

**AGENDA
LEBANON CITY COUNCIL
JUNE 1, 2016**

9. NEW BUSINESS:

**9.C –SET PUBLIC HEARING FOR JUNE 15, 2016:
ORDINANCE 2016-03 TO AMEND CITY CODE TO INCLUDE
NEW CHAPTER 49, CITY PROPERTY-USE OF**

BACKGROUND

The Lebanon Police Department, in collaboration with the City Manager's Officer, has been working on developing a Camping and Overnight Parking on City Property Ordinance.

The issue of camping and overnight parking on City property has become more relevant in the last several years. In the past six months, issues have arisen at Storrs Hill and the vacant lot off Market Street adjacent to Hannaford's Grocery Store. The primary issue is one of liability when individual's camp on City owned land. There are no restroom facilities, no trash containers or receptacles and no oversight as to what is occurring on the property. This opens the City to potential liability in a number of areas. Further, the lack of services and facilities creates an additional impact to the surrounding area and businesses.

Please see attached memo from Police Chief Richard Mello for more information. Chief Mello will be present at the meeting to discuss the proposal and answer questions.

ACTION

If the Council decides to move forward with proposed Ordinance #2016-03, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for June 15, 2016, beginning at 7:00pm in the Council Chambers, City Hall, for the purpose of receiving input and taking action on Proposed Ordinance #2016-03, to amend the Code of the City of Lebanon, to include new Chapter 49, City Property-Use of.

Included in this Section:

1. Proposed Ordinance 2016-03
2. May 25, 2016 Memo from Police Chief Richard Mello

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**CITY OF LEBANON
ORDINANCE #2016-03**

AN ORDINANCE TO AMEND the Code of the City of Lebanon by adding a new Chapter 49, to be entitled CITY PROPERTY - USE OF, which chapter provides for the regulation of overnight parking and camping on City-owned property.

Be it ordained by the City Council of the City of Lebanon as follows:

Section 1.

The Code of the City of Lebanon is hereby amended by adding thereto a new chapter, to be Chapter 49, City Property - Use of, to read as follows:

- §49-1. Authority
- §49-2. Purpose
- §49-3. Acts Prohibited
- §49-4. Definitions
- §49-5. Exceptions
- §49-6. Responsibility
- §49-7. Removal
- §49-8. Enforcement

§49-1. AUTHORITY

In accordance with and under the authority of New Hampshire Revised Statutes Annotated 41:11; 41:11-a, 47:17, and § C419:22 of the Lebanon City Charter, the City Council of the City of Lebanon hereby adopts the following ordinance for the regulation of overnight parking or camping on all City-owned property.

§49-2. PURPOSE

The purpose of this Ordinance is to protect the public peace, preserve public law and order, promote safety and welfare and ensure proper and decent conduct for the residents of the City of Lebanon and the general public, in the use of City-owned properties.

§49-3. ACTS PROHIBITED

From and after the effective date of this ordinance it shall be unlawful for any person to camp, or to park, for the purposes of occupancy, any vehicle or recreational vehicle, either overnight or for any two-hour period between dusk and dawn, on any City-owned lands within the City of Lebanon.

§49-4. DEFINITIONS

Camp: Includes pitching a tent, or placing or erecting any other camping device, or sleeping on the ground, see RSA 236:58.

Recreational Vehicle (RSA 216-I:1, VIII) means any of the following vehicles:

- (a) Motor home, van, or mini-van which is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle
- (b) Pickup camper, which is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation
- (c) Recreational trailer, which is a vehicular, portable structure built on a single chassis, 400 square feet or less when measured at the largest exterior horizontal projections, calculated by taking the measurements of the windows but not the roof overhand. It shall be designed primarily not for use as a permanent dwelling but as a temporary dwelling for recreational, camping travel or seasonal use
- (d) Tent trailer, which is a canvas or synthetic fiber folding structure, mounted on wheels and designed for travel, recreation and vacation purposes

City-owned lands -All properties owned by the City of Lebanon.

§49-5. EXCEPTIONS

Restrictions in this ordinance shall not apply:

- A. When permission has been granted by the Chief or Police or designee for official or emergency purposes
- B. When permission has been granted by the City of Manager or Chief of Police in conjunction with a written special event permit.
- C. To conservation lands for which a permit for camping has been issued by the City Manager pursuant to § 52:6 of the City Code.

§49-6. RESPONSIBILITY

All violations of parking restrictions and charges shall be deemed the responsibility of the registered owner of said vehicle. Such registration may be proven as set forth in RSA 261:60. Said registered owner shall be conclusively presumed to be in control of the vehicle at the time of the parking violation, and no evidence of actual control or culpability needs to be proven as an element of the offense in accordance with RSA 231:132-a.

§49-7. REMOVAL

Any vehicle parked in violation of this ordinance may be ordered towed by the Lebanon Police Department at the expense of the owner, or custodian of said vehicle.

§49-8. ENFORCEMENT

- A. Any person who violates this Ordinance shall be guilty of a violation, and shall be fined \$100.00.
- B. Any duly appointed police officer for the City of Lebanon may enforce this Ordinance by utilizing any process authorized by state law, including but not limited to a Local Ordinance Citation pursuant to RSA 31:39-d.
- C. All penalties collected for violations of this Ordinance shall be for the use of the City, and deposited into the City's general fund.

Section 2. Severability

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 3. Effective date.

This ordinance shall take effect upon its passage.

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To: Honorable Mayor and City Council
Cc: City Manager
From: Chief Richard R. Mello
Date: May 25, 2016
Re: Camping and No Parking Ordinance Proposal

INTRODUCTION:

The Lebanon Police Department, in collaboration with the City Manager's Officer, has been working on developing a Camping and Overnight Parking on City Property Ordinance for approximately the last 18 months. This work was started by former Chief Gary Smith and I utilized his work product to finalize a ordinance proposal.

BACKGROUND:

The issue of camping and overnight parking on City property has become more relevant in the last several years. In the past six months, we have had issues at Storrs Hill and the vacant lot off Market Street adjacent to Hannaford's Grocery Store. At Storrs Hill this past winter, there was a gentleman that had to be removed after setting up a permanent camp site at that location. The lot adjacent to Hannaford's has been a longstanding issue with individuals camping with tents and RV's at that location. The attached pictures depict the location over the last few weeks.

The primary issue is one of liability when individual's camp on City owned land. There are no restroom facilities, no trash containers or receptacles and no oversight as to what is occurring on the property. This opens the City to potential liability in a number of areas. Further, the lack of services and facilities, such as is seen at the Hannaford location, creates an additional impact to the surrounding area and businesses. We investigated a recent complaint from Hannaford's regarding individuals living across the road on City Property where they have been loitering in and around the store, littering on the property and bathing in their bathrooms.

RECOMMENDATION/RATIONALE:

I recommend the City Council adopt the Use of City Property Overnight Parking or Camping Prohibited ordinance so that the City and the Police Department can adequately address this issue. Further, it is the intent of the Police Department and the City Manager's office to conduct a public education campaign in advance of the ordinance's effective date. This will provide those impacted with advanced notice so that alternative living arrangements can be made and we can recommend the appropriate services to help in that transition.

BACKUP INFORMATION:

Hannaford Call for Service
Attached Pictures of the Snow dump area



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