

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 11.04, Public Use, of the Deschutes County Code. *
* ORDINANCE NO. 2023-013
*

WHEREAS, the Deschutes County Code (DCC) contains rules and regulations duly enacted through ordinance by Deschutes County and the Deschutes County Board of Commissioners; and

WHEREAS, from time-to-time the need arises to make amendments, including new enactments to the DCC; and

WHEREAS, upon direction from the Board of Commissioners, County Legal drafted revisions to DCC 11.04 to specifically address homeless camping issues raised by the Sheriff at a public work session on June 7, 2023; and

WHEREAS, the Board of County Commissioners of Deschutes County considered this matter at a duly noticed public hearing during the Board meeting on July 19, 2023, and determined that DCC 11.04 should be amended; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 11.04 is amended to read as described in Exhibit “A,” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 2. ADOPTION. This Ordinance takes effect 90 days after second reading.

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Dated this _____ of _____, 2023

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DeBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

Date of 1st Reading: _____ day of _____, 2023.

Date of 2nd Reading: _____ day of _____, 2023.

<u>Commissioner</u>	Record of Adoption Vote			
	<u>Yes</u>	<u>No</u>	<u>Abstained</u>	<u>Excused</u>
Patti Adair				
Phil Chang				
Anthony DeBone				

Effective date: _____ day of _____, 2023.

EXHIBIT A

(To Ordinance No. 2023-013)

CHAPTER 11.04 PUBLIC USE

11.04.010 Purpose

11.04.020 Definitions

11.04.030 Policies

11.04.040 Justice Building; Searches

11.04.050 Road Closures

11.04.060 Prohibited Activities

11.04.070 Alienation

11.04.080 Violation; Penalty

11.04.010 Purpose

Public use regulations are adopted for the purpose of protecting public property.

HISTORY

Adopted by Ord. 96-013 §1 on 5/22/1996

11.04.020 Definitions

For the purposes of DCC 11.04, unless otherwise apparent from the context, certain words and phrases used in DCC 11.04 are defined and as set forth in DCC 1.04 and DCC 11.04.020.

"Alternate shelter" means an outdoor location that provides access for sleeping and/or camping through the use of a vehicle, a recreational vehicle, a tent, or some other structure which offers some protection from the outdoor elements, provided that any alternate shelter shall not be located: (1) in a manner that will create a physical impediment to emergency or nonemergency ingress, egress or access to public or private property, including but not limited to driveways, sidewalks and entrances or exits from buildings and/or other real property; and/or (2) within 1000 feet of a school or public park.

"Bed" means an item(s) utilized for sleeping.

"Bedding" means the collective term for the articles which compose a bed.

"Camping" means any form of sleeping or use of a bed, to include bedding materials, whether outdoors or through use of a vehicle, recreational vehicle, tent or other structure which can offer some protection from the outdoor elements.

"Campsite" means the location where camping is occurring.

"Industrial land" means any County owned real property zoned for industrial, commercial, manufacturing, research and development or warehousing purposes as authorized.

"Park" means any County owned real property designated by resolution of the Board as a County park, pursuant to ORS 275.320.

"Parking lot" means an area consisting of one or more parking spaces grouped.

"Program Administrator" means the Board, the County Property and Real Estate Manager, Deschutes County department head or designees.

"Public places" means County-owned or controlled real property that is open and available for use by the public. It does not include "vacant county land" or any County-owned or controlled real property designated by the County Administrator as not open for public use, or as use limited.

"Public service facility" means any real property that is owned or leased by County where public services are provided or conducted and shall include, but not be limited to, buildings, facilities, or real property which is fenced, enclosed or otherwise developed and any associated grounds.

"Right of way" means the area between the boundary lines of a street, road or other public easement.

"Shelter" means an indoor location that provides access for sleeping.

"Sleeping" means sitting, lying and/or employing rudimentary forms of protection from outdoor elements.

"Vacant county land" means all County owned land which does not qualify as a "public place," "public service facility," "park" or "right of way." Unless specifically authorized by Order of the Board of Commissioners, sleeping, camping, taking shelter or taking alternate shelter is at all times prohibited on vacant county land.

HISTORY

Adopted by Ord. 96-013 §1 on 5/22/1996

Amended by Ord. 2023-013 §1 on 8/23/2023

11.04.030 Policies

- A. Real Property. Except as otherwise provided in this section 11.04, pPublic use of County-owned or controlled real property, not including vacant county land, shall be limited to day use (dawn to dusk) except as permitted herein or otherwise permitted by adoption of resolution of the Board.
1. Any County owned real property leased by authority of the Board of Commissioners to other public agencies or private parties shall be governed by the terms and provisions of such leases.
 2. County-owned or controlled real property may be posted closed, not open for public use, or use limited, upon direction of ~~by~~ the County Administrator, County Property Manager, Director of Road Department, Director of Solid Waste, or Risk Manager.
 3. County shall not accept conveyance or transfer of real property except upon recording of a written acceptance from the Board of Commissioners.
 4. Exclusive or other special use of County-owned or controlled real property by private entities or other agencies shall only be granted pursuant to a written lease or license authorized by the Board of Commissioners.
- B. County Owned/Occupied Buildings. The open common areas of County public service facilities and other buildings occupied by County employees are open to members of the public who have

business with County employees. However, these buildings are also places where County employees do their work. That work often involves sensitive and confidential issues. County employees require work areas that are quiet, free from unnecessary foot traffic and where they may discuss sensitive or confidential matters without being overheard by persons not employed by the County.

1. Each department or other program occupying a building shall where feasible, establish a waiting area which is, to the extent possible, located near the department or program receptionist and outside the department's or program's work area. Members of the public are to wait in this area until the person they are waiting to see is available. Each waiting area shall be clearly posted as such.
2. Areas other than open common areas and designated waiting areas are open to visitors by invitation only. County department heads and staff are responsible for their offices, and may request (or order) visitors to leave their offices at their discretion. County department heads and department support staff supervisors are responsible for support staff work areas, and may, in their discretion, ask visitors to leave those areas.

C. Public Service Facilities.

Public service facilities which provide services beyond the hours of dawn to dusk shall operate in a manner deemed appropriate by the Program Administrator. Public access may be restricted by the Program Administrator, on the basis of public safety or administrative efficiency to those areas deemed by the Program Administrator to be necessary for provision of the intended services.

D. Parking Lots

~~1. _____~~

~~2. _____ County parking lots may be posted with time and use restrictions, and unless otherwise posted, are not available for overnight use, to include but not limited to sleeping, camping or taking alternate shelter. Violations may be cited as authorized by this section 11.04, by the Facilities Director or County Administrator designee. The recommended penalty for the citation of violation of DCC 11.04 shall be 35 dollars, which shall double each 24 hours up to four days, and which may be paid as a bail for forfeiture. If not paid at that time, a warrant may be issued by the Circuit Court to the violator.~~

HISTORY

Adopted by Ora. [96-013](#) §1 on 5/22/1996

Amended by Ord. [2020-005](#) §1 on 1/1/2021

Amended by Ord. [2023-013](#) §1 on 8/23/2023

11.04.040 Justice Building; Searches

Except for on-duty law enforcement personnel, and individually designated county staff, every person entering through the public entrances of the Courthouse facility, District Attorney facility, Community and Juvenile Justice facilities, and all other Deschutes County Justice / Law Enforcement facilities,

including any annex thereto, is subject to search of his or her possessions and must pass through metal detectors.

HISTORY

Adopted by Ord. 97-046 §1 on 6/4/1997

Amended by Ord. 2020-005 §1 on 1/1/2021

11.04.050 Road-Property Closures

Where ~~vacant c~~County ~~land~~property, not generally open for public use, is or has been used by automobiles, motorcycles and other off-road vehicles or bicycles for recreation, or for other purposes including sleeping, camping, or taking alternate shelter as defined in this section 11.04, and the County has a need to close and discontinue the property to these is uses, the County will notify the general public of the intent to close in a local paper of general circulation in addition to the notification procedures outlined in applicable County Encampment Removal Policy-. The design of and the closure shall be in accordance with applicable County Encampment Removal Policy and also the requirements of the Manual on Uniform Traffic Control Devices, published by the Federal Highway Administration, in terms of signing and barricading. Any person who refuses to leave after implementation of applicable County Encampment Removal Policy may be cited/charged as authorized by this section 11.04. Permanent closures shall may, to the extent directed by the County Administrator, consist of appropriate berms, ditches and obliteration of existing roads. The closure design shall be in written form and approved by the County Engineer or County Traffic Engineer. In no case shall ropes or cables be used to close the road or area.

HISTORY

Adopted by Ord. 96-013 §1 on 5/22/1996

Amended by Ord. 2023-013 §1 on 8/23/2023

11.04.060 Prohibited Activities

- A. Excepting for site-specific authorization by Order of the Board of Commissioners, nNo person shall construct, install, ~~or~~encroach, sleep, camp, or obtain shelter or alternate shelter upon County-owned or controlled real property~~land~~.
- A.B.No person shall sever, excavate, damage, vandalize, burn, litter, remove materials from or cause other site disturbing activity upon or to County-owned or controlled real property~~land~~ without obtaining an appropriate permit or license authorizing such activity, from the ~~Board~~, Property Manager, Director of Road Department or Director of Solid Waste. Open fires are strictly prohibited at all times on County-owned or controlled real property.
- B.C.No person shall cut or remove wood-vegetation or trees on or from County-owned or controlled real property except upon first obtaining a wood cutting permit from the County Property Manager or County Forester.
- C.D.Excepting for site-specific authorization by Order of the Board of Commissioners, mMotor vehicles (operable and inoperable), including but not limited to R.V's, trailers and personal use vehicles, shall be limited to existing parking lots during business hours, (subject to time, place

~~and manner regulations, if any, as posted)~~ and operation on established roads. Motor vehicles are prohibited on dedicated public pedestrian/bicycle trails.

~~D.E.~~ Discharge of firearms is prohibited in and on public service facilities and County-owned or controlled real property except as may be provided by Order/resolution of the Board of Commissioners.

~~E.F.~~ No person or group shall exclude any other member of the public from County-owned or controlled real property that is open for public useland, except as provided by lease, license or Order/resolution ofby the Board of Commissioners.

~~F.G.~~ No person shall engage in any conduct in or on property where public services are provided which hinders, interferes with or prevents those employees from performing their duties.

~~H.~~ No person shall smoke or carry any lighted or electronic smoking instrument in any Deschutes County-owned, controlled or occupied building, except as permitted by the Deschutes County Smoke Free Policy.

~~G-I.~~ No person shall discharge or dump any sewage or wastewater from baths, sinks and showers on or adjacent to County-owned or controlled real property.

JK. No person shall cause or contribute to the accumulation of solid waste materials on County-owned or controlled real property.

HISTORY

Adopted by Ord. 96-013 §1 on 5/22/1996

Amended by Ord. 97-057 §1 on 10/8/1997

Amended by Ord. 2020-005 §1 on 1/1/2021

Amended by Ord. 2023-013 §1 on 8/23/2023

11.04.065 Extra-Jurisdictional Application

Where authorized by written agreement between Deschutes County and the appropriate federal, state and/or city representatives, this section 11.04 is applicable to specifically identified federal, state and/or city property located within unincorporated Deschutes County upon such terms, conditions and limitations stated therein.

HISTORY

Adopted by Ord. 2023-013 §1 on 8/23/2023

11.04.070 Alienation

Excepting conveyances signed by the County Property Manager upon written authorization of the County Commissioners or the County Administrator, no County-owned real property shall be sold,

leased, dedicated, licensed, donated, exchanged, encumbered or otherwise alienated except upon signature, authorization, order or ratification of the Board.

HISTORY

Adopted by Ord. [96-013](#) §1 on 5/22/1996

Amended by Ord. [2020-005](#) §1 on 1/1/2021

[11.04.080 Violation; Penalty](#)

Any violation or failure to comply with any provision of DCC 11.04, may be prosecuted in Justice Court as a Class A violation, or may be charged and prosecuted in Circuit Court as Trespass pursuant to ORS 164.205 et seq. except DCC 11.04.030(B), is a Class A violation. If imposed civil penalties are not timely paid, upon application by the County a warrant may be issued by the Circuit Court to the violator.

HISTORY

Adopted by Ord. [96-013](#) §1 on 5/22/1996

Amended by Ord. [2003-021](#) §24 on 4/9/2003

Amended by Ord. [2023-013](#) §1 on 8/23/2023