



City of Boston, Massachusetts
Office of the Mayor
MICHELLE WU

August 28, 2023

TO THE CITY COUNCIL

Dear Councilors:

I hereby transmit for your approval an Ordinance to support public safety as the City doubles down on our public health-led approach to the crises of mental health, substance use, and unsheltered homelessness concentrated in the area of Massachusetts Avenue and Melnea Cass Boulevard.

The Ordinance will establish a prohibition against unsanctioned use of tents, tarps, and similar temporary structures on public property and in the public way which have been shielding much of the dangerous activity in the area and undermining the ability of providers to safely and effectively deliver services. Boston Police would have the authority to enforce on the condition that individuals are offered shelter and transportation to services, as well as storage for personal belongings. This Ordinance is one component of a three-part approach that will also include expanding overnight low-threshold housing and shelter capacity, and a coordinated response operation to return Atkinson Street to standard roadway usage and deliver outreach services citywide to prevent new encampments in other neighborhoods.

Over the last year and a half, we have built up a solid infrastructure of low-threshold supportive housing with treatment, care, and case management for a successful pathway to recovery. Since January 2022, more than 500 people from the Mass and Cass area have been served at the City's low-threshold supportive housing sites, and 149 people have achieved the stability, health, and recovery to move on to permanent housing. The State has also begun to create low-threshold supportive housing modeled after Boston's progress in other municipalities, with six locations so far, and the Suffolk County District Attorney's Office and State Legislature have partnered to significantly expand a diversion program in the court system to facilitate recovery. The Ordinance will help us double down on this coordinated approach by addressing the public safety of patients, workers, and residents in the area so we can continue improving our outreach and services.

I urge your Honorable Body to take swift and urgent action to approve this ordinance in order for City officials and provider partners to finalize preparations and begin implementation well before the colder temperatures of late fall and winter.

Sincerely,

Michelle Wu
Mayor of Boston



CITY OF BOSTON
IN CITY COUNCIL

AN ORDINANCE RELATING TO UNLAWFUL CAMPING ON PUBLIC PROPERTY

WHEREAS: The humanitarian crisis of homelessness, substance use, and mental health concentrated near Massachusetts Avenue and Melnea Cass Boulevard has been one of the most pressing and complex challenges in the City of Boston for nearly a decade; and

WHEREAS: Since January 2022, the City of Boston has achieved substantial progress through a coordinated response focused on public health—building an infrastructure including nearly two hundred units of low-threshold supportive housing; expanded shelter capacity; a case management system; a family reunification program; daily street cleanings; and partnerships with community organizations for public health, outreach, and workforce development to facilitate recovery—that has served more than 500 individuals from the Mass and Cass area in the City’s low-threshold housing sites, with 149 individuals transitioning into permanent housing; and

WHEREAS: Unsanctioned temporary structures, including tents and tarps, undermine the City of Boston’s ability to maintain adequate access to public property for individuals of all abilities, an unobstructed path of travel as required by law, and a safe and hazard-free environment for all individuals; and

WHEREAS: Tents and tarps are often fire hazards that hinder fire personnel and first responders in the event of an emergency, create visual barriers that can impair the ability of outreach workers and first responders to deliver public health and social services, and that limit access or conceal criminal behavior, which directly impacts public safety and diminishes the Boston Police Department’s ability to respond to individuals in need or directly address criminal activity; and

WHEREAS: Any delay to removing these structures presents an immediate potential harm to individuals inside the structures and to members of the public in the vicinity due to the public health and safety issues listed above; and

WHEREAS: By restricting unlawful camping on public property, the City seeks to curtail obstacles to public safety and public health in order to enhance the continued

delivery of outreach and services for health, housing, and recovery; *NOW
THEREFORE*

Be it ordained by the City Council of Boston as follows:

SECTION 1. City of Boston Code, Ordinances, is hereby amended in *Chapter XVI* by adding the following after the existing Section 16-64:

16-65 AN ORDINANCE RELATING TO UNLAWFUL CAMPING ON PUBLIC PROPERTY

16-65.1 Definitions.

For the purpose of Sections 16-65.2 through 16-65.10, the following definitions shall apply:

"To camp" means to pitch, erect, or occupy a Campsite or to use Camp Materials, or both, for the purpose of, or to facilitate, outdoor sheltering, either temporarily or permanently.

"Campsite" means any place where a tent, tarp, or other temporary structure is established for the purpose of maintaining an outdoor shelter.

"Camp Materials" means items used to establish or facilitate occupancy of a Campsite, including tents, tarps, or other temporary structures, as well as large furniture, stoves, and other cooking instruments.

"City Storage Program Policy" refers to the City's written policy for storage of eligible property.

"Emergency Shelter Space" means a City-authorized location providing temporary shelter or alternative sleeping space practically available to persons experiencing homelessness. Emergency Shelter Space shall be at a shelter, housing accommodation, or alternative sleeping space that maintains policies and procedures for accommodations under the Americans with Disabilities Act.

"Period When Shelter Is Unavailable" means a length of time in which there is no Emergency Shelter Space available to individuals experiencing homelessness in Boston.

16-65.2 Purpose

It is the purpose of this Ordinance to promote public health, public safety, general welfare, and the economic health and well-being of Boston, its workers, visitors, and residents, including individuals experiencing homelessness, by prohibiting unsanctioned camping and the dangerous and unsafe conditions surrounding such Campsites.

The Ordinance seeks to improve access to housing and recovery services by restoring access to public spaces, the public right-of-way, and curtailing the existence of Campsites that shield drug trafficking, human trafficking, weapons, fire hazards, violence and other criminal activity, and that create conditions for large crowds to congregate. It is also the purpose of this Ordinance to protect the rights of individuals related to their personal property and to treat such property with respect and consideration.

This Ordinance shall apply to all Campsites and camping on public property, including, but not limited to streets, sidewalks, and public right-of-ways.

16-65.3 Unlawful Camping on Public Property

It is unlawful for any person to camp or maintain a Campsite or Camp Materials in or on any public property or in the public right-of-way, including but not limited to any street, sidewalk, school or public park, unless specifically authorized or during a Period When Shelter Is Unavailable.

16-65.4 Restrictions on Unlawful Camping During A Period When Shelter Is Unavailable

The prohibition against Campsites and camping shall not apply during a Period When Shelter Is Unavailable.

City officials shall maintain, and regularly revise, a shelter list that is communicated to the Boston Police Department and other City departments for the purpose of identifying available shelter space.

During a Period When Shelter Is Unavailable, or when a Campsite is specifically authorized, a Campsite or use of Camping Materials must comply with existing state and local laws to ensure the public health and safety of those in and around the Campsite.

The Mayor's Office of Housing, in consultation with the Boston Police Department and the Inspectional Services Department, is hereby authorized to promulgate any additional restrictions relative to the time, place, and manner for camping, and density of Campsites, during any Period When Shelter Is Unavailable in order to advance public safety, maintain access to the public right-of-way, and support the effective operation of facilities such as schools, shelters, and health care institutions during such periods.

16-65.5 Offer of Shelter

In the event of a violation of this Ordinance, the City shall provide, or cause to be provided, an offer of available Emergency Shelter Space to an individual experiencing homelessness and, when requested, transportation to the available Emergency Shelter Space.

Each Emergency Shelter Space offered to an individual shall be at a shelter, housing accommodation, or alternative sleeping space that maintains policies and procedures for accommodations under the Americans with Disabilities Act.

16-65.6 Storage of Property

In the event of a violation of this Ordinance, the City shall offer and provide storage for personal belongings consistent with the City Storage Program Policy. The City Storage Program Policy shall provide for the storage of eligible property, define property that is eligible for storage, and provide clear instructions on how individuals may regularly access and recover their belongings.

The City Storage Program Policy will also provide that for property at a Campsite that is not claimed by any person, City staff will assess whether the property is abandoned property or an individual's temporarily unattended property, including through inquiry to individuals in the area and a reasonable attempt to identify the property owner. Property determined to pose an immediate health or safety risk is subject to immediate disposal.

The City shall store temporarily unattended eligible property under the City Storage Program Policy. For temporarily unattended property that is not eligible for City storage, the City will either post notice for 24 hours prior to removal of the unattended property not eligible for City storage or will temporarily store the unattended property and post notice as to how to recover it.

City officials shall provide a written copy of the City Storage Program Policy when providing an offer of storage, which shall be made available in each language that meets a language access need in Boston as most recently determined by the Office of Language and Communications Access.

In the event that an individual chooses to leave the area without their belongings upon learning of a violation of this Ordinance, City staff shall store eligible property in line with the City's Storage Program Policy.

The City shall maintain a feedback system on the City Storage Program through which individuals can complete a form either online or by requesting a physical form from a City employee or agent. These feedback forms can be used to submit general feedback or to submit a claim for reimbursement for lost property.

16-65.7 Removal

Once the City has engaged an individual as described in Section 16-65.5 Offer of Shelter and Section 16-65.6 Storage of Property, and the individual has either accepted or declined the offers, the City shall remove any Campsite and/or Camp Materials not removed by the individual.

16-65.8 Notice to Individuals

Immediately upon passage, the City shall distribute leaflets to individuals and post weather-resistant signs in locations with a concentrated number of Campsites to provide additional actual notice of this Ordinance and the effective date. The leaflet shall contain a written copy of this Ordinance, a written copy of the City Storage Program Policy, and written copies of additional resources.

Upon the effective date of the Ordinance, once the City has engaged an individual as described in Section 16-65.5 Offer of Shelter and Section 16-65.6 Storage of Property, no further notice is required to enforce this Ordinance.

When the City notifies an individual located in any Campsite that a Period When Shelter Is Unavailable has ended, the individual shall have forty-eight (48) hours to remove their Camping Materials.

16-65.9 Penalty For Violations

Individuals in violation of this Ordinance who refuse to remove or allow for removal of the Campsite or Camp Materials as described in Section 16-65.7, or who reestablish a Campsite following removal pursuant to Section 16-65.7, shall be subject to penalties. This Ordinance shall be enforced by the Boston Police Department as well as any sworn law enforcement agency empowered to make an arrest within the jurisdictional boundaries of the City of Boston. Any of the following penalties may apply:

- (a) All enforcement methods authorized by law, including G. L. c. 40, § 21, non-criminal disposition authorized by G. L. c. 40, § 21D, or enforcement authorized by G. L. c. 279, § 59 (Ordinances or Regulations Relating to Streets, Reservations, or Parkways; Alcoholic Beverages; Profanity; Arrest Without Warrant) if the Boston Police or other duly authorized officer on scene determines a violation of G. L. c. 272, § 59 has occurred in their presence;
- (b) The fine for each offense shall be Twenty-Five dollars (\$25.00);
- (c) This Section shall go into effect seven (7) days after the date of passage to permit any individuals located in any Campsite to remove Camping Materials in order to comply with this Ordinance.

16-65.10 Severability

The provisions in this Ordinance are severable. If any part or provision of this Ordinance is held invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected by such holding and shall continue to have full force and effect.

**I HEREBY CERTIFY
THE FORGOING, IF PASSED IN
THE ABOVE FORM, WILL BE IN
ACCORDANCE WITH LAW.**

BY


**ADAM CEDERBAUM
CORPORATION COUNSEL**