



CITY OF ST. HELENS PLANNING DEPARTMENT

M E M O R A N D U M

TO: City Council & Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
RE: HB3115, et. al. – starting discussion to provide direction for code amendments that need to be in place by July 1st:

- 1) Definition of “camping”
- 2) Managed v. passive sites – places ok to camp v. not ok
- 3) Location
- 4) Time, place and manner – focus on duration and “established” campsite
- 5) Violation
- 6) Private camping allowance?

DATE: February 8, 2023

The purpose and timing of this memo is to promote thought for productive upcoming discussions, such as the next joint Council/Planning Commission meeting on March 8th. The goal is determining how we will change our laws based on Oregon’s HB 3115 and associated matters, particularly decisions by the US Court of Appeals for the 9th Circuit.

There will likely be more examples of HB 3115 related codes in the months ahead as other cities face the HB 3115 July 1, 2023 implementation date, but there is no time to wait. And there is no model ordinance, so looking at other examples and attaining legal guidance is the best place to start. The content of this memo is based on recommendation of the League of Oregon Cities, legal counsel guidance, and ordinances from other jurisdictions that deal with more acute homelessness issues compared to St. Helens or Columbia County and, as such, have more “modern” codes.

Text in **red** represents the basic amendments suggested by the city’s legal counsel to have something in place by July 1st that would be considered compliant with the new HB3115 laws going into effect then. Other examples are provided too.

Actual current St. Helens law is **blue**.

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Definition of “camping”

Definition of “camping” in Chapter 12.20 SHMC needs to be amended, per recommendation from legal counsel, to at least eliminate references to sleeping. See SHMC 12.20.010:

Current St. Helens definition is:

“Campsite” means any place where bedding, sleeping bag, or other sleeping matter or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure or shelter, or any vehicle or part thereof.

“To camp” means to set up, or to remain in or at, a campsite.

St. Helens’ definition of campsite is similar to many other outdated definitions such as the City of Ashland and Eugene.

Our legal counsel suggests this definition of “campsite” (with no change to “to camp”), which removes sleeping references:

“Campsite” means any place where there is a tent, or any structure or assembly of materials consisting of a top or roof or any other upper covering and enclosed on one or more sides, that is of sufficient size for a person to fit underneath or inside.

Note that this definition of campsite omits any reference to vehicles, which would allow the city to treat vehicle and parking code violations independent of camping ordinances.

The City of Medford is an example that is similar to St. Helens’ current definition but refined so sleeping is not referenced, but vehicles still are:

“Campsite” means any place where any stove or fire is placed, established or maintained for the purpose of maintaining a temporary place to 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.

Another example is from the Cities of Coos Bay, McMinnville, Newport and Seaside where “camp/camping” is defined paired with “camp paraphernalia” and in some cases “camp facilities.” There are subtle varieties between these communities, but generally those definitions are:

“Camp” or “camping” means to pitch, erect, create, use, or occupy camp facilities for the purposes of habitation, as evidenced by the use of camp paraphernalia.

“Camp facilities” include, but are not limited to, tents, huts, temporary shelters, vehicles, recreational vehicles, or trailers.

“Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or cooking devices or utensils and similar equipment.

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Managed v. passive sites Places ok to camp v. not ok

Another important matter to discuss which will substantially influence how we amend our ordinances is the managed v. non-managed camp areas question. Many cities specify where camping is not allowed. This includes the Cities of Astoria, Bend, Coos Bay, McMinnville, Medford, Newport, and Seaside. This is the recommended approach per legal counsel.

Based on input from the Parks Commission at their December 12, 2022 meeting, there is not support for allowing camping in city parks, except Sand Island as is being used as a business venture now, which we will need to address in new the ordinance(s) somehow.

We could also do the inverse and specify where they are allowed, but this begets sites that may need active management, which is not mandated by law. Remember, generally, this is an effort of how to enforce, not necessarily how to shelter. Legal counsel does not recommend just relying on designated spots. This also brings the question of who manages the site(s). In this scenario it would be best to have multiple areas to help prevent state created dangers and situations where people need to be separated due to restraining orders, for example.

Our legal counsel suggests adding places that are prohibited into SHMC 12.20.060(1) as follows:

(1) It is unlawful for any person to camp in or upon any public right-of-way or public property, unless otherwise specifically authorized by the city administrator.

The highlighted section would be replaced with specific locations where camping is never allowed for safety reasons such as public sidewalks, streets and alleys. See **Location** section below for more examples.

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Location

The following are examples of areas that cities have decided where camping **should not** occur, which is the recommended approach discussed above. These come from the cities of Coos Bay, Eugene, Seaside, McMinnville, Medford and Newport.

These examples will help to start thinking about this as we determine what is appropriate for St. Helens based on the approach recommended by legal counsel.

- public parks
- all publicly owned and maintained parking lots
- all publicly owned and maintained restrooms
- residential areas (zoning districts)
- along specified street corridors
- publicly owned property not open to the public
- sidewalks
- public rights-of-way, street, alley, lane, medians, planter strips, parking spaces
- under bridges/viaducts
- public property within Urban Renewal District
- within 15 feet of railroad tracks
- cemeteries
- within visual sight from a constructed and signed recreational trail on public property
- public rights-of-way adjacent to or within 200' of a lot or parcel containing a school day care facility, childcare facility, or facility providing services to homeless persons
- public rights-of-way adjacent to a lot or parcel containing a dwelling

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Time, place and manner – duration When does a camp become “established?”

St. Helens’ camping provisions need to be enhanced with time, place and manner provisions or add a definition of illegal camping. Per general recommendation from legal counsel, limited duration stay provisions are strongly recommended.

Our legal counsel suggests adding a new subsection in addition to modifying SHMC 12.20.060(1) as discussed in the **Managed v. passive sites** section above. The new provision could be:

(x) It is unlawful for any person to camp in or upon any public property not specified in 12.20.060(1) **[option 1: for more than 12 hours in any 24 hour period; option 2: for more than 24 hours in any one location]**, unless otherwise specifically authorized by the city administrator.

A 24-hour provision is used by many jurisdictions such as the Cities of Astoria, Bend, Medford, and Newport.

Allowing time less than 24 hours could pose heightened risk as far as being objectionably reasonable to persons experiencing homelessness (e.g., the 12-hour example). We could also have areas where it is 48 hours, for example, instead as an incentive for certain locations. In any case, the applicable time-period for St. Helens needs to be determined.

This is an important distinction as “to camp” and “campsite” are separate matters. Cities can potentially have prohibitions on campsites in certain areas (subject to immediate removal) as long as it passes the objectionably reasonable test per ORS 195.530, but “to camp” (in this example) is when the campsite becomes **established**. ORS 195.505(3) requires at least 72-hours notice before removing homeless individuals from an established campsite. However, “established” is not defined by the ORS, so we need to define it.

Note that there are exceptions to the 72-hour notice rule per ORS 195.505(9) such as an exceptional emergency or when illegal activities other than camping occurring.

There is also a question of what alleviates the camping; for example, how far does someone need to move to truly leave the campsite area? Bend uses “at least one block or 600 feet and not return to the prior location for 72 hours.”

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Violation

Currently, a violation of camping unlawfully on public property is punishable by a fine up to \$250 per SHMC 12.20.060(2). Legal counsel suggests lowering this to a lesser amount such as \$50.

We could also have provisions that allow a longer duration than allowed, or fine(s) reduced or eliminated if the individual registers with the city upon setting up camp and/or meeting with a local service provider. Though this is not a mandate of law, it could be an incentive mechanism to connect folks to resources.

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Private camping allowance

Though it is not required, ORS 195.520 includes the potential of overnight use of vehicles:

195.520 Camping by individuals living in vehicles.

- (1) Any political subdivision may allow any public or private entity to allow overnight camping by homeless individuals living in vehicles on the property of the entity.
- (2) A political subdivision may impose reasonable conditions upon offering camping space under this section, including establishing a maximum number of vehicles allowed.
- (3) Entities providing camping spaces under this section must also provide access to sanitary facilities, including toilet, handwashing and trash disposal facilities.

Should we change our existing RV rules?

The closest thing the city has now in relation to this is a max 14 day per calendar year use of a RV for sleeping purposes only, if the property is developed with a residential use and there are no utility connections other than temporary electricity.

In contrast, the City of Portland allows owners of a home to host up to one occupied recreational vehicle, though neither the St. Helens or Portland provisions discussed here are directly related to ORS 195. 520 as cited above. But they do advance a housing option.

Some cities have provisions specific to ORS 195.520 like:

Astoria: up to six persons and 3 total passenger vehicles/tents of religious institution; developed non-profit, commercial or industrial property; or vacant commercial or industrial property.

Bend: up to three vehicles of religious institution, nonprofit, business or public entity property; up to six vehicles and/or tents with approval from the city.

Coos Bay: up to three vehicles/tents of religious institution; developed non-profit, commercial or industrial property; or vacant commercial or industrial property with approval from the city. In addition, private residences may allow one family to use the back yard or driveway for RV/Vehicle camping.

Eugene: up to six vehicles/tents on religious institution or public entity with a parking lot. Also possible on vacant lot with approval from the city.

Newport: up to three vehicles/tents on religious institution, commercial, industrial or public entity property.

Seaside: up to three vehicles/tents and up to 6 persons on private nonresidential property.

Interestingly, even though the ORS says “vehicles,” all of the above examples expand that to other forms of shelters (e.g., tents). These are “no profit” camping arrangements and have other time, place and manner provisions, which we can delve into further if there is support for this.

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There are other things to discuss and applicable details that may come into play, since every jurisdiction is different. But July 1st will be here soon, and all Oregon jurisdictions are facing the same ticking clock. Narrowing down these issues will help direct subsequent focus, efforts, and discussion so we can start making efficient progress in this effort.