



**Willamina City Council
Work Session
Tuesday, July 25, 2023 at 5:00 p.m.**

West Valley Fire Station
825 NE Main Street
Willamina, OR 97396

In-person attendance is allowed at the City Council meeting. The City also provides access via the Zoom platform. Zoom access information is available at the end of this Agenda.

AGENDA

CALL TO ORDER

ROLL CALL

FLAG SALUTE

CORRESPONDENCE

1. Yamhill County Sheriff's Office

AGENDA

1. Emily Matasar from Gov-Law
2. Patty Mulvihill recorded presentation
3. City of Medford Ordinance 5.257
 - a. Krystal update about The Dalles
4. Encompass Yamhill Valley (tentative)

ADJOURN

Join Zoom Meeting

<https://us02web.zoom.us/j/86795359181?pwd=dE9objNmd1k3cUxXck4yOWg5M0NvZz09>

Meeting ID: 867 9535 9181

Passcode: 118208

Find your local number: <https://us02web.zoom.us/j/86795359181?pwd=dE9objNmd1k3cUxXck4yOWg5M0NvZz09>

An Equal Opportunity Employer

411 N.E. "C" Street, Willamina, Oregon 97396-2783 Telephone: (503) 876-2242 / Fax: (503) 876-1121

www.willaminaoregon.gov

Next Council Meeting

City Council Regular Meeting on August 8, 2023 at 6:00 PM

Information regarding the above meeting(s) and Zoom access information can be found on the City of Willamina website at <https://www.willamina.oregon.gov>

Persons with hearing, visual or manual impairments who wish to participate in the meeting should contact the City of Willamina at least 48 hours prior to the meeting date in order that appropriate communication assistance can be arranged. The City of Willamina Council meetings are accessible to the disabled. Please let us know if you need any special accommodations to attend this meeting.

An Equal Opportunity Employer

411 N.E. "C" Street, Willamina, Oregon 97396-2783 Telephone: (503) 876-2242 / Fax: (503) 876-1121

www.willaminaoregon.gov

MUNICIPAL CODE

5.257



Prohibited Camping, Lying, and Sleeping.

(1) As used in this section:

- (a) "To camp" means to set up or to remain in or at a campsite.
- (b) "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.
- (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) "The Greenways" refers to the Bear Creek Greenway, the Larson Creek Greenway, the Lazy Creek Greenway, and the Navigator's Landing Greenway.
- (e) "Vehicle camping in a lawful parking space" refers to a person experiencing homelessness utilizing a motor vehicle in a lawful parking space as a temporary place to live. The vehicle must be operational and must be moved at least every 24 hours. To fall within this definition, the parking space at issue cannot be adjacent to residences.
- (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 a campsite, law enforcement officials should presume it is an established camping site.

(2) It is found and declared that:

- (a) From time to time persons establish campsites on sidewalks, public rights-of-way, under bridges, and so forth;
- (b) Such persons, by such actions create unsafe and unsanitary living conditions which pose a threat to the peace, health, and safety of themselves and the community;
- (c) During high and extreme fire conditions, the Greenways and Prescott Park pose a unique fire danger due to dry brush and abundant fuel sources;
- (d) Enforcing existing arson laws and burning prohibitions on an incident-by-incident basis alone on the Greenways and Prescott Park during high and extreme fire conditions does not provide sufficient protection to public peace, health, and safety under such conditions, because of increased fire ignition potential and the rapid rate at which fire spreads under such circumstances;
- (e) It is difficult for emergency personnel to evacuate individuals camping on the Greenways or Prescott Park during a fire event;
- (f) Wildfires on the Greenways and Prescott Park pose a severe threat to persons and property, including residents and property owners near those areas and persons experiencing homelessness within those areas;

(g) Camping, lying, or sleeping on a playground or sports field fundamentally undermines the public's ability to use that public property for its intended purpose;

(h) Camping, lying, or sleeping on or near railroad tracks, or in a manner that obstructs sidewalks prevents the public's ability to use that public property for its intended purpose and can in some situations result in imminent threats to life;

(i) This section's regulations are meant strictly to regulate the use of publicly owned property, and are not intended to regulate activities on private property; and

(j) The enactment of this provision is necessary to protect the peace, health, and safety of the City and its inhabitants.

(3) No person shall place or utilize bedding materials upon any sidewalk, street, alley, lane, public right-of-way, park, greenway, or any other publicly owned property or under any bridge or viaduct for more than 24 hours consecutively in a particular location, unless otherwise specifically authorized by this code, or by declaration of the Mayor in emergency circumstances, or by executive order of the City Manager pursuant to such declaration, or by declaration of the City Manager in the case of a severe event.

(4) (a) Except as set forth in subsection ~~(4)(b)~~ of this section, no person shall camp in or upon any sidewalk, street, alley, lane, public right-of-way, park, greenway, or any other publicly owned property or under any bridge or viaduct.

(b) The prohibition in subsection ~~(4)(a)~~ of this section does not apply to tent camping or vehicle camping in the following circumstances:

(i) If otherwise specifically authorized by any provision of the Medford Municipal Code;

(ii) By declaration of the Mayor in emergency circumstances, if so authorized by the declaration;

(iii) By executive order of the City Manager pursuant to such declaration, if so authorized by the executive order;

(iv) By declaration of the City Manager in the case of a severe event, if so authorized by the declaration; or

(v) 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.

(5) No person shall camp, lie, sleep, or use bedding materials in any of the following circumstances, unless otherwise specifically authorized by this code, by declaration of the Mayor in emergency circumstances, by executive order of the City Manager pursuant to such emergency declaration, or by executive order of the City Manager pursuant to such declaration, or by declaration of the City Manager in the case of a severe event:

(a) On the Greenways or Prescott Park, during the period May 1st to September 30th in any calendar year, or at any other time if the Fire Chief or the Fire Chief's designee determines that a fire hazard exists;

(b) On a playground or sports field during hours of closure. Notwithstanding Section ~~5.235~~, lying or sleeping in a City-owned park during hours of closure is not prohibited so long as the individual is experiencing homelessness, is not on a playground or sports field, is not on a "school park" associated with a school, and is not violating any other subsection of this section;

(c) On areas underneath roadways or bridges that are not open to the public;

- (d) On railroad tracks or within 15 feet of railroad tracks;
 - (e) On publicly owned property not open to the public, including but not limited to the Public Works Service Center and park areas temporarily closed for construction, repairs, maintenance, cleaning and similar activities;
 - (f) On streets, including planter strips, medians and parking spaces;
 - (g) 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;
 - (h) Within 20 feet of a privately owned parcel zoned for residential uses, or within 20 feet of a residential structure regardless of zoning; or
 - (i) Within the I.O.O.F. Eastwood Cemetery, or any other cemetery, mortuary, memorial park, or similar property.
- (6) Except as provided in subsection ~~(10)~~ 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.
- (a) 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 Medford, desiring to be on this notification list must provide its name, address, telephone number, and name of contact person to the Medford Police Department, in writing, requesting notification.
 - (b) 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.
- (7) (a) 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 ~~(10)~~ of this section, whether notice is required or not.
- (b) 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 Medford is considered a single community.
 - (c) 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.
 - (d) 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.
- (8) The written notice required under subsection ~~(6)~~ of this section must state, at a minimum:
- (a) Where unclaimed personal property will be stored;
 - (b) A phone number that individuals may call to find out where the property will be stored; or
 - (c) 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.
- (9)

(a) 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.

(b) 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 as amended and in effect on December 31, 2020.

(10) (a) The 72-hour notice requirement under subsection (6) of this section does not apply:

(i) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site;

(ii) 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

(iii) When the campsite is located in the areas specified in subsection (5)(a) of this section, and the notice is placed during the time frame described in subsection (5)(a) of this section, or when in the discretion of the Fire Chief or the Fire Chief's designee, the Greenways or Prescott Park should be immediately closed for fire danger as described in subsection (5)(a) of this section or per Administrative Regulation 907.

(b) 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 (6) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

(11) 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 subsection (6) of this section and within two hours before or after the notice was posted.

(12) Violation of subsection (3) of this section constitutes a violation. Violation of subsection (4) of this section consisting of vehicle camping in a lawful parking space constitutes a violation. Every day in which such violations occur constitutes a separate violation. A violation of subsection (4) or (5) of this section constitutes a crime, except for vehicle camping in a lawful parking space.

[Added Sec. 1, Ord. No. 6226, Nov. 3, 1988; Amd. Sec. 3, Ord. No. 2000-46, Mar. 16, 2000; Amd. Sec. 1, Ord. No. 2018-115, Sep. 20, 2018; Amd. Sec. 1 (Exh. A), Ord. No. 2021-23, Apr. 1, 2021; Amd. Sec. 1 (Exh. A), Ord. No. 2021-75, Jul. 15, 2021; Amd. Ord. No. 2021-125, Nov. 4, 2021; Amd. Sec. 1, Ord. No. 2023-51, May 4, 2023.]

Ordinance 2023-51, Section 1, Amended Ordinance 2021-75, Section 1, Amended Ordinance 2021-23, Section 1, Amended Ordinance 2018-115, Section 1, Amended Ordinance 2000-46, Section 3, Amended Ordinance 6226, Section 1

Disclaimer: The city attorney's office has the official version of the Medford Municipal Code. Users should contact the city attorney's office (541-774-2020) for ordinances passed subsequent to the ordinance cited above.

City of Medford, Oregon, 2023-05-04 10:54:00 AM

From: Sam Elliott <elliotts@co.yamhill.or.us>

Sent: Tuesday, July 11, 2023 3:04 PM

To: Heidi Bell <HBell@cityofsheridanor.com>; Bridget Meneley <MeneleyB@ci.willamina.or.us>;
Branden Dross <brandend@ci.lafayette.or.us>; Rochelle Roaden <rroaden@daytonoregon.gov>;
nfrarck@ci.amity.or.us

Subject: FW: Homeless Camping Ruling

Good afternoon City Managers/Administrators,

Below is a summary from legal counsel for the Oregon State Sheriff's Association. I am NOT providing this as legal advice our counsel to each of your respective cities but wanted to give you the info so you can discuss it with your legal counsel. Some of your cities have ordinances regarding camping and some do not. With the ever-changing landscape regarding homelessness and legal authority in Oregon, I wanted to just pass this along so you can see what information is being provided to Sheriff's across the state regarding this most recent ruling.

If you have any questions, please feel free to call me anytime.

Thanks,

*Sam Elliott - Captain
Yamhill County Sheriff's Office
535 NE 5th Street Room 143
McMinnville, OR 97128
Office:503-434-7506
Cell: 503-505-2706
elliotts@co.yamhill.or.us*



Good Morning Sheriffs,

*Yesterday, the 9th Circuit Court of Appeals handed down an amended opinion in a homeless camping case arising in Grants Pass. The opinion is quite thorough – 155 pages, and it is not a government-friendly ruling. In my opinion the court is explicitly clear that the rulings regarding homeless camping arise from the 8th Amendment to the US Constitution, and it prevents **governments** from criminalizing homeless camping in public places subject to some exceptions. I am aware of no case or statute that would suggest that a special district can violate a person's 8th Amendment rights because they are not a city or a county, and frankly that flies in the face of everything I know about constitutional law. Our Constitution was drafted to protect people from the government – and the specific nomenclature of the government entity is irrelevant.*

The attorney is correct that the Oregon statutes in ORS chapter 195 do in fact refer to a city or county ordinance and do not refer to special districts. But any government entity that enacts an ordinance that runs afoul of the 9th Circuit caselaw is going to be violating someone's constitutional rights – the fact that there is an Oregon statute that doesn't specifically address special districts is not going to be a defense – 9th Circuit law is binding for all government entities within the boundaries of the 9th Circuit.

<https://cdn.ca9.uscourts.gov/datastore/opinions/2023/07/05/20-35752.pdf>