

American Civil Liberties Union of West Virginia  
P.O. Box 3952  
Charleston, WV 25339



October 17, 2024

Clarksburg City Council  
222 W Main St,  
Clarksburg, WV 26301

*Re: Clarksburg's Proposal to Ban Public Camping*

To the City Council of Clarksburg, West Virginia:

We are writing to you in regard to the adoption and enforcement of Proposed Ordinance 11.20.01 *et seq.*, titled *an Ordinance of the City of Clarksburg to Create Article 1120 to Prohibit Camping on Public Property and Unauthorized Private Property*. It is the firm position of the American Civil Liberties Union of West Virginia that the proposed ordinance is likely to violate the civil rights and civil liberties of Clarksburg residents, and we therefore urge you to reconsider its passage.

While it is comforting and convenient to imagine that a simple solution exists to address the issue of homelessness; however, that is not the case. A “solution” to this problem would require Clarksburg to address the availability of low-barrier housing options, the rates of substance use disorder, access to mental health care, barriers to keeping families intact, and myriad issues that are tightly interwoven and impact the rates of homelessness and the factors that a person who is unhoused may consider when deciding where to spend their time, and where to seek safety each night. Attempts to address these issues are further stymied by the systemic forces that keep service providers understaffed, underfunded, and overworked. The proposed ordinance before the City Council fails to address these true, root problems that we must reckon with and, in failing to do so, will cause more problems without resolving the ones it set out to address.

The proposed ordinance defines camping not as just setting up a tent, but also as using camp paraphernalia, including hammocks, blankets, and grills for “habitation purposes,” a term which is notably not defined. To illustrate the problem with this drafting, I’d like for you to envision the following scenario:

*You pass this ordinance, and next Spring the police are called to Veteran’s Memorial Park because it has been reported that*

*someone has been napping in a hammock for 2 hours on City Property.*

Is that behavior that you, the City Council, intended to outlaw in passing this ordinance? What information would you need in order to determine whether this act of napping outdoors ran afoul of the law? Would your opinion on whether or not this should be criminalized change based on whether the person napping was a Fairmont State student with a textbook next to them, or a person known to be unhoused? Consider another scenario presented by the passing of this ordinance:

*You pass this ordinance, and the police are called because someone is preparing a meal on a portable grill in a park.*

Should that individual be subject to be instructed to stop, given a written warning, and provided information about resources to seek shelter? Does your answer change depending on whether it's a family grilling burgers for a child's birthday party versus an unhoused person cooking what might be their only meal for that day?

I share these scenarios, which are hypothetical for now but will become very real should you choose to pass this ordinance, to highlight that because this ordinance paints with such a broad brush, you will be forced into a choice: either criminalize leisure and recreation in parks and public spaces neutrally for all individuals in Clarksburg, or apply this ordinance in a discriminatory, non-neutral manner to target a particular population – the unhoused. It is a blatant violation of civil rights to have laws that are, by design, only enforced against a marginalized community. It is our strong commitment that we will respond quickly and strongly to ensure that legal action is taken against the City if such an application were to take effect.

We have seen a number of these proposals come across our desks, and it is worth noting that your proposal makes attempts to address some of the systemic causes of housing insecurity in a way that many communities do not consider addressing. While the inclusion of processes meant to improve outcomes for people who are unhoused does not resolve our concerns with the proposed ordinance, it does make your proposal kinder, more compassionate, and practical than many others. We respectfully urge you to lean into that impulse, the impulse to be the best, kindest, most empathetic community members that we can be, and attempt to address your concerns through avenues other than the criminal process.

Clarksburg is fortunate to have many passionate service providers and advocates, and we urge you to work with those groups to learn about what they're doing, about the needs they see in the community, and to more deeply understand and address what the City Council can do to help support them in their meaningful and impactful work, with the time and resources that would otherwise be spent passing, defending - and ultimately litigating - the current proposed ordinance.

If you have an interest in discussing this with us further, please feel free to contact me at the information included below. We would also be happy to facilitate a conversation that involves local service providers, faith leaders, and impacted communities if doing so would assist the City Council in reaching a decision on this matter.

Best,  
Aubrey Sparks

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