

INTRODUCED: 2/1/2021

REFERRED TO: Rules and Public Policy Committee

SPONSOR: Councillors Osili and Robinson

DIGEST: amends Chapter 231 of the Code

SOURCE:

Initiated by: Office of the Mayor

Drafted by: Matt Giffin, Office of Public Health and Safety

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: _____



Date: January 28, 2021

CITY-COUNTY GENERAL ORDINANCE NO. _____, 2021

A PROPOSAL FOR A GENERAL ORDINANCE amending Chapter 231 of the Code regarding protections for the homeless.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Chapter 231, Article V of the "Revised Code of the Consolidated City and County" hereby is amended by deleting the language that is stricken-through and adding the language that is underlined to read as follows:

ARTICLE V. - PROTECTIONS FOR THE HOMELESS

Sec. 231-501. - Purpose and intent.

No person should suffer unnecessarily or be subject to unfair discrimination or arbitrary treatment based on his or her homeless status. It is the intent of this article to lessen the adverse effects and conditions caused by the lack of a home or residence.

Sec. 231-502. - Definitions.

For purposes of this article:

(a) The term "*emergency*" means a situations when a failure to act immediately could lead to serious harm to public health or safety. An emergency for purposes of this chapter occurs when one or more of the following conditions exist:

- (1) A camp being used by homeless persons has accumulated food waste, human waste, or other litter to a degree that the Marion County Public Health Department or other public health authority determines that the camp presents a public health hazard to the residents of the camp or the public that cannot adequately be redressed by less disruptive clean-up measures;
- (2) A camp being used by homeless persons has been established in an enclosed area, such as an underpass or tunnel, used by large numbers of pedestrians or motor vehicles, and public safety or law enforcement officials determine that the threat of concealed explosives or other devices presents a threat to public safety; or

(3) Other circumstances exist that present a significant threat to the public health or safety.

(b) The term "*homeless*" has the definition set forth at 24 CFR Sections 91.5, 582.5, and 583.5.

(c) The term "*camp*" means a place on public property with temporary accommodations of tents or other structures in which homeless persons have been living are sleeping overnight or storing their property.

(d) The term "*displacement*" means action by the city that prevents camp residents from using a camp for at least one full 24-hour period. Sidewalk or street cleanings, or removals of unattended or abandoned personal property, do not constitute a displacement for purposes of this article.

(e) The term "*established camp*" means a camp that has been located in the same place and occupied continuously for at least seven (7) calendar days.

(f) The term "*shelter space*" means an accommodation at a facility or location, approved by the city, where residents are offered, free of charge, a place to sleep that is secure, affords some protection from the elements, and has access to basic hygiene facilities. The term may include safe camping sites established pursuant to Sec. 231-505. Shelter space offered by a religiously affiliated organization may meet this definition, but only if the shelter space is offered to residents without discrimination on the basis of race, sex, sexual orientation, gender identity, or religion, and is offered without a requirement that the residents engage in religious activities or submit to religious messaging.

Sec. 231-503. - Protections in the event of displacement.

The office of public health and safety (OPHS) may temporarily or permanently close any public property or public right of way to camps and require any residents currently camping in the area to cease camping in the area and remove any stored personal property from the area, but only if sufficient temporary housing or shelter space is available for residents who will be displaced by the closure. Such action is subject to the requirements described below:

(a) If a homeless person is to be displaced from a camp, ~~the city, through~~ the department of public works, must offer to maintain and catalogue their the person's personal items, including but not limited to, clothing, blankets, identification documents, birth certificates, and other personal documents and effects, in a safe and secure place for a minimum of sixty (60) days. After sixty (60) days, if the city has made reasonable efforts to notify the displaced person, the city may securely dispose of any unclaimed personal items. For purposes of this subsection, the obligations to maintain and catalogue personal items shall be limited to those items that may fit entirely within one ninety-six-gallon container per displaced person.

(b) ~~For purposes of subsections (b) through (d) of this section, the term "city" refers to the office of public health and safety. Before the city may displace a homeless person from a camp, the city must give at least fifteen (15) days' notice to the homeless persons living in the camp, to the Reuben Engagement Center, and to the Indianapolis Continuum of Care or similar organizations designated by the city; provided, however, that if the city makes a written determination that an emergency exists, the city may give whatever notice is reasonable under the circumstances. Before OPHS may displace a person from an established camp, at least fifteen (15) days' advance notice must be given to the affected person, to an entity designated by the Blueprint Council of the Indianapolis Continuum of Care, and to designated street outreach teams. Before displacing a person from a camp that is not an established camp, at least forty-eight (48) hours' advance notice must be given to the affected person, to an entity designated by the Blueprint Council of the Indianapolis Continuum of Care, and to designated street outreach teams. Posting of a written notice in the area will satisfy this advance notice requirement, but all reasonable efforts should be made to provide individualized verbal notice as well.~~

(c) Upon receiving the notice described in subsection (b), an entity designated by the Blueprint Council of the Indianapolis Continuum of Care or a similar organization designated by the city will coordinate the efforts of all participating service providers, faith-based organizations, street ministries, the Reuben Engagement Assessment & Intervention Center, and volunteers to ensure that the homeless persons to be displaced are offered provided available transitional housing or permanent housing, transitional housing, temporary housing, or available shelter space (which may include a safe camping site, temporary hotel

shelter, or other shelter options), reasonable assistance in transportation to housing or shelter options that are offered, and comprehensive wrap-around services for which they are eligible, ~~unless the homeless person refuses the assistance. If temporary, transitional, or permanent housing is offered, it~~ must be safe, reasonably clean and maintained, and approved by the city.

~~(d) If there is insufficient available housing and services as described in subsection (c) to meet the needs of all displaced homeless persons in a camp scheduled to be closed by the city, the city must wait until there is sufficient available housing and services before it can close the camp, and in the interim the city will give priority to long-term residents of the camp; provided, however, that if the city makes a written determination that an emergency exists, the city does not need to wait until there is sufficient available housing and services before it can close the camp.~~

SECTION 2. Chapter 231, Article V of the "Revised Code of the Consolidated City and County" is hereby amended by adding Sections 231-504 through 231-508 to read as follows:

Sec. 231-504. – Permanent Camp Closure.

After OPHS has followed the procedures stated in Section 231-503, the city may keep an area in which camps have been removed permanently closed to camps. Permanent closures may be made only in areas with high levels of pedestrian traffic or areas that have required repeated clean-ups or interventions by law enforcement. When the city permanently closes an area to camps, durable signs or notices that the area is closed to camps must be prominently posted in the area.

If an area has been permanently closed to camps and durable signs or notices are prominently posted in the area stating that camping and storage of personal property is prohibited, new camps may not be established in the area. The city may prohibit any person seeking to camp or store personal property in such an area from doing so. The protections of Section 231-503 do not apply when a person attempts to camp in an area that has already been closed to camping where durable signs or notices are prominently posted.

Sec. 231-505. - Safe Camping Sites.

OPHS is directed to study the feasibility and cost of establishing one or more indoor or outdoor safe camping sites for the benefit of residents of Indianapolis experiencing homelessness. Safe camping sites should have low barriers to entry, but permission to use a safe camping site may be conditioned on agreeing to follow reasonable site rules relating to safety, health, and the prevention of violence. If established, safe camping sites should have the following features:

- (a) Tents or other structures arranged in an orderly fashion, adequately anchored in place, and in safe surroundings, whether the sleeping area is located indoors or outdoors.
- (b) Trash disposal facilities that are regularly serviced by the department of public works or a contractor.
- (c) Access to nearby restroom and shower facilities that are regularly serviced.
- (d) An on-site service provider responsible for administering site rules; maintaining adequate records; coordinating with other service providers, including case management, health care, and housing navigation service providers; coordinating charitable distributions at the site; and providing security.
- (e) Reasonable accessibility to public transportation or other transportation options.

OPHS is directed to report its findings to the council on or before July 1, 2021.

Sec. 231-506. - Declaration of Emergency.

- (a) The authority to declare an emergency under this article is granted to the director of OPHS.

(b) A declaration of emergency must be in writing and accompanied by a written statement from at least one other city or county agency with relevant subject-matter expertise, substantiating the factual basis for the declaration. The written declaration must specify in detail the geographic area to which the declaration applies and the time frame in which the declaration applies. Emergency declarations shall be available to the public online, and OPHS shall post prominent public notice of the emergency declaration in the applicable area, and shall coordinate with the Continuum of Care and related organizations to ensure that affected residents receive as much notice as is reasonably possible.

(c) OPHS may close an area as to which an emergency has been declared under this section to camping and storage of personal property for the duration of the emergency. The requirements of Section 231-503 do not apply in an area where an emergency has been declared, but all affected residents should be given as much notice as is reasonably possible before the emergency closure goes into effect.

Sec. 231-507. - Obstruction of Public Right of Way Prohibited.

Notwithstanding the other provisions of this Article, neither camping nor storing personal property is permitted in a manner that wholly or partially obstructs pedestrian traffic on any sidewalk, street, or other public right of way. A sidewalk, street, or other public right of way is partially obstructed if: (1) more than one half of its width is blocked at any point, (2) the normal flow of pedestrians or vehicles is slowed or subject to a bottleneck, or (3) pedestrians are required to step onto a street or otherwise expose themselves to danger in order to pass around the camp or stored personal property.

The city shall give persons who are camping or storing personal property in a manner that partially or wholly obstructs a public right of way the option of rearranging their camp or personal property such that it does not wholly or partially obstruct the public right of way. If it is not possible for the camp or stored personal property to be in the area without wholly or partially obstructing the right of way, or if the person camping or storing personal property has been given at least one opportunity to remedy the obstruction and has failed or refused to do so, then the person may be required to cease camping in the area and to remove his or her personal property.

Sec. 231-508. - Designated Charitable Distribution Sites.

(a) OPHS is directed to establish, on or before July 1, 2021, designated charitable distribution sites in the Downtown Indianapolis area. These designated charitable distribution sites should include any safe camping sites that may be established.

(b) OPHS will act in consultation with an entity designated by the Blueprint Council of the Indianapolis Continuum of Care, Professional Blended Street Outreach, and other members of the professional service provider community to determine the appropriate locations for designated charitable distribution sites, and will publish information regarding such sites on the OPHS website.

(c) Designated charitable distribution sites will be designed to help organizations and individuals who wish to make charitable donations of food or other items to individuals experiencing homelessness, so that such donations can be made in a more safe and orderly fashion. Accordingly:

- (1) If intending to donate prepared food items, donor individuals or organizations will be allowed to participate in planned and coordinated distributions at designated sites only if they have complied with Marion County Public Health Department requirements. The City will ensure that all public health orders in place are observed at designated charitable distribution sites.
- (2) The department of public works will coordinate with OPHS to provide litter disposal bins and perform regular pick-ups at designated charitable distribution sites.
- (3) OPHS may designate a community partner organization as a coordinating entity for a designated charitable distribution site. OPHS and coordinating entities will make arrangements for storage and reuse, wherever possible, of excess donated items to avoid waste and duplication.

SECTION 3. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and

penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 4. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 5. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this _____ day of _____, 2021, at _____ p.m.

ATTEST:

Vop Osili
President, City-County Council

SaRita Hughes
Clerk, City-County Council

Presented by me to the Mayor this _____ day of _____, 2021.

SaRita Hughes
Clerk, City-County Council

Approved and signed by me this _____ day of _____, 2021.

Joseph Hogsett, Mayor