

## The CAN Homeless Committee 1/26/2023 Update

Chair: Rick Freeman, President CAN

Vice Chair: Helen Hyatt Vice President CAN

### **Working members:**

Tom Foran, DARN

Jon Kemske, DARN

Carolyn Tingle, Kenilworth

### **Monitoring members:**

Meghan Rogers, Executive Director Asheville Downtown Association

Bailey Stockwell, Oakley

### **Overall strategy:**

Through collaboration with city / county staff, appointment to the Homeless Initiative Advisory Committee (HIAC) and further interaction with the National Alliance to End Homelessness (NAEH), we will participate in finding solutions to improve the situation regarding the Asheville and Buncombe County Homeless community.

Translate these interactions into updates and education for CAN members.

Ensure that neighborhood voices are heard and included in all future plans.

### **Primary Achievable Midterm Goal**

Participate in the reinvented Continuum of Care leadership and governance.

- Ensure this body has engaged active and strong membership from representative neighborhoods,
- Has a voting membership that is not skewed by agencies that benefit from and receive their operating budgets from homeless funds
- Is fully transparent
- Require those who receive city, county, state and federal \$ comply and conform with City goals and guidelines
- Fully document their own rules and metrics
- Use the COA information system in real time to know how shelter capacity is allocated.

At this time, based on recent presentations from NAEH, we are confident that this reinvention will be a top priority, and will use our participation in HIAC to advocate strongly for our goals.

### **Upcoming important dates:**

1/20/2023 - Zoom meeting with <https://codainc.org/>

1/20/2023 - NAEH recommendations published publicly

1/25/2023 - NAEH presentation to the City and County

1/26/2023 - NAEH and HIAC detailed working session

1/31/2023 - City and County perform 2023 Point In Time (PIT) Count of the homeless\*\*

**\*\* We have heard complaints about how the PIT count (required for federal funding) is inaccurate, especially for counting the unhoused (camping, tents, etc.). We have arranged for any citizen to inform the city's homeless team that they have seen camping or signs of camping in a location. Simply send an email to Debbie Alford ([dalford2@ashevillenc.gov](mailto:dalford2@ashevillenc.gov)) and give your best location description. We strongly encourage all board members to pass this information to their resident email lists, facebook pages, etc.**

**Our original work focused on these priorities:**

1. Emergency/Low Barrier Shelters
2. Enforcement of ordinances, laws and prosecution / diversion
3. Sanctuary Camping
4. Existing Shelter capacity, rules, tracking

When the working members were reduced from nine to five, due to personal and business reasons, we narrowed our focus to #1 and #2. Other than the scheduled Zoom meeting on 1/20, we have decided to pause additional effort until after 1/26/2023 when we have consumed the NAEH recommendations.

### **Emergency/Low Barrier Shelters**

We are researching the actual definitions of emergency shelters, the probable annual cost of running such a shelter, and interviewing other cities and local shelter providers to understand the facts.

Our belief is that NAEH will recommend some form of emergency shelter, due to the fact that the existing shelters in Asheville have one or more barriers to the unhoused population, when Code Purple is not in effect.

We have conducted interviews with:

Colorado Springs, Colorado (NAEH referral)

Montgomery County, Maryland (NAEH referral)

ABCCM, Rev. Scot Rogers (Tom Foran referral)

Current Thinking: Once the Days Inn (Homeward Bound) and the Ramada (Step UP) come online to provide approximately 200 units of Permanent Supportive Housing (PSH) for the Chronically Homeless, there will continue to be a population of unhoused people that do not qualify for PSH that need services to get off the street and begin the path to some form of housing. Part of that population wants to be housed, and some shelter may be needed to stabilize them, and move them to transitional housing. The other part of that population, sometimes referred to as transients, do not want to be housed and we believe Asheville is not the place to continue camping.

We are concerned about the COA having sufficient finances to be able to support a shelter in perpetuity. We also need to understand the voucher system/allocation for this area and whether there are sufficient vouchers to support 200 units of PSH.

We have been told that there is no support in our elected officials for sanctuary camping.

### **Enforcement of ordinances, laws and prosecution / diversion**

During our fact finding we found a documentary that is well worth the hour it takes to watch:

[Seattle is Dying:click here to watch:](#)

From that example of an ineffective judicial system and the experience of CBD and other neighborhoods we decided that we should understand whether Asheville and Buncombe County have a similar challenge with how to deal with the trespassing of the unhoused and the mostly nonviolent crimes perpetrated by them. We reached out to the nonprofit identified in the documentary: <https://codainc.org/>

That interview will take place on January 20. We will share our discoveries.

Below are the current ordinances, many of which are not enforced.

City of Asheville Ordinances Pertaining to Homelessness:

**Sec. 11-5. Public solicitation and begging regulated.**

(a) *Definition*

*Accosting*: approaching or speaking to an individual or individuals in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession.

*Beg, solicit or panhandle*: use of the spoken, written, or printed word, or other acts as are conducted in the furtherance of the purpose of immediately collecting contributions for the use of one's self or others. As used in this ordinance, the word, "solicit," and its forms, includes begging and panhandling.

*Financial Institution*: any bank, industrial bank, credit union, or savings and loan.

Forcing oneself upon the company of another.

(1) Continuing to solicit in close proximity to the individual addressed after the person to whom the solicitation is directed has made a negative response, either verbally, by physical sign, by attempting to leave the presence of the person soliciting, or by other negative indication;

(2) Blocking the passage of the individual solicited; or

(3) Otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to a solicitation.

(b) *Prohibited acts.*

(1) It shall be unlawful for any person to beg, solicit, or panhandle, as defined in subsection (a), above:

a. By accosting another, or by forcing oneself upon the company of another;

b. Within 20 feet of the entrance to any financial institution, or any automatic teller machine;

c. At any outdoor dining area permitted pursuant to section [16-146](#), or outdoor merchandise area permitted pursuant to section [16-147](#), provided such areas are in active use at the time;

d. At any transit stop or taxi stand, or in a public transit vehicle;

e. While the person being solicited is standing in line waiting to be admitted to a commercial establishment;

f. By touching the person being solicited without that person's consent;

g. By blocking the path of a person being solicited or blocking the entrance or exit to any building or vehicle;

h. By or with the use of profane or abusive language, during the solicitation or following an unsuccessful solicitation;

i. By or with the use of any gesture or act intended to cause a reasonable person to be fearful of the solicitor or feel compelled to accede to the solicitation;

j. After dark, which shall mean one-half hour after sunset until one-half hour before sunrise, except in the manner permitted in high traffic zones;

k. While under the influence of alcohol or after having illegally used any controlled substance, as defined in the North Carolina Controlled Substance Act.

(2) Additional restrictions applicable to high traffic zones:

a. For purposes of this subsection (b)(2) only, the following definitions shall apply:

*Beg, solicit or panhandle.* The communication, by use of gestures or spoken words, by one person or group of persons directed at another person or group of persons, of a request for the immediate contribution of money, food or goods, to the person or group making the communication, or to others. This definition shall not include transactions between family members or mutual acquaintances.

*High traffic zones.*

1. Zone 1: Within the area defined by a line drawn along the centerline of the following streets: starting at the intersection of Hilliard Avenue and Market Street, west along Hilliard Avenue to the intersection of Hilliard Avenue and French Broad Avenue; then north along French Broad Avenue to the intersection of French Broad Avenue and Haywood Street; then east Haywood Street to the intersection of Haywood Street and Montford Avenue; then north along Montford Avenue to the intersection of Montford Avenue and Cherry Street; then east along Cherry Street to the intersection of Cherry Street and Broadway Street; then south on Broadway Street to the intersection of Broadway Street and Woodfin Street; then east on Woodfin Street to the intersection of Woodfin Street and College Street; then south on Valley Street to the intersection of Valley Street and Marjorie Street; then west along Marjorie Street to the intersection of Marjorie Street and Davidson Street; then south on Davidson Street to the intersection of Davidson Street and Eagle Street; then west along Eagle Street to the intersection of Eagle Street and Market Street; then south on Market Street to the point of beginning.

2. Zone 2: Within Biltmore Village Historic District.

b. Prohibited acts. In addition to the restrictions set forth in section (b)(1), above, it shall be unlawful for any person to beg, solicit, or panhandle, as defined herein, within any high traffic zone.

(c) *Penalty.* A violation of this ordinance is a misdemeanor as set forth in North Carolina General Statute Section 14-4.

(Code 1965, § 18-51; Ord. No. 2000, § 1, 12-15-92; Ord. No. 2977, § 1a, 11-12-02; Ord. No. 3023, § 1, 5-13-03)

*State law reference(s)—Authority to prohibit or regulate begging, G.S. 160A-179.*

#### **Sec. 11-6. Damaging or destroying property.**

(a) It shall be unlawful for any person to mutilate, deface, tear down, injure or otherwise damage or destroy any property, real or personal, belonging to another, whether such property is privately or publicly owned.

(b) Violation of this section shall be a misdemeanor and shall be punishable as provided in N.C. Gen. Stat. § 14-4.

(Code 1965, § 18-6; Ord. No. 4910, § 2, 11-9-21)

State law reference(s)—*Willful and wanton injury to real property, G.S. 14-127; willful and wanton injury to personal property, G.S. 14-160.*

## Sec. 11-11. Consumption and possession of malt beverages or unfortified wine.

(a) *Definitions.* In addition to the common meanings of words, the following definitions shall be applicable herein:

(1) *Malt beverage* shall mean beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one-half of one (0.5) percent and not more than six percent, alcohol by volume.

(2) *Open container* shall mean a container whose seal has been broken or a container other than the manufacturer's unopened original container.

(3) *Public street* shall mean any highway, road, street, avenue, boulevard, alley, bridge, or other way within and/or under the control of the city and open to public use, including the sidewalks of any such street.

(4) *Unfortified wine* shall mean wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar.

(b) *Consumption on the public streets and on municipal property prohibited.* Except as provided hereinafter, it shall be unlawful for any person, who is not an occupant of a motor vehicle, to consume malt beverage and/or unfortified wine on the public streets in the city. Furthermore, it shall be unlawful for any person to consume malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, or controlled by the city including, but not limited to, public parks, playgrounds, recreational areas, tennis courts, and other athletic fields, but excluding specifically locations for which the city manager, civic center director or parks and recreation director have authorized application for and for which an ABC permit has been issued and only according to the requirements of that ABC permit.

(c) *Possession of open containers on the public streets and on municipal property prohibited.* Except as provided hereinafter, it shall be unlawful for any person, who is not an occupant of a motor vehicle, to possess any open container of malt beverage and/or unfortified wine on the public streets in the city. Furthermore, it shall be unlawful for any person to possess any open container of malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, or controlled by the city including, but not limited to, public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts, and other athletic fields, but excluding specifically locations for which the city manager, civic center director or parks and recreation director have authorized application for and for which an ABC permit has been issued and only according to the requirements of that ABC permit.

(d) *Possession during community events and festivals prohibited.* It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys, or parking lots which are temporarily closed to regular traffic for community events and festivals, unless the city council adopts a resolution making other provisions for the possession of malt beverages and/or unfortified wine at the community events and festivals.

(e) *Possession and consumption allowed during certain community events and festivals.* A person who is not an occupant of a motor vehicle and who is of the age permitted by North Carolina Statute may consume or possess malt beverages and/or unfortified wine on the public streets and on any property, whether located inside or outside the corporate limits, owned, occupied or controlled by the city, if the city council has adopted a

resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at a community event or festival.

(f) *Possession and consumption allowed in certain outdoor dining areas.* A person who is not an occupant of a motor vehicle and who is of the age permitted by North Carolina Statute may consume or possess malt beverages and/or unfortified wine in outdoor dining areas for which an ABC permit and a city permit for an outdoor dining area, as set forth in Article V of Chapter 16 of the Code of Ordinances of the City of Asheville, have been issued.

(g) *Penalty.* Violation of this section, or any subsection, shall constitute a misdemeanor, punishable in accordance with N.C. Gen. Stat. sec. 14-4.

(Code 1965, § 18-22; Ord. No. 2281, § 1, 5-14-96; Ord. No. 2315, § 1, 9-10-96)

*State law reference(s)—Authority of city to regulate the consumption of malt beverages and unfortified wine on city property, G.S. 18B- 300; no prosecution for public intoxication, G.S. 14-447.*

#### **Sec. 11-14. Solicitation from streets and median strips.**

(a) No person shall stand in a roadway or median strip for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway or parking lot.

(c) It shall be unlawful for any person to stand, sit or loiter in any street or highway, including the shoulders or median strip but excluding sidewalks, and to stop or attempt to stop any vehicle for the purpose of soliciting or accepting contributions from the occupants of any vehicle or for the purpose of distributing merchandise to the occupants of any vehicle. It also shall be unlawful for any person to stand, sit or loiter in any street or highway, including the shoulders or median strip but excluding sidewalks, and to solicit or accept contributions from the occupants of any stopped vehicle or to distribute merchandise to the occupants of any stopped vehicle without a permit issued pursuant to N.C. Gen. Stat. § 20-175(e).

(d) If any person is found to have violated any provision of this ordinance, such person or persons shall be guilty of a class 3 misdemeanor and shall be fined not more than \$500.00. Each violation shall constitute a separate offense.

(Ord. No. 2905, § 1, 3-12-02; Ord. No. 4910, § 2, 11-9-21)

#### **Sec. 11-15. Public urination.**

(a) No person shall urinate or defecate upon any public street, road, alley, sidewalk, walkway, right-of-way or ground, or public property except for properly designated restrooms.

(b) A violation of this section is a misdemeanor as set forth in North Carolina General Statute Sec. 14-4.

(Ord. No. 2977, § 1b, 11-12-02)

#### **Sec. 11-16. Sleeping on public property.**

(a) It shall be unlawful for any person to sleep outdoors on any of the streets, sidewalks or public parks in such a way, or in such a manner, as to interfere with pedestrian or vehicular traffic, or permitted activities.

(b) A violation of this ordinance is a misdemeanor as set forth in North Carolina General Statute Sec. 14-4.

(Ord. No. 2977, § 1c, 11-12-02)

#### Sec. 11-17. Loitering.

(a) In this section, the following words and phrases shall have the meanings respectively ascribed to them:

*Public place* shall mean any place to which the general public has access and a right of resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

(b) It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone or in consort with others in a public place with the intent to:

(1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;

(2) Obstruct the entrance to any business establishment, without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent or person in control or charge of the building or premises.

(3) When any person causes or commits any of the conditions in this section, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section.

(c) A violation of this ordinance is a misdemeanor as set forth in North Carolina General Statute Sec. 14-4.

(Ord. No. 2977, § 1d, 11-12-02)

#### Sec. 11-19. Sex offenders prohibited in public parks.

(a) For purposes of this section the following definitions shall apply:

(1) *Registered sex offender.* An individual who is registered by any state or federal agency as a sex offender and whose name is published on any state or federal registered sex offender listing, including but not limited to the sex offender registry established in Chapter 14, Article 27A of the North Carolina General Statutes.

(2) *Public park.* Any publicly owned, leased, operated or maintained land which is designated by the City of Asheville as a park or recreational facility.

(b) No registered sex offender shall enter into or upon any public park operated by the City of Asheville. Each entry into a public park, regardless of the time period between such entries, shall constitute a separate offense under this section.

(c) A violation of this section is a misdemeanor as set forth in G.S. § 14-4.

(d) The city manager or his or her designee shall post this regulation at the main entrance of each park within 30 days of passage of this section.

(Ord. No. 3428, § 1(a), 12-12-06)

**Sec. 16-2. Obstruction of streets, sidewalks by persons prohibited.**

(a) It shall be unlawful for any person, singly or in a group, to:

(1) Obstruct or cause to be obstructed vehicular or pedestrian traffic on the streets or sidewalks or in parks or other public areas within the corporate limits of the city; or

(2) Obstruct or cause to be obstructed corners, stairways or doorways to prevent or hamper free access by members of the public to private buildings fronting streets, sidewalks, parks or other public areas or to public buildings within such corporate limits.

(b) Violation of this section shall be a misdemeanor and shall be punishable as provided in N.C. Gen. Stat. § 14-4.

(Code 1965, § 25-4; Ord. No. 4910, § 2, 11-9-21)

*State law reference(s)—Standing, sitting or lying upon highways or streets prohibited, G.S. 20-174.1; regulation of mass gatherings, G.S. 130A-251 et seq.*

**Sec. 5-8. Vehicles.**

No person shall drive any vehicle in any cemetery, except on driveways or roadways provided for that purpose. Violation of this ordinance is a misdemeanor as set forth in N.C. Gen. Stat. § 14-4.

(Code 1965, § 9-11; Ord. No. 4910, § 2, 11-9-21)

**Sec. 10-1. Creation of nuisance prohibited.**

It shall be unlawful for any person to create a nuisance on his lot or on a lot occupied by him or to allow a nuisance to remain on his lot or a lot occupied by him. Dead animals, stagnant water, decayed vegetables and fruits, filthy privies and stables and anything causing an offensive odor or anything that causes injury or damage to the health or life of any other person is declared a nuisance.

(Code 1965, § 14-2)

**Sec. 10-111. Graffiti prohibited.**

(a) It shall be unlawful for any person to place graffiti upon the surface of any public or private property.

(b) Any person who applies graffiti upon the surface of any public or private property is guilty of a misdemeanor and shall be subject to prosecution in accordance with G.S. § 14-127 and G.S. § 14-160. In addition to criminal prosecution, such person shall be subject to the additional enforcement provisions set forth herein.

(c) It shall be unlawful for any property owner to permit property that is defaced with graffiti to remain defaced; such property owner shall be subject to the civil enforcement provisions herein.

(d) It is the specific intent of this article to regulate the placement of graffiti and the failure to remove graffiti as a civil violation only and not as a criminal violation. Provided however, nothing herein is intended to prevent, restrain or prohibit the criminal prosecution of graffiti perpetrators under the laws of the State of North Carolina.

(Ord. No. 4306, § 1, 4-22-14)