

ORDINANCE NO. 6089, AS AMENDED

**AN ORDINANCE TO AMEND FAIRBANKS GENERAL
CODE CHAPTER 46, ARTICLE IV, OFFENSES
INVOLVING NUISANCES, BY ENACTING DIVISION 4,
ILLEGAL CAMPSITES**

WHEREAS, the City of Fairbanks, in conjunction with other state and local agencies, has worked to address the need for housing and other services for the homeless population; and

WHEREAS, because of these efforts, the Fairbanks area does not have a shortage of safe shelter options for the homeless population; and

WHEREAS, despite these available shelter options, many people continue to occupy illegal campsites; and

WHEREAS, these illegal campsites are not ~~designated~~ designed for camping, do not have adequate facilities for disposal of trash and waste, tend to foster drug and alcohol use and other illegal activities, and put vulnerable populations at risk.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

Section 1. Fairbanks General Code Chapter 46, Article IV, Offenses Involving Nuisances, is hereby amended by adding a new Division 4 as follows:

CHAPTER 46. OFFENSES

ARTICLE IV. OFFENSES INVOLVING NUISANCES

DIVISION 4. ILLEGAL CAMPSITES

Sec. 46-186. Illegal Campsites Prohibited.

(a) An illegal campsite is an area where one or more persons are camping on publicly owned land that has not been designated for camping by the governmental entity that owns the land or has authority over the property.

(b) An illegal campsite is subject to abatement by the city. In addition, a person who continues to camp after being notified that the site is an illegal campsite is subject to prosecution for criminal trespass under AS 11.46.330.

Sec. 46-187. Abatement; required notice.

(a) When the public land where an illegal campsite is located is posted with no trespassing signage, no camping signage, or as not being open to the public, including

posting of closed hours, the abatement of a campsite on such land may proceed without additional notice, after the occupants of the illegal campsite are provided at least one hour to remove their personal property. Personal property not removed by the occupants may be disposed of in accordance with the provisions of this Division.

(b) When an illegal campsite is located on public land not posted as provided in subsection (a), a notice of campsite abatement must be placed at the entrance of each tent, lean-to, or other shelter. The notice must also be given orally to any person in or around the illegal campsite or any person who identifies as an occupant of the campsite.

(c) The notice required under subsection (c) shall:

- (1) State the approximate location of the campsite, the code provision under which the campsite is illegal, and that the campsite may be removed under the procedures set forth in FGC Sec. 46-188 or 46-189;
- (2) Identify whether it is a 72-hour notice or a 10-day notice;
- (3) Include contact and location information for reclaiming the property or disclaiming an interest in it, if the personal property is to be stored by the City; and
- (4) State that an appeal of the abatement may be filed with the mayor's office and include the deadline for filing an appeal, the mayor's address, telephone number, and email address.

Sec. 46-188. Abatement – 10-day notice.

(a) The city may post an illegal campsite with a notice stating all personal property not removed within 10 days of the date and time the notice is posted may be removed and disposed of as waste. At the expiration of the 10-day period, personal property at the illegal campsite may be disposed of as waste if no person has come forward to claim the property. If the owner or person in possession of personal property at the time the notice is posted responds in writing of their intention to remove the personal property, the city shall not remove personal property for 10 days from the date of the person's response. If the personal property is not removed within that time, or in any case within 20 days of the date the notice was first posted, it shall be conclusively presumed that the personal property is abandoned and may be summarily disposed of as waste.

Sec. 46-189. Abatement – 72-hour notice.

(a) In circumstances where the Police Chief has determined that the illegal campsite poses an imminent threat to public health or safety, the city may post an illegal campsite

with a notice stating all personal property not removed within 72 hours of the date and time the notice is posted may be removed and stored by the city.

(b) The city may store the personal property removed from an illegal campsite in any reasonable manner. At the time of removal, a notice shall be posted at the location, unless previously posted notices are still visible and accurate, with contact and location information for reclaiming personal property or disclaiming an interest in it. If no person comes forward to claim the property, the city may dispose of the personal property 30 days from the date a notice in subsection (a) was posted. If the person in possession of the personal property at the time it was removed, or at the time the illegal campsite was posted, identifies it and disclaims any interest, the personal property may be disposed of immediately. If the owner reclaims stored personal property, it shall be released to them.

(c) For purposes of this Division, the following criteria applies:

- (1) Junk, litter, garbage, debris, lumber, pallets, cardboard not used to store other personal items, and items that are spoiled, mildewed, or contaminated with human, biological or hazardous waste shall not be stored and may be disposed of summarily.
- (2) A weapon, firearm, ammunition, or contraband shall be delivered to the Fairbanks Police Department and processed in accordance with FGC Chapter 62, Art. II.

(d) If not subject to subsections (c)(1) or (c)(2), the following items, when in fair and usable condition and readily identifiable as such by persons engaged in removing an illegal campsite, shall be deemed valuable and eligible for storage:

- (1) Tents and similar self-contained shelter;
- (2) Sleeping bags;
- (3) Tarps;
- (4) Toiletries and cosmetics;
- (5) Clocks and watches;
- (6) Medication;
- (7) Personal papers and identification;
- (8) Photographs;
- (9) Luggage, backpacks, and other storage containers;
- (10) Books and other reading materials;
- (11) Radios, audio and video equipment;
- (12) Generators;
- (13) Cooking equipment in clean condition;
- (14) Shoes and clothing; and
- (15) Property stored in a manner that reasonably suggests the owner intended to keep it.

Sec. 46-190. Abatement procedures.

(a) Before an illegal campsite is removed under Sec. 46-188 or 46-189, the responsible city official shall verify whether an appeal of the notice of campsite abatement was filed within the applicable time period. If no timely appeal was filed, removal of the campsite may proceed. If an appeal was timely filed, abatement of the campsite area is stayed until the appeal is withdrawn, settled, or a decision is issued and any subsequent appeal rights have expired. At any time after the expiration of the notice period, the city may remove personal property and store it until either the appeal is withdrawn, settled, or a decision is issued, and any appeal rights have expired. Storage of personal property and its release shall be in accordance with Sec. 46-189.

(b) At the time removal is to begin, if any individuals are present at the campsite, they shall be verbally notified the campsite is illegal and to be abated. Prior to actual removal, individuals present will be given a reasonable amount of time, not to exceed 30 minutes, to gather their personal property and leave the property. The responsible city official or persons working under their authority shall not prevent individuals claiming personal property from removing that property immediately unless the personal property is unlawful or otherwise evidence of criminal activity.

(c) Nothing in this section shall prevent:

- (1) A peace officer from conducting an investigation, search, or seizure in a manner otherwise consistent with the state and federal constitutions, or federal, state, or local law;
- (2) Lawful administrative inspection or entry into an illegal campsite, or prevent clean-up of garbage, litter, waste, or other unsanitary or hazardous conditions on public land at any time; or
- (3) Where exigent circumstances posing a serious risk to human life and safety exist, proceeding with the abatement of a campsite without prior notice. Personal property removed under this paragraph shall be stored in accordance with Section 46-189, to the extent reasonable and feasible under the circumstances.

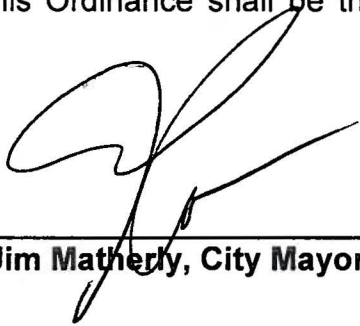
(d) The city, its employees, and agents shall not be liable for damages as a result of an act or omission in the storage, destruction, disposition, or release of property under this Division, but this does not preclude an action for damages based on an intentional act of misconduct or an act of gross negligence. The city, its employees, and agents shall not be liable in any case for release of property to a person when the personal property lacks affirmative marks identifying its owner.

Sec. 46-191. Appeals.

An abatement under this Division may be appealed to the mayor. Any such appeal must be filed with the mayor's office within 72 hours, for a 72-hour notice, or within 10

days, for a 10-day notice, from the date the notice of campsite abatement was posted. The mayor shall conduct a hearing on the appeal within 10 business days of the filing of the appeal. The mayor's decision on the appeal is a final administrative decision, and appeals from it shall be to the superior court within 30 days from the date of the decision in accordance with the Alaska court rules.

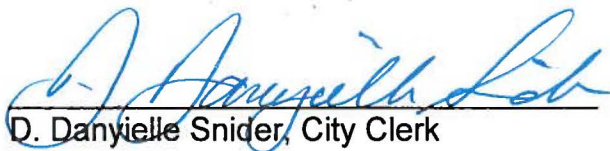
Section 2. That the effective date of this Ordinance shall be the 24th day of November 2018.



Jim Matherly, City Mayor

AYES: Ottersten, Rogers, Kun, Pruhs
NAYS: None
ABSENT: Cleworth, Therrien
ADOPTED: November 19, 2018

ATTEST:



D. Danyielle Snider, City Clerk

APPROVED AS TO FORM:



Paul J. Ewers, City Attorney