.010	Definitions
9.66.020	Purpose
9.66.030	Unlawful Camping
9.66.040	Authorization to Enter Property
9.66.050	Sleeping in the Central Business District Prohibited
9.66.060	Special Event Permit
9.66.070	Storage of Camp Paraphernalia or Personal Property
9.66.080	Living or Sleeping in Vehicle
9.66.090	Living or Sleeping in Certain Vehicles
9.66.100	Cooking
9.66.110	Public Excretion
9.66.120	Property Found on Public Property or Private Property without the Owner’s Consent
9.66.130	Property Removal
9.66.140	Personal Effects
9.66.150	Disposition of Property
9.66.160	Penalty for Violation

9.66.010 DEFINITIONS

For purposes of this chapter, the following words shall have the following meaning, unless the context clearly indicates otherwise.

ABANDONED PERSONAL PROPERTY. Personal property that the owner surrenders, relinquishes, or disclaims. Indicia of abandoned personal property shall include, but not be limited to: personal property that its owner has indicated he/she does not want; and personal property left on private real property for any period of time without the permission of the real property owner or current tenant.

ALLEY. *Alley* shall have the same meaning as section 110 of the California Vehicle Code.

BACKYARD CAMPING. Occasional camping in the area behind the front yard setback at residential properties, with the property owner's or lawful tenant's express permission, not to exceed three consecutive days in any ninety-day period.

CAMP OR CAMPING. *Camp or camping* means to pitch or occupy camp facilities, to use any public area for living accommodation or habitation purposes such as sleeping activities, or making preparations to sleep, including the laying down of bedding for purposes of sleeping, or to use or store camp paraphernalia for purposes of living accommodation or habitation purposes.

CAMP FACILITIES. Includes, but is not limited to, tents, huts or temporary shelters.

CAMP PARAPHERNALIA. *Camp paraphernalia* includes, but is not limited to, tarpaulins, umbrellas, cots, beds, bedding, sleeping bags, hammocks, non-city designated cooking facilities, kitchen utensils, camping stoves, portable barbeques and similar equipment, extra clothing, personal hygiene items, and/or shopping carts, strollers, wheeled suitcases or similar mobile containers used to transport and/or store other items of camp paraphernalia.

CHIEF OF POLICE means the Chief of Police of the City of Fort Bragg or his/her designee.

CITY CLERK means the City Clerk of the City of Fort Bragg or his/her designee.

CITY MANAGER means the City Manager of the City of Fort Bragg or his/her designee.

PARK. A park, playground, recreational trail, recreation center or any other area in the City owned, maintained or used by the City for the purpose of public rest, play, enjoyment, active or passive recreation, or assembly, and shall include all buildings and structures located thereon or therewith.

PERSONAL PROPERTY. Personal property means tangible personal belongings. Tangible personal belongings include any movable or tangible thing that is subject to ownership; property or chattels that can be seen, weighed, measured, felt, or touched, such as furniture,

cooking utensils, money and books. For the purposes of this chapter, personal property shall not include real property, vehicles, bicycles, or animals.

PRIVATE PROPERTY. All private property including, but not limited to, private streets, sidewalks, alleys, and privately owned improved or unimproved land.

PUBLIC AREA. Public area means and includes, but is not limited to, any street, alley, park, public right-of-way, recreational area, any place open to the public view or other place to which the public has access. A public area can be privately or publicly owned.

PUBLIC PROPERTY. All public property including, but not limited to, public streets, sidewalks, alleys, and improved or unimproved publicly owned land and parks.

REAL PROPERTY. *Real property* means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land. Real property includes land, buildings and easements.

SPECIAL OCCUPANCY PARK OR MOBILE HOME PARK. Any area of land within the City licensed pursuant to the California Health and Safety Code as a Mobile Home Park, as defined in California Health and Safety Code Section 18214, or a Special Occupancy Park as defined in California Health and Safety Code Section 18862.43, which has a currently effective City business license, and in which space is rented or held out for Camping.

STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS means accumulating or putting aside personal property, placing it for safekeeping, or leaving it in public areas; or personal property that is left unattended in any public area lacking a guard, escort, caretaker, or other watcher.

STREET. *Street* shall have the same meaning as section 591 of the California Vehicle Code.

9.66.020 PURPOSE.

Public parks, beaches, parking lots, streets and other public areas within the City should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for which they were intended. The purpose of this Ordinance is to maintain streets, parks and other public and private areas within the City in safe, clean, sanitary and accessible condition in order to adequately protect the health, safety and public welfare of the community, and to limit Camping to circumstances that do not create public and private nuisances or have adverse public safety impacts.

9.66.030 UNLAWFUL CAMPING.

A. It is unlawful and a public nuisance for any person to Camp, establish, maintain, operate or occupy Camp Facilities, or use Camp Paraphernalia in the following areas, unless specifically excepted as set forth in subsection B below:

1. Any park;
2. Any public beach;
3. Any street or alley;
4. Any public parking lot or public area, improved or unimproved; or
5. Any private property.

B. Exceptions.

1. This section shall not prohibit sleeping, camping or storing personal property in areas designated for such purposes, which are permitted by a governmental entity, or inside a caretaker's residence;
2. Camping in Mobile Home Parks and Special Occupancy Parks;
3. Backyard Camping, provided such activity does not create a nuisance by excessive noise exceeding the night time noise levels set forth in the City General Plan or odors which are offensive to a person with a reasonable sense of smell, or any other basis for nuisance set forth in this code; or
4. Camping on Public or Private Property in connection with a special event, when authorized pursuant to Section 9.66.060.

C. Signs. The Chief of Police, or a designated representative thereof, is hereby authorized to construct, maintain, and post such markings and signs as are determined to be necessary or desirable to give public notice of the provisions of this section.

9.66.040 AUTHORIZATION TO ENTER PRIVATE PROPERTY

Any private property owner, or person having control over private property, may provide the City with written authorization to enter their private property to enforce the provisions of this code and State law against any person found on the private property without the owner's consent or without a lawful purpose.

9.66.050 SLEEPING IN THE CENTRAL BUSINESS DISTRICT PROHIBITED.

Sleeping in any public area in the Central Business District is prohibited between the hours of 6:00 am to 10:00 pm. The Central Business District is defined on the City of Fort Bragg Zoning Map which is on file with the Community Development Department, but generally includes the following boundaries: Main Street to McPherson Street between Pine Street and Oak Street.

The Chief of Police, or a designated representative thereof, is hereby authorized to construct, maintain, and post such markings and signs as are determined to be necessary or desirable to give public notice of the provisions of this section.

9.66.060 SPECIAL EVENT PERMIT.

The Community Development Director or his or her designee may issue a Limited Term Permit pursuant to Section 17.71.030 of the Coastal Land Use & Development Code or Section 18.71.030 of the Inland Land Use & Development Code for camping during special events. "Special event," as used herein, means an event sponsored by the City or a non-profit or community-based organization of not more than 72 hours duration which is conducted for the purpose of promoting sports, education, or other charitable activities.

9.66.070 STORAGE OF CAMP PARAPHERNALIA OR PERSONAL PROPERTY.

It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following areas, except as otherwise provided by this Chapter or resolution of the City Council:

- A. Any park.
- B. Any public beach.
- C. Any street.
- D. Outside a structure on any Private Property without the prior written consent of the owner.
- E. Any public parking lot or public area, improved or unimproved.

9.66.080 LIVING OR SLEEPING IN VEHICLE.

Except as specifically authorized by this code, it is unlawful for any person to sleep in or on or dwell in or on any motor vehicle parked any place in the city between the hours of 11 p.m. and 7 a.m., or to dwell and/or live in or on any vehicle parked upon any city owned, operated, or maintained street, sidewalk, alley, public right-of-way, or any other public area within the city at any time. This section is not intended to prohibit the use of campers or motor coaches or motor vans for sleeping and/or dwelling purposes where the same are parked in an authorized trailer court or campsite within the city. As used in this section, "dwell" means to use as a basic residence for shelter, sleeping and/or cooking purposes in lieu of traditional code compliant building structures designed for human habitation.

9.66.090 LIVING OR SLEEPING IN CERTAIN VEHICLES.

A resident within the city may permit a visitor or visitors to live or sleep in a recreational vehicle or vehicle equipped for transportable living or sleeping parked on private property and on a temporary basis, pursuant to the following: the resident may permit one such vehicle to be so parked and so used on the site of the host residence property for no more than seven (7) days in any 90-day period provided that: (1) parking room is available on site (without use of front lawns or other areas required to be maintained as open areas); (2) parking the vehicle does not constitute a safety hazard; (3) the presence of the vehicle and/or its occupants does not cause a public nuisance.

9.66.100 COOKING.

No person shall cook food on any public beach, or outdoors in any park or parking lot between the hours of 11:00 p.m. and 5:00 a.m. This section shall not prohibit cooking in areas designated for such purposes.

9.66.110 PUBLIC EXCRETION.

No person shall urinate or defecate in a:

- A. Public area;
- B. Place open to the public or exposed to public view; or
- C. Private place entered without consent of the owner, his agent, or the person in lawful possession thereof.

This section shall not apply to urination or defecation in any fixture provided for such purposes in any bathroom, restroom, dressing room, or similar facility.

9.66.120 PROPERTY FOUND ON PUBLIC PROPERTY OR PRIVATE PROPERTY WITHOUT THE OWNER'S CONSENT.

- A. Unless otherwise authorized in this chapter, any personal property including camp facilities and paraphernalia, unlawfully stored or found in the Coastal Zone or in an encampment in a City park or public parking lot, shall be deemed abandoned property.
- B. The police chief, or designee (collectively "enforcement officer") is authorized to remove property unlawfully stored or found in the Coastal Zone or in an encampment in a City park or public parking lot in accordance with this chapter.
- C. Unless otherwise authorized in this chapter, any personal property including camp facilities and paraphernalia, unlawfully stored or found on private property without the owner's written consent, shall be deemed abandoned property.
- D. For purposes of this chapter, "encampment" includes a shelter consisting of tents, tarps or other coverings, a latrine, cooking facilities, and other evidence of habitation near the shelter.

9.66.130 PROPERTY REMOVAL.

The enforcement officer may remove personal property unlawfully stored or found in the Coastal Zone, any encampment in a City park or public parking lot, or on private property upon receipt of the private property owner's written consent, as follows:

- A. The location of any personal property including camp facilities and paraphernalia, shall be tagged and dated with a notice including the following: "It is illegal to store personal property on this property. If this personal property is not removed by (specify date at least seven (7)

days from posting), THIS PERSONAL PROPERTY SHALL BE DEEMED INTENTIONALLY ABANDONED AND SUBJECT TO REMOVAL AND POSSIBLE DESTRUCTION."

B. The enforcement officer may remove any personal property still unlawfully stored or remaining in the Coastal Zone, or any encampment in a City park or public parking lot, or on private property after receipt of the private property owner's written consent, after the posting period has expired.

9.66.140 PERSONAL EFFECTS.

A. Personal effects for purposes of this chapter 9.66, means personal property consisting of the following items:

1. Medication, eye glasses, or other medical devices;
2. Sleeping bag or bed roll which is sanitary and non-verminous;
3. Tents in usable and reasonably good condition;
4. Clothes stored in a manner protecting them from the elements, which are not unsanitary, soiled, or verminous; and
5. Personal property with an individual fair market value of at least \$50.00.

B. At the time of removal of unlawfully stored or remaining personal effects in any public area of the City, the enforcement officer shall conspicuously post and date a notice either at the exact location from which the personal effects were removed or at another nearby location giving the following information:

1. A list of personal effects removed;
2. A telephone number for information on retrieving personal effects; and
3. The length of time during which the personal effects may be claimed.

C. Following removal of unlawfully stored or remaining personal effects, an enforcement officer shall:

1. Maintain an inventory identifying the personal effects; where the personal effects were approximately located; and the reasonable value of each item;
2. Place the removed personal effects in containers labeled in a manner facilitating identification by the enforcement officer and owner and which reasonably protect such property from damage or theft; and
3. Store removed personal effects in an area designated by the enforcement officer for a period of 90 days.

D. If personal effects are claimed within 90 days from removal, unless the property is connected to a crime or is illegal to possess, the enforcement officer shall release the stored property to the owner upon the following:

1. The person claiming ownership identifies the property and approximate location where the property was left by the owner.

9.66.150. DISPOSITION OF PROPERTY.

A. Unlawfully stored or found personal effects removed from the Coastal Zone, any encampment in a City park or public parking lot, or in any public area after receipt of the private property owner’s written consent, remaining unclaimed at the end of 90 days from removal shall be dedicated for public use, and may be given for charitable use to a local nonprofit agency, or placed for sale pursuant to this Code.

B. All other unlawfully stored or found personal property removed from the Coastal Zone, any encampment in a City park or public parking lot, or on private property upon receipt of the private property owner’s written consent is deemed intentionally abandoned and may be summarily abated and destroyed.

9.66.160 PENALTY FOR VIOLATION.

Any violation of this Chapter may be enforced as set forth in Chapter 1.12 of this code.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 4. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on July 22, 2019 and adopted at a regular meeting of the City of Fort Bragg held on August 12, 2019 by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

William V. Lee
Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: July 25, 2019 and August 22, 2019 (by summary).
EFFECTIVE DATE: September 11, 2019.