



## Legislation Text

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**File #:** 18-0453, **Version:** 2

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Ordinance No. 18-99 amending 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:**

Marc Smith, Corporate Division Chief, Office of the City Attorney  
David Geislinger, City Councilmember

### **Summary:**

On July 10, 2018, the City Council adopted an ordinance prohibiting camping in a public stream or public stream riparian area of the City. This ordinance was in response to a significant concern regarding: 1). the potential for sudden flooding threatening the safety of individuals; and 2). observations 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 regarding potential impacts to water quality. During the adoption process, several Councilmembers requested that staff draft additional regulations to increase penalties for other forms of conduct for non-campers. The proposed ordinance makes it "unlawful for any person to knowingly or recklessly deposit, place, or permit to be deposited or placed any waste within any public stream and/or public stream riparian zone."

### **Previous Council Action:**

City Council adopted § 9.6.111 on July 10, 2018, prohibiting camping in public streams and/or public stream riparian areas of the City.

### **Background:**

Throughout 2017 and 2018, as in past years, the City of Colorado Springs has experienced a proliferation of injurious activities within public streams and riparian zones abutting and adjacent to public streams throughout the City. In response, on July 10, 2018 the City Council adopted an ordinance prohibiting unauthorized camping within the defined public stream riparian zone and provided the general penalty pursuant to City Code §§ 1.1.201 and 1.1.202 as the punishment for a violation thereof.

City staff and residents have many times observed persons urinating, defecating, and disposing of other forms of waste, thus 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 exceedingly high levels of E. coli and is correlative of recent sewage or human and/or animal waste contamination.

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 the deposit of waste within a public stream and/or public stream riparian zone contributes to the 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 people utilizing the riparian zone, in conformance with Council's request, City staff recommends approval of the proposed ordinance.

Through adoption of the ordinance, City Council desires to protect the health, safety and welfare of the citizens of Colorado Springs by prohibiting any person "to knowingly or recklessly deposit, place, or permit to be deposited or placed any waste within any public stream and/or public stream zone." Waste, as defined in the ordinance, "includes but is not limited to: any and all rubbish; unused, rejected and/or discarded material(s); feces; garbage; trash; debris or other foreign substances, solid or liquid of every form, size, kind and description."

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. The maximum penalty is a fine of not more than two thousand five hundred dollars (\$2,500.00) and/or maximum imprisonment of one hundred eighty nine (189) days, a sentence of probation (including community service), or a combination thereof for adults. Up to a five hundred dollar (\$500.00) fine, a sentence of probation (including community service), or a combination thereof is permitted for minor offenders.

Currently, a citation issued pursuant to section 9.6.202 "Littering Prohibited," is subject to City Code section 11.4.104 which eliminates the right to elect a jury trial. Therefore, punishment upon conviction of this offense is limited to a maximum fine not to exceed five hundred dollars (\$500.00), a sentence of probation (including community service), or a combination thereof.

**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. City Council requested this ordinance as part of its public hearing process during the passage of the prohibition on camping in the City's public stream and/or public stream riparian zone.

**Alternatives:**

City Council could decide not to adopt the ordinance.

**Proposed Motion:**

Move to adopt an ordinance amending 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 a person from knowingly or recklessly depositing waste in a public stream and/or 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.