



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Megan George, Deputy City Manager
DATE: June 12, 2023

SUBJECT:

Review Draft Ordinance for the Prohibition and Regulation of Camping on Public Property

EXECUTIVE SUMMARY:

Staff is asking for policy direction on how Tualatin should address when, where, and how people experiencing homelessness can camp in Tualatin.

Two recent decisions out of the Ninth Circuit Court of Appeals (*Martin v. Boise* and *Johnson v. City of Grants Pass*) held that a governmental entity cannot “criminalize conduct that is an unavoidable consequence of being homeless – namely sitting, lying, or sleeping” under the Eighth Amendment to the Constitution. In addition, individuals similarly must be permitted to take minimal measures to keep warm and dry while sleeping.

In 2021, the Oregon Legislature passed HB 3115 (codified as ORS 195.530), which requires any regulation of sitting, lying, sleeping, or keeping warm and dry outdoors on public property that is open to the public to be objectively reasonable as to time, place, and manner prior to July 1, 2023.

Tualatin Municipal Code Chapter 6-12-030 states “No person shall camp in or upon any sidewalk, street, alley, lane, or public right-of-way, park or any other publicly owned property or under any bridge or viaduct, unless otherwise specifically authorized by this code or by declaration of the Mayor in emergency circumstances or authorized by a City permit for a special event.” Tualatin’s ordinance does not comply with HB 3115.

Homelessness is a significant issue affecting many communities in Oregon, including Tualatin. This update to Tualatin’s camping ordinance is narrow and does not address many related issues. Staff will continue to coordinate with regional partners and service providers on issues related to provision of services, shelter, and long-term housing opportunities, as the ultimate goal is to transition people into stable housing.

In drafting the attached ordinance, staff prioritized:

- Compliance with HB 3115;
- Providing clarity to City staff implementing and enforcing the time, place, and manner regulations;
- Consistency, where possible, with nearby jurisdictions; and
- Balancing the intended use of properties with compassion for people experiencing homelessness.

Staff have prepared the following time, place, and manner regulations for the City Council to consider.

Time

- Camping prohibited between 7am and 7pm.

Place

Camping prohibited in:

- City-owned or maintained parking lots.
- Within 500 feet of schools, freeway entrances/exits.
- Within 20 feet of a building.
- Natural Resource Protection Overlay, Natural Areas, greenways, and landscaped areas.
- Public right-of-way and railroad right-of-way
- Municipal grounds and the Library Plaza.
- City Parks.

Manner

- May not accumulate, discard, or leave behind trash, etc.
- May not dig, excavate, erect/install fixtures, harm vegetation.
- May not obstruct or attach camp materials to public infrastructure or private property structures.
- Campsite is limited to 12x12 feet.
- No unauthorized connections to electrical outlets or other utilities.
- May not start or maintain a fire.
- May not create a physical impairment to emergency ingress or egress.

OUTCOMES OF DECISION:

Following the City Council's discussion on June 12, 2023, staff will update the draft ordinance and bring it back for adoption by the City Council on June 26, 2023 in order to comply with HB 3115 by July 1, 2023.

FINANCIAL IMPLICATIONS:

City staff, particularly in the Police Department and Parks Maintenance Division, currently engage with people camping on public property on a day-to-day basis. At this time, we do not expect a significant increase to workload related to enforcement of time, place, and manner restrictions.

Related to clean-up of established campsites, earlier this year, the City entered into an Intergovernmental Agreement with Metro for "Regional Illegal Dumping (RID) Patrol". Under this agreement, Metro is responsible for cleaning up established campsites and all costs incurred. In addition, the Police Department has already developed procedures to comply with HB 3124, passed by the Oregon Legislature in 2021. Under HB 3124, property removed from an established campsite must be managed in specific ways.

ATTACHMENTS:

- Staff Report
- Presentation
- Ordinance Draft
- Exhibit A Draft – Tualatin Municipal Code Chapter 6-12-030
- Exhibit B Draft – Tualatin Municipal Code Chapter 6-12-010 Amendments