



TRANSMITTAL MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: Lacey G. Simpson, Acting City Manager

DATE: January 13, 2022

RE: **Ordinance No. 22-1940 – Repealing Subsection (A)(5) Of Ketchikan Municipal Code Section 10.88.080; Entitled, “Parking Violations;” And Adding A New Section 10.60.055 Entitled, “Regulation Of Camping” To Title 10, Chapter 60 Of The Ketchikan Municipal Code; And Establishing An Effective Date**

The attached ordinance was approved in first reading at the City Council meeting of January 6, 2022. If adopted in second reading, Ordinance No. 22-1940 provides for enacting a new section of the Ketchikan Municipal Code to address camping in off street parking lots. The ordinance is in response to citizen comments received by the City Council as a means to prohibit the use of off street parking lots for the purpose of camping. Ordinance No. 22-1940 defines “camp”; addresses camping prohibited signage; regulates abandoned property removal for unlawfully left belongings; duration of abandoned property storage; auction/destruction of unclaimed personal property; and penalty.

The City Attorney and Acting Police Chief will be attending the City Council meeting of January 20, 2022, in order to address any questions and/or concerns that Councilmembers may have.

A motion has been prepared for City Council consideration.

RECOMMENDATION

It is recommended the City Council adopt the motion approving in second reading Ordinance No. 22-1940 repealing Subsection (A)(5) of Ketchikan Municipal Code Section 10.88.080; entitled, “Parking Violations;” and adding a new section 10.60.055 entitled, “Regulation Of Camping” to Title 10, Chapter 60 of the Ketchikan Municipal Code; and establishing an effective date.

Recommended Motion: I move the City Council approve in second reading Ordinance No. 22-1940 repealing Subsection (A)(5) of Ketchikan Municipal Code Section 10.88.080; entitled, “Parking Violations;” and add a new section 10.60.055 entitled, “Regulation Of Camping” to Title 10, Chapter 60 of the Ketchikan Municipal Code; and establish an effective date.

THE CITY OF KETCHIKAN, ALASKA

ORDINANCE NO. 22-1940

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA; REPEALING SUBSECTION(A)(5) OF KETCHIKAN MUNICIPAL CODE SECTION 10.88.080; ENTITLED, “PARKING VIOLATIONS;” AND ADDING A NEW SECTION 10.60.055 ENTITLED, “REGULATION OF CAMPING” TO TITLE 10, CHAPTER 60 OF THE KETCHIKAN MUNICIPAL CODE; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA, AS FOLLOWS:

Section 1: Repeal. Subsection (a)(5) of the Ketchikan Municipal Code Section 10.88.080, entitled “Parking violations - Schedule of fines and penalties,” is hereby repealed.

Section 2: New Section. A new section, to be numbered 10.60.055, entitled “Regulation of camping,” is added to Title 10, Chapter 60, of the Ketchikan Municipal Code, to read as follows:

“(a) Purpose. Off street parking lots 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. Such action can constitute a public health and safety hazard which adversely impacts public property, neighborhoods and commercial areas. The purpose of this section is to maintain designated off street parking lots within the city in a clean and accessible condition, to prevent the accumulation of trash and debris.

(b) Definitions. Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning and

application of the words and phrases used in this section.

(1) “Camp” means to pitch or occupy camp facilities; or to use camp paraphernalia, for living purposes in an off-street parking lot.

(2) “Camp facilities” include, but are not limited to, tents, huts, unapproved shacks or temporary shelters.

(3) “Camp paraphernalia” includes, but is not limited to, tents or tent-like structures, cots, beds, hammocks or personal cooking facilities and similar equipment.

(4) “Designated off-street parking lots” means those city off-street parking lots which the city manager has designated as lots where camping is prohibited by having appropriate signs erected or placed thereon.

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

(c) Unlawful camping. It shall be unlawful for any person to camp, occupy camp facilities or use camp paraphernalia in a designated off-street parking lot where camping is prohibited under this section.

(d) Storage of personal property. It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in any off-street parking lot where camping is prohibited under this section.

(e) Cooking. No person shall cook food in any off-street parking lot, except as otherwise allowed by specific permit.

(f) Property Removal. Designated City employees may remove personal property unlawfully stored or found on designated off-street parking lots posted with a notice

as follows:

“It is illegal to store personal property in this off-street parking lot. If this personal property is not removed within 72 hours of the date of this posting, THE PERSONAL PROPERTY SHALL BE DEEMED INTENTIONALLY ABANDONED AND SUBJECT TO REMOVAL AND POSSIBLE DESTRUCTION.”

(2) City personnel may remove any personal property unlawfully stored or remaining in a public place after the posting period has expired.

(3) Hazardous materials which pose an imminent threat to public health or safety, contraband or evidence of a crime are not subject to the notice requirements of this section and may be summarily abated, destroyed or held as evidence of a crime.

(h) Personal Effects. (1) Personal effects for purposes of this section, means personal property consisting of the following items.

(i) Medication, medical devices, eye glasses or other prescription lenses;

(ii) Sleeping bag or bed roll which is sanitary and non-verminous;

(iii) Tents in usable and reasonably good condition;

(iv) Clothes stored in a manner protecting them from the elements, which are not unsanitary, soiled, or verminous;

(v) Non-perishable food items; and

(vi) Personal property with an estimated individual fair market value of at least Fifty no/100ths (\$50.00) Dollars.

(2) At the time of removal of unlawfully stored or remaining personal effects in the encampment, city personnel shall conspicuously post and date a notice either at the location from which the personal effects were removed or at another nearby location giving the following information.

- (i) A list of personal effects removed;
- (ii) A telephone number for information on retrieving personal effects;
- (iii) An address where the personal effects are temporarily stored;
- (iv) The length of time during which the personal effects may be claimed.

(3) Following removal of unlawfully stored or remaining personal effects, city personnel shall do the following:

- (i) Maintain an inventory identifying the personal effects; where the personal effects were approximately located; and the reasonable value of each item;
- (ii) Store removed personal effects in an area designated by City for a period of ninety (90) days.

(4) Personal property stored by the City which is claimed within ninety (90) days from removal shall be released to the person claiming ownership providing they identify the property and the approximate location where the property was left.

(5) Disposition of property.

- (i) Personal property which remains unclaimed after 90 days may be sold at public auction with the proceeds to go to the City's general fund.
- (ii) All other unlawfully stored or found personal property including property unsold at public auction or removed from an unlawful encampment is

deemed intentionally abandoned and may be summarily abated and destroyed.”

(6) Penalty.

Violation of subsections (c),(d) or (e) of this section shall be an infraction and any person convicted of such a violation shall be subject to a fine of not more than \$300.00. Each day during which such violation occurs shall constitute a separate offense.”

Section 2: Effective Date. This ordinance is effective one (1) month after its final passage and publication.

PASSED ON FIRST READING _____.

FINAL PASSAGE _____.

Dave Kiffer, Mayor

ATTEST:

Kim L. Stanker
City Clerk

FYI: Bracketed language is intended to be removed from the existing ordinance, and underlined language in bold type is intended as an addition to the existing Ketchikan Municipal Code.

EFFECTIVE		DATE:	
ROLL CALL	YEA	NAY	ABSENT
BRADBERRY			
FLORA			
GAGE			
GASS			
KISTLER			
MAHTANI			
ZENGE			
MAYOR			

Motion passed with Gass, Gage, Zenge, Bradberry, Flora, Mahtani and Kistler voting yea.

UNFINISHED BUSINESS

This item was moved to the Consent Agenda.

NEW BUSINESS

Reconsideration of Council Action Regarding Ordinance No. 21-1939 – Adding a New Chapter 10.22 Entitled “Snow Machines and Other All-Purpose Vehicles” to Title 10 of the Ketchikan Municipal Code – First Reading

Copies of Ordinance No. 21-1939 were available for all present.

Moved by Flora, seconded by Gage the City Council reconsider action taken at the regular Council meeting of December 16, 2021 regarding the first reading of Ordinance No. 21-1939 to add a new Chapter 10.22 entitled “Snow Machines and Other All-Purpose Vehicles” to Title 10 of the Ketchikan Municipal Code in first reading.

Motion to reconsider failed with Gass, Kistler, Gage, Zenge, Bradberry, Flora and Mahtani voting nay.

Ordinance No. 22-1940 – Repealing Subsection (A)(5) Of Ketchikan Municipal Code Section 10.88.080; Entitled, “Parking Violations;” And Adding A New Section 10.60.055 Entitled, “Regulation Of Camping” To Title 10, Chapter 60 Of The Ketchikan Municipal Code; And Establishing An Effective Date – First Reading

Copies of Ordinance No. 22-1940 were available for all present.

Moved by Flora, seconded by Bradberry approve in first reading Ordinance No. 22-1940 repealing Subsection (A)(5) of Ketchikan Municipal Code Section 10.88.080; entitled, “Parking Violations;” and add a new section 10.60.055 entitled, “Regulation Of Camping” to Title 10, Chapter 60 of the Ketchikan Municipal Code; and establish an effective date.

Councilmember Gass felt we owe it to the homeowners in the area to have a safe area in which to live. He suggested the Council continue to discuss ways to improve the homelessness issue we face in Ketchikan. He said he would be in support of this ordinance, as we need to clean up some of these areas.

Councilmember Gage said she was sympathetic to the homeless, but currently we have folks who can't sleep because of the noise and their children can't play in that area because of dirty needles. She didn't feel it was safe for the folks who are camping there either due to the weather, temperatures and sleeping on cliffs. She stated housing prices have gone up 29%, and summarized the cost of B&B and rental units, noting a single person can't afford it. She said we need a housing first community here in Ketchikan, and various groups have been working on homeless and affordable housing. She suggested the City donate some property to start this project.

City Attorney Seaver answered questions from the Council.

January 6, 2022

Councilmember Kistler questioned the \$300 fine that would be imposed, and how they would be expected to pay. She indicated she was in support of the ordinance, but it would be nice if there were a designated area just for camping.

Mayor Kiffer stated there were other communities that are also looking into tiny housing, and we need to be working with other organizations to see what is out there. He said this would be a community effort, not just the City's responsibility and should include the Borough and Ketchikan Indian Community.

Motion passed with Kistler, Gass, Gage, Zenge, Bradberry, Mahtani and Flora voting yea.

Discussion of the Sales Tax Cap - Councilmember Kistler

Councilmember Kistler said she would like to see the tax cap and the sales tax shaped to be more equitable for the folks in the lower income bracket. She questioned why we are loading the bottom and the folks with the least amount of money are paying so much more.

Councilmember Gage cited the different taxes structures in the various SE communities. She said taxes are how the City pays for things. She cited the taxes the City collects are more during the tourism season, and these are the folks who come into our community and inundate our facilities. She said she completely understands in making the tax equitable as the people who live here have been carrying the burden for the last 40 years, and it is time we start collecting a head tax that we can use for our infrastructure.

Councilmember Bradberry suggested this topic be taken to the Cooperative Relations Committee for discussion. She felt it affects both municipalities in Ketchikan, and they need to be included.

Councilmember Mahtani said the arts and the jewelry stores put 40% into the tax coffers. He said the 2022 and 2023 seasons are pretty much unknown, but the ships normally only spends four hours in Ketchikan and twelve hours in other communities, so the sanctuary of the lower cap in Ketchikan allows tourists to buy here rather than other locations.

Councilmember Flora felt Councilmember Mahtani had a conflict of interest as he is talking about his personal business.

City Attorney Seaver didn't feel Councilmember Mahtani had a conflict of interest from what he has seen or heard. He said what he is talking about affects any number of businesses in Ketchikan, not just his.

Councilmember Gass agreed with the city attorney regarding Councilmember Mahtani as he has a level of expertise in this area and should be able to share that. He questioned if it was legal to tax only certain items. He said he would like to see a report from the finance director to see if lowering the sales tax and increasing the sales tax cap would actually maintain the current tax levels.

City Attorney Seaver said the starting premise would be an overall consumer's tax on sales, which reflect certain public policy. He said a good example would be the differential on residential rents versus other retail sales or the senior sales tax exemption.

Acting City Manager Simpson and Finance Director Johansen answered questions from the Council.