

**BILL NO. 24-34**

**1<sup>st</sup> Reading:** \_\_\_\_\_

**2<sup>nd</sup> Reading:** \_\_\_\_\_

**CITY OF NEWARK  
DELAWARE**

**ORDINANCE NO. 24-\_\_**

An Ordinance Amending Chapter 22, Police Offenses, Article IV, Trespass and Injury to Property, Code of the City of Newark, Delaware, By Prohibiting Camping upon City of Newark owned Property or Parks

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 22, Police Offenses, Article IV, Trespass and Injury to Property, Code of the City of Newark, Delaware, be hereby amended in the following respects:

**AMENDMENT 1:** Amend Section 22-39, Criminal Trespass by adding the underscored text as follows:

“Sec. 22-39.1 Prohibition on Camping on City Property or City Parks.

(a) Definitions.

- (1) “To Camp” or “Camping” means to maintain a campsite upon City property or a City park.
- (2) “Campsite” means a location upon City property or City park where camping materials are placed.
- (3) “Camping Materials” include, but are not limited to, tents, huts, awnings, lean-tos, chairs, tarps, portable stoves, and/or other collections of personal property that are, or reasonably appear to be arranged and/or used as accommodations to camp.
- (4) “City property or City park” means all property, parks, rights of way, parking lots, easements or other land owned, leased, controlled or managed by the City of Newark, Delaware.
- (5) “Personal Property” means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.
- (6) “Relocate” means to move both the individual(s) and personal property off of City property, or to a different authorized City Property. This definition does not include moving to another portion of the same City property.

(b) Unless otherwise authorized by law, camping on City property is prohibited, and is a misdemeanor offense.

(c) No person may occupy a campsite inconsistent with this ordinance unless specifically authorized by (i) a formal declaration of the City Manager in emergency situations, or (ii) upon Council resolution, the Council may exempt a special event from the prohibitions of Section 22-39.1 if Council finds such exemption to be in the public interest and consistent with Council goals, and in accordance with conditions imposed by the City Manager or City

Parks Director. Any conditions imposed will include a condition requiring that the applicant provide evidence of adequate insurance coverage and agree to indemnify the City from any liability, damage or expense incurred by the City as a result of the activities of the applicant. Any findings by Council shall specify the exact dates and location covered by the exemption.

- (d) Unless otherwise authorized by law, the only locations where it is lawful to place camping materials, or store camping materials for any period of time on City property are those locations designated (i) by the City Manager in emergency situations; or (ii) designated by City Council.
- (e) Where the temporary placement of camping materials on City property is authorized, an individual that has placed camping materials on City property must relocate according to the time limitations set forth for that location.
- (f) The City shall relocate, or cause to be relocated individuals, personal property, camping materials and campsites from unauthorized camping locations.
- (g) Disposition and Release of Personal Property:
  - (1) Items having no apparent utility or monetary value and items in an unsanitary condition may be discarded.
  - (2) Weapons, drug paraphernalia, items appearing to be stolen, and evidence of a crime may be retained as evidence by the Newark Police Department until an alternate disposition is determined.
  - (3) All personal property removed from a campsite which is not disposed of, or held as evidence shall be stored by the Newark Police Department for a minimum of X days, during which time it shall be made reasonably available for and released to an individual claiming ownership.
- (h) Mitigation and Penalties:
  - (1) Upon conviction for a violation of this provision, in addition to any other factors deemed appropriate by the Court, the Court shall consider in mitigation whether or not the person immediately removed all personal property and litter, including but not limited to bottles, cans and garbage from the campsite after being informed they were in violation of the law.
  - (2) Upon conviction for a violation of this provision, if an individual demonstrates that after receiving the citation and before the hearing, they have meaningfully engaged with private resources and/or service providers to address the reason(s) that led them to be in violation, the Court shall consider that information before determining the appropriate penalty.
  - (3) Violation of this provision is a violation punishable by a fine of not more than \$50.00. In the Court's discretion, alternative penalties intended to address the reason(s) the individual was in violation of this provision may be imposed. These alternative penalties may not include a term of imprisonment."

MOTION for Acceptance as First Reading on \_\_\_\_\_, 2024.

by Council Member \_\_\_\_\_.

Second Reading and Final Passage on \_\_\_\_\_, 2024.

VOTE: \_\_ to \_\_.

\_\_\_\_\_

Mayor

Attest:

\_\_\_\_\_

City Secretary

Approved as to Legality & Form:

\_\_\_\_\_

City Solicitor



**CITY OF NEWARK  
DELAWARE**

**3E**

**December 2, 2024**

**TO:** Members of Council

**FROM:** Paul E. Bilodeau, City Solicitor *PEB*

**VIA:** Thomas Coleman, City Manager *TC*

**RE:** Bill 24-34: An Ordinance Amending Chapter 22, Police Offenses, Article IV, Trespass and Injury to Property, Code of the City of Newark, Delaware, By Prohibiting Camping upon City of Newark owned Property or Parks

Recently, there has been an increase in the number of instances where homeless individuals have established encampments on City owned parks and/or property. In the past, the City relied upon its Trespass Ordinance to encourage these persons to cease camping upon City property. Due to the recent events, Staff have prepared an Ordinance that specifically prohibits such encampments and sets forth procedures to have such encampments removed from City property.

Earlier this year, the U.S. Supreme Court upheld the City of Grants Pass, Oregon's ordinance prohibiting encampments on their parks and property. The proposed Bill 24-34 is similar to the Grants Pass Ordinance.

In addition to generally prohibiting such encampments, Bill 24-34 allows the City Manager to approve same in emergency situations, as well as allowing Council to approve encampments in conjunction with a Special Event. The ordinance also sets forth procedures for the return of personal property removed from City property. Although there is a maximum fine of \$50 for violation of this ordinance, Bill 24-34 allows our Aldermen considerable discretion in imposing alternative penalties that seek to address the reason(s) the individual was in violation thereof.

**Staff Recommendation:**

To better address the prohibition of encampments on City property and parks, Staff recommends Council approve proposed Bill 24-34.

**Recommended Motion:**

If Council is in agreement with proposed ordinance prohibiting encampments on City property and parks, Staff recommends making the following motion:

"I move that Council approve Bill 24-34 as presented."