



Legislation Details (With Text)

File #: 18-0198 **Version:** 2 **Name:**

Type: Ordinance **Status:** Mayor's Office

File created: 4/10/2018 **In control:** City Council

On agenda: 7/10/2018 **Final action:** 7/10/2018

Title: Ordinance No. 18-70 creating section 111 (Camping Within Public Stream/Public Stream Riparian Zone Prohibited) of Part 1 (General Offenses) of Article 6 (Offenses Affecting Property) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to camping within public stream riparian zones, and providing penalties for the violation thereof

Presenter:
Tom Strand, Councilmember At-Large
Richard Mulledy, City Water Resources Engineering Manager

Sponsors:

Indexes:

Code sections:

Attachments: 1. Camping-Riparian-Council2018-05-01, 2. Camping within Public Streams__5.1.pdf, 3. Signed Ordinance 18-70

| Date | Ver. | Action By | Action | Result |
|-----------|------|---------------------------|---------------------------|--------|
| 7/10/2018 | 1 | City Council | finally passed | Pass |
| 7/10/2018 | 1 | City Council | denied | Fail |
| 6/26/2018 | 1 | City Council | approved on first reading | Pass |
| 5/7/2018 | 1 | City Council Work Session | referred | |

Ordinance No. 18-70 creating section 111 (Camping Within Public Stream/Public Stream Riparian Zone Prohibited) of Part 1 (General Offenses) of Article 6 (Offenses Affecting Property) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to camping within public stream riparian zones, and providing penalties for the violation thereof

Presenter:

Tom Strand, Councilmember At-Large
Richard Mulledy, City Water Resources Engineering Manager

Summary:

The City of Colorado Springs has experienced an increase in camping upon property adjacent to waterways within the City limits. There exists a significant concern regarding the potential for sudden flooding that threatens the safety and wellbeing of individuals camping within these areas. Additionally, based on observation of City staff and information provided by the United States Geological Survey and the Colorado Department of Health and the Environment's Water Quality Control Commission, there are potential impacts to water quality within the City limits due to these unauthorized encampments. City staff wishes to address the situation with an ordinance making it unlawful for unauthorized persons to camp within a stream, streambank or a stream riparian zone

that extends one hundred feet (100') away from the edge of the streambank.

Previous Council Action:

N/A

Background:

Throughout 2017 and 2018, as in past years, the City of Colorado Springs has experienced a proliferation of unauthorized camping within riparian zones abutting and adjacent to public streams throughout the City.

City staff desires to protect the health, safety and welfare of the citizens of Colorado Springs through adoption of an ordinance prohibiting any person to camp, as defined by section 9.6.110 of the City Code, within any public stream and/or public stream riparian zone, unless authorized by the appropriate governmental authority. For the purposes of the ordinance, streams include channels, canals, streambeds, streambanks, drainage ways, floodways, holding and silting basins, reservoirs, lakes and ponds.

As a result of the increase in camping activities within public streams and riparian zones, a threat and hazard to the public health and safety exists to the citizens for multiple reasons.

First, persons camping within these areas are susceptible to sudden floodwaters and hazardous conditions inherent to the riparian environment which may result in significant injury or death through submersion or drowning.

Second, City staff and residents have many times observed persons camping within riparian areas of the City urinating, defecating, bathing and otherwise contaminating stream waters. The result is an increase in unsanitary and unhealthy conditions at the point of the act and further downstream throughout the City, El Paso County and the surrounding communities.

The United States Geological Survey ("USGS") has conducted water quality sampling of the Fountain Creek watershed within the City. The USGS sampling demonstrates that the Fountain Creek watershed contains undesirable levels of E. coli. Sewage and untreated human or animal waste caused by unauthorized campers and their pets can cause contamination within the watershed.

Due to the results of the USGS water quality sampling, the Colorado Department of Public Health and the Environment's Water Quality Control Commission has determined that the water travelling through the City is impaired based on their articulated standards. Impairment of these waters means the waters are too polluted or otherwise degraded to meet the water quality standards of the State of Colorado. The unsanitary conditions resulting from camping within a public stream and/or public stream riparian zone threaten degradation of the water quality within the City's streams and riparian areas.

To prevent further degradation of the water quality within the City's streams and riparian areas, and to alleviate the risk of death or serious injury to unauthorized campers, City staff recommends approval of an ordinance making it unlawful for anyone, without authorization, to camp within a stream, streambank or the stream riparian zone that extends one hundred feet (100') away from the edge of the streambank. Other regulatory agencies such as the National Forest Service and the National Park Service regularly prohibit camping and related activities within one hundred feet (100') or further from a waterbody to protect the natural environment and public health and safety.

City staff has included a provision within the ordinance requiring that the Police Department cite a violator of the ordinance only following an initial notification to the offender followed by a continued violation of the ordinance.

Anyone convicted of a violation of this ordinance shall be subject to the general penalty contained in City Code sections 1.1.201 and 1.1.202.

At City Council's June 26th meeting considering this ordinance on first reading, Councilmember Geislinger requested additional information regarding other municipal offenses that may be applicable within the city's riparian zones. Depending on the facts asserted, several ordinances may apply:

- 1) City Code section 3.8.201 prohibits "discharge[s] of any materials, including but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards or that could cause the City to be in violation of its [Municipal Stormwater Discharge Permit].";
- 2) City Code section 9.6.202, "Littering Prohibited," makes it "unlawful for any person to litter on public or private property in this City or any waters in this City...";
- 3) City Code section 9.6.105, "Urination or Defecation", makes it "unlawful for any person to urinate or defecate upon any public place or place within view other than in a toilet facility provided for the purpose.";
- 4) Finally, City Code section 9.9.301, "Animal Defecation", makes it "unlawful for any person to allow any animal over which the person has control to defecate upon any park land without the excrement being removed by the person in control of the animal from the park and dispose of properly."

Councilmember Geislinger further requested that these additional ordinances be incorporated into the current request. Staff recommends that the ordinance be passed as drafted on second reading as the current draft addresses more than just water quality efforts. Specifically, aside from water quality concerns, the ordinance addresses the danger for campers within the City's riparian zones due to flash flooding concerns as illustrated by a recent incident in which two (2) people were swept into the riparian zone.

Staff will look to incorporate these additional ordinances as part of this riparian camping ordinance to the extent applicable in the near future.

Financial Implications:

N/A

Board/Commission Recommendation:

N/A

Stakeholder Process:

Individual City Councilmembers have attended and hosted multiple public meetings regarding streamside issues and the contamination and threats to the public health, safety and welfare of the citizens and water quality due to the proliferation of unauthorized camping along the streams and

streamside areas throughout the City.

Alternatives:

City Council could decide not to adopt the ordinance.

Proposed Motion:

Move to adopt an ordinance creating section 111 (Camping Within Public Stream/Public Stream Riparian Zone Prohibited) of Part 1 (General Offenses) of Article 6 (Offenses Affecting Property) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to camping within public stream riparian zones, and providing penalties for the violation thereof.

An ordinance prohibiting unauthorized camping within one hundred feet (100') of public streams, public streambanks and public stream riparian zones within the City of Colorado Springs and providing penalties for the violation thereof.