

Code change

ORDINANCE NO. 2013- 96

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, MAKING REVISIONS TO CITY OF TAMPA CODE OF ORDINANCES, CHAPTER 14 (OFFENSES); **CREATING SECTION 14-50 THROUGH SECTION 14-53, REGULATING BEHAVIOR IN PUBLIC SPACES**; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Tampa has a substantial interest in the aesthetics of its parks and a prohibition against camping in areas without adequate resources is a reasonable means of achieving that goal; and,

WHEREAS, the City of Tampa has a substantial interest in keeping its parks open and retaining the use of its parks for all of its citizens and a prohibition against camping in parks is a reasonable means of achieving that goal; and,

WHEREAS, the City of Tampa has a substantial interest in protecting against sanitation and safety issues and promoting public health and prohibiting camping in areas without adequate resources is a reasonable means of achieving that goal; and,

WHEREAS, the City of Tampa has a substantial interest in keeping its parks open and retaining the use of its parks for all of its citizens and a prohibition against camping in parks is a reasonable means of achieving that goal; and,

WHEREAS, the City of Tampa has a substantial interest in aesthetics, sanitation, public health, and safety and a prohibition against sleeping in rights of ways is a reasonable means of achieving that goal; and,

WHEREAS, the City of Tampa has a substantial interest in public health and a prohibition against urinating and defecating in public areas is a reasonable means of achieving that goal; and,

WHEREAS, the City Council of the City of Tampa has determined that the following amendments promotes and protects the general health, safety, and welfare of the residents of the City of Tampa; and,

WHEREAS, the City of Tampa has a substantial interest in aesthetics, sanitation, public health, and safety, as well as keeping public spaces open and available for public use, and a prohibition against storage of property on public spaces is a reasonable means of achieving that goal; and,

1 **WHEREAS**, a duly noticed public hearing as required by law was held by the
2 City Council of the City of Tampa, at which public hearings all residents and interested
3 persons were given an opportunity to be heard.
4

5 **NOW, THEREFORE,**
6

7 **BE IT ORDAINED BY THE CITY COUNCIL**
8 **OF THE CITY OF TAMPA, FLORIDA:**
9

10 **Section 1.** That “**Sec. 14-50. Camping Prohibited; exemptions.**” is hereby
11 created as follows:
12

13 “**Sec. 14-50. Camping Prohibited; exemptions.**”

14 (a) It shall be unlawful in the City of Tampa to engage in camping on all public
15 property including rights of way, except as may be specifically authorized by the
16 appropriate governmental authority.

17 (b) The following words and phrases, when used in this section, shall have the
18 following meanings:

19 (1) *Camping* means using property for living accommodation purposes by the
20 erection, use or occupation of any tent, hut, lean-to, shack or temporary
21 shelter for sleeping purposes or the laying down of bedding, such as a mat,
22 blanket, sleeping bag or similar material for the purpose of sleeping.

23 (2) *Officer* means sworn law enforcement officer.

24 (c) Being in a tent, hut, lean-to, shack or in a temporary shelter or being asleep atop
25 or covered by materials in a public place may be evidence of camping, but is not
26 alone sufficient to constitute a violation of this section. One (1) or more of the
27 following shall also exist to determine whether the camping was for living
28 accommodation purposes:

29 (1) Numerous items of personal belongings are present;

30 (2) The person is engaged in cooking activities;

31 (3) The person has built or is maintaining a fire;

32 (4) The person has engaged in digging or earth breaking activities;

33 (5) The person is asleep and he or she has no other permanent place to live.

34 (d) Except as provided for in subsection (e), whenever an officer has probable cause
35 to believe that a violation of this section has occurred, he or she shall advise the
36 person of the violation and afford the person an opportunity to be transported by
37 an officer to a public shelter. The officer shall advise the person that all of his or
38 her personal property which is not taken to the public shelter, except that which is

1 of no apparent utility or which is in an unsanitary condition, shall be inventoried
2 and stored by the city police department for a maximum of sixty (60) days, until
3 reclaimed. If the person elects to be transported to a public shelter, the officer
4 shall make available such transportation as may be available for such purpose and
5 the person making such election shall not be charged with a violation of this
6 section. If the person refuses to be transported to a public shelter, then such
7 person may be charged with a violation of this section.

8 (e) Subsection (d) shall not apply to any person who cannot be properly identified, or
9 is intoxicated by alcohol or drugs or who, within the past year, was previously
10 charged with a violation of this section three (3) times or who elected to be
11 transported to a public shelter three (3) times. For purposes of this subsection,
12 proper identification shall include, but not be limited to, a driver's license, a
13 government or employment identity card with photograph or other form of
14 identification, which would satisfy a reasonable law enforcement officer as to the
15 identity of the person.

16 (f) Any personal property that was inventoried and stored by the city police
17 department for a person transported to a shelter under the provisions of this
18 section which has not been reclaimed within sixty (60) days of the date the
19 personal property was inventoried and stored shall be deemed abandoned and
20 disposed of according to F.S. ch. 705.

21 (g) Violations of this section shall be punishable as provided in Tampa Code section
22 1-6.”

23
24 **Section 2.** That “**Sec. 14-51. Sleeping in or on the rights-of-way.**” is hereby
25 created as follows:
26

27 **“Sec. 14-51. Sleeping in or on the rights-of-way.**

28 (a) It shall be unlawful in the City of Tampa for any person to sleep in or on any part
29 of the City right-of-way, which shall include any public sidewalk.

30 (b) The following words and phrases, when used in this section, shall have the
31 following meanings:

32 (1) Right-of-way means as defined in Ch. 22 of the City of Tampa Code.

33 (2) Officer means sworn law enforcement officer.

34 (c) A sworn law enforcement officer observing a violation of subsection (a) of this
35 section shall inquire of any person violating this section if the person has a legally
36 existing available accommodation, which can include shelter space, either owned
37 or available for use by the individual.

38 (1) If the person has such available accommodation and agrees to travel,
39 begins to travel immediately, and continues to travel until reaching such
40

1 accommodation, the person shall not be charged with a violation of this
2 section.

3 (2) If the person does not have available accommodations or refuses to travel,
4 and shelter space is available at a shelter within the City or within three
5 miles of the borders of the City and such shelter space is known to be
6 available by a sworn law enforcement officer observing a violation of
7 subsection (a), the officer shall advise the person of the violation and may
8 afford the person the opportunity to be transported to the shelter with any
9 personal items requested to be removed by the individual, provided the
10 shelter will accept the person. The person shall not be charged with a
11 violation of this section if the person agrees to be transported to the
12 shelter. If the shelter space is outside the borders of the City, public or
13 other transportation shall be made available to the individual at the shelter
14 space so that the individual can travel to locations within the City which
15 are necessary to the individual.

16 (d) If the officer is not aware of available shelter space within the City or within three
17 miles of the borders of the City or if the officer does not provide the opportunity
18 for transportation to the shelter, the person shall not be charged with a violation of
19 this section.

20 (e) It shall not be a violation of this section for a passenger to be asleep while in the
21 right-of-way if he or she is legally being transported by another in the part of the
22 right-of-way intended for transport.

23 (f) Violations of this section shall be punishable as provided in Tampa Code section
24 1-6.”

25
26 **Section 3.** That **“Sec. 14-52. Prohibition on Public Urination or**
27 **Defecation.”** is hereby created as follows:
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29 **“Sec. 14-52. Prohibition on Public Urination or Defecation.**
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31 (a) It shall be unlawful for any person in the City of Tampa to urinate or defecate in
32 or on any public place unless such urination or defecation:

33 (1) is made into receptacle that has been provided for that purpose;

34 (2) that receptacle stores or disposes of the wastes in a sanitary manner; and

35 (3) that receptacle is enclosed from the view of the general public.

36 (b) It shall be unlawful for any person to dump, throw, discard, place, deposit, spill,
37 leak or otherwise dispose of urine or feces in or on any public place in the City of
38 Tampa unless such disposal:

- 1 (1) is made into a receptacle that has been provided for that purpose;
2 (2) that receptacle stores or disposes of the wastes in a sanitary manner; and
3 (3) that receptacle is enclosed from the view of the general public.

4 (c) This section shall not apply to children under six (6) years old, or to persons with
5 impairments who lack the physical or mental ability to control their bodily
6 functions; except that such a person's parent, guardian, or custodian shall be
7 responsible for the immediate cleanup and sanitary disposal of any waste expelled
8 by the child or person with impairment. Failure of the parent, guardian, or
9 custodian of the child or person with impairment to immediately cleanup and
10 dispose of any waste in a sanitary manner shall constitute a violation of this
11 section.

12 (d) For purposes of this section, a person with impairment does not include
13 intoxicated individuals or individuals who are impaired due to the taking of illegal
14 substances or substances not legally prescribed to them.

15 (e) Violations of this section shall be punishable as provided in Tampa Code section
16 1-6."

17 **Section 4.** That "**Sec. 14-53 Outdoor Storage on Public Property.**" is
18 hereby created as follows:
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20 **"Sec. 14-53. Outdoor Storage on Public Property.**

21 (a) Purpose and findings.

22 (1) The City has a compelling interest in promoting the health and safety of
23 citizens and visitors by regulating potentially hazardous conditions on
24 private and public property including public rights-of-way.

25 (2) Personal property stored on public property, including public rights-of-
26 way may pose a health, safety, or security threat to pedestrians.

27 (3) Unattended, abandoned, or disabled refrigerators and freezers pose a grave
28 danger to the lives of children and warrant immediate removal.

29 (4) The City has an interest in ensuring that pedestrians have unobstructed
30 access to public rights-of-way.

31 (5) The City has a compelling interest in complying with requirements of the
32 Americans with Disabilities Act which include minimum unobstructed
33 sidewalk access for those with disabilities.

34 (6) The City is willing to assist, on a limited basis, in providing storage
35 facilities to those who do not have a location to store personal property.

1 (b) It shall be unlawful for any person in the City of Tampa to store on any public
2 property outside of a legally constructed fully enclosed structure:

3 (1) Any materials, equipment, furnishings, furniture, appliances, construction
4 materials or any items which are not designed to be used outdoors; or

5 (2) Any item of personal property including clothing or bedding.

6 (c) Removal required on public property.

7 (1) If an individual fails to remove any item, as described in subsection (b) of
8 this section, which is unlawfully stored on public property within twenty-
9 four (24) hours after having been served with written notice, as described
10 in subsection (d) of this section, which requires such removal, the City
11 may cause the removal of such unlawfully stored items.

12 (2) In the event a Code Enforcement Officer or sworn law enforcement officer
13 determines the unlawfully stored items located on public property are a
14 threat to the health, safety, or welfare of the public, a Code Enforcement
15 Officer or sworn law enforcement officer may immediately remove such
16 unlawfully stored items. A threat to the health, safety, or welfare of the
17 public shall include, but not be limited to, a fire hazard, an explosive
18 hazard, noxious odors, or an infestation of vermin, including rodents, lice,
19 roaches and fleas, to which the public would be exposed due to the
20 unlawful storage. If items are removed without prior notice, a written
21 notice shall be posted at the location which identifies the location to which
22 the items have been removed.

23 (3) Moving the unlawfully stored items to another location on public property
24 shall not be considered to be removing the item from public property.

25 (4) If an item, as described in subsection (b) of this section, is unlawfully
26 stored on public property which public property is posted with a sign
27 stating that unattended items may be removed immediately, then no
28 additional notice shall be required and the item may be removed
29 immediately. Such signs may only be placed in the right-of-way under the
30 following conditions:

31 a. In the interest of security and safety, temporary signs warning of
32 immediate removal of items from public property may be posted in
33 public rights-of-way at least thirty six (36) hours in advance of
34 special events as described in Chapter 28 of this Code, including,
35 but not limited to, parades and festivals which are likely to draw
36 large crowds to the City.

37 b. In the interest of security and safety, permanent signs warning of
38 the immediate removal of items from public property may be
39 posted in public rights-of-way around public buildings which are
40

1 likely targets for the placement of explosive devices by terrorists or
2 dissidents.

3 c. In the event the City determines the need for an area-wide clean-
4 up, the City may post notice of the clean-up in the area to be
5 cleaned at least thirty six (36) hours in advance of the cleaning.
6 Any items left when the clean-up commences may be immediately
7 removed and stored according to the procedures set forth in this
8 section.

9 (5) The City may dispose of the items thirty (30) days after removal from the
10 public property or after seven (7) days if the items are deemed to be a
11 threat to the health, safety, or welfare of the public pursuant to this
12 subsection. If the owner of the items wishes to retrieve the items, adequate
13 proof of ownership and payment to the City of reasonable charges for
14 storage and removal of the items are required. If the owner demonstrates
15 he or she does not have the ability to pay the reasonable charges, such
16 charges will not be required to retrieve the items. The removal and
17 disposal of such items may be accomplished either by a Code
18 Enforcement Officer or sworn law enforcement officer or by private
19 contract.

20 (d) Notice.

21 (1) The written notice required by this section shall be deemed to have been
22 served if:

23 a. A copy is personally delivered to the party to be notified;

24 b. A copy is left at the party's usual place of abode with some person
25 of the family above fifteen (15) years of age and informing such
26 person of the contents thereof;

27 c. A copy is mailed by either registered or certified United States
28 mail with return receipt requested;

29 d. If the name of such party or the place of residence or post office
30 address cannot be ascertained after diligent search and inquiry or in
31 the event a notice sent by either registered or certified mail shall be
32 returned undelivered, a copy of such notice is posted in a
33 conspicuous place on the property upon which the items described
34 in this section are or were located;

35 e. A copy is attached to the item, if the item is located on public
36 property; or
37

1 f. A copy is personally delivered to the person with custody of the
2 items stored on public property which items may belong to
3 someone else, and a copy is attached to the item.

4 (2) The notice required by this section shall contain the following:

5 a. A complete description of the item to be removed (such description
6 may refer to an attached photograph);

7 b. The location of the property;

8 c. The section of the Code in violation;

9 d. The location to which the item will be removed;

10 e. The date and time by which the item must be removed from the
11 private or public property; and

12 f. The date by which the item must be claimed from the location
13 where they are being stored.

14 (e) Definitions. For the purposes of this section:

15 Occupant means any person in apparent control or possession of the property
16 upon which an item is located.

17 Officer means sworn law enforcement officer.

18 Public property includes, but is not limited to, public rights-of-way.

19 Reasonable charges means actual costs and that the City shall take into
20 consideration the owner's ability to pay the charges.

21 Store or stored, when referring to an item on public or private property, shall be
22 broadly interpreted to include any action to place, store, park, display, locate, or
23 set an item upon the property.

24 (f) Violations of this section shall be punishable as provided in Tampa Code section
25 1-6. Before enforcement, whenever a sworn law enforcement officer has
26 probable cause to believe that a violation of this section has occurred, he or she
27 shall advise the person of the violation and afford the person an opportunity
28 remove the items from public property, as well as advise the person of an
29 alternative location, within the City of Tampa, for storage of the property. If the
30 person elects to remove the items from public property, the person making such
31 election shall not be charged with a violation of this section. If the person refuses
32 to remove the items from public property, then such person may be charged with
33 a violation of this section.

34 (g) Abandoned and lost property is regulated and may be removed pursuant to F.S. §
35 705.101 et seq."

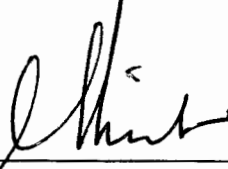
1 **Section 5.** That should a court of competent jurisdiction declare any part of
2 this Ordinance invalid the remaining parts hereof shall not, in any way, be affected by
3 such determination as to the invalid part.

4 **Section 6.** That all ordinances or parts of ordinances in conflict herewith are
5 hereby repealed to the extent of any conflict.

6 **Section 7.** That this ordinance shall take effect immediately upon becoming a
7 law.

8
9 PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF
10 TAMPA, FLORIDA, ON JUL 18 2013.

11
12
13 ATTEST:

14 
15
16 _____
17 CHAIRMAN/CHAIRMAN PRO-TEM
18 CITY COUNCIL

19 
20
21 _____
22 CITY CLERK/DEPUTY CITY CLERK

23
24 APPROVED BY ME ON JUL 22 2013

25
26 
27
28 _____
29 BOB BUCKHORN, MAYOR
30

31
32 APPROVED AS TO LEGAL
33 SUFFICIENCY BY:

34
35
36 _____ E/S
37 REBECCA M. KERT
38 ASSISTANT CITY ATTORNEY
39