

CITY OF MARSHALL

ORDINANCE NO. 2024-O 22

AN ORDINANCE AMENDING CHAPTER 42. HEALTH AND SANITATION. ARTICLE III.
PUBLIC HEALTH NUISANCES. SEC. 42-62. RESERVED OF THE CODE OF
ORDINANCES, CITY OF MARSHALL, ILLINOIS.

ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF MARSHALL

Published in pamphlet form by authority of the City of Marshall, Clark County, Illinois, this
26 day of August, 2024.

ORDINANCE NO. 2024-O- 22

AN ORDINANCE AMENDING CHAPTER 42. HEALTH AND SANITATION. ARTICLE III. PUBLIC HEALTH NUISANCES. SEC. 42-62. RESERVED OF THE CODE OF ORDINANCES, CITY OF MARSHALL, ILLINOIS.

Section 1. That Chapter 42. Health and Sanitation. Article III. Public Health Nuisances. Sec. 42-62. Reserved of the Code of Ordinances, City of Marshall, Illinois is hereby amended to read as follows, with strikeouts indicating deletions in text and underscores indicating additions to text:

Sec. 42-62. Reserved Public Camping Prohibited.

A. Definitions:

- (a) Public Camping means to cause or participate in the establishment of, or the act of remaining in or at a campsite.
- (b) Bedding means a sleeping bag, or any other material, used for bedding purposes.
- (c) Campsite means any physical space that is not within an established structure, where bedding or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
- (d) Exempt Personal Property means items which would otherwise constitute personal property under the terms of this Ordinance, but which (i) has no apparent utility or monetary value; (ii) personal property which is unsanitary to store or otherwise maintain; (iii) any weapon possessed illegally; (iv) drug paraphernalia; (v) items appearing to be stolen or otherwise appearing to be evidence of a crime; (vi) items which the person cannot demonstrate the requisite lawful authority to possess; and (vii) any items of food which can reasonably be expected to spoil or otherwise perish within the next 30 days.
- (e) Personal Property means any item reasonably recognizable as belonging to a person and having apparent utility or monetary value, except for exempt personal property.

B. Declared a Nuisance.

Declared a Nuisance: Public Camping, as the term defined herein, is hereby declared to be a nuisance within the City of Marshall in that the Illinois Municipal Code (65 ILCS 5/11-20-10) empowers municipalities to "do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of a disease."

C. Public Camping Prohibited.

- (a) No person may sleep, nor otherwise engage in Public Camping, on a public sidewalk,

- street, alley lane, other public right-of-way, park, bench, or any other publicly owned property, nor on or under any bridge or viaduct, at any time.
- (b) No person may sleep, nor otherwise engage in Public Camping, in any pedestrian or vehicular entrance to public or private property abutting a public right-of-way.
 - (c) No person may sleep, nor otherwise engage in Public Camping, on any real property owned or otherwise maintained by the City of Marshall.
 - (d) No person may park a vehicle overnight within the City of Marshall for the purpose of sleeping or otherwise engaging in Public Camping in said vehicle.
 - (e) For the purposes of this section, the act of parking or leaving a vehicle parked for two consecutive hours, and/or remaining within a public vehicle on any property under the jurisdiction of the City of Marshall for the purpose of Public Camping, for two consecutive hours without permission from the Mayor or his/her designee between the hours of midnight and 6:00 a.m., shall be considered a violation of this ordinance.

D. Exceptions to Prohibition.

- (a) Camping authorized by resolution of the City Council.
- (b) Camping authorized by the Mayor or his designee during an emergency.
- (c) Special events organized by the City or Chamber of Commerce.
- (d) Authorized campers must provide adequate insurance and indemnify the City of damages.

E. Removal of campsite which violates this ordinance may occur under the following circumstances.:

- (a) Prior to removing a Campsite, the City of Marshall shall post a notice, 24-hours in advance of the removal, unless immediate removal of the campsite is deemed necessary for one of the following reasons:
 - (i) Immediate removal is necessary to maintain access to property;
 - (ii) Immediate removal is necessary to maintain the sanitary condition of a property;
 - (iii) Immediate removal is necessary because the campsite is an obstruction to any public right-of-way; or
 - (iv) Immediate removal is necessary because the campsite possesses a risk to the health and safety of the residents of the City of Marshall.
- (b) Pursuant to Section a, the above person causing such action to be taken shall inform an appropriate agency delivering social services to homeless individuals of the location of the campsite and the persons in violation of the ordinance so the agency can offer its services.
- (c) If a 24-hour notice has been posted, and the 24-hour notice period has passed, then the campsite, as well as all personal property thereon shall be removed by the appropriate person(s) acting on behalf of the City of Marshall.
- (d) No portion of this section shall be construed to prohibit any person found to be engaging in public camping from removing their personal property from the campsite; however, such personal property that constitutes exempt personal property and which

a reasonably prudent law enforcement officer, exercising the applicable constitutional standard, would conclude that said exempt personal property constitutes items appearing to be stolen or otherwise appearing to be evidence of a crime, and/or items which the person cannot demonstrate the requisite lawful authority to possess, may be retained and stored as evidence.

F. Disposition and Release of Personal Property.

All personal property removed from any campsite which is not exempt personal property shall be stored by the City Police Department or other appropriate law enforcement agency for a minimum of 30 days, during which time it shall be reasonably available for and released to an individual confirming ownership.

All exempt personal property may be disposed of or retained as evidence by the City Police Department or other appropriate law enforcement agency.

G. Penalty.

- (a) The penalty for any person's first violation of this ordinance within a rolling twenty-four (24) month period shall be \$250.00.
- (b) The penalty for any person's second violation of this ordinance within a rolling twenty-four (24) month period shall be \$750.00.
- (c) The penalty for any person's third violation of this ordinance within a rolling twenty-four (24) month period may be a monetary penalty of \$750.00 or incarceration for a period not exceeding the maximum time allowed pursuant to Section 1-2-9 of the Illinois Municipal Code (65 ILCS 5/1-2-9).
- (d) The City of Marshall is hereby empowered to exercise all powers afforded to it, at law or in equity, to collect any fines assessed against a person pursuant to the Ordinance, including but not limited to seeking incarceration of said person for a period of time that conforms with Section 1-2-9 of the Illinois Municipal Code (65 ILCS 5-1-2-9).
- (e) In the imposition of any penalty pursuant to this Section, the penalty shall be mitigated by 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 the person was informed that the person was in violation of this ordinance.
- (f) A separate offense of this Ordinance shall be deemed committed on each day on which a violation occurs or continues.
- (g) In addition to any other remedy provided by law or this Ordinance, any person found in violation of this section may be immediately removed from the premises where the campsite is located.

H. If any provision of this ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provision or application of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

Section 2. If any provision of this Ordinance, or application thereof, is held invalid by

any Court, other provisions or applications of this Ordinance which can be given effect without the invalid provision or application shall not be affected, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. That this Ordinance shall take effect ten (10) days after its passage and approval as provided by law.

	<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>
Michael Smitley	✓		
Warren J. Le Fever	✓		
Vickie Wallace			✓
Jarod Green	✓		
Robert Nelson	✓		
Foster Propst			✓
Rob Knott	✓		
Greg King			✓

PASSED this 26 day of August, 2024.

APPROVED this 26 day of August, 2024.


MAYOR

ATTESTED, filed in my office,
and published in pamphlet form
this 26 day of August, 2024.


CITY CLERK

(SEAL)