

For: Monday, May 13, 2024, City Council Meeting

Advance Packet Information

Published: May 2, 2024

Included in this packet is documentation to support the following Agenda items:

PUBLIC HEARINGS/ORDINANCES

1. Adopt Ordinance 24-O-812, amending the Brookings Municipal Code, Title 12 Streets, Sidewalks and Public Places
 - a. Draft Ordinance 24-O-812
 - b. Exhibit A – Draft Camping Ordinance Language

*Public Comment forms and the agenda packet are available on-line at www.brookings.or.us, and at Brookings City Hall. Return completed Public Comment forms to the City Recorder before the start of the meeting or during regular business hours. All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 541-469-1102 if you have any questions regarding this notice. You can view City Council meetings LIVE on television on Charter PEG Channel 181, or stream/view on the City's YouTube Channel: <https://www.youtube.com/@cityofbrookingsoregon8039>, or search 'City of Brookings Oregon YouTube' in your

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: May 13, 2024

Originating Dept: PW/DS



Signature (submitted by)
Kelly McGee

City Manager Approval

Subject: Camping Ordinance

Recommended Motion:

Motion to adopt Ordinance #24-O-812 amending the Brookings Municipal Code, Title 12 Streets, Sidewalks and Public Places, adding Chapter 12.55 Camping – Time, Place, & Manner as described in Exhibit A.

Background/Discussion:

Brookings Municipal Code (BMC) currently has code language under Chapter 12.25 Public Parks and Recreation Areas. That language is a full out prohibition of camping in public parks.

Over the past 16 years, several suits have been brought against municipal governments regarding the prohibition of camping in parks and public open space. *Martin v Boise* decision by the US Court of appeals in 2018, *Blake v Grants Pass* (2020) and then *Johnson v Grants Pass* (2022) all leveraging any camping restriction as “cruel and unusual punishment” if enforced. The *Martin v Boise* decision left a void on how cities are able to enforce transient camping in city parks. With each additional case there-after, the ability to enforce a camping ordinance has become extremely complex. Staff and the city attorney feel that language can be drafted in a way that meets the benchmark of the decisions of each case while meeting the desire of the community to preserve safe and usable parks for all.

The intent of the camping ordinance is to codify consistent language regarding camping restrictions in public parks and public open spaces. Staff, including the Community Resource Officer (CRO), and the city attorney, have reviewed code language from Hillsboro, Bend, and Medford and have drafted a camping ordinance for the City of Brookings.

Council reviewed the draft camping ordinance at the February 5 and April 29, 2024 workshops and directed staff to proceed with finalizing the ordinance for adoption at the next Council Meeting.

Attachments:

1. Draft Ordinance 24-O-812
2. Exhibit A – Draft Camping Ordinance Language

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 24-O-812

IN THE MATTER OF ORDINANCE 24-O-812, AN ORDINANCE AMENDING TITLE 12 STREETS, SIDEWALKS AND PUBLIC PLACES IN THE BROOKINGS MUNICIPAL CODE

Sections:

Section 1. Ordinances Identified.

Section 2. Adds Chapter 12.55 Camping – Time, Place & Manner to Title 12 Streets, Sidewalks and Public Places

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Title 12 Streets, Sidewalks and Public Places of the Brookings Municipal Code.

Section 2. Adds Chapter 12.55 Camping – Time, Place & Manner to Title 12 Streets, Sidewalks and Public Places as presented in Exhibit A attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

First Reading: _____ Passage: _____

Second Reading: _____ Effective Date: _____

Signed by me in authentication of its passage on _____ day of _____, 2024

ATTEST:

Mayor /Council President

Interim City Manager Kelby McCrae

Exhibit A

Title 12 Streets, Sidewalks and Public Places

Changes to BMC:

(additions are bold and underlined, deletions are ~~bold and strikeout~~)

Chapter 12.55

Camping - Time, Place & Manner

Sections:

12.55.010 Purpose.

12.55.020 Definitions.

12.55.030 Camping Prohibited on City Property

12.55.040 Enforcement

12.55.050 Time, Place and Manner Regulations

12.55.060 Vehicles

12.55.070 Violations

12.55.010 Purpose.

This chapter is intended to balance and prioritize several interests: recognition of the essential human dignity of everyone in the City of Brookings; the need to have safe and orderly conditions in City rights-of-way for the safety and benefit of everyone in the city; the right of everyone in the city to have shelter for sleep and safety; and respect for public spaces and public property in service to the entire community.

12.55.020 Definitions.

A. To camp or the act of camping means to pitch, use, or occupy camp materials or a camp for the purpose of occupancy, habitation, or sheltering for survival, and in such a way as will facilitate sleeping or storage of personal belongings, carrying on cooking activities, taking measures to keep protected from the elements including heat and cold, or any of these activities in combination with one another or in combination with either sleeping or making preparations to sleep. A "camp" is a location where people camp or are camping.

B. Camp materials may 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, and/or similar items that are or appear to be used as living and/or sleeping accommodations, or to assist with living and/or sleeping activities.

C. Established campsite means a location or locations in the public right-of-way or on City property where a camp, camps, and/or camp materials have been set up for longer than 24 hours. Note: "Camp," "camping," "camp materials" and "established campsite" do not include vehicles, automobiles, or recreational vehicles used for shelter and/or sleeping.

D. City parking lot or parking structure is a type of City property, and means a developed or undeveloped area or facility owned, maintained, and/or leased by the City that is designated and/or used for parking vehicles.

E. Public rights-of-way means all City-owned or controlled rights-of-way, whether in fee title or as holder of a public easement for right-of-way or public access purposes. Public rights-of-way include but are not limited to any public road, street, sidewalk, or private street or other property that is subject to a public access easement dedicated or granted to the City for vehicular, pedestrian, or other means, and any planter strip or landscaped area located adjacent to or contained within streets that is part of the public right-of-way.

F. City property includes all real property, land, and public facilities owned, leased (either to the City or by the City), controlled, or managed by the City of

Brookings including City parking lots or parking structures, but excluding City owned or managed rights-of-way.

12.55.030 Camping Prohibited on City Property.

It is prohibited at all times for any person to use City property to camp or for camping or for the purpose of occupancy, habitation, or sheltering for survival in vehicles, automobiles, or recreational vehicles; provided, that the City Manager may, in their discretion, designate certain City properties or portions of properties as areas where camping or using vehicles for sheltering and/or sleeping may be allowed on a limited basis, and may set the terms and conditions of any camping or vehicle use that may be allowed. Any use of City property will follow the applicable processes, including, where applicable, the Brookings Municipal Code.

12.55.040 Enforcement.

A. The City Manager is specifically authorized to modify or suspend enforcement of any section or element of this chapter in the event of a declared emergency, pursuant to administrative rules or policies, weather conditions (including but not limited to extreme heat or cold), or for any other reason within the City Manager's authority, regardless of whether an emergency has been declared.

B. The City Manager may adopt administrative rules or policies governing or guiding enforcement of this chapter, including but not limited to ensuring consistent and appropriate enforcement for various circumstances.

C. Enforcement should be tailored for various circumstances, including but not limited to situations where a person has a disability under the Americans with Disabilities Act, where minor children are present or otherwise involved, where a person has employment obligations that may relate to their ability to comply with the code, or for other reasons that may support discretion in enforcement.

D. Methods of enforcement for violations of this chapter are not exclusive and may consist of multiple enforcement mechanisms where legally authorized and appropriate. However, the intent of the City is to always resolve violations at the lowest possible level, and to engage to seek compliance and solve problems while maintaining the dignity of all involved. To that end, violations of this chapter should only result in citations when other means of achieving compliance have been unsuccessful, or are not practicable for the particular situation.

12.55.050 Time, Place and Manner Regulations

A. People who are involuntarily homeless are not prohibited from camping in the public rights-of-way, provided camping is occurring in compliance with the following time, place and manner regulations.

B. Time.

1. Unless otherwise specified, any camping or camp, where allowed, may only occur from 30 minutes before sunset until 30 minutes after sunrise in any one location. After being in one location from 30 minutes before sunset to 30 minutes after sunrise, the camp and all associated camp materials must be removed immediately. Any personal property remaining 30 minutes or more after sunrise will be removed, as described in this section. The same person cannot relocate their campsite within one block or 600 feet from the original campsite.

2. Enforcement of time restrictions may be suspended when necessary or appropriate to respond to an individual's disability, as further set forth in the City's comprehensive administrative policy implementing this chapter, adopted by the City Manager.

3. If a camp is determined to have been in one place longer than 24 hours, the City may post notice at the location that the camp, and all associated camp materials, must be removed no more than 72 hours later and all personal property remaining will be removed, as described in this section.

C. Place.

1. Camping is not allowed at any time in any of the following places:

a. Any area zoned Residential (SR, R-1, R-2, R-3, R-MH) on the City of Brookings Zoning Map in effect at the time.

b. Azalea Park, Easy Manor Park, Bud Cross Park, Chetco Point, City Hall, Oasis Park and Chetco Town Center.

c. Within Riparian Areas, as determined by the City of Brookings Zoning Map and Brookings Development Code.

d. Any place where camping, a camp, or camp materials create a physical impediment to emergency or nonemergency ingress, egress, or access to property, whether private or public, or on public sidewalks or other public rights-of-way, including but not limited to driveways providing access to vehicles, and entrances or exits from buildings and/or other real property.

e. Within any vehicle lane or bicycle lane.

f. Any public property located within 200 feet of Chetco Ave., Old County Road, and that portion of North Bank Road within Brookings city limits.

g. Any public property located within 200 feet of any Public Works Facilities, Pump Stations, and Water Tanks/Towers.

D. Manner.

1. Camping, when and where allowed, is subject to all of the following:

a. Individuals, camp materials, camps, or personal property may not obstruct sidewalk accessibility or passage, clear vision, fire hydrants, City, or other public utility infrastructure, or otherwise interfere with the use of the right-of-way for vehicular, pedestrian, bicycle, or other passage.

b. A camp or camping must be limited within a spatial footprint of 12 feet by 12 feet, or 144 square feet. The intent of this section is

to allow a person to sleep protected from the elements and maintain the essentials for living, while still allowing others to use public spaces as designed and intended.

c. To prevent larger camping sites from forming and the impacts that can result if there are any camps set up on a particular block, no other camp may be within 50 feet of any of those camps, including but not limited to across the street or on another block face. "Block face" shall be defined as a "side of the street where the vehicle was parked between two intersecting streets." A group of up to three camps may not be within 50 feet of any other group of camps.

d. Individuals may not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility in public rights-of-way, on City property, or on any adjacent public or private property.

e. Open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, or heating deemed unsafe by Brookings Fire and Rescue are prohibited. Types of cooking stoves and other devices for keeping warm are permitted, as allowed by adopted City policies.

f. Dumping of gray water (i.e., wastewater from baths, sinks, and the like) or black water (i.e., sewage) into any facilities or places not intended for gray water or black water disposal is prohibited. This includes but is not limited to storm drains, which are not intended for disposal of gray water or black water.

g. Unauthorized connections or taps to electrical or other utilities, or violations of building, fire, or other relevant codes or standards, are prohibited.

h. Obstruction or attachment of camp materials or personal property to fire hydrants, utility poles or other utility or public infrastructure, fences, trees, vegetation, vehicles, or buildings is prohibited.

i. Individuals may not build or erect structures, whether by using plywood, wood materials, pallets, or other materials. Items such as tents and similar items used for shelter that are readily portable are not structures for purposes of this section.

j. Storage of personal property such as vehicle tires, bicycles, or associated components (except as needed for an individual's personal use), gasoline, generators, lumber, household furniture, extra propane tanks, combustible material, lumber, or other items or materials is prohibited, other than what is related to camping, sleeping, or keeping warm and dry.

k. Digging, excavation, terracing of soil, alteration of ground or infrastructure, or damage to vegetation or trees is prohibited.

L. Use of emergency power generators that result in a violation of BMC 8.15.080 is prohibited.

m. All animals within a campsite must be leashed or crated at all times.

12.55.060 Vehicles.

A. BMC Chapter 10.10 governs where and for how long individuals may legally park vehicles on public rights-of-way within the City of Brookings. Those standards are applicable to all individuals, including those who use vehicles for shelter and/or sleeping on public rights-of-way in the City.

B. Individuals may use vehicles for shelter and/or sleeping on public rights-of-way under the following circumstances:

1. The vehicle is legally parked in compliance with the Brookings Municipal Code and any applicable policies.

2. Open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, and/or heating deemed unsafe by Brookings Fire and Rescue are prohibited in, on, or around vehicles. Types of cooking stoves and other devices for keeping warm are permitted, as allowed by adopted City policies.

3. Dumping of gray water (i.e., wastewater from baths, sinks, and the like) or black water (i.e., sewage) into any facilities or places not intended for gray water or black water disposal is prohibited. This includes but is not limited to storm drains, which are not intended for disposal of gray water or black water.

4. Storage of material outside vehicles is prohibited, other than what is incidental to activities such as short-term loading or unloading a vehicle.

5. Vehicles must be operational, i.e., capable of being started and driven under their own power, or ready to be towed if designed to be towed and may not be discarded or left inoperable in public rights-of-way or on City property.

6. No building or erecting of any structures connecting or attaching to vehicles is permitted, including tents that are not designed and manufactured to be attached to a vehicle.

7. Persons may not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility in public rights-of-way, on City property, or on any adjacent public or private property.

8. Use of emergency power generators that result in a violation of BMC 8.15.080 is prohibited.

9. All animals within a campsite must be leashed or crated at all times.

C. Notwithstanding BMC Chapter 10.10 or any other applicable rules or policies governing parking on public rights-of-way, under no circumstances may anyone use a vehicle for shelter and/or sleeping in any City parking lots or parking structures, including but not limited to the Fleet Street and Central Building parking lot and all City parks parking lots.

D. Enforcement of violations of this section will be in accordance with applicable State law and City ordinances and policies, including laws, ordinances, and policies governing towing and impounding of vehicles.

12.55.070 Violations.

A. Any violation of the provisions of this section is a civil infraction and constitutes a violation of Brookings Municipal Code and subject to Chapter 1.05 BMC, General Penalty. Citations will be issued only when other means of achieving compliance have been unsuccessful or are not practicable for the particular situation.

B. Before a civil infraction citation is issued, the City Manager or their designee will contact the person and provide a reasonable opportunity to cure or remedy the alleged violation. In most cases, the City Manager or their designee will assess whether the person subject to citation has been referred to service providers and make a referral if it appears none has been made. The following will be communicated to the person in a manner designed to help them understand the issue or problem:

1. A description or identification of the activity constituting the alleged violation and identification of the recipient as being the person responsible for the violation;

2. A written or verbal statement that the City Manager or their designee has determined the activity to be a violation;

3. A written or verbal statement of the action required to fix the violation and the time and/or date by which the violation must be fixed; and

4. A written or verbal statement advising that if the violation is not fixed within the time specified, a citation will be issued and that a civil penalty in the maximum amount provided for the particular infraction may be imposed.

C. A violation of this chapter may result in the removal and/or clean-up of the camp or camps, camp material, or other personal property that are creating or contributing to the violation(s), typically after a request for voluntary compliance has been made as described in subsection (B) of this section, except in the case of an exceptional emergency, such as possible site contamination by hazardous materials or when there is danger to human life or safety or illegal activities, where removal can be immediate or be accomplished more quickly, depending on the severity of the situation. Any camp, camp materials, or personal property in violation of any of the standards in this chapter may be removed or cleaned up by the City or its

designated contractors, subject to the requirements of storage of personal property and notice of storage described in subsection (E) of this section. Camps in violation will generally be prioritized for removal or clean-up based on factors such as risks and negative impacts to public health and safety and repeated violations of this chapter. A camp may be subject to removal or citation, or both.

D. Upon a determination by the City Manager or their designee that a camp or camping is occurring in violation of this chapter, an established campsite may be removed pursuant to the following procedures:

1. Prior to removing an established campsite on public rights-of-way or City property, at least 72 hours in advance, except in the case of exceptional emergency or criminal activity, the City must post notice at the location that the campsite must move and all personal property remaining will be removed and must inform local agencies that deliver services to homeless individuals where the notice has been posted that such notice has been posted.

2. A campsite may be removed for violation of this chapter without posting a 72-hour notice:

a. When there are grounds for law enforcement officials to believe that illegal activity, other than camping, is occurring on the campsite or in the immediate vicinity of the campsite.

b. The property that comprises the campsite is being used or is intended to be used to commit or facilitate the commission of otherwise illegal activity.

c. In the event of an exceptional emergency, such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety.

3. Once the 72-hour notice has been posted, the City may act on the notice and remove the campsite beginning 72 hours after posting and for up to 10 days following the posting.

4. After a camp has been removed subject to a 72-hour notice or under circumstances when no advance notice is required, the camp and all associated camp facilities must be moved at least one block or 600 feet.

whichever is greater, and the City may order that no camp be set up in that same location or a 100-foot radius for up to 14 days. The City will post signs informing the public that camping is prohibited at the location.

5. When removing individuals and property from an established campsite, personnel will make reasonable efforts to remove individuals without the use of force, arrest, or citation. No person may be arrested or cited for failing to move under this chapter prior to being asked by City personnel to move.

6. When removing personal property, the City will make reasonable efforts to determine if the property belongs to an individual and has any apparent utility. The City will make reasonable efforts to identify which established campsite property was removed from, to aid in connecting people with their property. Items that are perishable, or that have no apparent use, or that are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, discarded, and need not be stored.

7. Weapons, drug paraphernalia, or other contraband, and items that appear to be either stolen or evidence of a crime, shall be given to law enforcement officials. Items that appear to have a value of \$1,000 or more shall be given to law enforcement officials for storage and safekeeping, and shall be made available as described in subsection (F) of this section.

8. Following removal of personal property from the right-of-way, the City must post a notice at or as near as possible to the location the property was collected, stating where the personal property is being stored, and listing the phone number and hours a person claiming ownership can collect or make arrangements to collect their personal property.

E. Personal property or camp materials may be removed from City rights-of-way, City property, or a camp or campsite if in violation of the provisions of this chapter. Advance notice and an opportunity to cure will be provided in most cases.

F. Personal property removed from City rights-of-way or City property and unclaimed at the time of removal will be stored by the City for a minimum of 30 days, or the duration required by law at the time of the removal.

1. Items that are perishable, that have no apparent use, are not identifiable as belonging to an individual, or that are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, discarded, and will not be stored. Property discarded, dumped, or otherwise abandoned in the City rights-of-way may be immediately discarded.

2. The City will store personal property in a location where people can reasonably retrieve belongings.

3. The City will make reasonable efforts to provide a range of times the storage location will be available for people to collect their personal property. The City may dispose of any personal property that remains unclaimed after 30 days, or such duration as required or allowed by law.