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5.255 Hours of Park Closure.

(1) No person shall be in Prescott Park, any other city public park, the I.O.O.F./Eastwood Cemetery or vehicle parking area of those parks or cemetery at any time between the hours of 10:30 p.m. and 6 a.m., except that this section shall not apply to:

- (a) pedestrians crossing the Mini Park or Library Park on a paved path;
- (b) participants or spectators of an athletic contest in park areas lit by park flood lights for those contests;
- (c) persons attending a scheduled event in a park or park building designated for community recreation or instruction;
- (d) city employees or other government employees during the course of official activities.

(2) Violation of this section constitutes a violation.

[Amd. Ord. No. 5994, Oct. 15, 1987; Amd. Ord. No. 2000-39, Mar. 2, 2000; Amd. Ord. No. 2000-45, Mar. 16, 2000.]

The Medford Municipal Code is current through Ordinance 2022-28, passed March 17, 2022.

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5.256 Civil Exclusion.

(1) *Civil Exclusion Zones.* Civil exclusion zones are designated to protect the public from those whose illegal conduct poses a threat to the public health, safety, and welfare. In accordance with the provisions of this section, the Chief of Police or designee may exclude any person who is cited to appear, arrested, or otherwise taken into custody for any offense listed in subsection (2) of this section within a civil exclusion zone. Nothing in this section shall be construed to authorize the exclusion of any person lawfully exercising free speech rights or other rights protected by the Oregon or federal constitution. However, a person engaged in such protected activity who commits acts that are not protected shall be subject to exclusion as provided by this section. Civil exclusion zones include the following places:

(a) *City Property.* Any property owned or managed by the City, including but not limited to parks, greenways, buildings, parking lots, or other land or physical structures. A person shall only be excluded from the city property that the person receives a notice of exclusion for.

(b) *The Downtown District.* Comprises the area bound by Bear Creek, the north right-of-way of Sixth Street, the west right-of-way of Oakdale Avenue, the north right-of-way of West Main Street, the west right-of-way of Laurel Street, the south right-of-way of West Eighth Street, the west right-of-way of Oakdale Avenue, and the south right-of-way of West Tenth Street (as shown on Map A).

(2) *Offenses; Penalty.* A person is subject to civil exclusion for a period of 90 days from entering or remaining within a civil exclusion zone if that person has been cited to appear, arrested or otherwise taken into custody within a civil exclusion zone for any of the following offenses:

(a) alcoholic liquor violations as provided in the Oregon Liquor Control Act, or Medford code sections [5.310](#), [5.350](#), [5.360](#), or [5.361](#);

(b) any sexual offense, as provided by ORS [163.355](#) through [163.465](#);

(c) arson or related offenses as provided in ORS [164.315](#) through [164.335](#);

(d) assault as provided in ORS [163.160](#), ORS [163.165](#), ORS [163.175](#), ORS [163.185](#), or Medford code section [5.105](#);

(e) criminal mischief as provided in ORS [164.345](#) through [164.365](#) or Medford code section [5.270](#);

(f) disorderly conduct as provided in ORS [166.025](#) or Medford code section [5.120](#);

(g) discharge of weapons as provided in Medford code section [5.160](#)

(h) failure to control dangerous dog as provided in Medford code section [5.603](#).

(i) graffiti offenses as provided in ORS [164.381](#) through ORS [164.386](#) or Medford code section [5.519](#);

(j) harassment as provided in ORS [166.065](#) or Medford code section [5.130](#);

(k) intimidation as provided in ORS [166.155](#) through [166.165](#);

- (l) marijuana-related offenses as provided in the Control and Regulation of Marijuana Act, the Oregon Medical Marijuana Act, or Medford code sections [5.652](#), [5.653](#), [5.705](#), [5.710](#), or [5.715](#);
 - (m) menacing as provided in ORS [163.190](#) or Medford code section [5.110](#);
 - (n) possession, manufacture, or delivery of a controlled substance or related offenses as provided in ORS [167.203](#), ORS [475.005](#) through [475.285](#), and ORS [475.752](#) through [475.980](#);
 - (o) prostitution or related offenses as provided in ORS [167.007](#) through ORS [167.017](#);
 - (p) public urination as provided in Medford code section [5.125](#), except if the conduct involves only urination on a permeable surface in a park or greenway;
 - (q) recklessly endangering another person as provided in ORS [163.195](#) or Medford code section [5.115](#);
 - (r) strangulation as provided in ORS [163.187](#);
 - (s) theft as provided in ORS [164.015](#) through [164.140](#) or Medford code sections [5.291](#) through [5.298](#).
- (3) *Violation.*
- (a) If a person excluded from a civil exclusion zone is found within the boundary of the civil exclusion zone during the exclusion period, that person may be arrested for Trespass-Premises as provided in Medford code section [5.250](#). A person is not considered to be within a civil exclusion zone if the person is within an exclusion zone and the person is:
 - (i) passing through the exclusion area;
 - (ii) in the act of obtaining social, medical, or like services;
 - (iii) in the act of seeking employment or performing work directly related to lawful employment;
 - (iv) attending a public meeting;
 - (v) attending a court hearing, meeting with an attorney or criminal justice personnel, or engaged in any activity ordered by a court;
 - (vi) in the act of filing an appeal to an exclusion notice issued under this section;
 - (vii) attending religious services or otherwise exercising a constitutional right.
 - (b) A person shall not be issued an exclusion notice for prohibited camping or for otherwise sleeping within an exclusion zone.
- (4) *Exclusion Notice.* The Chief of Police is designated as the person in charge of civil exclusion zones for the purpose of issuing exclusion notices in accordance with this ordinance, and may authorize employees of the police department to issue exclusion notices. Written notice shall be given to any person excluded from a civil exclusion zone. The notice shall specify the area from which the person is excluded, the length of exclusion, the offense(s) the person is accused of violating, and a description of the offending conduct. Warnings of consequences for

failure to comply shall be prominently displayed on the notice. The notice shall inform the excluded person of the right to appeal to the municipal court, and shall include information on the time limit to file an appeal and place to deliver the appeal. Unless otherwise provided in the exclusion notice, the term of exclusion shall take effect upon issuance.

(5) *Appeal.* A person receiving an exclusion notice shall have the right to a hearing to have the exclusion rescinded, the period of exclusion reduced, or to request a variance.

(a) The hearing request must be filed in writing to the Municipal Court Clerk at Medford City Hall within ten (10) days after receipt of the notice of exclusion. The hearing shall be conducted by the municipal court judge within ten (10) days of receipt of a request filed pursuant to this section; excluding Saturdays, Sundays, and holidays.

(b) The hearing may be rescheduled for good cause shown, but shall be scheduled no later than five (5) additional business days from the rescheduled request. If an appeal is timely filed, the period of exclusion shall be stayed, pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of exclusion shall be effective immediately upon issuance of the municipal court's decision.

(c) The City shall have the burden of proving by a preponderance of the evidence the validity of the exclusion. If the municipal court finds by a preponderance of the evidence that the exclusion was based upon the conduct proscribed by subsection (2), and if the exclusion is otherwise in accordance with law, the municipal court shall uphold the exclusion. However, if the municipal court finds that the City has not met its burden of proof, or that the exclusion is otherwise unlawful, then the municipal court shall enter an order rescinding the exclusion. In the event that the municipal court finds that the City has met its burden of proof, but that the length or scope of the exclusion is unreasonable under the circumstances, the municipal court may issue an order shortening the length of exclusion or allowing for a variance. The decision of the municipal court is final.

(6) *Variance.*

(a) The Court may in its discretion grant a variance to an excluded person at any time during the period of exclusion if the person:

(i) presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion;

(ii) establishes that he or she resides within an exclusion zone;

(iii) presents a plausible need to obtain goods and services not otherwise available outside the exclusion zone to satisfy the person's essential needs.

(b) The variance shall be in writing, for a specific period of time and only to accommodate a specific purpose, all of which shall be stated on the variance. The excluded person shall keep the variance document on his or her person at all times the person is within the exclusion area.

[Added Ord. No. 2011-217, Nov. 3, 2011; Replaced Sec. 1, Ord. No. 2017-40, May 4, 2017; Amd. Sec. 1, Ord. No. 2017-143, Dec. 21, 2017.]

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5.257 Prohibited Camping, Lying, and Sleeping.

(1) As used in this section:

- (a) "To camp" means to set up or to remain in or at a campsite.
- (b) "Campsite" means any place where any stove or fire is placed, established or maintained for the purpose of maintaining a temporary place to live, or where the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof is placed, established or maintained for the purpose of maintaining a temporary place to live.
- (c) "Bedding materials" means a sleeping bag, bedroll, or other material used for bedding purposes, including materials used to keep warm and dry while sleeping.
- (d) "The Greenways" refers to the Bear Creek Greenway, the Larson Creek Greenway, the Lazy Creek Greenway, and the Navigator's Landing Greenway.
- (e) "Vehicle camping in a lawful parking space" refers to a person experiencing homelessness utilizing a motor vehicle in a lawful parking space as a temporary place to live. The vehicle must be operational and must be moved at least every 24 hours. To fall within this definition, the parking space at issue cannot be adjacent to residences.
- (f) "Personal property" means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

(2) It is found and declared that:

- (a) From time to time persons establish campsites on sidewalks, public rights-of-way, under bridges, and so forth;
- (b) Such persons, by such actions create unsafe and unsanitary living conditions which pose a threat to the peace, health, and safety of themselves and the community;
- (c) During high and extreme fire conditions, the Greenways and Prescott Park pose a unique fire danger due to dry brush and abundant fuel sources;
- (d) Enforcing existing arson laws and burning prohibitions on an incident-by-incident basis alone on the Greenways and Prescott Park during high and extreme fire conditions does not provide sufficient protection to public peace, health, and safety under such conditions, because of increased fire ignition potential and the rapid rate at which fire spreads under such circumstances;
- (e) It is difficult for emergency personnel to evacuate individuals camping on the Greenways or Prescott Park during a fire event;
- (f) Wildfires on the Greenways and Prescott Park pose a severe threat to persons and property, including residents and property owners near those areas and persons experiencing homelessness within those areas;

- (g) Camping, lying, or sleeping on a playground or sports field fundamentally undermines the public's ability to use that public property for its intended purpose;
- (h) Camping, lying, or sleeping on or near railroad tracks, or in a manner that obstructs sidewalks prevents the public's ability to use that public property for its intended purpose and can in some situations result in imminent threats to life;
- (i) This section's regulations are meant strictly to regulate the use of publicly owned property, and are not intended to regulate activities on private property; and
- (j) The enactment of this provision is necessary to protect the peace, health, and safety of the City and its inhabitants.

(3) No person shall place or utilize bedding materials upon any sidewalk, street, alley, lane, public right-of-way, park, greenway, or any other publicly owned property or under any bridge or viaduct for more than 24 hours consecutively in a particular location, unless otherwise specifically authorized by this code, or by declaration of the Mayor in emergency circumstances, or by executive order of the City Manager pursuant to such declaration, or by declaration of the City Manager in the case of a severe event.

(4) (a) Except as set forth in subsection [\(4\)\(b\)](#) of this section, no person shall camp in or upon any sidewalk, street, alley, lane, public right-of-way, park, greenway, or any other publicly owned property or under any bridge or viaduct.

(b) The prohibition in subsection [\(4\)\(a\)](#) of this section does not apply to tent camping or vehicle camping in the following circumstances:

- (i) If otherwise specifically authorized by any provision of the Medford Municipal Code;
- (ii) By declaration of the Mayor in emergency circumstances, if so authorized by the declaration;
- (iii) By executive order of the City Manager pursuant to such declaration, if so authorized by the executive order;
- (iv) By declaration of the City Manager in the case of a severe event, if so authorized by the declaration; or
- (v) If the City publishes on its website a written policy authorizing tent camping or vehicle camping on specific publicly owned properties, then tent camping or vehicle camping on such properties is lawful and permissible consistent with the time, place, and manner constraints contained within any such written-and-published City policy.

(5) No person shall camp, lie, sleep, or use bedding materials in any of the following circumstances, unless otherwise specifically authorized by this code, by declaration of the Mayor in emergency circumstances, by executive order of the City Manager pursuant to such emergency declaration, or by executive order of the City Manager pursuant to such declaration, or by declaration of the City Manager in the case of a severe event:

- (a) On the Greenways or Prescott Park, during the period May 1st to September 30th in any calendar year, or at any other time if the Fire Chief or the Fire Chief's designee determines that a fire hazard exists;
 - (b) On a playground or sports field during hours of closure. Notwithstanding Section [5.255](#), lying or sleeping in a City-owned park during hours of closure is not prohibited so long as the individual is experiencing homelessness, is not on a playground or sports field, is not on a "school park" associated with a school, and is not violating any other subsection of this section;
 - (c) On areas underneath roadways or bridges that are not open to the public;
 - (d) On railroad tracks or within 15 feet of railroad tracks;
 - (e) On publicly owned property not open to the public, including but not limited to the Public Works Service Center and park areas temporarily closed for construction, repairs, maintenance, cleaning and similar activities;
 - (f) On streets, including planter strips, medians and parking spaces;
 - (g) On sidewalks, if by doing so, the person obstructs pedestrian traffic along the sidewalk or into private property and businesses adjacent to the sidewalk. For purposes of this provision, an individual obstructs pedestrian traffic if that individual, by camping, lying, sleeping, or using bedding materials, reduces the path of travel to less than 36 inches;
 - (h) Within 20 feet of a privately owned parcel zoned for residential uses, or within 20 feet of a residential structure regardless of zoning; or
 - (i) Within the I.O.O.F. Eastwood Cemetery, or any other cemetery, mortuary, memorial park, or similar property.
- (6) Except as provided in subsection [\(10\)](#) of this section, at least 72 hours before removing homeless individuals from an established camping site, law enforcement officials shall post a written notice, in English and Spanish, at all entrances to the camping site to the extent that the entrances can reasonably be identified.
- (a) When a 72-hour notice is posted, law enforcement officials shall inform local agencies that deliver social services to homeless individuals as to where the notice has been posted. Any local agency, providing service within the City limits of Medford, desiring to be on this notification list must provide its name, address, telephone number, and name of contact person to the Medford Police Department, in writing, requesting notification.
 - (b) The local agencies may arrange for outreach workers to visit the camping site that is subject to the notice to assess the need for social service assistance in arranging shelter and other assistance.
- (7) (a) All personal property at the camping site that remains unclaimed after removal shall be given to a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection [\(10\)](#) of this section, whether notice is required or not.

- (b) The unclaimed personal property must be stored in a facility located in the same community as the camping site from which it was removed. For purposes of this section, the City of Medford is considered a single community.
 - (c) Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.
 - (d) Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.
- (8) The written notice required under subsection [\(6\)](#) of this section must state, at a minimum:
- (a) Where unclaimed personal property will be stored;
 - (b) A phone number that individuals may call to find out where the property will be stored; or
 - (c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.
- (9) (a) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.
- (b) The property shall be stored for 30 days during which it shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed after 30 days may be disposed of or donated to a corporation described in Section [501\(c\)\(3\)](#) of the Internal Revenue Code as amended and in effect on December 31, 2020.
- (10) (a) The 72-hour notice requirement under subsection [\(6\)](#) of this section does not apply:
- (i) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site;
 - (ii) In the event of an exceptional emergency at an established camping site, including, but not limited to, possible site contamination by hazardous materials, a public health emergency or other immediate danger to human life or safety; or
 - (iii) When the campsite is located in the areas specified in subsection [\(5\)\(a\)](#) of this section, and the notice is placed during the time frame described in subsection [\(5\)\(a\)](#) of this section, or when in the discretion of the Fire Chief or the Fire Chief's designee, the Greenways or Prescott Park should be immediately closed for fire danger as described in subsection [\(5\)\(a\)](#) of this section or per Administrative Regulation 907.
- (b) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection [\(6\)](#) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

(11) A person authorized to issue a citation for unlawful camping may not issue the citation if the citation would be issued within 200 feet of a notice required under subsection (6) of this section and within two hours before or after the notice was posted.

(12) Violation of subsection (3) of this section constitutes a violation. Violation of subsection (4) of this section consisting of vehicle camping in a lawful parking space constitutes a violation. Every day in which such violations occur constitutes a separate violation. A violation of subsection (4) or (5) of this section constitutes a crime, except for vehicle camping in a lawful parking space.

[Added Sec. 1, Ord. No. 6226, Nov. 3, 1988; Amd. Sec. 3, Ord. No. 2000-46, Mar. 16, 2000; Amd. Sec. 1, Ord. No. 2018-115, Sep. 20, 2018; Amd. Sec. 1 (Exh. A), Ord. No. 2021-23, Apr. 1, 2021; Amd. Sec. 1 (Exh. A), Ord. No. 2021-75, Jul. 15, 2021; Amd. Ord. No. 2021-125, Nov. 4, 2021.]

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5.557 Overnight Sleeping in Vehicles.

- (1) Notwithstanding any other provision of the Medford Municipal Code, any public or private entity may provide parking spaces for up to and not exceeding three vehicles for overnight sleeping in a vehicle on their parking lot if the public or private entity owns or leases real property on which a structure and an associated parking lot are located.
- (2) A public or private entity that allows a person or persons to sleep overnight in a vehicle on the premises pursuant to subsection [\(1\)](#) of this section shall:
- (a) Provide, or make available on the premises, sanitary facilities including, but not limited to, toilet, hand washing, and trash disposal facilities;
 - (b) Not allow tents or other personal property to be attached to the vehicle as a means to expand the capacity of the vehicle for additional camping or to establish long term campsites; and
 - (c) Ensure vehicles maintain a minimum distance of 20 feet from other overnight camping vehicles; and
 - (d) Ensure that all vehicles are operable; and
 - (e) Obtain a cost-free permit from the City of Medford to allow overnight vehicle camping on property owned or leased by the organization, which may set a maximum number of spaces used for this purpose as set forth in subsection [\(3\)](#) of this section; and
 - (f) Not require payment of any fee, rent, or other monetary charge for overnight sleeping in a vehicle as authorized by this section.
- (3) If the public or private entity seeks to allow more than three vehicles to park on its property for this purpose, the entity must obtain preapproval from the City Manager or the City Manager's designee for a maximum number of vehicles. The City Manager or the City Manager's designee may designate the maximum number of vehicles used for sleeping for a property, and may subsequently modify that maximum number based upon the totality of the circumstances, including performance of the entity's operation to date and impacts on surrounding properties.
- (4) A public or private entity that permits overnight sleeping in a vehicle pursuant to subsection [\(1\)](#) of this section may revoke that permission at any time and for any reason. Any person who receives permission to sleep on a premises as provided in subsection [\(1\)](#) of this section shall leave the premises immediately after permission has been revoked.
- (5) Notwithstanding any other provision of this section, the City Manager or the City Manager's designee may prohibit overnight sleeping in a vehicle at a premises as provided in subsection [\(1\)](#) of this section if the City Manager or the City Manager's designee finds that such activity does not meet the requirements of this section or constitutes a nuisance or other threat to public health, safety, or welfare.

(6) In addition to any other penalties that may be imposed, any premises used for overnight sleeping in a manner not authorized by this section or other provisions of this code shall constitute a nuisance and may be abated as such.

(7) Nothing in this chapter creates any duty on the part of the City, its employees, or its agents to ensure the protection of persons or property with regard to overnight sleeping in vehicles.

[Added Sec. 2, Ord. No. 2019-06, Feb. 7, 2019; Amd. Ord. No. 2021-124, Oct. 21, 2021.]

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5.990 Penalties.

- (1) Except as provided in subsections [\(3\)](#) and [\(4\)](#) below, a violation of a provision of this Chapter [5](#) not classified as a violation is a crime and is punishable by a fine not exceeding \$1,000 and imprisonment not exceeding one year.
- (2) Except as provided in subsection [\(5\)](#) below, a violation of a provision of this Chapter [5](#) classified as a violation is punishable by a fine not exceeding \$250. Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime.
- (3) A violation of sections [5.120](#), [5.130](#), [5.152](#), [5.298\(2\)](#), [5.710](#), and [5.715](#) is a crime and is punishable by a fine not exceeding \$1,000 and imprisonment not exceeding six months.
- (4) A violation of Sections [5.185](#), [5.247](#), [5.250](#), [5.257\(4\)](#) and [\(5\)](#) (except vehicle camping in a lawful parking space), [5.292](#), [5.296\(4\)\(a\)](#) and [5.603\(1\)\(c\)](#) is a crime and is punishable by a fine not exceeding \$500.00 and imprisonment not exceeding 30 days.
- (5) A violation of sections [5.370\(2\)](#), [5.602](#), and [5.725](#) is a violation and is punishable by fine not exceeding \$440.
- (6) When a person is convicted of criminal activity that has resulted in ascertainable damages to any person, in addition to any other sentence it may impose, the court may order that the defendant make restitution to the victim. For purposes of this subsection, the definitions of ORS [137.103](#) apply.
- (7) A person found guilty of an offense defined in this Code as a crime who, prior to sentencing, consents to donate labor for the welfare of the public may be sentenced to community service for a term not less than 24 hours or more than 160 hours as an alternative to incarceration, probation or fine or as a condition of probation.

[Amd. Sec. 3, Ord. No. 5660, May 1, 1986; Amd. Sec. 4, Ord. No. 5993, Oct. 15, 1987; Amd. Sec. 4, Ord. No. 6028, Dec. 3, 1987; Amd. Sec. 2, Ord. No. 6226, Nov. 3, 1988; Amd. Ord. No. 6574, Mar. 15, 1990; Amd. Ord. No. 2000-45, Mar. 16, 2000; Amd. Ord. No. 2000-48, Mar. 16, 2000; Amd. Sec. 2, Ord. No. 2011-218, Nov. 3, 2011; Amd. Sec. 6, Ord. No. 2014-140, Nov. 6, 2014; Amd. Sec. 6, Ord. No. 2016-59, May 19, 2016; Amd. Sec. 10, Ord. No. 2018-18, Feb. 15, 2018; Amd. Sec. 2, Ord. No. 2018-115, Sep. 20, 2018; Amd. Sec. 1 (Exh. A), Ord. No. 2021-23, Apr. 1, 2021.]

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AGENDA ITEM COMMENTARY

DEPARTMENT: City Attorney's Office
PHONE: (541) 774-2020
STAFF CONTACT: Eric Mitton, City Attorney

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: May 4, 2023

COUNCIL BILL 2023-51

AN ORDINANCE approving the adoption of a local definition of “established camping site” for purposes of Medford Municipal Code 5.257.

SUMMARY AND BACKGROUND

Council is requested to consider an ordinance adopting a local definition of “established camping site” for purposes of Medford Municipal Code 5.257, Prohibited Camping.

PREVIOUS COUNCIL ACTIONS

On November 4, 2021, Council Bill 2021-125 was approved, revising the time-place-manner regulations of the prohibited camping ordinance to create a buffer adjacent to residential properties and adopt regulations relating to cemeteries.

On July 15, 2021, Council Bill 2021-75 was approved, amending the notice and property-handling provisions of the prohibited camping ordinance consistent with recent state legislation.

On April 2, 2021, Council Bill 2021-23 was approved, adopting time-place-manner regulations for prohibited camping instead of the prior city-wide prohibition consistent with recent federal case law-.

ANALYSIS

This proposed code change does not change the time-place-manner regulations that City Council adopted in 2021, but codifies original intent by defining a currently-undefined term for clarification in enforcement,

I. Background and statement of issue.

Consistent with the federal direction in the *Blake v. Grants Pass* case that “the City may ban the use of tents in public parks without going so far as to ban people from using any bedding type materials to keep warm and dry while they sleep,” the City of Medford’s 2021 time-place-manner regulations restrict tent camping differently than bedroll sleeping, and generally prohibit tent camping with exceptions such as organized-and-approved operations or severe weather events. State law provides the procedure for clearing an “established camping site,” including that notices must be posted for 72 hours before a clean-up operation occurs (ORS 195.505). For the past two years, the Medford Police Department Livability Team has treated every tent as an “established camping site,” regardless of whether it has been in place for six months or six hours.



AGENDA ITEM COMMENTARY

Outreach by the Livability Team to homeless individuals in illegal campsites has in many instances been successful. Of 1,461 camps cleaned since May 2021 and March 2023, there have been 1,908 referrals to the Urban Campground, resulting in 1,520 move-ins. However, particularly in recent months, there has been an increasing trend of certain individuals refusing services and instead immediately setting up a tent after the 72-hour clean-up occurs. When every single tent is treated as an “established” camping site, even when it is pitched immediately after a clean-up operation, the practical result is that the Council’s existing time-place-manner regulations are undermined.

II. Not all camps are “established” camping sites.

As per ORS 174.010, when interpreting state statutes, the statutes should be construed to give effect to each part of the statute, and not omit what the Legislature inserted. If the Oregon legislature intended that the 72-hour notice apply to every tent, it could have just made the statute applicable to “camping sites” instead of “established camping sites.” The fact that the Legislature included the modifier “established” means that the modifier should be given meaning. The Legislature did not define the term, but dictionary definitions typically define the word “established” generally as “having existed for a long period of time” or “been in existence for a long time”.

In subsection (11), the Legislature specifically gave local governments the ability to supplement ORS 195.505 with ordinances that are more specific than the statute. Adopting a definition for an otherwise-undefined term is one such example of adding specificity.

III. How long will it take to be “established”?

Because the Legislature gave local governments no guidance in ORS 195.505 as to how long it should take for a camping site to become an “established” camping site, local governments must look to other sources to define the term.

One source is other areas of law. In landlord-tenant law in effect when the 72-hour notice was added to ORS 195.505, someone staying in a motel room has no expectation of permanency for the first 29 days. But after staying for at least 30 days, the guest was statutorily entitled to 72 hours’ notice before removal for nonpayment. Looking at this statute as context, one could analogize tent campers to motel guests and argue that a campsite becomes established after 30 days. This statute has just been amended; a motel guest still has no expectation of permanency until 30 days, but at that point has a 10-day expectation of permanency. Using this new 3-to-1 ratio that the Legislature adopted for motel guests in HB 2001, one could analogize and argue that a tent should be in place for nine days to establish ORS 195.505’s three-day expectation of permanency.

Near the other end of the spectrum, one could rationalize a three-day window to become “established” by arguing that if it takes a camper three days to pack up the property at issue, then symmetry would dictate that it must have taken three days to set up property in that state.



AGENDA ITEM COMMENTARY

Ultimately, a multitude of different analyses could be made, so City staff has endeavored to find other time frames within the Medford Municipal Code that address questions of when property acquires a sense of permanency and are within the range of time frames discussed above. For vehicles left in the public right-of-way, a vehicle is deemed “stored” in violation of the law if it has not been moved for at least five days. MMC 6.345. An inoperative or dismantled vehicle cannot be stored outside on either public or private property for more than five days. MMC 5.505. Portable storage containers can temporarily be stored on private property as a matter of right, but after five days, need a permit to remain. MMC 10.840(4)(f)(i)(A)(2). In all of these situations, the expectation is that property is in place temporarily until it has been in place for five days, at which time the property is treated as being more permanent. Treating tent-camping sites as being “established” after five days would be consistent with these other Medford Municipal Code provisions, and would fall within the range of other possibilities discussed above.

IV. The presumption remains that a campsite is established.

The proposed definition expressly states that if a law enforcement officer is unsure of the age of a campsite, the officer should default to treating it as established, and should only treat it as non-established if evidence exists that the tent has been in place for less than five days. This evidence could take a variety of forms, including that Livability Team officers cleaned that area of all tents less than five days ago, that Patrol officers had observed the area free of tents less than five days ago, that an eyewitness provides credible information on when the tent was set up, or other possibilities. Regardless, the proposed definition does not place homeless individuals in the position of having to prove that their tent was in place for more than five days; instead, the presumption is that a campsite is “established” unless there is some reliable evidence that it was not.

V. Practical implementation.

Once a particular area is cleared of established camps through the ORS 195.505 procedure, if law enforcement sees a new camp set up that is not yet established (i.e., has been in place for less than five days), law enforcement can contact the campers and require that the property defining it as a camp (tent or similar structure, etc.) be brought into compliance with the City's time-place-manner regulations immediately. If the individuals refuse to comply with the time-place-manner regulations, immediate enforcement action is possible.

It should be re-emphasized that the issue here is the structure that defines a camp, not the individual. Coming into compliance would involve the individual packing up the tent and would generally not involve the individual leaving the area (with certain exceptions specified in the code). Under *Blake v. Grants Pass* and the City's time-place-manner regulations, bedroll sleeping is permissible in a number of circumstances on public property, including in the grassy areas of most parks, and on sidewalks where bedroll sleeping does not restrict either a 36' path of travel or entries to neighboring private property.



AGENDA ITEM COMMENTARY

VI. *Conclusion.*

The Oregon Legislature specifically allowed cities to add specificity to the procedural requirements of ORS 195.505, including adopting local definitions of “established camping site.” This proposed definition is not a rewrite of Council’s 2021 time-place-manner regulations, and in fact does not modify the substantive regulations that Council adopted. Instead, it uses authority delegated by the Legislature to adopt local definitions to ensure that a locally-adopted time-place-manner regulation which was based on express language from federal case law can be enforced as originally intended.

COUNCIL GOALS

Council Goal and Objective: Health and Safety

Strategy: Address Livability Issues

Deliverable: None

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None

TIMING ISSUES

None

COUNCIL OPTIONS

Approve the ordinance as presented.

Modify the ordinance as presented.

Deny the ordinance as presented and provide direction to staff.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance as presented.

EXHIBITS

Ordinance

Redline of proposed code amendment

March 2023 Livability Team monthly report

ORDINANCE NO. 2023-51

AN ORDINANCE approving the adoption of a local definition of “established camping site” for purposes of Medford Municipal Code 5.257.

WHEREAS, on April 2, 2021, Council Bill 2021-23 was approved, adopting time-place-manner regulations for prohibited camping instead of the prior city-wide prohibition;

WHEREAS, state law provides a particular procedure for clearing an “established camping site,” including that notices must be posted for 72 hours before a clean-up operation occurs (ORS 195.505);

WHEREAS, the Oregon Legislature specifically allowed cities add specificity to the procedural requirements of ORS 195.505, including adopting local definitions of “established camping site.” This proposed definition is not a rewrite of Council’s 2021 time-place-manner regulations, and in fact does not modify the substantive regulations that Council adopted; and

WHEREAS, this proposed code change does not change the time-place-manner regulations that City Council adopted in 2021, but defines a currently-undefined term in an attempt to make the original intent of the 2021 regulations more enforceable and uses authority delegated by the Legislature to adopt local definitions to ensure that a locally-adopted time-place-manner regulation which was based on express language from federal case law can be enforced as originally intended; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. Council hereby approves the adoption of a local definition of “established camping site” for purposes of Medford Municipal Code 5.257.

Section 1. Sections 5.257 (Prohibited Camping, Lying, and Sleeping) of the Medford Municipal Code is hereby amended to read as set forth below: [language in **bold font** is new; language in ~~striketrough~~ font is existing law to be repealed; and three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity].

5.257 Prohibited Camping, Lying, and Sleeping

(e) “Vehicle camping in a lawful parking space” refers to a person experiencing homelessness utilizing a motor vehicle in a lawful parking space as a temporary place to live. The vehicle must be operational and must be moved at least every 24 hours. To fall within this definition, the parking space at issue cannot be adjacent to residences.

(f) "Personal property" means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

(g) "Established camping site" means a campsite that has been in its current location for at least five days. If law enforcement officials do not have evidence about the age of a campsite, law enforcement officials should presume it is an established camping site.

* * *

PASSED by the Council and signed by me in authentication of its passage this 4th day of May, 2023.

ATTEST: _____
City Recorder

Mayor Randy Sparacino

APPROVED: May 4, 2023

Mayor Randy Sparacino

5.257 Prohibited Camping, Lying, and Sleeping

(1) As used in this section:

(a) “To camp” means to set up or to remain in or at a campsite.

(b) “Campsite” means any place where any stove or fire is placed, established or maintained for the purpose of maintaining a temporary place to live, or where the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof is placed, established or maintained for the purpose of maintaining a temporary place to live.

(c) “Bedding materials” means a sleeping bag, bedroll, or other material used for bedding purposes, including materials used to keep warm and dry while sleeping.

(d) “The Greenways” refers to the Bear Creek Greenway, the Larson Creek Greenway, the Lazy Creek Greenway, and the Navigator’s Landing Greenway.

(e) “Vehicle camping in a lawful parking space” refers to a person experiencing homelessness utilizing a motor vehicle in a lawful parking space as a temporary place to live. The vehicle must be operational and must be moved at least every 24 hours. To fall within this definition, the parking space at issue cannot be adjacent to residences.

(f) “Personal property” means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

(g) “Established camping site” means a campsite that has been in its current location for at least five days. If law enforcement officials do not have evidence about the age of a campsite, law enforcement officials should presume it is an established camping site.

* * *

LIVABILITY TEAM MONTHLY REPORT



MARCH 2023

The Livability Team is comprised of dedicated officers who focus on addressing livability issues throughout the City of Medford. Since its inception, the team has helped individuals work through housing applications, locate rent/security deposit assistance, helped get proper identification for employment opportunities, and worked to build relationships with our community stakeholders, such as our non-profits and faith-based organizations.

CONNECTIONS DURING OUTREACH

March stats

The Livability Team coordinates with community partners to help connect individuals with services. Community partners involved in these efforts include: Addictions Recovery Center, La Clinica-Birch Grove, Mercy Flights, Options, Access, Oasis, Jackson County Mental Health, Recovery Café, Ontrack and Youth 715 Ministries.



*The number of people contacted this month
during outreach.*

NLP-CHOP meeting

The NLP-CHOP meeting was held on March 8th with 47 people in attendance in which they discussed three CHOP clients.

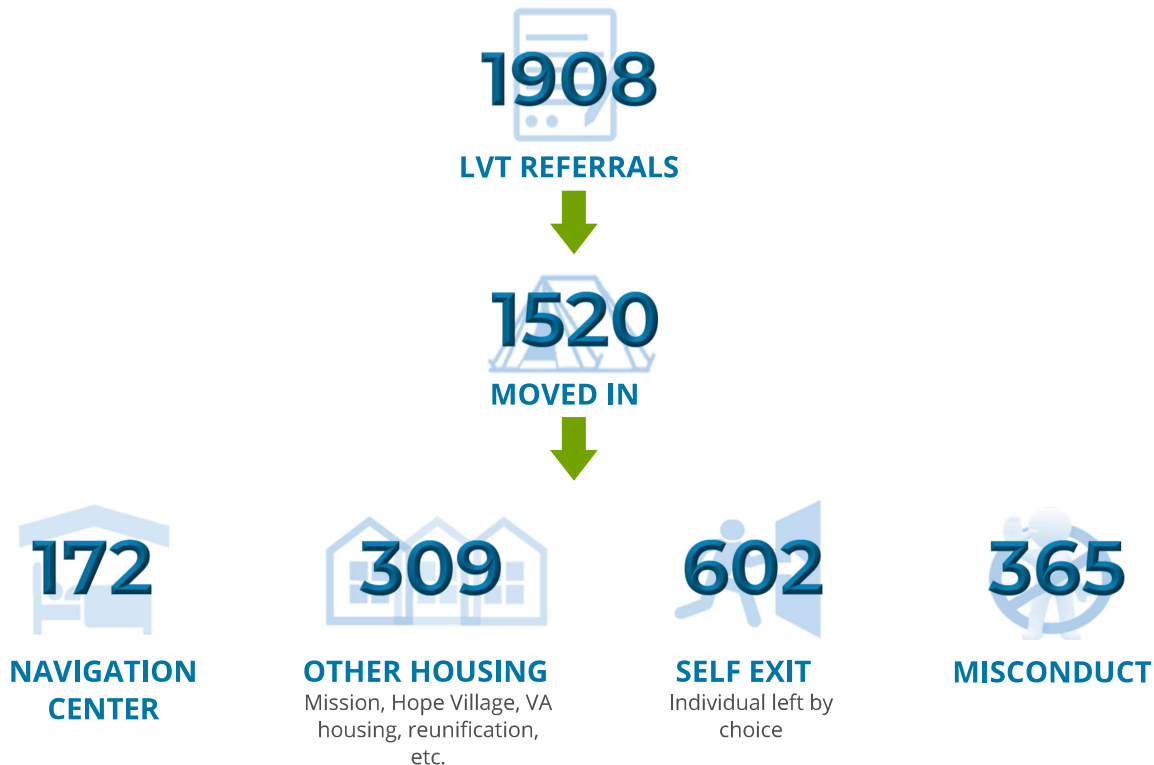
LIVABILITY TEAM MONTHLY REPORT



URBAN CAMPGROUND REFERRALS

July 2020 - Today

The number of people the team has referred to the Urban Campground, the number of people who have moved into the campground and their transition from the campground.



CALLS FOR SERVICE

March 2023

CAMPGROUND

	Total
911 CALL	2
ASST-PUB	1
FOLLOW UP	1
MEDICAL	12
PROPERTY	1
PSYCHP	1
SEX OFFENSE	1
SEX REG CHK	1
TRE SPASS	2
WARRANT	2
WELFARE CHK	1
xUNKNOWN	3
Total	28

NAVIGATION CENTER

	Total
911 CALL	4
ASST-PUB	2
DOC	5
FOLLOW UP	1
MEDICAL	15
MESSP	1
SUSPICIOUS	1
THEFT	1
THREAT	1
TRE SPASS	4
UEMV	1
UUMV	2
WARRANT	1
xUNKNOWN	1
Total	40

LIVABILITY TEAM MONTHLY REPORT



PROHIBITED CAMPING ENFORCEMENT

Cumulative statistics from Prohibited Camping enforcement between May 3rd, 2021 and today.



1461

CAMPS
CLEANED



1439

CAMPS
OCCUPANTS



66

CRIMINAL
CHARGES

HAZARDS PRESENT



426

FIRE PIT
/HAZARD
Camps with fire
pits/hazards



459

DRUG
PARAPHERNALIA



567

BIOHAZARD



2212

CUBIC YARDS
GARBAGE
REMOVED

FIRES

Cumulative statistics between May 1st, 2021 and today.

Fires occurring along or adjacent to the Greenway, the freeway, and associated sections of the city. Information provided in this section is provided by Chase Browning with Medford Fire.

Fire calls are identified as either vegetation fires, trash fires, grass fires, brush fires, unauthorized burning or illegal burns, smoke investigations, which are all terms used to refer to fires resulting from human activities such as cooking, camping, incendiary acts, accidents, and undetermined fire causes.



505

ORDINANCE NO. 2458

AN ORDINANCE CREATING TITLE 4, CITY RESPONSES TO HOUSELESSNESS, AND AMENDING BEND MUNICIPAL CODE CHAPTERS 5.55 AND 5.70

Findings:

A. The City of Bend is currently experiencing an increase of unsanctioned camping in public spaces and rights-of-way. With a sheltered population of just over 102,000, Bend has an increasing per capita population of homeless individuals. According to the 2022 Point in Time Count published by the Continuum of Care for Central Oregon, the Homeless Leadership Coalition, at least 785 individuals are homeless in Bend, and at least 1,286 individuals are homeless in Central Oregon. In 2015, there were 594 people counted as homeless in Central Oregon, an increase of over 200% in 7 years. 79% of those counted in 2022 are unsheltered, meaning living in a place not meant for human habitation (i.e., vehicle, outside, on streets or public lands, in abandoned buildings, etc.).

B. The current Bend Municipal Code does not generally ban camping in the right-of-way, although it does regulate erecting structures and obstructing the right-of-way, and does not allow parking in one location for more than three business days at a time. Generally speaking, these code provisions were not designed nor are they adequate to manage the current circumstances of unsheltered homelessness in public places in the City.

C. ORS 195.500 (formerly ORS 203.077) requires cities and counties to develop a policy that recognizes the social nature of the problem of homeless individuals camping on public property and implement the policy as developed, to ensure the most humane treatment for removal of homeless individuals from camping sites on public property.

D. In April 2021, the City Manager adopted, and subsequently updated, an administrative policy (ADM 2021-1) setting out guidelines for how the City will respond to and provide notice of removal to campsites established in the right-of-way.

E. The City recognizes that while a useful tool, the Administrative Policy is a more piecemeal approach applying other existing provisions of the Bend Municipal Code, not drafted directly to regulate camping or sheltering on City rights-of-way. It requires assessment of criteria and, if met, individual camp removal. The policy was not intended to be a long-term solution to meet the City's obligations to manage public places within the City.

F. The City of Bend has entered into an intergovernmental agreement with Deschutes County and the cities of Redmond, Sisters and La Pine to create a collaborative office to address homelessness, through HB 4123 adopted by the Oregon legislature in 2021.

G. As part of its 2022-2023 Council Goals, the City Council adopted a goal for

“Safety, Health, Accountability and Justice” and an action item to revise the Bend Municipal Code to update regulations on camping within the public right-of-way. In 2022, Council directed staff to begin developing a code proposal to regulate camping in the City’s rights-of-way, with reasonable time, place, and manner restrictions, including restrictions on camping on public rights-of-way near established shelter locations. The work on the camping code project began in earnest after the Council adopted amendments to the Bend Development Code in spring 2022; those changes were intended to increase the community’s capacity to establish permitted and managed shelters for people experiencing houselessness.

H. After several months of public meetings, an open house, and roundtable discussions, City staff drafted a new Bend Municipal Code (BMC) Title 4, to include the code regulating camping in the public right-of-way. In drafting Title 4, it was clear to staff that BMC Chapter 5.70, Safe Parking Programs, should be moved from Title 5 to the new Title 4. In recognition that the proposed Title 4 addresses rules for camping and sheltering in City rights-of-way and City property, and that the City does not govern or operate parks in the City, it further became clear that BMC Section 5.55.005 should be amended to remove 5.55.005(A)(3) prohibiting camping in parks and on City property.

I. Public rights-of-way are designed and intended for travel and transportation, and provision of utility services, among other uses. Public rights-of-way are not designed or intended for overnight use in the same way as a recreational camp site. People living in makeshift camps in the right-of-way and in vehicles often lack access to safe and sanitary restrooms and trash receptacles, resulting in unsanitary conditions from improper disposal of human waste and trash.

J. The placement of tents, bedding, and other structures in the right-of-way on or next to paved surfaces and/or between curblines is dangerous to those camping or sleeping, because of the proximity to vehicles and other users of the public roadways. Placement of those items on sidewalks can impede the use of sidewalks and other public ways if six feet of passage is not maintained. The City has a responsibility as the road authority to maintain the streets and sidewalks as safe, passable, and accessible, and to act to avoid death and injury to all users of the rights-of-way, including those without other homes.

K. Campfires, warming fires, cooking fires, outdoor fireplaces outdoor kiln fires and other similar type fires not more than three feet in diameter and approved cooking pits are generally allowed within City limits, pursuant to BMC 5.30.005 and Bend Fire Department’s adopted Burning Regulations, subject to the permission of the property owner. In consultation with the Bend Fire Department, given the dry climate, threat of drought conditions, and purpose of the City roadways, open fires on City-owned property and rights-of-way present a potential danger to the community, year-round. The City’s burning regulations require certain distance be kept between property lines, structures, and open fires, among other requirements. There is not space within the right-of-way to meet the requirements in the City’s burning regulations for distance from structures or to safely operate open flames. The risk to the public from open fires is significant. Electrical cords in the right-of-way pose a related fire and safety hazard. The

Fire Department has noticed electrical cords connecting vehicles and laid within the right-of-way and across travel lanes. Electrical cords are not designed to be driven over and the wiring inside is likely to degrade quickly leading to arcing and a fire potential. The City also recognizes the need to promote the health and safety of people without homes who require a means to stay warm through the winter.

L. Establishing areas around shelter facilities in which camping is prohibited at all hours and all days will assist in mitigating adverse impacts to established shelter programs and individuals engaged in those programs, as well as mitigating adverse impacts to surrounding businesses and other users of the rights-of-way, for the reasons described in Finding M. Around the City's only low-barrier emergency shelter, located at 275 NE 2nd Street, additional restrictions on overnight parking will further assist in mitigating these adverse impacts. The City does not have the enforcement resources to prohibit overnight parking around other shelters or locations at this time and chooses to focus parking restrictions at the only emergency, low-barrier shelter available on a walk-up basis.

M. Shelter providers have communicated with the City that it is difficult for them to run successful programs and support individuals seeking to leave homelessness when people who are not engaged in the program are setting up camps and living in vehicles in the area surrounding the established shelter programs. The City and service providers are likely to see more success in responding to homelessness and helping people find permanent housing if camping and overnight parking are restricted around shelter facilities.

N. Construction or erection of anything, including structures, in the right-of-way is prohibited under BMC 3.40.005, without a permit from the City. Unregulated construction, including erection of structures, in the right-of-way interferes with the intended use of City rights-of-way for travel and transportation, as well as other allowed use of the rights-of-way including provision of utility services. In cases where the City has allowed reservation of the rights-of-way for private uses, including commercial parklets or construction, the City generally requires a responsible party, provision of insurance, traffic control plans, and construction methods and materials designed to protect users from impact from passing vehicles. These protections are not provided when people take shelter on the City rights-of-way in temporary, informal campsites comprised of sleeping bags, tents, or other portable shelters, and the City wishes to continue to prohibit construction of shelters, other than tents or similar structures, in the right-of-way. However, the City Council acknowledges that there is a lack of nightly shelter beds and housing currently available regionally, and recognizes that the systemic lack of state and federal investment in shelter and public health services for those experiencing homelessness has resulted in people taking shelter on City rights-of-way, and that people need at least basic protection from the weather and elements, including in sleeping bags or tents and similar structures. This Ordinance provides a balance between the City's interest in requiring safe, permitted use of the rights-of-way and recognizing that people are likely to continue to seek shelter in the rights-of-way so long as sufficient affordable housing and shelter options are not available in the City.

O. This Ordinance is intended to address health and safety concerns of both the travelling public and individuals residing or camping on City rights-of-way, reduce potential risks of fire, promote a safe environment, eliminate unsanitary conditions and conditions that can impact public health and safety, reduce negative impacts to the environment from hazardous materials including human waste and other pollutants, allocate public resources effectively, and meet legal and humanitarian standards for all people within the City.

P. The City recognizes the social nature of the problem of homelessness that has contributed to individuals locating themselves in the right-of-way and on publicly-owned property and establishing campsites there. This Ordinance is intended to ensure the most humane treatment for removal of homeless individuals from camping sites on public property, as required by ORS 195.500. The City recognizes that people experiencing homelessness need a place to sleep, shelter themselves, and store belongings. The City is committed to the safety and security of all people in the city, including people experiencing homelessness, property owners, and the traveling public, while protecting all people in the city from unsafe and dangerous conditions.

Q. The City finds that limitations on the size and number of campsites that can be set up in City rights-of-way supports the safety of people in the campsites as well as the traveling public and community, by allowing people to shelter together, while limiting larger congregations of people and belongings that in the City's experience has led to more criminal activity and calls for law enforcement services.

R. When the City Manager is considering whether to close an area to camping for up to 14 days after a camp has been removed, as allowed under the Code, the City Manager shall consider whether and to what extent a closure is required to allow for environmental restoration or remediation of contamination by hazardous materials or other dangers to human life or safety. There are constitutional limits on a city's ability to address how public places can be used by people who do not have options for shelter. The Eighth Amendment to the United States Constitution prohibits "cruel and unusual punishment". The Ninth Circuit Court of Appeals has interpreted this prohibition to forbid cities from criminalizing camping in all places, at all times, by those who lack the financial means to pay for adequate shelter unless adequate shelter is available to such person free of charge.

S. This Ordinance does not criminalize or otherwise subject an individual to citation for the acts of sitting, lying, sleeping, or keeping warm and dry on public property, as prohibited by the Ninth Circuit in the *Martin v. City of Boise* case and *Johnson v. City of Grants Pass* case. Instead, this ordinance establishes reasonable time, place, and manner regulations that balance the rights of people without shelter to use some public places to meet basic needs with the City's obligation to manage public spaces to meet their intended uses and to maintain health and safety for everyone in Bend.

T. This Ordinance sets forth when and how the City may remove established campsites in the right-of-way and establishes objectively reasonable regulations on sleeping and keeping warm and dry, in compliance with HB 3115 (2019).

U. The proposed ordinance and camping code are the product of a lengthy public process that has involved time and attention of Council since June of 2022. The City has been open to community feedback throughout the process, and made both the original and revised drafts of the code available for public consumption. The Council continued to provide feedback on the draft code through October and November. The camping code has been on the Council agenda at every meeting since June 15th, other than October 19th. The City held Informational Open House Question and Answer sessions on the upcoming camping code at a noticed public meetings on August 16 and August 29, 2022, focused on educating the community about federal and state laws regarding management of public places and homelessness. The City Council held two Roundtable meetings on September 27 and September 29, 2022, with advisory bodies, business representatives, service providers, and people who have or are experiencing homelessness. These were intended to engage stakeholders and experts in reviewing the first draft of the camping code. Council held a special meeting on October 27, 2022 on time, place and manner regulations. Council held a public hearing to receive additional public input on the proposed code on November 17, 2022.

V. In addition, the City developed a website on the camping code with Frequently Asked Questions, a Camping Code Quick Reference, a Camping Code Information Sheet, links to all meetings with video recordings, and other resources and materials. Council has given an update on homelessness, including the camping code, during the Good of the Order at almost every meeting during this time.

W. This ordinance will be effective in normal course, 30 days after its second reading. However, the City Council recognizes that the ordinance will implement a new system of regulations that will impact people experiencing homelessness, and desires an interim period where the Deschutes County Coordinated Homeless Response Office, Deschutes County Behavioral Health, service providers, and City staff can engage with homeless community members to inform them of the new regulations. Although the ordinance will be effective in normal course, the Council desires that enforcement not begin before March 1, 2023. The City's administrative policy will remain in place until enforcement begins, but will eventually be repealed and replaced with a policy designed to implement the new ordinance.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Bend Code Title 4 is created as shown on the attached Exhibit A.

Section 2. Bend Code Chapters 5.55 and 5.70 are amended as shown on the attached Exhibits B and C.

Section 3. All other provisions of Bend Municipal Code remain unchanged and in full effect.

Section 4. If any provision, section, phrase or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

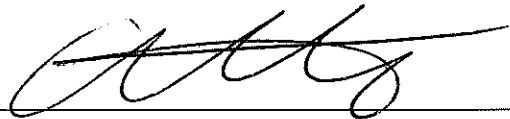
Section 5. This ordinance takes effect 30 days after its second reading. However, the City does not intend to begin enforcement of the ordinance earlier than March 1, 2023, for the reasons outlined in finding W, above.

First reading: November 16, 2022

Second reading and adoption by roll call vote: December 7, 2022

YES: Councilor Anthony Broadman
Councilor Melanie Kebler
Councilor Megan Perkins
Councilor Stephen Sehgal

NO: Councilor Barb Campbell



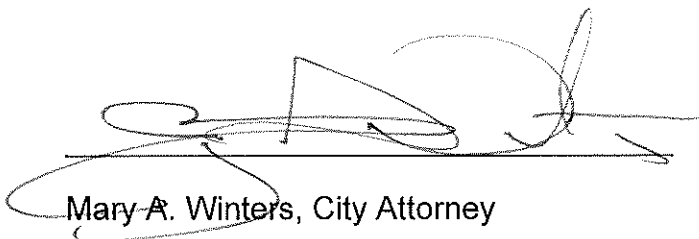
Anthony Broadman, Mayor Pro Tem

ATTEST:



Robyn Christie, City Recorder

Approved as to Form:



Mary A. Winters, City Attorney

Title 4

CITY RESPONSES TO HOUSELESSNESS

Chapter 4.05 HOUSELESSNESS RESPONSE POLICY

4.05.010 Findings and Purpose

A. The City of Bend finds that each community member of Bend is entitled to a basic level of dignity, respect, and wellness, regardless of whether they are housed or unhoused. It is the official policy of the City that its responses to homelessness will be undertaken in accordance with these principles.

B. It is the policy of the City of Bend to utilize all existing and potential sources of funding that are made available from the federal and state governments for the provision of services and shelter for homeless individuals.

C. The intent of the City Council is to regulate camping and survival sheltering in public right-of-way only in the context of the work that has been done by the City and will continue to occur at the City and regional level, and the City remains committed to a comprehensive houselessness policy, including through a Camping Resolution Strategy.

D. As its regional efforts continue, the City must appropriately consider various interests and formulate policy to best protect public health, safety, welfare, property, and the environment, with limited resources.

E. The City Council acknowledges the lack of nightly shelter beds and housing currently available regionally and recognizes the systemic lack of state and federal investment in shelter and public health services for those experiencing homelessness.

F. The City Council acknowledges that it is currently unavoidable that some people will live or shelter for survival outdoors until they are able to access affordable or free shelter or housing. In Bend, this has typically meant sheltering, sometimes for extended periods of time, on City rights-of-way and City property, and at times on other agency property (such as ODOT).

G. Public rights-of-way are generally intended for public use and travel. The City Council is the road authority for rights-of-way within the City; as such, the City must consider the safety of motorists and pedestrians travelling on roadways and sidewalks, including to and from neighboring properties, businesses, and residences. The City has had increasing concerns regarding safety due to camping on or in rights-of way in or near streets, roads, sidewalks, and public access points.

H. Over the long term and working with the Deschutes County Coordinated Homeless Response Office, the City's goal is that people should not have to live outside

and there should be safer options because long-term camping for survival sheltering outside is not a solution for people without houses.

I. The City owns extremely limited property where camping can or should be allowed, particularly since the City does not own or manage parks in the City. City utility properties (stormwater, water, sewer) are sensitive and generally closed to the public or have limited access for safety, environmental and security reasons.

J. It is the purpose and intent of the City Council to provide standards for camping and survival sheltering on City rights-of-way, which are intended to be as compatible as possible with the needs of everyone in Bend to be healthy, safe, and have access to public places. Smaller sites support the safety of people who are camping for survival on public property.

K. It is the purpose and intent of the City Council to provide standards for camping and survival sheltering on City rights-of-way which will address issues such as fire risk, unsanitary conditions, trash, and public safety hazards to people camping and neighboring businesses and community members, and environmental degradation, which have occurred with longer-term camping in the City.

L. It is the intent of the City to evaluate each removal of a campsite in light of the criteria in Chapter 4.20 and with considerations of public health and safety, including for the people who are sheltering in the camps, potential user conflicts, and available resources. The City will use a team approach and coordinate with the Deschutes County Coordinated Homeless Response Office as appropriate.

M. When the City of Bend removes a camp or closes a location people are sheltering in the public right-of-way, it will provide a minimum 72-hour notice to everyone that would be affected by the move, except in cases of exceptional emergency or criminal activity, as allowed by state law and set forth in this Title. The City looks for the safest options for cleaning the camp, often hiring a contract company that uses best practices and safe collection and works with service providers and the regional office for trauma informed care and minimizing harm. Unless there is a public health or safety reason for emergency removal, service providers or other community resources will be notified in advance to be on hand for support and outreach ahead of time, consistent with State law.

Chapter ~~5.704.10~~

SAFE PARKING PROGRAMS

Sections:

4.10.0105.70.005	Purpose and Scope-
4.10.0105.70.010	Overnight Camping
4.10.0205.70.015	Transitional Overnight Parking Accommodations-
4.10.0255.70.020	Enforcement-

4.10.0105.70.005 Purpose and Scope.

A. Notwithstanding any other provision of this code or the Bend Development Code, up to three vehicles may be used by people who lack access to permanent or safe shelter and who cannot obtain other low-income housing for overnight camping in a parking lot or paved or gravel surface of a parcel of any size owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable.

B. A property owner or lessee who allows overnight camping on a property pursuant to this section shall:

1. Provide persons camping overnight with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all times people are authorized to be present for overnight camping; and
2. Not require payment of any fee, rent or other monetary charge for overnight camping authorized by this section.

C. A property owner who permits overnight camping pursuant to this section may revoke that permission at any time and for any reason. Any person who has permission to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.

D. The provisions of this section are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. [Ord. NS-2402, 2021]

4.10.0155.70.010 Overnight Camping

A. Notwithstanding any other provision of this code or the Bend Development Code, up to three vehicles may be used by people who lack access to permanent or safe shelter and who cannot obtain other low-income housing for overnight camping in a parking lot, or paved or gravel surface of a parcel of any size owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable.

B. A property owner or lessee who allows overnight camping on a property pursuant to this section shall:

1. Provide persons camping overnight with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all times people are authorized to be present for overnight camping; and
2. Not require payment of any fee, rent or other monetary charge for overnight camping authorized by this section.

C. A property owner who permits overnight camping pursuant to this section may revoke that permission at any time and for any reason. Any person who has permission

to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.

D. The provisions of this section are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. [Ord. NS-2402, 2021]

4.10.0205.70.015 Transitional Overnight Parking Accommodations.

A. With authorization from the City, up to six vehicles and/or tents may be used for overnight accommodation of people who lack permanent or safe shelter and who cannot obtain other low-income housing in a parking lot, or paved or gravel surface of property owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable, as temporary transitional overnight parking accommodations. A public entity may allow more than six vehicles and/or tents on property owned or leased by the public entity, with a plan approved by the City, based on the size of the parcel, supervision plan, and sanitation plan proposed by the public entity. Temporary transitional overnight parking accommodations must be located at least 150 feet from a childcare facility or school, unless the parking accommodations are located on property owned or leased by a public entity or religious institution.

B. These temporary transitional overnight parking accommodations are intended to be used by individuals, families, or households on a limited basis for seasonal, emergency or transitional housing purposes. The transitional overnight parking accommodations may provide parking facilities, walkways and access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities. Any sanitation or other facilities added to the location for temporary transitional overnight parking accommodation must be temporary and removable.

C. Temporary transitional overnight parking accommodations must, at a minimum:

1. Apply for and receive authorization for operation from the City Manager or designee, and agree to abide by all conditions, including acceptance of liability and demonstration of insurance coverage in amounts acceptable to the City. City authorization is not a land use decision;
2. Provide access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all hours, people are authorized to be present for overnight parking, including the additional hours campers may stay at the site;
3. Provide supervision, case management, or supportive services. Supervision must include at a minimum nightly contact with each camper;
4. Develop policies that set out how individuals who may stay at the site will be selected, number of continuous days that someone may stay at the site, hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m.,

what supervision will be provided, and what structures and other items may be placed on the site;

5. Not require payment of any fee, rent, or other monetary charge for temporary transitional housing accommodation; and

6. Prior to allowing any person to stay overnight as part of a temporary transitional overnight parking accommodation, provide notice of the intention to allow temporary transitional overnight parking to each property owner and occupant of each adjacent property, and, every night any person stays overnight, post a notice at a prominent location on the site. These notices must include the following information:

a. The name of the property owner or lessee and person or entity providing site supervision, and a telephone number where the entity or individual providing supervision may be contacted;

b. The number of approved vehicles and/or tents; and

c. The hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m.

D. Property owners who allow temporary transitional overnight parking under this section may revoke permission for program operation at any time and for any reason. Any person who is on property for temporary transitional overnight parking accommodations under this section must leave the property immediately after permission has been revoked.

E. The provisions of this section for temporary transitional overnight parking are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. [Ord. NS-2402, 2021]

4.10.0255.70.020 Enforcement.

A. Notwithstanding any other provision of this section, the City Manager or designee may:

1. Revoke authorization for temporary transitional overnight parking for violations of the requirements of this chapter;

2. Prohibit overnight camping or temporary transitional overnight parking on a property if the City finds that any activity related to the overnight camping or temporary transitional overnight parking on that property constitutes a nuisance or other threat to the public welfare; or

3. Revoke permission for a person to camp overnight, whether in a temporary transitional overnight parking accommodation or not, on City-owned property if the City has a reasonable suspicion that the person has violated any

applicable law, ordinance, rule, guideline or agreement, or that the activity constitutes a nuisance or other threat to the public welfare.

B. No activity associated with overnight camping or temporary transitional overnight parking is allowed to occur that constitutes a nuisance or other threat to the public welfare.

C. Violation of the provisions of this chapter is a Class A infraction each day a violation occurs.

D. The City Manager may adopt administrative rules in the manner provided in BC [1.30.005](#) to implement this section.

E. Nothing in this section of this code creates any duty on the part of the City or its agents to ensure the protection of persons or property with regard to permitted overnight camping or temporary transitional overnight parking accommodations. [Ord. NS-2402, 2021]

Chapter 4.20

USE OF PUBLIC RIGHTS-OF-WAY AND CITY PROPERTY FOR CAMPING

Sections:

4.20.010	Purpose and Scope.
4.20.015	Definitions
4.20.020	Camping Prohibited
4.20.025	Enforcement.
4.20.030	Time, Place and Manner Regulation
4.20.035	Vehicles
4.20.040	Violations

4.20.010 Purpose

This Chapter is intended to balance and prioritize several interests: recognition of the essential human dignity of everyone in the City of Bend; the need to have safe and orderly conditions in City rights-of-way for the safety and benefit of everyone in Bend; the right of everyone in Bend to have shelter for sleep and safety; and respect for public spaces and public property in service to the entire community.

With this in mind, this Chapter is intended to regulate the use of public rights-of-way and City property to protect and preserve public places for their designed and intended purposes, while also making them available for shelter and sleeping by people who have no other options for shelter.

The City recognizes that surviving on City streets is typically an option of last resort. This Chapter and the City's enforcement efforts will be focused on mitigating the impacts to public health and safety that can arise from survival camping in public places.

4.20.015 Definitions

A. To "camp" or the act of "camping" means to pitch, use, or occupy camp materials or a camp for the purpose of occupancy, habitation, or sheltering for survival, and in such a way as will facilitate sleeping or storage of personal belongings, carrying on cooking activities, taking measures to keep protected from the elements including heat and cold, or any of these activities in combination with one another or in combination with either sleeping or making preparations to sleep. A "camp" is a location where people camp or are camping.

B. "Camp materials" may include, but are not limited to, tents, huts, awnings, lean-tos, chairs, tarps or tarpaulins, cots, beds, sleeping bags, blankets, mattresses, sleeping or bedding materials, food or food storage items, and/or similar items that are or appear to be used as living and/or sleeping accommodations, or to assist with living and/or sleeping activities.

C. "Established campsite" means a location or locations in the public right-of-way or on City property where a camp, camps, and/or camp materials have been set up for 24-hours or more.

Note: "camp" "camping" "camp materials" and "established campsite" do not include vehicles, automobiles, or recreational vehicles used for shelter and/or sleeping, which are regulated at Section 4.20.025 of this Chapter.

D. "City parking lot or parking structure" is a type of City property, and means a developed or undeveloped area or facility owned, maintained, and/or leased by the City that is designated and/or used for parking vehicles.

E. "Public rights-of-way" means all City-owned or controlled rights-of-way, whether in fee title or as holder of a public easement for right-of-way or public access purposes. Public rights-of-way include but are not limited to any public road, street, sidewalk, or private street or other property that is subject to a public access easement dedicated or granted to the City for vehicular, pedestrian, or other means, and any planter strip or landscaped area located adjacent to or contained within streets that is part of the public right-of-way.

F. "City property" includes all real property, land and public facilities owned, leased (either to the City or by the City), controlled, or managed by the City of Bend including City parking lots or parking structures, but excluding City owned or managed rights-of-way.

4.20.020 Camping Prohibited on City Property

It is prohibited at all times for any person to use City property to camp or for camping or for the purpose of occupancy, habitation, or sheltering for survival in vehicles, automobiles, or recreational vehicles, provided that the City Manager may, in their discretion, designate certain City properties or portions of properties as areas where camping or using vehicles for sheltering and/or sleeping may be allowed on a limited

basis, and may set the terms and conditions of any camping or vehicle use that may be allowed. Any use of City property will follow the applicable processes, including, where applicable, the Bend Development and/or Municipal Code.

4.20.025 Enforcement

A. The City Manager is specifically authorized to modify or suspend enforcement of any section or element of this Chapter in the event of a declared emergency, pursuant to administrative rules or policies, weather conditions (including but not limited to extreme heat or cold), or for any other reason within the City Manager's authority, regardless of whether an emergency has been declared.

B. The City Manager may adopt administrative rules or policies governing or guiding enforcement of this Chapter, including but not limited to ensuring consistent and appropriate enforcement for various circumstances.

C. Enforcement should be tailored for various circumstances, including but not limited to situations where a person has a disability under the Americans with Disabilities Act, where minor children are present or otherwise involved, where a person has employment obligations that may relate to their ability to comply with the code, or for other reasons that may support discretion in enforcement.

D. Methods of enforcement for violations of this Chapter are not exclusive and may consist of multiple enforcement mechanisms where legally authorized and appropriate. However, the intent of the City is to always resolve violations at the lowest possible level, and to engage to seek compliance and solve problems while maintaining the dignity of all involved. To that end, violations of this Chapter should only result in citations when other means of achieving compliance have been unsuccessful, or are not practicable for the particular situation.

4.20.030 Time, Place and Manner Regulations

A. People who do not have any other permanent residence or domicile and/or are involuntarily homeless are not prohibited from camping in the public rights-of-way, provided camping is occurring in compliance with the following time, place and manner regulations.

B. Time

1. Unless otherwise specified, any camping or camp, where allowed, may only occur for 24-hours at a time in any one location. After a camp has been in one place for 24-hours or more, the City may post notice at the location that the camp, and all associated camp materials, must be removed no more than 72-hours later and all personal property remaining will be removed, as described in Section 4.20.030.

2. After 24-hours in one location, the camp and all associated camp materials must be moved at least one block or 600 feet.

3. Enforcement of time restrictions may be suspended when an individual does not have access to shelter and when an individual is engaged in case management or behavioral health services, or when necessary or appropriate to respond to an individual's disability, as further set forth in the City's comprehensive administrative policy implementing this Chapter, adopted by the City Manager.

C. Place.

1. In addition to the prohibition on camping on City property in Section 4.20.020, camping is not allowed at any time in any of the following places:

a. Any area zoned Residential (RL, RS, RM, RH) on the City of Bend Zoning Map in effect at the time.¹

b. Within the Waterway Overlay Zone, as determined by the City of Bend Zoning Map and Bend Development Code.

c. Any place where camping, a camp, or camp materials create a physical impediment to emergency or non-emergency ingress, egress or access to property, whether private or public, or on public sidewalks or other public rights-of-way, including but not limited to driveways providing access to vehicles, and entrances or exits from buildings and/or other real property.

d. Any vehicle lane, bicycle lane, or roundabout within any public right-of-way.

e. Within 1000 feet from any Safe Parking Site or shelter approved under the Bend Development Code and/or any applicable provision of state law.

f. On any street or public right-of-way, the City has closed to camping due to construction, heavy vehicle use, or other use of the roadway that is incompatible with camping in the right-of-way. The City does not need to close a street to vehicle traffic to close a street to camping under this section.

D. Manner

1. Camping, when and where allowed, is subject to all of the following:

a. Individuals, camp materials, camps, or personal property may not obstruct sidewalk accessibility or passage, clear vision, fire hydrants, City

¹ Zone changes amend the City of Bend Zoning Map but may not always be evident on the most recently published version of the map. The formal zoning designation of an area will control even if not reflected on the most recently published map. For public rights-of-way adjacent to properties with different zoning designations, the designation that is more restrictive for purposes of this Chapter will govern the use of that segment of the right-of-way.

or other public utility infrastructure, or otherwise interfere with the use of the right-of-way for vehicular, pedestrian, bicycle, or other passage.

b. A camp or camping must be limited within a spatial footprint of 12 feet by 12 feet, or 144 square feet. The intent of this section is to allow a person to sleep protected from the elements and maintain the essentials for living, while still allowing others to use public spaces as designed and intended.

c. To prevent larger camping sites from forming and the impacts that can result, no more than three camps may be set up per block. If there are any camps set up on a particular block, no other camp may be within 150 feet of any of those camps, including but not limited to across the street or on another block face. A group of up to three camps may not be within 150 feet of any other group of camps.

d. Individuals may not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility in public rights-of-way, on City property, or on any adjacent public or private property.

e. Open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, or heating deemed unsafe by Bend Fire and Rescue are prohibited. Types of cooking stoves and other devices for keeping warm are permitted, as allowed by adopted City policies.

f. Dumping of gray water (i.e., wastewater from baths, sinks, and the like) or black water (i.e., sewage) into any facilities or places not intended for gray water or black water disposal is prohibited. This includes but is not limited to storm drains, which are not intended for disposal of gray water or black water.

g. Unauthorized connections or taps to electrical or other utilities, or violations of Building, Fire, or other relevant codes or standards, are prohibited.

h. Obstruction or attachment of camp materials or personal property to fire hydrants, utility poles or other utility or public infrastructure, fences, trees, vegetation, vehicles, or buildings is prohibited.

i. Individuals may not build or erect structures, whether by using plywood, wood materials, pallets, or other materials. Items such as tents and similar items used for shelter that are readily portable are not structures for purposes of this section.

j. Storage of personal property such as vehicle tires, bicycles or associated components (except as needed for an individual's personal use), gasoline, generators, lumber, household furniture, extra propane

tanks, combustible material, lumber, or other items or materials, is prohibited, other than what is related to camping, sleeping, or keeping warm and dry.

k. Digging, excavation, terracing of soil, alteration of ground or infrastructure, or damage to vegetation or trees is prohibited.

l. Use of emergency power generators that result in a violation of BMC 5.50.020.A. is prohibited.

m. All animals must be leashed or crated at all times.

4.20.035 Vehicles

A. Chapter 6.20 of the Bend Municipal Code governs where and for how long individuals may legally park vehicles on public rights-of-way within the City of Bend. Those standards are applicable to all individuals, including those who use vehicles for shelter and/or sleeping on public rights-of-way in the City.

B. Individuals may use vehicles for shelter and/or sleeping on public rights-of-way under the following circumstances:

1. The vehicle is legally parked in compliance with the Bend Municipal Code and any applicable policies.

2. Open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, and/or heating deemed unsafe by Bend Fire and Rescue are prohibited in, on, or around vehicles. Types of cooking stoves and other devices for keeping warm are permitted, as allowed by adopted City policies.

3. Dumping of gray water (i.e., wastewater from baths, sinks, and the like) or black water (i.e., sewage) into any facilities or places not intended for gray water or black water disposal is prohibited. This includes but is not limited to storm drains, which are not intended for disposal of gray water or black water.

4. Storage of material outside vehicles is prohibited, other than what is incidental to activities such as short-term loading or unloading a vehicle.

5. Vehicles must be operational, i.e., capable of being started and driven under their own power, or ready to be towed if designed to be towed and may not be discarded or left inoperable in public rights-of-way or on City property.

6. No building or erecting of any structures connecting or attaching to vehicles is permitted, including tents that are not designed and manufactured to be attached to a vehicle.

7. Persons may not accumulate, discard or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility in public rights-of way, on City property, or on any adjacent public or private property.

8. Use of emergency power generators that result in a violation of BC 5.50.020.A., is prohibited.

9. All animals must be leashed or crated at all times.

C. Notwithstanding Bend Municipal Code 6.20 or any other applicable rules or policies governing parking on public rights-of-way, under no circumstances may anyone use a vehicle for shelter and/or sleeping:

1. Within 500 feet of any Safe Parking Site or shelter approved under the Bend Development Code and/or any applicable provision of state law.

2. Within 1000 feet of the City's emergency shelter at 275 NE 2nd Street, but bound by the geographic barriers of the US-97/Parkway to the west and 3rd Street to the east, generally described as follows:

- NE 2nd Street between NE Burnside Ave and NE Franklin Ave;
- NE Emerson Ave from its western terminus east of US-97/Parkway to NE 3rd Street;
- NE Dekalb Ave from its western terminus east of US-97/Parkway to NE 3rd Street;
- NE Burnside Ave from NE 2nd Street to NE 3rd Street;
- SE Scott Street from the US-97/Parkway overpass to SE 3rd Street; and
- SE Aune Street from the US-97/Parkway overpass to SE Scott Street.

2. In any City parking lots or parking structures.

D. Enforcement of violations of this section will be in accordance with applicable state law and City ordinances and policies, including laws, ordinances, and policies governing towing and impounding of vehicles.

4.20.040 Violations

A. A citation for a violation of this Chapter will be for a Class C civil infraction. Citations will be issued only when other means of achieving compliance have been unsuccessful or are not practicable for the particular situation.

B. Before a civil infraction citation is issued, the enforcement personnel will contact the person and provide a reasonable opportunity to cure or remedy the alleged violation. In most cases, enforcement personnel will assess whether the person subject to citation has been referred to service providers and/or the Deschutes County Coordinated Homeless Response Office, and make a referral if it appears none has

been made. The following will be communicated to the person in a manner designed to help them understand the issue or problem:

1. A description or identification of the activity constituting the alleged violation and identification of the recipient as being the person responsible for the violation;
2. A written or verbal statement that the enforcement personnel has determined the activity to be a violation;
3. A written or verbal statement of the action required to fix the violation and the time and/or date by which the violation must be fixed; and
4. A written or verbal statement advising that if the violation is not fixed within the time specified, a citation will be issued and that a civil penalty in the maximum amount provided for the particular infraction may be imposed.

C. A violation of this Chapter may result in the removal and/or clean-up of the camp or camps, camp material, or other personal property that are creating or contributing to the violation(s), typically after a request for voluntary compliance has been made as described in Section B, above, except in the case of an exceptional emergency, such as possible site contamination by hazardous materials or when there is danger to human life or safety or illegal activities, where removal can be immediate or be accomplished more quickly, depending on the severity of the situation. Any camp, camp materials, or personal property in violation of any of the standards in this Chapter may be removed or cleaned-up by the City or its designated contractors, subject to the requirements of storage of personal property and notice of storage described in Section E, below. Camps in violation will generally be prioritized for removal or clean-up based on factors such as risks and negative impacts to public health and safety and repeated violations of this chapter. A camp may be subject to removal or citation, or both.

D. Upon a determination by enforcement personnel that a camp or camping is occurring in violation of this Chapter, an established campsite may be removed pursuant to the following procedures:

1. Prior to removing an established campsite on public rights-of-way or City property, at least 72-hours in advance, except in the case of exceptional emergency or criminal activity, the City must post notice at the location that the campsite must move and all personal property remaining will be removed and must inform local agencies that deliver services to homeless individuals where the notice has been posted that such notice has been posted, including the Deschutes County Coordinated Homeless Response Office.
2. A campsite may be removed for violation of this chapter without posting a 72-hour notice:
 - a. When there are grounds for law enforcement officials to believe that illegal activity, other than camping, is occurring on the campsite or in the

immediate vicinity of the campsite, or the property that comprises the campsite is being used or is intended to be used to commit or facilitate the commission of otherwise illegal activity; or In the event of an exceptional emergency, such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety. If the danger to human life or safety can be reduced by moving the established campsite to a safer location, such as an adjacent landscape strip, the campsite should be moved rather than removed.

3. Once the 72-hour notice has been posted, the City may act on the notice and remove the campsite beginning 72 hours after posting and for up to ten (10) days following the posting.

4. After a camp has been removed subject to a 72-hour notice or under circumstances when no advance notice is required, the camp and all associated camp facilities must be moved at least one block or 600 feet, whichever is greater, and the City may order that no camp be set up in that same location or a 100-foot radius for up to 14 days. The City will post signs informing the public that camping is prohibited at the location.

5. When removing individuals and property from an established campsite, personnel will make reasonable efforts to remove individuals without the use of force, arrest, or citation. No person may be arrested or cited for failing to move under this Chapter prior to being asked by City personnel to move.

6. When removing personal property, the City will make reasonable efforts to determine if the property belongs to an individual and has any apparent utility. The City will make reasonable efforts to identify which established campsite property was removed from, to aid in connecting people with their property. Items that are perishable, or that have no apparent use, or that are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, discarded, and need not be stored.

7. Weapons, drug paraphernalia, or other contraband, and items that appear to be either stolen or evidence of a crime, shall be given to law enforcement officials. Items that appear to have a value of \$1,000 or more shall be given to law enforcement officials for storage and safekeeping, and shall be made available as described in Section E., below.

8. Following removal of personal property from the right-of-way, the City must post a notice at or as near as possible to the location the property was collected, stating where the personal property is being stored, and listing the phone number and hours a person claiming ownership can collect or make arrangements to collect their personal property.

E. Personal property or camp materials may be removed from City rights-of-way, City property, or a camp or campsite if in violation of the provisions of this Chapter. Advance notice and an opportunity to cure will be provided in most cases.

F. Personal property removed from City rights-of-way or City property and unclaimed at the time of removal will be stored by the City for a minimum of thirty (30) days, or the duration required by law at the time of the removal.

1. Items that are perishable, that have no apparent use, are not identifiable as belonging to an individual, or that are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, discarded, and will not be stored. Property discarded, dumped, or otherwise abandoned in the City rights-of-way may be immediately discarded.

2. The City will store personal property at or near one of the City business campuses, where people can reasonably retrieve belongings.

3. The City will make reasonable efforts to provide a range of times the storage location will be available for people to collect their personal property. The City may dispose of any personal property that remains unclaimed after thirty (30) days, or such duration as required or allowed by law.

Chapter 5.55

PARKS

Sections:

- 5.55.000 Definitions.
- 5.55.005 Violations.

5.55.000 Definitions.

For purposes of this chapter, the following mean:

- A. **Public parks** means all property owned or controlled by the City or by the Bend Metropolitan Park and Recreation District and operated for the public's recreational use.
- B. **Person** means a person, firm, or corporation, not including City or Bend Metropolitan Park and Recreation District personnel or their agents. [Ord. NS-2142, 2010]

5.55.005 Violations.

- A. Persons using public parks and other City property shall obey the following rules and regulations:

1. No unauthorized person shall cut, remove or damage vegetation except property owners may engage in normal landscaping activities in adjacent rights-of-way.
2. No person shall build a fire. Portable propane camp stoves and propane barbecues may be used in the parks only if in safe operating condition and only if operated in a safe manner and in such a way as to avoid damage to park property.

~~3. No person shall camp except in areas designated for camping or in connection with activities authorized by the City or the District.~~

4. No person shall damage or injure a building, installation, equipment or other property in public parks.
5. No person shall sell merchandise or services, or operate a concession in public parks without permission of the Bend Metropolitan Park and Recreation District and shall possess, on their person, evidence of the permission.

6. No person shall litter in the parks or City-owned property. Garbage and refuse shall be deposited in proper receptacles provided for this purpose or carried off for disposal. Garbage and refuse shall not be brought to parks or City-owned property.
7. No person shall operate or park a motor vehicle except on roads or designated parking areas unless a special permit has been issued by the Park District.
8. Except as authorized by the Park District, no person shall ride or lead a horse in a public park except on a designated bridle path, except with a special permit. Horses or other animals shall not be tied to a tree or shrub in such a manner as to cause damage to the tree or shrub.
9. No person shall project items into the air that may harm parks or people, such as golf equipment, archery equipment, discus, javelin, or shot put in parks except as permitted by the Park District.
10. Except as authorized by the Oregon Department of Fish and Wildlife or the Bend Metropolitan Park and Recreation District, no person shall feed, hunt, pursue, trap, kill, injure or disturb the habitat of a bird or animal.
11. Except as authorized by State or Federal law, no person shall possess a loaded firearm in a park.
12. No person shall dig up, deface or remove dirt, stones, rock or other substances nor make any excavation.
13. No person shall erect signs, markers or instructions without City or District permission.
14. No person shall wash clothing or materials or clean fish in streams or pools.
15. No one may use any rolling device such as a bicycle, skateboard, scooter, inline skates, etc., in a manner that is likely to cause potential harm to other people, pets, wildlife or District property; or on sports fields, playgrounds, tennis courts, off-leash areas or in areas reserved for special events. This does not prohibit the use of rolling devices in designated areas.
16. All public parks and adjacent parking lots, with the exception of Brandis Square, shall be open from 5:00 a.m. until 10:00 p.m. and closed from 10:00 p.m. until 5:00 a.m. unless otherwise authorized. Transitory use shall be exempt.
17. Alcohol use in parks is prohibited except when allowed by a permit issued by the Park District and/or the Bend Police Department. The fee for an alcohol consumption permit when issued by the Bend Police Department shall be set by Council resolution. The permit must be available for inspection during the term of use.

B. A violation of this section is a Class B civil infraction. [Ord. NS-2142, 2010]

The Bend Code is current through Ordinance NS-2453, passed August 17, 2022.

Disclaimer: The city recorder's office has the official version of the Bend Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.bendoregon.gov](http://www.bendoregon.gov)

[Code Publishing Company](#)

~~Chapter 5.70~~

~~SAFE PARKING PROGRAMS~~

~~Sections:~~

~~5.70.005 — Purpose and Scope.~~

~~5.70.010 — Overnight Camping.~~

~~5.70.015 — Transitional Overnight Parking Accommodations.~~

~~5.70.020 — Enforcement.~~

~~5.70.005 — Purpose and Scope.~~

~~A. Safe parking, provided through overnight camping and transitional overnight parking accommodations described in this chapter, is intended to be used by individuals, families, or households who lack permanent or safe shelter and who cannot obtain other low-income housing on a limited basis for seasonal, emergency or transitional shelter purposes.~~

~~B. For purposes of this chapter, the term “vehicle” includes a car, camper, trailer, or recreational vehicle, and “tent” includes fabric structures, hard-shelled huts (so-called Conestoga hut or similar), or similar movable structure. All vehicles must be operable and movable, either by their own power or towing if designed to be towed. [Ord. NS-2402, 2021]~~

~~5.70.010 — Overnight Camping.~~

~~A. Notwithstanding any other provision of this code or the Bend Development Code, up to three vehicles may be used by people who lack access to permanent or safe shelter and who cannot obtain other low-income housing for overnight camping in a parking lot, or paved or gravel surface of a parcel of any size owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable.~~

~~B. A property owner or lessee who allows overnight camping on a property pursuant to this section shall:~~

~~1. Provide persons camping overnight with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all times people are authorized to be present for overnight camping; and~~

~~2. Not require payment of any fee, rent or other monetary charge for overnight camping authorized by this section.~~

~~C. A property owner who permits overnight camping pursuant to this section may revoke that permission at any time and for any reason. Any person who has permission to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.~~

~~D. The provisions of this section are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. [Ord. NS 2402, 2021]~~

~~5.70.015 Transitional Overnight Parking Accommodations.~~

~~A. With authorization from the City, up to six vehicles and/or tents may be used for overnight accommodation of people who lack permanent or safe shelter and who cannot obtain other low income housing in a parking lot, or paved or gravel surface of property owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable, as temporary transitional overnight parking accommodations. A public entity may allow more than six vehicles and/or tents on property owned or leased by the public entity, with a plan approved by the City, based on the size of the parcel, supervision plan, and sanitation plan proposed by the public entity. Temporary transitional overnight parking accommodations must be located at least 150 feet from a child care facility or school, unless the parking accommodations are located on property owned or leased by a public entity or religious institution.~~

~~B. These temporary transitional overnight parking accommodations are intended to be used by individuals, families, or households on a limited basis for seasonal, emergency or transitional housing purposes. The transitional overnight parking accommodations may provide parking facilities, walkways and access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities. Any sanitation or other facilities added to the location for temporary transitional overnight parking accommodation must be temporary and removable.~~

~~C. Temporary transitional overnight parking accommodations must, at a minimum:~~

- ~~1. Apply for and receive authorization for operation from the City Manager or designee, and agree to abide by all conditions, including acceptance of liability and demonstration of insurance coverage in amounts acceptable to the City. City authorization is not a land use decision;~~
- ~~2. Provide access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all hours people are authorized to be present for overnight parking, including the additional hours campers may stay at the site;~~
- ~~3. Provide supervision, case management, or supportive services. Supervision must include at a minimum nightly contact with each camper;~~
- ~~4. Develop policies that set out how individuals who may stay at the site will be selected, number of continuous days that someone may stay at the site, hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m., what supervision will be provided, and what structures and other items may be placed on the site;~~
- ~~5. Not require payment of any fee, rent, or other monetary charge for temporary transitional housing accommodation; and~~
- ~~6. Prior to allowing any person to stay overnight as part of a temporary transitional overnight parking accommodation, provide notice of the intention to allow temporary transitional overnight parking to each property owner and occupant of each adjacent property, and, every night any person stays overnight, post a notice at a prominent location on the site. These notices must include the following information:~~

~~a. The name of the property owner or lessee and person or entity providing site supervision, and a telephone number where the entity or individual providing supervision may be contacted;~~

~~b. The number of approved vehicles and/or tents; and~~

~~c. The hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m.~~

~~D. Property owners who allow temporary transitional overnight parking under this section may revoke permission for program operation at any time and for any reason. Any person who is on property for temporary transitional overnight parking accommodations under this section must leave the property immediately after permission has been revoked.~~

~~E. The provisions of this section for temporary transitional overnight parking are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. {Ord. NS 2402, 2021}~~

~~5.70.020 — Enforcement.~~

~~A. Notwithstanding any other provision of this section, the City Manager or designee may:~~

~~1. Revoke authorization for temporary transitional overnight parking for violations of the requirements of this chapter;~~

~~2. Prohibit overnight camping or temporary transitional overnight parking on a property if the City finds that any activity related to the overnight camping or temporary transitional overnight parking on that property constitutes a nuisance or other threat to the public welfare; or~~

~~3. Revoke permission for a person to camp overnight, whether in a temporary transitional overnight parking accommodation or not, on City owned property if the City has a reasonable suspicion that the person has violated any applicable law, ordinance, rule, guideline or agreement, or that the activity constitutes a nuisance or other threat to the public welfare.~~

~~B. No activity associated with overnight camping or temporary transitional overnight parking is allowed to occur that constitutes a nuisance or other threat to the public welfare.~~

~~C. Violation of the provisions of this chapter is a Class A infraction each day a violation occurs.~~

~~D. The City Manager may adopt administrative rules in the manner provided in BC 1.30.005 to implement this section.~~

~~E. Nothing in this section of this code creates any duty on the part of the City or its agents to ensure the protection of persons or property with regard to permitted overnight camping or temporary transitional overnight parking accommodations. {Ord. NS 2402, 2021}~~

~~The Bend Code is current through Ordinance NS-2453, passed August 17, 2022.~~

~~Disclaimer: The city recorder's office has the official version of the Bend Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.~~

~~City Website: www.bendoregon.gov~~

~~Code Publishing Company~~



CITY OF BEND

RESPONDING TO CAMPING IN PUBLIC RIGHTS-OF-WAY AND ON CITY-OWNED PUBLIC PROPERTY

Policy No. 2023-4

Bend Code Chapter 1.30.005 provides for 'City Manager Authority to Adopt Administrative Regulations, Policies and Guidelines.' All regulations, policies and guidelines adopted by the City Manager shall be consistent with the City of Bend Charter, the Bend Code, and council ordinances.

The following policy conforms to the above stated standards.

Authorized by City Manager:


DocuSigned by:

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Eric King, City Manager

Dated: 5/5/2023

Reviewed by Legal Counsel:

DocuSigned by:

392FD2178C27458...

Ian Leitheiser, Assistant City Attorney

Dated: 5/5/2023

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I. PURPOSE

A. The purpose of this Policy is to give City personnel direction on implementing the City of Bend Municipal Code (“BMC”) on Use of Public Rights-of-Way and City Property for Camping, [BMC Chapter 4.20](#). The City recognizes the social nature of the problem of homelessness. This Policy is intended to provide guidance and direction for implementing the City Code to ensure the most humane treatment for removal of homeless individuals from camping sites on public property, as required by ORS 195.500. In addition to the general authority to create administrative policies, this Policy is authorized by [BMC 4.20.025.B](#).

B. The regulations adopted in [BMC Chapter 4.20](#) and [BMC Chapter 6.20](#) as applied to vehicles people are using to keep warm and dry are objectively reasonable with regard to persons experiencing homelessness, as required by HB 3115 adopted by the Oregon legislature in 2021, and shall be implemented as described in this Policy in an objectively reasonable manner, based on the totality of the circumstances, including the impact of the Policy on the person experiencing homelessness.

C. This Policy is intended to replace Policy ADM 2021-1, Management and Removal of Established Campsites in City Rights-of-Way. Policy ADM-2021-1 was intended to provide guidance for managing City rights-of-way in a manner consistent with state and federal law during the time the City did not have a camping code. Now that [BMC Title 4](#) has been adopted, Policy ADM-2021-1 is no longer necessary, and is revoked and terminated effective March 1, 2023, or the date on which the provisions of BMC Title 4 become effective, whichever is later.

II. CAMPING ON CITY PROPERTY

A. It is prohibited at all times for any person to use City property¹ to camp or for camping or for the purpose of occupancy, habitation, or sheltering for survival in vehicles, automobiles, or recreational vehicles except on the following parcels:

1. No City-owned properties have been designated for camping at this time.

B. Juniper Ridge.

1. Camping on Juniper Ridge within City limits is subject to the provisions of this Policy, and enforcement shall be as set forth in this Policy.

2. Camping on Juniper Ridge outside City limits is governed by separate policy.

III. ENFORCEMENT

A. In accordance with state law, ORS 195.500, the provisions of [BMC Chapter 4.20](#) and [BMC Chapter 6.20](#) for vehicles in which people are camping should be

¹ City property, for purposes of [BMC Title 4](#) and this Policy, is distinct from public right-of-way.

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implemented and enforced in ways that ensure the most humane treatment for removal of homeless individuals from camping sites on public property.

B. Enforcement of BMC Chapter 4.20 may be by the following methods:

1. Notice and removal or clean-up of camp material or other personal property that are creating or contributing to the violation,
2. 72-hour advance notice of removal of an established campsite,
3. Emergency removal without 72-hour advance notice, or
4. Citation for violation. Citations will be issued only when other means of achieving compliance have been unsuccessful or are not practicable for the particular situation.

Note: See Section IV for procedures for issuing notices. See Section V for procedures for removing camps or property.

C. Enforcement of BMC Section 6.20.005. (Prohibited Parking) for vehicles that are being used for camping may be by the following methods:

1. Notice and removal by towing or impoundment, or
2. Citation for violation.
3. Except in extreme cases, towing or impoundment of a vehicle in which it appears someone is camping or sheltering for survival, should be to a facility where the vehicle can be reclaimed as Personal Property (See Section VII(G)), without payment of storage fees.

Note: See Section IV.D. for procedures for issuing notices and removing vehicles.

D. Pre-Enforcement process.

1. Except in the case on an emergency, before a civil infraction citation or notice of removal is issued, City personnel will contact the person and provide a reasonable opportunity to cure or remedy the alleged violation. City personnel should assess whether the person subject to citation or removal has been referred to service providers and/or the Deschutes County Coordinated Homeless Response Office ("CHRO"), and make a referral if it appears none has been made. City personnel will communicate to the person in a manner designed to help them understand the issue or problem:

- a. The activity constituting the alleged violation, that the person appears to be responsible for the violation or the camp at which the violation is occurring;
- b. The action required to fix the violation and the time and/or date by which the violation must be fixed; and

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c. A written or verbal warning that if the violation is not fixed within the time given a citation may be issued or the City may post the property or camp for removal. City personnel should inform the person of the maximum monetary citation that could be imposed.

2. City personnel should also advise the person of the relevant time restriction (i.e.: 24-hours for tent camping, and three (3) business days for vehicle parking).

3. City personnel should also provide written information on services available and the rules applicable to the camp.

E. Suspension of Enforcement for Weather or Other Emergencies.

Enforcement of any section or element of this Policy may be suspended or modified in the event of a declared emergency, pursuant to administrative rules or policies, weather conditions (including but not limited to extreme heat or cold), or for any other reason within the City Manager's authority, regardless of whether an emergency has been declared.

1. Weather. In recognition of the potential health effects of severe weather, including heat and cold, declared weather emergencies shall be taken into account in determining an appropriate enforcement response.

a. Weather Warning. City personnel may suspend or delay enforcement of a 72-hour notice of campsite removal if the National Weather Service or other recognized service providing weather forecasts that cover the city of Bend has declared a weather warning, including for wind chill, winter weather, ice storm, winter storm, blizzard, or excessive heat, but not including frost or freeze.

<i>WARNING</i>	A warning is issued when a hazardous weather or hydrologic event is occurring, imminent or likely. A warning means weather conditions pose a threat to life or property. People in the path of the storm need to take protective action.
<i>ADVISORY</i>	An advisory is issued when a hazardous weather or hydrologic event is occurring, imminent or likely. Advisories are for less serious conditions than warnings, that cause significant inconvenience and if caution is not exercised, could lead to situations that may threaten life or property.
<i>WATCH</i>	A watch is used when the risk of a hazardous weather or hydrologic event has increased significantly, but its occurrence, location or timing is still uncertain. It is intended to provide enough lead time so those who need to set their plans in motion can do so. A watch means that hazardous weather is possible. People should have a plan of action in case a storm threatens and they should listen for later information and possible warnings especially when planning travel or outdoor activities.

From: National Weather Service, www.weather.gov.

b. Weather Advisory or Watch. When the National Weather Service or other recognized service providing weather forecasts that cover the city of Bend issues a weather advisory or watch, City personnel shall coordinate with the CHRO or other service providers to identify additional services to individuals camping on City rights-of-way that may be needed to mitigate threats to human health from the forecasted weather event including identifying additional places indoors for people to seek shelter

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and/or offering additional protective equipment like bottled water or cooling stations.

c. When assessing whether to suspend or delay enforcement of a 72-hour notice of campsite removal, City personnel should take into consideration forecast temperatures over a period of time, including wind, precipitation, humidity, and other factors. City personnel should consider whether health and safety will be more likely enhanced by a delay of enforcement or by taking action on a posted notice.

2. Wildfire Smoke. In recognition of the potential health effects of wildfire smoke, air quality shall be taken into account in determining an appropriate enforcement response.

a. The air quality index (AQI) should be measured on City-owned or operated testing devices, the U.S. EPA AirNow website, the Oregon Department of Environmental Quality's air quality website, or the Interagency Wildland Fire Air Quality Response Program.

b. When the AQI is above 100, City personnel may suspend or delay enforcement of a 72-hour notice of campsite removal or any other section of [BMC Chapter 4.20](#). City personnel should also coordinate with the CHRO or other service providers to identify additional services to individuals camping on City rights-of-way that may be needed to mitigate threats to human health from the forecasted AQI, including identifying additional places indoors for people to seek shelter and/or offering respiratory protective equipment.

3. When considering whether to suspend enforcement under this section, City enforcement personnel shall take into consideration whether removal or non-removal will be more likely to result in increased safety to the person or people subject to removal.

F. Tailored Enforcement for Disabilities or Other Reasons.

1. Enforcement should be tailored for various circumstances, including but not limited to situations where a person has a disability under the Americans with Disabilities Act, where minor children are present or otherwise involved, where a person has employment obligations that may relate to their ability to comply with the code, or for other reasons that may support discretion in enforcement. Typical requests are likely to be for more time before a person can move (for modification of [BMC 4.20.030.B](#), Time), or for an allowance to maintain an item or items in violation of [BMC 4.20.030.D](#), Manner, or [BMC 4.20.035](#), Vehicles. In all but the most unusual situations, extension of time limitations should not exceed more than one week total. When the modification of enforcement relates to Manner restrictions, items must not block sidewalks, driveways, bike lanes, or drive aisles.

2. People with disabilities.

a. If a person asserts an inability to comply or a need for modified application of the provisions of [BMC Chapter 4.20](#) because of a disability,

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City personnel must engage in an interactive process to review the requested change in application of the provision at issue. A modification is not required to be given if it would pose an undue financial or administrative burden on the City or would fundamentally alter the nature of the program, activity, or services by the City. City personnel should use their discretion in applying this section and may consult with the City's Accessibility Manager and/or City Attorney's Office on specific or unusual requests.

b. City personnel should inquire about the nature of the asserted disability if not already apparent from the request. A person does not have to disclose a diagnosis or specify the disability to qualify for a modification of rules.

c. City personnel should ask what the person needs modified due to the disability.

d. Requests should be considered on an individual basis. Accommodations must be reasonable and not cause an undue burden or threat to public health or safety.

3. If a person asserts an inability to comply or a need for modified application of the provisions of [BMC Chapter 4.20](#) because they have minor children in their care or have employment obligations that related to the ability to comply with the code, or other reason, the request should be considered on an individual basis. Modifications must be reasonable, related to the reason for the inability to comply or request for alternate enforcement, and not cause an undue burden or threat to public health or safety.

G. Suspension of Enforcement when Engaged in Services. Enforcement of the time limitation under [BMC 4.20.030.B](#) or [BMC 6.20.005.J](#) may be suspended when a person does not have access to shelter because the person cannot stay at the Navigation Center or another shelter within the city of Bend, and has identified a shelter bed or other location to stay at the end of the suspended enforcement time period (this identification shall be considered "engaged in case management or behavioral health services" for purposes of this suspension of enforcement). In all but the most unusual situations, extension of time limitations should not exceed more than one week.

H. The City Manager may determine that a right-of-way should be closed to camping because construction, heavy vehicle use, or other use of the roadway is incompatible with camping ([BMC 4.20.030.C.1.f](#)). The City Manager shall provide a written order setting forth the particular roadways to be closed and reasons and duration for the closure and direct City personnel to post signs indicating the closure.

1. Notice and removal or citation of people camping in the closed area shall be as described below, Section III Notices for Removal. Prior to citation or removal, the steps described above in "Pre-Enforcement process" should be followed.

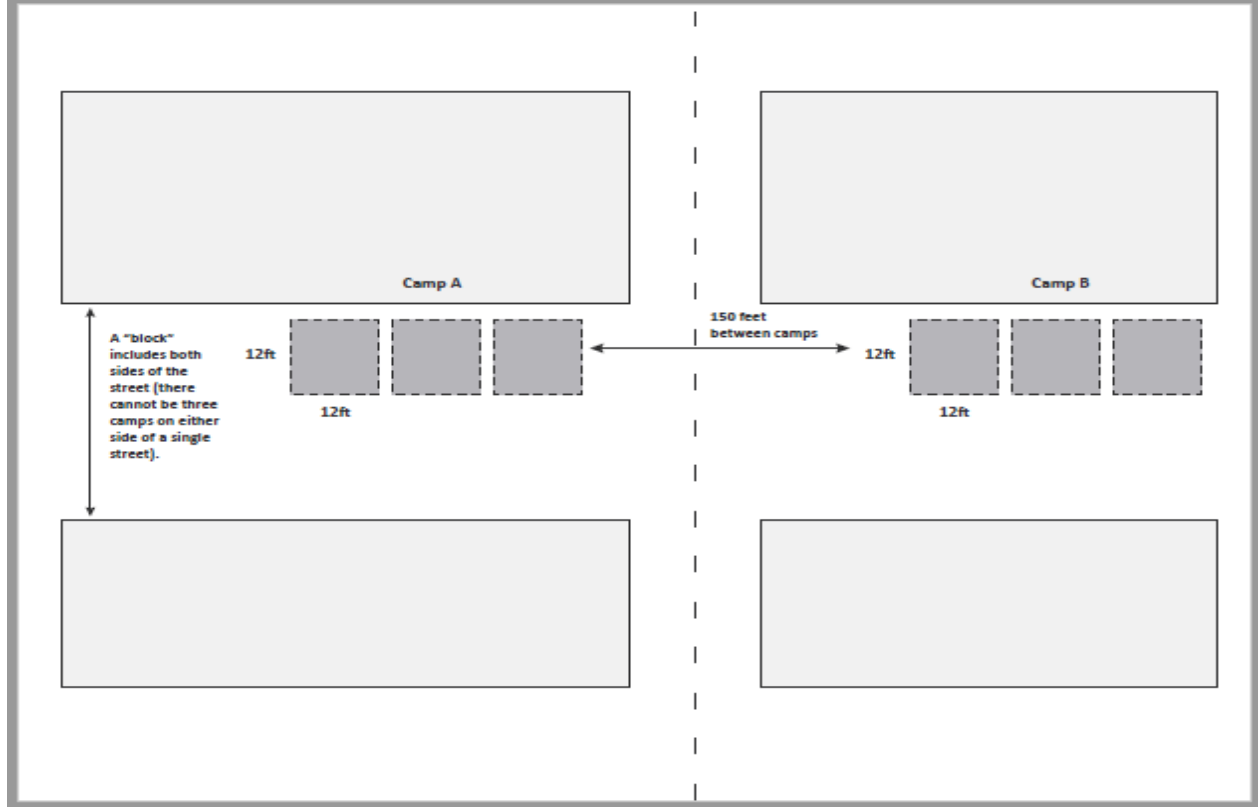
I. Grouping of camps. [BMC 4.20.030.D.c](#). If more than three camps are set up on a block, City personnel must follow the "Pre-Enforcement process" described above, and verbally or in writing inform all the individuals present that no more than three camps

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are allowed on one block, and that there must be at least 150 feet between groups of up to three camps.

1. A “block” includes both sides of the street (there cannot be three camps on either side of a single street).



2. A “camp” is one space up to 12 feet by 12 feet, and may include more than one tent.

IV. NOTICES REQUIRED FOR REMOVAL

For all notices under this Section, citation and removal of property or towing of vehicles should be an option of last resort, and the steps described above in “Pre-Enforcement process” should be followed.

Note: See Section V for procedures for removing camps or property.

A. 72-hour notice for removal of an established campsite.

1. When City personnel determine an established campsite should be removed for violation of the Bend Municipal Code, City personnel must post a notice at the entrance to the campsite, if any, or as near as practicable to the campsite that the campsite will be removed not sooner than 72-hours later.

2. The City will maintain a list of service providers that deliver services to homeless individuals in Bend to whom the City will provide notice when a 72-hour notice is posted. This list will include the CHRO and other service providers

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who use the Homeless Management Information System (HMIS); the list is only for the purposes of providing notice as required under ORS 195.505 and is not intended to be an exhaustive list of service providers in Bend or service providers using HMIS. The City will periodically review the list of service providers to whom it is providing notice under this section and will update as the City deems appropriate. Notice under this section may be provided in advance of posting a 72-hour notice, or within a reasonable time after posting, but must be given before expiration of the 72-hour timeframe.

3. When a 72-hour notice has been posted at an established campsite, the City may act on the notice and remove the campsite beginning 72 hours after posting and up to 10 days following the posting.

B. Notice of clean up or removal of personal property (other than vehicles).

1. When personal property is in violation of [BMC Chapter 4.20](#), City personnel must post a notice as near as practicable to the property that the property is in violation, will be removed not sooner than 24-hours later.

2. This notice is to be used when personal property will be cleaned up or removed, whether or not the property is at or part of an established campsite, but the established campsite will not be removed.

3. When a 24-hour notice has been posted at an established campsite, the City may act on the notice and remove the campsite beginning 72 hours after posting and up to 10 days following the posting.

C. Exceptional Emergency. A campsite or property at or comprising a campsite, other than vehicles, may be removed without advance 72-hour notice in the following circumstances:

1. When there are grounds for law enforcement officials to believe that illegal activity, other than camping, is occurring at the campsite or in the immediate vicinity of the campsite, or the property that comprises the campsite is being used or is intended to be used to commit or facilitate the commission of otherwise illegal activity; or

2. In the event of an exceptional emergency, such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety. If the danger to human life or safety can be reduced by moving the established campsite to a safer location, such as an adjacent landscape strip, the campsite should be relocated rather than removed.

a. City personnel should follow the Pre-Enforcement process as described above, and provide a verbal and/or written notice to person(s) in/around the property. If people are present, City personnel should provide a reasonable time for people to move their own belongings. If there is a nearby location to move property to, out of the immediate danger, after giving the person responsible for the property an opportunity to move the items, City personnel should relocate property. If no location is available,

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City personnel may dispose of garbage, collect and remove property, and place into storage.

b. Dumping of black water and open flames ([BMC 4.20.030.D.1.e.](#) and [f.](#) and [BMC 4.20.035.B.2](#) and [3.](#)), or other violations, may be cause for immediate citation or removal in extreme circumstances when conditions pose an immediate danger to human life or safety. If a violation is not an immediate danger, the Pre-Enforcement process should be followed, with citation or removal after the appropriate notice if the person does not remedy the violation or take steps to prevent the violation from recurring.

D. Removal of debris and garbage. No notice is required prior to removing debris, garbage, or items that are clearly discarded within the right-of-way. City personnel are expected to use objectively reasonable discretion in determining whether advance notice should be provided when it cannot be clearly determined that items were discarded, and are not personal property, erring on the side of respecting the rights of those surviving on the streets.

E. Notice of removed property. Following removal of a campsite or personal property, the City must post a notice stating the location where removed personal property is being stored, and how individuals can contact the City to retrieve their personal property.

V. REMOVAL OF VEHICLES

Note: Citation and towing of vehicles used as shelter should generally be an option of last resort, after following steps described above in “Pre-Enforcement process”.

A. The provisions of this Section are in addition to existing processes for towing of hazard vehicles or vehicles eligible for towing for violation of state law.

1. A vehicle may be towed from City right-of-way as an abandoned vehicle under ORS 819.110, if it has been parked or left standing for more than three business days and is not being used for shelter. (“Abandoned” for purposes of this Section means that the vehicle has been parked or left standing in excess of allowed time, even if people are using the vehicle in its parked location without moving it.) Prior to towing, notice shall be given as provided in ORS 819.170, and, if requested, a hearing under ORS 819.190.

2. Vehicles that are disabled or left standing in a location as to constitute a hazard or obstruction on City rights-of-way may be immediately towed in accordance with the provisions of ORS 819.120. Notice shall be given as described under ORS 819.180 and, if requested, a hearing described under ORS 819.190.

a. If City personnel believe a vehicle that constitutes a hazard or obstruction under ORS 819.120 is being used as shelter, the vehicle may not be towed until after a request has been made that the person sheltering in the vehicle move the vehicle or remedy the hazard or obstruction. If the vehicle is not moved or cannot be moved, or continues to pose a clear danger, City personnel may proceed with a hazard tow.

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B. As an alternative to the removal processes described in this Section, if the cost of the removal or tow will be paid by the City, the City and the owner or person apparently in charge of a vehicle used as shelter may jointly request a tow remove the vehicle to private or publicly-owned property designated for camping or safe parking purposes, or other private property on which the person has the consent of the property owner to locate the vehicle. City's consent will be given in the City's sole and reasonable discretion.

C. City Rights-of-Way

1. On City rights-of-way, vehicles in which people are camping or sheltering must comply with the Manner restrictions of [BMC Chapter 4.20](#), and the Time and Place restrictions of [BMC Chapter 6.20](#).

2. Manner.

a. After the Pre-enforcement procedures in Section III.D, if a vehicle being used for shelter is not brought into compliance with the Manner restrictions of [BMC Chapter 4.20](#), City personnel may issue a citation for noncompliance and/or issue a 72-hour notice for removal. When a notice is posted, City personnel will notify the CHRO. Notice to the CHRO may be provided in advance of posting a 72-hour notice, or within a reasonable time after posting, but before expiration of the 72-hour timeframe.

b. Vehicles being used for shelter or camping may be removed for violations of the Manner restrictions in [BMC Chapter 4.20](#), and stored as described in Section VII, Personal Property. City personnel should take into account limitations on storage locations, and removal should generally be prioritized for vehicles that are in violation of the Manner restrictions in ways that pose a threat to human health or safety, and once the vehicle has been parked overtime as described in Section 3 below.

c. If a vehicle poses a clear danger to public safety, the vehicle may be towed as a hazard under ORS 819.120.

3. Time.

a. In addition to engaging in the Pre-Enforcement procedures in Section III.D for vehicles that appear to be in violation of the time limitation of [BMC Chapter 6.20](#), prior to posting notice that a vehicle is in violation of those Time limitations, City personnel must document whether the vehicle has been parked in one location for longer than three business days. Documentation should include taking overall photos of the vehicle condition and location, the tire chalk (if marked) and valve stem position. No sooner than three business days, City personnel should return to the vehicle for follow-up. Based upon the totality of the circumstances, if City personnel believes the vehicle has remained parked in the same location, during the three business days, the vehicle may be posted with a notice of violation. If the vehicle is not being used as a shelter or as a campsite, a vehicle tow

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may be requested as an abandoned vehicle under ORS 810.110 and [BMC 6.30.005](#).

b. For vehicles being used as a shelter or campsite, vehicle tow should only be requested at the end of the above process if there are also serious manner violations. Notice of the tow must be posted at least 72-hours in advance of the tow. Vehicles used for shelter shall be removed to a City storage facility and stored in accordance with this Policy.

c. Vehicles being used for shelter or camping may be removed for violations of the Time restrictions in [BMC Chapter 6.20](#), and stored as described in Section VII, Personal Property. City personnel should take into account limitations on storage locations, and removal should generally be prioritized for vehicles that are in violation of the Time restrictions of [BMC Chapter 6.20](#) and Manner restrictions of [BMC Chapter 4.20](#) in ways that pose a threat to human health or safety.

D. City-Owned Property.

1. Public parking is only allowed where signed on City-owned property, including signed and designated parking lots in the Downtown Business District. Parking shall be in accordance with the posted signs and enforcement shall be by separate policy.

2. For City-owned property that has not been made available for parking or camping under [BMC Chapter 4.20](#) and this Policy, parking is prohibited. Vehicles parking on City-owned property, that are not being used as shelter or part of an established campsite, may be removed as private property under ORS 98.812 or ORS 98.830, subject to the required notices.

3. For vehicles being used as shelter or as part of an established campsite on City-owned property, City personnel shall follow the Pre-Enforcement procedures in Section III.D to notify a person that camping and parking are not allowed and that the person must remove the vehicle. If a vehicle is not voluntarily removed from City-owned property, City personnel may post a notice of removal at least 72-hours before the vehicle may be removed. The Vehicle may then be removed and stored as personal property removed from an established campsite, in accordance with this policy and ORS 195.505. City personnel must complete the form for towing as required by ORS 98.830.

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VI. PROCEDURE FOR REMOVING CAMPSITES AND PROPERTY

A. City personnel should make a reasonable effort to determine if any suspension or tailoring of enforcement, as described in Section II above, is appropriate.

B. If people are present when City personnel or contractors return following a posted notice to remove the property or campsite that was subject to the notice, people apparently in charge of the campsite, property, or vehicle should be given another verbal and/or written warning and a reasonable time to move their own campsite, property, or vehicle.

C. When removing individuals from an established campsite, the City will make reasonable efforts to remove individuals without the use of force, arrest, or citation. No person may be arrested or cited for failing to move under this Policy prior to being asked by law enforcement or other City official to move.

D. Following removal of a campsite or personal property, the City must post a notice stating the location where removed personal property is being stored, and how individuals can contact the City to retrieve their personal property. When practicable and when the person or people responsible for the personal property are present, the notice should also be personally delivered to the individual(s).

E. When removing personal property, the City will make reasonable efforts to determine if property belongs to an individual and has any apparent utility. The City will make reasonable efforts to identify which campsite property was removed from, to aid in connecting people with their property removed by the City. Items that are of no apparent use or are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, and discarded as part of any cleanup efforts by the City.

F. "Personal property" means items reasonably recognizable as belonging to individuals and which have apparent utility. Personal property may consist of tents or other materials used as shelter, and other items not used for shelter. Personal property includes but is not limited to:

1. Identification documents
2. Medications
3. Photos/photo albums
4. Tents, sleeping bags, bedding (not soiled or contaminated)
5. Luggage, backpacks, purses
6. Clothing, jewelry, eyewear
7. Electronic equipment (in apparent working order, not dismantled)
8. Tools or materials in apparent useful condition for shelter or other purpose
9. Bicycles and other non-motorized means of transportation in apparent working order

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10. RVs, trailers, or other vehicles or movable items used as shelter

G. Weapons, controlled substances other than prescription medication, and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials. Additionally, items that appear to have a value of \$1,000 or more shall be given to law enforcement officials for secure storage.

VII. STORAGE OF PERSONAL PROPERTY

A. Personal property removed from campsites and unclaimed at the time of removal will be stored by the City at or near one of the City business campuses, as identified on the notice posted at the time of removal, where people can reasonably access to retrieve belongings. Stored personal property will be reasonably available for any individual claiming ownership.

1. The City will not store, and will discard, items that have no apparent use or are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination. The City will not store perishable food items or other items that, if left in storage for up to 30 days, could contaminate other stored property.

B. The City will keep records of the date property was received, a general description of the location the property was recovered from, the date the property must be stored until, and if known, a description or identification of the presumed owner of the property.

C. The City will make reasonable efforts to provide a range of times the storage location will be available for people to collect property.

D. The City will take reasonable precautions to secure stored property, including vehicles, but will not be responsible for loss or damage to stored property.

E. The City may dispose of any personal property that remains unclaimed after thirty (30) days, or such duration as required by statute. The City intends to offer unclaimed property to nonprofits that provide services to people experiencing homelessness prior to disposal.

F. Property held by the Bend Police Department shall be disposed of in accordance with Bend Police Department policies and all applicable state laws.

G. Vehicles.

1. Towed or removed vehicles in which people are camping or sheltering should be stored as personal property removed from an established campsite in accordance with this Policy.

2. The City will store vehicles in a reasonably secure location, consistent with practices for storing other removed personal property. Other than as required to facilitate tow or removal of a vehicle, or as may be required for other valid or law enforcement purpose in extraordinary circumstances, City personnel will not enter vehicles or perform any search, including an inventory search, of vehicle contents.

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3. The City will release vehicles to a person entitled to lawful possession with proof of valid license for the person driving the vehicle away. A person must provide proof of ownership or other indicia of ownership, or written authorization from registered owner. The City will not charge for storage or release of a vehicle.

4. If not retrieved after thirty (30) days, the vehicle will be considered unlawfully parked or abandoned pursuant to ORS 98.810 or other applicable statutes, and can be towed & impounded to a towing lot subject to storage and other lawful fees, liens, and disposal.

ORDINANCE NO. 879

AN ORDINANCE OF THE CITY OF WILSONVILLE REGARDING REGULATION OF CAMPING ON PUBLIC PROPERTY BY ADDING SECTIONS 10.700 THROUGH 10.780 TO THE WILSONVILLE CODE; AMENDING WILSONVILLE CODE SECTIONS 3.000, 5.200, 5.210, AND 10.540; AND REPEALING WILSONVILLE CODE SECTIONS 6.400 AND 10.425.

WHEREAS, in 2019, the United States Ninth Circuit Court of Appeals (Ninth Circuit) issued its decision in *Martin v. Boise*, 920 F.3d 584 (9th Cir., 2019), holding that the Cruel and Unusual Punishments Clause of the Eighth Amendment “prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter;” and

WHEREAS, in 2022, the Ninth Circuit issued its decision in *Johnson v. City of Grants Pass*, 50 F.4th 787 (9th Cir., 2022), further holding that certain local regulations violated the Eighth Amendment to the extent the ordinances prohibited individuals from taking minimal measures to keep warm and dry while sleeping, affirming, in part, the 2020 decision by the Oregon Federal District Court in *Blake v. Grants Pass*, No. 1:18-CV-01823-CL, 2020 WL 4209227 (D. Or. July 22, 2020); and

WHEREAS, while the Grants Pass litigation was pending, the State of Oregon enacted House Bill (HB) 3115 (2021) and HB 3124 (2021) regarding local jurisdictions’ regulation of camping on public property by individuals experiencing homelessness; and

WHEREAS, HB 3115 requires all jurisdictions that regulate acts of sitting, lying, sleeping, or keeping warm and dry outdoors on public property to have objectively reasonable time, place, and manner regulations with regards to persons experiencing homelessness; and

WHEREAS, HB 3115 becomes operative on July 1, 2023; and

WHEREAS, HB 3115 provides a private right of action for persons experiencing homelessness to seek injunctive or declaratory relief to challenge the objective reasonableness of any jurisdiction’s regulations regarding camping on public property; and

WHEREAS, HB 3124 requires jurisdictions to provide 72-hour notice, instead of 24-hour notice, before removing individuals experiencing homelessness from an established campsite and before confiscating any personal property left behind; and

WHEREAS, HB 3124 includes further requirements regarding the retention of personal property collected during clean-up of a campsite; and

WHEREAS, HB 3124 became operative on June 23, 2021; and

WHEREAS, the City of Wilsonville seeks to comply with HB 3115 and HB 3124, as well as current federal court decisions *Martin v. Boise*, 920 F.3d 584 (9th Cir., 2019) and *Johnson v. City of Grants Pass*, 50 F.4th 787 (9th Cir., 2022), which required the City to create objectively reasonable regulations related to public camping for survival by individuals experiencing homelessness; and

WHEREAS, the City engaged in extensive community outreach, including a community questionnaire with 437 responses, the largest in Let's Talk, Wilsonville! history, provided project information both via the Let's Talk, Wilsonville! project page and the Boones Ferry Messenger, and engaged in additional outreach with numerous other stakeholders within the community regarding the management of public camping, including public and private service providers; and

WHEREAS, the City Council has conducted 6 work sessions on public camping regulations, and the City has received additional input from the City's DEI Committee, Library Board, and Parks and Recreation Advisory Board; and

WHEREAS, the City coordinated distribution of and received several anonymous surveys from individuals experiencing homelessness; and

WHEREAS, the City resides in the Counties of Clackamas and Washington, which receive state and federal funding for housing and homelessness services, and currently have programs to provide such services to individuals within the counties who are experiencing homelessness; and

WHEREAS, in undertaking a review of City provisions related to camping for survival, adding and revising provisions related to the time, place, and manner of public camping became necessary to comply with state laws and current federal case law, which revisions are attached hereto and incorporated by reference herein as **Exhibits A-F**; and

WHEREAS, in undertaking a review of City provisions related to public camping, it became necessary to provide a safe place for individuals experiencing homelessness to rest and connect to service providers; and

WHEREAS, the City has created value statements, attached hereto and incorporated by reference herein as **Exhibit G**, regarding public camping regulations reaffirming the goal of providing equitable support and protection for the health, safety, and welfare of all members of the community, including residents, businesses, individuals experiencing homelessness, and other interests affected by these regulations; and

WHEREAS, the City has provided notice of public hearing, held a public hearing on May 1, 2023 regarding the proposed revisions to the Wilsonville Code, afforded all interested parties an opportunity to be heard, and duly considered the subject, including the staff recommendations and all the exhibits and testimony introduced and offered by all interested parties.

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1. Value Statements. The City Council hereby adopts the statements attached hereto and incorporated by reference herein as **Exhibit G** as the City Council's Value Statements Regarding Housing and Homelessness.

Section 2. Findings. The City Council hereby adopts the above-stated recitals, the Staff Report accompanying this Ordinance, and the Findings attached hereto and incorporated by reference herein as **Exhibit H** as the City Council's findings demonstrating that the regulations adopted herein are in the public interest and promote the health, safety, and welfare of the City of Wilsonville community.

Section 3. Sections 10.700 through 10.780, as provided in **Exhibit A** attached hereto and incorporated by reference herein, are hereby added to the Wilsonville Code. Wilsonville Code Section 3.000 is hereby amended as provided in **Exhibit B** attached hereto and incorporated by reference herein. Wilsonville Code Sections 5.200 and 5.210 are hereby amended as provided in **Exhibit C** attached hereto and incorporated by reference herein. Wilsonville Code Section 10.540 is hereby amended as provided in **Exhibit D** attached hereto and incorporated by reference herein. Wilsonville Code section 6.400 is hereby repealed as provided in **Exhibit E** attached hereto and incorporated by reference herein. Wilsonville Code section 10.425 is hereby repealed as provided in **Exhibit F** attached hereto and incorporated by reference herein.

Section 4. The City Recorder is hereby authorized to correct any scrivener's errors and to conform the revisions to the Wilsonville Code with appropriate numbering.

Section 5. Effective Date. This Ordinance shall be declared to be in full force and effect beginning July 1, 2023.

SUBMITTED by the Wilsonville City Council at a regular meeting thereof this 1st day of May, 2023, and scheduled the second reading on May 15, 2023 commencing at the hour of 7:00 p.m. at the Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon.

Kimberly Veliz, City Recorder

ENACTED by the City Council on the ____ day of ____, 2023, by the following votes:
Yes: _____ No: _____

Kimberly Veliz, City Recorder

DATED and signed by the Mayor this _____ day of ____, 2023

JULIE FITZGERALD MAYOR

SUMMARY OF VOTES:

Mayor Fitzgerald

Council President Akervall

Councilor Linville

Councilor Berry

Councilor Dunwell

EXHIBITS:

- A. New WC Sections 10.700 through 10.780
- B. Revisions to WC Section 3.000
- C. Revisions to WC Sections 5.200 and 5.210
- D. Revisions to WC Section 10.540
- E. Deletion of WC Section 6.400
- F. Deletion of WC Section 10.425
- G. Value Statements
- H. Findings for Ordinance No. 879

CAMPING ON CITY PROPERTY AND RIGHTS-OF-WAY

10.700	Purpose
10.710	Definitions
10.720	Time Regulations
10.730	Place Regulations
10.740	Manner Regulations
10.750	Notice and Removal
10.760	Enforcement
10.770	Exceptions
10.780	Severability

10.700 Purpose.

The purpose of WC 10.700 through 10.780 is to regulate the time, place, and manner in which individuals may camp on City of Wilsonville property and rights-of-way. Furthermore, the purpose of WC 10.700 through 10.780 is to comply with Oregon House Bill 3115 (2021) and House Bill 3124 (2021), as well as current federal court decisions *Martin v. Boise*, 920 F.3d 584 (9th Cir., 2019) and *Johnson v. City of Grants Pass*, 50 F.4th 787 (9th Cir., 2022).

10.710 Definitions.

- (1) *Administrative Rules* means the regulations the City adopts pursuant to WC 10.760(3).
- (2) *To camp* or *camping* means to set up, or remain in or at, a campsite for the purpose of establishing or maintaining a temporary place to shelter for survival from the elements.
- (3) *Camp materials* means tents, huts, awnings, lean-tos, chairs, tarps or tarpaulins, cots, beds, sleeping bags, blankets, mattresses, sleeping or bedding materials, food or food storage items, and/or similar items that are or appear to be used as sheltering and/or sleeping accommodations, or to assist with sheltering for survival and/or sleeping activities.
- (4) *Campsite* means any place where any camp materials, bedding, sleeping bag, or other sleeping matter, or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure or any vehicle or part thereof.
- (5) *City or Wilsonville* means the City of Wilsonville, Oregon.
- (6) *City Manager* means the City of Wilsonville City Manager or designee.
- (7) *City-owned property* means public real property, land, and premises owned by the City of Wilsonville.
- (8) *City right-of-way* means the space in, upon, along, across, over or under the City-owned streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes,

and places used or intended to be used by the general public for travel as the same now or may hereafter exist, that the City has the right to allow the public to use.

- (9) *Designated Area(s)* means the area(s) the City has identified where individuals who are involuntarily homeless may shelter for survival, as further identified in WC 10.730(2) herein.
- (10) *Individuals who are involuntarily homeless* means the circumstance when there is no available emergency or transitional housing for an individual experiencing homelessness and/or no transportation for such individual to available emergency or transitional housing within the county where the person is located.
- (11) *Personal property* means any item that is reasonably recognizable as belonging to a person and has apparent value or utility.
- (12) *Rest* means to pause from exertion by stopping, sitting, lying, or sleeping.
- (13) *SROZ* means the City's Significant Resource Overlay Zone.
- (14) *Store* means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- (15) *Vehicle* means every device in, upon, or by which any person or property is, or may be, transported or drawn upon any street or highway, and includes any hulk or component thereof, including, but not limited to cars, campers, recreational vehicles, motor homes, pickup trucks, pickup truck canopies, and trailers, except devices:
 - (a) Designed to be moved exclusively by human power; or
 - (b) Designed to be used exclusively upon stationary rails or tracks.

10.720 Time Regulations.

- (1) Except as authorized pursuant to WC 10.770, individuals who are involuntarily homeless may camp in Designated Area(s) only during the hours of 9:00 pm to 7:00 am.
- (2) Except as authorized pursuant to WC 10.770, individuals who are involuntarily homeless may store personal property, pursuant to the regulations in WC 10.740, in Designated Area(s) only during the hours of 9:00 pm to 7:00 am.

10.730 Place Regulations.

- (1) Except as authorized pursuant to WC 10.770, at all times it is unlawful for any persons to camp or to establish, maintain, or occupy a campsite on City-owned property not identified as a Designated Area, including, but not limited to:
 - (a) All City parks and City parking lots within City parks.

- (b) All City parking lots, City structures, or other City property not designated for camping in the Administrative Rules, as provided in subsection 2 below.
 - (c) All City rights-of-way, including rights-of-way within and adjacent to areas zoned for residential uses and rights-of-way adjacent to public and private schools and child care facilities.
 - (d) All City sidewalks.
 - (e) All public transit shelters.
 - (f) All City property located in the SROZ.
 - (g) All City property located within 20 feet of a tree designated as a heritage tree in the City's Heritage Tree program.
 - (h) The City property at the northeast corner of SW Barber Street and SW Kinsman Road (taxlot number 31W14B 00700).
 - (i) Stormwater treatment facilities, including, but not limited to swales, detention ponds, and drainage ways.
 - (j) On areas underneath City-owned rights-of-way or bridges that are not open to the public.
 - (k) On railroad tracks or within 15 feet of railroad tracks.
 - (l) On any City property or City right-of-way that the City has closed to the public due to construction, heavy vehicle or machinery use, or other City or City-sanctioned work that is incompatible with camping in the City right-of-way.
- (2) Designated Area(s). Individuals who are involuntarily homeless may occupy a campsite within the time regulations provided in WC 10.720 and pursuant to the manner regulations in WC 10.740 in the Designated Area(s) identified in the Administrative Rules. For avoidance of doubt, camping is prohibited on all City-owned property and City rights-of-way not designated for camping in the Administrative Rules.

10.740 Manner Regulations.

Camping by individuals who are involuntarily homeless, when and where allowed (*see* WC 10.720 and 10.730), is subject to all of the following:

- (1) Individuals, camp materials, camps, or personal property, including shopping carts, may not obstruct sidewalk accessibility or passage, clear vision, fire hydrants, City or other public utility infrastructure, or otherwise interfere with the use of the right-of-way for vehicular, pedestrian, bicycle, or other passage.

- (2) For campsites other than those contained within a vehicle, the campsite must be limited within a spatial footprint of 10 feet by 10 feet, or 100 square feet. For campsites including a vehicle, the campsite and camp materials must be self-contained within the vehicle. The intent of this section is to allow a person to sleep protected from the elements and maintain the essentials for sheltering, while still allowing others to use public spaces as designed and intended.
- (3) For campsites located in Designated Area(s), the campsite locations must comply with the spacing requirements identified in the Administrative Rules.
- (4) Open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, or heating are prohibited.
- (5) Individuals may not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, human or animal waste, or other items of no apparent utility in public rights-of-way, on City property, or on any adjacent public or private property.
- (6) Dumping of gray water (i.e., wastewater from baths, sinks, and the like) or black water (i.e., sewage) into any facilities or places not intended for gray water or black water disposal is prohibited. This includes but is not limited to storm drains, which are not intended for disposal of gray water or black water.
- (7) Unauthorized connections or taps to electrical or other utilities, or violations of building, fire, or other relevant codes or standards, are prohibited.
- (8) Obstruction or attachment of camp materials or personal property to fire hydrants, utility poles or other utility or public infrastructure, fences, trees, vegetation, vehicles, buildings, or structures is prohibited.
- (9) Storage of personal property such as vehicle tires, bicycles or associated components (except as needed for an individual's personal use), gasoline, generators, lumber, household furniture, extra propane tanks, combustible material, shopping carts, or other items or materials is prohibited, other than what is related to camping, sleeping, or keeping warm and dry.
- (10) Digging, excavation, terracing of soil, alteration of ground or infrastructure, or damage to vegetation or trees is prohibited.
- (11) All animals must be leashed, crated, or otherwise physically contained at all times.
- (12) Smoking, vaping, and/or the use or distribution of tobacco or cannabis products is prohibited in Designated Area(s). "Tobacco or cannabis products" includes, but is not limited to, any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, any part of the plant Cannabis family Cannabaceae, or any other form of tobacco or cannabis which may be used for smoking, chewing, inhalation, or other means of ingestion.

This regulation does not prohibit the use of prescribed medication when used in accordance with the prescription instructions and when used in location(s) allowed under Oregon law.

- (13) Alcohol may not be consumed, used, or distributed in Designated Area(s).
- (14) Controlled substances, as defined in ORS 475.005, may not be consumed, used, manufactured, or distributed in Designated Area(s).
- (15) Vehicle Camping. Individuals who are involuntarily homeless may use vehicles for shelter and/or sleeping in Designated Area(s) under the following circumstances and subject to the conditions and restrictions provided in subsections (1) through (14) above:
 - (a) The vehicle is legally parked in compliance with the Wilsonville Code.
 - (b) Storage of material outside vehicles is prohibited, other than what is incidental to activities such as short-term (maximum 30 minutes) loading or unloading a vehicle.
 - (c) Vehicles must be operational, i.e., capable of being started and driven under their own power, or ready to be towed if designed to be towed and may not be discarded or left inoperable in public rights-of-way or on City property.
 - (d) Vehicles must be registered and insured, as required by the Oregon Vehicle Code.
 - (e) No building or erecting of any structures connecting or attaching to vehicles is permitted, including tents that are not designed and manufactured to be attached to a vehicle.
 - (f) Connections from vehicles to public or private stormwater, sewer, water, and electrical systems or to vehicles from public or private stormwater, sewer, water, and electrical systems are prohibited.

10.750 Notice and Removal.

- (1) Except as provided in subsection (4) below, at least 72 hours before removing individuals from an established campsite, law enforcement officials must post a written notice in English and Spanish at all entrances to the campsite to the extent that entrances can reasonably be identified.
 - (a) When a 72-hour notice is posted, law enforcement officials must inform local agencies that deliver social services to unhoused individuals as to where the notice has been posted.
 - (b) The local agencies will arrange for outreach workers to visit the campsite that is subject to the notice to assess the need for social service assistance in arranging shelter and other assistance.
- (2) Personal Property Collection and Storage.

- (a) All personal property at the campsite that remains unclaimed after removal will be given to law enforcement official(s), a local agency that delivers social services to unhoused individuals, an outreach worker, a local agency official, or a person authorized to issue a citation described in WC 10.760, whether notice under subsection (1) is required or not.
 - (b) The unclaimed personal property must be stored in a facility located in the City of Wilsonville.
 - (c) The unclaimed personal property will be stored in an orderly fashion, keeping items that belong to an individual together, to the extent that ownership can reasonably be determined.
 - (d) The personal property must be stored for a minimum of 30 days during which it must be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed after 30 days may be disposed of or donated to an Internal Revenue Code Section 501(c)(3) non-profit corporation.
 - (e) Items that have no apparent value or utility or are in an unsanitary condition may be immediately discarded upon removal of the individuals from the campsite.
 - (f) Weapons, controlled substances other than prescription medication, and items that appear to be either stolen or evidence of a crime will be given to or retained by law enforcement officials.
- (3) The written notice required in subsection (1) must state, at a minimum:
- (a) Where unclaimed personal property will be stored;
 - (b) A phone number that individuals may call to find out where the personal property will be stored; or
 - (c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.
- (4) The 72-hour notice requirement under subsection (1) does not apply:
- (a) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at a campsite; or
 - (b) In the event of an emergency at a campsite, including, but not limited to, possible site contamination by hazardous materials, a public health emergency, substantial and immediate risk or harm to public infrastructure, or other immediate danger to human life or safety.

10.760 Enforcement.

- (1) Violation of any regulations stated in WC 10.720, 10.730, or 10.740 constitutes a violation of the Wilsonville Code and is subject to fine(s) as contemplated in WC Chapter 1. Every day in which such violations occur constitutes a separate violation.
- (2) A person authorized to issue a citation for unlawful camping may not issue the citation if the citation would be issued within 200 feet of a notice required under WC 10.750 and within two hours before or after the notice was posted.
- (3) The City may adopt administrative rules via resolution to support and guide the implementation of and compliance with WC 10.700 through 10.780.

10.770 Exceptions.

- (1) Emergencies. In the event of emergency circumstances, the City Manager may authorize camping or storage of personal property on City-owned property and City rights-of-way by written order that specifies the period of time and location.
- (2) Other Temporary Circumstances. The City Manager may temporarily authorize camping or storage of personal property on City-owned property and City rights-of-way by written order that specifies the period of time and location upon finding it to be in the public interest and consistent with Council goals and policies. Such temporary action by the City Manager must be considered for ratification by the City Council at its next regularly scheduled meeting.

10.780 Severability.

If any section, paragraph, subdivision, clause, sentence, or provision of this title shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the validity of the remaining portions of the title.

PARKS AND PLAYGROUNDS

3.000. Rules and Regulations.

- (1) The following rules and regulations are hereby adopted for the regulation and use of municipal parks in and for the City, and shall be observed at all times by all persons using any City park or park facilities. A summary of these rules are authorized to be posted at Parks and park facilities as determined by the City Manager or designee.
- (2) No fires and camp stoves so shall be allowed except when allowed pursuant to an approved parks and facilities rental application, in the following designated areas:
 - ~~(a) Park camp stoves or fireplaces provided for such purposes.~~
 - ~~(b) Portions of beaches designated as permitting fires, if any.~~
 - ~~(c) Portable stoves in established campsites, picnic areas, and designated beaches where fires are permitted.~~
 - ~~(d) No fire shall be left unattended and every fire shall be extinguished before user leaves the park area.~~
- (3) No person shall in any park area except under agreement or special regulations of the Council:
 - (a) Hunt, pursue, trap, kill, injure, molest, or disturb the habitat of any bird or animal.
 - (b) Discharge any firearm, pellet gun, bow and arrow, slingshot, or other weapon capable of injuring any person, bird or animal; or
 - (c) Possess any loaded firearm.
- (4) Flowers, shrubs, foliage, trees or plant life or products of any type shall not be picked, cut, mutilated or removed, from any park area without written permission from the Council.
- (5) No person shall mutilate, deface, damage or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or other structure or facility of any kind in a parked area.
- (6) No person shall, except under special regulations of the Council, dig up, deface, or remove any dirt, stones, rock, or other substance whatever, make any excavation, quarry any stone, or lay or set off any blast or roll any barrier stones or move any barriers, or cause or assist in doing any of the said things within a parked area.
- (7) No person shall, except in a designated area, erect signs, markers, or inscriptions of any type within a park without permission from the Council.
- (8) No person in a park may without written permission of the Council:
 - (a) Operate a concession, either fixed or mobile;
 - (b) Solicit, sell or offer for sale, peddle, hock, or vend any goods, wares, merchandise, food, liquids, or services;
 - (c) Advertise any goods or services by any means whatsoever; or
 - (d) Distribute any circulars, notices, leaflets, pamphlets, or written or printed information of any kind.
- (9) Motor vehicles shall be operated only on roads and in parking area constructed or designated for motor vehicle use. No motor vehicle shall be operated on any trail or in any part of a park area not constructed or

designated for motor vehicle use, or on any road or trail posted as closed to the public, or on any road or trail where signs have been placed or erected by authority of the Council prohibiting the driving of motor vehicles. Automobiles, trailers, or other vehicles shall be parked only in designated areas.

- (10) No animal of any kind shall be brought into or kept in a park area unless confined, or in a vehicle. Except that dogs must be kept on a leash at all times in all City parks and playgrounds. The leash shall be no more than eight feet in length, except that a retractable reel leash may extend up to 15 feet in length. The authority of the City park employee includes the authority to undertake any lawful measures (including removal of the animal from the park area) deemed by the park employee necessary to prevent the interference by the animal with the safety, comfort and well-being of the park users, or the appearance or sanitary condition of the park area. No animals other than seeing-eye dogs shall be allowed in any building."
- (11) No bottles, cans, ashes, waste, paper, garbage, sewage, or other rubbish or refuse shall be left in a park area, except in the receptacles designated for that purpose.
- (12) No person shall set up or use a public address system in a park without the written permission of the Council.
- (13) No person shall ride, drive, lead, or keep a saddle horse or riding animal in any park area, except on such roads, trails, or areas designated for that purpose. No horse or other animal shall be hitched to any tree or shrub in such a manner that may cause damage to such tree or shrub.
- (14) No person shall wash any clothing or other materials or clean any fish in a pond, stream or river in a park area.
- (15) No person shall use abusive, threatening, boisterous, vile, obscene or indecent language or gestures in a park area which interferes with another's peaceful enjoyment of the park and its facilities. Public demonstrations, public disturbances, or riotous behavior or indecent exposure will not be allowed in any City park area.
- (16) No ~~overnight~~ camping, as defined in WC 10.710, will be permitted unless authorized ~~in writing by the Council~~pursuant to WC 10.770.
 - (a) Individuals may rest, as defined in WC 10.710, during open park hours so long as the individual is not in, on, across, over, or under a play structure or playground area, water feature, trail, pathway, restroom, or sports field, is not violating any of the prohibitions described in WC 10.700 through 10.780, and is not violating any other subsection of this Section 3.000 through 3.030.
- (17) No person shall operate any motor vehicle within a park area at a speed in excess of posted limits.
- (18) No person shall operate or use any noise producing machine, vehicle, device, or instrument in such a manner that is disturbing to other park area visitors or neighboring houses.
- (19) Except for authorized overnight camping in accordance with the City rules and regulations, no person, other than law enforcement officers or authorized City personnel, shall enter or remain in any park area except during ~~posted hours as established by the Council~~the hours of 6:00 am to 10:00 pm.
- (20) A fenced and signed area on the east side of Memorial Park is hereby designated as dog off leash area in which dogs may be allowed to run off leash provided:
 - (a) The dog is properly licensed and has received required vaccinations (rabies);
 - (b) The dog's owner, or owner's designee:
 1. Removes any and all feces excreted by the dog;
 2. Keeps the dog within the designated area during all times it is off leash;
 3. Secures the dog by adequate leash when entering or leaving the designated area;

- 4. Does not take a female dog in estrus into a designated area when other dogs are present, or, if already within a designated area, removes such female dog in estrus when other dogs enter the area; and
 - 5. Is present in the designated area and has voice control of his or her dog.
- (c) No dog shall be permitted to fight, bite, or bark excessively while in a designated dog off leash area, and the owner of a dog fighting, biting, or barking excessively may be cited therefore and/or required to remove his or her dog from the area.
- (21) A dog owner or owner's designee is required to remove and properly dispose of any and all feces excreted by said dog or dogs in all City parks.
- (22) Smoking or the use of tobacco products is prohibited on all City park property, park facilities and buildings. "Tobacco products" includes any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be used for smoking, chewing, inhalation, or other means of ingestion.
- (Ord. No. 425, 4-4-1994; Ord. No. 712, 1-7-2013)

3.010. Facility Reservation.

- (1) In order to provide for the convenience of advance reservation of park facilities the following procedures are hereby adopted:
- (a) Formal application must be made at City Hall to reserve any public park and recreation facility for the exclusive use of any particular group.
 - (b) All applications must be made at least two weeks in advance of the date of facility use and shall include the name of the organization/group, the facility requested, date and time and requested, name, address and phone number of person in charge, type of activity and any special requests.
 - (c) Reservation fee shall be paid in advance to assure reservation.
 - (d) The person in charge must sign the application.
 - (e) All applicant for park reservations shall be aware of the fact that reservations for park facilities are on a first-come, first-serve basis.

3.020. Use and Consumption of Alcoholic Beverages.

- (1) Alcohol may not be consumed or used in Wilsonville City parks under the following conditions:
- (a) Alcoholic beverages or their consumption shall be limited to wines or beer only.
 - (b) In those areas designated by the City for which a reservation has been permitted and the applicant indicated on the application form that alcoholic beverages would be served. This does not in any way eliminate the reservation applicant from those rules and regulations administered under the Oregon Liquor Control Commission (OLCC).

(Ord. No. 425, 4-4-1994)

3.022. Water Safety Regulations.

- (1) No person shall swim, dive, or fish ,on or from the Memorial Park dock.

(2) The ordinance will sunset on the date of the conclusion of the described grant agreement.

(Ord. No. 752, 12-1-2014)

3.030. Enforcement and Penalty.

(1) In addition to City Police, all City park employees or Council persons in charge of City parks or any park area are authorized and directed to enforce by all lawful means full compliance by the public with the foregoing rules and regulations.

(2) Any person violating any park rule or regulation as delineated by Sections 3.000 and 3.020 of this Code, except those involving theft or damage over \$50.00, shall be punished upon a first conviction for a violation pursuant to Section 1.012, and upon a subsequent conviction for a Class C misdemeanor pursuant to Wilsonville Code, Section 1.012. Provided, however, a violation of a park rule which involves theft or damage to property [greater] than \$50.00 shall be treated as a crime under state criminal laws. Provided further a conviction for violation of Section 3.000(31) shall only be punished as a violation pursuant to Section 1.012.

(Ord. No. 253, 2-21-1984; Ord. No. 425, 4-4-1994; Ord. No. 712, 1-7-2013)

PARKING AND STORAGE REGULATIONS ENFORCEABLE BY CITATION AND FINE

5.200. Storage of Motor Vehicles and Other Property on the Street.

Except as further limited by WC 10.700 through 10.780, No person shall store or permit to be stored on a street or other public property, without permission of the Council, a motor vehicle, boat, trailer, camper, mobile home, travel trailer, or other personal property, including portable storage containers, for a period in excess of 72 hours, without moving at least three vehicle lengths away.

5.205. Method of Parking.

- (1) No vehicle shall be parked upon any street in a manner other than parallel to the roadway and facing in the direction of travel of the nearest travel lane unless specifically designated by signs or markings which are authorized by the City Manager or designee.
- (2) Where parking space markings are placed on a street, no person shall stand or park a vehicle other than in the indicated direction or the direction of travel if no direction is indicated, and, unless the size or shape of the vehicle makes compliance impossible, within a single marked space.
- (3) The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street shall have priority to park in that space, and no other vehicle operator shall attempt to interfere.
- (4) Whenever the operator of a vehicle discovers the vehicle is parked close to a building to which the fire department has been summoned, the operator shall immediately remove the vehicle from the area, unless otherwise directed by police or fire officers.

5.210. Prohibited Parking or Standing.

In addition to the state motor vehicle laws, the following regulations regarding parking or standing of the below-described vehicles apply:

- (1) A vehicle in an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of 30 consecutive minutes.
- (2) Except as further limited by WC 10.700 through 10.780, No motor truck with a gross vehicle weight of more than 8,000 pounds, truck trailer, motor bus, recreational vehicle, or utility trailer shall be parked on a street between the hours of 9:00 p.m. and 7:00 a.m. of the following day in front of or adjacent to a residence, motel, apartment, hotel or other sleeping accommodation, except
 - (a) as may otherwise be specifically adopted by action of the City Council, or
 - (b) to accommodate only the loading/unloading of property belonging to the occupants of or performing a service on the adjacent residence and in such case, no sleeping is allowed at any time and the maximum period allowed to accomplish performance of the service or such loading, unloading, or a combination of both, shall not exceed 48 hours, thereafter subject to ticketing and/or towing in accordance with Code requirements for any time beyond this maximum service, loading/unloading period.
- (3) No trailer as defined in ORS 801.560 shall be parked upon any City street unless it is attached to a motor vehicle by which it may be propelled or drawn, save and except such streets within Industrial

Zones that the City Engineer reasonably determines that parking of unattached trailers would not constitute a safety hazard. This subsection shall not apply to trailers which are disabled to such extent that the driver cannot avoid temporarily leaving the disabled trailer on the street, provided that the trailer must be removed within 24 hours of becoming disabled.

- (4) No operator shall park and no owner shall allow a vehicle to be parked upon a street for the principal purpose of:
 - (a) Displaying the vehicle for sale.
 - (b) Repairing or servicing the vehicle, except repairs necessitated by an emergency.
 - (c) Displaying advertising from the vehicle. Incidental parking of a vehicle with such advertising that is permanently or semi-permanently attached to the vehicle and would normally be construed as routine self-promotion, including name, logo, slogan, or product description of the vehicle is not intended to be prohibited.
 - (d) Selling merchandise from the vehicle, except when authorized.
- (5) No vehicle shall be parked upon any City street in a location within 12 feet of any mailbox used for pickup or delivery of the United States mail.
- (6) No vehicle shall be parked upon any City street or highway in violation of "No Parking" signs or markings, where the City Manager or designee authorizes such signs or markings.
- (7) No vehicle shall be parked upon any City street adjacent to any yellow curb, where the City Manager or designee authorizes such curb.
- (8) No vehicle shall be parked upon any City street in a manner such that less than 18 feet of unobstructed roadway width is left available for the passage of other vehicles. Where roadways are less than 18 feet wide, such width as necessary to allow two vehicles to pass, shall remain unobstructed.
- (9) Except as further limited by WC 10.700 through 10.780, No vehicle shall be parked on any street for more than 72 hours without moving at least three vehicle lengths away.
- (10) No vehicle shall be parked where it is impeding or likely to impede the normal flow of vehicular, bicycle, or pedestrian traffic; where it is a hazard or is likely to be a hazard to vehicular, bicycle, or pedestrian traffic; or where it is obstructing the required width of a fire apparatus access road.
- (11) No vehicle shall be parked or operated on a highway when the vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more, the vehicle is required to be registered when operated on a street, and the vehicle is parked or being operated on a City street.
- ~~(12) Unless in a designated area for camping, no person shall, for a period of more than two hours, use any vehicle or trailer to camp in, sleep in, or live in while parked upon any City property, City right-of-way, City easement, or City street.~~
- ~~(a) For the purposes of this Section,~~
 - ~~1. The term "camp" has the same meaning given it in Code Section 10.425.~~
 - ~~2. The term "sleep" means the natural periodic suspension of consciousness, during which the powers of the body are restored, or resting or meditating in a manner which leads a reasonable person to conclude that consciousness is suspended.~~
 - ~~3. The term "live" means the use of a vehicle or trailer for a home, dwelling place, residence, or domicile. Engaging in or the presence of items used for cooking, sleeping, bathing, or other activities normally associated with home life may serve as evidence that a person is living in a vehicle.~~

~~(b) It shall be an affirmative defense to "sleep in" if the sleeping was caused by a medical condition and not induced by alcohol, controlled substances, or medication that warns of causing drowsiness or sleepiness, or warnings to that effect.~~

~~(c) It shall be an affirmative defense to "live in," if a legally permissible explanation is provided of the items present or the activity engaged in that a reasonable person could find plausible under the circumstances then and there present.~~

~~(1312)~~ No vehicle shall be parked in any Residential Permit Parking Zone without a residential parking permit clearly displayed in the window for that Residential Parking Zone, as more particularly described in Chapter 5, Section 5.245.

(Ord. No. 722, 9-5-2013; Ord. No. 750, 12-1-2014; Ord. No. 804, 2-7-2017)

10.540. Civil Exclusion.

- (1) *Definitions.* For purposes of this provision:
 - (a) *Applicable provision of law* includes any applicable provision of this Code, or any City ordinance, or of any rule or regulation promulgated by the Council under this Title, any applicable criminal or traffic law of the State of Oregon, any law regarding controlled substances or alcoholic beverages, or any applicable County ordinance or regulation.
 - (b) *Excluding officer* means any police officer or City employee authorized by the City Manager to issue exclusions.
 - (c) *City property* means any property including, but not limited to, parks, greenways, buildings, parking lots, or other land or physical structures owned or managed by the City.
- (2) *Exclusion.* In addition to other remedies provided for violation of this Code, or of any laws of the State of Oregon, any excluding officer may exclude any person who violates any applicable provision of law or regulation in or on any City Property from that City Property in accordance with the provisions of this Section. Provided, further, the removal of a person for disturbing a City Council or other public meeting shall not be the basis for exclusion from future City Council or other public meetings under this ordinance; but may be used as evidence in any other civil or criminal proceeding that may result in a future exclusion.
- (3) *Period of Exclusion.* An exclusion issued under the provisions of this Section shall be for 30 days. If the person to be excluded has been excluded from any City property at any time within two years before the date of the present exclusion, the exclusion shall be for 90 days. If the person to be excluded has been excluded from City property on two or more occasions within two years before the date of the present exclusion, the exclusion shall be for 180 days.
- (4) *Warning Prior to Exclusion.* Before issuing an exclusion under this Section, the excluding officer shall first give the person a warning and a reasonable opportunity to desist from the violation. An exclusion shall not be issued if the person promptly complies with the direction and desists from the violation. Notwithstanding the provisions of this Subsection, no warning shall be required if the person is to be excluded for engaging in conduct that:
 - (a) Is classified as a felony or misdemeanor under the following Chapters of the Oregon Revised Statutes, or is an attempt, solicitation, or conspiracy to commit any such felony or misdemeanor defined in ORS.
 1. Chapter 162—Offenses Against the State and Public Justice;
 2. Chapter 163—Offenses Against Persons;
 3. Chapter 164—Offenses Against Property, except for ORS 164.805, Offensive Littering;
 4. Chapter 165—Offenses Involving Fraud or Deception;
 5. Chapter 166—Offenses Against Public Order; Firearms and Other Weapons; Racketeering;
 6. Chapter 177—Offenses Against Public Health, Decency and Animals;
 7. Chapter 475—Controlled Substances; Illegal Drug Cleanup; Paraphernalia; Precursors; or
 - (b) Otherwise involves a controlled substance or alcoholic beverage; or
 - (c) Has resulted in injury to any person or damage to any property; or
 - (d) Constitutes a violation of any of the following provisions of this Code:
 1. 10.130 Minor—Purchase or Possession of Liquor.
 2. 10.230 Killing of Birds or Animals Prohibited.

3. 10.300 Public Intoxication and Drinking.
 4. 10.310 Panhandling.
 5. 10.320 Public Kept in Decency.
 6. 10.350 City Property, Destruction.
 7. 10.390 Posted Notices, Defacement.
 8. 10.410 Diving from Public Pilings.
 9. 10.410 Unlawful Operating or Riding a Skateboard in a Prohibited Area.
 10. 10.420 Intentionally Causing Damage to Town Center Park Properties by or for Skateboarding.
 - ~~11. 10.425 Camping on Public Property and Rights of Way.~~
 - ~~12~~11. 10.510 Attempt to Commit Offenses.
- (e) Is conduct for which the person previously has been warned or excluded for committing on any City Property.
- (5) *Written Notice.* Written notice signed by the excluding officer shall be given to any person excluded from any City property under this Section. The notice shall specify:
- (a) The date of the exclusion's issuance;
 - (b) Length of exclusion;
 - (c) City property from which the person is excluded;
 - (d) Identify the provision of law the person has violated and shall contain a brief description of the offending conduct;
 - (e) Inform the excluded person of the right to appeal, including the time limit and the place of delivering the appeal;
 - (f) Inform the excluded person of the right to petition for a waiver of all or any portion of the exclusion; and
 - (g) The consequences for failure to comply shall be prominently displayed on the notice.
- (6) *Appeal of Exclusion.* A person receiving such notice of exclusion may appeal, in writing, to the Wilsonville Municipal Court Clerk.
- (a) A hearing shall be held at the next regularly scheduled session of the Wilsonville Municipal Court.
 1. The excluded individual may request, in writing, setting forth the reason therefor, that the hearing be postponed, and the Clerk shall grant such a postponement upon a showing of necessity.
 - (b) The municipal judge shall dissolve the exclusion upon a showing that:
 1. The excluding officer lacked probable cause; or
 2. The excluded individual was engaged in the lawful exercise of any right or privilege guaranteed under the United States Constitution, Constitution of the State of Oregon, or any other law.
- (7) *Waiver of Exclusion.* At any time within the period of exclusion, a person receiving such notice of exclusion may apply, in writing, to the Municipal Judge for waiver of some or all of the effects of the exclusion for good reason. If the Municipal Judge grants a waiver under this Subsection, the Municipal Judge shall promptly notify the excluding officer. In exercising discretion under this Subsection, the Municipal Judge shall consider

the seriousness of the violation for which the person has been excluded, the particular need of the person to be within the area from which they are excluded during some or all of the period of exclusion, such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criterion the Municipal Judge determines to be relevant to the determination of whether or not to grant a waiver. The decision of the Municipal Judge to grant or deny, in whole or in part, a waiver under this Subsection is committed to the sole discretion of the Municipal Judge and is not subject to appeal or review.

- (a) The Municipal Judge shall grant the waiver if the excluded individual wishes to participate in any free speech activity protected by the Constitution of the United States or the Oregon Constitution.
- (8) *Stay During Appeal.* If an appeal of the exclusion is timely filed under Section 6, the effectiveness of the exclusion shall be stayed, pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of exclusion from the time of the stay shall be effective immediately upon the issuance of the Municipal Judge's decision, unless the Municipal Judge specifies a later effective date.
- (9) *Appropriate Length of Exclusion.* If a person is issued a subsequent exclusion while a previous exclusion is stayed pending appeal (or pending judicial review, should a court stay the exclusion), the stayed exclusion shall be counted in determining the appropriate length of the subsequent exclusion under Subsection (3). If the predicate exclusion is set aside, the term of the subsequent exclusion shall be reduced as if the predicate exclusion had not been issued. If multiple exclusions issued to a single person or a single facility are simultaneously stayed pending appeal, the effective periods of those which are affirmed shall run consecutively.
- (10) *Violation of Exclusion.* No person shall enter or remain on City property at any time during which there is in effect a notice of exclusion issued under this Section excluding the person from that property.
 - (a) If a person who received notice of exclusion from City property subsequently remains or returns to that building or property, that person may be arrested on criminal trespass charges.
 - (b) A prosecution for criminal trespass is not an exclusive remedy. The person violating an exclusion order may also be liable for civil trespass and any other charge or liability under common, local, state, or federal law.

6.400. Removal of Individuals, their Property and Campsites on Public Property.

- ~~(1) Prior to the removal of any individual and/or their personal property from an established camping site on public property, law enforcement officials shall post a removal notice at the campsite, written in English and Spanish, 24 hours in advance of removal, provided however, that law enforcement officials are encouraged to determine if the circumstances warrant an extension of time for removal to ensure humane treatment, in which instance the law enforcement officials may extend the notice time up to 72 hours in advance of removal;~~
 - ~~(a) At the time the notice is posted, law enforcement officials shall inform a local agency that delivers social services to homeless individuals where the notice has been posted.~~
 - ~~(b) This local agency may arrange for outreach workers to visit the camping site where a notice has been posted to assess the need for social service assistance in arranging shelter and other assistance.~~
 - ~~(c) All unclaimed personal property shall be given to law enforcement officials whether 24 hour notice is required or not. Subject to approval of the City Manager, the City's Public Works Director shall develop a protocol to aid such law enforcement officials in the custody, removal, storage, and destruction of the unclaimed personal property. A notice shall be posted, written in English and Spanish, providing a phone number to call during the business hours of 8:00 a.m. to 4:00 p.m., Monday to Friday, to arrange an appointment to pick up the unclaimed personal property. This notice shall be posted in a conspicuous place in the general vicinity, but not greater than 30 feet, of the personal property to be removed, and shall be laminated or otherwise made to be weather resistant. The notice shall not be posted on or attached to personal property in the area. The property shall be stored for 30 days from the removal date and will be available to any individual claiming ownership. Property that remains unclaimed for 30 days will be disposed of and the notice removed.~~
 - ~~(d) *Personal property* means any item that is reasonably recognizable as belonging to a person and has apparent utility. Items that have no apparent utility or are in an unsanitary condition will be immediately discarded upon removal of the homeless individuals from the camping site.~~
 - ~~(e) City officials or law enforcement personnel shall photograph the site prior to the removal of property and provide a general description of items disposed of due to their lack of apparent utility or unsanitary condition.~~
 - ~~(f) Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be turned over to the appropriate law enforcement officials.~~
- ~~(2) Following the removal of homeless individuals from a campsite on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.~~
- ~~(3) The 24 hour notice under subsection (1)(c) of this section shall not apply:~~
 - ~~(a) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring.~~
 - ~~(b) In the event of an exceptional emergency such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety.~~
- ~~(4) Sleeping or sleeping in a vehicle on public property in a manner that establishes a camping area or that results in personal property or trash being stored on public property shall be considered an established camp for the purposes of this Section.~~

- ~~(a) Vehicles used for camping on public property shall be impounded according to Wilsonville Code Sections 5.400—5.460. The contents of impounded vehicles will be inventoried according to Wilsonville Code Section 5.425.~~
- ~~(b) Sleeping in a vehicle on a public right of way shall still be governed by Wilsonville Code Section 5.210(12).~~
- ~~(c) Illegal parking, stopping or standing of vehicles are governed by Wilsonville Code Sections 5.200 et seq.~~
- ~~(5) A person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of the notice described in this section and within two hours before or after the notice was posted.~~

(Ord. No. 716, 4-15-2013)

GENERAL

10.400. Diving From Public Pilings.

- (1) No person shall dive or jump from, or climb or sit on, public pilings at the boat dock or at the swimming dock in Wilsonville Memorial Park or Boone's Ferry Park.
- (2) Violation of this section is punishable as a violation pursuant to Section 1.012.

(Ord. No. 287, 1-21-1986)

10.410. Unlawful Operating or Riding a Skateboard in a Prohibited Area.

- (1) It shall be unlawful for any person or persons to operate or ride a skateboard in any of the following prohibited areas:
 - (a) Town Center Park.
 - (b) Other property posted "No Skateboarding".

10.420. Intentionally Causing Damage to Town Center Park Properties by or for Skateboarding.

- (1) It shall be unlawful for any person or persons with intent to damage Town Center Park property to damage Town Center Park property by:
 - (a) Operation or riding of a skateboard; or
 - (b) Destroying, altering, denting, breaking, impairing, mutilating, harming, or injuring Town Center property to make it usable for skateboard operation and riding.

~~10.425. Camping on Public Property and Rights-of-Way.~~

- ~~(1) It shall be unlawful for any person or persons to camp on public property or right-of-way without prior approval of the City, except that unauthorized overnight camping on City parks or park facilities is governed by WC 3.000(16).~~

- ~~(a) (2) To camp means to set up, or remain in or at, a campsite for the purpose of establishing or maintaining a temporary place to live.~~

- ~~(3) Campsite means any place where any bedding, sleeping bag, or other sleeping matter, or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure or any vehicle or part thereof.~~

~~(Ord. No. 715, 4-15-2013)~~

10.430. Penalties.

Except as set forth in 10.250 and 10.400, violations of any provision of Chapter 10 shall be punished as follows:

- (1) First Offence, a fine not to exceed \$250.00.
- (2) Second Offence within one year, shall be subject to punishment of a Class C misdemeanor (not to exceed \$500.00 fine, not to exceed 30 days imprisonment).
- (3) Any person who violates the provisions of WC 10.420 shall be punishable as a Class A misdemeanor (not to exceed \$2,500 fine, not to exceed one year imprisonment).
- (4) Upon conviction of WC 10.410 or WC 10.420, the Court may in addition to any other penalty order that the skateboard that was used be impounded until such times as may appear just and reasonable or may be ordered forfeiture of the skateboard. Provided, however, it shall be a defense to forfeiture if it is proven to the Court by the preponderance of the evidence that the defendant is not the owner of the skateboard and the owner did not know or could not have reasonably known that the skateboard would be ridden in violation of the provisions of this ordinance.
- (5) Any person who is convicted of violating the provisions of WC 10.305 shall be punished as a violation pursuant to Section 1.012.

(Ord. No. 777, 11-16-2015)

CITY OF WILSONVILLE

VALUE STATEMENTS REGARDING HOUSING STATUS

The City of Wilsonville recognizes the regional and statewide homelessness crisis and understands that the City must play an active role in responding to the related humanitarian and livability concerns. The City makes the following statements to declare its commitment to coordinate with other government entities, service providers, and community members in responding to this crisis.

1. The City reaffirms its declaration as a welcoming and inclusive city, as described in Resolution No. 2626, adopted by the City Council on May 1, 2017.
2. The City reaffirms its efforts and adopted policies to continue building a thriving, vibrant community that provides a variety of employment to promote a robust workforce and housing opportunities across income levels. Such efforts and policies include, but are not limited to, the Equitable Housing Strategic Plan, the Town Center Master Plan, the Frog Pond East and South Master Plan, the transit-oriented development (TOD) affordable housing project, the Coffee Creek Master Plan, the Basalt Creek Concept Plan, the Urban Renewal Strategic Plan, the Economic Development Strategy, the Parks & Recreation Comprehensive Master Plan, and the South Metro Area Regional Transit (SMART) department that provides free in-town transit services.
3. All community members are entitled to be valued and treated with dignity regardless of their housing status. The City values community and individual wellbeing and will coordinate with state, regional, county, and local service providers to promote measures and services that are designed to increase community and individual wellbeing.
4. The City's role is to formulate policy and rules to best protect community safety, health, welfare, livability, and the environment.
5. Recognizing limited City resources, the City will utilize all existing and potential sources of funding made available from federal, state, regional, county, or other local funds specifically designated for addressing homelessness.
6. The City will coordinate with state, regional, county, and local service resources, and particularly Clackamas County housing initiatives, including Homelessness Prevention, Rapid-Rehousing, Coordinated Housing Access, and Built for Zero, with the goal that all unhoused people be afforded options for safer, stable housing.
7. The City's obligation and role is to regulate camping as survival sheltering in places not generally intended for living or habitation.
8. The City believes that camping for survival sheltering outside is not a solution for individuals experiencing homelessness.

9. The City's camping for survival regulations are designed to ensure that all community members feel that they are in a safe, orderly environment, including individuals who are sheltering for survival.

FINDINGS FOR ORDINANCE NO. 879

I. GENERAL FINDINGS

The general purpose of Ordinance No. 879 is to regulate the time, place, and manner in which individuals may camp on City of Wilsonville property and rights-of-way. Furthermore, the purpose of Ordinance No. 879 is to comply with Oregon House Bill 3115 (2021) and House Bill 3124 (2021), as well as current federal court decisions *Martin v. Boise*, 920 F.3d 584 (9th Cir., 2019) and *Johnson v. City of Grants Pass*, 50 F.4th 787 (9th Cir., 2022). The City makes the following general findings regarding the camping regulations contemplated in Ordinance No. 879.

Finding 1.1. The City Council acknowledges the lack of nightly shelter beds and housing currently available regionally and recognizes the systemic lack of state and federal investment in shelter and public health services for individuals experiencing homelessness.

Finding 1.2. The City Council acknowledges that it is currently unavoidable that some people will live or shelter for survival outdoors until they are able to access affordable or free shelter or housing. In Wilsonville, this has typically meant sheltering on City rights-of-way and City property.

Finding 1.3. Public rights-of-way are generally intended for public use and travel. The City Council is the road authority for most roads within the City; as such, the City must consider the safety of all modes of transportation travelling on roadways and sidewalks, including to and from neighboring properties, businesses, and residences.

Finding 1.4. The City owns extremely limited property where camping can or should be allowed. City utilities (stormwater, water, and sewer) are sensitive and generally closed to the public or have limited access for safety, environmental, and security reasons.

Finding 1.5. It is the intent of the City Council to provide standards for camping and survival sheltering on City property as mandated by state and federal law. However, camping for survival is not an alternative to stable, safe housing that is necessary for the sustainable health of the individual.

Finding 1.6. It is the intent of the City Council to provide standards for camping and survival sheltering on City property and City rights-of-way that will address issues such as fire risk, unsanitary conditions, trash, and public safety hazards to people camping and neighboring businesses and community members, and environmental degradation, which have occurred with longer-term camping in the City.

II. FINDINGS REGARDING TIME REGULATIONS

Finding 2.1. The City Council finds that restricting the time for camping on public property is necessary to increase public safety and ensure the equal and orderly administration of these regulations. The chosen time period for permitted camping is consistent with current City parking regulations. Additionally, the City of Wilsonville contracts with Clackamas County for

law enforcement services. Due to the limited availability of law enforcement services, the City must have firm time regulations that ensure proper administration within the designated areas for camping. The City Council also finds that the chosen ten (10) hour period is longer than similar time regulations, and provides additional time for individuals experiencing homelessness to set up and take down their camping materials, as well as obtain sufficient rest.

Finding 2.2. The City Council finds that individuals experiencing homelessness can store and use personal property in designated areas when reasonably necessary for camping, sleeping, or staying warm and dry from the elements. The time limits on the storage of personal property in designated areas ensure a lack of obstructions for City rights-of-way and on other public property, as well as protecting the health and safety of residents and other individuals experiencing homelessness from harm to persons or property. The City Council also finds that the City has an interest in ensuring the aesthetic and healthy vision for the City through effective and orderly administration of regulations.

III. FINDINGS REGARDING PLACE REGULATIONS

Finding 3.1. The City Council finds that City parks are a vital part of the Wilsonville community and represent significant City assets as real property owned by the City; public improvements and infrastructure built, controlled, maintained, and owned by the City; and sites necessary for the health and wellbeing of the community. In the 2022 biennial National Community Survey, City parks received the highest rating out of 10 characteristics at 91% of those surveyed rating the quality of City parks as excellent or good. The City has intentionally invested significant resources to the development, maintenance, and expansion of its parks system, with plans to continue to do so, as outlined by the City's 2018 Parks and Recreation Comprehensive Master Plan ("Parks Master Plan"). The City Council relies on the Parks Master Plan and supporting documents to substantiate continuing to prohibit camping in City parks. In the public outreach conducted as part of the City's project to update its public property camping regulations, community members completed a forced-ranking of suitability as space to allow overnight camping and City parks was ranked the third least suitable locations, only above residential areas and areas around schools.

Many City parks, including Memorial Park (the City's largest park), Boones Ferry Park, and Arrowhead Creek Park, have areas within the City's Significant Resource Overlay Zone (SROZ), which limits development and uses that may occur in those areas in order to protect wildlife habitat, wetlands, riparian corridors, and other environmentally sensitive areas. In order to protect the significant resources dedicated to the City's high-quality parks, the City Council finds that City parks should continue to remain closed to all community members between 10:00 pm until 5:00 am, unless appropriate authorizations are obtained. The City Council further finds that other designated City-owned property offers sufficient space for individuals who are involuntarily homeless to camp overnight.

Finding 3.2. The City Council finds that City parking lots or other City property not listed as designated areas for camping must be protected for the benefit and use of City staff and the public. City staff utilize City parking lots to safely store City vehicles, as well as for the parking of City employees' personal vehicles during the work day. The City also hosts numerous events

and activities throughout the year for the public, which often utilize City parking lots and City property for attendance. The City Council has specifically created certain designated areas where individuals experiencing homelessness may safely camp overnight and access essential sanitary facilities.

Finding 3.3. The City Council finds that the City's South Metro Area Regional Transit (SMART) system is an integral service to the Wilsonville community. SMART provides transportation services for a wide range of Wilsonville residents, employees, and visitors. These individuals access these services through the use of City bus shelters throughout the area. Many of the frequent users of SMART services are elderly or disabled residents, and often require use of the bus shelter while awaiting transportation services. The City Council further finds that other designated City-owned property offers sufficient space for individuals who are involuntarily homeless to rest and camp overnight, while also preserving the facilities necessary for residents accessing local public transportation services.

Finding 3.4. The City Council finds that the Significant Resource Overlay Zone (SROZ) serves to protect natural resources, open space, flood hazard areas, the Willamette River Greenway, and, generally, the environment. The City Council adopted the SROZ as part of the City of Wilsonville Zoning Map to achieve compliance with the requirements of the Metro Urban Growth Management Functional Plan (UGMFP), relating to Title 3 Water Quality Resource Areas and Title 13 Habitat Conservation Areas, as well as the portion of Statewide Planning Goal 5 relating to significant natural resources. The SROZ limits the types of uses and development that may occur in order to preserve the natural areas, riparian corridors, wetlands, for animal and plant life. Such preservation will be significantly damaged and undermined if individuals camp or shelter within the SROZ.

The City Council further finds that the City's Significant Resource Overlay Zone (SROZ) poses a unique fire danger during high and extreme fire conditions due to the abundance of dry brush and other fuel sources. It is difficult for emergency personnel to evacuate individuals from the SROZ during a fire event, and difficult to enforce arson laws and burning prohibitions on an incident-by-incident basis due to the rapid rate of fire spreading under such conditions. Wildfires in the SROZ, as well as other densely forested areas within the City, pose a severe threat to persons and property, including residents and property owners near those areas, as well as parks and public lands.

Finding 3.5. The City Councils finds that the City of Wilsonville takes great pride in its urban forests and recognizes the benefits that trees provide to quality of life, economic development, and livability. The City's Heritage Tree program recognizes and fosters the appreciation and awareness of trees that represent and promote the history and values of the community. Camping near these historical markers, or other sensitive tree areas, would undermine the goals of the program, as well as pose a potential threat to the health and preservation of protected trees within the community.

Finding 3.6. The City Council finds that effectively managing City stormwater facilities is imperative to ensuring enhanced water quality, preserving natural features, providing aesthetic value to the community, and protecting wildlife habitats. Pursuant to the 2012 Stormwater Master

Plan, the City is committed to achieving these goals, while also complying with local, state, and federal regulatory requirements. Camping near areas designated as stormwater facilities potentially pose a significant risk to water quality through the contribution of pollutants and toxins that are related to human activity. Additionally, the City must maintain regular access to these facilities to comply with all applicable regulations and make necessary repairs and improvements. The City must also ensure continued compliance with its National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit that is regulated through the Oregon Department of Environmental Quality by protecting its stormwater system from hazards and water pollution.

Finding 3.7. The City Council finds that camping, lying, or sleeping on or near railroad tracks, or in a manner that obstructs rights-of-way, vehicle lanes, bicycle lanes, or roundabouts prevents the public's ability to use that public property for its intended purpose and in some situations can result in imminent threats to life.

Finding 3.8. The City Council finds that as the road authority for the City, the City is responsible for ensuring the safety of any street or right-of-way undergoing construction, heavy vehicle use, or other similar uses where camping would be incompatible for purposes of avoiding imminent threats to life, or delays in necessary public improvements.

IV. FINDINGS REGARDING MANNER REGULATIONS

Finding 4.1. The City Council finds that City rights-of-way are generally to serve multi-modal transportation, including, but not limited to, vehicle, bicycle, and pedestrian traffic. Obstructing sidewalk accessibility is not only potentially a violation of the Americans with Disabilities Act (ADA), obstructions can also prevent access to and repair and maintenance of fire hydrants, mailboxes, crosswalk call buttons, and other critical public utility infrastructure.

Finding 4.2. The City Council finds that close congregation of campsites together often leads to campsites growing to a point of causing significant sanitary, health, safety, and welfare issues. The City Council also finds that allowing close congregation of campsites limits the ability to enforce other camping regulations.

Finding 4.3. The City Council finds that recreational fires and other sources of open flames pose a risk to the health and safety of the community. During dry seasons, open flames can create a fire danger that poses a severe threat to surrounding persons and property within the City. Additionally, open flames and recreational fires pose a health risk to individuals camping within the vicinity, as well as serve as a source of potential airborne pollutants and toxins. The City currently contains service providers that distribute meals to individuals experiencing homelessness that do not require heating by flame or other forms of heating that pose fire threats.

Finding 4.4. The City Council finds that it must continue to prohibit any uses that may cause violations of the City's NPDES MS4 permit and/or jeopardize the City's sanitary sewer and stormwater systems. The City Council further finds that the City takes great pride in its excellent aesthetic and healthy appearance. The storage or discarding of garbage, debris, or other various forms of unsanitary materials or substances such as black or grey water within the City may be

harmful to the health and safety of persons or property, including residents and individuals experiencing homelessness, as well as detract from the aesthetic vision for the City. Additionally, storage of certain combustible materials can pose a significant fire threat when located near structures or other individuals. The City Council further states that individuals experiencing homelessness can store and use personal property that is reasonably necessary for camping, sleeping, or staying warm and dry from the elements.

Finding 4.5. The City Council finds that unauthorized utility connections, attachments of personal property to public property or structures, or otherwise altering public property in any unauthorized manner poses a risk to the effective management, use, and enjoyment of such property by residents, public employees, or other individuals. The City and other public employees must maintain regular access to these public utility structures and additional public property to comply with all applicable local, state, and federal regulations, make necessary repairs and improvements, and provide essential services to protect persons and property during emergencies. Additionally, the City Council finds that residents and visitors regularly use and rely on public property, such as facilities, structures, and open areas for the provision of services and personal enjoyment. The City Council further finds that any unauthorized connections or attachments likely violate federal, state, and/or local laws, regulations, and policies, including, but not limited to, the Clean Water Act, the Americans with Disabilities Act, building codes, and land use regulations.

Finding 4.6. The City Council finds that any unleashed domesticated pets or animals pose a risk to the health and safety of community members, City employees, and other individuals. The City currently requires that dogs must be on leash if on public property, unless is a designated off-leash dog park. The City also currently prohibits animals of any kind from entering the park unless confined or, for dogs, if on-leash, unless in a designated off-leash dog park. Additionally, the presence of animal feces presents a public health hazard to water quality and an impediment to the enjoyment of public property. The City Council also finds that unleashed animals can stress local mammals and destroy habitats in sensitive areas such as those used for ground-nesting birds.

Finding 4.7. The City Council finds that the use, manufacture, or distribution of tobacco, alcohol, or cannabis products, or other illicit substances pose a risk to the health, safety, and welfare of residents, individuals experiencing homelessness, and other individuals impacted by the use of such substances. The use of these substances can contribute to health problems for those that use such substances, as well as surrounding residents, community members, and property where these substances are consumed, manufactured, or distributed. Additionally, the use, manufacture, or distribution of these substances is a violation of other applicable local, state, and federal regulations. The City Council further finds that exceptions should be made where an individual experiencing homeless can demonstrate a legitimate need for the use of certain substances for medical purposes.

Finding 4.8. The City Council recognizes that vehicles have at times been used by individuals who are involuntarily homeless for shelter and/or sleeping. The City Council also recognizes the need to protect the health and safety of persons and property in designated areas for camping. Potential harms from improper vehicle camping including environmental harm to stormwater facilities and surrounding habitats or structures, imposing barriers or impediments that

can obstruct travel by residents or public employees, and other actions that violate applicable local, state, or federal laws related to the ownership and operation of vehicles.

V. FINDINGS REGARDING NOTICE AND REMOVAL REGULATIONS

Finding 5.1. The City Council finds that when removing a camp or closing a location where people are camping on public property in a non-designated area the City will provide at least 72-hour notice to all impacted individuals. These provisions are subject to exceptions in cases of emergencies or criminal activity, as allowed by State law, or as necessary to protect the health, safety, and welfare of persons or property. The City Council further states that notice and removal efforts will be focused on working with service providers and community resources to provide reasonable support to individuals experiencing homelessness. The City will assess personal property remaining at closed campsites and determine the proper disposition of such property based on reasonable interpretations regarding the apparent nature and use of the property, and the relative impact of such property on the health and safety of the community.

Finding 5.2. The City Council finds that City officials must have the discretion to suspend notice provisions when necessary to provide essential services to protect persons and property during emergencies. Pursuant to state law and the needs of the community, designated public officials must have the authority to enforce removal regulations where there is a reasonable and legitimate threat to the health, safety, and welfare of persons or property relating to activities on public property occupied by individuals experiencing homelessness.

VI. FINDINGS REGARDING ENFORCEMENT REGULATIONS

Finding 6.1. The City Council finds that the City has an interest in enforcing local, state, and federal regulations. Pursuant to Article IV, Section 1(5), and Article XI, Section 2 of the Oregon Constitution, each municipal government has the authority to establish regulations and regulate the conduct of those within its boundaries where not pre-empted by state or federal law for the protection of public health, safety, and welfare. The Wilsonville City Charter imposes certain duties on City officials to enforce the provisions of all City regulations. It is the intent of the City Council to promote the amicable and efficient enforcement of these regulations, while ensuring equitable compliance to protect the health and safety of City property, residents, and individuals experiencing homelessness. The City Council further finds that pursuant to state laws regarding enforcement of camping regulations, public officials will not issue citations to individuals experiencing homelessness within two hundred (200) feet of removal notice posted within two (2) hours before or after the notice was posted. These limits are subject to City authority that is necessary for public employees to provide essential services to protect persons and property during emergencies.

VII. FINDINGS RELATED TO EXCEPTIONS TO REGULATIONS

Finding 7.1. The City Council finds that the City Manager or their designee must have the discretion to authorize additional camping and storage of personal property when reasonably necessary during periods of public emergencies. This provision will ensure swift and

comprehensive measures to protect the health and safety of individuals experiencing homelessness. Additionally, the City Manager or designee can make temporary accommodations for camping and the storage of personal property where there are reasonable grounds that are approved by City Council at the next regularly scheduled meeting. These provisions provide sufficient discretion for the City Manager or designee to act within their best judgment to make temporary accommodations where necessary and consistent with the goals of the City and the community, as well as providing expeditious review of the decision for compliance with relevant goals and policies.

RESOLUTION NO. 3058**A RESOLUTION OF THE CITY OF WILSONVILLE ADOPTING ADMINISTRATIVE RULES RELATED TO REGULATION OF CAMPING FOR SURVIVAL ON PUBLIC PROPERTY.**

WHEREAS, the purpose of these administrative rules is to ensure the humane treatment and appropriate response by the City to individuals experiencing homelessness when applying provisions within Sections 10.700 through 10.780 of Wilsonville Code, and other applicable provisions of Wilsonville Code, including but not limited to, Sections 3.000 and 5.200 through 5.210; and

WHEREAS, the City of Wilsonville seeks to create rules and procedures that provide flexibility and allow the City to nimbly, efficiently, and effectively comply with requirements of Oregon House Bill (HB) 3115 (2021) and HB 3124 (2021), as well as current federal court decisions *Martin v. Boise*, 920 F.3d 584 (9th Cir., 2019) and *Johnson v. City of Grants Pass*, 50 F.4th 787 (9th Cir., 2022; and

WHEREAS, the City has engaged in extensive community outreach, including a community questionnaire with 437 responses, anonymous surveys from individuals experiencing homelessness, additional outreach to public and private service providers, and discussions with other local stakeholders to create a comprehensive and adaptable response strategy for individuals experiencing homelessness; and

WHEREAS, the City Council conducted 7 work sessions on public camping regulations, and the City has received additional input from the City's DEI Committee, Library Board, and Parks and Recreation Advisory Board on creating and implementing nimble public camping regulations; and

WHEREAS, the City seeks to create versatile policies and systems to access and obtain services provided by the Counties of Clackamas and Washington, which receive state and federal funding for housing and homelessness services for those within their respective jurisdictions; and

WHEREAS, in undertaking a review of City provisions related to public camping for survival, creating administrative rules related to the implementation of time, place, and manner restrictions on public camping became necessary to provide guidance and direction to City

employees regarding compliance with state laws and current federal case law in the enforcement of the provisions of Wilsonville Code related to public camping.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the above-stated recitals and the Staff Report accompanying this Resolution as the City Council's findings demonstrating that the regulations adopted herein are in the public interest and promote the health, safety, and welfare of the City of Wilsonville community.

Section 2. The City Council hereby adopts the Administrative Rules regarding the City's regulation of camping on public property attached hereto and incorporated by reference herein at **Exhibit A**.

Section 3. Effective Date. This Resolution is effective beginning July 1, 2023.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 15th day of May, 2023, and filed with the Wilsonville City Recorder this date.

JULIE FITZGERALD, MAYOR

ATTEST:

Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Fitzgerald

Council President Akervall

Councilor Linville

Councilor Berry

Councilor Dunwell

EXHIBITS:

A. Administrative Rules

CITY OF WILSONVILLE ADMINISTRATIVE RULES IMPLEMENTING ORDINANCE NO. 879

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1. Purpose.

- 1.1. The purpose of these Administrative Rules is to: (1) refine and provide specificity to the regulations in WC 10.700 through 10.780; (2) provide City personnel direction on implementing WC 10.700 through 10.780; and (3) identify area(s) where individuals who are involuntarily homeless may camp in accordance with the time, place, and manner regulations stated in WC 10.720 through 10.740.
- 1.2. These Administrative Rules are intended to provide guidance and direction for implementing WC 10.700 through 10.780 to ensure citation and removal of individuals and clean-up of campsites comply with Oregon law.
- 1.3. The regulations in WC 10.700 through 10.780 are objectively reasonable with regard to individuals who are involuntarily homeless, as required by HB 3115 (2021), and will be implemented as described in these Administrative Rules in an objectively reasonable manner, based on the totality of circumstances, including the impact of these Administrative Rules on the person experiencing homelessness.
- 1.4. These Administrative Rules are authorized under WC 10.760(3) and may be amended from time to time via resolution adopted by the City Council.

2. Definitions.

- 2.1. *To camp or camping* means to set up, or remain in or at, a campsite for the purpose of establishing or maintaining a temporary place to shelter for survival from the elements.
- 2.2. *Camp materials* means tents, huts, awnings, lean-tos, chairs, tarps or tarpaulins, cots, beds, sleeping bags, blankets, mattresses, sleeping or bedding materials, food or food storage items, and/or similar items that are or appear to be used as sheltering and/or sleeping accommodations, or to assist with sheltering for survival and/or sleeping activities.
- 2.3. *Campsite* means any place where any camp materials, bedding, sleeping bag, or other sleeping matter, or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure or any vehicle or part thereof.
- 2.4. *City or Wilsonville* means the City of Wilsonville, Oregon.
- 2.5. *City Manager* means the City of Wilsonville City Manager or designee.
- 2.6. *City-owned property* means public real property, land, and premises owned by the City of Wilsonville.

- 2.7. *City right-of-way* means the space in, upon, along, across, over or under the City-owned streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, and places used or intended to be used by the general public for travel as the same now or may hereafter exist, that the City has the right to allow the public to use.
- 2.8. *Designated Area(s)* means the area(s) the City has identified where individuals who are involuntarily homeless may shelter for survival, as further identified in Section 3 herein.
- 2.9. *Individuals who are involuntarily homeless* means the circumstance when there is no available emergency or transitional housing for an individual experiencing homelessness and/or no transportation for such individual to available emergency or transitional housing within the county where the person is located.
- 2.10. *Personal property* means any item that is reasonably recognizable as belonging to a person and has apparent value or utility.
- 2.11. *Rest* means to pause from exertion by stopping, sitting, lying, or sleeping.
- 2.12. *SROZ* means the City's Significant Resource Overlay Zone.
- 2.13. *Store* means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- 2.14. *Vehicle* means every device in, upon, or by which any person or property is, or may be, transported or drawn upon any street or highway, and includes any hulk or component thereof, including, but not limited to cars, campers, recreational vehicles, motor homes, pickup trucks, pickup truck canopies, and trailers, except devices:
- 2.14.1. Designed to be moved exclusively by human power; or
- 2.14.2. Designed to be used exclusively upon stationary rails or tracks.
3. **Designated Area(s).** It is prohibited at all times for any person to use City property or City rights-of-way to camp for survival, except at the following location(s). The City designates the following specific locations on the Wilsonville City Hall property located at 29799 SW Town Center Loop East, Wilsonville, Oregon for individuals who are involuntarily homeless to camp, pursuant to the time and manner regulations outlined in WC 10.720 and WC 10.740:
- 3.1. Vehicle Camping Locations. An individual who is involuntarily homeless may camp in their vehicle in one of the primary parking spaces shown in **Illustration 1** below. The vehicle must be fully confined within the parking space and the individual may not place any camping materials or other materials outside of their

vehicle. If all primary parking spaces are full, an individual who is involuntarily homeless may camp in their vehicle in one of the designated overflow parking spaces. The parking spaces in between each designated parking space may not be used for camping or storage of personal property. Vehicle camping may not occupy designated non-vehicle camping locations.

3.1.1. If an individual who is involuntarily homeless is utilizing a recreational vehicle, the recreational vehicle may park diagonally in the primary parking spaces, but may not occupy more than three (3) spaces.

3.2. **Non-Vehicle Camping Locations.** An individual who is involuntarily homeless may camp in the spaces shown in **Illustration 1** below. The size of the campsite may not exceed 10 feet x 10 feet or 100 square feet. Each individual non-vehicle campsite must be at least 25 feet away from another non-vehicle campsite and at least 20 feet setback from property lines, as shown in Illustration 1. Individuals may not place any camping materials or other materials outside of their campsite. Campsites may not be located in the service area identified in **Illustration 1**.

Illustration 1



- 3.3. Other Temporary Circumstances. In the event that the areas and spaces identified in Illustration 1 above are at capacity and an individual who is involuntarily homeless needs a location to shelter for survival, the City Manager may designate additional location(s) as may be necessary pursuant to WC 10.770(2). Such temporary action by the City Manager must be considered for ratification by the City Council at its next regularly scheduled meeting.
- 3.3.1. In the event the City Manager must exercise authority pursuant to Section 3.3, the City Manager will consider areas and spaces that are in the best interest of the community and that best meet the purpose and intent of WC 10.700 through 10.780, including considering the following:
- 3.3.1.1. Whether circumstances indicate that such need is temporary or longer-term;
 - 3.3.1.2. The feasibility of additional space in the City Hall parking lot;
 - 3.3.1.3. The compatibility with surrounding uses and zoning of any other locations; and
 - 3.3.1.4. Feasibility of obtaining regulatory approval for temporary use on vacant city properties.

4. Outreach and Education

- 4.1. Resource Materials. The City will develop resource material(s), including, but not limited to, Washington County and Clackamas County resources for individuals who are involuntarily homeless and information of the City's camping for survival regulations. The City will have these educational materials printed in English and Spanish and available to employees, individuals who are involuntarily homeless, service providers, and community members at City facilities commonly utilized by the public. The information will also be provided on the City's website.
- 4.2. County Coordination. The City will coordinate with Clackamas County and Washington County regarding each County's response to and resources for individuals who are involuntarily homeless. City personnel will provide regular updates to the City Council and community of each County's resources and projects to address homelessness.

5. Clean-Up Procedures

- 5.1. Procedure for Removing Campsites and Personal Property.

- 5.1.1. If people are present when City personnel or contractors return following a posted notice to remove the personal property or campsite that was subject to the notice, people apparently in charge of the campsite, personal property, or vehicle should be given another verbal and/or written warning to move their own campsite, property, or vehicle.
- 5.1.2. When removing individuals from an established campsite, the City will make reasonable efforts to remove individuals without the use of force, arrest, or citation.
- 5.1.3. Following removal of a campsite or personal property, the City must post a notice stating the location where removed personal property is being stored, and how individuals can contact the City to retrieve their personal property. When practicable and when the person or people responsible for the personal property are present, the notice should also be personally delivered to the individual(s).
- 5.1.4. When removing personal property, the City will make reasonable efforts to determine if property belongs to an individual and has any apparent utility. The City will make reasonable efforts to identify which campsite property was removed from, to aid in connecting people with their property removed by the City. Items that are of no apparent use or are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, and discarded as part of any cleanup efforts by the City.
- 5.1.5. Weapons, controlled substances other than prescription medication, and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials.
- 5.2. Removal of Vehicles. The provisions of this Subsection are in addition to existing processes for towing of hazardous vehicles or vehicles eligible for towing under state law.
 - 5.2.1. A vehicle may be towed from City right-of-way as an abandoned vehicle under ORS 819.110 and WC 5.400 through 5.460, if it has been parked or left standing in a location or for a duration that is in violation of the Wilsonville Code and is not being used for shelter. (“Abandoned” for purposes of this Subsection means that the vehicle has been parked or left standing in excess of allowed time, even if people are using the vehicle in its parked location without moving it.) State and local regulations regarding notice and hearing for towed vehicles must be followed.
 - 5.2.2. Vehicles that are disabled or left standing in a location as to constitute a hazard or obstruction on City rights-of-way may be immediately towed in accordance with the provisions of ORS 819.120 and WC 5.415. Notice shall

be given as described under ORS 819.180 and WC 5.420, and, if requested, a hearing described under ORS 819.190 and WC 5.430.

5.3. Storage of Personal Property.

- 5.3.1. Personal property removed from campsites and unclaimed at the time of removal will be stored by the City, or its contractor(s), within the City limits, as identified on the notice posted at the time of removal, where people can reasonably access to retrieve belongings. Stored personal property will be reasonably available for any individual claiming ownership.
- 5.3.2. The City will not store, and will discard, items that have no apparent use or are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination. The City will not store perishable food items or other items that, if left in storage for up to 30 days, could contaminate other stored property.
- 5.3.3. The City, or its contractor(s), will keep records of the date property was received, a general description of the location the property was recovered from, the date the property must be stored until, and if known, a description or identification of the presumed owner of the property.
- 5.3.4. The City, or its contractor(s), will make reasonable efforts to provide a range of times the storage location will be available for people to collect property.
- 5.3.5. The City, or its contractor(s), will take reasonable precautions to secure stored property, including vehicles, but will not be responsible for loss or damage to stored property.
- 5.3.6. The City may dispose of any personal property that remains unclaimed after thirty (30) days, or such duration as required by statute.
- 5.3.7. Property held by the Clackamas County Sheriff's Office shall be disposed of in accordance with its policies and all applicable state laws.

5.4. Storage of Vehicles.

- 5.4.1. Towed or removed vehicles in which people are camping or sheltering should be stored as personal property removed from an established campsite in accordance with this Policy.
- 5.4.2. The City, or its contractor(s), will store vehicles in a reasonably secure location, consistent with practices for storing other removed personal property. Other than as required to facilitate tow or removal of a vehicle, or

as may be required for other valid or law enforcement purpose in extraordinary circumstances, City personnel will not enter vehicles or perform any search, including an inventory search, of vehicle contents.

- 5.4.3. The City will release vehicles to a person entitled to lawful possession with proof of valid license for the person driving the vehicle away. A person must provide proof of ownership or other indicia of ownership, or written authorization from registered owner.
- 5.4.4. If not retrieved after thirty (30) days, the vehicle will be considered unlawfully parked or abandoned pursuant to ORS 98.810 or other applicable statutes, and can be towed and impounded to a towing lot subject to storage and other lawful fees, liens, and disposal.

6. Enforcement

- 6.1. Violation of Administrative Rules. Any violation of these Administrative Rules may be enforced in accordance with WC 10.750 and 10.760.
- 6.2. Humane Implementation and Enforcement. In accordance with state law, the regulations in WC 10.700 through 10.780 and these Administrative Rules should be implemented and enforced in ways to ensure humane treatment of individuals who are involuntarily homeless when citing and/or removing them from campsites when violation(s) occurs.
- 6.3. Methods of Enforcement. Enforcement pursuant to WC 10.750 and 10.760 may be by the following ways:
 - 6.3.1. Notice and removal and/or clean-up of a campsite pursuant to WC 10.750;
 - 6.3.2. When circumstances warrant, emergency removal pursuant to WC 10.750(4); or
 - 6.3.3. Citation for violation pursuant to WC 10.760. Citations will be issued when other means of achieving compliance have been unsuccessful or are not practicable for the particular situation.
- 6.4. Pre-Citation Process.
 - 6.4.1. Except in emergencies or when not practicable for the particular situation, before a citation is issued, City personnel will contact, or will cause to be contacted, the person and provide opportunity to cure or remedy the alleged violation. City personnel should consider contacting Clackamas County or Washington County homeless response services (depending on the location). Communication with the person should be

done in a manner designed to help the person understand the alleged violation and how to cure the violation.

- 6.4.2. The City will provide to persons allegedly violating the City's camping regulations any relevant resource material(s) developed pursuant to Section 4.1 above.

6.5. Enforcement Suspension and/or Dismissal.

- 6.5.1. Enforcement of time restrictions may be suspended or modified in the event of a declared emergency, weather conditions, or for any other reason within the City Manager's authority, pursuant to WC 10.770(1).
- 6.5.2. The City may elect to dismiss a citation when an individual does not have access to shelter and is engaged in case management, housing, and/or behavioral health services, or when necessary or appropriate to respond to an individual's disability. Currently approved engagement includes:
 - 6.5.2.1. Clackamas County, including the Clackamas County Coordinated Housing Access Program
 - 6.5.2.2. Washington County, including the Washington County Community Connect Program.

ORDINANCE NO. xxx
AN ORDINANCE OF THE CITY OF xxx PROHIBITING CAMPING AT CERTAIN
PUBLIC PROPERTIES

Section 1. Definitions.

For purposes of this section, the following words and phrases shall mean:

- a. To “Camp” means to occupy a Campsite for over 24 hours.
- b. “Campsite” means a location upon City Property where Camping Materials are placed.
- c. “Camping Materials” include, but are not limited to, tents, huts, awnings, lean-tos, chairs, tarps, collections of personal property and/or similar items that are, or reasonably appear to be, arranged and/or used as camping accommodations.
- d. “City Property” includes, but is not limited to, parks, rights of way, parking lots, easements, or other land owned, leased, controlled, or managed by the City.
- e. “Personal Property” means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.
- f. “Relocate” means to move off of City Property or to a different City Property. This definition does not include moving to another portion of the same City Property.

Section 2. Camping Prohibited Upon City Property

1. It is unlawful for any person to Camp upon City Property unless otherwise authorized by law or by declaration of the City Administrator.

2. Unless otherwise authorized by law or by declaration of the City Administrator, it is unlawful to establish a Campsite for any period of time at the following locations:

- a. These locations will vary by city; where does council want to prohibit camping at all times? Examples:
- b. City Hall and adjacent sidewalks, address;
- c. Senior Center and adjacent sidewalks, address;
- d. Riverfront Park and Trail;

3. At least once every 24 hours an individual that has placed a Campsite, Camping Materials or Personal Property on City Property must Relocate.

3. The City shall only remove individuals and unclaimed Personal Property from a Campsite as provided by ORS 195.505.

4. Violation of this section is punishable by a fine of not more than \$xxx. The amount imposed shall be at the discretion of the judge.

5. If the City refers a service provider to an individual who is cited for a violation of this Section and the individual demonstrates they meaningfully engaged with that or another similar service provider after receiving the citation and before the hearing, the fine is eligible to be reduced or eliminated at the discretion of the judge.

This Ordinance shall be in full force and effect from and after thirty (30) days from the date of its passage and publication as provided by law.

Passed by the City of xxx council and approved by the mayor on the ____ date of ____, 2023.

Attested:

BY: _____

BY: _____