

ORDINANCE A-171-C

AN ORDINANCE AMENDING ORDINANCE A-171, AS AMENDED BY A-171-A AND A-171-B, AN ORDINANCE ESTABLISHING CITY PARK REGULATIONS

WHEREAS, the City of Coburg finds that each community member of Coburg 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; and

WHEREAS, the City recognizes the social nature of the problem of homelessness that has contributed to individuals locating themselves in City streets and on publicly-owned property and establishing campsites there. The City is committed to ensuring the most humane treatment of homeless individuals and to the removal of homeless individuals from established campsites on public property, per 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; and

WHEREAS, 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 sitting, lying sleeping and keeping warm and dry camping on all outside public property that is open to the public, 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; and

WHEREAS, the City Council acknowledges the lack of nightly shelter beds and housing currently available and recognizes the systemic lack of state and federal investment in shelter and public health services for those experiencing homelessness; and

WHEREAS, the State of Oregon is facing an overwhelming crisis of people experiencing homelessness; and

WHEREAS, using the Lane County Homeless by Name List (HBNL) data, the number of individuals reported as experiencing homelessness has been increasing, Lane County has seen an increase in individuals experiencing homeless from 3,477 in October 2020 to 3,754 in October 2021 to 4,599 in October 2022; and

WHEREAS, due to the City's small size and proximity to I-5, unhoused individuals seeking a place to sit, lie, sleep and keep warm and dry within the City of Coburg to date have been transitory, on their way north or south on I-5, resulting in no constant nor average number of individuals experiencing homelessness within the City; and

WHEREAS, the City Council intends to regulate sitting, lying, sleeping, and keeping warm and dry and survival sheltering outdoors on City property that is open to the public only in the context of the City's commitment to monitor available public space, particularly parkland, available in comparison to the number of unhoused individuals within the City of Coburg on an ongoing basis; and

WHEREAS, the City Council wishes to delegate sufficient authority to its City Administrator to ensure a comprehensive response to homelessness, including the authorization to adopt and modify an Administrative Order for the Use of Public Lands by Individuals Experiencing Homelessness (Administrative Order); and

WHEREAS, 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; and

WHEREAS, the City owns property where sitting, lying, sleeping and keeping warm and dry camping can or should be allowed, depending upon need, while some City properties may be able to generally remain closed to the public or have limited access for safety, environmental and security reasons; and

WHEREAS, the City Council wishes to delegate the authority to the City Administrator to modify park regulations based upon changing circumstances pursuant to an Administrative Order for Use of Public Lands by Individuals Experiencing Homelessness in order to secure locations that do not pose a risk to the health and safety of individuals experiencing homelessness who have no access to alternative locations within the City for sitting, lying, sleeping, and staying warm and dry; and

WHEREAS, the City recognizes the need to provide public locations within the City for individuals experiencing homelessness who are unable access locations within the City to sit, lie, sleep, and keep warm and dry, while also protecting the intended use of public property via objectively reasonable time, place, and manner regulations; and

WHEREAS, the City Council and staff have identified all City owned parkland; and

WHEREAS, this Ordinance does not criminalize or otherwise subject an individual to citation for the acts of sitting, lying, sleeping, or keeping warm and dry outside on public property, as prohibited by the Ninth Circuit in *Martin v. City of Boise*, *Blake v. City of Grants Pass*, *Johnson v. City of Grants Pass* and ORS 195.530. Instead, this Ordinance ensures that the City's vehicular and pedestrian traffic regulations constitute reasonable time, place, and manner regulations that balance the rights of people without shelter to use some outside 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 Coburg; and

WHEREAS, the Coburg City Council met in a work session on April 25, 2023, to discuss the impact of the above-recognized state and local laws on City municipal ordinances; and

WHEREAS, on May 9, 2023, the City Council held a public hearing on the revision to Ordinance A-171, as amended by A-171-A and A-171-B, An Ordinance Establishing City Park Regulations.

THE CITY OF COBURG ORDAINS AS FOLLOWS:

Section 1. Amending Ordinance A-171.

- a. Section 15(4) of Ordinance A-171, as amended by A-171-A and A-171-B, is hereby amended to read as follows:

The hours of closure for parks, portions thereof or facilities therein, set forth in this Section may be modified by an Administrative Order for the temporary use of public lands by individuals experiencing homelessness, issued by the City Administrator or the Administrator's designee. The City Administrator is authorized to issue and modify such an Administrative Order based upon all factors that the City Administrator deems relevant to the purposes of this Ordinance and to comply with applicable state and federal law.

- b. Section 16 of Ordinance A-171, as amended by A-171-A and A-171-B, is hereby repealed.

Section 2. Continued Effect. All unamended provisions of Ordinance A-171 shall remain unchanged and in full force and effect.

Section 3. Severability. The sections, subsections, paragraphs and clauses of Ordinance A-171 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

Section 4. Findings. The recitals set forth above are hereby adopted as support for the amendments adopted herein.

Section 5. Effective Date. Ordinance A-171-A will take effect on the thirtieth day after its enactment.

ADOPTED by the **City Council** of the **City of Coburg** this 13th day of June, 2023, by a vote of ____ for and ____ against.

APPROVED by the Mayor of the City of Coburg this ____ day of _____, 2023.

Nancy Bell, Mayor

ATTEST: _____
Sammy L. Egbert, City Recorder