



Emergency ordinance amending Missoula Municipal Code Chapter 12.40 regarding overnight camping in City public spaces

Approved by City Council 6/5/23

Frequently Asked Questions • June 6, 2023

Fast Facts:

- Parks are essential community assets which are open to all residents.
- MMC 12.40, “City Parks”, currently conflicts with a U.S. Ninth Circuit Court of Appeals ruling because it prohibits camping on all public lands in the City.
- The change is specifically related to health and safety in City parks and trails; it is not intended to be a solution to Missoula’s housing crisis.
- The City is working with community partners to expand emergency shelter options for unhoused residents.

What are the changes to Missoula Municipal Code 12.40 City Parks?

As MMC 12.40 is currently written, camping is prohibited on all public lands in the City. The proposed change removes the ban on camping on public lands that the Parks and Recreation Department does not manage. The change comes in response to a U.S. Ninth Circuit Court of Appeals ruling and at the request of residents who want the City to work toward balancing the needs of our unhoused neighbors with those of other park users.

MMC 12.40 states that City parks closed nightly from 11 p.m. to 6 a.m.—a provision that has been in place for decades. The emergency ordinance temporarily changed the closure hours to 11 p.m. to 5 a.m.

What does the ordinance change do?

The ordinance amendments are designed to bring City laws into compliance with the U.S. Ninth Circuit Court of Appeals *Martin v. City of Boise* ruling. They are not intended to criminalize homelessness, nor are they intended to be used as a tool to remove people from City parks.

In *Martin v. City of Boise*, the court determined that local governments may not criminalize homelessness by ticketing homeless individuals for sleeping in public places when there is a lack of shelter options available. The ruling emphasized that while cities can enforce public health and safety rules, they cannot punish homeless individuals for simply existing and sleeping on public property when no shelter is available. The decision aims to protect the basic rights and dignity of homeless individuals while encouraging local governments to find more compassionate and practical solutions to address homelessness.

One goal of the ordinance change is to help prevent large, semi-permanent encampments from developing in the most heavily visited parks—including the neighborhood and community parks that host summer camps and other youth

activities. Dense encampments in City parks can create significant threats to the health and safety of campers, other park users and the environment.

Importantly, the change allows the City to enforce park-specific public health and safety rules. In addition, it prohibits actions that damage public park facilities and limit free access to parks and trails, like vandalism and destruction of facilities, leaving refuse or other substances, cutting or sawing any live or dead trees or woody vegetation, enclosing any area, erecting any structure, or encroaching in any way onto any park lands, and defacing, impeding travel or blocking any trail unless expressly authorized. Enforcement will be focused on the parks and trails that receive the heaviest use by the public.

Why is the City changing the ordinance now?

Parks and Recreation, along with community partners like the YMCA, Boys & Girls Club, Montana Natural History Center, GUTS and many others, provides critical childcare for thousands of Missoula families and wonderful outdoor experiences for kids in City parks each summer. The revised ordinance is one tool the City can use to balance compassion for unsheltered homeless people with public health and safety. Compliance with the U.S. Ninth Circuit Court of Appeals decision allows the City to maintain access to quality parks for all.

Like many Western communities, Missoula has seen a significant increase in the number of unsheltered homeless individuals living in City parks and along trails. Homeless encampments in parks often negatively impact the homeless population, the environment, and the larger community.

City leaders recognize that as long as our community does not have shelter beds for everyone, some people have to sleep outside. Addressing the needs of both the unhoused population and the broader community requires a compassionate and comprehensive approach.

Does the ordinance provide for forcible removal of campers from parks?

No. Local authorities do not forcibly remove individuals from public places. Individuals are not cited unless they're violating criminal codes, endangering their own or others' safety or creating risks to public health. City officials and law enforcement do their best to approach the complexities of unsheltered homelessness from a solution-driven, compassionate place.

The City takes a "person-first" approach when it determines a camp clean-up is necessary for health, sanitation or safety reasons. Staff members visit multiple times and ask unsheltered residents to maintain a clean camp, not block trails or access points and not infringe on other park users' rights and safety. If an unsheltered individual or large group of individuals are unable to retain a clean camp and allow other users to use the public spaces, the individuals are notified that a clean-up is pending, and a date is given.

At the same time, the Homeless Outreach Team of the Poverello Center and outreach staff from Hope Rescue Mission visit with the residents to provide services through our community's network of amazing providers.

When the clean-up date arrives, several City employees arrive on site, remind the individuals of the need to clean their camp, provide more time to move their tents and other items, and then commence the clean-up operation. It is important to note that clean-up typically involves human waste, immense amounts of garbage and hundreds of used hypodermic needles. Employees are trained in mental health first aid, safe handling of blood-borne pathogens and the use of personal protective equipment.

City enforcement prioritizes areas that pose the most significant risk to public health and safety. Parks and Recreation will continue to work with social service providers and the Missoula Police Department to clean up campsites in high-use parks and to get individuals the services they need.

What else is the City doing to assist unsheltered residents?

By focusing on holistic solutions that prioritize mental health support, addiction treatment and affordable housing options, we can work toward creating inclusive and safe spaces for all community members while recognizing the inherent dignity and worth of every individual, regardless of their housing status.

Mayor Jordan Hess says the Missoula community shares common goals regarding unsheltered homeless, but local government is only part of the solution. The City is working to find funding to create a permanent, year-round emergency shelter to provide safe, indoor options for people currently camping in our parks.

“We all want people to live healthy, productive lives. We all want people to have access to services. We all want people to get access to support and housing. We all want to do all these things without fining or jailing anyone who is struggling in our community. The only true path out of this crisis requires an investment at all levels of government,” Hess said.

What can I do to help?

Your help is needed. Federal pandemic-relief funds are no longer available, and the 2022 Crisis Services Levy vote failed. The City is working very hard with community partners to provide additional emergency shelter for unhoused residents. But our unsheltered homeless neighbors need more. Please contact your local non-profit to provide support for health care and other basic needs. Please advocate at the state and national levels to increase funding for shelters, affordable housing and mental health services.

How can I report a concern about urban camping?

Report concerns about urban camping with this [online form](#).

Please note: Do not use this form for emergencies. If you or others are in immediate danger, believe a crime is being committed, are witnessing drug or alcohol use, violent or aggressive behavior, open campfires or other immediate safety concerns, please call 911 immediately. For issues that may require a non-emergency police response (encampment blocking a sidewalk, for example) please call 911 and tell the dispatcher you have a non-emergency police request. Not sure? Call 911 and dispatch will determine the appropriate response.