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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF DESCHUTES

MYNTORA AGUILAR, MICHELLE	)	
HESTER, & NICHOLAS SCHINDLER,	)	
Homeless Individuals On Hunnell &	)	Case No. 23CV27630
Clausen Roads, City of Bend, On Behalf	)	
of Themselves & Other Homeless	)	DEFENDANTS' RESPONSE TO MOTION
Individuals on Hunnell & Clausen Roads &	)	FOR EMERGENCY HEARING
CHARLES HEMINGWAY, Homeless	)	
Advocate, All Pro Se	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
ERIC KING, City Manager, City of Bend;	)	
MELANIE KEBLER, Mayor, City of Bend;	)	
MEGAN PERKINS, Mayor Pro Tem,	)	
ANTHONY BROADMAN, BARB	)	
CAMPBELL, ARIEL MENDEZ, MEGAN	)	
NORRIS, MIKE RILEY, City Councilors,	)	
City of Bend; DAVID ABBAS, Director,	)	
Transportation & Mobility, City of Bend &	)	
MIKE KRANTZ, Chief of Policy, City of	)	
Bend,	)	
	)	
Defendants.	)	

BACKGROUND AND PROCEDURAL POSTURE

On July 12, 2023, Plaintiffs submitted what they termed a “Motion for an  
Emergency Hearing Seeking Injunction, Declaratory Judgment & Writ of Mandamus”  
 (“Plaintiffs’ Motion”). On July 14, 2023, the court set an emergency hearing for later that

1 day. At the hearing, the court indicated that it did not have the power to grant  
2 declaratory relief or a writ of mandamus under the circumstances presented, and/or that  
3 those forms of relief were not appropriate under the circumstances.

4 The court instead considered the issue to be whether Plaintiffs were entitled to a  
5 temporary restraining order, and focused the parties on that question. At the conclusion  
6 of the hearing, the court asked Defendants, represented by the City of Bend City  
7 Attorney's Office, to file a response to Plaintiffs' Motion. In particular, the court  
8 expressed interest in seeing the various notices issued in the area of Hunnell Road and  
9 Clausen Road, and sought to understand the applicable City code, policies, and  
10 processes to determine whether they had been followed.

11 The following response is intended to address the court's request in a focused  
12 way, and is not intended to address every single issue, statement, or argument raised in  
13 Plaintiffs' Motion. In filing this response and appearing at the emergency hearings,  
14 Defendants, collectively referred to hereinafter as "the City" do not waive any defenses  
15 that could be brought in this or any other case, including but not limited to jurisdiction,  
16 standing, service, and any other defenses or arguments.

## 17 POINTS AND AUTHORITIES

### 18 I. Introduction

19 Plaintiffs' Motion submitted on July 12 presents one central argument: that the  
20 court should enjoin the City's plan to temporarily close and clean Hunnell and Clausen  
21 Roads because Plaintiffs fear that the City will not follow its own policy to consider the  
22 requests for disability-related modifications submitted to the City by the Plaintiffs on the  
23 same day the Emergency Motion was filed with the court. Ptf's Motion, Par. 38. The  
24 court has framed the request as one for a temporary restraining order.

1 Neither a temporary restraining order nor any other relief is justified. The City has  
2 followed its policy and would have done so without any court action, consistent with its  
3 demonstrated practice. After presenting the relevant facts, this response will describe  
4 the relevant provisions of the City’s code and policy and demonstrate how the City has  
5 complied with its code and policy. Both the facts and the law establish that no temporary  
6 restraining order is justified or necessary, because Plaintiffs’ concern and any risk of the  
7 speculative harm they feared was dissolved when the City followed its policy and  
8 concluded the interactive processes. In the framing offered by Plaintiffs, the City “must  
9 honor the City’s own requirement for engagement in an interactive process” before the  
10 City can act on its plans to temporarily close and clean the Hunnell and Clausen area.  
11 Ptf’s Motion, Par. 38.

12 The City has done exactly that, and asks the court to deny Plaintiffs’ request for a  
13 temporary restraining order or any other relief.<sup>1</sup>

14 II. Facts

15 In December 2022, the City adopted what is commonly referred to as its  
16 “Camping Code” (codified at Bend Municipal Code Chapter 4.20, attached as Exhibit  
17 A). Prior to the adoption of the code, the City did not have a comprehensive code that  
18 regulated when, where, and how people could use certain public places for sleeping,  
19 camping, and sheltering that was reflective of recent federal court decisions and  
20 changes to state law.<sup>2</sup>

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22 <sup>1</sup> In fact, the City has granted the requests for modification, to the extent possible, without fundamentally  
23 altering the City’s program of code enforcement and campsite clean-up, or imposing an undue  
administrative or financial burden, consistent with the City’s obligations under federal law.

24 <sup>2</sup> Prior to adoption of the Camping Code, the City applied various provisions of the Bend Municipal Code  
25 regarding City right-of-way to camping through an administrative policy, ADM 2021-1 “Management and  
Removal of Established Campsites in City Rights-of-Way”. This policy was rescinded by Policy ADM  
2023-4. Before removing a group of 8 or more campsites for violations of the Bend Municipal Code, ADM  
2021-1 required the City Manager to declare that a group of 8 or more campsites was an “Unsafe  
Page 3 – DEFENDANTS’ RESPONSE TO PLAINTIFFS’ MOTION FOR EMERGENCY HEARING

1 The adoption of the code was preceded by approximately six months of  
2 discussion in public meetings, public work sessions, public round table meetings, public  
3 open houses, and other venues. The adopting ordinance, Ordinance No. 2458, attached  
4 as Exhibit B, expressly directed that the application of the code would not begin until  
5 March 2023. This delay was in recognition that, “the ordinance will implement a new  
6 system of regulations that will impact people experiencing houselessness, and [the City]  
7 desires an interim period where ... service providers, and City staff can engage with  
8 houseless community members to inform them of the new regulations.” Ex. B, Finding  
9 W. This delay was intended to give people time to understand the code and prepare to  
10 comply with the code’s requirements when the City would begin to apply it,  
11 approximately three months later, and nearly one year after the City first began  
12 discussing what kinds of regulations to apply to camping on City streets.

13 During the delay between the adoption of the code and its application, the City  
14 began to create plans to address the long-term camping that was occurring at Hunnell  
15 and Clausen Roads. The City was aware that both Deschutes County and the Oregon  
16 Department of Transportation (ODOT) were planning public works projects in the area;  
17 Deschutes County to extend Hunnell Road north, and ODOT a complete reconfiguration  
18 of US-20 and US-97 to either side of Hunnell and Clausen Roads. The City believed,  
19 based on conversations with both agencies, that traffic was likely to increase on Hunnell  
20 and Clausen Roads as a result of these projects, and that would jeopardize the safety of  
21 people camping and parking on those roads. The City also had growing concerns about  
22 public health and safety for people camping on those roads.

23  
24 \_\_\_\_\_  
25 Campsite”. This declaration required an evaluation of the “location’s threat to public health, safety, and  
the environment.” This evaluation is no longer required under the Camping Code and ADM 2023-4.

1           Additionally, since 2020, the City has purchased four properties to operate as  
2 shelters, including one congregate emergency walk-up shelter and navigation center,  
3 and two non-congregate emergency shelters (converted motels), and a parcel the City  
4 hoped to partner with Deschutes County to open an “outdoor shelter” or cluster of tiny  
5 homes or recreational vehicle parking spaces with services. The new Camping Code,  
6 plus these shelter options, are intended to increase the options available to the City for  
7 regulating camping and for people experiencing houselessness to find alternative, safer,  
8 and more stable, options for shelter.

9           When the application of the code commenced in March 2023, the regulations on  
10 time, place, and manner were applied everywhere in the city except for the area of  
11 Hunnell and Clausen Roads. While the City intended to begin applying the code in its  
12 entirety to the Hunnell and Clausen area in mid-March, on March 1, 2023, the City  
13 announced that a planned closure of the area would be postponed, both due to  
14 difficulties identifying operating funds for two of the shelters described above, and an  
15 announcement by the County that it did not believe its Hunnell Road project impacted  
16 safety of those camping or parking on Hunnell Road. Since March, the City has  
17 continued to apply the manner regulations in the code (Ex. A, Section 4.20.030.D.),  
18 while fully applying the code in the rest of Bend. The code does not and has not  
19 prohibited people from using certain public places for sleeping, camping, or sheltering,  
20 but it does set some rules and limits.

21           On June 20, 2023, the City notified Bend-area individuals and organizations,  
22 including Plaintiff Hemingway, that provide services to people experiencing  
23 homelessness that Hunnell and Clausen area would be closed for a clean-up after July  
24 17, 2023. The notice provided is attached as Exhibit C. The City Manager made a public  
25

1 announcement about the closure the next day, during the June 21, 2023, Bend City  
2 Council meeting.<sup>3</sup>

3 To ensure that people in the Hunnell and Clausen area were informed, City  
4 personnel distributed written information to all camp sites and individuals in the area on  
5 June 23, 2023. The provided informational flyer is attached as Exhibit D.<sup>4</sup> The written  
6 information identified the area that would be closed, stated that the closure would begin  
7 on July 17, 2023, at midnight, and that people needed to vacate the area with their  
8 belongings no later than July 17. The written information included a list and contact  
9 information for area shelters, service providers, the coordinated entry hotline,  
10 Deschutes County crisis services, medical services, food and rent assistance, and other  
11 services.

12 On July 3, 2023, City personnel distributed a notice of closure to all camp sites  
13 and individuals in the Hunnell and Clausen area. The notice provided is attached as  
14 Exhibit E. The notice again informed people about the closure and opportunities for  
15 services and shelter, and included the following language:

16 **Accommodation Information for People with Disabilities**

17 To obtain this information in an alternate format, and/or reasonable  
18 accommodation for the removal, relocation and cleanup, please contact:  
19 Cassandra Kehoe at (541) 693-2141 or [ckehoe@bendoregon.gov](mailto:ckehoe@bendoregon.gov).

19 On July 12, 2023, approximately 22 days after the City first notified service  
20 providers including Plaintiff Hemingway about the planned closure, the City received  
21

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22 <sup>3</sup> Each of the plaintiffs appeared at the public comment section of this Council hearing, indicating they  
23 were aware of the City's plans at least as of June 21, 2023. See, June 21, 2023, City Council Hearing,  
24 video available at: [https://www.bendoregon.gov/government/city-council/city-council-meeting-agendas-](https://www.bendoregon.gov/government/city-council/city-council-meeting-agendas-video)  
25 [video](https://www.bendoregon.gov/government/city-council/city-council-meeting-agendas-video). Minutes of this meeting have not yet been adopted or published.

<sup>4</sup> ORS 195.505 provides that cities and counties must have certain elements in any camp removal  
policies. The elements include a requirement that a 72-hour notice be posted in most circumstances.  
Although there is no argument that the City did not comply with state law in the process related to the  
Hunnell and Clausen area, the City notes that the information and notices it delivered on June 23, July 3,  
and July 13 far exceed the statutory requirements and the requirements of the City's code and policy.

1 approximately one dozen requests for disability-related modifications from people  
2 camping in the Hunnell and Clausen area. Each of the requestors sought more time in  
3 order to move or otherwise comply with the closure of the area. See paragraph 9 of the  
4 Declaration of Cassandra Kehoe, incorporated herein by this reference, referred to as  
5 “Kehoe Decl.”

6 On July 13, 2023, City personnel including but not limited to Cassandra Kehoe,  
7 Accessibility & Equity Manager for the City, spent approximately five hours on Hunnell  
8 and Clausen Roads where Ms. Kehoe engaged with individuals who had requested  
9 additional time. Ms. Kehoe gave the individuals the opportunity to ask her questions and  
10 to offer any information they chose to provide. Kehoe Decl., Par 12. City officials also  
11 distributed the 72-hour notice to move required by ORS 195.505 (attached as Exhibit F),  
12 the Camping Code, and City policy (ADM 2023-4, implementing the Camping Code,  
13 attached as Exhibit G), along with written notice to requesters that the City was  
14 reviewing their modification request.<sup>5</sup>

15 On Friday, July 14, 2023, a few hours before the emergency hearing that  
16 occurred that afternoon, the City received requests for disability-related modifications  
17 from seven additional individuals. Each individual requested additional time in order to  
18 move or otherwise comply with the closure of the area.

19 Ms. Kehoe traveled to the Hunnell and Clausen area again on the afternoon of  
20 July 14 and was able to individually engage with six of the seven requestors whose  
21 requests were delivered earlier that day. Kehoe Decl., Par 18.

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24  
25 <sup>5</sup> This notice included the required information that the City would store personal property not removed by  
campers for at least 30 days, consistent with State law. The City does not have a pattern and practice of  
discarding personal property of campers, and no facts have been alleged to support the Plaintiffs’  
statement that they would “lose” all their personal belongings if the City acts on its notices.

1 Monday, July 17, after conducting individualized interactive processes and  
2 considering the facts and applicable legal requirements, the City granted each of the  
3 individual requestors one week of additional time, beyond July 17, to comply with the  
4 closure by collecting their belongings and vacating the Hunnell and Clausen area. Ms.  
5 Kehoe intends to deliver the modification letters to individuals in the Hunnell and  
6 Clausen area on the morning of July 17. Kehoe Decl., Par 24.

7 City personnel and contractors are scheduled to conduct clean-up operations in  
8 the Hunnell and Clausen area beginning on July 18, and are prepared to work around  
9 individuals who are still in the area because they have been given additional time to  
10 relocate due to disability-related modifications granted by the City.

11 III. Applicable City Code and Policies.

12 Title II of the Americans with Disabilities Act (“ADA”) provides that “no qualified  
13 individual with a disability shall by reason of such disability, be excluded from  
14 participation in or be denied the benefits of the services, programs, or activities of a  
15 public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132.  
16 The regulations implementing Title II obligate state and local government entities to  
17 “make reasonable modifications in policies, practices, or procedures when the  
18 modifications are necessary to avoid discrimination on the basis of disability, unless the  
19 public entity can demonstrate that making the modifications would fundamentally alter  
20 the nature of the service, program, or activity.” 28 C.F.R § 35.130(b)(7)(i).

21 The ADA requires “only ‘reasonable modifications’ that would not fundamentally  
22 alter the nature of the service provided.” *Tennessee v. Lane*, 541 U.S. 509, 532  
23 (2004). “[I]n no event is the entity required to undertake measures that would impose an  
24 undue financial or administrative burden ... or effect a fundamental alteration in the  
25 nature of the service.” *Id.* “[P]ublic entities are not required to create new programs that



1 provide heretofore unprovided services to assist disabled persons.” *Townsend v.*  
2 *Quasim*, 328 F3d 511, 518 (9th Cir, 2003). For programs designed to address risks to  
3 the public, reasonableness depends on the nature of the risk and the ability of the  
4 agency to address the risk; a delay that fundamentally alters the nature of the program  
5 is not a reasonable modification. *Where do We Go Berkeley v. Cal. Dept. of Trans.*, 32  
6 F.4<sup>th</sup>, 852, 862 (2022).

7 The City has recognized its obligations under Title II of the ADA in the Camping  
8 Code. Bend Municipal Code 4.20.025.C. states:

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

15 The code therefore acknowledges the need to consider enforcement discretion  
16 on an individual basis when, among other potential scenarios, an individual has a  
17 disability. The code also addresses the potential need for disability-related reasonable  
18 modifications in the section providing rules on how long people can camp in one  
19 location. Bend Municipal Code 4.20.030.B.3 provides:

20 Enforcement of time restrictions may be suspended when an  
21 individual does not have access to shelter and when an individual is  
22 engaged in case management or behavioral health services, or when  
23 necessary or appropriate to respond to an individual’s disability, as  
24 further set forth in the City’s comprehensive administrative policy  
25 implementing this chapter, adopted by the City Manager.

This provision reinforces the first, particularly in the context of allowing more time for  
people with disabilities to comply with (but not be exempt from) the code’s standards. It

1 also points to an administrative policy that was adopted to implement the Camping  
2 Code.

3 City of Bend Administrative Policy 2023-4, Responding to Camping in Public  
4 Rights-of-Way and On City-Owned Public Property (attached as Exhibit G), "is intended  
5 to provide guidance and direction for implementing the City Code to ensure the most  
6 humane treatment for removal of homeless individuals from camping sites on public  
7 property..." as required by state law. Ex. G, Section I.A.

8 Among other things, the administrative policy builds on the code in outlining the  
9 process that occurs if a person requests a reasonable modification to comply with the  
10 code's standards. The full text of Section III, F. is provided below for ease of reference:

11 F. Tailored Enforcement for Disabilities or Other Reasons.

12 1. Enforcement should be tailored for various circumstances, including  
13 but not limited to situations where a person has a disability under the  
14 Americans with Disabilities Act, where minor children are present or  
15 otherwise involved, where a person has employment obligations that may  
16 relate to their ability to comply with the code, or for other reasons that may  
17 support discretion in enforcement. Typical requests are likely to be for  
18 more time before a person can move (for modification of BMC 4.20.030.B,  
19 Time), or for an allowance to maintain an item or items in violation of BMC  
20 4.20.030.D, Manner, or BMC 4.20.035, Vehicles. In all but the most  
21 unusual situations, extension of time limitations should not exceed more  
22 than one week total. When the modification of enforcement relates to  
23 Manner restrictions, items must not block sidewalks, driveways, bike  
24 lanes, or drive aisles.

25 2. People with disabilities.

a. If a person asserts an inability to comply or a need for modified  
application of the provisions of BMC Chapter 4.20 because of a  
disability, City personnel must engage in an interactive process to  
review the requested change in application of the provision at issue.  
A modification is not required to be given if it would pose an undue  
financial or administrative burden on the City or would fundamentally  
alter the nature of the program, activity, or services by the City. City  
personnel should use their discretion in applying this section and

1 may consult with the City's Accessibility Manager and/or City  
2 Attorney's Office on specific or unusual requests.

3 b. City personnel should inquire about the nature of the asserted  
4 disability if not already apparent from the request. A person does not  
5 have to disclose a diagnosis or specify the disability to qualify for a  
6 modification of rules.

7 c. City personnel should ask what the person needs modified due to  
8 the disability.

9 d. Requests should be considered on an individual basis.  
10 Accommodations must be reasonable and not cause an undue  
11 burden or threat to public health or safety.

12 The City has, in the past, conducted an interactive process and responded  
13 appropriately when it has received requests for disability-based modifications. Kehoe  
14 Decl., Par 7. The events that have occurred since July 12, 2023, when the City first  
15 received requests for reasonable modifications related to the temporary closure of the  
16 Hunnell and Clausen area, prove that the City has followed its own requirements. The  
17 fears and potential harms identified by Plaintiffs did not come to pass, and there are no  
18 further issues to be decided on the merits that would follow any form of provisional  
19 injunctive relief the court could grant.

20 IV. There is no basis for a temporary restraining order or any injunctive relief.

21 ORCP 79 governs temporary restraining orders and preliminary injunctions and  
22 provides, in part, that such an order can be obtained "(w)hen it appears that a party is  
23 entitled to relief demanded in a pleading, and such relief, or any part thereof, consists of  
24 restraining the commission or continuance of some act, the commission or continuance  
25 of which during the litigation would produce injury to the party seeking the relief(.)"

Oregon courts are clear: "an injunction is an extraordinary remedy, to be granted  
only on clear and convincing proof of irreparable harm when there is no adequate legal  
remedy." *Eagles Five v. Lawton, LLC*, 250 Or App 413, 422 (2012). To obtain a

1 temporary restraining order, the injury must be threatened and of “a real and substantial  
2 character.” *Wilson v. Parent*, 228 Or 354, 370, 365 P.2d 72 (1961). Similarly, the danger  
3 must be “probable and threatened” to entitle the movant to temporary injunctive relief.  
4 *McCombs v. McClelland*, 223 Or 575, 585, 354 P.2d 311 (1960). “An injunction may not  
5 be granted merely to allay the fears and apprehensions of an individual.” *Eagles Five*,  
6 250 Or App at 422 (internal quotations omitted).

7 Courts may issue a preliminary injunction, or temporary restraining order, after  
8 considering “the likelihood that the party requesting the injunction will ultimately prevail  
9 on the merits of its claim and whether, if the injunction is not issued, the party will be  
10 irreparably harmed during the litigation of the claim.” *Elkhorn Baptist Church v. Brown*,  
11 366 Or 506, 518-19 (2020), citing *State ex rel. Brookfield Co. v. Mart*, 135 Or 603, 613  
12 (1931). Here, the Plaintiffs can show neither likelihood of success on the merits nor  
13 irreparable harm.

14 A. Plaintiffs are not likely to succeed on the merits of their claims.

15 Plaintiffs make three claims for relief, each of which fundamentally ask the Court  
16 to order the City to either pause its enforcement of the Camping Code and consider the  
17 modification requests submitted (which the City has done without need for a pause), or  
18 declare that the City has an obligation to follow its processes for modification requests  
19 (which the City has also done), or direct the City to conduct a safety review of the  
20 Hunnell and Clausen Roads area (which is not required by the City’s Camping Code or  
21 any other applicable code or policy).

22 Plaintiffs are not likely to succeed on a declaratory judgment claim because while  
23 they request a declaratory judgment, what they actually request is an order that the City  
24 follow its policies, which the City is doing. ORS 28.010 gives courts “the power to  
25 declare rights, status, and other legal relations,” but courts may refuse to enter

1 judgment “where such judgment... would not terminate the uncertainty or controversy  
2 giving rise to the proceeding.” ORS 28.060. There is no controversy that can be  
3 resolved by a declaratory judgment; the City does not dispute its policies require an  
4 individualized assessment of a modification request on the basis of a disability, and the  
5 City is following its policies.

6 Plaintiffs are not likely to succeed on a mandamus claim because they ask the  
7 Court to order the City to conduct a safety assessment, which it has no obligation to do  
8 under its adopted codes and policies. See, ORS 34.150 (“the writ shall state concisely  
9 the facts... showing (A) the obligation of the defendant to perform the act...”). Neither  
10 the Camping Code nor Policy ADM 2023-4 require the City to perform a safety  
11 assessment prior to enforcing the time, place, or manner regulations. As the court  
12 seemed to indicate at the July 14 hearing, this is beyond the Court’s authority to do, and  
13 the Plaintiffs cannot prevail on this request.

14 Plaintiffs point to a review conducted by the City of the Hunnell and Clausen  
15 Roads area, alleged to have been “submitted December 2, 2022 but not acted upon by  
16 Defendant King.” As explained above, a repealed City policy, ADM 2021-1, required an  
17 assessment and declaration of a group of camps as an “Unsafe Campsite” prior to  
18 removal. This policy was repealed following adoption of the Camping Code, with the  
19 adoption of policy ADM 2023-4. See, Exhibit G, Section I.C. “Policy ADM 2021-1 is no  
20 longer necessary and is revoked and terminated...”.

21 B. Plaintiffs will not be irreparably harmed without court action.

22 Plaintiffs allege they will be irreparably harmed if the City fails to follow its own  
23 policies for considering modification requests. However, as demonstrated above and in  
24 the declaration of Cassandra Kehoe, the City is following its policies.

1           The potential injury or danger Plaintiffs raised was entirely speculative, and was  
2 never probable, much less threatened or based on clear and convincing proof. Indeed,  
3 the City did not even have time to engage in the individualized assessment of the  
4 requests for reasonable modifications before Plaintiffs filed their motion, and Plaintiffs  
5 give the Court no reasons for why Plaintiffs suspected or feared the City would not  
6 follow the procedures in its code and policy.

7           Plaintiffs allege a “fear that Defendants will ignore the interactive process  
8 requirement” (Ptf. Motion, Par. 37) and point to language in the Administrative Policy  
9 that “A modification is not required to be given if it would pose an undue financial or  
10 administrative burden on the City or would fundamentally alter the nature of the  
11 program, activity or services by the City. Ptf Motion, Par. 34. Instead of “creat[ing] an  
12 ambiguity” whether the City will follow its policies and federal law to consider the  
13 requests (Ptf. Motion, Par. 35), or invoking the principle that ambiguities are construed  
14 against the drafter (Ptf. Motion, Par. 40), the language of the Administrative Policy  
15 simply restates the City’s obligations under federal law. See, 28 C.F.R § 35.130(b)(7)(i)  
16 (state and local government entities are obligated to “make reasonable modifications in  
17 policies, practices, or procedures when the modifications are necessary to avoid  
18 discrimination on the basis of disability, *unless the public entity can demonstrate that*  
19 *making the modifications would fundamentally alter the nature of the service, program,*  
20 *or activity*” (emphasis added). See also, *Tennessee*, 541 US at 532, “[I]n no event is the  
21 *entity required to undertake measures that would impose an undue financial or*  
22 *administrative burden . . . or effect a fundamental alteration . . . in the nature of the service”*  
23 (emphasis added, citations omitted).

24           Further, Plaintiff Hemingway had just recently assisted another individual residing  
25 in the area of Hunnell and Clausen Roads with a modification request based on

1 disability. The City considered the request through an individualized process and  
2 granted portions of the request that did not fundamentally alter its program or create  
3 undue administrative or financial burdens. Decl. Kehoe, Par. 7. Contrary to presenting  
4 clear and convincing evidence that the City would not follow its processes, Plaintiffs'  
5 fear the City would not follow its processes was unfounded.

6 C. A temporary restraining order is improper because an adequate legal  
7 remedy is available.

8 Injunctive relief is an extraordinary remedy meant to fill the void only when there  
9 is no other adequate legal remedy. *Bates v. Dep't of Motor Vehicles*, 30 Or App 791,  
10 793, 568 P.2d 686, 687 (1977). Plaintiffs had an alternate legal remedy in the City's  
11 reasonable modification process; Plaintiffs availed themselves of that process and the  
12 City followed its policies. The City considered and granted the requests to the extent it  
13 could, consistent with federal law. The legal remedy was available to Plaintiffs and the  
14 City complied with its legal obligations to provide that remedy. Now that the legal  
15 remedy (i.e., the City's modification process) has been seen through to its conclusion,  
16 the extraordinary remedy of injunctive relief is not justifiable.

17 There was no basis for injunctive relief on July 12 and there is no basis for  
18 injunctive relief on July 17, the date of this response. The court should deny the  
19 Plaintiffs' motion.

20 V. Conclusion

21 The City understands Plaintiffs made an effort to do what they thought best for  
22 people who have been staying in the Hunnell and Clausen area. The City also  
23 understands that many of the Plaintiffs and others residing on Hunnell and Clausen  
24 Roads may have faced or are facing hardship in their lives. Even without this litigation,  
25 had any of those individuals, including Plaintiffs, contacted the City about reasonable

1 modification requests, they would have achieved the same results: prioritization of the  
2 requests and speedy processing by the City, and answers provided before the  
3 beginning of the closure that granted additional time in accordance with the City's  
4 policy.

5 The City respectfully requests that the court deny Plaintiffs' request for  
6 injunctive relief of any kind.

7 Dated: July 17, 2023

8 */s/ Ian M. Leitheiser*

9 Ian M. Leitheiser, OSB #993106  
10 Assistant City Attorney, City of Bend  
[ileitheiser@bendoregon.gov](mailto:ileitheiser@bendoregon.gov)

11 */s/ Elizabeth Oshel*

12 Elizabeth Oshel, OSB #104705  
13 Assistant City Attorney, City of Bend  
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## Chapter 4.20

### USE OF PUBLIC RIGHTS-OF-WAY AND CITY PROPERTY FOR CAMPING

Sections:

- 4.20.010 Purpose.**
- 4.20.015 Definitions.**
- 4.20.020 Camping Prohibited on City Property.**
- 4.20.025 Enforcement.**
- 4.20.030 Time, Place and Manner Regulations.**
- 4.20.035 Vehicles.**
- 4.20.040 Violations.**

#### 4.20.010 Purpose.

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

With this in mind, this chapter is intended to regulate the use of public rights-of-way and City property to protect and preserve public places for their designed and intended purposes, while also making them available for shelter and sleeping by people who have no other options for shelter.

The City recognizes that surviving on City streets is typically an option of last resort. This chapter and the City's enforcement efforts will be focused on mitigating the impacts to public health and safety that can arise from survival camping in public places. [Ord. NS-2458, 2022]

#### 4.20.015 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 24 hours or more.

Note: "Camp," "camping," "camp materials" and "established campsite" do not include vehicles, automobiles, or recreational vehicles used for shelter and/or sleeping, which are regulated at BC [4.20.035](#).

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 Bend including City parking lots or parking structures, but excluding City owned or managed rights-of-way. [Ord. NS-2458, 2022]

#### **4.20.020 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 Bend Development and/or City Code. [Ord. NS-2458, 2022]

#### **4.20.025 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. [Ord. NS-2458, 2022]

### **4.20.030 Time, Place and Manner Regulations.**

A. People who do not have any other permanent residence or domicile and/or 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 for 24 hours at a time in any one location. After a camp has been in one place for 24 hours or more, 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.

2. After 24 hours in one location, the camp and all associated camp materials must be moved at least one block or 600 feet.

3. Enforcement of time restrictions may be suspended when an individual does not have access to shelter and when an individual is engaged in case management or behavioral health services, or 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.

C. *Place.*

1. In addition to the prohibition on camping on City property in BC [4.20.020](#), camping is not allowed at any time in any of the following places:

- a. Any area zoned Residential (RL, RS, RM, RH) on the City of Bend Zoning Map in effect at the time.<sup>1</sup>
- b. Within the Waterway Overlay Zone, as determined by the City of Bend Zoning Map and Bend Development Code.

- c. 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.
- d. Any vehicle lane, bicycle lane, or roundabout within any public right-of-way.
- e. Within 1,000 feet from any safe parking site or shelter approved under the Bend Development Code and/or any applicable provision of State law.
- f. On any street or public right-of-way, the City has closed to camping due to construction, heavy vehicle use, or other use of the roadway that is incompatible with camping in the right-of-way. The City does not need to close a street to vehicle traffic to close a street to camping under this section.

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, no more than three camps may be set up per block. If there are any camps set up on a particular block, no other camp may be within 150 feet of any of those camps, including but not limited to across the street or on another block face. A group of up to three camps may not be within 150 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 Bend 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 BC [5.50.020\(A\)](#) is prohibited.
- m. All animals must be leashed or crated at all times.

**1** Zone changes amend the City of Bend Zoning Map but may not always be evident on the most recently published version of the map. The formal zoning designation of an area will control even if not reflected on the most recently published map. For public rights-of-way adjacent to properties with different zoning designations, the designation that is more restrictive for purposes of this chapter will govern the use of that segment of the right-of-way.

[Ord. NS-2458, 2022]

#### **4.20.035 Vehicles.**

- A. BC Chapter [6.20](#) governs where and for how long individuals may legally park vehicles on public rights-of-way within the City of Bend. 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 Bend City Code and any applicable policies.
  - 2. Open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, and/or heating deemed unsafe by Bend 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 BC [5.50.020\(A\)](#) is prohibited.
  9. All animals must be leashed or crated at all times.
- C. Notwithstanding BC Chapter [6.20](#) 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:
1. Within 500 feet of any safe parking site or shelter approved under the Bend Development Code and/or any applicable provision of State law.
  2. Within 1,000 feet of the City's emergency shelter at 275 NE 2nd Street, but bound by the geographic barriers of the US-97/Parkway to the west and 3rd Street to the east, generally described as follows:
    - a. NE 2nd Street between NE Burnside Ave and NE Franklin Ave;
    - b. NE Emerson Ave from its western terminus east of US-97/Parkway to NE 3rd Street;
    - c. NE Dekalb Ave from its western terminus east of US-97/Parkway to NE 3rd Street;
    - d. NE Burnside Ave from NE 2nd Street to NE 3rd Street;
    - e. SE Scott Street from the US-97/Parkway overpass to SE 3rd Street; and
    - f. SE Aune Street from the US-97/Parkway overpass to SE Scott Street.
  3. In any City parking lots or parking structures.
- 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. [Ord. NS-2458, 2022]

#### **4.20.040 Violations.**

- A. A citation for a violation of this chapter will be for a Class C civil infraction. 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 enforcement personnel will contact the person and provide a reasonable opportunity to cure or remedy the alleged violation. In most cases, enforcement personnel will assess whether the person subject to citation has been referred to service providers and/or the Deschutes County Coordinated Homeless Response Office, 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 enforcement personnel 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 enforcement personnel 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, including the Deschutes County Coordinated Homeless Response Office.
  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, or 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; or 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. If the danger to human life or safety can be reduced by moving the established campsite to a safer location, such as an adjacent landscape strip, the campsite should be moved rather than removed.
  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 at or near one of the City business campuses, 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. [Ord. NS-2458, 2022]

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**The Bend Code is current through Ordinance NS-2475, passed May 3, 2023.**

Disclaimer: The city recorder's office has the official version of the Bend Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.bendoregon.gov](http://www.bendoregon.gov)

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## ORDINANCE NO. 2458

### AN ORDINANCE CREATING TITLE 4, CITY RESPONSES TO HOUSELESSNESS, AND AMENDING BEND MUNICIPAL CODE CHAPTERS 5.55 AND 5.70

#### Findings:

A. The City of Bend is currently experiencing an increase of unsanctioned camping in public spaces and rights-of-way. With a sheltered population of just over 102,000, Bend has an increasing per capita population of homeless individuals. According to the 2022 Point in Time Count published by the Continuum of Care for Central Oregon, the Homeless Leadership Coalition, at least 785 individuals are homeless in Bend, and at least 1,286 individuals are homeless in Central Oregon. In 2015, there were 594 people counted as homeless in Central Oregon, an increase of over 200% in 7 years. 79% of those counted in 2022 are unsheltered, meaning living in a place not meant for human habitation (i.e., vehicle, outside, on streets or public lands, in abandoned buildings, etc.).

B. The current Bend Municipal Code does not generally ban camping in the right-of-way, although it does regulate erecting structures and obstructing the right-of-way, and does not allow parking in one location for more than three business days at a time. Generally speaking, these code provisions were not designed nor are they adequate to manage the current circumstances of unsheltered homelessness in public places in the City.

C. ORS 195.500 (formerly ORS 203.077) requires cities and counties to develop a policy that recognizes the social nature of the problem of homeless individuals camping on public property and implement the policy as developed, to ensure the most humane treatment for removal of homeless individuals from camping sites on public property.

D. In April 2021, the City Manager adopted, and subsequently updated, an administrative policy (ADM 2021-1) setting out guidelines for how the City will respond to and provide notice of removal to campsites established in the right-of-way.

E. The City recognizes that while a useful tool, the Administrative Policy is a more piecemeal approach applying other existing provisions of the Bend Municipal Code, not drafted directly to regulate camping or sheltering on City rights-of-way. It requires assessment of criteria and, if met, individual camp removal. The policy was not intended to be a long-term solution to meet the City's obligations to manage public places within the City.

F. The City of Bend has entered into an intergovernmental agreement with Deschutes County and the cities of Redmond, Sisters and La Pine to create a collaborative office to address homelessness, through HB 4123 adopted by the Oregon legislature in 2021.

G. As part of its 2022-2023 Council Goals, the City Council adopted a goal for

“Safety, Health, Accountability and Justice” and an action item to revise the Bend Municipal Code to update regulations on camping within the public right-of-way. In 2022, Council directed staff to begin developing a code proposal to regulate camping in the City’s rights-of-way, with reasonable time, place, and manner restrictions, including restrictions on camping on public rights-of-way near established shelter locations. The work on the camping code project began in earnest after the Council adopted amendments to the Bend Development Code in spring 2022; those changes were intended to increase the community’s capacity to establish permitted and managed shelters for people experiencing homelessness.

H. After several months of public meetings, an open house, and roundtable discussions, City staff drafted a new Bend Municipal Code (BMC) Title 4, to include the code regulating camping in the public right-of-way. In drafting Title 4, it was clear to staff that BMC Chapter 5.70, Safe Parking Programs, should be moved from Title 5 to the new Title 4. In recognition that the proposed Title 4 addresses rules for camping and sheltering in City rights-of-way and City property, and that the City does not govern or operate parks in the City, it further became clear that BMC Section 5.55.005 should be amended to remove 5.55.005(A)(3) prohibiting camping in parks and on City property.

I. Public rights-of-way are designed and intended for travel and transportation, and provision of utility services, among other uses. Public rights-of-way are not designed or intended for overnight use in the same way as a recreational camp site. People living in makeshift camps in the right-of-way and in vehicles often lack access to safe and sanitary restrooms and trash receptacles, resulting in unsanitary conditions from improper disposal of human waste and trash.

J. The placement of tents, bedding, and other structures in the right-of-way on or next to paved surfaces and/or between curblines is dangerous to those camping or sleeping, because of the proximity to vehicles and other users of the public roadways. Placement of those items on sidewalks can impede the use of sidewalks and other public ways if six feet of passage is not maintained. The City has a responsibility as the road authority to maintain the streets and sidewalks as safe, passable, and accessible, and to act to avoid death and injury to all users of the rights-of-way, including those without other homes.

K. Campfires, warming fires, cooking fires, outdoor fireplaces outdoor kiln fires and other similar type fires not more than three feet in diameter and approved cooking pits are generally allowed within City limits, pursuant to BMC 5.30.005 and Bend Fire Department’s adopted Burning Regulations, subject to the permission of the property owner. In consultation with the Bend Fire Department, given the dry climate, threat of drought conditions, and purpose of the City roadways, open fires on City-owned property and rights-of-way present a potential danger to the community, year-round. The City’s burning regulations require certain distance be kept between property lines, structures, and open fires, among other requirements. There is not space within the right-of-way to meet the requirements in the City’s burning regulations for distance from structures or to safely operate open flames. The risk to the public from open fires is significant. Electrical cords in the right-of-way pose a related fire and safety hazard. The

Fire Department has noticed electrical cords connecting vehicles and laid within the right-of-way and across travel lanes. Electrical cords are not designed to be driven over and the wiring inside is likely to degrade quickly leading to arcing and a fire potential. The City also recognizes the need to promote the health and safety of people without homes who require a means to stay warm through the winter.

L. Establishing areas around shelter facilities in which camping is prohibited at all hours and all days will assist in mitigating adverse impacts to established shelter programs and individuals engaged in those programs, as well as mitigating adverse impacts to surrounding businesses and other users of the rights-of-way, for the reasons described in Finding M. Around the City's only low-barrier emergency shelter, located at 275 NE 2<sup>nd</sup> Street, additional restrictions on overnight parking will further assist in mitigating these adverse impacts. The City does not have the enforcement resources to prohibit overnight parking around other shelters or locations at this time and chooses to focus parking restrictions at the only emergency, low-barrier shelter available on a walk-up basis.

M. Shelter providers have communicated with the City that it is difficult for them to run successful programs and support individuals seeking to leave homelessness when people who are not engaged in the program are setting up camps and living in vehicles in the area surrounding the established shelter programs. The City and service providers are likely to see more success in responding to homelessness and helping people find permanent housing if camping and overnight parking are restricted around shelter facilities.

N. Construction or erection of anything, including structures, in the right-of-way is prohibited under BMC 3.40.005, without a permit from the City. Unregulated construction, including erection of structures, in the right-of-way interferes with the intended use of City rights-of-way for travel and transportation, as well as other allowed use of the rights-of-way including provision of utility services. In cases where the City has allowed reservation of the rights-of-way for private uses, including commercial parklets or construction, the City generally requires a responsible party, provision of insurance, traffic control plans, and construction methods and materials designed to protect users from impact from passing vehicles. These protections are not provided when people take shelter on the City rights-of-way in temporary, informal campsites comprised of sleeping bags, tents, or other portable shelters, and the City wishes to continue to prohibit construction of shelters, other than tents or similar structures, in the right-of-way. However, the City Council acknowledges that there is a lack of nightly shelter beds and housing currently available regionally, and recognizes that the systemic lack of state and federal investment in shelter and public health services for those experiencing homelessness has resulted in people taking shelter on City rights-of-way, and that people need at least basic protection from the weather and elements, including in sleeping bags or tents and similar structures. This Ordinance provides a balance between the City's interest in requiring safe, permitted use of the rights-of-way and recognizing that people are likely to continue to seek shelter in the rights-of-way so long as sufficient affordable housing and shelter options are not available in the City.

O. This Ordinance is intended to address health and safety concerns of both the travelling public and individuals residing or camping on City rights-of-way, reduce potential risks of fire, promote a safe environment, eliminate unsanitary conditions and conditions that can impact public health and safety, reduce negative impacts to the environment from hazardous materials including human waste and other pollutants, allocate public resources effectively, and meet legal and humanitarian standards for all people within the City.

P. The City recognizes the social nature of the problem of homelessness that has contributed to individuals locating themselves in the right-of-way and on publicly-owned property and establishing campsites there. This Ordinance is intended to ensure the most humane treatment for removal of homeless individuals from camping sites on public property, as required by ORS 195.500. The City recognizes that people experiencing homelessness need a place to sleep, shelter themselves, and store belongings. The City is committed to the safety and security of all people in the city, including people experiencing homelessness, property owners, and the traveling public, while protecting all people in the city from unsafe and dangerous conditions.

Q. The City finds that limitations on the size and number of campsites that can be set up in City rights-of-way supports the safety of people in the campsites as well as the traveling public and community, by allowing people to shelter together, while limiting larger congregations of people and belongings that in the City's experience has led to more criminal activity and calls for law enforcement services.

R. When the City Manager is considering whether to close an area to camping for up to 14 days after a camp has been removed, as allowed under the Code, the City Manager shall consider whether and to what extent a closure is required to allow for environmental restoration or remediation of contamination by hazardous materials or other dangers to human life or safety. There are constitutional limits on a city's ability to address how public places can be used by people who do not have options for shelter. The Eighth Amendment to the United States Constitution prohibits "cruel and unusual punishment". The Ninth Circuit Court of Appeals has interpreted this prohibition to forbid cities from criminalizing camping in all places, at all times, by those who lack the financial means to pay for adequate shelter unless adequate shelter is available to such person free of charge.

S. This Ordinance does not criminalize or otherwise subject an individual to citation for the acts of sitting, lying, sleeping, or keeping warm and dry on public property, as prohibited by the Ninth Circuit in the *Martin v. City of Boise* case and *Johnson v. City of Grants Pass* case. Instead, this ordinance establishes reasonable time, place, and manner regulations that balance the rights of people without shelter to use some public places to meet basic needs with the City's obligation to manage public spaces to meet their intended uses and to maintain health and safety for everyone in Bend.

T. This Ordinance sets forth when and how the City may remove established campsites in the right-of-way and establishes objectively reasonable regulations on sleeping and keeping warm and dry, in compliance with HB 3115 (2019).

U. The proposed ordinance and camping code are the product of a lengthy public process that has involved time and attention of Council since June of 2022. The City has been open to community feedback throughout the process, and made both the original and revised drafts of the code available for public consumption. The Council continued to provide feedback on the draft code through October and November. The camping code has been on the Council agenda at every meeting since June 15<sup>th</sup>, other than October 19<sup>th</sup>. The City held Informational Open House Question and Answer sessions on the upcoming camping code at a noticed public meetings on August 16 and August 29, 2022, focused on educating the community about federal and state laws regarding management of public places and homelessness. The City Council held two Roundtable meetings on September 27 and September 29, 2022, with advisory bodies, business representatives, service providers, and people who have or are experiencing houselessness. These were intended to engage stakeholders and experts in reviewing the first draft of the camping code. Council held a special meeting on October 27, 2022 on time, place and manner regulations. Council held a public hearing to receive additional public input on the proposed code on November 17, 2022.

V. In addition, the City developed a website on the camping code with Frequently Asked Questions, a Camping Code Quick Reference, a Camping Code Information Sheet, links to all meetings with video recordings, and other resources and materials. Council has given an update on houselessness, including the camping code, during the Good of the Order at almost every meeting during this time.

W. This ordinance will be effective in normal course, 30 days after its second reading. However, the City Council recognizes that the ordinance will implement a new system of regulations that will impact people experiencing houselessness, and desires an interim period where the Deschutes County Coordinated Houseless Response Office, Deschutes County Behavioral Health, service providers, and City staff can engage with houseless community members to inform them of the new regulations. Although the ordinance will be effective in normal course, the Council desires that enforcement not begin before March 1, 2023. The City's administrative policy will remain in place until enforcement begins, but will eventually be repealed and replaced with a policy designed to implement the new ordinance.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. Bend Code Title 4 is created as shown on the attached Exhibit A.
- Section 2. Bend Code Chapters 5.55 and 5.70 are amended as shown on the attached Exhibits B and C.
- Section 3. All other provisions of Bend Municipal Code remain unchanged and in full effect.
- Section 4. If any provision, section, phrase or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

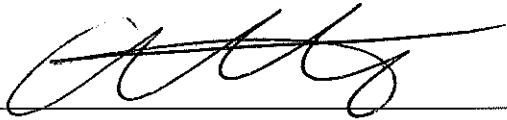
Section 5. This ordinance takes effect 30 days after its second reading. However, the City does not intend to begin enforcement of the ordinance earlier than March 1, 2023, for the reasons outlined in finding W, above.

First reading: November 16, 2022

Second reading and adoption by roll call vote: December 7, 2022

YES: Councilor Anthony Broadman  
Councilor Melanie Kebler  
Councilor Megan Perkins  
Councilor Stephen Sehgal

NO: Councilor Barb Campbell



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Anthony Broadman, Mayor Pro Tem

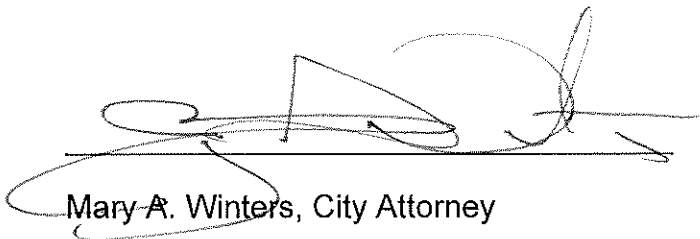
ATTEST:



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Robyn Christie, City Recorder

Approved as to Form:



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Mary A. Winters, City Attorney

## **Title 4**

### **CITY RESPONSES TO HOUSELESSNESS**

#### **Chapter 4.05 HOUSELESSNESS RESPONSE POLICY**

##### **4.05.010 Findings and Purpose**

A. The City of Bend finds that each community member of Bend is entitled to a basic level of dignity, respect, and wellness, regardless of whether they are housed or unhoused. It is the official policy of the City that its responses to homelessness will be undertaken in accordance with these principles.

B. It is the policy of the City of Bend to utilize all existing and potential sources of funding that are made available from the federal and state governments for the provision of services and shelter for homeless individuals.

C. The intent of the City Council is to regulate camping and survival sheltering in public right-of-way only in the context of the work that has been done by the City and will continue to occur at the City and regional level, and the City remains committed to a comprehensive houselessness policy, including through a Camping Resolution Strategy.

D. As its regional efforts continue, the City must appropriately consider various interests and formulate policy to best protect public health, safety, welfare, property, and the environment, with limited resources.

E. The City Council acknowledges the lack of nightly shelter beds and housing currently available regionally and recognizes the systemic lack of state and federal investment in shelter and public health services for those experiencing homelessness.

F. The City Council acknowledges that it is currently unavoidable that some people will live or shelter for survival outdoors until they are able to access affordable or free shelter or housing. In Bend, this has typically meant sheltering, sometimes for extended periods of time, on City rights-of-way and City property, and at times on other agency property (such as ODOT).

G. Public rights-of-way are generally intended for public use and travel. The City Council is the road authority for rights-of-way within the City; as such, the City must consider the safety of motorists and pedestrians travelling on roadways and sidewalks, including to and from neighboring properties, businesses, and residences. The City has had increasing concerns regarding safety due to camping on or in rights-of way in or near streets, roads, sidewalks, and public access points.

H. Over the long term and working with the Deschutes County Coordinated Homeless Response Office, the City's goal is that people should not have to live outside



and there should be safer options because long-term camping for survival sheltering outside is not a solution for people without houses.

I. The City owns extremely limited property where camping can or should be allowed, particularly since the City does not own or manage parks in the City. City utility properties (stormwater, water, sewer) are sensitive and generally closed to the public or have limited access for safety, environmental and security reasons.

J. It is the purpose and intent of the City Council to provide standards for camping and survival sheltering on City rights-of-way, which are intended to be as compatible as possible with the needs of everyone in Bend to be healthy, safe, and have access to public places. Smaller sites support the safety of people who are camping for survival on public property.

K. It is the purpose and intent of the City Council to provide standards for camping and survival sheltering on City rights-of-way which will address issues such as fire risk, unsanitary conditions, trash, and public safety hazards to people camping and neighboring businesses and community members, and environmental degradation, which have occurred with longer-term camping in the City.

L. It is the intent of the City to evaluate each removal of a campsite in light of the criteria in Chapter 4.20 and with considerations of public health and safety, including for the people who are sheltering in the camps, potential user conflicts, and available resources. The City will use a team approach and coordinate with the Deschutes County Coordinated Homeless Response Office as appropriate.

M. When the City of Bend removes a camp or closes a location people are sheltering in the public right-of-way, it will provide a minimum 72-hour notice to everyone that would be affected by the move, except in cases of exceptional emergency or criminal activity, as allowed by state law and set forth in this Title. The City looks for the safest options for cleaning the camp, often hiring a contract company that uses best practices and safe collection and works with service providers and the regional office for trauma informed care and minimizing harm. Unless there is a public health or safety reason for emergency removal, service providers or other community resources will be notified in advance to be on hand for support and outreach ahead of time, consistent with State law.

**Chapter ~~5.704.10~~**  
**SAFE PARKING PROGRAMS**

Sections:

- [4.10.0105.70.005](#) Purpose and Scope-
- [4.10.0105.70.010](#) Overnight Camping
- [4.10.0205.70.015](#) Transitional Overnight Parking Accommodations-
- [4.10.0255.70.020](#) Enforcement-

**4.10.0105.70.005 Purpose and Scope.**

A. Notwithstanding any other provision of this code or the Bend Development Code, up to three vehicles may be used by people who lack access to permanent or safe shelter and who cannot obtain other low-income housing for overnight camping in a parking lot or paved or gravel surface of a parcel of any size owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable.

B. A property owner or lessee who allows overnight camping on a property pursuant to this section shall:

1. Provide persons camping overnight with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all times people are authorized to be present for overnight camping; and
2. Not require payment of any fee, rent or other monetary charge for overnight camping authorized by this section.

C. A property owner who permits overnight camping pursuant to this section may revoke that permission at any time and for any reason. Any person who has permission to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.

D. The provisions of this section are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. [Ord. NS-2402, 2021]

**4.10.0155.70.010 Overnight Camping**

A. Notwithstanding any other provision of this code or the Bend Development Code, up to three vehicles may be used by people who lack access to permanent or safe shelter and who cannot obtain other low-income housing for overnight camping in a parking lot, or paved or gravel surface of a parcel of any size owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable.

B. A property owner or lessee who allows overnight camping on a property pursuant to this section shall:

1. Provide persons camping overnight with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all times people are authorized to be present for overnight camping; and
2. Not require payment of any fee, rent or other monetary charge for overnight camping authorized by this section.

C. A property owner who permits overnight camping pursuant to this section may revoke that permission at any time and for any reason. Any person who has permission

to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.

D. The provisions of this section are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. [Ord. NS-2402, 2021]

**4.10.0205.70.015 Transitional Overnight Parking Accommodations.**

A. With authorization from the City, up to six vehicles and/or tents may be used for overnight accommodation of people who lack permanent or safe shelter and who cannot obtain other low-income housing in a parking lot, or paved or gravel surface of property owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable, as temporary transitional overnight parking accommodations. A public entity may allow more than six vehicles and/or tents on property owned or leased by the public entity, with a plan approved by the City, based on the size of the parcel, supervision plan, and sanitation plan proposed by the public entity. Temporary transitional overnight parking accommodations must be located at least 150 feet from a childcare facility or school, unless the parking accommodations are located on property owned or leased by a public entity or religious institution.

B. These temporary transitional overnight parking accommodations are intended to be used by individuals, families, or households on a limited basis for seasonal, emergency or transitional housing purposes. The transitional overnight parking accommodations may provide parking facilities, walkways and access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities. Any sanitation or other facilities added to the location for temporary transitional overnight parking accommodation must be temporary and removable.

C. Temporary transitional overnight parking accommodations must, at a minimum:

1. Apply for and receive authorization for operation from the City Manager or designee, and agree to abide by all conditions, including acceptance of liability and demonstration of insurance coverage in amounts acceptable to the City. City authorization is not a land use decision;
2. Provide access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all hours, people are authorized to be present for overnight parking, including the additional hours campers may stay at the site;
3. Provide supervision, case management, or supportive services. Supervision must include at a minimum nightly contact with each camper;
4. Develop policies that set out how individuals who may stay at the site will be selected, number of continuous days that someone may stay at the site, hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m.,

what supervision will be provided, and what structures and other items may be placed on the site;

5. Not require payment of any fee, rent, or other monetary charge for temporary transitional housing accommodation; and

6. Prior to allowing any person to stay overnight as part of a temporary transitional overnight parking accommodation, provide notice of the intention to allow temporary transitional overnight parking to each property owner and occupant of each adjacent property, and, every night any person stays overnight, post a notice at a prominent location on the site. These notices must include the following information:

a. The name of the property owner or lessee and person or entity providing site supervision, and a telephone number where the entity or individual providing supervision may be contacted;

b. The number of approved vehicles and/or tents; and

c. The hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m.

D. Property owners who allow temporary transitional overnight parking under this section may revoke permission for program operation at any time and for any reason. Any person who is on property for temporary transitional overnight parking accommodations under this section must leave the property immediately after permission has been revoked.

E. The provisions of this section for temporary transitional overnight parking are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. [Ord. NS-2402, 2021]

**4.10.0255-70.020 Enforcement.**

A. Notwithstanding any other provision of this section, the City Manager or designee may:

1. Revoke authorization for temporary transitional overnight parking for violations of the requirements of this chapter;

2. Prohibit overnight camping or temporary transitional overnight parking on a property if the City finds that any activity related to the overnight camping or temporary transitional overnight parking on that property constitutes a nuisance or other threat to the public welfare; or

3. Revoke permission for a person to camp overnight, whether in a temporary transitional overnight parking accommodation or not, on City-owned property if the City has a reasonable suspicion that the person has violated any

applicable law, ordinance, rule, guideline or agreement, or that the activity constitutes a nuisance or other threat to the public welfare.

B. No activity associated with overnight camping or temporary transitional overnight parking is allowed to occur that constitutes a nuisance or other threat to the public welfare.

C. Violation of the provisions of this chapter is a Class A infraction each day a violation occurs.

D. The City Manager may adopt administrative rules in the manner provided in BC [1.30.005](#) to implement this section.

E. Nothing in this section of this code creates any duty on the part of the City or its agents to ensure the protection of persons or property with regard to permitted overnight camping or temporary transitional overnight parking accommodations. [Ord. NS-2402, 2021]

## **Chapter 4.20 USE OF PUBLIC RIGHTS-OF-WAY AND CITY PROPERTY FOR CAMPING**

Sections:

- 4.20.010 Purpose and Scope.
- 4.20.015 Definitions
- 4.20.020 Camping Prohibited
- 4.20.025 Enforcement.
- 4.20.030 Time, Place and Manner Regulation
- 4.20.035 Vehicles
- 4.20.040 Violations

### **4.20.010 Purpose**

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

With this in mind, this Chapter is intended to regulate the use of public rights-of-way and City property to protect and preserve public places for their designed and intended purposes, while also making them available for shelter and sleeping by people who have no other options for shelter.

The City recognizes that surviving on City streets is typically an option of last resort. This Chapter and the City's enforcement efforts will be focused on mitigating the impacts to public health and safety that can arise from survival camping in public places.

#### **4.20.015 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 24-hours or more.

Note: "camp" "camping" "camp materials" and "established campsite" do not include vehicles, automobiles, or recreational vehicles used for shelter and/or sleeping, which are regulated at Section 4.20.025 of this Chapter.

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

#### **4.20.020 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 Bend Development and/or Municipal Code.

#### **4.20.025 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.

#### **4.20.030 Time, Place and Manner Regulations**

A. People who do not have any other permanent residence or domicile and/or 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 for 24-hours at a time in any one location. After a camp has been in one place for 24-hours or more, 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 Section 4.20.030.

2. After 24-hours in one location, the camp and all associated camp materials must be moved at least one block or 600 feet.

3. Enforcement of time restrictions may be suspended when an individual does not have access to shelter and when an individual is engaged in case management or behavioral health services, or 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.

C. Place.

1. In addition to the prohibition on camping on City property in Section 4.20.020, camping is not allowed at any time in any of the following places:

a. Any area zoned Residential (RL, RS, RM, RH) on the City of Bend Zoning Map in effect at the time.<sup>1</sup>

b. Within the Waterway Overlay Zone, as determined by the City of Bend Zoning Map and Bend Development Code.

c. Any place where camping, a camp, or camp materials create a physical impediment to emergency or non-emergency 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.

d. Any vehicle lane, bicycle lane, or roundabout within any public right-of-way.

e. Within 1000 feet from any Safe Parking Site or shelter approved under the Bend Development Code and/or any applicable provision of state law.

f. On any street or public right-of-way, the City has closed to camping due to construction, heavy vehicle use, or other use of the roadway that is incompatible with camping in the right-of-way. The City does not need to close a street to vehicle traffic to close a street to camping under this section.

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

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<sup>1</sup> Zone changes amend the City of Bend Zoning Map but may not always be evident on the most recently published version of the map. The formal zoning designation of an area will control even if not reflected on the most recently published map. For public rights-of-way adjacent to properties with different zoning designations, the designation that is more restrictive for purposes of this Chapter will govern the use of that segment of the right-of-way.



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, no more than three camps may be set up per block. If there are any camps set up on a particular block, no other camp may be within 150 feet of any of those camps, including but not limited to across the street or on another block face. A group of up to three camps may not be within 150 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 Bend 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 5.50.020.A. is prohibited.

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

#### **4.20.035 Vehicles**

A. Chapter 6.20 of the Bend Municipal Code governs where and for how long individuals may legally park vehicles on public rights-of-way within the City of Bend. 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 Bend 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 Bend 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 BC 5.50.020.A., is prohibited.

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

C. Notwithstanding Bend Municipal Code 6.20 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:

1. Within 500 feet of any Safe Parking Site or shelter approved under the Bend Development Code and/or any applicable provision of state law.

2. Within 1000 feet of the City's emergency shelter at 275 NE 2<sup>nd</sup> Street, but bound by the geographic barriers of the US-97/Parkway to the west and 3<sup>rd</sup> Street to the east, generally described as follows:

- NE 2<sup>nd</sup> Street between NE Burnside Ave and NE Franklin Ave;
- NE Emerson Ave from its western terminus east of US-97/Parkway to NE 3<sup>rd</sup> Street;
- NE Dekalb Ave from its western terminus east of US-97/Parkway to NE 3<sup>rd</sup> Street;
- NE Burnside Ave from NE 2<sup>nd</sup> Street to NE 3<sup>rd</sup> Street;
- SE Scott Street from the US-97/Parkway overpass to SE 3<sup>rd</sup> Street; and
- SE Aune Street from the US-97/Parkway overpass to SE Scott Street.

2. In any City parking lots or parking structures.

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.

#### **4.20.040 Violations**

A. A citation for a violation of this Chapter will be for a Class C civil infraction. 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 enforcement personnel will contact the person and provide a reasonable opportunity to cure or remedy the alleged violation. In most cases, enforcement personnel will assess whether the person subject to citation has been referred to service providers and/or the Deschutes County Coordinated Homeless Response Office, 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 enforcement personnel 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 Section B, above, 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 Section E, below. 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 enforcement personnel 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, including the Deschutes County Coordinated Homeless Response Office.
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, or 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; or 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. If the danger to human life or safety can be reduced by moving the established campsite to a safer location, such as an adjacent landscape strip, the campsite should be moved rather than removed.

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 ten (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 Section E., below.
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 thirty (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 at or near one of the City business campuses, 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 thirty (30) days, or such duration as required or allowed by law.

## Chapter 5.55 PARKS

Sections:

- 5.55.000 Definitions.
- 5.55.005 Violations.

### 5.55.000 Definitions.

For purposes of this chapter, the following mean:

- A. **Public parks** means all property owned or controlled by the City or by the Bend Metropolitan Park and Recreation District and operated for the public’s recreational use.
- B. **Person** means a person, firm, or corporation, not including City or Bend Metropolitan Park and Recreation District personnel or their agents. [Ord. NS-2142, 2010]

### 5.55.005 Violations.

- A. Persons using public parks and other City property shall obey the following rules and regulations:
  - 1. No unauthorized person shall cut, remove or damage vegetation except property owners may engage in normal landscaping activities in adjacent rights-of-way.
  - 2. No person shall build a fire. Portable propane camp stoves and propane barbecues may be used in the parks only if in safe operating condition and only if operated in a safe manner and in such a way as to avoid damage to park property.
  - ~~3. No person shall camp except in areas designated for camping or in connection with activities authorized by the City or the District.~~
  - 4. No person shall damage or injure a building, installation, equipment or other property in public parks.
  - 5. No person shall sell merchandise or services, or operate a concession in public parks without permission of the Bend Metropolitan Park and Recreation District and shall possess, on their person, evidence of the permission.

6. No person shall litter in the parks or City-owned property. Garbage and refuse shall be deposited in proper receptacles provided for this purpose or carried off for disposal. Garbage and refuse shall not be brought to parks or City-owned property.
  7. No person shall operate or park a motor vehicle except on roads or designated parking areas unless a special permit has been issued by the Park District.
  8. Except as authorized by the Park District, no person shall ride or lead a horse in a public park except on a designated bridle path, except with a special permit. Horses or other animals shall not be tied to a tree or shrub in such a manner as to cause damage to the tree or shrub.
  9. No person shall project items into the air that may harm parks or people, such as golf equipment, archery equipment, discus, javelin, or shot put in parks except as permitted by the Park District.
  10. Except as authorized by the Oregon Department of Fish and Wildlife or the Bend Metropolitan Park and Recreation District, no person shall feed, hunt, pursue, trap, kill, injure or disturb the habitat of a bird or animal.
  11. Except as authorized by State or Federal law, no person shall possess a loaded firearm in a park.
  12. No person shall dig up, deface or remove dirt, stones, rock or other substances nor make any excavation.
  13. No person shall erect signs, markers or instructions without City or District permission.
  14. No person shall wash clothing or materials or clean fish in streams or pools.
  15. No one may use any rolling device such as a bicycle, skateboard, scooter, inline skates, etc., in a manner that is likely to cause potential harm to other people, pets, wildlife or District property; or on sports fields, playgrounds, tennis courts, off-leash areas or in areas reserved for special events. This does not prohibit the use of rolling devices in designated areas.
  16. All public parks and adjacent parking lots, with the exception of Brandis Square, shall be open from 5:00 a.m. until 10:00 p.m. and closed from 10:00 p.m. until 5:00 a.m. unless otherwise authorized. Transitory use shall be exempt.
  17. Alcohol use in parks is prohibited except when allowed by a permit issued by the Park District and/or the Bend Police Department. The fee for an alcohol consumption permit when issued by the Bend Police Department shall be set by Council resolution. The permit must be available for inspection during the term of use.
- B. A violation of this section is a Class B civil infraction. [Ord. NS-2142, 2010]



**The Bend Code is current through Ordinance NS-2453, passed August 17, 2022.**

Disclaimer: The city recorder's office has the official version of the Bend Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.bendoregon.gov](http://www.bendoregon.gov)

[Code Publishing Company](#)

## ~~Chapter 5.70~~

### ~~SAFE PARKING PROGRAMS~~

~~Sections:~~

~~5.70.005 Purpose and Scope.~~

~~5.70.010 Overnight Camping.~~

~~5.70.015 Transitional Overnight Parking Accommodations.~~

~~5.70.020 Enforcement.~~

#### ~~5.70.005 Purpose and Scope.~~

~~A. Safe parking, provided through overnight camping and transitional overnight parking accommodations described in this chapter, is intended to be used by individuals, families, or households who lack permanent or safe shelter and who cannot obtain other low-income housing on a limited basis for seasonal, emergency or transitional shelter purposes.~~

~~B. For purposes of this chapter, the term “vehicle” includes a car, camper, trailer, or recreational vehicle, and “tent” includes fabric structures, hard-shelled huts (so-called Conestoga hut or similar), or similar movable structure. All vehicles must be operable and movable, either by their own power or towing if designed to be towed. [Ord. NS 2402, 2021]~~

#### ~~5.70.010 Overnight Camping.~~

~~A. Notwithstanding any other provision of this code or the Bend Development Code, up to three vehicles may be used by people who lack access to permanent or safe shelter and who cannot obtain other low-income housing for overnight camping in a parking lot, or paved or gravel surface of a parcel of any size owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable.~~

~~B. A property owner or lessee who allows overnight camping on a property pursuant to this section shall:~~

~~1. Provide persons camping overnight with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all times people are authorized to be present for overnight camping; and~~

~~2. Not require payment of any fee, rent or other monetary charge for overnight camping authorized by this section.~~

~~C. A property owner who permits overnight camping pursuant to this section may revoke that permission at any time and for any reason. Any person who has permission to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.~~

~~D. The provisions of this section are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. [Ord. NS 2402, 2021]~~

### ~~5.70.015 Transitional Overnight Parking Accommodations.~~

~~A. With authorization from the City, up to six vehicles and/or tents may be used for overnight accommodation of people who lack permanent or safe shelter and who cannot obtain other low income housing in a parking lot, or paved or gravel surface of property owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable, as temporary transitional overnight parking accommodations. A public entity may allow more than six vehicles and/or tents on property owned or leased by the public entity, with a plan approved by the City, based on the size of the parcel, supervision plan, and sanitation plan proposed by the public entity. Temporary transitional overnight parking accommodations must be located at least 150 feet from a child care facility or school, unless the parking accommodations are located on property owned or leased by a public entity or religious institution.~~

~~B. These temporary transitional overnight parking accommodations are intended to be used by individuals, families, or households on a limited basis for seasonal, emergency or transitional housing purposes. The transitional overnight parking accommodations may provide parking facilities, walkways and access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities. Any sanitation or other facilities added to the location for temporary transitional overnight parking accommodation must be temporary and removable.~~

~~C. Temporary transitional overnight parking accommodations must, at a minimum:~~

~~1. Apply for and receive authorization for operation from the City Manager or designee, and agree to abide by all conditions, including acceptance of liability and demonstration of insurance coverage in amounts acceptable to the City. City authorization is not a land use decision;~~

~~2. Provide access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all hours people are authorized to be present for overnight parking, including the additional hours campers may stay at the site;~~

~~3. Provide supervision, case management, or supportive services. Supervision must include at a minimum nightly contact with each camper;~~

~~4. Develop policies that set out how individuals who may stay at the site will be selected, number of continuous days that someone may stay at the site, hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m., what supervision will be provided, and what structures and other items may be placed on the site;~~

~~5. Not require payment of any fee, rent, or other monetary charge for temporary transitional housing accommodation; and~~

~~6. Prior to allowing any person to stay overnight as part of a temporary transitional overnight parking accommodation, provide notice of the intention to allow temporary transitional overnight parking to each property owner and occupant of each adjacent property, and, every night any person stays overnight, post a notice at a prominent location on the site. These notices must include the following information:~~

~~a. The name of the property owner or lessee and person or entity providing site supervision, and a telephone number where the entity or individual providing supervision may be contacted;~~

~~b. The number of approved vehicles and/or tents; and~~

~~c. The hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m.~~

~~D. Property owners who allow temporary transitional overnight parking under this section may revoke permission for program operation at any time and for any reason. Any person who is on property for temporary transitional overnight parking accommodations under this section must leave the property immediately after permission has been revoked.~~

~~E. The provisions of this section for temporary transitional overnight parking are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code. {Ord. NS 2402, 2021}~~

### ~~5.70.020 — Enforcement.~~

~~A. Notwithstanding any other provision of this section, the City Manager or designee may:~~

~~1. Revoke authorization for temporary transitional overnight parking for violations of the requirements of this chapter;~~

~~2. Prohibit overnight camping or temporary transitional overnight parking on a property if the City finds that any activity related to the overnight camping or temporary transitional overnight parking on that property constitutes a nuisance or other threat to the public welfare; or~~

~~3. Revoke permission for a person to camp overnight, whether in a temporary transitional overnight parking accommodation or not, on City owned property if the City has a reasonable suspicion that the person has violated any applicable law, ordinance, rule, guideline or agreement, or that the activity constitutes a nuisance or other threat to the public welfare.~~

~~B. No activity associated with overnight camping or temporary transitional overnight parking is allowed to occur that constitutes a nuisance or other threat to the public welfare.~~

~~C. Violation of the provisions of this chapter is a Class A infraction each day a violation occurs.~~

~~D. The City Manager may adopt administrative rules in the manner provided in BC 1.30.005 to implement this section.~~

~~E. Nothing in this section of this code creates any duty on the part of the City or its agents to ensure the protection of persons or property with regard to permitted overnight camping or temporary transitional overnight parking accommodations. {Ord. NS 2402, 2021}~~

~~The Bend Code is current through Ordinance NS-2453, passed August 17, 2022.~~

~~Disclaimer: The city recorder's office has the official version of the Bend Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.~~

~~City Website: [www.bendoregon.gov](http://www.bendoregon.gov)~~

~~Code Publishing Company~~

**From:** [Amy Fraley](#)  
**To:** ["reachoutcentraloregon@gmail.com"](mailto:reachoutcentraloregon@gmail.com); [Kara Cronin](#); [Colleen Thomas](#); ["sharonb@shministries.org"](mailto:sharonb@shministries.org); [Sherri Meisel](#); ["jimtudor2@gmail.com"](mailto:jimtudor2@gmail.com); [Jason Gault](#); ["Casey.Sadahiro@mosaicmedical.org"](mailto:Casey.Sadahiro@mosaicmedical.org); [Brook Okeefe](#); [Katie De Vito](#); ["isaac.montoya@mosaicmedical.org"](mailto:isaac.montoya@mosaicmedical.org); [Emily Horton](#); [Katy Segura-Whitman](#); ["nicky@covillages.org"](mailto:nicky@covillages.org); [Chuck Hemingway](#); ["Buell.sharon@gmail.com"](mailto:Buell.sharon@gmail.com); [Chris Ogren](#); ["etq2@case.edu"](mailto:etq2@case.edu); [Johannah Johnson-Weinberg](#); ["donna@familykitchen.org"](mailto:donna@familykitchen.org); [John Ryan](#); [John Lodise](#); [Evan Hendrix](#); [Elizabeth Wilson](#); ["gwenn@bethleheminn.org"](mailto:gwenn@bethleheminn.org); ["tara@bethleheminn.org"](mailto:tara@bethleheminn.org); [Autumn Rackley](#); [Todd Rundall](#); [Jim O'Neal](#); [Lindsey Stailing](#); ["covo@covo-us.org"](mailto:covo@covo-us.org); [Staff@Peace-Kitchens.com](mailto:Staff@Peace-Kitchens.com)  
**Cc:** [Carrie Karl](#); [Ian Leitheiser](#)  
**Subject:** Hunnell, Clausen and Loco Closure - Provider Meeting

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Hello,

In late 2022, the City assessed and determined that the area of North Hunnell Road (between Cooley Road and a dead-end cul-de-sac to the north) has created a threat to public health, safety and the environment.

The City of Bend will be closing Hunnell, Clausen and Loco roads to camping on July 17, 2023.

City staff will notice campers, per the Camping Code, in advance of the closure and will provide campers with additional information beginning on Friday, June 23, 2023. You are invited to a meeting next Tuesday June 27, 2023.

The invite is open to providers and partner agencies.

Thank you,

Amy Fraley

-----Original Appointment-----

From: Amy Fraley

When: Tuesday, June 27, 2023 9:00 AM-10:00 AM (UTC-08:00) Pacific Time (US & Canada).

Where: Microsoft Teams Meeting

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Microsoft Teams meeting

Join on your computer, mobile app or room device

Click here to join the meeting <[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_YTI3OGJhNGYtNjEyMi00NGZILWEzYjYtZDRkYjc0NzMwOWRj%40thread.v2/0?context=%7b%22id%22%3a%221c153348-15ef-4708-aebf-1e25e57dc400%22%2c%22oid%22%3a%2292ef8b86-6cad-4e79-8d70-ca38cb7a5f29%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_YTI3OGJhNGYtNjEyMi00NGZILWEzYjYtZDRkYjc0NzMwOWRj%40thread.v2/0?context=%7b%22id%22%3a%221c153348-15ef-4708-aebf-1e25e57dc400%22%2c%22oid%22%3a%2292ef8b86-6cad-4e79-8d70-ca38cb7a5f29%22%7d)>

Meeting ID: 286 509 968 078

Passcode: 8PHGaZ

Download Teams <<https://www.microsoft.com/en-us/microsoft-teams/download-app>> | Join on the web <<https://www.microsoft.com/microsoft-teams/join-a-meeting>>

Join with a video conferencing device

[bendoregon@m.webex.com](mailto:bendoregon@m.webex.com) <<mailto:bendoregon@m.webex.com>>

Video Conference ID: 112 953 335 2

Alternate VTC instructions <<https://www.webex.com/msteams?confid=1129533352&tenantkey=bendoregon&domain=m.webex.com>>

Or call in (audio only)

+1 503-946-5336,,924853687# <<tel:+15039465336,,924853687#>> United States, Portland

Phone Conference ID: 924 853 687#

Find a local number <<https://dialin.teams.microsoft.com/bf11c4e7-f92f-4fbd-a55a-e814adf2cc19?id=924853687>> | Reset PIN <<https://dialin.teams.microsoft.com/usp/pstnconferencing>>

Learn More <<https://aka.ms/JoinTeamsMeeting>> | Meeting options <<https://teams.microsoft.com/meetingOptions/?organizerId=92ef8b86-6cad-4e79-8d70-ca38cb7a5f29&tenantId=1c153348-15ef-4708-aebf->>

1e25e57dc400&threadId=19\_meeting\_YTI3OGJhNGYtNjEyMi00NGZILWEzYjYtZDRkYjc0NzMwOWRj@thread.v2&messageId=0&language=en-US>

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# Camping and Parking Closure

This area will be closed to all camping and parking beginning July 17, 2023, so that the City can perform clean up and road work.

Please collect your belongings and vacate the area no later than July 17. A list of resources and service providers can be found on the back of this flyer.



**Where:** Hunnell Road, Loco Road, and Clausen Road

**When:** Beginning 07/17/2023 at Midnight

City code allows camping subject to rules about where, when, and how camping may occur. This area will be off limits to all camping and parking beginning July 17 so that the City can clean the area, but other areas in the City may be used for camping subject to those rules.



**Accommodation Information for People with Disabilities** To obtain this information in an alternate format such as Braille, large print, electronic formats, etc. please contact Cassandra Kehoe at [ckehoe@bendoregon.gov](mailto:ckehoe@bendoregon.gov) 541-693-2141 Relay Users Dial 7-1-1



# RESOURCES

## City of Bend

EMERGENCY FIRE & POLICE: 911

POLICE NON-EMERGENCY: 541-693-6911

PROPERTY STORAGE RETRIEVAL: 541-317-3000

575 NE 15th St.

## Deschutes County

24-HOUR CRISIS PHONE LINE: 541-322-7500 ext. 9

Available to anyone experiencing a crisis or in need of crisis support

WALK-IN CRISIS SERVICES:

Deschutes County Stabilization Center  
63311 NE Jamison Street Bend, OR 97703  
(541) 585-7210- Office Line (Non-Emergency)

HOMELESS SERVICES OUTREACH TEAM:

[colleen.thomas@deschutes.org](mailto:colleen.thomas@deschutes.org)

## Coordinated Entry Hotline –

ASSESSMENTS TO ACCESS SHELTERS & WAITLISTS: Call 541-630-2533 on Tuesday or Thursday from 12PM – 4PM

**211 – Resource Center** CALL: 211

## The Lighthouse Navigation Center

SHELTER: 24/7 Low barrier, walk up shelter and services;

275 NE 2nd Street Bend, OR 97701; [541-318-0729](tel:541-318-0729);

[lighthouseinfo@shministries.org](mailto:lighthouseinfo@shministries.org)

INTAKE HOURS: 7 days a week - 7 am - 10 pm

Homeward Bound – Assistance to procure and pursue transportation home

## REACH –

MOBILE CASE MANAGEMENT & SAFE PARKING:

[reachoutcentraloregon@gmail.com](mailto:reachoutcentraloregon@gmail.com) (425) 765-1782

## Bethlehem Inn

SHELTER: High-barrier, Family Units

3705 N Highway 97; 541-322-8768; [info@bethleheminn.org](mailto:info@bethleheminn.org)

## Central Oregon Veteran’s Outreach

SHELTER & SUPPORT SERVICES (541) 383-2793

## LOFT, Grandma’s House, AT Project and Street Outreach –

YOUTH & YOUNG ADULT SHELTER & SERVICES:

1-800-660-3005

**Central Oregon Villages –** SHELTER: Tiny home (high barrier) and Safe Parking site 541-382-1672 [info@covillages.org](mailto:info@covillages.org)

## Stepping Stone Shelter – NeighborImpact

SHELTER:(Coordinated Entry) former motel non- congregate shelter, 541-548-2380

<https://www.neighborimpact.org/housing-help/>

## Franklin Avenue Shelter –

SHELTER: former motel (low barrier); Contact

Shepherd’s House Navigation Center [541-318-0729](tel:541-318-0729)

## Saving Grace – Domestic Violence survivor services,

HOUSING & SHELTER: 541-382-9227

## St. Vincent De Paul –

SHELTER, TRANSITIONAL HOUSING & FOOD:

SE Third St. Bend OR 97702, Phone: (541) 389-6643

Monday: 10am-2pm, 3pm-6pm

Tuesday - Thursday: 10am-2pm

Email: [stvincentbend@gmail.com](mailto:stvincentbend@gmail.com)

## DAWNS House –

PARKING & SHELTER: Safe Parking and high barrier (sober) shelter for women (with children)

[541-410-6065](tel:541-410-6065)

## THRIVE –

HOUSING STABILIZATION SERVICES: 541-728-1022

## Family Kitchen –

MEAL SERVICE: 231 NW Idaho Avenue Bend, Oregon 97703; [Familykitchen.org](http://Familykitchen.org)

M, W, F: 10:30am-12:30pm

T, Th, F: 4:40-6:30pm

Saturday: 11:00am-12:30pm

## Mosaic Medical –

MEDICAL SERVICES: 541-383-3005

## Companion Animal Medical Project

ANIMAL MEDICAL: 541-728-3439

## NeighborImpact

RENT & DEPOSIT ASSISTANCE: 541-323-0222 or apply online at [neighborimpact.org](http://neighborimpact.org)

FOOD BANK: variety of food banks, including mobile food bank. Phone: 541-323-6520

COCC MOBILE PANTRY: Location: Parking lot at 2600 NW College Way on Second Tuesday of each month

## Additional Resources:

<https://www.neighborimpact.org/answerbook/>

[https://www.neighborimpact.org/providers/?\\_sft\\_location=bend&\\_sft\\_services=food](https://www.neighborimpact.org/providers/?_sft_location=bend&_sft_services=food)

## Nativity Lutheran Food Distribution:

FOOD DISTRIBUTION: Phone: 541-388-0765

Address: 60850 Brosterhouse Rd.

Times: Tuesday from 12:30 PM – 3:00 PM EXHIBIT D

# NOTICE OF CLOSURE / AVISO DE CIERRE

**Location / Ubicación:** Hunnell, Loco, and Clausen Roads, North of Cooley Rd. /  
Carreteras Hunnell, Loco y Clausen, al norte de Cooley Rd.

Case Number / Número de caso:

**Date & Time of Notice /  
Fecha y hora del aviso:**

[Redacted]

**City Staff /  
Personal de la Ciudad:**

Gault/Meisel

This area will be closed to all camping and parking after July 17, 2023, so that the City can clean the area. This closure includes all sheltering in tents/portable structures and in vehicles, including but not limited to RVs, campers, and cars, and all vehicle parking. All personal property, including but not limited to RVs, campers, and cars, must be removed from the area no later than July 17, 2023. / Esta área se cerrará para todos los campamentos y estacionamientos después del 17 de julio de 2023, con el objetivo de que la municipalidad pueda limpiar el área. El cierre incluye todos los refugios en tiendas de campaña/estructuras portátiles y en vehículos, incluidos, entre otros, vehículos recreativos, casas rodantes y automóviles, así como todo el estacionamiento de vehículos. Todos los bienes personales, incluidos, entre otros, vehículos recreativos, casas rodantes y automóviles, deben retirarse del área a más tardar el 17 de julio de 2023.

**You are required to leave this area and remove all personal property no later than / Debe abandonar esta área y retirar todos sus bienes personales a más tardar el**      **date / fecha).**

**A shelter is open at 275 NE Second St. You may contact Shepherd's House at (541) 388-2096 ext. 1 to learn about staying there. / Hay un refugio abierto en 275 NE Second St. Puede comunicarse con Shepherd's House al (541) 388-2096 Ext. 1 para obtener información sobre cómo alojarse allí.**

For information on other available social service resources / Para obtener información sobre otros recursos de servicios sociales disponibles:

**REACH:**  
(425) 765-1782

**Deschutes County's Homeless  
Outreach Program / Programa de  
ayuda para personas sin hogar del  
condado de Deschutes:** (458) 292-  
6397

**Project S.H.A.R.E. of Shepherd's  
House / Proyecto S.H.A.R.E.  
de Shepherd's House:**  
(541) 388-2096, ext. 206

Unclaimed personal property and vehicle will be securely stored for 30 calendar days at a City facility. To retrieve personal property, you must first call (541) 317-3000 ext. 3 during business hours (Monday-Friday, 7 a.m. – 4 p.m.) to arrange a time to collect your items. Personal property unclaimed after 30 days will be destroyed or donated.



/ Los bienes personales y los vehículos sin reclamar se almacenarán de forma segura durante 30 días en una instalación de la municipalidad. Para recuperar los bienes personales, primero debe llamar al (541) 317-3000 Ext. 3, durante horas hábiles (de lunes a viernes de 7 a. m. a 4 p. m.) para programar un horario para recoger sus artículos. Los bienes personales sin reclamar después de 30 días, serán destruidos o donados.

**Accommodation Information for People with Disabilities**

To obtain this information in an alternate format, and/or reasonable accommodation for the removal, relocation and cleanup, please contact: Cassandra Kehoe at (541) 693-2141 or [ckehoe@bendoregon.gov](mailto:ckehoe@bendoregon.gov)

**Información sobre acomodaciones para personas con discapacidades**

Para obtener esta información en un formato, y/o acomodaciones razonables para el desalojo, reubicación y limpieza, por favor contacte a: Cassandra Kehoe al (541) 693-2141 o [ckehoe@bendoregon.gov](mailto:ckehoe@bendoregon.gov)

# NOTICE TO MOVE / ANUNCIO PARA QUITAR UN BIEN PERSONAL

Location / Ubicación: \_\_\_\_\_

Case Number / Número de caso: \_\_\_\_\_

Date & Time of Notice / Fecha y hora del  
aviso: \_\_\_\_\_

City Staff / Personal de la municipalidad: \_\_\_\_\_

**72-HOUR NOTICE TO MOVE / AVISO DE 72 HORAS PARA MOVER UNA PROPIEDAD**

This area will be cleaned, and you have been in the location longer than the time allowed by Chapter 4.20 of the City of Bend Municipal Code. You must remove all of your personal property, including any vehicles and any other belongings, and vacate the area by 11:59 PM on July 17, 2023. Personal property, including any vehicles and other belongings, remaining in the area after that time will be removed and stored. / Se limpiará esta área. Usted ha estado en el lugar más tiempo del permitido por el Capítulo 4.20 del Código municipal de la ciudad de Bend. Debe retirar todos sus bienes personales, incluidos los vehículos y otras pertenencias, y desalojar el área antes de las 11:59 p. m. del 17 de julio de 2023. Los bienes personales, incluidos los vehículos y otras pertenencias, que permanezcan en el área después de esa hora se trasladarán a otro lugar y se guardarán.

**EMERGENCY NOTICE TO MOVE / ANUNCIO DE EMERGENCIA PARA QUITAR UN BIEN PERSONAL**

You must immediately remove all of your personal property, including any vehicles and any other belongings, from the area. / A usted se le ordena que de inmediato quite su tienda y pertenencias de la calle pavimentada o banqueta debido a:

**Possible site contamination by hazardous materials. / Posible contaminación del sitio por materiales peligrosos.**

**Immediate danger to human life or safety. / Peligro inmediato para la vida o la seguridad de las personas.**

Reason / Razón:

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Unclaimed personal property (other than vehicles) will be stored for 30 calendar days at 575 NE 15<sup>th</sup> Street in Bend. Vehicles will be stored at a Deschutes County facility on SE 27<sup>th</sup> Street in Bend. **To retrieve personal property, including vehicles, an appointment is required:** you must first call (541) 317-3000 ext. 3 during business hours (Monday – Friday, 7 a.m. – 4 p.m.) to arrange a time to collect your items. **There will be no drop-in visits or visits without an appointment.** Property unclaimed after 30 days will be destroyed or donated.

Los bienes personales sin reclamar (aparte de los vehículos) se almacenarán durante 30 días hábiles en 575 NE 15<sup>th</sup> Street en Bend. Los vehículos se guardarán en una instalación del condado de Deschutes en SE 27<sup>th</sup> Street en Bend. **Para recuperar bienes personales, incluidos vehículos, es necesario tener una cita,** primero debe llamar al (541) 317-3000 Ext. 3 durante el horario comercial (de lunes a viernes, de 7 a. m. a 4 p. m.) para programar un horario y recoger sus artículos. **No se aceptan visitas sin tener cita previa.** Después de 30 días, la propiedad sin reclamar se destruirá o se donará.

**For information on available social service resources / Para más información sobre recursos de servicios sociales disponibles:**

**REACH:**  
(425) 765-1782

**Deschutes County’s Homeless Outreach Program / Programa de Ayuda para Personas sin Hogar del Condado Deschutes:**  
(458) 292-6397

**Project S.H.A.R.E. of Shepherd’s House / Proyecto S.H.A.R.E. de Shepherd’s House:**  
(541) 388-2096, ext. 206



**Accommodation Information for People with Disabilities**

To obtain this information in an alternate format, and/or to request a reasonable modification to the policy, practice, or procedure of this Notice of Removed Property, please contact Cassandra Kehoe at (541) 693-2141 or [ckehoe@bendoregon.gov](mailto:ckehoe@bendoregon.gov).

**Información adaptada para personas con discapacidad**

Para obtener esta información en un formato alternativo o para solicitar una modificación razonable de la política, la práctica o el procedimiento de este Anuncio sobre traslado de bienes personales, comuníquese con Cassandra Kehoe al (541) 693-2141 o [ckehoe@bendoregon.gov](mailto:ckehoe@bendoregon.gov).



CITY OF BEND

**RESPONDING TO CAMPING IN PUBLIC  
RIGHTS-OF-WAY AND ON CITY-OWNED  
PUBLIC PROPERTY**

**Policy No. 2023-4**

Bend Code Chapter 1.30.005 provides for 'City Manager Authority to Adopt Administrative Regulations, Policies and Guidelines.' All regulations, policies and guidelines adopted by the City Manager shall be consistent with the City of Bend Charter, the Bend Code, and council ordinances.

The following policy conforms to the above stated standards.

Authorized by City Manager:

Reviewed by Legal Counsel:

DocuSigned by:  
*Eric King*  
409FF33EB4E64D3...

DocuSigned by:  
*Ian M. Leitheiser*  
392FD2178C27458...

Eric King, City Manager

Ian Leitheiser, Assistant City Attorney

Dated: 5/5/2023

Dated: 5/5/2023



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## I. PURPOSE

A. The purpose of this Policy is to give City personnel direction on implementing the City of Bend Municipal Code (“BMC”) on Use of Public Rights-of-Way and City Property for Camping, [BMC Chapter 4.20](#). The City recognizes the social nature of the problem of homelessness. This Policy is intended to provide guidance and direction for implementing the City Code to ensure the most humane treatment for removal of homeless individuals from camping sites on public property, as required by ORS 195.500. In addition to the general authority to create administrative policies, this Policy is authorized by [BMC 4.20.025.B](#).

B. The regulations adopted in [BMC Chapter 4.20](#) and [BMC Chapter 6.20](#) as applied to vehicles people are using to keep warm and dry are objectively reasonable with regard to persons experiencing homelessness, as required by HB 3115 adopted by the Oregon legislature in 2021, and shall be implemented as described in this Policy in an objectively reasonable manner, based on the totality of the circumstances, including the impact of the Policy on the person experiencing homelessness.

C. This Policy is intended to replace Policy ADM 2021-1, Management and Removal of Established Campsites in City Rights-of-Way. Policy ADM-2021-1 was intended to provide guidance for managing City rights-of-way in a manner consistent with state and federal law during the time the City did not have a camping code. Now that [BMC Title 4](#) has been adopted, Policy ADM-2021-1 is no longer necessary, and is revoked and terminated effective March 1, 2023, or the date on which the provisions of BMC Title 4 become effective, whichever is later.

## II. CAMPING ON CITY PROPERTY

A. It is prohibited at all times for any person to use City property<sup>1</sup> to camp or for camping or for the purpose of occupancy, habitation, or sheltering for survival in vehicles, automobiles, or recreational vehicles except on the following parcels:

1. No City-owned properties have been designated for camping at this time.

B. Juniper Ridge.

1. Camping on Juniper Ridge within City limits is subject to the provisions of this Policy, and enforcement shall be as set forth in this Policy.

2. Camping on Juniper Ridge outside City limits is governed by separate policy.

## III. ENFORCEMENT

A. In accordance with state law, ORS 195.500, the provisions of [BMC Chapter 4.20](#) and [BMC Chapter 6.20](#) for vehicles in which people are camping should be

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<sup>1</sup> City property, for purposes of [BMC Title 4](#) and this Policy, is distinct from public right-of-way.



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implemented and enforced in ways that ensure the most humane treatment for removal of homeless individuals from camping sites on public property.

- B. Enforcement of BMC Chapter 4.20 may be by the following methods:
1. Notice and removal or clean-up of camp material or other personal property that are creating or contributing to the violation,
  2. 72-hour advance notice of removal of an established campsite,
  3. Emergency removal without 72-hour advance notice, or
  4. Citation for violation. Citations will be issued only when other means of achieving compliance have been unsuccessful or are not practicable for the particular situation.

**Note:** See Section IV for procedures for issuing notices. See Section V for procedures for removing camps or property.

C. Enforcement of BMC Section 6.20.005. (Prohibited Parking) for vehicles that are being used for camping may be by the following methods:


1. Notice and removal by towing or impoundment, or
2. Citation for violation.
3. Except in extreme cases, towing or impoundment of a vehicle in which it appears someone is camping or sheltering for survival, should be to a facility where the vehicle can be reclaimed as Personal Property (See Section VII(G)), without payment of storage fees.

**Note:** See Section IV.D. for procedures for issuing notices and removing vehicles.

D. Pre-Enforcement process.

1. Except in the case on an emergency, before a civil infraction citation or notice of removal is issued, City personnel will contact the person and provide a reasonable opportunity to cure or remedy the alleged violation. City personnel should assess whether the person subject to citation or removal has been referred to service providers and/or the Deschutes County Coordinated Homeless Response Office (“CHRO”), and make a referral if it appears none has been made. City personnel will communicate to the person in a manner designed to help them understand the issue or problem:
  - a. The activity constituting the alleged violation, that the person appears to be responsible for the violation or the camp at which the violation is occurring;
  - b. The action required to fix the violation and the time and/or date by which the violation must be fixed; and

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c. A written or verbal warning that if the violation is not fixed within the time given a citation may be issued or the City may post the property or camp for removal. City personnel should inform the person of the maximum monetary citation that could be imposed.

2. City personnel should also advise the person of the relevant time restriction (i.e.: 24-hours for tent camping, and three (3) business days for vehicle parking).

3. City personnel should also provide written information on services available and the rules applicable to the camp.

**E. Suspension of Enforcement for Weather or Other Emergencies.**

Enforcement of any section or element of this Policy may be suspended or modified 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.

1. Weather. In recognition of the potential health effects of severe weather, including heat and cold, declared weather emergencies shall be taken into account in determining an appropriate enforcement response.

a. Weather Warning. City personnel may suspend or delay enforcement of a 72-hour notice of campsite removal if the National Weather Service or other recognized service providing weather forecasts that cover the city of Bend has declared a weather warning, including for wind chill, winter weather, ice storm, winter storm, blizzard, or excessive heat, but not including frost or freeze.

<b>WARNING</b>	A warning is issued when a hazardous weather or hydrologic event is occurring, imminent or likely. A warning means weather conditions pose a threat to life or property. People in the path of the storm need to take protective action.
<b>ADVISORY</b>	An advisory is issued when a hazardous weather or hydrologic event is occurring, imminent or likely. Advisories are for less serious conditions than warnings, that cause significant inconvenience and if caution is not exercised, could lead to situations that may threaten life or property.
<b>WATCH</b>	A watch is used when the risk of a hazardous weather or hydrologic event has increased significantly, but its occurrence, location or timing is still uncertain. It is intended to provide enough lead time so those who need to set their plans in motion can do so. A watch means that hazardous weather is possible. People should have a plan of action in case a storm threatens and they should listen for later information and possible warnings especially when planning travel or outdoor activities.

From: National Weather Service, [www.weather.gov](http://www.weather.gov).

b. Weather Advisory or Watch. When the National Weather Service or other recognized service providing weather forecasts that cover the city of Bend issues a weather advisory or watch, City personnel shall coordinate with the CHRO or other service providers to identify additional services to individuals camping on City rights-of-way that may be needed to mitigate threats to human health from the forecasted weather event including identifying additional places indoors for people to seek shelter

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and/or offering additional protective equipment like bottled water or cooling stations.

c. When assessing whether to suspend or delay enforcement of a 72-hour notice of campsite removal, City personnel should take into consideration forecast temperatures over a period of time, including wind, precipitation, humidity, and other factors. City personnel should consider whether health and safety will be more likely enhanced by a delay of enforcement or by taking action on a posted notice.

2. Wildfire Smoke. In recognition of the potential health effects of wildfire smoke, air quality shall be taken into account in determining an appropriate enforcement response.

a. The air quality index (AQI) should be measured on City-owned or operated testing devices, the U.S. EPA AirNow website, the Oregon Department of Environmental Quality's air quality website, or the Interagency Wildland Fire Air Quality Response Program.

b. When the AQI is above 100, City personnel may suspend or delay enforcement of a 72-hour notice of campsite removal or any other section of [BMC Chapter 4.20](#). City personnel should also coordinate with the CHRO or other service providers to identify additional services to individuals camping on City rights-of-way that may be needed to mitigate threats to human health from the forecasted AQI, including identifying additional places indoors for people to seek shelter and/or offering respiratory protective equipment.

3. When considering whether to suspend enforcement under this section, City enforcement personnel shall take into consideration whether removal or non-removal will be more likely to result in increased safety to the person or people subject to removal.

F. Tailored Enforcement for Disabilities or Other Reasons.

1. 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. Typical requests are likely to be for more time before a person can move (for modification of [BMC 4.20.030.B](#), Time), or for an allowance to maintain an item or items in violation of [BMC 4.20.030.D](#), Manner, or [BMC 4.20.035](#), Vehicles. In all but the most unusual situations, extension of time limitations should not exceed more than one week total. When the modification of enforcement relates to Manner restrictions, items must not block sidewalks, driveways, bike lanes, or drive aisles.

2. People with disabilities.

a. If a person asserts an inability to comply or a need for modified application of the provisions of [BMC Chapter 4.20](#) because of a disability,

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City personnel must engage in an interactive process to review the requested change in application of the provision at issue. A modification is not required to be given if it would pose an undue financial or administrative burden on the City or would fundamentally alter the nature of the program, activity, or services by the City. City personnel should use their discretion in applying this section and may consult with the City's Accessibility Manager and/or City Attorney's Office on specific or unusual requests.

b. City personnel should inquire about the nature of the asserted disability if not already apparent from the request. A person does not have to disclose a diagnosis or specify the disability to qualify for a modification of rules.

c. City personnel should ask what the person needs modified due to the disability.

d. Requests should be considered on an individual basis. Accommodations must be reasonable and not cause an undue burden or threat to public health or safety.

3. If a person asserts an inability to comply or a need for modified application of the provisions of [BMC Chapter 4.20](#) because they have minor children in their care or have employment obligations that related to the ability to comply with the code, or other reason, the request should be considered on an individual basis. Modifications must be reasonable, related to the reason for the inability to comply or request for alternate enforcement, and not cause an undue burden or threat to public health or safety.

G. Suspension of Enforcement when Engaged in Services. Enforcement of the time limitation under [BMC 4.20.030.B](#) or [BMC 6.20.005.J](#) may be suspended when a person does not have access to shelter because the person cannot stay at the Navigation Center or another shelter within the city of Bend, and has identified a shelter bed or other location to stay at the end of the suspended enforcement time period (this identification shall be considered "engaged in case management or behavioral health services" for purposes of this suspension of enforcement). In all but the most unusual situations, extension of time limitations should not exceed more than one week.

H. The City Manager may determine that a right-of-way should be closed to camping because construction, heavy vehicle use, or other use of the roadway is incompatible with camping ([BMC 4.20.030.C.1.f](#)). The City Manager shall provide a written order setting forth the particular roadways to be closed and reasons and duration for the closure and direct City personnel to post signs indicating the closure.

1. Notice and removal or citation of people camping in the closed area shall be as described below, Section III Notices for Removal. Prior to citation or removal, the steps described above in "Pre-Enforcement process" should be followed.

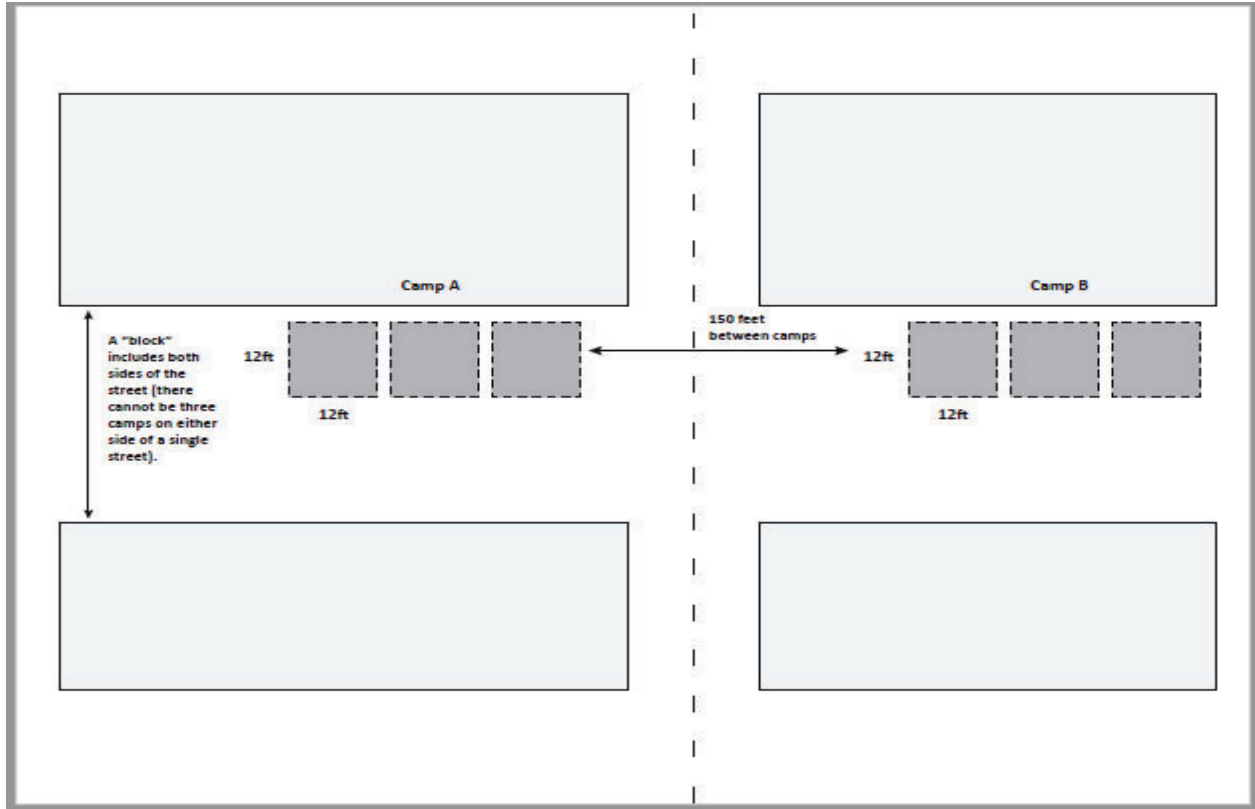
I. Grouping of camps. [BMC 4.20.030.D.c](#). If more than three camps are set up on a block, City personnel must follow the "Pre-Enforcement process" described above, and verbally or in writing inform all the individuals present that no more than three camps

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are allowed on one block, and that there must be at least 150 feet between groups of up to three camps.

1. A “block” includes both sides of the street (there cannot be three camps on either side of a single street).



2. A “camp” is one space up to 12 feet by 12 feet, and may include more than one tent.

#### IV. NOTICES REQUIRED FOR REMOVAL

For all notices under this Section, citation and removal of property or towing of vehicles should be an option of last resort, and the steps described above in “Pre-Enforcement process” should be followed.

**Note:** See Section V for procedures for removing camps or property.

##### A. 72-hour notice for removal of an established campsite.

1. When City personnel determine an established campsite should be removed for violation of the Bend Municipal Code, City personnel must post a notice at the entrance to the campsite, if any, or as near as practicable to the campsite that the campsite will be removed not sooner than 72-hours later.

2. The City will maintain a list of service providers that deliver services to homeless individuals in Bend to whom the City will provide notice when a 72-hour notice is posted. This list will include the CHRO and other service providers

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who use the Homeless Management Information System (HMIS); the list is only for the purposes of providing notice as required under ORS 195.505 and is not intended to be an exhaustive list of service providers in Bend or service providers using HMIS. The City will periodically review the list of service providers to whom it is providing notice under this section and will update as the City deems appropriate. Notice under this section may be provided in advance of posting a 72-hour notice, or within a reasonable time after posting, but must be given before expiration of the 72-hour timeframe.

3. When a 72-hour notice has been posted at an established campsite, the City may act on the notice and remove the campsite beginning 72 hours after posting and up to 10 days following the posting.

**B. Notice of clean up or removal of personal property (other than vehicles).**

1. When personal property is in violation of [BMC Chapter 4.20](#), City personnel must post a notice as near as practicable to the property that the property is in violation, will be removed not sooner than 24-hours later.

2. This notice is to be used when personal property will be cleaned up or removed, whether or not the property is at or part of an established campsite, but the established campsite will not be removed.

3. When a 24-hour notice has been posted at an established campsite, the City may act on the notice and remove the campsite beginning 72 hours after posting and up to 10 days following the posting.

**C. Exceptional Emergency.** A campsite or property at or comprising a campsite, other than vehicles, may be removed without advance 72-hour notice in the following circumstances:

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

2. 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. If the danger to human life or safety can be reduced by moving the established campsite to a safer location, such as an adjacent landscape strip, the campsite should be relocated rather than removed.

a. City personnel should follow the Pre-Enforcement process as described above, and provide a verbal and/or written notice to person(s) in/around the property. If people are present, City personnel should provide a reasonable time for people to move their own belongings. If there is a nearby location to move property to, out of the immediate danger, after giving the person responsible for the property an opportunity to move the items, City personnel should relocate property. If no location is available,



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City personnel may dispose of garbage, collect and remove property, and place into storage.

b. Dumping of black water and open flames ([BMC 4.20.030.D.1.e.](#) and [f.](#) and [BMC 4.20.035.B.2](#) and [3.](#)), or other violations, may be cause for immediate citation or removal in extreme circumstances when conditions pose an immediate danger to human life or safety. If a violation is not an immediate danger, the Pre-Enforcement process should be followed, with citation or removal after the appropriate notice if the person does not remedy the violation or take steps to prevent the violation from recurring.

D. Removal of debris and garbage. No notice is required prior to removing debris, garbage, or items that are clearly discarded within the right-of-way. City personnel are expected to use objectively reasonable discretion in determining whether advance notice should be provided when it cannot be clearly determined that items were discarded, and are not personal property, erring on the side of respecting the rights of those surviving on the streets.

E. Notice of removed property. Following removal of a campsite or personal property, the City must post a notice stating the location where removed personal property is being stored, and how individuals can contact the City to retrieve their personal property.

## V. REMOVAL OF VEHICLES

**Note:** Citation and towing of vehicles used as shelter should generally be an option of last resort, after following steps described above in “Pre-Enforcement process”.

A. The provisions of this Section are in addition to existing processes for towing of hazard vehicles or vehicles eligible for towing for violation of state law.

1. A vehicle may be towed from City right-of-way as an abandoned vehicle under ORS 819.110, if it has been parked or left standing for more than three business days and is not being used for shelter. (“Abandoned” for purposes of this Section means that the vehicle has been parked or left standing in excess of allowed time, even if people are using the vehicle in its parked location without moving it.) Prior to towing, notice shall be given as provided in ORS 819.170, and, if requested, a hearing under ORS 819.190.

2. Vehicles that are disabled or left standing in a location as to constitute a hazard or obstruction on City rights-of-way may be immediately towed in accordance with the provisions of ORS 819.120. Notice shall be given as described under ORS 819.180 and, if requested, a hearing described under ORS 819.190.

a. If City personnel believe a vehicle that constitutes a hazard or obstruction under ORS 819.120 is being used as shelter, the vehicle may not be towed until after a request has been made that the person sheltering in the vehicle move the vehicle or remedy the hazard or obstruction. If the vehicle is not moved or cannot be moved, or continues to pose a clear danger, City personnel may proceed with a hazard tow.

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B. As an alternative to the removal processes described in this Section, if the cost of the removal or tow will be paid by the City, the City and the owner or person apparently in charge of a vehicle used as shelter may jointly request a tow remove the vehicle to private or publicly-owned property designated for camping or safe parking purposes, or other private property on which the person has the consent of the property owner to locate the vehicle. City's consent will be given in the City's sole and reasonable discretion.

C. City Rights-of-Way

1. On City rights-of-way, vehicles in which people are camping or sheltering must comply with the Manner restrictions of [BMC Chapter 4.20](#), and the Time and Place restrictions of [BMC Chapter 6.20](#).

2. Manner.

a. After the Pre-enforcement procedures in Section III.D, if a vehicle being used for shelter is not brought into compliance with the Manner restrictions of [BMC Chapter 4.20](#), City personnel may issue a citation for noncompliance and/or issue a 72-hour notice for removal. When a notice is posted, City personnel will notify the CHRO. Notice to the CHRO may be provided in advance of posting a 72-hour notice, or within a reasonable time after posting, but before expiration of the 72-hour timeframe.

b. Vehicles being used for shelter or camping may be removed for violations of the Manner restrictions in [BMC Chapter 4.20](#), and stored as described in Section VII, Personal Property. City personnel should take into account limitations on storage locations, and removal should generally be prioritized for vehicles that are in violation of the Manner restrictions in ways that pose a threat to human health or safety, and once the vehicle has been parked overtime as described in Section 3 below.

c. If a vehicle poses a clear danger to public safety, the vehicle may be towed as a hazard under ORS 819.120.

3. Time.

a. In addition to engaging in the Pre-Enforcement procedures in Section III.D for vehicles that appear to be in violation of the time limitation of [BMC Chapter 6.20](#), prior to posting notice that a vehicle is in violation of those Time limitations, City personnel must document whether the vehicle has been parked in one location for longer than three business days. Documentation should include taking overall photos of the vehicle condition and location, the tire chalk (if marked) and valve stem position. No sooner than three business days, City personnel should return to the vehicle for follow-up. Based upon the totality of the circumstances, if City personnel believes the vehicle has remained parked in the same location, during the three business days, the vehicle may be posted with a notice of violation. If the vehicle is not being used as a shelter or as a campsite, a vehicle tow



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may be requested as an abandoned vehicle under ORS 810.110 and [BMC 6.30.005](#).

b. For vehicles being used as a shelter or campsite, vehicle tow should only be requested at the end of the above process if there are also serious manner violations. Notice of the tow must be posted at least 72-hours in advance of the tow. Vehicles used for shelter shall be removed to a City storage facility and stored in accordance with this Policy.

c. Vehicles being used for shelter or camping may be removed for violations of the Time restrictions in [BMC Chapter 6.20](#), and stored as described in Section VII, Personal Property. City personnel should take into account limitations on storage locations, and removal should generally be prioritized for vehicles that are in violation of the Time restrictions of [BMC Chapter 6.20](#) and Manner restrictions of [BMC Chapter 4.20](#) in ways that pose a threat to human health or safety.

D. City-Owned Property.

1. Public parking is only allowed where signed on City-owned property, including signed and designated parking lots in the Downtown Business District. Parking shall be in accordance with the posted signs and enforcement shall be by separate policy.

2. For City-owned property that has not been made available for parking or camping under [BMC Chapter 4.20](#) and this Policy, parking is prohibited. Vehicles parking on City-owned property, that are not being used as shelter or part of an established campsite, may be removed as private property under ORS 98.812 or ORS 98.830, subject to the required notices.

3. For vehicles being used as shelter or as part of an established campsite on City-owned property, City personnel shall follow the Pre-Enforcement procedures in Section III.D to notify a person that camping and parking are not allowed and that the person must remove the vehicle. If a vehicle is not voluntarily removed from City-owned property, City personnel may post a notice of removal at least 72-hours before the vehicle may be removed. The Vehicle may then be removed and stored as personal property removed from an established campsite, in accordance with this policy and ORS 195.505. City personnel must complete the form for towing as required by ORS 98.830.

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**VI. PROCEDURE FOR REMOVING CAMPSITES AND PROPERTY**

A. City personnel should make a reasonable effort to determine if any suspension or tailoring of enforcement, as described in Section II above, is appropriate.

B. If people are present when City personnel or contractors return following a posted notice to remove the property or campsite that was subject to the notice, people apparently in charge of the campsite, property, or vehicle should be given another verbal and/or written warning and a reasonable time to move their own campsite, property, or vehicle.

C. When removing individuals from an established campsite, the City 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 Policy prior to being asked by law enforcement or other City official to move.

D. Following removal of a campsite or personal property, the City must post a notice stating the location where removed personal property is being stored, and how individuals can contact the City to retrieve their personal property. When practicable and when the person or people responsible for the personal property are present, the notice should also be personally delivered to the individual(s).

E. When removing personal property, the City will make reasonable efforts to determine if property belongs to an individual and has any apparent utility. The City will make reasonable efforts to identify which campsite property was removed from, to aid in connecting people with their property removed by the City. Items that are of no apparent use or are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, and discarded as part of any cleanup efforts by the City.

F. "Personal property" means items reasonably recognizable as belonging to individuals and which have apparent utility. Personal property may consist of tents or other materials used as shelter, and other items not used for shelter. Personal property includes but is not limited to:

1. Identification documents
2. Medications
3. Photos/photo albums
4. Tents, sleeping bags, bedding (not soiled or contaminated)
5. Luggage, backpacks, purses
6. Clothing, jewelry, eyewear
7. Electronic equipment (in apparent working order, not dismantled)
8. Tools or materials in apparent useful condition for shelter or other purpose
9. Bicycles and other non-motorized means of transportation in apparent working order

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10. RVs, trailers, or other vehicles or movable items used as shelter

G. Weapons, controlled substances other than prescription medication, and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials. Additionally, items that appear to have a value of \$1,000 or more shall be given to law enforcement officials for secure storage.

**VII. STORAGE OF PERSONAL PROPERTY**

A. Personal property removed from campsites and unclaimed at the time of removal will be stored by the City at or near one of the City business campuses, as identified on the notice posted at the time of removal, where people can reasonably access to retrieve belongings. Stored personal property will be reasonably available for any individual claiming ownership.

1. The City will not store, and will discard, items that have no apparent use or are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination. The City will not store perishable food items or other items that, if left in storage for up to 30 days, could contaminate other stored property.

B. The City will keep records of the date property was received, a general description of the location the property was recovered from, the date the property must be stored until, and if known, a description or identification of the presumed owner of the property.

C. The City will make reasonable efforts to provide a range of times the storage location will be available for people to collect property.

D. The City will take reasonable precautions to secure stored property, including vehicles, but will not be responsible for loss or damage to stored property.

E. The City may dispose of any personal property that remains unclaimed after thirty (30) days, or such duration as required by statute. The City intends to offer unclaimed property to nonprofits that provide services to people experiencing homelessness prior to disposal.

F. Property held by the Bend Police Department shall be disposed of in accordance with Bend Police Department policies and all applicable state laws.

G. Vehicles.

1. Towed or removed vehicles in which people are camping or sheltering should be stored as personal property removed from an established campsite in accordance with this Policy.

2. The City will store vehicles in a reasonably secure location, consistent with practices for storing other removed personal property. Other than as required to facilitate tow or removal of a vehicle, or as may be required for other valid or law enforcement purpose in extraordinary circumstances, City personnel will not enter vehicles or perform any search, including an inventory search, of vehicle contents.

**City of Bend  
City Manager Administrative Policy**



3. The City will release vehicles to a person entitled to lawful possession with proof of valid license for the person driving the vehicle away. A person must provide proof of ownership or other indicia of ownership, or written authorization from registered owner. The City will not charge for storage or release of a vehicle.

4. If not retrieved after thirty (30) days, the vehicle will be considered unlawfully parked or abandoned pursuant to ORS 98.810 or other applicable statutes, and can be towed & impounded to a towing lot subject to storage and other lawful fees, liens, and disposal.

1 CERTIFICATE OF TRUE COPY

2 I hereby certified that the foregoing DEFENDANTS' RESPONSE TO  
3 PLAINTIFFS' MOTION FOR EMERGENCY HEARING is a true and exact copy of the  
4 original thereof.

5 Dated: July 17, 2023.

6 /s/ Elizabeth Oshel

7 \_\_\_\_\_  
8 Elizabeth Oshel, OSB #104705  
9 Assistant City Attorney, City of Bend  
10 [eoshel@bendoregon.gov](mailto:eoshel@bendoregon.gov)

11 CERTIFICATE OF SERVICE

12 I hereby certify that on July 17, 2023, I served a true and correct copy of the  
13 foregoing DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR EMERGENCY  
14 HEARING on the following via email, pursuant to Plaintiffs' "Notice of Plaintiff's Contact  
15 Information", filed July 14, 2023, and will provide copies to any Plaintiff who appears in  
16 court on July 17, 2023:

17 Charles Hemingway,  
18 [hemingwaych@bendnet.com](mailto:hemingwaych@bendnet.com).

19 *Pro Se Plaintiff*

20 /s/ Elizabeth Oshel

21 \_\_\_\_\_  
22 Elizabeth Oshel, OSB #104705  
23 Assistant City Attorney, City of Bend  
24 [eoshel@bendoregon.gov](mailto:eoshel@bendoregon.gov)