

**ORDINANCE NO. 2350**

**AN ORDINANCE AMENDING THE HERMISTON MUNICIPAL CODE BY AMENDING CHAPTER 97, ENTITLED “USE OF CITY PROPERTY FOR CAMPING”**

WHEREAS, the City Council for the City of Hermiston may review the Municipal Code and from time to time make amendments; now therefore:

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

(New language is in red and underlined and repealed language has ~~a line through it.~~)

**Section 1.** The Hermiston Municipal Code Chapter 97, “Use of City Property for Camping” is amended as follows:

**Section**

**97.01 Purpose**

**97.02 Definitions**

**97.03 Camping, Prohibited**

**97.04 Vehicle Camping in a Lawful Parking Space**

**97.05 Campsite Removal**

**97.06 Enforcement**

**97.07 Camping by Individuals Living in Vehicles**

**97.01 Purpose**

The purpose of this chapter is to regulate the time, place, and manner in which individuals may use City of Hermiston property and rights-of-way. Furthermore, the purpose of this chapter is to comply with Oregon House Bill 3115(2021) and House Bill 3124(2021), as well as current federal court decisions *Martin v. Boise*, 920 F.3d 584 (9th Cir., 2019) and *Johnson v. City of Grants Pass*, 50 F.4th 787 (9th Cir., 2022).

**97.02 Definitions**

The following definitions may apply:

(A) “To camp or camping” means to set up or to remain in or at a campsite.

(B) “Campsite” means any place established or maintained for the purpose of maintaining a temporary place to lie, sleep, use bedding materials, or live, or where the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof is placed, established or maintained for the purpose of maintaining a temporary place to live.

(C) “Bedding materials” means a sleeping bag, bedroll, or other material used for bedding purposes, including materials used to keep warm and dry while sleeping.

(D) “Individual Experiencing Homelessness” means the circumstance when there is no available emergency or transitional shelter or housing for a person and/or no transportation for such individual to available emergency or transitional shelter or housing within the county where the person is located.

(E) “Vehicle camping in a Lawful Parking Place” refers to a person experiencing homelessness utilizing a motor vehicle in a lawful parking space as a temporary place to live.

(F) “Personal property” means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

(G) “Established Camping site” means a campsite that has been in its current location for at least five days. If law enforcement officials do not have evidence about the age of the campsite, law enforcement should presume it is an established camping site.

(H) “Rest” means to pause from exertion by stopping, sitting, lying, or sleeping.

### **97.03 Camping Prohibited**

(A) Except as set forth in subsection (B) of this section, no person shall camp in or upon any public right-of-way or City property, unless specifically authorized:

- (1) By any provision of the Hermiston Municipal Code;
- (2) By declaration of the Mayor in emergency circumstances, if so authorized by the declaration;
- (3) By declaration of the City Manager in the case of a severe event, if so authorized by the declaration; or
- (4) If the City publishes on its website a written policy authorizing tent camping or vehicle camping on specific publicly owned properties, then tent camping or vehicle camping on such properties is lawful and permissible consistent with the time, place, and manner constraints contained within any such written- and-published City policy.

(B) Notwithstanding the prohibitions in subsection (A), an individual experiencing homelessness may camp in or upon right-of-way or city property if all of the following time, place, and manner regulations are followed.

- (1) Time. An individual experiencing homelessness may only camp between the hours of 7 pm and 7 am. After 7am, an individual experiencing homelessness must dismantle the campsite, remove all personal property and materials from the site, and the camp and all associated camp materials must be moved at least one block or 600 feet.
- (2) Place. An individual experiencing homelessness may not camp in the following places:
  - (a) On a playground or sports field.
  - (b) Within any City owned structure, including but not limited to gazebos, cook shacks, restroom facilities, or portable toilets.

- (c) Within any City owned or maintained parking lot.
  - (d) On publicly owned property not open to the public, including but not limited to Public Works and park areas temporarily closed for construction, repairs, maintenance, cleaning and similar activities.
  - (e) On streets, including planter strips, medians and parking spaces.
  - (f) On sidewalks, if by doing so, the person obstructs pedestrian traffic along the sidewalk or into private property and businesses adjacent to the sidewalk. For purposes of this provision, an individual obstructs pedestrian traffic if that individual, by camping, lying, sleeping, or using bedding materials, reduces the path of travel to less than 36 inches.
  - (g) Within 750 feet from a public or private elementary school, secondary school, or career school attended primarily by minors.
  - (h) Within 20 feet of a building, including but not limited to, residences, commercial buildings, and City buildings.
  - (i) On areas underneath roadways or bridges that are not open to the public.
  - (j) On railroad tracks or within 15 feet of railroad tracks.
  - (k) Within ~~the Hermiston Cemetery, or any other~~ any cemetery, mortuary, memorial park, or similar property.
- (3) Manner. An individual experiencing homelessness may camp on City property if the person complies with all of the following regulations:
- (a) A person may not accumulate, discard, or leave behind in or around a campsite any rubbish, trash, garbage, debris, or other refuse, unsanitary or hazardous materials, or any animal or human urine and feces.
  - (b) Digging, excavating, terracing of soil or other alteration of City property, or causing environmental damage or damage to vegetation or trees is prohibited.
  - (c) 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.
  - (d) Erecting, installing, placing, leaving, or setting up any type of permanent or temporary fixture or structure of any material or materials in or around a campsite is prohibited. For purposes of this section, a “permanent or temporary fixture or structure” does not include a tent, tarpaulin, or other similar item used for shelter that is readily portable.
  - (e) A campsite must be limited within a spatial footprint of 10 feet by 10 feet, or 100 square feet, and a campsite may not be within 10 feet of another

campsite. Multiple persons may camp together in a single campsite, subject to the limitations of this subsection.

- (f) Unauthorized connections or taps to electrical or other utilities, or violations of building, fire, or other relevant codes or standards are prohibited.
- (g) Dumping of gray water (i.e. wastewater from bathwater, sinks and cooking) or black water (sewage) on City property is prohibited.
- (h) Open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, or heating are prohibited.
- (i) Camping 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.
- (j) All animals must be leashed, crated, or otherwise physically contained at all times.
- (k) Storage of personal property such as vehicle tires, bicycles or associated components (except as needed for an individual's personal use), gasoline, generators, lumber, household furniture, extra propane tanks, combustible material, shopping carts, or other items or materials is prohibited, other than what is related to camping, sleeping, or keeping warm and dry.

#### **97.04 Vehicle Camping in a Lawful Parking Space.**

(A) Individuals who are involuntarily homeless may use vehicles for shelter and/or sleeping in the following circumstances and subject to the conditions and restrictions provided in subsections above:

- (1) The vehicle is legally parked in compliance with the Hermiston Municipal Code.
- (2) The vehicle must be moved at least one block or 600 feet every 24 hours.
- (3) The parking space at issue shall not be within 60 feet of any residences.
- (4) Storage of material outside vehicles is prohibited, other than what is incidental to activities such as short-term (maximum 30 minutes) loading or unloading a vehicle.
- (5) Vehicles must be operational, i.e., capable of being started and driven under their own power, or ready to be towed if designed to be towed and may not be discarded or left inoperable in public rights-of-way or on City property.
- (6) Vehicles must be registered and insured, as required by the Oregon Vehicle Code.
- (7) No building or erecting of any structures connecting or attaching to vehicles is permitted, including tents that are not designed and manufactured to be attached to a vehicle.

(8) Connections from vehicles to public or private stormwater, sewer, water, and electrical systems or to vehicles from public or private stormwater, sewer, water, and electrical systems are prohibited.

(9) The parking space shall not be within 750 feet from a public or private elementary school, secondary school, or career school attended primarily by minors.

#### **97.05 CAMPSITE REMOVAL**

- (A) Upon a determination by enforcement personnel that a camp or camping is occurring in violation of this Chapter, an established campsite may be removed. Except as provided in subsection (I) of this section, at least 72 hours before removing homeless individuals from an established camping site, law enforcement officials shall post a written notice, in English and Spanish, at all entrances to the camping site to the extent that the entrances can reasonably be identified.
- (B) When a 72-hour notice is posted, law enforcement officials shall inform local agencies that deliver social services to homeless individuals as to where the notice has been posted. Any local agency, providing service within the city limits of Hermiston, desiring to be on this notification list must provide its name, address, telephone number, and name of contact person to the Hermiston Police Department, in writing, requesting notification.
- (C) The local agencies may arrange for outreach workers to visit the camping site that is subject to the notice to assess the need for social service assistance in arranging shelter and other assistance.
- (D) All personal property at the camping site that remains unclaimed after removal shall be given to a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection 97.06 of this section, whether notice is required or not.
- (E) The unclaimed personal property must be stored in a facility located in the same community as the camping site from which it was removed. For purposes of this section, the City of Hermiston is considered a single community.
- (F) Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.
- (G) Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.
- (H) The written notice required under this section must state, at a minimum:
- (1) Where unclaimed personal property will be stored;
  - (2) A phone number that individuals may call to find out where the property will be stored;  
or
  - (3) If a permanent storage location has not yet been determined, the address and phone

number of an agency that will have the information when available.

- (4) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.
  - (5) The property shall be stored for 30 days during which it shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed after 30 days may be disposed of or donated to a corporation described in Section 501(c)(3) of the Internal Revenue Code.
- (I) The 72-hour notice requirement under this section does not apply:
- (1) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site;
  - (2) In the event of an exceptional emergency at an established camping site, including, but not limited to, possible site contamination by hazardous materials, a public health emergency or other immediate danger to human life or safety; or
  - (3) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection (A) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

#### **97.06 Enforcement.**

- (A) A person authorized to issue a citation for unlawful camping may not issue the citation if the citation would be issued within 200 feet of a notice required under 97.05 of this section and within two hours before or after the notice was posted.
- (B) Violation of 97.03 of this section constitutes a "Class D" violation. Violation of subsection 97.04 of this section consisting of vehicle camping in a lawful parking space constitutes a "Class D" violation. Every day in which such violations occur constitutes a separate violation.
- (C) Before a violation citation is issued, the enforcement personnel will contact the person and provide a reasonable opportunity to cure or remedy the alleged violation.

#### **97.07 Camping by Individuals Living in Vehicles.**

- (A) Notwithstanding any other provision of the Hermiston Municipal Code, any public or private entity may provide parking spaces for up to and not exceeding three vehicles for overnight sleeping in a vehicle on their parking lot if the public or private entity owns or leases real property on which a structure and an associated parking lot are located. Use of parking lots connected to any dwelling as defined in 157.02 is not allowed. City authorization is not a land use decision.

- (B) A public or private entity that allows a person or persons to sleep overnight in a vehicle on the premises pursuant to subsection (A) of this section shall:
- (1) Agree to abide by all conditions, including acceptance of liability and demonstration of insurance coverage in amounts acceptable to the city;
  - (2) Provide, or make available on the premises, sanitary facilities including, but not limited to, toilet, hand washing, and trash disposal facilities;
  - (3) Not allow tents or other personal property to be attached to the vehicle as a means to expand the capacity of the vehicle for additional camping or to establish long term campsites; and
  - (4) Ensure vehicles maintain a minimum distance of 20 feet from other overnight camping vehicles; and
  - (5) Ensure that all vehicles are operable; and
  - (6) Vehicles must be registered and insured, as required by the Oregon Vehicle Code; and
  - (7) Ensure that all recreational vehicles are operable or towable; and
  - (8) Obtain a cost-free permit from the City of Hermiston to allow overnight vehicle camping on property owned or leased by the organization, which may set a maximum number of spaces used for this purpose as set forth in subsection (C) of this section; and
  - (9) Not require payment of any fee, rent, or other monetary charge for overnight sleeping in a vehicle as authorized by this section.
- (C) If the public or private entity seeks to allow more than three vehicles to park on its property for this purpose, the entity must obtain preapproval from the City Manager or the City Manager's designee for a maximum number of vehicles. The City Manager or the City Manager's designee may designate the maximum number of vehicles used for sleeping for a property and may subsequently modify that maximum number based upon the totality of the circumstances, including performance of the entity's operation to date and impacts on surrounding properties.
- (D) A public or private entity that permits overnight sleeping in a vehicle pursuant to subsection (A) of this section may revoke that permission at any time and for any reason. Any person who receives permission to sleep on a premises as provided in subsection (A) of this section shall leave the premises immediately after permission has been revoked.
- (E) Notwithstanding any other provision of this section, the City Manager or the City Manager's designee may prohibit overnight sleeping in a vehicle at a premises as provided in subsection (A) of this section if the City Manager or the City Manager's designee finds that such activity does not meet the requirements of this section or constitutes a nuisance or other threat to public health, safety, or welfare.

- (F) In addition to any other penalties that may be imposed, any premises used for overnight sleeping in a manner not authorized by this section or other provisions of this code shall constitute a nuisance and may be abated as such.
- (G) Nothing in this chapter creates any duty on the part of the City, its employees, or its agents to ensure the protection of persons or property with regard to overnight sleeping in vehicles.

**Section 2.** All other provisions of the Hermiston Municipal Code remain unchanged and in full effect.

**Section 3.** The City Recorder is hereby authorized to correct any scrivener’s errors and to conform the revisions to the Hermiston Municipal Code with appropriate numbering.

**Section 4. Effective Date.** This ordinance shall take effect on the 30th day after its adoption.

ADOPTED by the Common Council this 23rd day of October 2023.

SIGNED by the Mayor this 23rd day of October 2023.

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Dr. David Drotzmann, Mayor

ATTEST:

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Lilly Alarcon-Strong, CMC City Recorder