

## Three days

By Bob Yates

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Boulder's city manager requires the police and the civilian encampment clean-up crews to give those illegally camping on public spaces at least three days' warning before the city's camping ban is enforced. Some folks are not happy about this.

But, before we get into that debate, let's start with a dozen facts about Boulder's camping ban, so that we're all on the same page. Sources for each fact are linked. Some facts you might like, others you may not.

1. Like 72 percent of cities across the country [surveyed](#) by the National Law Center, Boulder has a law that bans camping in public spaces, including in parks, creek ways, open space, bike paths, and sidewalks. That [law](#) has been in place since 1980, and was [re-affirmed](#) by those of us sitting on city council in 2016, and [expanded](#) by council in 2021 to prohibit tents or propane tanks in parks.
2. A University of Denver [study](#) from a few years ago asserts that Boulder issues more tickets for illegal camping than all other cities in Colorado combined.
3. Illegally camping on public space is a [misdemeanor](#) violation, unlikely to result in arrest unless other, more serious crimes are suspected. Even if someone was arrested for illegally camping, they likely would be immediately released on a personal recognizance bond, pursuant to a Colorado state law change enacted a few years ago.
4. The city has a team of five civilian workers, who clean up illegal encampment sites. Last year, this team cleaned 809 camping sites in Boulder and hauled away 134 tons of debris. In October, on a 6-2 vote, city council [approved](#) the funding to increase this five-member clean-up team to nine, with new crew members starting this month. Residents can see a map of encampment clean-ups at the city's Unsanctioned Camping [webpage](#). At that webpage, community members can also flag for city staff those encampments that they believe need to be cleaned up.
5. The city's seven [goals](#) for camping ban enforcement and encampment clean-ups are (not necessarily in priority order): (i) enforcing city law; (ii) connecting homeless people to services; (iii) ensuring community access to public spaces; (iv) improving experiences of visitors; (v) providing city maintenance workers safe access to city infrastructure; (vi) keeping our waterways free of contamination; and (vii) reducing other crimes, which are six times more likely to occur within 350 feet of an illegal campsite.
6. Boulder's city manager has [decided](#) that, before an illegal encampment can be cleaned up, the campers must be given at least three days' notice. This is not a city law, nor is it direction from city council. It is based on advice from the City Attorney's Office, as discussed below.

7. In 2022, more than 1,000 homeless people in Boulder County registered through the Coordinated Entry program for assistance, including sheltering, food, and longer-term services. An unknown number of other homeless people did not register to seek services. Of those who [registered](#) through Coordinated Entry, 49 percent reported having lived in Boulder County for less than one month, and another 14 percent reported having lived here between one and six months. The remaining 37 percent said that they had lived in the area for more than six months.
8. While the average tenure of those who seek homelessness assistance is short, the city of Boulder and its service providers, nonetheless, assisted [286 people](#) in exiting homelessness last year, with the vast majority of those housed, and many of the rest reunited with family and friends outside of Boulder.
9. Boulder's city staff [estimates](#) that, on any given night, between 100 and 150 people illegally camp in Boulder's public spaces. They calculate that, on average, four new unhoused people arrive in Boulder per day (with about four leaving each day), and that the average time these new arrivals spend in town is 1.3 months, or about six weeks. Indeed, websites for some nearby cities direct people to Boulder for homelessness services.
10. Notwithstanding this influx of unhoused people from other communities, last year the Boulder Shelter for the Homeless had an [average](#) of 30 unused beds per night. The Shelter is rarely full and, when it is—typically on very cold nights—[arrangements](#) are made for homeless people to sleep in hotels or the city's recreation centers.
11. Boulder is being [sued](#) in a lawsuit supported by the ACLU, seeking to invalidate Boulder's ban on camping in public spaces. While part of that lawsuit was [thrown out](#) by a judge last month, the rest is slated to go to trial at some point in the future.
12. On February 9, city council considered a [proposal](#) from council's Intergovernmental Affairs Committee that would endorse a state legislative effort prohibiting cities in Colorado from imposing camping bans unless certain, undefined homelessness services were provided.

Yes, you read the last two right. As much as some folks feel that Boulder's camping ban is not adequately enforced, the city's camping ban could be eliminated or restricted if the ACLU prevails in its lawsuit against the city, or if the state legislature takes away the right of Colorado cities to ban camping in public places.

On the opposite side of the risks to Boulder's camping ban, a group of residents is [lobbying](#) the city manager to change her three-day rule on camping ban enforcement and encampment clean-ups. They want her to prioritize areas near schools above all other places. Another group is pushing for faster clean-ups of bike paths, particularly underpasses, which can be quite dangerous if tents or sleeping bags block where bikes are ridden. While the city's civilian encampment clean-up crews do prioritize clean-ups of encampment near schools and along bike paths, these community members are concerned about how the city

manager's three-day rule on camping ban enforcement may be adversely affecting children and bikers.

The folks who want faster enforcement of the camping ban near schools cite assaults and harassment of kids, as well as drug dealing and other illegal or inappropriate behavior in their argument that school zones, where vulnerable children must be, should be treated differently than other public spaces. The city manager has received dozens of emails from residents—many who are parents understandably concerned about their children—imploping the city manager to change her three-day rule in school zones.

You might think that city council could simply pass a law that overrides the city manager's position that three days' notice be given before the camping ban is enforced near schools or along bike paths. After all, the police don't give three days' notice before ticketing someone for speeding. The district attorney doesn't give a bank robber three days to return the money in exchange for dropping the charges. And, the school district absolutely prevents people from camping *on* school property, with no notice requirement. So, why is the city's camping ban *near* schools treated differently, requiring at least three days' notice? And why can't the city council do something about that?

Without getting into confidential legal advice provided by the city attorney, suffice it to say that many cities are cautious about camping ban enforcement, because judges in some jurisdictions have ruled that encampment clean-ups require a notice to vacate prior to clean-up in order to ensure Constitutional protections involving due process and personal property rights. For example, Denver was sued in federal court over the way it enforced its camping ban. The city ended up [settling](#) that lawsuit by agreeing to provide seven days' notice before many encampment clean-ups. Other cities have similar notice requirements, some shorter, some longer.

In addition to the perceived legal risk, there are two other challenges with the proposition that city council can simply overturn the city manager's three-day rule, one jurisdictional, one political: First, while city council has the authority to *pass* laws—like a ban on camping in public spaces—council is expressly prohibited by Boulder's City Charter (our local constitution) from telling the city manager, police, prosecutors, and judges *how* to enforce those laws.

Second, even if council had the legal authority to direct more immediate enforcement of the camping ban, I'm not sure what this *particular* city council would do with a proposal to overrule the city manager and eliminate her three-day rule or to mandate stricter camping ban enforcement. Some of my council colleagues are on record in opposition to the city's camping ban or its enforcement. And at the city council meeting on February 9, members of this council considered voting to support state legislation to give the state the right to prevent Colorado cities from even having camping bans in certain instances. This proposition was ultimately withdrawn, but it was concerning that some were considering limiting a city's right to have a camping ban.

Our community may have an opportunity to view the positions of all nine members of Boulder’s city council on our camping ban when the city staff presents a homelessness update at a council meeting on April 13. If you’re curious, tune in to [Channel 8](#) that night.

Finally, I’d like to address a somewhat related proposal respecting homeless camping that I frequently hear from members of the community and from some of my council colleagues: They logically suggest that perhaps Boulder should set up a “sanctioned” campground somewhere in town, where all would-be campers could be directed, freeing up the city to truly enforce its camping ban everywhere else. Such a city-operated campground could have toilets and showers, and maybe even food and clothing distribution, not unlike what is already offered at the Boulder Shelter on North Broadway.

While this sounds nice in theory, it hasn’t worked well in practice for many of the cities in the U.S. that have tried sanctioned campgrounds. As [observed](#) by the U.S. Interagency Council on Homelessness, the federal agency that coordinates state homelessness policies, there have been several problems with city-sanctioned homeless campgrounds, including:

1. **Optics vs. reality:** Creating sanctioned campgrounds may look and feel on the surface like action to end homelessness, but in fact such campgrounds have very little impact on reducing homelessness. Many cities that have experimented with sanctioned campgrounds have found that, rather than reducing illegal camping in other parts of their towns, illegal camping in their cities actually [increases](#). Word gets out that the city is friendly to campers and people flock to that town to set up tents, sometimes in the sanctioned campground, often not. Indeed, many of these cities have abandoned or sharply curtailed their experiments with sanctioned campgrounds, including Seattle, Ontario, San Diego, Colorado Springs, and Fort Collins. Even Denver, which boasts of its success with sanctioned campgrounds, still has a [massive](#) illegal encampment problem that [dwarfs](#) Boulder’s. Those sanctioned campgrounds might help a small handful of homeless people to transition to permanent housing but, in parallel, unsanctioned camping continues and often increases.
2. **Diversion of resources:** Sanctioned campgrounds are highly costly in money, staff time, and effort, diverting resources from other work helping those who truly want to exit homelessness. Last year, Denver spent \$3.9 million to set up a sanctioned campground that would temporarily house up to 370 people, a cost of more than \$10,000 per camper. Denver [acknowledged](#) that very few of those people in the sanctioned campsite would likely end up in more stable housing. Last fall, the Portland city council [authorized](#) an expenditure of \$27 million to create three sanctioned campgrounds that would house up to 250 people each, at a cost of more than \$36,000 per camper. In L.A., the annual [cost](#) of a sanctioned campground (since closed) was about \$31,000 per camper. Boulder city staff [estimates](#) that operating a sanctioned campground here would cost about \$24,000 per camper per year, more than it would cost to house the person in an apartment with supportive services.
3. **Conditions:** Sanctioned campgrounds are difficult to manage and to keep safe and clean. A sanctioned campground—like a homeless shelter—must have some basic rules, like prohibitions on violence, theft, and drug-dealing. Otherwise, you’d have a

real *Mad Max* chaos zone. Resistance to such basic rules is one of the reasons that some people won't go to a bricks-and-mortar homeless shelter in the first place. Such folks are probably no more inclined to abide by similar rules in a sanctioned campground. In Ontario, California, the city [opened](#) a sanctioned campground that ballooned from a planned encampment of 20 people to more than 400 folks, with two-thirds of the population coming from outside of the city and high levels of crime and disruption. The city revised the campground rules to allow only community members, to disallow pets, and to prohibit public consumption of drugs or alcohol, with a 10 p.m. curfew. That didn't work either, and the campsite eventually closed.

4. **Sustainability:** Although typically proposed as temporary solutions, sanctioned campgrounds are often [difficult to close](#), once opened. In Oakland, it took a [fire](#) to finally close a problematic sanctioned campground that had been open for two years.

In April 2021, our city's Housing and Human Services staff—which is quite experienced in evaluating homelessness solutions that work and don't work in other cities—recommended [against](#) opening a sanctioned campground in Boulder. City staff wrote, “With four to five individuals entering our community every day and a similar number leaving, there should not be an expectation that a sanctioned camp will significantly reduce camping within public spaces. Experience from other communities does not indicate that this would reduce the number of individuals camping in public spaces and could make Boulder more attractive in the national network for individuals experiencing homelessness, heightening pressures on community resources.”

I agree with city staff. I'm not sure that Boulder should go down the path of opening a sanctioned campground in someone's neighborhood. We have 30 unused beds at the Boulder Shelter on an average night, with alternative arrangements made when the Shelter reaches maximum capacity. So, I struggle to understand the need to create a second “shelter” that is outdoors, with all of the costs and the negatives it would bring, and not many upsides, as other cities have discovered.

I'll try to keep an open mind on the possibility of Boulder opening a sanctioned campground, and someday I might be convinced to support one. But, I will also heed the advice given to me by the mayor of one of the cities that tried sanctioned camping: If you can afford a bricks-and-mortar homeless shelter, don't open a sanctioned campground; you'll regret it.

In the meantime, we need to have a community discussion about the city manager's three-day rule on enforcing the camping ban. Last month, she signaled that there may be some flexibility on the rule relating to bike paths. The next question is whether there can be exceptions near schools. To urge this to occur, a group of residents is considering petitioning to have the question of a school safe zone put before the voters on a ballot measure this fall.

This is tough stuff, with no easy answers. As always, your views are welcomed. You can reach me [here](#), the entire city council [here](#), and the city manager [here](#). We need to work together as a community to strike the right balance between compassionate assistance for the homeless and safety for those of us fortunate enough to be housed. Especially our kids.