

## ORDINANCE NO. 884

### AN ORDINANCE PROHIBITING CAMPING ON PUBLIC PROPERTY IN ACCORDANCE WITH STATE AND FEDERAL LAW

#### THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. In *Martin v. City of Boise*, a 2018 decision by the U.S. Court of Appeals for the Ninth Circuit, the court held that the Eighth Amendment to the U.S. Constitution precludes a local government from enforcing anti-camping ordinances (those which criminalize the sitting, sleeping, or lying outside in public places) when there are no shelters available for the homeless individuals.
2. In its 2022 decision in *Johnson v. City of Grants Pass* (formerly *Blake v. City of Grants Pass*), the U.S. Court of Appeals for the Ninth Circuit affirmed and expanded its decision in *Martin v. Boise*, holding that the *Martin* decision also applied to civil citations where the civil and criminal punishments were closely intertwined.
3. In response to the *Martin* and *Johnson* decisions, the State of Oregon enacted House Bill 3115 (ORS 195.530), effective as of July 1, 2023, requiring any city or county laws regulating the acts of sitting, lying, sleeping, or keeping warm and dry outside on public property be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.
4. The State of Oregon also enacted House Bill 3124 which updates modified ORS 195.505 by requiring cities to revise any policies concerning the removal of homeless individuals from an established campsite to provide written notice at least 72 hours before such removal.
5. Troutdale's code currently prohibits camping on public and private property in a general sense, but does not fully comply with the current status of Federal and State law.
6. Troutdale's City Council desires to comply with HB 3115 and ORS 195.530 by adopting revisions and additions to its municipal code to set forth reasonable time, place, and manner modify regulations concerning camping on public property while it and continues to consider future potentially objectively reasonable regulations.
7. Troutdale's Council further desires to comply with HB 3124 and ORS 195.505 by adopting revisions to its municipal code to ensure the most humane treatment for removal of homeless individuals from camping sites on public property the existing code provisions applying to the removal of a campsite with a policy that complies with ORS 195.505.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE**

Section 1. Chapter 8.29 – “Prohibited Camping” is added to the Troutdale Municipal Code as provided in Attachment A, attached hereto.

Section 2. This ordinance shall take effect 30 days after passage.

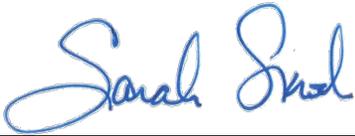
**YEAS: 6  
NAYS: 0  
ABSTAINED: 0**



---

**Randy Lauer, Mayor**

**Date: September 13, 2023**



---

**Sarah Skroch, City Recorder**  
**Adopted: September 12, 2023**

**Chapter 8.29  
Prohibited Camping Ordinance**

Sections:

- 8.29.010 Short title.
- 8.29.020 Legislative findings.
- 8.29.030 Definitions.
- 8.29.040 Prohibited camping.
- 8.29.050 Time, place, and manner regulations.
- 8.29.060 Prohibited storage of personal property.
- 8.29.070 Penalties.

**8.29.010 Short title.**

This chapter shall be known and may be cited as the “prohibited camping ordinance” and may be referred to herein as “this chapter.”

**8.29.020 Legislative findings.**

City Council finds:

- A. From time-to-time persons experiencing homelessness establish campsites on the public right-of-way and city property.
- B. Such persons, by such actions, may create unsafe and unsanitary living conditions that pose a threat to the peace, health, and safety of themselves and the community.
- C. Camping on or near certain locations prevents the public’s ability to use those locations for their intended purpose and may result in imminent threats to life.
- D. This chapter’s regulations are meant to regulate the use of the public right-of-way and city property and are not intended to regulate activities on private property.
- E. The enactment of this chapter is necessary to protect the peace, health, and safety of the City and its inhabitants.

**8.29.030 Definitions.**

As used in this chapter:

- A. “Campsite” means any place where the use of any tent, ground cover, pad, sleeping bag, lean-to, shack, or other unpermitted structure, or any vehicle or part thereof, or any combination thereof is placed, established, or maintained, for the purpose of maintaining a permanent or temporary place to remain, live or sleep, that is not a property where Homeless Services are provided.

- B. "To camp" means to set up or remain in or at a site for the purpose of establishing or maintaining a permanent or temporary place to remain or live.
- C. "Certified child care center" means a child care facility or building that is certified by the Oregon Department of Education to care for children.
- D. "City property" means all real property, land, and public facilities owned, leased, controlled, or managed by the City or its agencies, including, but not limited to, parking lots, parking spaces, parking garages, bridges, Public Works facilities or locations, right of ways and parks.
- E. "Freeway" means a fully access controlled throughway, which includes, but is not limited to, I-84.
- F. "Public Property" means all real property, land, and public facilities owned, leased, controlled, or managed by any public agency or governmental agency, whether local, state or federal.
- G. "Person experiencing homelessness" means a person who lacks a fixed, regular, or adequate nighttime residence, other than a campsite.
- H. "Person without alternative shelter" means a person experiencing homelessness and who does not have access to an alternative shelter.
- I. "Property where homeless services are provided" means property in which a use of the property includes providing regular, direct services to persons experiencing homelessness. As used in this subsection, "direct services to persons experiencing homelessness" includes, but is not limited to providing homeless navigation services, storage facilities, and other similar services, but does not include mere outreach or contact by service providers when attempting to offer services to persons not served.
- J. "Public right-of-way" means any thoroughfare or area intended, designed, reserved, planned or used for vehicular or pedestrian traffic, including parking spaces, owned or controlled by any government entity.
- K. "Shelter" means a domestic violence shelter, emergency shelter, or mass shelter.

#### **8.29.040 Prohibited camping.**

It is unlawful for any person to camp in or upon any public right-of-way, public property, or city property, unless specifically authorized by this chapter or by a local emergency or disaster declaration.

### **8.29.050 Time, place, and manner regulations.**

- A. A person without alternative shelter may camp only if all the following time, place, and manner regulations are met. When inconsistent, this chapter shall take priority over TMC 8.28.070 (23).
- B. **Time regulations.** A person without alternative shelter may camp if the person without alternative shelter complies with all of the following time regulations:
  - i. A person without alternative shelter may camp between the hours of 10 p.m. and 6 a.m. if the person complies with the place and manner regulations of the City of Troutdale. After 6 a.m., a person without alternative shelter must dismantle the campsite and remove all personal property from the campsite on any City Property or any public Right of Way.
- C. **Place regulations.** A person without alternative shelter may camp in or upon city property or public right-of-way during the times above; provided, however that a person without alternative shelter may not camp in the following places at any time:
  - i. Within 1000 feet from a lot or parcel containing an elementary school, secondary school, or a certified childcare center.
  - ii. Within 500 feet from a freeway egress or ingress.
  - iii. Within 90 feet of an intersection.
  - iv. Within 10 feet of a fire hydrant.
  - v. Within 500 feet from any retail or commercial business.
  - vi. Within 250 feet of any City utility facility, including, but not limited to, a well head, pump station, reservoir, or Water Pollution Control Facility.
  - vii. Within 250 feet of the high water mark of the Columbia River, Sandy River and Beaver Creek.
  - viii. Within 250 feet of a Cemetery, or any class of Metro designated Title 13 Habitat Conservation Area (VECO).
- D. **Manner regulations.** A person without alternative shelter may camp if the person without alternative shelter complies with all of the following manner regulations:
  - i. A person without alternative shelter may not obstruct pedestrian or vehicular traffic along a public right-of-way or into private property and businesses adjacent to a public right-of-way, or a parking space. For purposes of this subsection, a person without alternative shelter is presumed to obstruct pedestrian traffic if a person reduces the path of travel to less than 48 inches, or camps in any place provided for vehicular travel.

- ii. A person without alternative shelter may not (a) start or maintain any fire for the purpose of burning any combustible material in or around a campsite; or (b) use a gas heater in or around a campsite.
- iii. A person without alternative shelter may not accumulate, discard, or leave behind in or around a campsite (a) any rubbish, trash, garbage, debris, or other refuse; (b) any unsanitary or hazardous materials; or (c) any animal or human urine or feces or (d) any personal property that is open to view, except one functioning bicycle per person or one functioning vehicle that constitutes the campsite. .
- iv. A person without alternative shelter may not camp within 100 feet of another campsite.
- v. A person without alternative shelter may not erect, install, place, leave, or set up any type of fixture or structure of any material or materials in or around a campsite. For purposes of this subsection, a “fixture or structure of any material or materials” does not include a tent, tarpaulin, or other similar item used for temporary shelter that is readily portable.
- vi. A person without alternative shelter may not dig, excavate, terrace, or alter soil, the ground, sidewalks, pavement or infrastructure, cause environmental damage, or damage vegetation or trees in or around a campsite.

#### **8.29.060 Prohibited storage of personal property**

It is unlawful for any person to store or leave unattended any personal property in or upon the public right-of-way or on city property, except vehicles or bicycles properly parked in racks or parking spaces. Property which has no apparent value or utility or are in an insanitary condition left unattended are presumed abandoned and will be disposed of immediately. Troutdale Municipal Code section 2.52 et seq is superseded by this ordinance where inconsistent with this ordinance.

#### **8.29.070 Penalties.**

- A. Except as provided in subsection B of this section, a violation of this chapter is punishable, upon conviction, by a fine of not more than \$1000.00 or by imprisonment for a period not to exceed 30 days or both.
- B. Violation of 8.29.060 is a civil infraction. Punishable by a fine up to \$100 and the City Manager shall take and store all unclaimed personal property, which is determined to have value, utility and is sanitary, for a minimum of 30 days during which the unclaimed personal property will be reasonably available to any person claiming ownership. Thereafter it shall be disposed of, without liability.
- C. The City Manager, their designee, or a peace officer, may instruct violator(s) to clear their campsite(s) and cease camping in violation of this ordinance and they shall comply within 15 minutes of the instruction. Failure to comply is a violation of this chapter and is punishable, upon conviction, by a fine of not more than \$1000.00 or by imprisonment for a period not to exceed 30 days, or both.

- D. A vehicle used to commit a violation of this chapter that (i) poses a traffic hazard, (ii) is likely to become the target of theft or vandalism, or (iii) is unlawfully parked may be immediately impounded if the person has been issued or received, within 30 days preceding the current violation, a citation for violating subsection A of this section. Nothing in this section shall deprive the City of acting under Troutdale Municipal code sections 10.04.020 - Abandoned vehicles, 10.36.010 - Abandoned vehicles prohibited, and 10.36.020 - Hazardous vehicles.