

## **ORDINANCE A-246-A**

### **AN ORDINANCE AMENDING ORDINANCE A-246, AN ORDINANCE CONTROLLING VEHICULAR AND PEDESTRIAN TRAFFIC**

**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 streets and public property that is open to the public only in the context of the City's commitment to monitor available public space, particularly rights of ways, available in comparison to the number of unhoused individuals within the City of Coburg on an ongoing basis; 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**, City streets are designed and intended for travel and transportation, and provision of utility services, among other uses. City streets are not designed or intended for overnight use in the same way as a recreational campsite. People living in makeshift camps in the right-of-way and in vehicles often lack access to safe and sanitary restrooms and trash receptacles, resulting in unsanitary conditions from improper disposal of human waste and trash; and

**WHEREAS**, the placement of tents, bedding, and other structures on City streets on or next to paved surfaces and/or between curb lines is dangerous to those sitting, lying, sleeping, and keeping warm and dry because of the proximity to vehicles and other users of the streets. Placement of those items on sidewalks or bike lanes or paths can impede the use of sidewalks, bike lanes, paths and other public ways if clear passage is not maintained. The City has a responsibility as the road authority to maintain the streets, sidewalks and bike lanes and paths as safe, passable, and accessible, and to act to avoid death and injury to all users of the streets, including those without other homes; and

**WHEREAS**, the current Coburg Municipal Code does not ban camping on City streets in vehicles parked in compliance with parking regulations that apply to all vehicles, including no parking of vehicles in one location for more than 72 hours at a time, whether used for shelter or not; 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 public lands, including streets; 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-246, An Ordinance Controlling Vehicular and Pedestrian Traffic.

**THE CITY OF COBURG ORDAINS AS FOLLOWS:**

**Section 1.** Amending Section 23. Section 23 of Ordinance A-246 is hereby amended as follows:

- a. Subsection 4 is hereby repealed.
- b. Subsection 14 is hereby amended to read as follows:

No person, firm or corporation shall store on any street for longer than seventy-two (72) consecutive hours any wagon, automobile, farming implement, traction engine, machinery, motor home, recreational vehicle, camper, boat, trailer or vehicle; provided, however, that mechanics may make minor repair to such machinery of vehicles while temporarily on the streets for that purpose if traffic is not thereby obstructed. This section shall not apply to machinery or vehicles owned by or in the employ of the city and used in working on the streets.

- c. Subsections 5 through 15 are hereby renumbered consecutively as 4-14.

**Section 2.** Continued Effect. All unamended provisions of Ordinance A-246 shall remain unchanged and in full force and effect.

**Section 3.** Severability. The sections, subsections, paragraphs and clauses of Ordinance A-246 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-246-A will take effect on the thirtieth day after its enactment.

**ADOPTED** by the **City Council** of the **City of Coburg** this 13<sup>th</sup> day of June, 2023, by a vote of \_\_\_ for and \_\_\_ against.

**APPROVED** by the Mayor of the City of Coburg this 13th day of June, 2023.

\_\_\_\_\_  
Nancy Bell, Mayor

ATTEST: \_\_\_\_\_  
Sammy L. Egbert, City Recorder