

FILED

JUN 20 2023

Washington County
County Clerk

IN THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE No. 896

ADOPTED

**An Ordinance Adopting Chapter 8.54 of the
Washington County Code Regulating Public
Property with Respect to Camps and Camping**

The Board of County Commissioners of Washington County, Oregon, ordains as follows:

SECTION 1. FINDINGS:

A. The Board finds that ORS 195.530 provides that any law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to the persons experiencing homelessness.

B. The Board finds that Washington County experienced a dramatic increase in unsheltered homelessness which coincided with the COVID-19 pandemic and federal court decisions holding that criminalizing the unavoidable acts of being homeless, when alternative shelter is not available, violated the constitutional rights of unhoused individuals.

C. The Board finds it is committed to protecting the safety, well-being and dignity of all people in Washington County, regardless of whether they are housed or unhoused.

D. The Board finds that unregulated camps and camping by persons experiencing unsheltered homelessness on public property in Washington County can result in unsafe and

1 unsanitary living conditions that may pose a threat to the health and safety of the both the
2 unhoused and housed community.

3 E. The Board finds that it is necessary to regulate camps and the act of camping on
4 public property in unincorporated Washington County to protect the health and safety of
5 community members, including individuals experiencing homelessness in Washington County, to
6 responsibly maintain public property and publicly owned assets open to the public for all the
7 people of Washington County and to increase opportunities to provide outreach to individuals to
8 supportive services including shelter and housing.

9 F. The Board finds and takes public notice that is in receipt of all information
10 necessary to consider this Ordinance in an adequate manner, that this Ordinance complies with
11 the requirements set forth in the Washington County Charter and the Washington County Code.

12 SECTION 2.

13 The following exhibit, which is marked as Exhibit 1 (7 pages) is hereby adopted and
14 incorporated herein at Chapter 8.54, Title Eight, Health and Safety of the Washington County
15 Code.

16 SECTION 3

17 Nothing herein is intended, nor shall it be construed, as amending, replacing, or otherwise
18 being in conflict with any other ordinances of Washington County, the Community Development
19 Code, or any other Code or statutory provisions unless expressly so stated.
20

1 SECTION 4

2 If any portion of this Ordinance, including the exhibit, shall for any reason be held invalid,
3 unconstitutional, or unenforceable by a body of competent jurisdiction, the remainder of this
4 Ordinance shall not be affected thereby and shall remain in full force and effect.

5 SECTION 5

6 The Office of County Counsel of Washington County, Oregon is authorized to codify this
7 Ordinance and to make any technical changes, not affecting its substance, as are reasonably
8 necessary to accomplish codification.

9 SECTION 6

10 This Ordinance shall take effect thirty (30) days after adoption.

11
12 ENACTED this 18th day of July, 2023, being the 2nd reading and
13 1st public hearing before the Board of County Commissioners of Washington County,
14 Oregon.

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16 BOARD OF COUNTY COMMISSIONERS
 FOR WASHINGTON COUNTY, OREGON

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 CHAIRMAN

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 RECORDING SECRETARY

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READING

PUBLIC HEARING

First 6/27/23
Second 7/18/23
Third _____
Fourth _____
Fifth _____

First 7/18/23
Second _____
Third _____
Fourth _____
Fifth _____

VOTE: Aye: Harrington, Rogers, Treece,
Fai, Willey

Nay: _____

Recording Secretary: Kevin Mory Date: 7/18/23

CHAPTER 8.54**REGULATION OF PUBLIC PROPERTY WITH RESPECT TO CAMPS AND CAMPING****Sections:****8.54.010 Policy.****8.54.020 Authority.****8.54.030 Definitions.****8.54.040 Camping Prohibited.****8.54.050 Regulation of Public Property with Respect to Camps or Camping.****8.54.060 Enforcement.****8.54.070 Violation.****8.54.010 Policy.**

To protect the health and safety of community members, including individuals experiencing homelessness in Washington County, to responsibly maintain publicly owned real property and publicly owned assets open to the public for all people of the county, and to increase opportunities to provide outreach to individuals experiencing homelessness to connect those individuals to supportive services including shelter and housing, the board has determined it is necessary to regulate the use of public property for camps and camping with respect to individuals experiencing homelessness. It is the policy of this chapter to regulate camps and the act of camping, on public property open to the public in an objectively reasonable manner with regards to persons experiencing homelessness. This chapter shall be liberally constructed for the accomplishment of this purpose.

8.54.020 Authority.

This ordinance is adopted pursuant to the authority granted by Oregon Revised Statutes (ORS) 195.530.

8.54.030 Definitions.

For the purpose of this chapter, words in the present tense include the future, the singular includes the plural, and the plural includes the singular, the word "shall" is mandatory and not discretionary, and the term "chapter" shall be deemed to include all amendments hereinafter made to this chapter. As used in this chapter, unless the context requires otherwise, the following words and their deviations shall mean:

- A. "Available" means a shelter that has space for a particular person. A shelter is not available to a person if the shelter:
 - 1. Has a maximum stay rule or temporal requirement or deadline the person has exceeded or not met;
 - 2. The person is excluded from the shelter for any lawful reason;
 - 3. Cannot reasonably accommodate the person's mental health or physical needs;

4. Is unavailable due to the person's family status, age, gender, gender identity, sexual orientation, or other status;
 5. Excluding general rules that prohibit alcohol or drug use in the shelter or on shelter grounds, is unavailable to the person because the shelter has rules about alcohol or drug use that the person does not meet;
 6. May prohibit a minor child to be housed in the same facility with at least one parent or legal guardian;
 7. Requires participation in religious activity or receipt of religious information or religious teaching the person does not wish to participate in or receive; or
 8. Requires a person to leave their pet(s) unattended in order to stay at the shelter. This section does not apply to service animals under the Americans with Disabilities Act.
- B. "Camp" or the act of "camping" means to pitch, erect, create, use or occupy camp materials for the purposes of habitation.
- C. "Camp materials" means, but is not limited to tents, huts, awnings, lean-tos, shacks, or other structures, or parts thereof, tarps or tarpaulin, chairs, cots, beds, sleeping bags, blankets, sleeping or bedding materials, food or food storage items, and/or similar items that are or appear to be used for and aid living and/or sleeping outdoors. Camp materials does not include vehicles, automobiles, or recreational vehicles used for shelter and/or sleeping, which are regulated by Chapter 8.16 of this Code.
- D. "County property" means all real property leased, rented, contracted, used, managed or controlled by Washington County and located in unincorporated Washington County.
- E. "Public right-of-way" means all interests in real property, subject to the jurisdiction and control of Washington County, and located in unincorporated Washington County, used, operated and managed for customary roadway purposes and appurtenant uses and which provides or supports public access for vehicles, pedestrians and other modes of travel between places. Public right-of-way includes, but is not limited to, public roads, streets, sidewalks, highways, throughways, alleys, road related structures in the right-of-way including tunnels, culverts, landscape areas or planter strips, and similar structures, and structures that provide for continuity of the right-of-way such as bridges.
- F. "Shelter" means a developed or legally established public or private facility for people experiencing homelessness that does not charge for shelter or services.

8.54.040 CAMPING PROHIBITED.

- A. Camps and camping are prohibited on county property when shelter is available to the person in the camp or camping.

- B. This section does not prohibit sitting, lying or sleeping on county property in a manner that does not create a camp or constitute camping, so long as such use does not obstruct the public right-of-way or access to county property for their usual and customary purposes.

8.54.050 REGULATION OF PUBLIC PROPERTY IN RELATION TO CAMPS AND CAMPING.

- A. Persons in camps or camping on county property because they do not have shelter available may use county property for camping subject to the following regulations.

- B. Time

Unless otherwise specified, camps and camping, when not prohibited, may occur on county property for no more than five (5) consecutive days.

- C Place

In addition to the prohibition set forth in Section 8.54.040.B, camps and camping are not allowed at any time in the following places:

1. Within or on any real property transferred to the County as a result of real property tax foreclosure under ORS 312 or by dedication, donation or bequeathment;
2. Within any tax lot designated or operated by Washington County, Clean Water Services or any agency of the State of Oregon as a riparian corridor, flood plain or drainage area, water quality sensitive area, vegetated corridor, sensitive habitat, or significant natural area;
3. Within 500 feet from any of the following:
 - a. A location approved or operated as a shelter or providing shelter services or services to persons experiencing homelessness under Washington County Code, or HB 4212, HB 2006, or HB 3261;
 - b. Any County shelter providing emergency or temporary shelter;
 - c. Any other location that has a legally established use providing shelter, safe sleeping, safe parking or other services primarily intended for people experiencing homelessness; and
 - d. A school, as defined by Section 430-121 of the Washington County Community Development Code (CDC), day care facility as defined in Section 106-48 of the CDC, or a family day care provider as defined in Section 106-78 of the CDC.
4. Within 500 feet from any camp or camping location that has been removed pursuant to Washington County Homeless Camp Removal Policy (R&O 22-66) or a camp or camping location regulated under Section 8.54.050.A of this chapter or a camping location closed under any other legal authority of Washington County.

- D. Manner

1. Camping, when and where allowed by this Ordinance is subject to the following:
 - a. A camp or camping must be limited to camp materials necessary to protect an individual from the elements. This section is intended to allow a camping individual to sleep and maintain essentials for living but prohibits storage of personal property not essential to living while camping, including but not limited to items such as vehicle tires, lawn mowers, scrap metal, more than one operable bicycle per camper, bicycle components not associated with an individual bicycle, gasoline, generators, lumber, household furniture, more than one propane tank, or other combustible materials.
 - b. A camp or camping must be limited to one structure per individual or household and include camping materials that occupy no more than 144 square feet per camp.
 - c. Individuals who camp or are camping may not accumulate more than 100-gallons of garbage, debris, trash, unsanitary or hazardous materials, items of no apparent utility in an uncontained manner.
 - d. Items presenting a danger to others, including uncontained sharps, uncontained human waste or unauthorized connections or taps to private or public utilities are prohibited.
 - e. Open flames, recreational fires, burning of garbage, and bonfires are prohibited. Contained flames for cooking and other means for keeping warm and dry as permitted by Washington County or any urban or rural fire agency or district in which the camp is located, may be permitted on a case-by-case basis and as necessary to protect individuals from the elements.
 - f. Dumping of gray water (i.e. wastewater from bathwater, sinks and cooking) or black water (sewage) on County property is prohibited.
 - g. Obstruction or attachment of camp materials to public infrastructure or private property structures, including bridges or bridge infrastructure, fire hydrants, utility poles, streetlights, traffic signals, signs, fences, trees, vegetation, vehicles or buildings is prohibited.
 - h. Digging, excavation, terracing of soil, or other alteration of County Property, or damage to vegetation or trees is prohibited.
 - i. Activity punishable under Oregon Revised Statute as a crime including but not limited to assault, arson, burglary, coercion, criminal mischief, escape, failure to report as sex offender, harassment, homicide, interfering with a peace officer, invasion of private, kidnapping, offensive littering, prostitution, public indecency, reckless burning, reckless endangering, resisting arrest, robbery or sex abuse is prohibited.

2. In addition to the limitations set forth in Section 8.54.050.D.1, camping when allowed in the public right-of-way shall be subject to the following:
 - a. A camp, camping or camp materials may not obstruct any portion of any street, bike lane, or bike path intended for travel for vehicle, bicycle, pedestrian or other legal mode of travel or impair unobstructed use thereof;
 - b. A camp, camping or camp materials may not be located in the right-of-way in any location that does not have a curb or other physical barrier separating the camp or camp materials from the area intended for vehicular use;
 - c. A camp, camping or camp materials may not obstruct that portion of the sidewalk, multi-use path or pedestrian path in a manner that results in less than 36 inches of unobstructed area for passage or in any other way that impairs access as required by the American's with Disabilities Act;
 - d. A camp, camping, or camp materials may not create a physical impairment to emergency ingress or egress or emergency response including within 10 feet of any fire hydrant, utility pole, or other utility, fire gate/bollards, or public infrastructure used for emergency response;
 - e. A camp, camping or camp materials may not create a physical impairment to non-emergency vehicular or pedestrian ingress, egress including within 10 feet of driveways, or 10 feet of entrances or exits from buildings and other real property; and
 - f. A camp, camping or camp materials may not occupy any portion of the public right away under or within a bridge, culvert or viaduct or within 10 feet of a bridge, culvert or viaduct.
- E. Nothing in this section is intended to prevent the regulation of camping on a temporary or permanent basis on any County property when such regulation is necessary to maintain the ability of everyone to use a public space as designed and intended or for a planned or limited public purpose including capital construction, maintenance, repair, property transfer or during event or special use.

8.54.060 ENFORCEMENT.

- A. Enforcement personnel or their designee(s) are responsible for determining whether and to what extent shelters have capacity and the number of available shelter beds. Prior to enforcement of Section 8.54.040.A, enforcement personnel shall determine whether a shelter has available space that can be used by the person at the camp or camping. Enforcement personnel may enforce Section 8.54.050 at all times, unless otherwise provided by this Section.

- B. An enforcement officer, as defined in the administrative enforcement ordinance, may impose a violation of this chapter and the rules and regulations adopted pursuant thereto.
 - 1. An enforcement officer may, as appropriate, use a progressive enforcement process to encourage and compel compliance with this chapter.
 - 2. Methods of enforcement for violations of this Chapter are not exclusive and may consist of multiple enforcement mechanisms where legally authorized and appropriate.
 - 3. Nothing in this section is intended to supersede or prevent an enforcement officer's discretion to enforce laws and mitigate hazards as necessary and without progressive enforcement.
- C. The County Administrator, or their designee(s), is 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, severe weather condition, or for any other reason within the County Administrator's authority.
- D. Notwithstanding Section 8.54.040.A, the County Administrator, or their designee(s), may at their discretion, designate certain county property or a portion of county property, as an area where camps or camping may be allowed on a limited basis, and may set the terms and conditions of any camp or camping that may be allowed.
- E. Nothing in this Chapter is intended to prevent enforcement of any other section of the Washington County Code or the Oregon State law and shall not be the basis for non-enforcement for violations thereof because shelter is not available to the person.

8.54.070 VIOLATION

- A. An enforcement officer may impose a violation of this Chapter as follows:
 - 1. Class D civil infraction in the minimum amount – Washington County Code Chapter 1.12.210;
 - 2. Citation in lieu of arrest for criminal trespass in the second degree -ORS 164.245;
 - 3. Arrest for criminal trespass in the second degree – ORS 164.245.
- B. A citation for a civil infraction in Section 8.54.070.A.1 or citation in lieu of arrest in Section 8.54.070.A.2 may be accompanied by an order of exclusion for sixty (60) days.
- C. An arrest for criminal trespass in Section 8.54.070.A.3 may be accompanied by an order of exclusion for six (6) months.
- D. Nothing in this Section is intended to prescribe any particular or order of violation or penalty. An enforcement officer shall have discretion to impose a violation tailored to the circumstances, consistent with Section 8.54.060.B and as necessary to

enforce the purposes of this Chapter and maintain the health and safety of persons experiencing homelessness and maintenance of publicly owned property.