

ORDINANCE 2023-22

AN ORDINANCE CONFORMING TO ORS 195.530 RELATED TO KEEPING WARM AND DRY ON PUBLIC PROPERTY AS AMENDED

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Legislative purpose:

- A. The City Council recognizes that there is an ongoing housing crisis, and that the Corvallis community is home to persons who are experiencing homelessness who often have nowhere that they can sit, lay down, or sleep except for public property.
- B. The City Council also recognizes that the City has an obligation to ensure that public property is not damaged, and that public property does not pose a danger to the public's safety, health or welfare (including the safety, health and welfare of persons who are experiencing homelessness), and to ensure that public property is available and accessible for utilization by the maximum number of people in the Corvallis Community.
- C. The cases of *Martin v. Boise*, and *Blake v. Grants Pass*, along with ORS 195.530 (Oregon Laws Ch. 370 § 1 (former H.B. No. 3115), operative July 1, 2023), make it clear that Cities can prohibit illegal camping, but cannot impose regulations on the actions of sitting, sleeping, lying down, or keeping warm and dry unless those regulations are objectively reasonable as to time, place, and manner with regard to persons experiencing homelessness.

Section 2. The City Council directs the City Manager to continue the work required to draft revisions and amendments to the Corvallis Municipal Code and Corvallis Administrative Policies to conform to this ordinance and to comply with other requirements of ORS 195.530 regarding imposing only objectively reasonable time, place, and manner regulations of the acts of sitting, sleeping, or lying down in public property. The City Council directs the City Manager to work with providers, including Unity Shelter and the Corvallis Daytime Drop-in Center, in determining time, place, and manner regulations and to notify the City Council of decisions on a monthly basis.

Section 3. The City Council amends Municipal Code Sections 5.01.020, 5.01.130, 5.01.140, 5.01.190 and 5.01.200 as set forth in Exhibit A.

Section 4. The City Council amends Municipal Code Chapter Sections 5.03.080.080.01, 5.03.080.080.02, 5.03.080.080.03, 5.03.080.080.04, and 5.03.080.080.05, as set forth in Exhibit B.

Section 5. The City Council reiterates that nothing in this ordinance is an implied or expressed endorsement for the establishment of campsites on public property.

Section 6. Effective Date. Because prompt compliance with ORS 195.530 is necessary, the City Council establishes an effective date of July 1, 2023, for this ordinance.

Section 7. The ordinance is effective on a temporary basis for 180 days.

PASSED by the City Council this 20th day of June, 2023

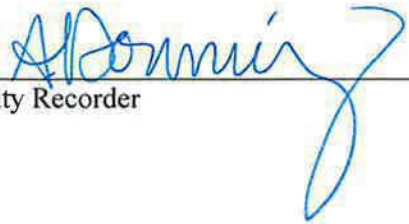
APPROVED by the Mayor this 20th day of June, 2023

EFFECTIVE this 1st day of July, 2023



Mayor

ATTEST:



City Recorder

ORDINANCE 2023-22

EXHIBIT A

Chapter 5.01 – CITY PARK REGULATIONS

Section 5.01.020 - Definitions.

1. *Camping/Camp.* To set up or to remain in or at a campsite, for the purpose of establishing or maintaining a temporary or permanent place to live/residence. Using or maintaining a fire or stove without other evidence of a temporary place to live/residence is considered camping. Sitting, resting, or sleeping in a legally parked vehicle, by itself is not considered camping. Storing personal property in the City right of way or in a public parking lot while sitting, resting, or sleeping in an otherwise legally parked vehicle is camping for purposes of this Chapter.
2. *Campsite.* Any place where any indicia of camping is placed, established, or maintained.
3. *Established Campsite.* Any campsite that has occupied one location or is a campsite that is moved within a 300-foot radius of that original campsite location to the exclusion of the public for any period in excess of 24 hours.
4. *Community or district park.* Middle size areas such as Dr. Martin Luther King, Jr. Park, Sunset Park, and similar areas which serve parts of the community within a short driving distance or may be later planned and developed for numerous types of activities.
5. *Fireworks or exempt fireworks.* As defined in Municipal Code Chapter 7.08 or sparklers as defined therein.
6. *Indicia of camping.* *Indicia of camping.* Items or activities that may include, but are not limited to: use of any stove or fire or cooking activity outside of authorized areas; storage of personal belongings in a manner that cannot be easily and quickly removed; use of tents (except types authorized by the City Manager), lean-tos, shacks, or any other temporary structures or any part thereof for sleeping as a residence or for storage of personal belongings or items; designation of an area in a manner to exclude other members of the public by maintaining, using, or storing personal belongings or items. Bedding (such as blankets, sleeping bags, or other sleeping matter), by itself, is not an indicia of camping.
7. *Mini or vest pocket parks.* Small park or play area within a neighborhood or subdivision that serves residents living in the area immediately adjacent to or near the area.
8. *Neighborhood park.* Areas such as Central, Chintimini, Franklin, Cloverland, and similar areas planned for public recreation serving an area within easy walking distance. "Neighborhood Park" also includes the school grounds of each public school within the City of Corvallis when said school ground is being used by the Parks and Recreation Department of the City of Corvallis, as provided in the Recreation Agreement between the City of Corvallis and Corvallis School District No. 509J. Unless designated as a sleeping area by the Corvallis School District No. 509J, sitting, resting, sleeping, or taking measures to stay warm and dry on the school grounds of a public school is not allowed by this Chapter.
9. *Park.* Any property or facility owned or controlled by the City, set aside and maintained by the City, for the recreation and relaxation of the public.
10. *Special use parks.* Such areas as Pioneer Softball Park, Rock Creek Park, specifically designated undeveloped greenways, and other similar areas designated for a specific or special use.
11. *Staying Warm and Dry.* Using measures necessary for an individual to survive outdoors given the environmental conditions, but does not include using any measure that involves fire or flame.
12. *Urban or City-wide Park.* Large areas such as Avery Park, Willamette Park, and similar areas which serve the total community and surrounding areas and are or may later be planned and developed for numerous types of family or group uses.
13. *Wildlife.* Any wild birds, amphibians, reptiles, and wild mammals.

Section 5.01.040 - Fire.

1. No person is allowed to build or maintain any fire or use propane-fueled heating or cooking devices in a park except in fire rings or fireplaces as provided by the City or in a stove or barbecue unit where picnic areas are provided unless permitted in a permit issued by the City.
2. No person is allowed take firewood from any park for personal use unless authorized by park officials.

Section 5.01.130 - Hours of use; camping.

1. No person is allowed to camp in any park, except as provided in subsection 3. Measures taken by persons experiencing homelessness to stay warm and dry while sitting, sleeping, or lying down (but not camping or establishing a campground) in the areas designated by the City Manager for this purpose are not illegal camping.
2. No person is allowed to use any tent, shelter-half, motor home, vehicle, camper, or trailer as a shelter for camping in any park area at any time, except as provided in Subsection (3).
3. The City Manager may, in the City Manager's reasonable discretion, issue permits or designate areas for the use of tents, shelter-half, motor homes, vehicles, campers, or trailers as shelters for any recreational camping in parks.

Section 5.01.140 - Hours of park closure.

1. No person is allowed to enter or use any park during posted hours of closure without a permit to do so from the City Manager, except as Set forth in Subsection (2).
2. Persons experiencing homelessness may sit, sleep, or lie down while taking measures to stay warm and dry in the areas designated by the City Manager during the posted hours of park closure.
3. No person is allowed to park a vehicle in a Park parking lot during the posted hours of park closure, unless that person has a permit to do so from the City Manager.

Section 5.01.190 - Authority of City Manager.

1. Whenever this Chapter makes reference to the exercise of reasonable discretion of the City Manager, the City Manager shall take into account the use and enjoyment of the parks for the maximum number of people and the general purpose set forth in Section 5.01.010 herein.
2. The City Manager is authorized to establish and revise fees for permits issued in accordance with the provisions herein.
3. The City Manager is authorized to establish and revise fees for recreation programs.
4. The City Council delegates authority to the City Manager to:
 - a. Establish objectively reasonable locations and time periods in Parks owned by the City where persons experiencing homelessness can sit, sleep, and lie down, and
 - b. Create objectively reasonable standards by which these locations and times are established that allow persons experiencing homelessness to remain warm and dry, as defined in Section 5.03.080.080.01, and sit, sleep, and lay down.

Section 5.01.200 - Penalty.

1. Any person who violates any provisions of this Chapter will, upon conviction, be punished by a fine of not more than \$100.00.

2. Any person who violates any provisions of this Chapter or any regulation or standard established by the City Manager under Section 5.01.190 may be excluded from Park Property pursuant to the Parks Code of Conduct.
3. Any person that receives an exclusion notice may appeal this exclusion to the City Manager as set forth in Municipal Code Section 1.11.012.

ORDINANCE 2023-22

EXHIBIT B

Section 5.03.080.080 Illegal Camping on public property and public rights-of-way.

5.03.080.080.01 Definitions.

For purposes of this Section, the following definitions apply:

- 1) *Camp/Camping*. To set up or to remain in or at a campsite, for the purpose of establishing or maintaining a temporary or permanent place as a residence to the exclusion of others. Using or maintaining a fire or stove without other evidence of a temporary place to live/residence is considered camping. Sitting, resting, or sleeping in a legally parked vehicle by itself is not considered camping. Storing personal property in the City right of way or in a public parking lot while sitting, resting, or sleeping in an otherwise legally parked vehicle is camping for purposes of Section 5.03.080.080.
- 2) *Campsite*. Any place where any indicia of camping is placed, established, or maintained.
- 3) *Established Campsite*. Any campsite that has occupied one location or is a campsite that is moved within a 300-foot radius of that original campsite location to the exclusion of the public for any period in excess of 24 hours.
- 4) *Indicia of camping*. Items or activities that may include, but are not limited to: use of any stove or fire or cooking activity outside of authorized areas; storage of personal belongings in a manner that cannot be easily and quickly removed; use of tents (except types authorized by the City Manager), lean-tos, shacks, or any other temporary structures or any part thereof as a residence or for storage of personal belongings or items; designation of an area in a manner to exclude other members of the public by maintaining, using, or storing personal belongings or items. Bedding (such as blankets, sleeping bags, or other sleeping matter), by itself, is not an indicia of camping.
- 5) *Staying Warm and Dry*. Using measures necessary for an individual to survive outdoors given the environmental conditions, but does not include using any measure that involves fire or flame.
- 6) *Vehicle*. Any device in, upon, or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.
- 7) *Microshelter*. A temporary, moveable shelter that does not exceed 120 square feet.

5.03.080.080.02 Illegal Camping.

- 1) It is unlawful for any person to camp or establish a campsite in or upon a public right-of-way, park, sidewalk, alley, street, under any bridge, or any properties owned by the City of Corvallis except as provided in Section 5.03.080.080.04 below, or Chapter 5.01, as amended, or by declaration of the City Manager.
- 2) Measures taken by persons experiencing homelessness to stay warm and dry while sitting, sleeping, or laying down (but not camping or establishing a campground) in the areas designated by the City Manager for this purpose are not illegal camping.
- 3) Use of a vehicle that is legally parked to sit, sleep, or lie down is not illegal camping.
 - a. Personal property that is located around the exterior of a vehicle that is being used to sit, sleep, or lie down may be classified as an illegal campsite.

- 4) A violation of this section is a Class C Misdemeanor.

5.03.080.080.03 Camping on private property without consent.

- 1) No person is allowed to camp on private property in a vehicle or in places not intended for that purpose, without permission of the owner or person entitled to the possession thereof and without a permit as provided in Section 5.03.080.080.04.
- 2) A violation of this section is a Class C Misdemeanor.

5.03.080.080.04 Permits.

- 1) For the purpose of allowing lodging on a temporary basis, the City Manager is authorized to issue permits to groups or organizations for the use of a designated area for the placing and use of:
 - a) Four or fewer vehicles;
 - b) Four or fewer microshelters; or
 - c) Four or fewer vehicles and microshelters in combination.
- 2) Permittee groups must have the written permission of the owner of the property or person in charge of the property where the vehicles or microshelters will be located. The temporary lodging must meet a demonstrated community need and may not be located in a residential area.
- 3) The City Manager may issue the permit subject to reasonable conditions outlined on the permit application, and the application for the permit must be accompanied by a non-refundable application fee as designated in the Fees Chapter (8.03). The City Manager may issue an initial permit for an initial trial period of up to 90 days. After successful completion of the initial trial period, the City Council may extend the permit for up to one year, and subsequent renewals may be approved annually by City Council vote.
- 4) The permit is revocable if any of the conditions stipulated on the application are not met or if the City Manager or the City Manager's designee deems it is necessary for the peace, safety, health, or welfare of the City.
- 5) To reasonably accommodate cases of personal hardship related to the treatment of a serious medical condition at a medical facility, the City Manager is authorized to issue a permit to the property owner of a medical facility for the use of up to 3 off-street parking spaces for use by recreational vehicles for lodging of patients undergoing medical treatment. The permit may be issued to the property owner for up to 1 year, and may be renewed upon request by the property owner. Any property owner granted a permit under this provision is not entitled to any other permit pursuant to this section of the Corvallis Municipal Code.
- 6) For those cases involving recreational vehicles on private residential property under review by the Building Official and without an official resolution as of September 1, 2001, and to reasonably accommodate cases of personal hardship related to the treatment of a serious medical condition, the City Manager is authorized to issue a permit to the property owner of residential property to allow for the lodging of a medical care giver, in a recreational vehicle parked in the driveway of the owner's residential property. For a person to be eligible for the permit: (a) the medical care giver must be a member of the property owner's immediate family; (b) the person who requires treatment of a serious medical condition must be a member of the property owner's immediate family; and (c) the recreational vehicle must meet Building Official requirements for sanitary sewer, water, and any other utility connections. The permit may be issued to the property owner for up to one year, and may be renewed upon request of the property owner, so long as the person with the serious medical condition lives on the residential property. Any property owner granted a permit under this provision is not entitled to any other permit pursuant to this section of the Corvallis Municipal Code.

- 7) The City Manager is authorized to issue permits to groups or organizations for the use of a designated area for temporary lodging, provided the group or organization has the written permission of the owner of the property or the person in charge of the property. The temporary lodging must meet a demonstrated community need and may not be located in a residential area. The City Manager may issue the permit subject to reasonable conditions. The City Manager may issue the permit for no more than 30 days. The City Council may extend the permit an additional 60 days. The permit is revocable if any of the conditions are not met or if the City Manager determines it is necessary to revoke the permit for the peace, safety, health, or welfare of the City.

5.03.080.080.05 City Manager Authority.

- 1) The City Council delegates authority to the City Manager to:
 - a) Establish objectively reasonable locations and time periods on public property owned by the City that is open to the public where persons experiencing homelessness can sit, sleep, and lie down; and
 - b) Create objectively reasonable standards by which these locations and times are established that allow persons experiencing homelessness to remain warm and dry, as defined in Section 5.03.080.080.01, and sit, sleep, and lay down.
- 2) The City Council does not delegate authority to the City Manager to establish locations mentioned in Subsection (1) on land designated as a natural area, in riparian areas, or in wetland areas.