

Article 24 - Camping on Public Property -- Questions and Concerns from AHRC

Arlington Human Rights Commission knows that everyone in this process has good intentions. But we are very concerned that the plan put forward allows for arresting people who are living unhoused but are committing no other crime. This amendment creates a new crime--sleeping on public property--and allows the town to assess monetary fines and even arrest people for it.

We urge you to vote No Action on Article 24 and instead create a task force to study the complex issues surrounding homelessness in Arlington.

Questions regarding the specifics of the proposed bylaw amendment:

- What is the proposed timeframe from warning 1 to warning 2 to possible arrest?
- How much would the potential fines be?
- What are the minimum and the maximum it could cost someone who is fined and arrested for failure to vacate? (The total of fines plus court costs.)
- What would the procedure be for reclaiming seized property? If someone were arrested, would the town hold their property until they were released? How long?

Questions and concerns for the task force to address:

- What is the intended benefit of the proposed bylaw?
- What can we learn from how other local towns and cities are addressing homelessness?
- What do academic studies recommend as methods to address homelessness?
- How do we feel as a town that referring people to shelters essentially shifts responsibility for unhoused individuals to other cities and towns?
- How do we as a town feel about imposing fines on the homeless—essentially charging someone money for being poor?

Questions about how homelessness affects the Arlington community:

- What do we know from the yearly street counts in Arlington? Should we add a second count in warmer weather, when more people are living out of doors?
- Approximately how many individuals are unhoused in Arlington currently? What's the estimate for the total number of individuals over the course of a year?
- What other services does Arlington offer besides shelter referrals?
- What physical and mental health services does Arlington offer, if any?
- Are there usually beds available at the shelters Arlington refers to?
- Does Arlington offer transportation to the shelters and intake assistance?
- What happens if a shelter is full or someone does not qualify to stay at the shelter?
- What is currently done if someone is afraid to go to a shelter or refuses for other reasons?
- At the BOS meeting, there was a mention of 3 alleged rapes at an encampment. It was implied that moving people out of the encampment would therefore make them safer. Has a comparison been done of rates of rape and sexual assault on public land in Arlington versus in the shelters we refer people to?
- Has a similar comparison been done of rates of non-sexual violence?
- At the previous BOS hearing, it was also mentioned that the encampment has created a problem with sanitation. The town should look into the feasibility of providing safe and clean sanitary facilities to those living unhoused—perhaps in the new Food Pantry building.
- What are the needs of the homeless who are living out of doors versus those living in cars or other housing-insecure situations?

Legal issues:

- In December, members of the Joint Committee on Housing voted to favorably recommend Bill H.1129: An Act providing a homeless bill of rights
- In *Jones v. City of Los Angeles*, the US Court of Appeals for the Ninth Circuit held that “the Eighth Amendment prohibits the City from punishing involuntary sitting, lying, or sleeping on public sidewalks that is an unavoidable consequence of being human and homeless without shelter in the City of Los Angeles.”
- In *Pottinger v. Miami*, a federal court held that punishing people for sleeping in public when they had no alternative place to sleep was a violation of their right to be free from cruel and unusual punishment under the Eighth Amendment and violated their right to travel. As a result, homeless people in Miami cannot be arrested for sleeping in public places if they have no alternative.
- The state of Colorado has declared, “Responding to the growing crisis of homelessness with criminal sanctions to push people out of public spaces and into courts and jails is costly, inhumane, ineffective, and violates basic civil, human, and Constitutional rights.”
- The National Law Center on Homelessness & Poverty has published the report “No Safe Place: The Criminalization of Homelessness in U.S. Cities,” which states: “Criminalizing homelessness violates basic human rights as well as treaties that our country has signed and ratified. In 2012, the U.S. Interagency Council on Homelessness (USICH) and the U.S. Department of Justice (DOJ) agreed, in a major joint report, *Searching out Solutions: Constructive Alternatives to the Criminalization of Homelessness*. The agencies noted that, in addition to raising constitutional issues, criminalization of homelessness may ‘violate international human rights law, specifically the Convention Against Torture and the International Covenant on Civil and Political Rights.’ Since then, the USICH has repeatedly addressed criminalization as not only a domestic civil rights violation, but as a human rights violation.” (Source: https://www.nlchp.org/documents/No_Safe_Place)

Other comments:

- Public land should be used primarily for the benefit of the public. A place to live is the most basic benefit public land could provide.
- This bylaw could actually increase the likelihood of future homelessness if ...
 - these arrests on their record might prevent people from accessing state and federal assistance in the future
 - these arrests make it more difficult to get hired when potential employers run a background check
 - these arrests make it more difficult to secure permanent housing, such as renting an apartment, if someone runs a background check
- Cambridge has a Homeless Outreach Program with two dedicated officers who have been liaisons to the homeless population for years and have had good results. Police Superintendent Steven Williams has said that their goal “isn’t to end homelessness. That would be unrealistic. The homeless are part of the fabric of any city. But with [our two officers] we can minimize the impact.”

There are just too many unanswered questions at this time. Implementing this measure without adequate study would be reckless.

The responsible approach is to create a task force to study the issue, identify and prevent unintended consequences, and recommend compassionate actions that benefit the entire town and that we can be proud of.