ORDINANCE NO. 2023-382

AN ORDINANCE OF THE TOWN OF WINDSOR REPEALING SECTION 5-2-130 OF TITLE V, CHAPTER 2, ARTICLE 1 AND REPEALING ARTICLE 4 OF TITLE V, CHAPTER 2, OF THE WINDSOR MUNICIPAL CODE, RELATING TO CAMPING AT PARKS AND OTHER RECREATIONAL SPACES IN THE TOWN OF WINDSOR AND ADDING ARTICLE 21 TO TITLE III, CHAPTER 10, RELATING TO CAMPING REGULATIONS ON PUBLIC PROPERTY

WHEREAS, the Town of Windsor's Municipal and Zoning Codes contain many rules, standards, and regulations adopted in order to preserve, protect, and enhance the public health, safety, and welfare; and

WHEREAS, the public interest will best be served by having a clear and concise understanding of camping rules and regulations in public spaces of Town of Windsor such as parks, trails, waterways, etc.; and

WHEREAS, prolonged camping in areas of the Town not designated and permitted for such purposes can create unsanitary, unhealthy, disorderly, detrimental, and dangerous conditions that may affect both the health and safety of the campers and the general public; and

WHEREAS, camping in areas of the Town not designated and permitted for such purposes often results in the accumulation of large amounts of debris the longer individuals remain in one location and tends to degrade or even destroy the property upon which the camping is occurring, particularly in situations where an encampment is large and ongoing; and

WHEREAS, certain types of properties are generally incompatible and particularly sensitive to the conditions and impacts caused by public camping, particularly in situations where an encampment is large and ongoing; and

WHEREAS, the Town has the authority to regulate to ensure the public's health, safety, and general welfare and desires to regulate camping within the incorporated areas of the Town as designated and identified in this ordinance; and

WHEREAS, the Town of Windsor Parks and Recreation Department and the Windsor Police Department recommend that additional, more precise language relating to camping in public spaces be added to the Municipal Code; and

WHEREAS, the Town Council desires to update the Municipal Code to clarify the Town's regulation as it relates to camping in public areas of the Town.

NOW, THEREFORE THE TOWN COUNCIL OF THE TOWN OF WINDSOR, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. CEQA Findings.

The Town Council finds that this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15061(b)(3), the General Rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment.

SECTION 2. Repealing Sections 5-2-130 "Camping" and Article 4 "Overnight Camping".

Section 5-2-130 "Camping" of Title V "Parks and Recreation", Chapter 2 "Facilities", Article 1 "Use of Facilities" and Article 4 "Overnight Camping" of Title V "Parks and Recreation", Chapter 2 "Facilities", relating to camping at parks and other recreational spaces in the Town of Windsor, are hereby repealed.

SECTION 3. Adding Article 21 "Camping Regulations on Public Property".

Article 21, "Camping Regulations on Public Property" is hereby added to Title III, "Public Welfare," Chapter 10, "Miscellaneous Prohibitions," of the Town of Windsor Municipal Code to read as follows:

Article 21. – Camping Regulations on Public Property

3-10-2100 - Definitions:

For the purpose of this ordinance, the following definitions shall apply:

a. "Camping" shall mean the conduct of more than one of the following activities on public or private property, when it reasonably appears, in light of all the circumstances, that a person is using space on public or private property as a place of residence or living accommodation:

   1. Sleeping or making preparations to sleep (including the laying down of bedding for the purpose of sleeping);

   2. The erection of any tent, structure, or other form of shelter;

   3. The preparation or cooking of a meal;

   4. Unattended storage of personal belongings (including but not limited to clothing, sleeping bags, bedrolls).

b. "Public property." For the purposes of this section, the term "public property" means any property normally open to the general public that is owned by any public entity, including the Town of Windsor and the County of Sonoma. "Public property" does not include:

1. Property owned by a "public agency" as defined by Government Code section 53050;

2. Property for which a permit must be acquired for members of the public to use it;

3. Property with restricted access, including property which is locked, fenced, or posted as "No Trespassing"; or

4. Property which is subject to a leasehold or other possessory interest of a person or entity other than the public entity. Property excluded from the definition of "public property" under this subsection shall be treated as private property.

c. "Regulatory Floodway" as defined and depicted on the current FEMA National Flood Hazard Maps for Sonoma County.

d. "Very High Fire Severity Zone" as established in accordance with California Government Code §§ 51178 and 51179.

3-10-2110 - Camping on Public Property Prohibited at All Times.

a. It shall be unlawful at all times of the day for any person or persons to camp in all type of public property listed herein, except in a designated public campground or by authority of a written permit issued by the Town on any public property:

1. Inside any public building, inside any fully fenced area attached to a public building, or within 25 feet of any entrance or exit to a public building,

2. Within 50 feet of any house or other permanent structure used as a residence

3. Within 100 feet of the property line of any property used as a school, preschool, playground, daycare, or other licensed childcare facility,

4. Within 150 feet of the high-water mark of the waters of the state as defined by subdivision (e) of California Water Code § 13050, or within a Regulatory Floodway, whichever is greater,

5. Within a Very High Fire Severity Zone,

6. Within any public park,

7. Within any public highway, road, or street,

8. Within any public sidewalk, easement, or right of way, where the presence of the person or their property thereon hinders or obstructs the free passage, access, or movement of any persons, bicycles, or vehicles travelling or attempting to pass along the same right of way, and,

9. Within 25 feet of a facility that provides shelter, safe sleeping, or safe parking to

homeless persons, or that serves as a homeless services navigation center.

b. In order for a violation of subsection (a)(4) or (a)(5) to occur, an individual first must be requested by a peace officer to move along from the area unless the individual has been provided a prior warning or written notice of the prohibition on camping at that location or if there is signage posted in the area warning of the prohibition on public camping.

3-10-2120 - Camping on Public Property Prohibited at Certain Times.

As to any public property not specifically identified in Section 3-10-2110(a) above, it shall be unlawful for any person or persons to camp in or on any public property daily between the hours of 7:00 a.m. and 9:00 p.m.

3-10-2130 - Camping on Private Property Prohibited Absent Owner Permission.

It shall be unlawful for any person or persons to camp on any private property without first obtaining the written permission of the owner or other person(s) in lawful possession of the property.

3-10-2140 - Exceptions.

Notwithstanding the prohibition against camping on public or private property, it is not the intent of this Article to prohibit persons, when necessary for their safety or the safety of others, to pull off the public road and sleep, whether inside or outside their vehicles. In addition, this Article shall not prohibit camping by authority of a written permit issued by the Town, or as specifically authorized by any other ordinance, law, or regulation.

3-10-2150 -Penalty for Violation.

Any person who violates this section is guilty of a misdemeanor. Except where other penalties are specified, each offense may be punished by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), or by imprisonment not to exceed sixty (60) days, or by both such fine and imprisonment.

SECTION 4. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable. The Town Council of the Town of Windsor hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. Effective Date.

The provisions of this Ordinance shall become effective thirty (30) days from and after the date of its passage.

SECTION 6. Publication or Posting.

The Town Clerk of the Town of Windsor shall cause this Ordinance to be published and/or posted after its adoption in accordance with California Government Code section 36933.

PASSED, APPROVED AND ADOPTED this 15th day of November 2023, by the following vote:

AYES:	**COUNCILMEMBERS FUDGE, POTTER, WALL, VICE MAYOR SALMON AND MAYOR REYNOZA**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

ROSA REYNOZA, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK