

ORDINANCE NO. 4841

AN ORDINANCE RELATED TO PROHIBITED CAMPING AND ADOPTING BEAVERTON CODE CHAPTER 5.18, AMENDING BEAVERTON CODE 9.08, AND REPEALING BEAVERTON CODE SECTIONS 5.05.117 AND 5.05.118 AND DECLARING AN EMERGENCY

Whereas, the City of Beaverton recognizes that homelessness is a complex issue;

Whereas, the Ninth Circuit Court of Appeals has held that criminal enforcement for sleeping with basic bedding against a person experiencing homelessness who does not have alternative shelter is cruel and unusual punishment;

Whereas, in 2021, the Oregon legislature passed House Bill 3115, which requires all cities that regulate the acts of sitting, lying, sleeping, or keeping warm and dry through an ordinance ensure that their ordinances are objectively reasonable as to time, place, and manner with regard to persons experiencing homelessness;

Whereas, the City of Beaverton has a prohibited camping ordinance;

Whereas, the City of Beaverton is taking affirmative steps to alleviate the lack of shelter and affordable housing within city limits through direct action and in partnership with Washington County; and

Whereas, the City of Beaverton would like to more effectively regulate the use of its public spaces, including City property and sidewalks and streets, which, if unregulated, may threaten the general health, welfare and safety of persons experiencing homelessness and the larger community; and

Whereas, the City of Beaverton desires to repeal its existing prohibited camping ordinance and replace the prohibited camping ordinance with a new ordinance that provides the time, place, and manner camping regulations for people experiencing homelessness and who have no alternative shelter; and

Whereas, the City of Beaverton has declared a state of emergency relating to homelessness and House Bill 3115, now ORS 195.530, becomes operative on July 1, 2023.

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Beaverton Code Chapter 5 is amended by adopting Beaverton Code Chapter 5.18, which is attached as **Exhibit A**.

Section 2. Beaverton Code Chapter 9.08 is amended to read as provided in **Exhibit B**.

Section 3. Beaverton Code Sections 5.05.117 and 5.05.118 are repealed.

Section 4. This ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this ordinance becomes operative and effective on July 1, 2023.

Section 5. If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

- A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or
- B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

First reading this 2nd day of May, 2023.

Second reading and passage by this Council this 6th day of June, 2023.

Signed by the Mayor this 7th day of June, 2023.

ATTEST:

SIGNED:

Catherine Jansen
CATHERINE L. JANSEN, City Recorder

Lacey Beaty
LACEY BEATY, Mayor

EXHIBIT A

Chapter 5.18
Prohibited Camping Ordinance

Sections:

- 5.18.010 Short title.
- 5.18.020 Legislative findings.
- 5.18.030 Definitions.
- 5.18.040 Prohibited camping.
- 5.18.050 Time, place, and manner regulations.
- 5.18.060 Prohibited storage of personal property.
- 5.18.070 Annual Report.
- 5.18.080 Penalties.

5.18.010 Short title.

This chapter shall be known and may be cited as the “prohibited camping ordinance” and may be referred to herein as “this chapter.”

5.18.020 Legislative findings.

City Council finds:

- A. From time-to-time persons experiencing homelessness establish campsites on the public right-of-way and city property.
- B. Such persons, by such actions, may create unsafe and unsanitary living conditions that pose a threat to the peace, health, and safety of themselves and the community.
- C. Camping on or near certain locations prevents the public’s ability to use those locations for their intended purpose and may result in imminent threats to life.
- D. This chapter’s regulations are meant to regulate the use of the public right-of-way and city property and are not intended to regulate activities on private property.
- E. The enactment of this chapter is necessary to protect the peace, health, and safety of the City and its inhabitants.

5.18.030 Definitions.

As used in this chapter:

EXHIBIT A

- A. “Alternative shelter” means a shelter space or other indoor space available to a person experiencing homelessness.
- B. “Campsite” means any place where the use of any tent, lean-to, shack, or other structure, or any vehicle or part thereof, or any combination of a structure and vehicle is placed, established, or maintained, for the purpose of maintaining a permanent or temporary place to live.
- C. “To camp” means to set up or remain in or at a campsite for the purpose of establishing or maintaining a permanent or temporary place to live.
- D. “Certified child care center” means a child care facility that is certified by the Oregon Department of Education to care for thirteen or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single-family dwelling.
- E. “City property” means all real property, land, and public facilities owned, leased, controlled, or managed by the City or its agencies, including, but not limited to, parking lots, parking garages, bridges, and viaducts.
- F. “Freeway” means a fully access controlled thoroughway, which includes Highway 26 and 217.
- G. “Person experiencing homelessness” means a person who lacks a fixed, regular, and adequate nighttime residence.
- H. “Person without alternative shelter” means a person experiencing homelessness and who does not have access to an alternative shelter.
- I. “Property where homeless services are provided” means property in which a use of the property includes providing regular, direct services to persons experiencing homelessness. As used in this subsection, “direct services to persons experiencing homelessness” includes, but is not limited to providing homeless navigation services, storage facilities, and other similar services.
- J. “Public right-of-way” means any thoroughfare or area intended, designed, or used for vehicular or pedestrian traffic.
- K. “Safe parking program guest” means a person experiencing homelessness and is currently participating in the City’s safe parking program.
- L. “Safe parking site” means property or a portion of property designated by the city manager as a site to be used by the City’s safe parking program.

EXHIBIT A

- M. “Shelter” means a domestic violence shelter, emergency shelter, or mass shelter as defined in the Beaverton Development Code.

5.18.040 Prohibited camping.

It is unlawful for any person to camp in or upon any public right-of-way or city property, unless specifically authorized by this chapter or by a local emergency or disaster declaration.

5.18.050 Time, place, and manner regulations.

- A. A person without alternative shelter may camp only if all the following time, place, and manner regulations are met.
- B. **Time regulations.** A person without alternative shelter may camp if the person without alternative shelter complies with all of the following time regulations:
- i. A person without alternative shelter may camp between the hours of 9 p.m. and 7:30 a.m. After 7:30 a.m., a person without alternative shelter must dismantle the campsite and remove all personal property from the campsite.
 - ii. A safe parking program guest may camp in a vehicle in a safe parking site for a continuous period as permitted by the regulations of the safe parking program.
- C. **Place regulations.** A person without alternative shelter may camp in or upon the public right-of-way; provided, however that a person without alternative shelter may not camp in the following places at any time:
- i. On city property, except that a safe parking program guest may camp in a vehicle at a city safe parking site.
 - ii. Within 500 feet from a safe parking site, a shelter, or a property where homeless services are provided.
 - iii. Within 500 feet from a lot or parcel containing an elementary school, secondary school, or a certified child care center.
 - iv. Within 500 feet from a freeway egress or ingress.
 - v. Within 50 feet of an intersection.
 - vi. within 10 feet of a fire hydrant.

EXHIBIT A

- D. **Manner regulations.** A person without alternative shelter may camp if the person without alternative shelter complies with all of the following manner regulations:
- i. A person without alternative shelter may not obstruct pedestrian or vehicular traffic along a public right-of-way or into private property and businesses adjacent to a public right-of-way. For purposes of this subsection, a person without alternative shelter is presumed to obstruct pedestrian traffic if a person reduces the path of travel to less than 36 inches.
 - ii. A person without alternative shelter may not (a) start or maintain any fire for the purpose of burning any combustible material in or around a campsite; or (b) use a gas heater in or around a campsite.
 - iii. A person without alternative shelter may not accumulate, discard, or leave behind in or around a campsite (a) any rubbish, trash, garbage, debris, or other refuse; (b) any unsanitary or hazardous materials; or (c) any animal or human urine or feces.
 - iv. A person without alternative shelter may not camp within 150 feet of another campsite.
 - v. A person without alternative shelter may not erect, install, place, leave, or set up any type of fixture or structure of any material or materials in or around a campsite. For purposes of this subsection, a “fixture or structure of any material or materials” does not include a tent, tarpaulin, or other similar item used for shelter that is readily portable.
 - vi. A person without alternative shelter may not dig, excavate, terrace soil, alter the ground or infrastructure, cause environmental damage, or damage vegetation or trees in or around a campsite.

5.18.060 Prohibited storage of personal property

It is unlawful for any person to store or leave unattended any personal property in or upon the public right-of-way or on city property unless a person is a safe parking program guest storing or leaving personal property at a safe parking site.

5.18.070 Annual report.

The city manager must submit an annual report to the city council about enforcement measures that were taken under this chapter upon enactment of this chapter. The report must include, but is not limited to, information about the financial assistance offered, referrals to other agencies, warnings issued, citations issued, vehicles impounded, and the number of persons arrested under this chapter and any challenges faced by the Beaverton Police Department with regard to enforcement of this chapter.

EXHIBIT A

5.18.080 Penalties.

- A. Except as provided in subsection B of this section, a violation of this chapter is punishable, upon conviction, by a fine of not more than \$100.00 or by imprisonment for a period not to exceed 30 days or both.
- B. Violation of 5.18.060 is a Class 3 civil infraction. The City Manager shall take and store all unclaimed personal property for a minimum of 30 days during which the unclaimed personal property will be reasonably available to any person claiming ownership.
- C. A vehicle used to commit a violation of this chapter that (i) poses a traffic hazard, (ii) is likely to become the target of theft or vandalism, or (iii) is unlawfully parked may be impounded if the person has received, within 30 days preceding the current violation, a citation for violating subsection A of this section.

Exhibit B

Chapter 9.08
LIMITATIONS ON USE OF CERTAIN CITY PROPERTY**9.08.020 Purpose.**

The purpose of this chapter is to preserve the unique features of certain City property by limiting use of same for casual recreational, educational and cultural activities that do not unreasonably interfere with use by others nor interfere with the quiet enjoyment of adjacent property.

9.08.040 Scope.

A. The limitations on use of City property provided in this chapter shall apply to:

City Park (1S116AD09100);

West Parking Lot and Greenspace (1S115BC09200);

The City Library premises (1S115BC09300);

The North and South Plaza at the Round (1S116AA0880 and 1S116AA08900).

B. The city manager may add other City property to the scope of this chapter and shall give notice of same by any means intended to provide actual notice to potential users.

9.08.080 Special event permit required.

A person who seeks to use any City property within the scope of this chapter for a special event shall make application for same under the provisions of Chapter [7.05](#) BC. A person may apply for exceptions to the limitations on use provided in this chapter as part of the application for a special event permit.

9.08.100 Limitations on use of certain city property.

No person present on City property that is within the scope of this chapter shall:

A. Use abusive or threatening language or gestures or commit any act that constitutes an offense against a person or offense against the public as defined by federal, State or local law;

B. Remove, destroy, damage, alter or obstruct any vegetation, land, equipment, materials or supplies;

C. Defecate or urinate, except in a restroom facility;

D. Walk, stand, sit, or climb on any equipment or structure not intended for such purpose;

E. Apply graffiti or possess graffiti implements with the intent of applying graffiti;

Exhibit B

F. Dump or leave any rubbish, yard debris or refuse of any type on the property, except in refuse receptacles provided for such purposes;

G. Excavate the surface or place any fixture or structure on the property except for temporary placement of personal property such as chairs, awnings, and tables;

H. Leave personal property unattended;

I. ~~Camp or stay overnight in any vehicle on the property or within a City-owned parking lot adjacent to the property;~~

J. Engage in any sport activity that involves more than six people;

K. Operate a motorized or flying toy or one propelled by combustion; or

L. Disobey any reasonable direction or order of a City employee or police officer who acts to enforce a provision of this chapter or who gives such direction based on this chapter or who is acting in the course and scope of an emergency.

9.08.120 City property hours of use.

Use of City property under this chapter is allowed from 7:00 a.m. until 10:00 p.m.

9.08.130 Fires, stoves and barbecues.

The city manager may allow for the use of outdoor cooking appliances and fixtures at designated locations for designated events.

9.08.140 Music/amplification systems.

No person may use an amplified public address system on City property except as allowed by a special event permit. In no case shall the sound level generated by such use disturb the quiet enjoyment of any neighboring property.

9.08.150 Model devices.

[BC 9.08.150, repealed by Ordinance No. 4588, 7/18/12]

9.08.160 Alcohol and controlled substances.

~~No person on City property shall consume any alcoholic beverages except under the terms and conditions of a special event permit.~~

Exhibit B

A. Except as provided in subsection B, no person on City property within the scope of this chapter shall consume any intoxicant on City property within the scope of this chapter. As used in this subsection, "intoxicant" means intoxicating liquor; a controlled substance; an inhalant; cannabis; psilocybin; or any substance that, when taken into the human body, can impair the person's mental or physical faculties to a noticeable or perceptible degree.

B. A person may consume intoxicating liquor on City property within the scope of this chapter if the person is permitted to consume intoxicating liquor under the terms and conditions of a special event permit and authorized by the Oregon Liquor and Cannabis Commission.

9.08.170 Use of self-propelled and motorized vehicles.

No person on City property shall:

- A. Ride a bicycle, skateboard, scooter or use roller skates or in-line skates or other self-propelled device in an area where notice is posted prohibiting such activity;
- B. Use a bicycle, skateboard, scooter, roller skates, in-line skates or other self-propelled device at a rate of speed or in a manner that unreasonably endangers persons or property;
- C. Use a bicycle, skateboard, scooter, roller skates, in-line skates or other self-propelled device on any surface not intended for travel, including a table, sport court, water fountain, railing, stairwell, entry ramp, planter, sculpture, or other artwork;
- D. Leave a bicycle, skateboard, scooter, roller skates, in-line skates, or other self-propelled device where it may obstruct or endanger pedestrian traffic;
- E. Operate a motorized vehicle on other than a roadway or parking areas designated for such use by motor vehicles other than when necessary to accommodate a disability;
- F. Operate a motorized vehicle carelessly or in a manner that endangers the rights or safety of others.

9.08.180 Firearms and projectiles.

No person on City property shall possess, use, or discharge across, on or into the property any weapon or device that threatens bodily injury or property damage or harm to wildlife or natural habitat, nor discharge any projectile by means of compressed gas, air, combustible fuel, or electricity.

9.08.190 Animals.

No person on City property shall:

- A. Release animals, domestic, exotic or native, to run at large;

Exhibit B

- B. Feed any waterfowl or other wildlife;
- C. Do any act constituting cruelty to any animal;
- D. Allow an animal to injure or intimidate another animal or person;
- E. Allow an animal to cause damage to property;
- F. Allow an animal to roam at large or on a leash more than eight feet in length;
- G. Fail to keep an animal in the person's care or custody under control;
- H. Fail to immediately remove from the property all solid waste left by an animal under the person's care or custody; or
- I. Tie an animal to any tree or work of art.

The city manager may exclude domestic animals from City property during special events if and when the public health, safety and welfare so require.

9.08.195 Solicitation/signs.

No person shall attach signs, markers, or inscriptions of any type to City property and shall not carry signage in such a way as to threaten or endanger other persons. The city manager may designate certain areas of City property as limited public forums for the exercise of free speech and expressive conduct.

9.08.200 Vendors/concessions.

No person shall operate a fixed or mobile concession or offer or advertise for sale any goods or services on City property except as allowed by a special event permit.

9.08.210 Assemblies/meetings.

[BC 9.08.210, repealed by Ordinance No. 4588, 7/18/12]

9.08.220 Reservations.

[BC 9.08.220, repealed by Ordinance No. 4588, 7/18/12]

9.08.230 Enforcement.

The City may enforce the regulations on use of City property provided in this chapter by any lawful remedy available to it, including but not limited to an order excluding the person from the property and a summons and citation for a violation. A person who fails or refuses to leave City property on

Exhibit B

the lawful order of a City law enforcement officer or another City employee in charge of the premises commits the crime of trespass.

9.08.240 Appeal procedures.

[BC 9.08.240, repealed by Ordinance No. 4588, 7/18/12]