

AN ORDINANCE RELATING TO USE OF PUBLIC PROPERTY; AMENDING SRC 95.720; AND REPEALING SRC 95.730 AND ORDINANCE BILL NO. 6-20.

Section 1. SRC 95.720 is hereby amended as set forth in Exhibit A, attached hereto and by reference incorporated herein.

Section 3. Findings.

- (a)** The city of Salem is experiencing an emergency in the number of people experiencing homelessness, and who do not have an adequate option to meet basic housing and shelter needs.
- (b)** The city of Salem is a geographically diverse city, largely comprised of residential, commercial, and industrial areas.
- (c)** Maintaining pedestrian and authorized commercial activity on public sidewalks is essential to public safety and welfare, thriving neighborhoods, and economic vitality within the city.
- (d)** Publicly owned property such as park land and public sidewalks are not intended for or designed for human habitation and camping. Use of these spaces for such activities conflicts with other intended uses and often creates public health and safety issues and is an inhumane option for people experiencing homelessness.
- (e)** Use of publicly owned property for human habitation may deter city residents and visitors from patronizing local shops, restaurants, and businesses, and enterprises, and from utilizing public and private services, and activities within the city, and deter people from using the sidewalks in their neighborhoods.
- (f)** The Americans with Disabilities Act (“ADA”) requires public and private sidewalks to be maintained with a minimum 36-inch travel corridor. Campsites that infringe within that corridor put the City at risk of violation of the ADA and encumber the right of persons with disabilities to access and engage in life activities.

- 1 (g) The people of the city of Salem promote policies that preserve the right to enjoy public
2 spaces and to traverse freely, while protecting free-speech rights, as well as other safe
3 activity consistent with city ordinances and permitting requirements.
- 4 (h) The regulation of use of public spaces in this ordinance leaves fully intact the right to
5 speak, protest, or engage in other lawful activity on any public sidewalk consistent with
6 city ordinances and permitting requirements.
- 7 (i) The restrictions on camping in this ordinance are objectively reasonable and allow for a
8 variety of alternative locations where individuals who are involuntarily unsheltered may
9 rest and protect themselves against inclement weather.
- 10 (j) Maintaining accessible and attractive sidewalks for pedestrian and commercial traffic is
11 an important public safety objective, and important to maintain the economic vitality of
12 the city. Blocked and obstructed sidewalks present hazards to pedestrians and discourages
13 visitors and patrons to community businesses.
- 14 (k) The placement of tents or other items on public sidewalks, public property, and public
15 rights-of-way, for habitation, is not the ordinary, customary, or intended use of these
16 areas, and is an incompatible and detrimental use of these spaces in all parts of the City.
- 17 (l) Campsites can also obstruct and delay emergency personnel responding to
18 emergencies. Campsites can obstruct ingress to and egress from businesses,
19 residential buildings, and other establishments and property.

20 **Section 3. Codification.** In preparing this ordinance for publication and distribution, the
21 City Recorder shall not alter the sense, meaning, effect or substance of this ordinance, but
22 within such limitations, may:

- 23 (a) Renumber sections and parts of sections of the ordinance;
- 24 (b) Rearrange sections;
- 25 (c) Change reference numbers to agree with renumbered chapters, sections or other
26 parts;
- 27 (d) Delete references to repealed sections;
- 28 (e) Substitute the proper subsection, section or chapter, or other division numbers;
- 29 (f) Change capitalization and spelling for the purpose of uniformity;
- 30 (g) Add headings for purposes of grouping like sections together for ease of
31 reference; and

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(h) Correct manifest clerical, grammatical or typographical errors.

Section 4. Severability. Each section of this ordinance, and any part thereof, is severable, and if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

PASSED by the City Council this _____ day of _____, 2023.

ATTEST:

City Recorder

Approved by City Attorney: _____

Checked by: Dan Atchison

STAFF RECOMMENDATION

Sec. 95.720. - Camping prohibited on public property and public right-of-way.

- (a) Definitions. Unless the context specifically requires otherwise, as used in this Section, the following words and phrases mean:
- (1) *To camp* means to set up, or to remain in or at a campsite, for the purpose of establishing or maintaining a temporary place to live.
 - (2) *Campsite* means any place where ~~there is a tent, or any structure or assembly of materials consisting of a top or roof or any other upper covering and enclosed on one or more sides, that is of sufficient size for a person to fit underneath or inside.~~ 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 other structure, or any vehicle or part thereof, used or intended to be used as a temporary place to live.
 - (3) *Established Campsite* means a campsite that has been in place for a minimum of 72 hours.
 - (4) *Public Property* means that definition given in ORS 131.705.
 - (5) *Public sidewalk* means the area between the street and the abutting property, including any pedestrian way and landscape strip.
 - (6) *Street* means any public right-of-way that is open to the public, used, or intended to be used, for by vehicular traffic.
- (b) Camping Prohibited on Public Property. It is unlawful for any person to camp in or upon: ~~any public sidewalk, public property, or public right of way, unless otherwise specifically authorized by law or by declaration of the Emergency Program Manager in emergency circumstances.~~
- (1) Any public property posted with a “No Camping” sign.
 - (2) Any public right-of-way used for vehicular or bicycle transportation.
 - (3) Within ten (10) feet of the intersection of a street and a driveway or a private pedestrian path, or within ten (10) feet of a building entry.
 - (4) Any area designated as a park in the Salem Park System Master Plan.
 - (5) The interior of any publicly owned building or structure.
 - (6) Public property zoned single-family or multi-family residential or adjacent to those zones.
 - (7) Within 600 feet of an authorized emergency shelter, day center, managed temporary village, or safe parking shelter location.
 - (8) Within the area subject to a Permit of Entry issued by the City.
 - (9) All campsites shall maintain a minimum 36-inch pedestrian path within a public sidewalk, free of any obstruction.

- (c) Upon finding it to be in the public interest, the City Council may exempt a special event from compliance with this section by resolution. The resolution shall specify the period and location covered by the exemption.

(d) The City Manager or designee, in the Manager's or designee's sole discretion, may designate a particular location on public property, or class of public property, where camping is prohibited, including:

- (1) High vehicular traffic areas.
- (2) Environmentally sensitive areas.
- (3) Any area that has become, or is at risk of becoming, a threat to public health or safety due to the chronic establishment of campsites, the proliferation of campsites within the area, or proximity to sensitive uses, such as pre-schools, K-12 and post-secondary schools, or social service providers.

Areas or locations where a camping prohibition has been designated shall be posted with a "No Camping" sign.

- (e) A violation of this section is declared a public nuisance under SRC 50.800—50.880 and is subject to abatement by the City.
- (f) Nothing in this section shall be construed to permit conduct that is prohibited by SRC 95.700 "Pedestrian interference."

SRC 95.730 – Unattended personal property on public sidewalks prohibited is hereby repealed.

~~(a) Definitions. Unless the context specifically requires otherwise, as used in this section, the following words and phrases mean:~~

- ~~(1) *Public sidewalk* means the area between the street and the abutting property, including any pedestrian way and landscape strip.~~
- ~~(2) *Personal property* means tangible items greater than one cubic foot in size, other than signs, which are reasonably recognizable as belonging to individual persons and which have apparent utility or value.~~
- ~~(3) *Street* means any public right of way that is open to the public, used, or intended to be used, by vehicular traffic.~~

~~(b) It is unlawful for any person to knowingly leave personal property unattended on a public sidewalk during the hours of between 7:00 a.m. and 9:00 p.m.~~

~~(c) The prohibitions of subsection (b) do not apply to:~~

- ~~(1) Personal property left unattended on a public sidewalk for less than two hours, that is actively being loaded or unloaded; or~~
- ~~(2) Any person performing a City approved or permitted activity.~~

- ~~(d) — Personal property left unattended on a public sidewalk in violation of this section may be removed by the City if:—~~
- ~~(1) — The property poses an immediate threat to public health, safety or welfare; or~~
 - ~~(2) — The property has been posted with a notice written in English and Spanish at least 24 hours in advance. The notice shall contain the following information:—~~
 - ~~a. — That it is unlawful to leave personal property unattended on a public sidewalk within the City of Salem during the hours of between 7:00 a.m. and 9:00 p.m.;—~~
 - ~~b. — The date and time the notice was posted and the date and time at which the property is subject to being removed by the City;—~~
 - ~~c. — That the property subject to the notice is subject to immediate removal if, within the following 30 days, the property is again left unattended on a public sidewalk in violation of this section;—~~
 - ~~d. — The contact information for how to reclaim any personal property which has been removed by the City pursuant to this section; and—~~
 - ~~e. — That any property removed by the City pursuant to this section will be disposed of pursuant to applicable law if not claimed within 30 days after removal.—~~
- ~~(e) — Personal property removed by the City pursuant to this section shall be stored for a minimum of 30 days during which time it must be made reasonably available to the owner. The 30-day retention period of this subsection does not apply to personal property that is in an unsafe or unsanitary condition, or perishable.—~~
- ~~(f) — The Director, may develop administrative policies for the removal of unattended personal property from public sidewalks, the storage of the property, and procedures by which the property may be reclaimed.—~~
- ~~(g) — Nothing in this section shall be construed as limiting the City's ability to seize, remove, abate, or dispose of property in accordance with any other provision of the Salem Revised Code or in accordance with any other provision of law.—~~
- ~~(h) — A violation of this section is declared a public nuisance under SRC 50.800 — 50.880, and is subject to abatement by the City.—~~
- ~~(i) — Nothing in this section shall be construed to permit conduct that is prohibited by SRC 95.700 "Pedestrian interference."—~~