

Prohibition and Regulation of Camping on Public Property

City Council Meeting | June 26, 2023



Outline

- ▲ Background
- ▲ Ordinance No. 1475-23
- ▲ Next Steps

Background

Case Law

- **Martin v. Boise**
 - Cities cannot punish a person who is experiencing homelessness for sitting, sleeping, or lying on public property when that person has no place else to go;
 - Cities are not required to build or provide shelters for persons experiencing homelessness;
 - Cities can continue to impose traditional sit, sleep, and lie prohibitions and regulations on persons who do have access to shelter; and
 - Cities are allowed to build or provide shelters for persons experiencing homelessness.
- **Johnson v. City of Grants Pass**
 - Whether a city's prohibition is a civil or criminal violation is irrelevant. If the prohibition punishes an unavoidable consequence of one's status as a person experiencing homelessness, then the prohibition, regardless of its form, is unconstitutional;
 - Persons experiencing homelessness who must sleep outside are entitled to take necessary minimal measures to keep themselves warm and dry while they are sleeping; and
 - The case defined when someone does not have access to shelter.

Oregon Law: HB 3115

- Any city or county law regulating the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be “objectively reasonable” based on the totality of the circumstances as applied to all stakeholders, including persons experiencing homelessness.
- Deadline of July 1, 2023.

Tualatin's Current Ordinance

Tualatin Municipal Code Chapter 6-12-030

No person shall camp in our 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Tualatin's ordinance is not in compliance with HB 3115 and must be repealed or modified.

Ordinance No. 1475-23

Ordinance Goals

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

Ordinance No. 1475-23

(1) Camping Prohibited.

It is unlawful for any person to camp in or upon any public right-of-way or City property, unless specifically authorized.

- (a) By City Code.
- (b) In a declaration of a local emergency or disaster.
- (c) By the City Manager or designee when deemed necessary to serve the public interest.

Ordinance No. 1475-23

(2) Time, Place, and Manner Regulations.

- (a) A person without available shelter may camp on outdoor City property that is open to the public if all of the following time, place, and manner regulations are followed.
- (b) Time Regulations. A person without available shelter may camp on City property as permitted by subsection (2)(a) only if the person complies with all of the following time restrictions.
 - (i) A person may only camp between the hours of 7pm and 7am. After 7am, a person without available shelter must dismantle the campsite and remove all personal property and camp materials from the campsite.

Ordinance No. 1475-23

- (c) Place Regulations. A person without available shelter may not camp in the following places at any time.
- (i) Within any City-owned or maintained parking lot.
 - (ii) Within 500 feet from a public or private elementary school, secondary school, or career school attended primarily by minors.
 - (iii) Within 500 feet from an egress or ingress to a freeway.
 - (iv) Within 20 feet of a building, including but not limited to, residences, commercial buildings, and City buildings.
 - (v) Within the Natural Resource Protection Overlay, **Wetland Protected Areas**, Natural Areas identified in the Parks and Recreation Master Plan, greenways, and landscaped areas on publicly owned land.
 - (vi) In areas underneath roadways or bridges and publicly owned property that is not open to the public.
 - (vii) In the public right-of-way and railroad right-of-way.
 - (viii) Within City Parks.
 - (ix) Within municipal grounds and the Library Plaza.

Ordinance No. 1475-23

- (d) Manner Regulations. A person without available shelter may camp on City property as permitted by subsection (2)(a) if the person complies with all of the following manner regulations.
- (i) 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.
 - (ii) Digging, excavating, terracing of soil or other alteration of City property, or causing environmental damage or damage to vegetation or trees is prohibited.
 - (iii) 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.
 - (iv) 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.

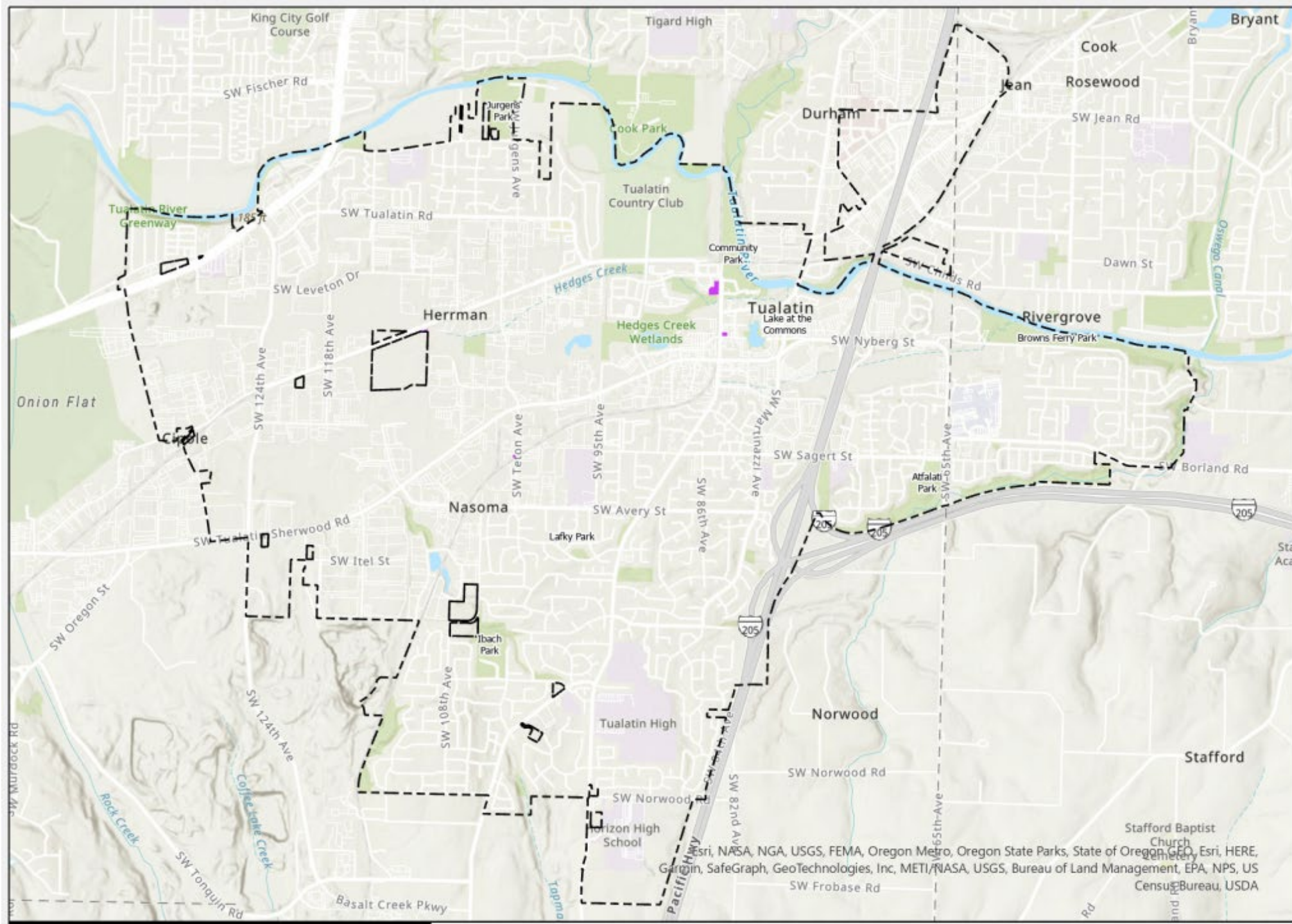
Ordinance No. 1475-23

- (v) A campsite must be limited within a spatial footprint of 12 feet by 12 feet, or 144 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.
- (vi) Unauthorized connections or taps to electrical or other utilities, or violations of building, fire, or other relevant codes or standards are prohibited.
- (vii) Dumping of gray water (i.e. wastewater from bathwater, sinks and cooking) or black water (sewage) on City property is prohibited.
- (viii) Open flames, recreational fires, burning of garbage, and bonfires are prohibited except as specified in Chapter 5-2-040.
- (ix) 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.

Ordinance No. 1475-23

(3) Violation.

- (a) A violation of this Chapter is punishable as follows:
 - (i) Civil Infraction, punishable by a fee of \$35;
 - (ii) Citation in lieu of arrest for criminal trespass in the second degree; or
 - (iii) Arrest for criminal trespass in the second degree.
- (b) A civil infraction or citation in lieu of arrest issued pursuant to section (3)(a)(i-ii) (above) may be accompanied by an order of exclusion for up to 60 days.
- (c) An arrest for criminal trespass pursuant to section (3)(a)(iii) (above) may be accompanied by an order of exclusion for not more than 180 days.
- (d) Nothing in this Section is intended to prescribe any particular order of violation or penalty. A police officer has discretion to impose a violation tailored to the circumstances and necessary to maintain the health and safety of persons experiencing homelessness and the community.

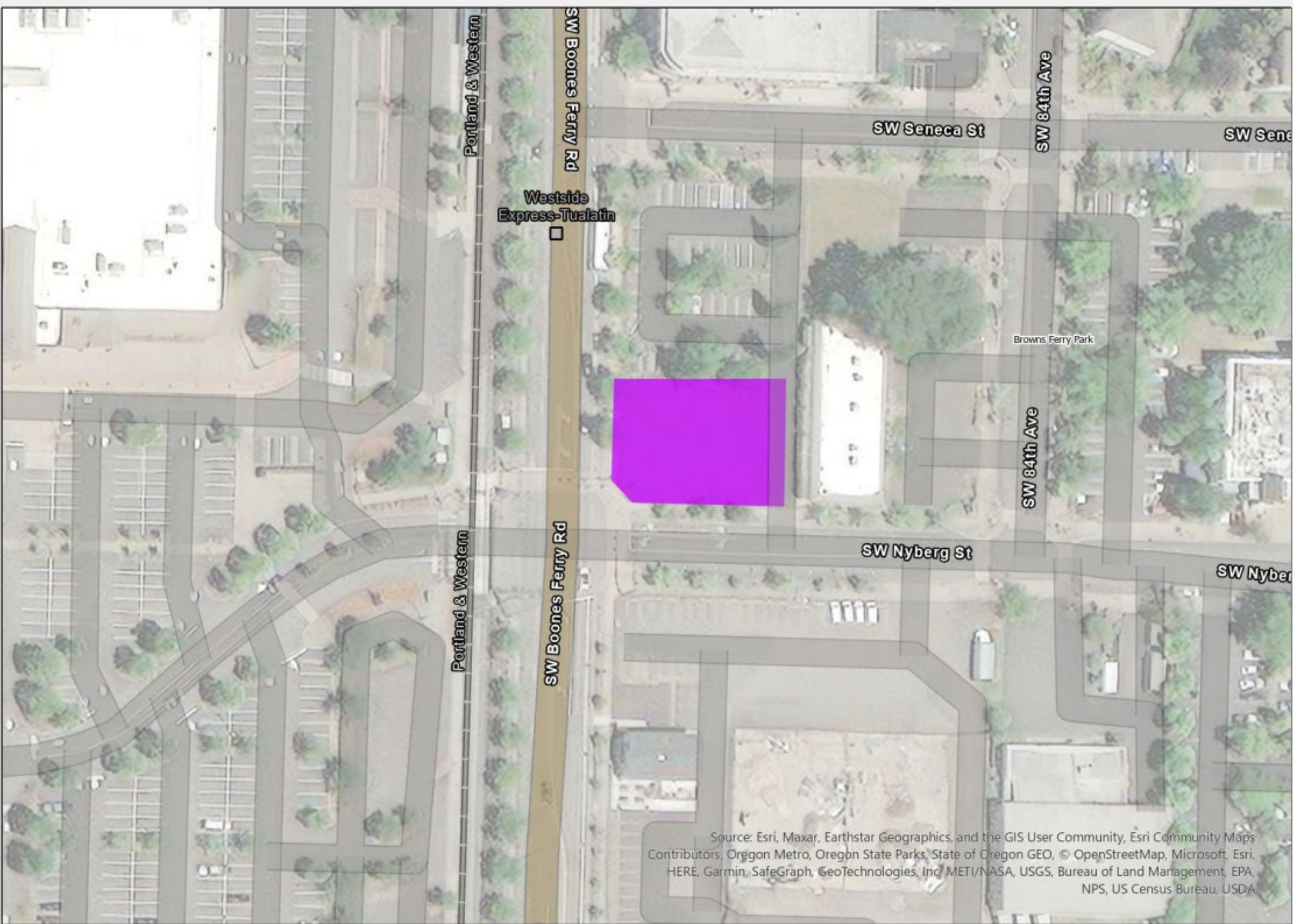


Esri, NASA, NGA, USGS, FEMA, Oregon Metro, Oregon State Parks, State of Oregon, GEO, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI, NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Esri Community Maps Contributors, Oregon Metro, Oregon State Parks, State of Oregon GEO, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census-Bureau, USDA





Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Esri Community Maps Contributors, Oregon Metro, Oregon State Parks, State of Oregon GEO, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA



Next Steps

- Adopt Ordinance No. 1475-23
- Ordinance takes effect immediately on its passage
- Check-In with City Council on Implementation in January 2024 (or before)