



# CITY OF WHEATLAND

## CITY COUNCIL MEETING

### STAFF REPORT

October 22, 2024

**SUBJECT:** Introduce and Waive First Reading of an Ordinance Adding Chapter 9.24 to the Wheatland Municipal Code Relating to No Camping or Personal Storage on Public and Private Property

**PREPARED BY:** Bill Zenoni, City Manager

#### **Recommendation**

Staff recommends that the City Council conduct a public hearing on the proposed ordinance, and upon closing the public hearing, introduce and waive the first reading of an ordinance approving the addition of Chapter 9.24 to the Wheatland Municipal Code relating to No Camping or Personal Storage on Public and Private Property.

#### **Background**

Unregulated camping on streets and private or public lands outside of specifically designated areas can create health and safety risks for citizens who encounter unsanitary and disorderly environments in makeshift campsites. Unrestricted camping interferes with the accessibility of streets, private, and public spaces.

The City of Wheatland, unlike surrounding jurisdictions, does not currently have a no camping ordinance which could cause issues for Wheatland residents wanting to access streets, private, and public areas. This recommended action would protect residents' health, safety and provide for clearing the storage and abandonment of personal property in the City.

The City Council received information and conducted a public hearing on a draft no camping ordinance on September 24, 2024. At that meeting, Councilmembers raised questions regarding the draft ordinance and directed staff to review the questions raised and return with an updated draft ordinance for consideration.

#### **Discussion**

The proposed No Camping or Personal Storage on Public and Private Property Ordinance will help maintain public health, safety, and welfare within the City of Wheatland by keeping public areas clean, sanitary and in an accessible condition. The proposed ordinance defines associated camping terms, outlines unlawful camping practices on public and private property, and identifies circumstances that would allow for the issuance of temporary camping permits. This ordinance would not interfere with lawful and ordinary use of public or private property. Pursuant to State law, the adoption of an ordinance requires a first reading and second reading for City Council approval.

Based upon discussion when this item was presented to the City Council on September 24<sup>th</sup> and in response to questions/concerns raised by Councilmembers, the following edits have been made to the original draft ordinance:

- Section 9.24.030 (Definitions)
  - o Added definition for "Park or Parks"
- Section 9.24.040 – Camping on Public Property
  - o Removed reference to "within 50 feet" in restriction on camping on or upon the land side of any levee.
  - o Clarified that camping overnight between sunset and sunrise in any vehicle parked on a public street, alley way or parking area is not allowed.
- Section 9.24.050 – Camping on Private Property Open to the Public
  - o Clarified that camping overnight between sunset and sunrise in any vehicle parked on privately owned property accessible to the public is not allowed.
- Section 9.24.070 – Stored Property – Impoundment
  - o Removed reference to "within 50 feet" in restriction on camping on or upon the land side of any levee.
- Section 9.24.080 – Pre-Impoundment Notice
  - o Adjusted time period for sale of impounded property from 90 to 45 days after impoundment.
- Section 9.24.100 – Storage, Post-Impoundment Notice, and Disposal
  - o Regarding assessment of storage fees – removed fee waiver based on income level.
  - o Adjusted time period for reclaiming impounded personal property from 90 to 45 days after post impoundment notice.
- Section 9.24.110 – Proceeds of Sale
  - o Designated General Fund for deposit of any fees received (net of expenses incurred).
- Section 9.24.120 – Repossession
  - o Adjusted time period for sale of impounded property from 90 to 45 days after post impoundment notice.
- Section 9.24.140 – Campfires
  - o Removed reference to metal barbecues and hibachis.

The above noted revisions address the issues raised by the City Council on September 24<sup>th</sup>.

### **CEQA Review**

The Ordinance adding Chapter 9.24- No Camping or Personal Storage on Public and Private Property Chapter to the Wheatland Municipal Code is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines, the Common-Sense exemption and Minor Alterations in Land Use Limitations.

### **Fiscal Impact**

There is no fiscal impact associated with this recommended action.

### **Attachment**

1. Ordinance

**ORDINANCE NO. 501**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHEATLAND,  
CALIFORNIA, ADDING CHAPTER 9.24 TO THE WHEATLAND MUNICIPAL CODE  
RELATING TO NO CAMPING OR PERSONAL STORAGE ON PUBLIC AND PRIVATE  
PROPERTY**

The City Council of the City of Wheatland does ordain as follows:

SECTION 1. Purpose and Authority. The purpose of this ordinance is to add Chapter 9.24 to the Wheatland Municipal Code pertaining to the prohibition, subject to certain restrictions, of camping on public or private property within the City to maintain public and private property in a clean, sanitary and accessible condition and to adequately protect the health, safety and public welfare of the community. This ordinance is adopted pursuant to California Constitution article 11, section 7; Government Code sections 65800, et seq.; and other applicable law.

SECTION 2. Findings.

The City Council finds and determines as follows:

- A. The City Council finds that the unauthorized use of certain areas for camping purposes and the storage of personal property interferes with the rights of others to use the areas for which they were intended and creates a public health and safety hazard that adversely affects residential and commercial areas.
- B. The City Council further finds that camping or storing personal property on or upon the land side of any levee that protects the City and its residents from flooding poses a threat to the public health, safety, and welfare by compromising the integrity of the levee system which could result in a catastrophic failure of the levee protections.
- C. The City Council finds it necessary to pass and implement the proposed No Camping or Personal Storage on Public and Private Property Ordinance, and that it will promote and protect the public health, safety, comfort, morals, convenience and general welfare of the residents within the City.
- D. The City of Wheatland administers public safety provisions within the City's boundaries consistent with the City's General Plan as provided for in Title 9 of the Wheatland Municipal Code.
- E. The proposed No Camping or Personal Storage on Public and Private Property Ordinance is consistent with the policies of the City of Wheatland General Plan and with the Wheatland Municipal Code.
- F. The adoption of this ordinance is exempt from review under the California Environmental Quality Act pursuant to CEQA Guidelines sections 15061(b)(3) and 15305. The addition of Chapter 9.24 proposed in this ordinance consists of minor alterations in land use limitations, and implementation of the ordinance will not result in any changes in land use or density.

SECTION 3. Ordinance.

A. Chapter 9.24 shall be added to Title 9 of the Wheatland Municipal Code to read as follows:

**9.24.010 Title.**

This chapter shall be known as the "No Camping or Personal Storage on Public and Private Property."

**9.24.020 - Purpose and Intent.**

Streets and public areas 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. Such activity can constitute a public health and safety hazard which adversely impacts neighborhoods and commercial areas. Camping on private property without the consent of the owner adversely affects private property rights as well as public health, safety, and welfare of the City. The purpose of this chapter is to maintain streets, parks and other public and private areas within the City in a clean, sanitary and accessible condition and to adequately protect the health, safety and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camping facilities associated with special events can be beneficial to the cultural and educational climate in the City. Nothing in this chapter is intended to interfere with otherwise lawful and ordinary uses of public or private property.

**9.24.030 - Definitions.**

The definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

- (a) "Camping" means residing in or using property for living accommodation purposes, such as sleeping activities, or making preparation to sleep (including the laying down of bedding for the purpose of sleeping) or storing personal belongings, (including but not limited to clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, and similar material), or making any fire or using any tents, regularly cooking meals, or living in a parked vehicle. These activities constitute camping when it reasonably appears, in light of all the circumstances, that a person(s) is using public or private property as a living accommodation, regardless of his or her intent or the nature of any other activities in which he or she might also be engaging.
- (b) "Camp facilities" mean and include, but are not limited to, tents, huts, vehicles, camping outfits or temporary shelter.
- (c) "City manager" means the city manager or designee.
- (d) "Establish" means setting up or moving equipment, supplies or materials on to public or private property to "camp" or operate camp facilities.
- (e) "Health Hazard" means hazardous waste, biological hazards, vector infestation, medical waste, or other such hazards when exposure to these hazards could reasonably be expected to do either of the following: (i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or (ii) pose a substantial present or potential danger to human health, animal health, or the environment, due to factors including, but not limited to, carcinogenicity, toxicity, ignitability, bio-accumulative properties, reactivity, pollutants,

or persistence in the environment, when improperly treated, stored, transported, or disposed of, or otherwise managed. For a hazard to qualify as a health hazard within the meaning of this section, the potential harm need not be immediate or imminent.

- (f) "Levee" means a man-made barrier constructed along a water course for the primary purpose of providing flood protection.
- (g) "Maintain" means keeping or permitting equipment, supplies or materials to remain on public or private property to camp or operate camp facilities.
- (h) "Operate" means participating or assisting in establishing or maintaining a camp or camp facility.
- (i) "Park or Parks" means any park, playground, recreation center, or any other lands or facilities owned, operated, maintained, administered, or managed by the City and devoted to active or passive recreation including but not limited to those areas identified as a park in any general or specific plan of the City. The term "park" includes all facilities or improvements within a park and all water or waterways within or adjacent to a park.
- (j) "Private property" means all private property including, but not limited to, streets, sidewalks, alleys, and improved and unimproved property.
- (k) "Public property" means all public property including, but not limited to, streets, sidewalks, alleys, and improved and unimproved land and parks.
- (l) "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

#### **9.24.040 – Camping on Public Property.**

- (a) It is unlawful to camp upon any public property owned by the City, including without limitation, streets, easements, parks, creek beds, electric utility substations, parking lots, or corporation yards. No person shall set up tents, shacks, house trailers, motor homes, campers or any other temporary or permanent shelter for the purpose of overnight camping, nor shall any person leave in any such place any movable structure or special vehicle to be used or that could be used for such a purpose, such as a house trailer, tent, shopping cart, automobile, or the like.
- (b) It is unlawful to camp on any property that is on or upon the land side of any levee.
- (c) It is unlawful for any person to sleep in any vehicle parked on a public street, alley way, or parking area, between sunset and sunrise. A vehicle, for the purpose of this section, shall be defined by Section 670 of the Vehicle Code of the State of California as it now exists or may hereafter be amended.

#### **9.24.050– Camping on Private Property Open to the Public.**

- (a) Except as otherwise provided in this section, it is unlawful to camp upon private property accessible to the public within the City. No person shall set up tents, shacks, campers or any other temporary or permanent shelter for the purpose of camping, nor shall any person leave upon any private property accessible to the public any movable structures or special vehicle to be used or that could be used for such a purpose, such as a tent or automobile or the like.

- (b) Camping on private property open to the public is acceptable if the person camping (i) is the owner or tenant of the private property; (ii) is a family member or relative of an owner or tenant of the private property; (iii) is accompanied by an owner or tenant of the private property; or (iv) has written permission in his or her possession from an owner or tenant of the private property and the written permission includes the owner's or tenant's name, address, and phone number.
- (c) It is unlawful for any person to sleep in any vehicle parked on privately owned property accessible to the public, including any parking area used for the parking of customers of any business enterprise, between sunset and sunrise. A vehicle, for the purpose of this section, shall be defined by Section 670 of the Vehicle Code of the State of California as it now exists or may hereafter be amended.

**9.24.060 – Unlawful Daytime Camping.**

For any public property where camping is not authorized under authority independent of this Chapter or not prohibited under Section 9.24.040, no person shall erect, configure, or construct camping facilities from 30 minutes after sunrise to 30 minutes after sunset. A person must take down, fold, deconstruct, or put away any tent erected, configured, or constructed in any such public property during such time period.

**9.24.070 –Stored Property—Impoundment.**

- (a) No person shall store personal property in the following areas:
  - (1) Any private property unless the person (i) is the owner or tenant of the private property; (ii) is a family member or relative of an owner or tenant of the private property; (iii) is accompanied by an owner or tenant of the private property; (iv) has verbal or written consent of the owner and the property is stored inside a building or structure other than a tent; or (v) has written permission in his or her possession from an owner or tenant of the private property and the written permission includes the owner's or tenant's name, address, and phone number;
  - (2) Any public property if the personal property obstructs City operations, including street or sidewalk maintenance or cleaning, or impedes passage on public streets, sidewalks, or alleys, including passage for persons with disability; or
  - (3) On or upon the land side of any levee.
- (b) All personal property unlawfully stored pursuant to subdivision (a) of Section 9.24.070 may be impounded by the City.
- (c) Personal property placed on property in violation of this chapter shall be deemed to be stored personal property if it has not been removed from the property within 48 hours of service of the written notice required by Section 9.24.080, which requires such removal, and the City may cause the removal and impoundment of such stored personal property or destruction of such stored personal property as provided in subsection (d); provided that moving the personal property to the same or a different location on private or public property shall not be considered to be removing the personal property from private or public property; and provided further that this section shall not apply to personal property that, pursuant to statute, ordinance, permit,

regulation, or other authorization by the City, county or state, is placed on property that is owned or controlled by the City.

- (d) *Exception.* In the event personal property placed in violation of this Chapter presents a health hazard (including hazards that pose an imminent threat to the health, safety, or welfare of the public), is evidence of a crime, is perishable, or is contraband, it may be immediately impounded, disposed of, or turned over to law enforcement at any time by the City and no written notice shall be required before impounding, removing, or destroying such personal property.

#### **9.24.080 – Pre-Impoundment Notice.**

- (a) Before impounding or removing any personal property stored in violation of this Chapter, the City shall provide pre-impoundment notice. The written notice shall contain the following:

- (1) A description of the personal property to be removed (such description may refer to an attached photograph);
- (2) The location of the personal property;
- (3) The date and time the notice was posted;
- (4) The section of the Wheatland Municipal Code that is being violated;
- (5) A statement that the personal property will be impounded if not removed within 48 hours;
- (6) The address where the removed personal property will be located, including a telephone number through which a person may receive information as to impounded personal property;
- (7) A statement that impounded property will be sold, or otherwise disposed of, if not claimed within 45 days after impoundment;
- (8) A statement that personal property presenting a health hazard (including those that pose an imminent threat to public health or safety), or is evidence of a crime, or is perishable, or is contraband will be removed or destroyed, at any time by the City;
- (9) A statement that the owner of the personal property shall be responsible for all costs of removal, storage and disposal; and
- (10) A statement that the owner of the personal property may dispute the removal of the personal property or cited violation of this chapter and a telephone number for the owner of the personal property to request an informal hearing before the property is removed.

- (b) The pre-impoundment notice shall be deemed to have been served if a copy of the written notice is served on the person storing the personal property or is posted prominently and conspicuously on or near the stored personal property.

#### **9.24.090 – Pre-Impoundment Informal Hearing.**

- (a) The pre-impoundment hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request by the person claiming ownership of the personal property.
- (b) The city manager or City police chief shall coordinate with an administrative hearing officer to conduct the informal hearing.
- (c) At the time of the hearing, the owner of the personal property shall be provided the opportunity to show why the property has not been stored in violation of this Chapter; that the stored personal property is not a health hazard and should not be destroyed; or to show that additional time is necessary for the owner to remove the property.
- (d) The informal hearing may be held at any location, including the location of the personal property at issue.
- (e) The hearing officer, after the hearing, may affirm or deny the impoundment and/or destruction of the personal property. The hearing officer may in his/her discretion determine that additional time be provided for the removal of the personal property so long as such delay does not pose an immediate threat to the public health, safety, or welfare.
- (f) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a pre-impoundment hearing or right to challenge his or her liability for costs incurred pursuant to this Chapter.

**9.24.100 – Storage, Post-Impoundment Notice, and Disposal.**

- (a) *Storage.* Except for personal property described under subdivision (d) of Section 9.24.070, impounded personal property shall be moved to a secure place of storage.
- (b) *Storage fees.* The owner of the personal property shall be assessed moving, storage, and other related fees and costs.
- (c) *Post-impoundment notice.*

(1) Upon removal of stored personal property pursuant to this Chapter, written notice shall be provided to the person who stored or claims ownership of the personal property. The written notice shall contain the following:

- (i) The date and approximate time of personal property was removed;
- (ii) The section of the Wheatland Municipal Code that was being violated;
- (iii) A description of the personal property removed (such description may refer to an attached photograph);
- (iv) The location of where the impounded personal property is being kept and when it may be claimed by the rightful owner;
- (v) A statement that the City intends to sell, donate, or otherwise dispose of the impounded property if not claimed within 45 days from the date of the post-impoundment notice; and



(vi) Contact information and instructions on how the owner may reclaim the impounded property.

(2) Service of the written notice shall be by personal service or by certified mail, return receipt requested, to the last known address of the owner of the impounded property if the owner is known. Where the identity or the address of the owner is unknown or cannot be determined through the exercise of reasonable diligence, the notice shall be posted at or near the location where the property was stored or seized.

- (d) *Mandatory storage holding time.* The City, its officers, employees, and agents shall store impounded property in a secure location for a period of not less than 45 days.
- (e) *Disposal of unclaimed property.* If the owner or any other person entitled to the impounded personal property does not claim the property as specified in Section 9.24.120, the City, its officers, employees, and agents may sell, donate, destroy, or otherwise dispose of the impounded property.
- (f) *Records.* The City shall maintain a record of the impounded property, name of any person repossessing the impounded property and date thereof, date and method of any disposal of the impounded personal property, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such record shall be kept as a public record for a period of not less than one year from the date of disposal of the property.

#### **9.24.110 – Proceeds of Sale.**

All fees and unpaid rent, debts and charges owing and all expenses of handling, storage, appraisal, advertising, and other sale expenses incurred by the City shall be deducted from the proceeds of any sale of the impounded property. Any amount remaining shall be held in trust for the owner of the property for 30 days after sale, after which time the proceeds shall be paid into the City's General Fund.

#### **9.24.120 – Repossession.**

- (a) *General.* The owner or any other person entitled to the impounded personal property may repossess or assert the right, title, and interest to the impounded personal property within 45 days from the date of the Post-Impoundment Notice.
- (b) *Method to reclaim.* Upon submitting satisfactory proof of ownership or entitlement and payment of all unpaid storage related costs, the City shall restore the impounded property to the owner or other person entitled to the impounded property. Thereafter, the City shall release the impounded property to the owner or other entitled person.

#### **9.24.130 – City Not Liable.**

The City, its officers, employees, and agents shall not be liable to the owner of impounded personal property because of any disposal of the property made pursuant to this Chapter. The remedies available to the owner of impounded property are limited to those provided in this Chapter. Additionally, the owner of impounded personal property shall bear the responsibility for the risk of any loss or damage to the impounded property.

#### **9.24.140 – Campfires.**

Nothing in this section shall be construed to permit fires otherwise prohibited by any law or City ordinance or to negate the requirements for burning permits otherwise required by law or City ordinance.

**9.24.150 – Permit for Special Event Uses.**

The city manager may, in his or her discretion, issue a permit to establish, maintain and operate a camp facility in connection with a special event. A special event is intended to include, but not be limited to, programs operated by the departments of the City, youth, or school events, marathons, or other sporting events and scout activities. The city manager may consult with various City departments, the health officer and the public prior to issuing any temporary permit. Each department or person consulted may provide comments regarding any health, safety or public welfare concerns and provide recommendations pertaining to the issuance, denial or conditioning of the permit. A reasonable fee may be established by the city council and shall be paid, in advance, by the applicant. The fee shall be returned if the application is denied. In exercising his or her discretion to issue a temporary permit, the city manager may consider any facts or evidence bearing on the sanitary, health, safety and welfare conditions on or surrounding the area or tract of land upon which the proposed temporary camp or camp facility is to be located.

**9.24.160 – Penalty for Violation.**

Any person violating any provision of this Chapter is guilty of a misdemeanor.

SECTION 4. Exemption from CEQA. The proposed No Camping or Personal Storage on Public Property Ordinance is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15061(b)(3) and 15305, the Common-Sense exemption and Minor Alterations in Land Use Limitations.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Non-Exclusivity. Nothing in this Chapter shall limit or preclude the enforcement of other applicable laws to conduct within the scope of this Chapter and the remedies provided herein are cumulative to all other remedies now or hereafter available to abate or otherwise regulate the conduct described herein.

SECTION 7. Effective Date. This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption.

SECTION 8 Posting. Within fifteen (15) days from the date of passage of this ordinance, the City Clerk shall post a copy of it in at least three public places in the City.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Wheatland, held on the 22nd of October, 2024, and passed and adopted at a regular meeting thereof, held on the \_\_\_\_ of \_\_\_\_\_, 2024, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Mayor of the City of Wheatland

**ATTEST:**

\_\_\_\_\_  
City Clerk of the City of Wheatland