



CITY OF SURPRISE
Regular City Council Meeting

June 19, 2018 @ 6:00:00 PM

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Council Meeting Date:	June 19, 2018	Contact Person:	Seth Dyson, Human Service & Community Vitality
Submitting Department:	Human Service & Community Vitality	District:	Citywide
Staff Recommendations:	None		
Consent	Regular	Public Hearing	x Report/Discussion

Agenda Wording:

Consideration and action pertaining to a text amendment to Chapter 42 by adding a new article III, titled Urban Camping; Ordinance #2018-08.

Motion:

I move to approve Ordinance #2018-08.

Background:

The use of streets and public areas for camping purposes and storage of personal property interferes with the rights of others to use the areas for the purposes for which it is intended and may have adverse public health and safety impacts. The purpose behind the adoption of this article is to maintain public and private areas within the city in a clean, sanitary and accessible condition.

Objective Analysis:

This amendment will allow the City to limit Urban Camping in public and private areas of the city.

Policy Compliant:

This amendment is compliant with City and Council Policy.

Financial Impact:

None at this time; however topics covered could lead to future actions which may have a budget/financial impact. Also, if the city revises its fee schedule to include the new ordinance similar to other jurisdictions then revenues/fees may be received.

Budget Impact:

None at this time; however topics covered could lead to future actions which may have a budget/financial impact. Also, if the city revises its fee schedule to include the new ordinance similar to other jurisdictions then revenues/fees may be received.

FTE Impact:

This item does not impact the overall full time equivalent count.

ATTACHMENTS:

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[Urban Camping Presentation](#)

[Ordinance 2018-08 Amended Urban Camping](#)

ORDINANCE 2018-08

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING CHAPTER 42 BY ADDING A NEW ARTICLE III, URBAN CAMPING, RELATING TO KEEPING STREETS AND PUBLIC AREAS ACCESSIBLE AND AVAILABLE; INCLUDING SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND REPEALING CONFLICTING ORDINANCES.

WHEREAS, the City of Surprise desires that streets and public areas be accessible and available to the public at large;

WHEREAS, the use of streets and public areas for camping purposes and storage of personal property interferes with the rights of others to use the areas for the purposes for which it is intended and may have adverse public health and safety impacts; and

WHEREAS, the purpose behind the adoption of this article is to maintain streets, parks and other public and private areas within the city in a clean, sanitary and accessible condition and to adequately protect the health, safety and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the city.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Surprise, Arizona, as follows:

Section 1. Chapter 42, Article III. Sections 42-50 through 42-57 of the Surprise Municipal Code is hereby added as described on attached Exhibit A, and incorporated by this reference.

Section 2. All ordinances, resolutions or codes in conflict with the provisions of this Ordinance or Code adopted by this Ordinance are repealed.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of these amendments to the municipal code adopted herein is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision will not be read to affect the validity of the remaining portions thereof.

Section 4. This ordinance will become effective at the time and manner prescribed by law.

SIGNATURES ON THE FOLLOWING PAGE
PASSED AND ADOPTED this _____ day of _____, 2018.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

EXHIBIT A

Chapter 42, Article III. -- Urban Camping.

SEC. 42-50. - Purpose.

The streets and public areas within the city should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for which they were intended. Such activity can constitute a public health and safety hazard which adversely impacts neighborhoods and commercial areas. Camping on private property without the consent of the owner, proper sanitary measures and for other than a minimal duration adversely affects private property rights as well as public health, safety, and welfare of the city. The purpose of this article is to maintain streets, parks and other public and private areas within the city in a clean, sanitary and accessible condition and to adequately protect the health, safety and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the city. Nothing in this article is intended to interfere with otherwise lawful and ordinary uses of public or private property.

SEC. 42-51. - Definitions.

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this article.

(a) "Camp" means to utilize camp facilities and/or camp paraphernalia for the purpose of temporarily or permanently sleeping or living at that location, including but not limited to, activities such as laying down of bedding, erecting tents or any other structure providing shelter, digging or breaking earth, using camp paraphernalia, storing personal belongings, starting a fire, regularly cooking or preparing meals, or living in a parked vehicle. An activity shall constitute camping when it reasonably appears, in light of all the circumstances, the participants in conducting the activity are in fact using the area for the purpose of temporarily or permanently sleeping or living at the location regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

(b) "Camp facilities" include, but are not limited to, tents, huts, lean to's, tarps, cardboard boxes or structures, vehicles, vehicle camping outfits, or temporary shelter.

(c) "Camp paraphernalia" includes, but is not limited to, materials intended to be used as beds or bedding, blankets, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.

- (d) "City Manager" means the City Manager or designee.
- (e) "Establish" means setting up or moving equipment, supplies or materials on to public or private property to camp or operate camp facilities.
- (f) "Maintain" means keeping or permitting equipment, supplies or materials to remain on public or private property in order to camp or operate camp facilities.
- (g) "Operate" means participating or assisting in establishing or maintaining a camp or camp facility.
- (h) "Private property" means all private property including, but not limited to, streets, sidewalk, alleys, and improved or unimproved land.
- (i) "Public property" means all public property including, but not limited to, streets, sidewalks, alleys, improved or unimproved land and parks.
- (j) "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- (k) "Street" means any street, highway, sidewalk, alley, avenue or other public way or public grounds in the city.
- (l) "Shelter space with homeless supportive services" means any overnight temporary housing shelter that offers at least one service to assist an individual or family unit experiencing homelessness and at no charge. For example, a service might include a temporary place to sleep, food availability, shower/bathe, social services referrals like counseling, basic needs, housing, employment, identification services and health care. (These are examples and do not reflect all available services from public or private shelters)

SEC. 42-52. - Prohibited acts

- (a) It is unlawful and a public nuisance for any person to camp, occupy camp facilities, establish camp facilities, maintain camp facilities, or use or store camp paraphernalia in the following areas:
 - (1) Any public property; or
 - (2) Any private property.
- (b) Law enforcements officers shall not enforce Subsection (a) of this Section when the individual is on public property and there is no available shelter space with homeless supportive services within 50 miles of the city limits of the City of Surprise.

(1) An overnight space shall still be considered an “available overnight shelter” if the individual cannot utilize the space due to voluntary actions such as intoxication, drug use, unruly behavior, or violation of shelter rules.

(2) An overnight space shall not be considered an “available overnight shelter” if the individual is part of a family unit and the family would need to stay overnight at two or more different shelters; however, an overnight space is considered “available overnight shelter” if the individual is part of a family unit but the shelter requires that males and females must sleep separate and apart.

(c) It is not intended by this section to prohibit or make unlawful:

(1) overnight camping on private residential property by the property owner or friends or family of the property owner, so long as all of the following conditions are met:

(i) the owner consents and the overnight camping is limited to not more than five consecutive nights;

(ii) the activity is not a nuisance because of noise, inadequate sanitation, or other matters offensive to person of ordinarily sensibility;

(iii) no fee, charge or other monetary consideration is collected for the privilege of camping or for any services or the use of any facilities related thereto;

(iv) the camping occurs either in the rear yard or an area of a front or side yard separated from view from the street by a fence, hedge or other obstruction.

(2) activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes;

(3) the mere possession of, or transportation of, camp facilities or camp paraphernalia on public or private property, except as provided in this article.

(4) activities of a property owner or other lawful user if such activities are expressly authorized by this Code or other laws and regulations.

(d) The City Manager may, as provided in [section 42-54](#) of this article, issue a temporary permit to allow camping on public or private property in connection with a special event. It is a defense to a charge pursuant to this section that the person has a permit issued in accordance with section 42-55.

(e) It is unlawful and a public nuisance for any person to wash one's body or belongings in a fountain.

(f) It is unlawful and a public nuisance to urinate or defecate in public.

SEC. 42-53. – Violation.

- A. A violation of this article is a misdemeanor, and upon conviction, in addition to the remedies provided in Title 13 of the Arizona Revised Statutes, the Court can order payment for the City's actual costs of transporting and storing property of the violator. In addition to the remedies set forth in Title 13 of the Arizona Revised Statutes, the City Attorney may institute civil actions to abate a public nuisance under this article.
- B. An individual charged with violation of this article, in lieu of being taken to jail may, at the election of the citing police officer and with the consent of the individual, be taken to a facility providing social services related to mental health, housing, and/or substance abuse treatment.

SEC. 42-54. – Permit for special events required.

The City Manager may, in his or her discretion, issue a permit to establish, maintain and operate a camp or a camp facility in connection with a special event. A special event is intended to include, but not be limited to, programs operated by the departments of the city, youth or school events, marathons or other sporting events and scouting activities. The City Manager may consult with various city departments, the health officer and the public prior to issuing any temporary permit. Each department or person consulted may provide comments regarding any health, safety or public welfare concerns and provide recommendations pertaining to the issuance, denial or conditioning of the permit. The City may establish a reasonable fee, to be paid in advance by the applicant. The fee shall be returned if the application is denied. In exercising his or her discretion to issue a temporary permit, the City Manager may consider any facts or evidence bearing on the sanitary, health, safety and welfare conditions on or surrounding the area or tract of land upon which the proposed temporary camp or camp facility is to be located.

Any person who establishes, maintains or operates a camp or camp facility without a permit is guilty of a misdemeanor and constitutes a public nuisance. In addition to remedies provided in Title 13 of the Arizona Revised Statutes, the City Attorney may institute civil actions to abate a public nuisance under this article.

SEC. 42-55. – Posting copy of permit.

It is unlawful for any person to establish, maintain, conduct or carry on any camp or camp facility unless there shall be at all times posted in a conspicuous place upon the area or tract of land upon which the camp or camp facility is located a permit obtained from the City Manager in accordance with the provisions of [section 42-54](#) of this article.

SEC. 42-56. – Power of the City Manager to make rules and regulations.

The City Manager is further empowered to ascertain that the operation or maintenance of any camp or camp facilities to which a temporary permit shall apply will in no way jeopardize the public health, safety or welfare and for this purpose may make additional rules and regulations pertaining to their establishment, operation or conduct. The City Manager may also impose conditions on the establishment, maintenance and operation of the camp or camp facility, including, but not limited to, security, sanitation facilities, the number of occupants, posting of bonds or deposits, insurance, quiet hours, duration of the permit, and permitted activities on the premises. When the City Manager shall issue any permit under the terms of [section 42-54](#) of this article, the same may be revoked at any time thereafter by the City Manager if the City Manager becomes satisfied that the maintenance or continuing operation of the camp or camp facilities is adverse to the public health, safety and welfare.



SURPRISE
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Draft Urban Camping Ordinance

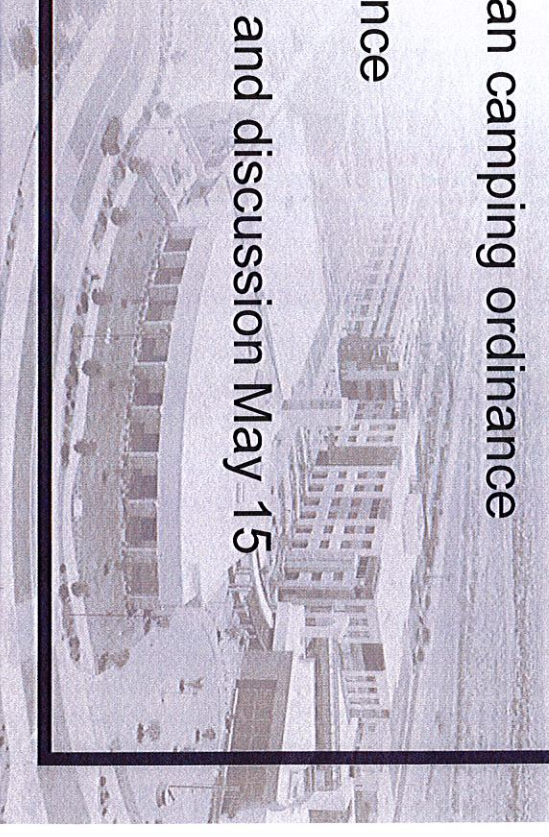
Surprise City Council Meeting | June 19, 2018





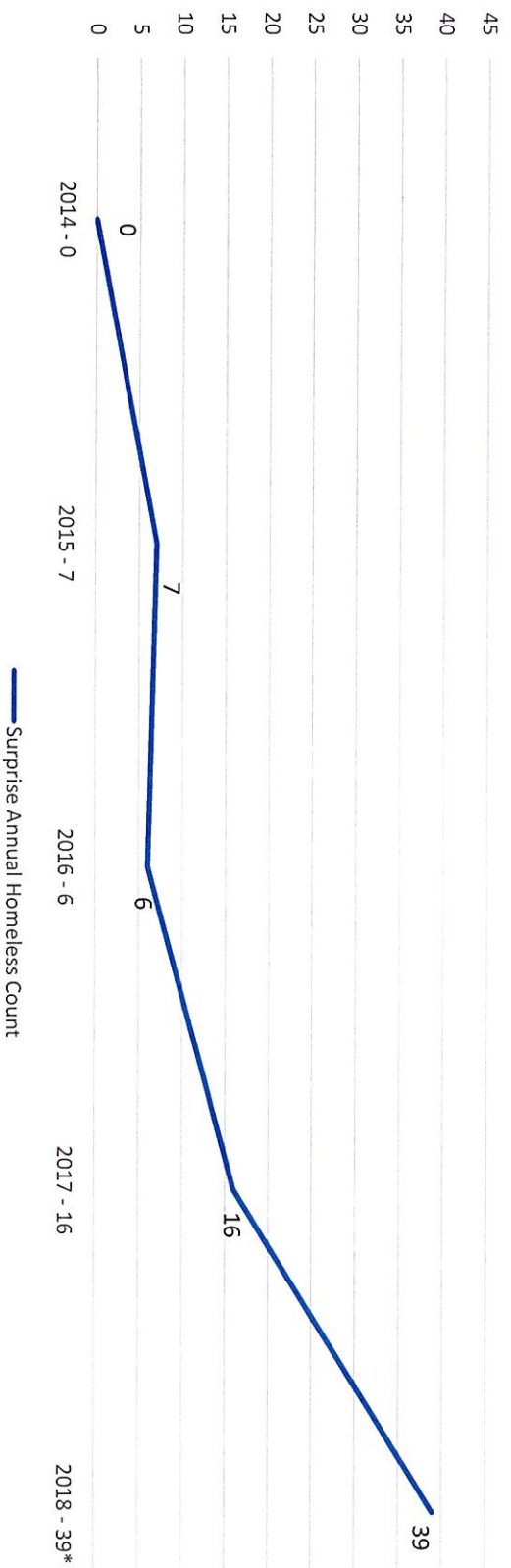
Background

- Council presentation on the importance of a multidisciplinary approach to homelessness February 6, 2018
- Surprise does not currently have an urban camping ordinance
- Research into an urban camping ordinance
- City Council Work Session presentation and discussion May 15
- A public meeting was held June 6



Homelessness in the City of Surprise

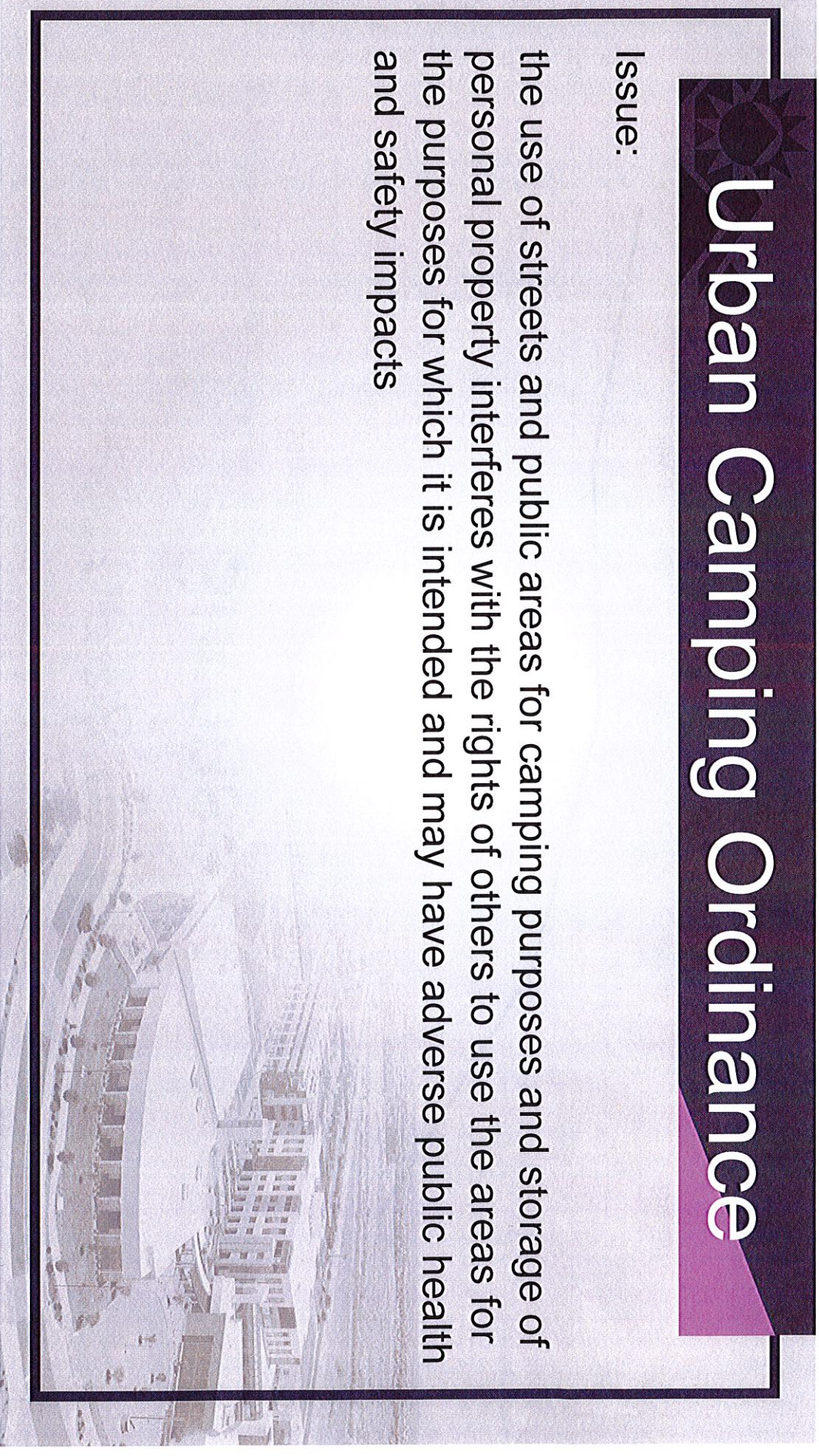
Surprise Annual Homeless 'Point in Time' Count



Urban Camping Ordinance

Issue:

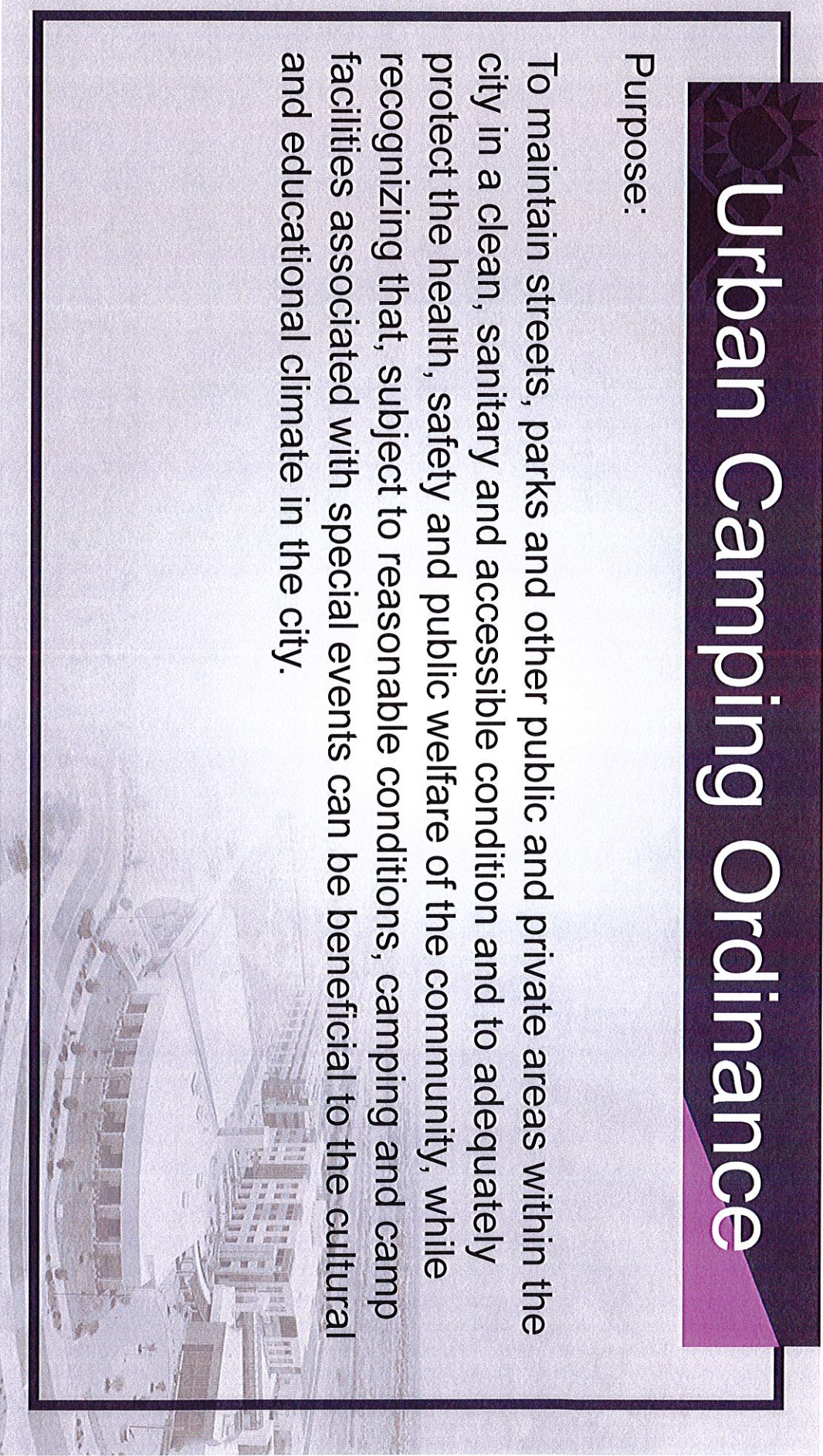
the use of streets and public areas for camping purposes and storage of personal property interferes with the rights of others to use the areas for the purposes for which it is intended and may have adverse public health and safety impacts



Urban Camping Ordinance

Purpose:

To maintain streets, parks and other public and private areas within the city in a clean, sanitary and accessible condition and to adequately protect the health, safety and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the city.



Urban Camping Ordinance

Definitions:

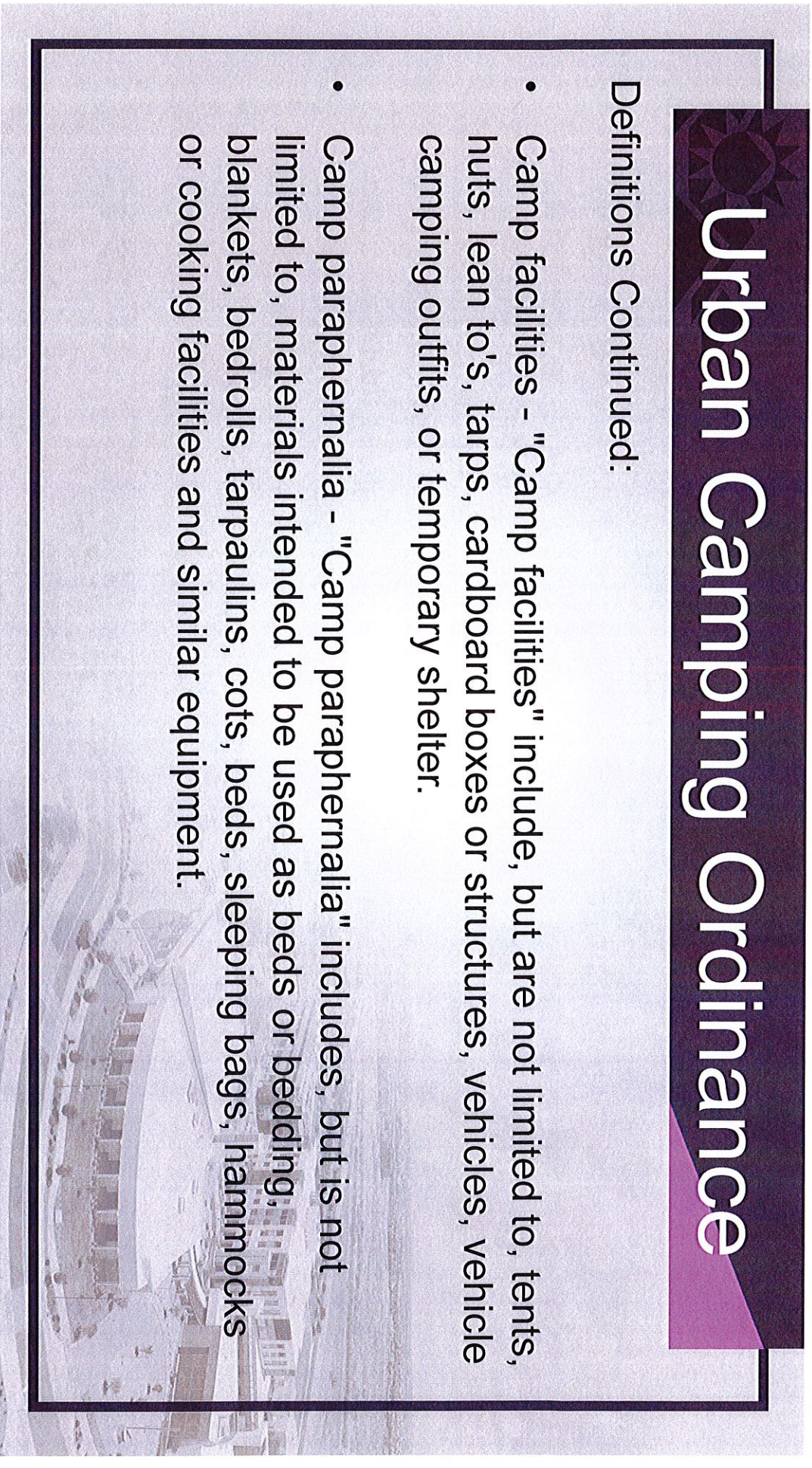
- Camp - "Camp" means to utilize camp facilities and/or camp paraphernalia for the purpose of temporarily or permanently sleeping or living at that location, including but not limited to, activities such as laying down of bedding, erecting tents or any other structure providing shelter, digging or breaking earth, using camp paraphernalia, storing personal belongings, starting a fire, regularly cooking or preparing meals, or living in a parked vehicle...



Urban Camping Ordinance

Definitions Continued:

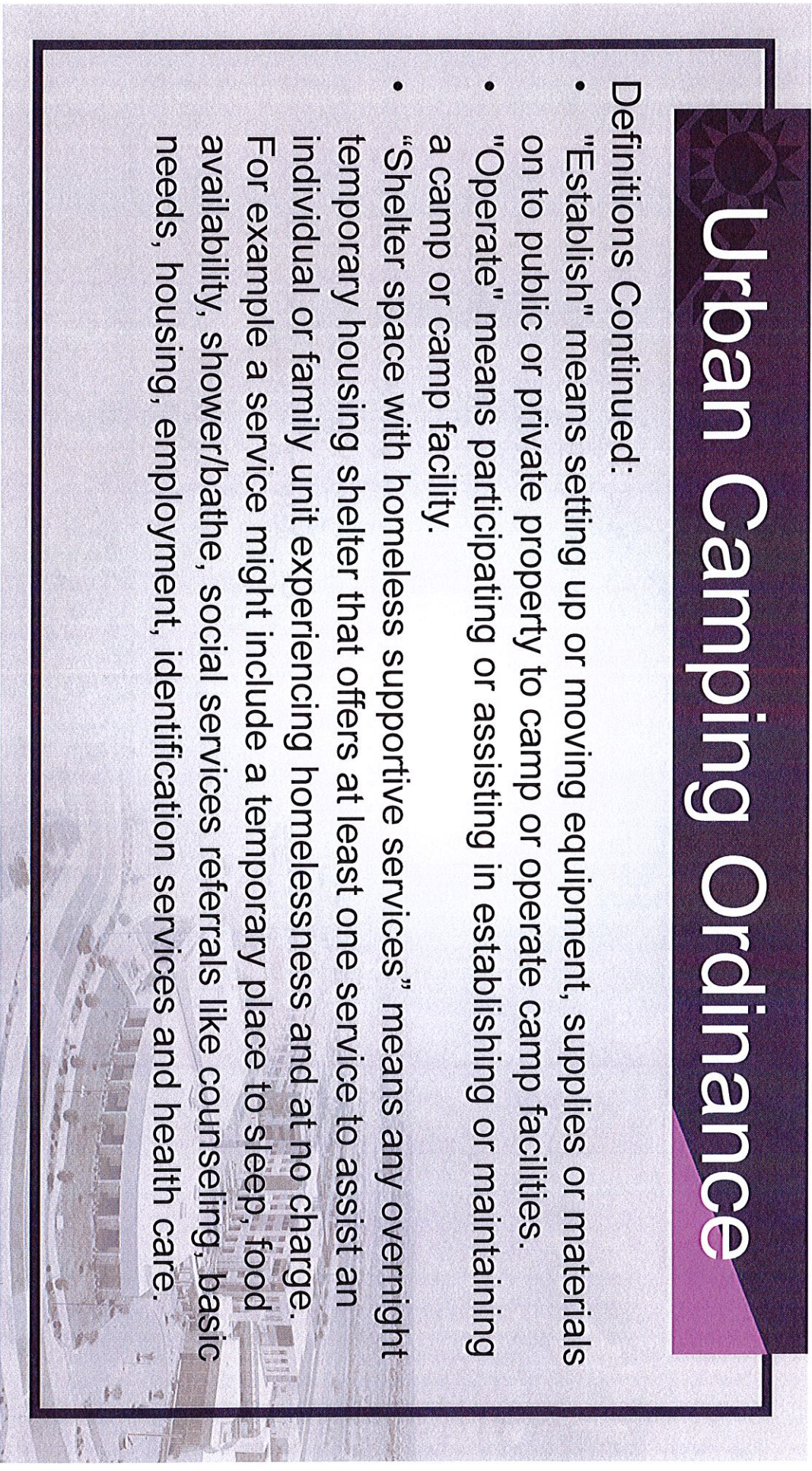
- Camp facilities - "Camp facilities" include, but are not limited to, tents, huts, lean to's, tarps, cardboard boxes or structures, vehicles, vehicle camping outfits, or temporary shelter.
- Camp paraphernalia - "Camp paraphernalia" includes, but is not limited to, materials intended to be used as beds or bedding, blankets, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.



Urban Camping Ordinance

Definitions Continued:

- "Establish" means setting up or moving equipment, supplies or materials on to public or private property to camp or operate camp facilities.
- "Operate" means participating or assisting in establishing or maintaining a camp or camp facility.
- "Shelter space with homeless supportive services" means any overnight temporary housing shelter that offers at least one service to assist an individual or family unit experiencing homelessness and at no charge. For example a service might include a temporary place to sleep, food availability, shower/bathe, social services referrals like counseling, basic needs, housing, employment, identification services and health care.





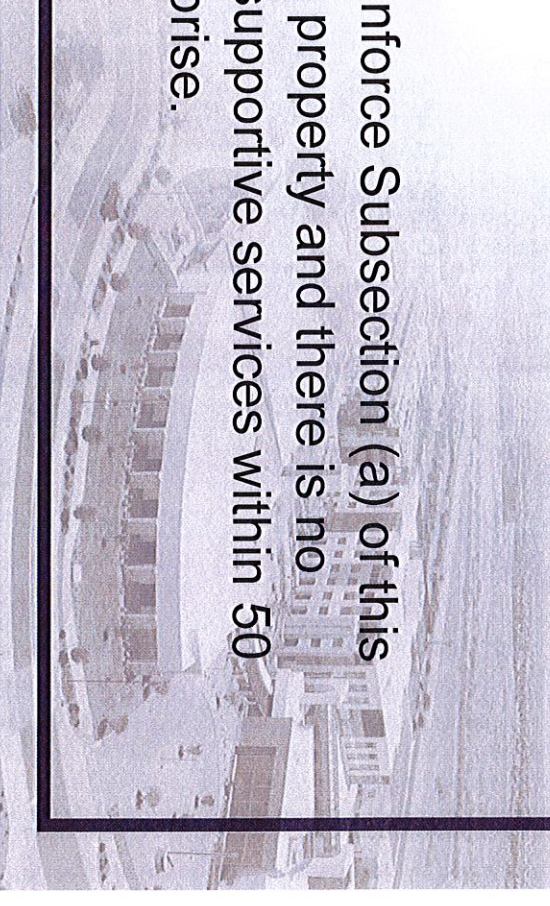
Urban Camping Ordinance

Prohibited Acts (Sec. 42-52)

a) It is unlawful and a public nuisance for any person to camp, occupy camp facilities, establish camp facilities, maintain camp facilities, or use camp paraphernalia in the following areas:

- (1) Any public property; or
- (2) Any private property.

(b) Law enforcement officers shall not enforce Subsection (a) of this Section when the individual is on public property and there is no available shelter space with homeless supportive services within 50 miles of the city limits of the City of Surprise.



Urban Camping Ordinance

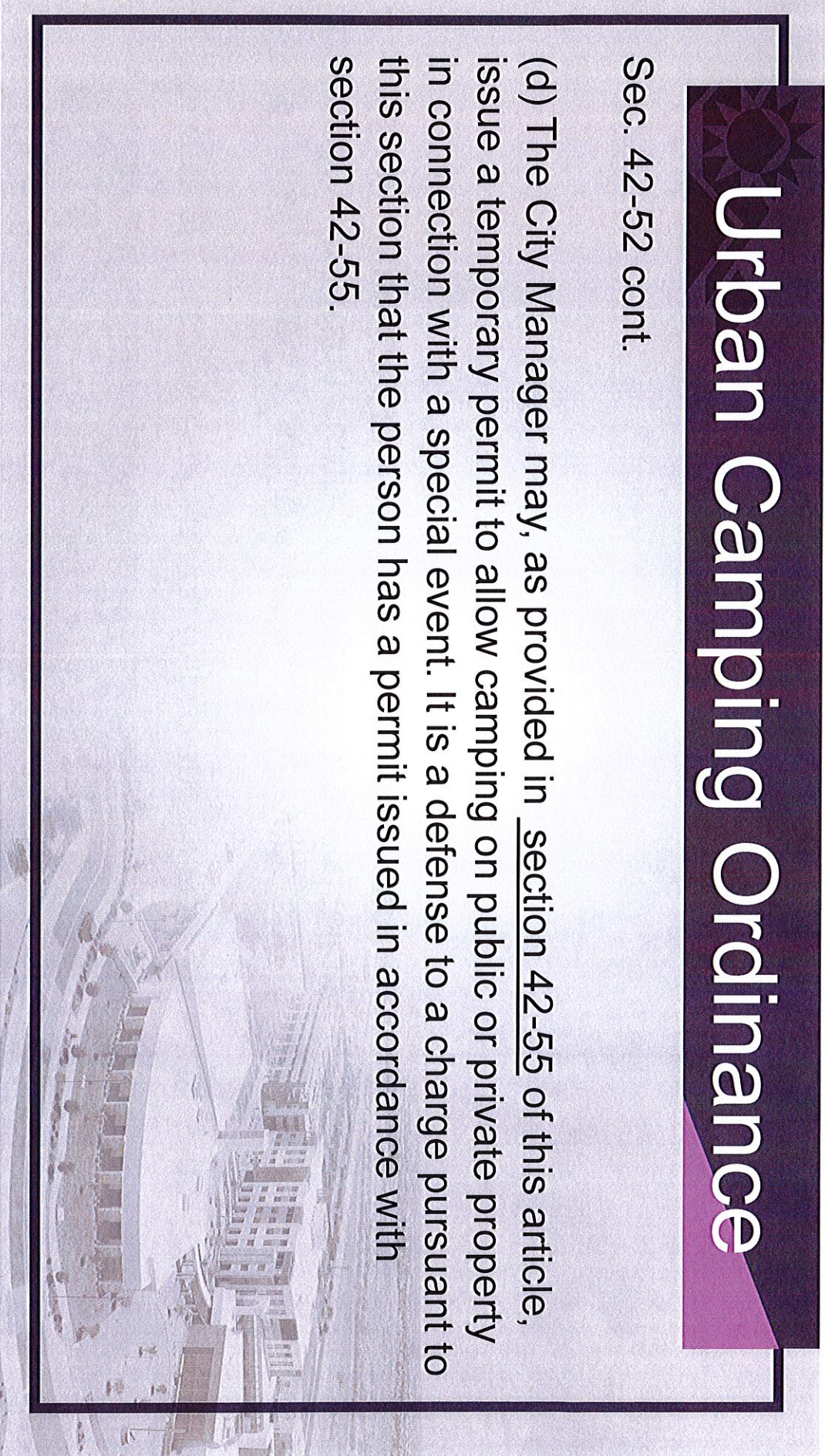
Sec. 42-52 cont.

- (c) It is not intended by this section to prohibit or make unlawful:
- (1) overnight camping on private residential property by the property owner or friends or family of the property owner
 - (2) activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes;
 - (3) the mere possession of, or transportation of, camp facilities or camp paraphernalia on public or private property, except as provided in this article.
 - (4) activities of a property owner or other lawful user if such activities are expressly authorized by this Code or other laws and regulations.

Urban Camping Ordinance

Sec. 42-52 cont.

(d) The City Manager may, as provided in section 42-55 of this article, issue a temporary permit to allow camping on public or private property in connection with a special event. It is a defense to a charge pursuant to this section that the person has a permit issued in accordance with section 42-55.

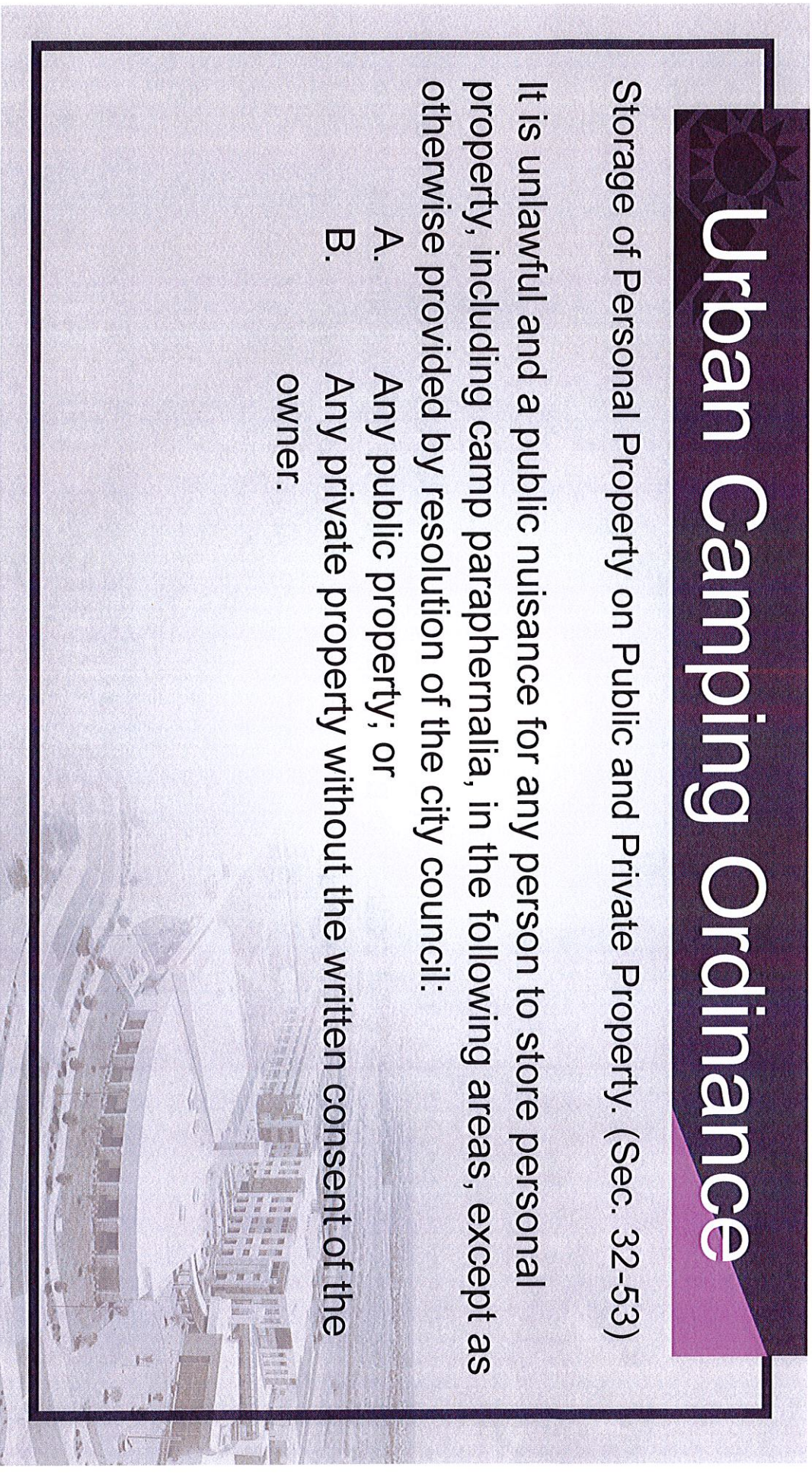


Urban Camping Ordinance

Storage of Personal Property on Public and Private Property. (Sec. 32-53)

It is unlawful and a public nuisance for any person to store personal property, including camp paraphernalia, in the following areas, except as otherwise provided by resolution of the city council:

- A. Any public property; or
- B. Any private property without the written consent of the owner.





Urban Camping Ordinance

Violation. Sec. 42-54

A. A violation of this article is a class 1 misdemeanor, and upon conviction, in addition to the remedies provided in Title 13 of the Arizona Revised Statutes, the Court may order payment for the City's actual costs of transporting and storing property of the violator. In addition to the remedies set forth in Title 13 of the Arizona Revised Statutes, the City Attorney may institute civil actions to abate a public nuisance under this article.

B. An individual cited with violation of this article, in lieu of being arrested may, at the election of the citing police officer and with the consent of the individual, be taken to a facility providing social services related to mental health, housing, and/or substance abuse treatment.

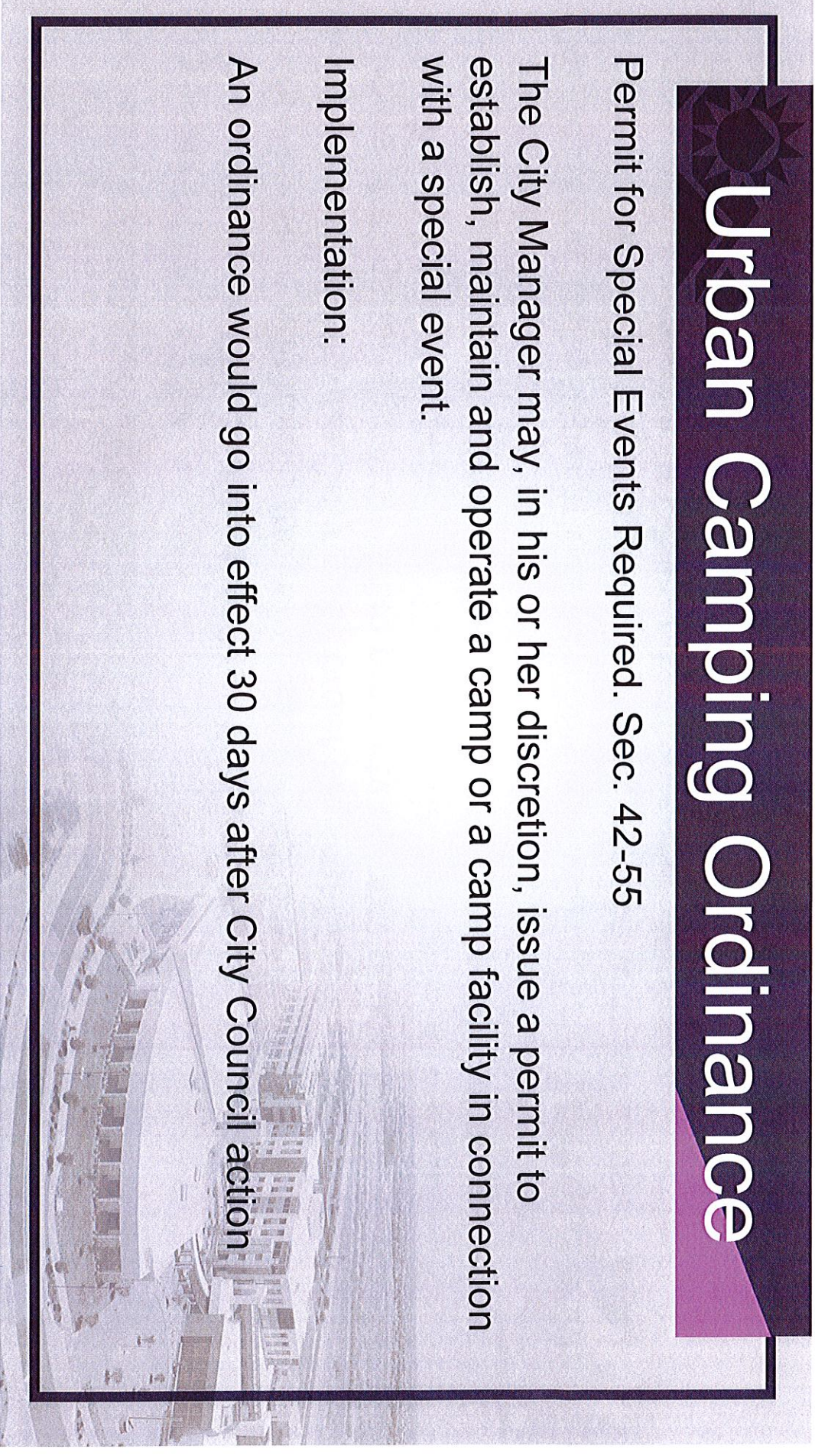
Urban Camping Ordinance

Permit for Special Events Required. Sec. 42-55

The City Manager may, in his or her discretion, issue a permit to establish, maintain and operate a camp or a camp facility in connection with a special event.

Implementation:

An ordinance would go into effect 30 days after City Council action



Urban Camping Ordinance

June 6 Public Meeting Response:

- 14 attended

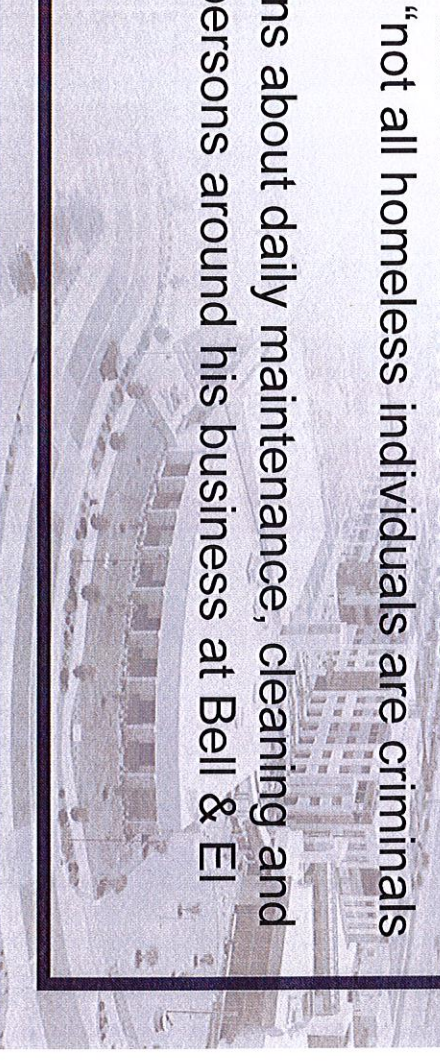
Questions received:

- Impact private retail businesses who allow overnight stays? Exemption?
- Why ban camping rather than establish camping?
- What services are those experiencing homelessness seeking/not seeking
- How do the Surprise Police Department interact with those experiencing homelessness now? How would it change?
- What is the cost of this ordinance?
- Is there data available on homelessness? Would the city consider an accurate study to decrease the number of homeless?
- Has the city considered a coalition of volunteers to solve the homeless problem?

Urban Camping Ordinance

Comments received:

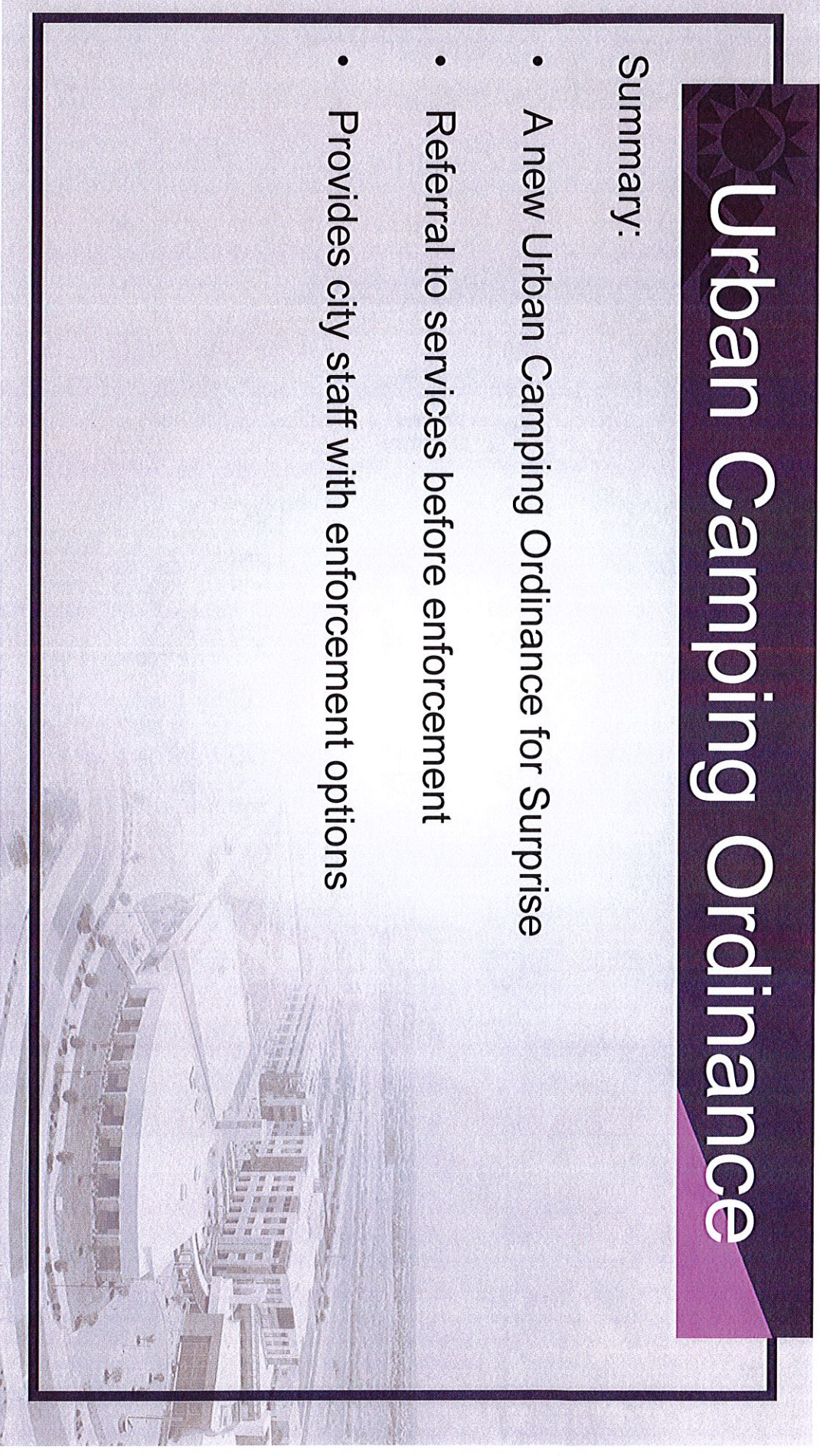
- Resident since 2004: "I no longer feel safe in Surprise with all the homeless."
- "This ordinance would criminalize the poor and less fortunate."
- "39 homeless is nothing compared to other cities...have we considered a council of residents to come up with solutions to the problem?"
- "A facility is needed in Surprise that offers homeless services."
- Homeless Helpers of Surprise: "not all homeless individuals are criminals or drug addicts."
- Business owner shared concerns about daily maintenance, cleaning and upkeep because of homeless persons around his business at Bell & El Mirage Rds.



Urban Camping Ordinance

Summary:

- A new Urban Camping Ordinance for Surprise
- Referral to services before enforcement
- Provides city staff with enforcement options





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QUESTIONS OR COMMENTS?

Thank You

