



BOSTON CITY COUNCIL

Committee on Government Operations
Ricardo Arroyo, Chair

One City Hall Square ♦ 5th Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

REPORT OF COMMITTEE CHAIR

October 18, 2023

Dear Councilors,

The Committee on Government Operations was referred *Docket #1373, an ordinance to support public safety as the City doubles down on our public health-led approach to the crises of mental health, substance use, and unsheltered homelessness concentrated in the area of Massachusetts Avenue and Melnea Cass Boulevard*, on August 30, 2023. This matter was sponsored by the Administration.

Summary of Legislation as Filed:

The proposed Ordinance would declare it unlawful for any person to “Camp” or “Maintain a Campsite or Camp Materials” on any public property, including sidewalks, streets, schools, or public parks, unless specifically authorized or during “a Period When a Shelter is Unavailable.” Immediately upon passage, this Ordinance would require the City to distribute leaflets and post weather-resistant signs in locations with a concentrated number of Campsites to provide additional actual notice of the Ordinance and the date enforcement will commence.

In the event this Ordinance is violated, the City would be required to engage with the individual in violation to offer temporary storage for their personal belongings where eligible and, if experiencing homelessness, an available “Emergency Sleeping Space” and transportation to said space upon request. Procedures related to temporary storage are outlined in the “City Storage Program Policy” and said policy must be provided to anyone offered temporary storage pursuant to this Ordinance.

After these offerings have been made and accepted or declined, the Ordinance would enable the City to remove any “Campsite” or “Camp Materials” not voluntarily removed. If the City identifies an unattended “Campsite” or unattended “Camp Materials,” the City must make a reasonable attempt to identify the owner. If it is determined that the property is not abandoned but instead temporarily unattended, the City will assess whether or not the items are eligible to be stored pursuant to the “City Storage Program Policy.” If the unattended items are eligible to be stored, the City will proceed with removal and post notice regarding how the owner may retrieve their belongings. If the unattended items are not eligible to be stored and do not pose an immediate risk to health or safety, the City must post notice of removal twenty-four (24) hours in advance. Any unattended items that pose an immediate risk to health or safety, will be subject to immediate disposal. Individuals who have items temporarily stored pursuant to the enforcement

of this Ordinance may request a feedback form to submit a claim for reimbursement for any lost property.

In the event the City declares “a Period When a Shelter is Unavailable,” the Ordinance would authorize The Mayor’s Office of Housing, in consultation with the Boston Police Department and the Inspectional Services Department, to promulgate restrictions relative to the time, place and manner for “Camping” or density of “Campsites.” When the City declares “a Period When a Shelter is Unavailable” has ended, they must notify individuals located in any Campsite that such period has ended and allow them forty-eight (48) hours to voluntarily remove their belongings.

Individuals in violation of the Ordinance who refuse to remove or allow for the removal of a “Campsite” or “Camp Materials,” or who reestablish a “Campsite” following removal, will be subject to penalties including a fine of \$25 per violation. No penalties may be issued until seven (7) days after the Ordinance is passed and goes into effect.

Information Gathered:

The Committee held a public hearing on September 28, 2023, and a working session on October 16, 2023. During the first public hearing, public testimony was given both in support of and opposition to the Ordinance. During the October 16th working session, Councilors expressed their concerns and sought the Administration’s clarification concerning language and definitions as well as policies and implementation plans referred to in the Ordinance. Testifying on behalf of the Administration included representatives from the following: Boston Public Health Commission, the Boston Police Department (BPD), the Coordinated Response Team, Recovery Services, the Mayor’s Office of Housing, and the Law Department.

In terms of language and definitions, it was stated that the terms “Camp Materials,” “Campsites,” and “To Camp” may be defined too broadly. Councilors expressed concerns over using vague language that could be interpreted to encompass items and impact individuals other than what the Ordinance intends to. In clarifying what the terms encompass and who they will impact, the Administration explained that the spirit of the Ordinance is focused on eliminating the public safety risks encampments like those concentrated around Massachusetts Avenue and Melnea Cass Blvd. pose to all. It was explained that the definitions are meant to encompass items used to “pitch or erect” temporary structures to maintain outdoor shelter. Further, it was explained that because the definitions speak to ‘pitching’ temporary structures, unhoused individuals sleeping underneath existing structures in public spaces (i.e., overpasses, benches, etc.) would not be impacted.

Councilors asked the Administration to elaborate upon the definition of “A Period When Shelter is Unavailable” and raised concerns about when and how shelter space would be measured and communicated. It was explained that the City would regularly conduct audits of available shelter space, clarifying that the audits would be done each morning and that the data would be aggregated and communicated through a standard data system used in many major cities. Finally, the Administration explained that in the rare event the City declares “A Period When Shelter is Unavailable,” the prohibition on “Camping” and “Maintaining a Campsite or Camp Materials” would not be enforced; however, according to the Ordinance, the City may still impose

restrictions based on where, when and how individuals may “Camp” or Maintain a Campsite or Camp Materials.”

Concerns were raised about whether “Emergency Shelter Space” will include Boston Housing Authority (BHA) developments and if individuals leaving encampments will receive priority over others who have been on waiting lists for years. It was explained that a vast majority of people coming from encampments on Massachusetts Avenue and Melnea Cass Blvd. will likely not be eligible for BHA housing or would have a hard time accessing it. However, it was explained that the City has to follow the Administrative plan filed with the federal government outlining the selection process for BHA developments and cannot discriminate. The Administration was also questioned on whether or not “Emergency Shelter Spaces” or “alternative sleeping spaces” would be equipped with showers and access to food. The City explained that while most shelter spaces provide access to the same if a shelter space does not, the City will transport people to and from the nearest shelter space that does.

Councilors shared their concerns about overcrowding shelter spaces and questioned how the City would find the necessary available space when the shelter system is already experiencing a strain on available space at both the state and local levels. Specifically, Councilors referred to overcrowded shelters in the City where many individuals are currently sleeping on the floor and asked the Administration how the City would accommodate space for those leaving encampments. Further, the Administration was asked whether the floor is considered available shelter space. The Administration acknowledged the shelter crisis happening at the State and local level. Still, the Administration explained that no one will be turned away, confirming that, at times, floors have been utilized as available space. It was further stressed that the City is continuously working to procure more space and more beds. The Administration explained that in anticipation of the Ordinance going into effect, they have already begun to reserve shelter space specifically for individuals leaving encampments and, finally, that they are working very hard to house people currently living in shelters before what they anticipate will be a “surge” of people needing shelter.

Regarding policies and procedures referred to in the Ordinance, Councilors asked the Administration to explain who will engage with individuals and remove the encampments. Councilors wanted to ensure the responsibility would not fall solely to BPD but would be a coordinated response, ensuring that an outreach worker is always present when encampments are removed. The Administration explained that while it all will depend on what City official finds the encampment first, the goal would be a co-response system. Councilors asked for more information on the “City Storage Program Policy” referred to under the section regarding storage of property. The Administration provided the Committee with a draft of the policy.

Responding to questions about jurisdiction for enforcement on State owned vs. City owned land, the Administration stated that the City will dispatch an outreach worker no matter who has jurisdiction, as long as the City is made aware of the need to do so.

Finally, in response to Councilors questioning why this Ordinance is necessary, the Administration explained that although the City already has the power to enforce laws against

trespassing, an Ordinance of this kind would require the City also to offer services supporting the individual's health and safety.

Summary of Recommended Amendments:

Based upon discussions between Councilors and the Administration, the docket is amended as follows:

16-65.1 Definitions: Below "City Storage Program Policy" the Ordinance as amended adds a definition for "Eligible Property" (referred to in Section 16-65.6 'Storage of Property')

→ "Eligible Property" means to include but is not limited to, personal identification and documents, valuables, clothing, hygiene products and toiletries, and items of basic necessities.

16-65.4 Restrictions on Unlawful Camping During A Period When Shelter Is Unavailable:

The Ordinance as amended adds language to the second paragraph and restructures/adds language to the final paragraph of this section:

→ City officials shall maintain daily, and revise regularly, a shelter list that is communicated throughout the day to the Boston Police Department and other City departments for the purpose of identifying available shelter space.

→ During any Period When Shelter Is Unavailable, the Mayor's Office of Housing, in consultation with the Boston Public Health Commission, the Boston Police Department and the Inspectional Services Department, is hereby authorized to promulgate any additional restrictions relative to the time, place, and manner for camping, and density of Campsites, in order to advance public health, maintain access to the public right-of-way, and support the effective operation of facilities such as schools, shelters, and health care institutions during such periods.

16-65.5 Offer of Shelter: The Ordinance as amended adds language to the first paragraph of this section:

→ In the event of a violation of this Ordinance, the City shall provide, or cause to be provided, an offer of available Emergency Shelter Space to an individual experiencing homelessness, and must inform that individual that transportation to available Emergency Shelter Space is available to them upon request.

16-65.8 Notice to Individuals: The Ordinance as amended adds language to the first paragraph and restructures language in the final paragraph of this section:

→ Immediately upon passage, the City shall distribute leaflets to individuals and post weather-resistant signs in locations with a concentrated number of Campsites to provide additional actual notice of this Ordinance and the effective date. The leaflet shall contain a written copy of this Ordinance, a written copy of the City Storage Program Policy, and written copies of additional resources, which shall be made available in each language that meets a language access need in Boston as most recently determined by the Office of Language and Communications Access.

→ In the case of a Period When Shelter is Unavailable, when the City notifies an individual located in any Campsite that a Period When Shelter Is Unavailable has ended, the individual shall have forty-eight (48) hours to remove their Camping Materials.

16-65.9 Penalty for Violations: The Ordinance as amended strikes subsection (b) regarding the \$25 fine.

Individuals in violation of this Ordinance who refuse to remove or allow for removal of the Campsite or Camp Materials as described in Section 16-65.7, or who reestablish a Campsite following removal pursuant to Section 16-65.7, shall be subject to penalties. This Ordinance shall be enforced by the Boston Police Department as well as any sworn law enforcement agency empowered to make an arrest within the jurisdictional boundaries of the City of Boston. Any of the following penalties may apply:

- (a) All enforcement methods authorized by law, including, issuance of a warning, G. L. c. 40, s. 21, or enforcement authorized by G. L. c. 272, s. 59 (Ordinances or Regulations Relating to Streets, Reservations, or Parkways; Alcoholic Beverages; Profanity; Arrest Without Warrant) if the Boston Police or other duly authorized officer on scene determines a violation of G. L. c. 272, s. 59 has occurred in their presence;
- ~~(b) The fine for each offense shall be Twenty Five dollars (\$25.00);~~
- (c) This Section shall go into effect seven (7) days after the date of passage to permit any individuals located in any Campsite to remove Camping Materials in order to comply with this Ordinance.

The Ordinance as amended adds the following section:

→ **16-65.10 Reporting to the Boston City Council:**

The City will attend a hearing hosted by the Boston City Council to present an end of year report related to the provisions of this ordinance.

Recommended Action:

The Chair of the Committee does not support this ordinance. These amendments, however, clarify implementation of this ordinance for city departments and city employees, and also make efforts to strengthen the legality of the ordinance as a whole.

The Chair of the Committee on Government Operations, to which the following was referred:

Docket #1373, an ordinance to support public safety as the City doubles down on our public health-led approach to the crises of mental health, substance use, and unsheltered homelessness concentrated in the area of Massachusetts Avenue and Melnea Cass Boulevard,

submits a report recommending that this docket ought to pass in a new draft.

For the Chair:



Ricardo Arroyo, Chair
Committee on Government Operations