

CITY OF TUALATIN
ORDINANCE NO. 1475-23
AN ORDINANCE PROHIBITING AND REGULATING CAMPING IN THE CITY OF TUALATIN

WHEREAS, the court decisions *Martin v Boise* and *Johnson v Grants Pass* held that prohibiting camping in the absence of available shelter violates a person's Eighth Amendment rights against cruel and unusual punishment, but that a municipality may adopt reasonable time, place, and manner regulations; and

WHEREAS, Oregon House Bill 3115 (2021) codified the *Martin v Boise* decision and required all local government regulation of sitting, lying, sleeping, or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place, and manner prior to July 1, 2023; and

WHEREAS, the intent of this ordinance is to enhance the livability, including health and safety, for all community members as well as to protect the environment, community assets, and infrastructure of Tualatin; and

WHEREAS, camping in certain sensitive or high-risk areas creates a danger to the environment, the public, and the persons experiencing homelessness; and

WHEREAS, camping in certain locations or infrastructure prevents the public's ability to use those locations for their intended purpose and may result in imminent threats to life safety; and

WHEREAS, when shelter is not available, this ordinance allows a person to sleep protected from the elements and maintain the essentials for living, while still allowing others to use public spaces in a safe way, as designed and intended.


NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

- SECTION 1: Tualatin Municipal Code Chapter 6-12-030, Camping Prohibited on Public Property, is hereby repealed in its entirety and replaced with the attached Exhibit A.
- SECTION 2: Tualatin Municipal Code Chapter 6-12-010, Definitions, is hereby amended as provided in Exhibit B.
- SECTION 3: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity does not affect the other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion therefore and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION 4: This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect immediately on its passage.

ADOPTED by the City Council this 26th day of June, 2023.

CITY OF TUALATIN, OREGON

By 

Mayor

ATTEST:

By 
Sherilyn Lombos (Jun 27, 2023 13:58 PDT)

City Recorder

Ordinance No. 1475-23

Final Audit Report

2023-06-27

| | |
|-----------------|--|
| Created: | 2023-06-27 |
| By: | Nicole Morris (nmorris@tualatin.gov) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAxmFJS_voN15vesTge21GVzXKGM9IGDGJ |

"Ordinance No. 1475-23" History











-  Document created by Nicole Morris (nmorris@tualatin.gov)
2023-06-27 - 4:41:31 PM GMT- IP address: 208.71.205.225
-  Document emailed to fbubenik@tualatin.gov for signature
2023-06-27 - 4:41:43 PM GMT
-  Email viewed by fbubenik@tualatin.gov
2023-06-27 - 6:43:44 PM GMT- IP address: 152.39.139.74
-  Signer fbubenik@tualatin.gov entered name at signing as Frank Bubenik
2023-06-27 - 6:44:11 PM GMT- IP address: 174.174.120.236
-  Document e-signed by Frank Bubenik (fbubenik@tualatin.gov)
Signature Date: 2023-06-27 - 6:44:13 PM GMT - Time Source: server- IP address: 174.174.120.236
-  Document emailed to slombos@tualatin.gov for signature
2023-06-27 - 6:44:14 PM GMT
-  Email viewed by slombos@tualatin.gov
2023-06-27 - 8:58:25 PM GMT- IP address: 162.43.251.251
-  Signer slombos@tualatin.gov entered name at signing as Sherilyn Lombos
2023-06-27 - 8:58:45 PM GMT- IP address: 208.71.205.225
-  Document e-signed by Sherilyn Lombos (slombos@tualatin.gov)
Signature Date: 2023-06-27 - 8:58:47 PM GMT - Time Source: server- IP address: 208.71.205.225
-  Agreement completed.
2023-06-27 - 8:58:47 PM GMT

Exhibit A

Tualatin Municipal Code Chapter 6-12-030

Camping Prohibited on Public Property

(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.

(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.

(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.

(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.

(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.

(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.

Exhibit B

Tualatin Municipal Code Chapter 6-12

PROHIBITED PUBLIC BEHAVIORS

6-12-010 Definitions.

Alcoholic Beverage includes beer, wine, ales, alcoholic liquors and all beverages containing alcohol.

Available shelter is a shelter that is able to be used or at a person's disposal based on the individual facts and circumstances of that particular person. A shelter is considered not available to a person if, based on the individual facts and circumstances of that particular person, the shelter cannot be accessed or utilized for sitting, sleeping, and keeping warm and dry. Such situations include, but are not limited, to a shelter that:

1. Requires payment and the individual does not have money to pay for the shelter;
2. Has a maximum stay rule or temporal requirement or deadline the person has exceeded or not met;
3. Has excluded the person from the shelter for any lawful reason;
4. Cannot reasonably accommodate the person's mental health or physical needs;
5. Is unavailable due to the person's family status, age, gender, gender identity, sexual orientation, or other status;
6. Has excluding general rules that prohibit alcohol or drug use in the shelter or on shelter grounds or is unavailable to the person because the shelter has rules about alcohol or drug use that the person does not meet;
7. May prohibit a minor child to be housed in the same facility with at least one parent or legal guardian;
8. Requires participation in religious activity or receipt of religious information or religious teaching the person does not wish to participate in or receive; or
9. Requires a person to leave their pet(s) unattended in order to stay at the shelter. This section does not apply to service animals under the Americans with Disabilities Act.

Camp or Camping means to pitch, erect, create, use or occupy camp materials for the purpose of establishing or maintaining a permanent or temporary place to live.

Camp materials include, but are not limited to, tents, huts, awnings, lean-tos, chairs, tarps or tarpaulins, cots, beds, sleeping bags, blankets, mattresses, sleeping or bedding materials, food or food storage items, or similar items that are or appear to be used as living or sleeping accommodations, or to assist with living or sleeping activities. *Campsite* means any place established or maintained for the purpose of camping.

City property means any real property or structures owned, leased, or managed by the City.

Downtown Area means the area bounded on the north beginning at 90th and Tualatin Road along the north right-of-way to the access road by the Tualatin Country Club back to the Tualatin River then extending to include the incorporated portion of the City of Tualatin that lies north of the Tualatin River

down to the intersection of the railroad tracks with the Interstate Highway 5 right-of-way; on the East by the east side of the Interstate Highway 5 right-of-way; on the South by the south side of the right-of-way of Nyberg Street through its connection with and along Tualatin-Sherwood Road to 90th; and on the West by the west side of the right-of-way of 90th Street up to its intersection with Tualatin Road. (See Map.)

Freeway means a highway for through traffic where access to the highway is fully controlled except as may be allowed at designated interchanges and includes Interstate 5, Interstate 205, and Highway 99W.

Open to the public shall mean City properties where members of the public are not prohibited from being by law, rule, regulation, or custom including, but not limited to the properties being closed due to hour restrictions, physical barriers, or because they are temporarily being used for another purpose. Examples of properties that are not open to the public include properties being used for City water facilities such as reservoirs, parks that are closed overnight, properties that are under repair, or properties for which a permit has been issued for an event.

Parking lot means all developed or undeveloped areas or facilities owned, maintained, and/or leased by the City and are designated for the parking of vehicles.

Right-of-way means an area that allows for the passage of people, goods, or utilities. Right-of-way may include freeways, pedestrian connections, and streets. A right-of-way may be dedicated or deeded to the public for the public use or owned by the City or other public body.

Shelter means a place an individual may access for the purposes of sitting, sleeping, and keeping warm and dry, which may include but is not limited to a residence, hotel, motel, or a public or private facility developed or legally established for people experiencing homelessness that does not charge for services.