

Actions to Improve Safety in Public Spaces

August 16 , 2021

Bloomington, like most cities, experiences a certain amount of destructive and illegal behaviors, many of them happening in or on parks, streets, sidewalks and other public spaces. This can threaten public health and safety and compromise the whole community's ability to use and/or benefit from these shared spaces. In recent months the city has received an uptick in complaints about:

- camping overnight in parks, in the right of way, and in flood-prone areas
- public intoxication leading to violence or destructive behavior
- vandalism, graffiti and other damage to public and private property
- vehicle break-ins
- harassment and assaults
- maintaining aggressive animals
- building fires near a gas line or dangerous outdoor use of electrical appliances
- defecation and urination in public places

City staff members have engaged in dozens of conversations, both formal and informal, to gather input from the community about how to address these issues. Based on that input and best practices implemented in other communities, a plan has been developed. In order to curb these illegal and/or dangerous behaviors and protect the whole community's ability to use and benefit from our shared spaces, the City plans to undertake several actions:

- Continue to enforce existing City of Bloomington Parks and Recreation Department (Parks) policies relating to suspension from parks due to prohibited behavior. Please see Parks policy on suspension attached below.
- Continue to discourage illegal and dangerous behavior in any location through existing civil statutes related to use of public spaces, governing public health, or other legitimate means.
- Increase police patrols and enforcement of policies as warranted by persistence of illegal and unsafe behaviors, to supplement private security personnel recently contracted to enhance safety at City parks properties.
- Enhance public safety capacity in order to have the ability to respond to dangerous and illegal behaviors in a timely fashion.
- Continue to take special considerations when those individuals engaging in illegal behaviors are experiencing homelessness and are living in an encampment. In these situations, the Bloomington Police Department (BPD) follows their General Order entitled, "Police Interaction with Homeless Encampments." If an encampment itself is

deemed to be violating the rules for public property, the BPD will follow the “Policy on Closure of Encampments on Public Property” which may call for closure in the event that

- the encampment is located on public property and/or property owned by Parks. (Encampments on private property are the responsibility of the property owner; the City will assist with their closure as appropriate.);
- behaviors or the encampment location interfere with others’ use of the public space or the maintenance of the public space for the benefit of all; or
- behaviors there are illegal or unsafe to those camping or to the general public.

The City is coordinating efforts with nonprofit partners, including shelter providers and other social service agencies, to support individuals who are displaced if an encampment is closed and connect them with services and resources, including food, shelter, therapeutic services, and employment and/or occupational opportunities.

The City will enforce all policies in a way that targets illegal and unsafe behaviors and does not discriminate on the basis of an individual’s housing status.

Removal or Suspension from Bloomington Parks and Recreation Properties

Revised Administration Policies - 2050

Date: May 28, 2013

Updated: February 17, 2020

POLICY RE: Removal and Suspension from use of property owned, managed or operated by the City of Bloomington Parks and Recreation Department

I. Removal

(A) In accordance with authority established in Ind. Code § 36-10-4 et cet., and Bloomington Municipal Code 2.20, a person may be asked to leave or be removed from property owned, managed or operated by the City of Bloomington Parks and Recreation Department for reasons that include, but are not limited to:

1. Actions or behavior which violate the United States Code;
2. Actions or behavior which violate the Indiana Code;
3. Actions or behavior which violate the Indiana Administrative Code;
4. Actions or behavior which violate the City of Bloomington Municipal Code;
5. Actions or behavior which violate the Rules and Regulations adopted by the City of Bloomington Parks and Recreation Department or City of Bloomington Parks Board, unless the appropriate permit has been obtained;
6. Aggressive or violent actions or behavior;
7. Actions or behavior that unreasonably disrupts the activities of other users of the park or facility;
8. Actions or behavior that unreasonably interferes with other persons' ability to use the park or facility;
9. Actions or behavior which unreasonably causes or creates a risk of causing injury to persons within or on property owned, managed or operated by the City of Bloomington Parks and Recreation Department;

10. Actions or behavior which unreasonably causes or creates a risk of causing damage to property owned, managed or operated by the City of Bloomington Parks and Recreation Department; or
11. Actions or behavior which constitutes a public nuisance.

(B) The following individuals have authority to ask a person to leave or ask for a person to be removed from property owned, managed, or operated by the City of Bloomington Parks and Recreation Department:

1. Employees of the City of Bloomington Parks and Recreation Department; or
2. Law enforcement officers as defined by Indiana Code.

(C) Any person who is asked to leave or is removed from property owned, managed or operated by the City of Bloomington Parks and Recreation Department shall be advised of the reason he/she is being asked to leave or is being removed. Any person who is asked to leave by a law enforcement officer as defined by Indiana Code and refuses to do so may be subject to arrest.

II. Suspension

(A) In accordance with authority established in Ind. Code § 36-10-4 et cet., and Bloomington Municipal Code 2.20, a person may be suspended from use or entrance on property owned, managed, or operated by the City of Bloomington Parks and Recreation Department for reasons that include, but are not limited to:

1. Actions or behavior which violate the United States Code;
2. Actions or behavior which violate the Indiana Code;
3. Actions or behavior which violate the Indiana Administrative Code;
4. Actions or behavior which violate the City of Bloomington Municipal Code;
5. Actions or behavior which violate the Rules and Regulations adopted by the City of Bloomington Parks and Recreation Department or City of Bloomington Parks Board, unless the appropriate permit has been obtained;
6. Aggressive or violent actions or behavior;
7. Actions or behavior that unreasonably disrupts the activities of other users of the park or facility;
8. Actions or behavior that unreasonably interferes with other persons' ability to use the park or facility;

9. Actions or behavior which unreasonably causes or creates a risk of causing injury to persons within or on property owned, managed or operated by the City of Bloomington Parks and Recreation Department;
10. Actions or behavior which unreasonably causes or creates a risk of causing damage to property owned, managed or operated by the City of Bloomington Parks and Recreation Department; or
11. Actions or behavior which constitutes a public nuisance.

(B) The determination that a person is to be suspended from use or entrance on property owned, managed or operated by the City of Bloomington Parks and Recreation Department is limited to the Director of Parks and Recreation and/or his/her appointed designee.

(C) Notice of Suspension. A person may not be suspended from a use or entrance on property owned, managed or operated by the City of Bloomington Parks and Recreation Department unless or until he or she has been notified of the suspension.

1. Notification of the suspension shall be served in writing via certified mail or personal service.
2. The written notification shall state the reason for the suspension, the date upon which the suspension begins, the length of the suspension, the repercussion of ignoring the suspension and the process by which a person may appeal the suspension.
3. The Notification shall be signed and dated by the Director of Parks and Recreation and/or his/her appointed designee.

(D) Appeal of Suspension. Any person who receives a Notification of Suspension shall have the right to appeal said suspension. Any appeal shall adhere to the following requirements:

1. [All appeals shall be in writing and on a form supplied by the Parks and Recreation Department.](#)
2. All appeals shall be submitted to the City of Bloomington Parks Board, via the Parks and Recreation Department, within ten (10) days of the suspension being received. The date upon which the suspension is considered received is the date upon which the suspended person is personally served or the date upon which the certified mail is signed.

3. Upon receipt of a written appeal, the City of Bloomington Parks Board shall hear the appeal at its next regularly scheduled meeting, provided said appeal can be properly noticed in accordance with Indiana Open Door Law.
4. The person filing the appeal shall be notified, in writing, of the date, time and location of the hearing by the City of Bloomington Parks Board. This notification shall be served via personal service or certified mail.
5. During the pendency of any appeal the suspension is in effect, and the suspended person is prohibited from entering upon or into any property owned, managed, or operated by the City of Bloomington Parks and Recreation Department.

(E) Suspension Hearing. All hearings on a suspension shall be open to the public and comply with the Indiana Open Door Law.

1. Any person challenging his or her suspension shall be entitled to present his or her defense to the City of Bloomington Parks Board on his/her own behalf or through his/her representative.
2. Any person challenging his or her suspension shall be entitled to a minimum of ten minutes to present his or her case to the Parks Board.
3. Any person challenging his or her suspension shall be entitled to present evidence, documents and witnesses supporting his or her position at the suspension hearing.
4. Upon conclusion of the hearing, the City of Bloomington Parks Board shall make written findings of fact either upholding or overturning the suspension. Said findings of fact shall be made available to the person challenging the suspension.

(F) Maximum Length of Suspension. No suspension shall be issued that is shorter than seven (7) calendar days and lasts longer than one (1) calendar year.

(G) Entry upon or into any property owned, managed, or operated by the City of Bloomington Parks and Recreation Department by a person who is suspended in accordance with this Policy shall subject the person to arrest for criminal trespass in accordance with Ind. Code § 35-43-2-2.

BLOOMINGTON POLICE DEPARTMENT

GENERAL ORDER: Police Interaction with Homeless Encampments

Original Date of Issuance: August 13, 2021

Dates of Review:

Current Effective Date: August 13, 2021

I. Purpose.

The purpose of this General Order is to provide guidance for officers to ensure the fair and equitable treatment of persons experiencing homelessness and to ensure notice is given to those who are unlawfully trespassing on public property and that personal property is safeguarded according to law and Department policy.

II. Policy.

It is the policy of the Department to provide appropriate law enforcement services to the entire community while being sensitive to the needs of and protecting the rights, dignity, and personal property of the transient and homeless by the application of policy, law, and practices.

III. Definition(s).

- A. Transient Person.** An individual who lacks stable housing or employment and stays in one place for brief periods of time. Someone who moves from place to place, just passing through the area, and is not staying for a long time.
- B. Person Experiencing Homelessness.** An individual who lacks a fixed, regular, and adequate nighttime residence, a stable residence, or any residence at all, or has a primary nighttime residency that is:
1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations; or,
 2. An institution that provides a temporary residence for individuals intended to be institutionalized; or,
 3. A private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The term “person experiencing homelessness” does not include any person imprisoned or otherwise detained following an Act of Congress or State Law. 42

U.S.C. 11301, et seq. (An officer may make reasonable inquiry to make this determination).

- C. Downtown Resource Officer (DRO).** A specially trained and assigned officer who, in addition to regular police duties, provides enhanced police services to help resolve issues that are unique to the downtown district of Bloomington.
- D. Police Social Worker.** An employee of the Bloomington Police Department who is trained to engage with individuals experiencing mental health issues, substance abuse, homelessness, and traumatic events and to refer such individuals to appropriate resources and/or agencies.
- E. Shelter Referral.** A process whereby a person seeking emergency shelter undergoes a criminal screening process in order to be accepted into the shelter.

IV. Legal & Other Reference(s).

- A. Indiana Code 35-43-2-2, Criminal trespass.**
- B. General Order, Transient Persons and Persons Experiencing Homelessness.**
- C. City of Bloomington Policy for Closure of Encampments on Public Property.**

V. Procedure(s).

- A. Notification.**
 - 1. Upon observation of, or receipt of a complaint of, a homeless encampment on public property, the officer shall respond and assess the situation. Once confirmed, officers shall notify a supervisor of the situation. Immediate action should be taken if conditions in the encampment constitute an imminent threat to the health and/or safety of individuals in the encampment or the general public, in accordance with the emergency closure provision in the City of Bloomington Policy for Closure of Encampments on Public Property.
 - 2. Officers shall inspect the area, identifying any persons experiencing homelessness on the property. A determination of their purpose and intended length of stay and whether they have permission to be on the property shall be made. Downtown Resource Officers and Police Social Workers shall be notified of the encampment and of the persons present.
 - 3. At least seventy-two (72) hours in advance of an action to remove an encampment (not including weekends and holidays), persons present in the encampment shall be notified that they will be required to move.

4. Written notice will be posted at one or more visible locations near the encampment and best efforts will be made to provide the notice personally to all individuals in the encampment. Posting of the notice and efforts to provide individual notice will be documented along with conditions at the encampment. Notice will include contact information for finding necessary shelter and services, and the location where personal belongings will be stored as noted in Section V(B)(4) of this General Order.
5. At the conclusion of the seventy-two (72) hour time period, Officers shall return to the encampment. Persons at the encampment will then be given a final opportunity to depart. If they fail to depart or refuse to, a physical arrest for Criminal Trespass is appropriate.

B. Handling and Disposition of Property.

1. Items that have no apparent value or utility, or are in unsanitary or putrescent condition, may be immediately discarded. Weapons, drug paraphernalia, and items that are established as either stolen or evidence of a crime shall be retained following evidentiary procedure.
2. The personal property of transient persons and persons experiencing homelessness shall be respected. Officers may allow them to take a limited amount of personal items with them when arrested on a criminal matter or transported for a referral. If necessary for an officer to collect such items when a criminal arrest or referral is made, consideration shall be given to officer safety in handling the items as well as the health and safety of those who may come into contact with it in the Correctional Center or the Property Room.
3. Items which may be considered personal property and taken with the homeless individual include the following:
 - a. radios, audio, and video equipment;
 - b. medication;
 - c. personal papers, photographs, books and other reading materials;
 - d. luggage, backpacks or other storage containers;
 - e. clothing, shoes, toiletries, and cosmetics;
 - f. clocks and watches, eye glasses; and,
 - g. bed rolls, blankets and pillows (if not damp or soiled with urine, blood, or fecal matter).
4. The personal items of individuals in the encampment shall be collected and stored in a secure location for thirty (30) days. Where items remain unclaimed after thirty (30) days, the items may be disposed of if reasonable efforts have been made to locate and notify owners that their personal items remain unclaimed. The City shall not store more items than

will fit in one 96-gallon container per camper. Items in the following condition shall not be stored:

- a. wet or damp items;
- b. items soiled with human or animal bodily fluids/feces, food, chemicals, or other contaminants;
- c. perishable items (e.g. food); or
- d. items that represent a health or safety hazard.

5. When responding to address an encampment on private property, officers and other city staff shall have no role or responsibility in sorting through, cleaning up, itemizing, or otherwise managing property associated with the encampment or individuals living at the encampment.

POLICY FOR CLOSURE OF ENCAMPMENTS ON PUBLIC PROPERTY

1. In accordance with Indiana law, the City may require individuals camping in or otherwise blocking or using a public right of way to the exclusion of others without a permit to vacate the right of way.
2. Overnight camping and sleeping are not allowed in City parks without a permit under Parks and Facilities Special Use Policy 13040.
3. Where conditions and/or behavior in an unpermitted encampment located on public property (“Encampment”) constitute a threat to the public health and safety, significantly inhibit the ability of City staff to maintain the public space for the benefit of all, or impede the ability of other members of the general public to enjoy the space, the City may undertake to close down an Encampment. In such an event, the City will follow the procedures set forth below.
 - a) Closure Date. The City will select a specific date for closing an Encampment (“Closure Date”) and arrange ahead of time for any necessary contractors and/or employees to be available on that date. The Encampment will be closed on the Closure Date unless circumstances make it infeasible, unwise or not in compliance with other provisions of this policy. If closure is delayed, the City will provide at least 24 hour notice of the new Closure Date.
 - b) Community Partners. The City will contact community partners whose services may be needed by persons experiencing homelessness and others in the Encampment to notify them of the upcoming closure and ask them to be present to assist on the Closure Date.
 - c) Notice. The City will provide individuals in an Encampment with 72 hours notice (not including weekends and holidays) that they will be required to move. Written notice will be posted at one or more visible locations near the Encampment, and City staff will make their best efforts to provide the notice personally to all individuals in the Encampment. Posting of the notice and efforts to provide individual notice will be documented along with conditions at the encampment. Notice will include contact information for finding necessary shelter and services, and the location where personal belongings will be stored in accordance with Paragraph 3(f) below.
 - d) Waste Receptacles and Additional Information. On the Closure Date, the City will ensure that waste receptacles are available on site. The City will also provide written information to individuals remaining in the Encampment about where and when they may retrieve their personal items and how to access community resources if they need assistance.
 - e) Available Shelter. Before closing an Encampment, the City will confirm the number of available shelter beds for individuals in the Encampment who do not have other overnight shelter options, and will offer a shelter bed to as many individuals as possible. The City does not plan on making arrests of individuals in an Encampment unless absolutely necessary based on individual behavior. Any such arrests would be unrelated to whether the individual suffers from substance use disorder, or to the

individual's housing or any other status. If an individual in the Encampment refuses shelter, the City may nonetheless proceed to close the Encampment.

f) Emergency Closure. If the City determines that conditions in the Encampment constitute an imminent threat to the health and/or safety of individuals in the Encampment or the general public, the City may proceed to close an Encampment immediately and will make every effort to find shelter beds for individuals in the Encampment.

g) Personal Belongings. The City will collect the personal items of individuals in the Encampment and store them in a secure place for 30 days. Where items remain unclaimed after 30 days, the City may dispose of the unclaimed items if City staff has made reasonable efforts to locate and notify owners that their personal items remain unclaimed. The City shall not be required to store more items than will fit in one 96-gallon container per camper. The City will not be required to collect and store personal items that are:

- Wet or damp
- Soiled with human or animal bodily fluids/feces, food, chemicals, or other contaminants
- Perishable (e.g. food)
- Represent a health or safety hazard