



DIVERSITY, EQUITY AND INCLUSION COMMITTEE AGENDA

December 13, 2022 at 6:00 PM

Wilsonville City Hall & Remote Video Conferencing

PARTICIPANTS MAY ATTEND THE MEETING AT:

City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon

Zoom: <https://us02web.zoom.us/j/88077295096>

TO PARTICIPATE REMOTELY OR PROVIDE PUBLIC COMMENT:

Register with Zoe Mombert:

Mombert@ci.wilsonville.or.us or 503-570-1503

Individuals may submit comments by 12:00 PM on the day before the meeting date via email to the address above, or may mail written comments to:

Zoe Mombert - Wilsonville City Hall

29799 SW Town Center Loop East, Wilsonville, OR 97070

CALL TO ORDER

1. Roll Call
2. Community Comment

CONSENT AGENDA

3. [November 8, 2022 Minutes](#)

COMMITTEE DISCUSSION & RECOMMENDATION

4. [Flag Policy](#)
5. [Prohibited Camping Outreach](#)
6. Cultural Calendar Council Suggestion - Addition of Oktoberfest
7. Juneteenth Subcommittee Update
8. Lecture Series Subcommittee Update

ADMINISTRATIVE BUSINESS

ADJOURN

NEXT MEETING

January 10, 2023 at 6:00 PM

Time frames for agenda items are not time certain (i.e. agenda items may be considered earlier than indicated). The City will endeavor to provide the following services, without cost, if requested at least 48 hours prior to the meeting by contacting Zoe Mombert, Assistant to the City Manager at 503-570-1503 or Mombert@ci.wilsonville.or.us; assistive listening devices (ALD), sign language interpreter, and/or bilingual interpreter. Those who need accessibility assistance can contact the City by phone through the Federal Information Relay Service at 1-800-877-8339 for TTY/Voice communication.

Habr  interpretes disponibles para aqu llas personas que no hablan Ingl s, previo acuerdo. Comun quese al 503-570-1503.



DIVERSITY, EQUITY & INCLUSION COMMITTEE - AMENDED MINUTES

November 08, 2022 at 6:00 PM

City Hall Council Chambers or Zoom (<https://us02web.zoom.us/j/83159324538>)

CALL TO ORDER, WELCOME & OVERVIEW OF THE MEETING

The meeting was called to order at 6:20 pm

Roll Call

In Attendance:

- Jay Edwards
- Luis Gonzalez
- Fay Gyapong-Porter
- Imran Haider
- Tracy Hester
- Diane Imel
- Camryn Lau
- Joni McNeill
- Sudeep Taksali

Absent:

- Santiago Landazuri
- Erika Pham
- Malak El Manhawym

Staff:

- Zoe Mombert
- Bill Evans

CONSENT AGENDA

1. October 11, 2022 Minutes

Diane Imel made a motion to approve the October 11, 2022 Minutes. Luis Gonzalez seconded the motion. Motion passed with unanimous consent.

COMMITTEE DISCUSSION & RECOMMENDATION

2. Let's Talk Wilsonville Introduction

- Active 3 years
- Designed for two-way communications
- Moderated forums and idea board are available
- 900 people on an email list from the website. 1 email per month from the website.
- Generally requires registration
- Interested in more diverse demographics
- Interested in demographic information for Let's Talk Wilsonville

3. **Cultural Calendar**

The committee discussed the recommendations provided on Let's Talk Wilsonville. There was specific discussion regarding holidays recognizing veterans, suicide prevention month and sexual assault awareness month. Ultimately, the committee recommended that the calendar recognizes cultural holidays and events that hold meaning to community members in historically-marginalized groups.

Joni McNeill made a motion to recommend the Cultural Calendar to the City Council for approval. Diane Imel seconded the motion. Motion passed with unanimous consent.

Cultural Calendar

January

- Emancipation Proclamation (1st)
- World Braille Day (4th)
- Martin Luther King Jr. Day (16th)
- Lunar New Year (Jan/Feb) (Jan 22nd in 2023)

February

- Black History Month

March

- Ramadan Begins
- Women History Month (8th)
- Holi (8th)
- Nowruz - (Iranian New Year/ Persian New Year (21ST -22ND))
- Cesar Chavez Day (31st)
- International transgender day of visibility (31st)

April

- Deaf Heritage Month
- Arab American Heritage Month
- Passover
- Ramadan ends Eld-al-Fitr

May

- Asian American and Pacific Islander Heritage Month
- Jewish American Heritage Month

June

- Pride Month

- Immigrant Heritage Month
- Juneteenth (19th)

July

- Disability Pride Month
- Americans with Disability Act (26th)

August

- International Day of the World's Indigenous Peoples (UN) (9th)
- National Senior Citizens Day (21st)
- Raksha Bandhan (30th)

September

- Hispanic Heritage Month (15TH – Oct. 15th)
- Rosh Hashanah (15TH – 17TH in 2023)
- Yom Kippur (24th -25th in 2023)

October

- Disability Heritage Month
- Indigenous Peoples Day (10th)
- World Mental Health Day (10th)
- National Coming Out Day (11th)

November

- Native American Heritage Month
- Dia de Los Muertos (1st)
- Transgender Day of Remembrance (20th)
- Diwali (between Oct/November based on Hindu lunar calendar) November 12 in 2023 (October 24, 2022)

December

- Rosa Parks Day (1st)
- International Day of Persons with Disabilities (3rd)
- Hanukkah (18th - 26th – changes)
- Kwanzaa (26th – Jan 1st)

4. **Follow up from the joint ACHC and DEI Committee meeting** – No committee input at this time.
5. **Juneteenth Subcommittee** – The City has two committed sponsors totaling \$6000 for the event. Committee members were asked to reach out to local business contacts they have to secure additional sponsorships. The Committee will discuss vendors at their next meeting.
6. **Lecture Series Subcommittee** –working on themes, format and a title for the program.

Diversity, Equity & Inclusion Committee - Amended

November 08, 2022

7. **Administrative Updates** – Staff requested input on descriptions of holiday symbols from committee members to provide to the Parks team for their holiday symbols hunt.

Staff also requested input on partnering with parks on a Black History Month movie. After some discussion the committee recommended that the city show “Hidden Figures” at the movie event.

ADJOURN - Meeting adjourned at 7:45 pm

Next Meeting: December 11, 2023 at 6:00 PM



City of Wilsonville Flag Policy

1. Purpose

The City of Wilsonville seeks to codify a flag policy for City-owned property that incorporates federal and State of Oregon flag display requirements, along with City-specific requirements. Additionally, the City adopted the Diversity, Equity and Inclusion (DEI) Strategic Plan on July 18, 2022 via Resolution No. 2979. The DEI Strategic Plan includes a strategic action item of “visual representation,” and references flags in that strategic action item. This Flag Policy establishes the framework for the City to engage in visual representation through flags.

2. United States Flag

2.1. General Requirements

The City must procure for each City-owned building a United States flag (“US Flag”) of suitable size, as determined by the City Manager or designee. The City will comply with the federal flag regulations as provided in 4 USC § 1-10, as may be amended and as summarized herein. The City may also consult the US Department of Veterans Affairs’ *Guidelines for Display of the Flag* attached as **Exhibit 1** for any further guidance regarding displaying the US Flag.

2.2. Time and Occasions for Display

2.2.1. Outdoor Flags

The US Flag must be placed upon or near each City-owned building and displayed from sunrise to sunset and on stationary flagstaffs in the open, except as otherwise provided herein. The US Flag may be displayed for 24 hours a day if properly illuminated during the hours of darkness. The US Flag should not be displayed on days of inclement weather unless an all-weather US Flag is displayed.

2.2.2. Indoor Flags

The US Flag must be displayed, at a minimum, in the City Council Chambers. The City Manager or designee may authorize the display of the US Flag in other City buildings.

2.2.3. Displaying at Half-Staff

The US Flag should be displayed at half-staff on each Memorial Day until noon and should be displayed at half-staff when otherwise ordered by the President of the United State or the Oregon Governor.

2.3. Position and Manner of Display

When displayed on the same staff, the US Flag must be at the peak, followed by the Oregon Flag, then the POW/MIA Flag, then the Wilsonville Flag (if one is created), and finally any other authorized flag. If one other flag is displayed on a staff next to the US Flag, the US Flag should be displayed on the left-most staff and positioned higher than the other flag. In a group of flags displayed from staffs, the US Flag should be at the center and the highest point. When the flags are flown from adjacent staffs, the US Flag should be hoisted first and lowered last.

The US Flag should be hoisted briskly and lowered ceremoniously.

3. State of Oregon Flag and POW/MIA Flag

3.1. General Requirements

The City must procure for each City-owned building a State of Oregon flag (“Oregon Flag”) and, except as provided herein, a National League of Families' POW/MIA flag (“POW/MIA Flag”), each of suitable size, as determined by the City Manager or designee. The City will comply with the Oregon flag regulations as provided in ORS 186.110 and 186.120, as may be amended and as summarized herein.

The City is required to purchase and display a POW/MIA Flag only with respect to public buildings that have existing flagpoles or other infrastructure installed to properly display all three flags (US Flag, Oregon Flag, and POW/MIA Flag), except that any newly constructed City building must include sufficient infrastructure to properly display all three flags.

3.2. Time and Occasion for Display

3.2.1. Outdoor Flags

The City will display the Oregon Flag and the POW/MIA Flag with the US Flag upon or near the City buildings during the hours when the US Flag is customarily displayed, except in inclement weather, and at such other times as seems proper, as determined by the City Manager or designee.

3.2.2. Indoor Flags

The Oregon Flag must be displayed, at a minimum, in the City Council Chambers. The City Manager or designee may authorize the display of the Oregon Flag in other City buildings.

3.2.3. Displaying at Half-Staff

The Oregon Flag and POW/MIA Flag should be displayed at half-staff when the US Flag is also displayed at half-staff or if otherwise ordered to be displayed at half-staff by the Oregon Governor.

3.3. Position and Manner of Display

When displayed on the same staff, the US Flag must be at the peak, followed by the Oregon Flag, then the POW/MIA Flag, then the Wilsonville Flag, and finally any other authorized flag. In a group of flags displayed from staffs, the US Flag should be at the center and the highest point.

4. City of Wilsonville Flag

If the City approves an official City of Wilsonville flag, the following regulations will apply to such flag.

4.1. General Requirements

The City must procure for City Hall and, as authorized by the City Manager or designee, at any other City-owned building a City of Wilsonville flag (“Wilsonville Flag”) of suitable size, as determined by the City Manager or designee.

4.2. Time and Occasion for Display

4.2.1. Outdoor Flags

Where the City displays the Wilsonville Flag, it must be displayed with the US Flag upon or near the City building during the hours when the US Flag is customarily displayed, except in inclement weather, and at such other times as seems proper, as determined by the City Manager or designee.

4.2.2. Indoor Flags

The City Manager or designee may authorize the display of the Wilsonville Flag in any City buildings.

4.2.3. Displaying at Half-Staff

The Wilsonville Flag should be displayed at half-staff when the US Flag is also displayed at half-staff or if otherwise ordered to be displayed at half-staff by the Mayor or the City Manager.

4.3. Position and Manner of Display

When displayed on the same staff, the US Flag must be at the peak, followed by the Oregon Flag, then the POW/MIA Flag, then the Wilsonville Flag, and finally any other authorized flag. In a group of flags displayed from staffs, the US Flag should be at the center and the highest point.

5. Commemorative Flags

A commemorative flag is a flag that identifies with a specific historical event, cause, nation, or group of people that the City Council chooses to honor or commemorate consistent with the City's mission and priorities. A commemorative flag may include, but is not limited to, a Sister City flag; the World flag; flags received for awards for which the City has applied (e.g., Tree City USA flag); or flags displayed in conjunction with official actions, ceremonies, or proclamations of the City.

5.1. General Requirements

As an expression of the City's official government speech, the City Council may authorize the display of a commemorative flag to be displayed at City buildings. The City's flagpoles are not to serve as a forum for free expression by the public. The City Council will only consider a request to display a commemorative flag if the request is made by any one of the following: (1) the City Manager; (2) a member of Council; or (2) a recommendation from one of the City's committees, boards, or commissions. Requests directly by members of the public to display a commemorative flag will not be considered.

5.2. Time and Occasion for Display

5.2.1. Generally

Commemorative flags will be displayed for a period of time that is reasonable or customary for the subject that is be commemorated, which period of time may be permanent or temporary. Commemorative flags must be either purchased by the City or temporarily donated for the City's use and must be clean, without holes and tears. Commemorative flags must be the same size or smaller than the US Flag and Oregon Flag that are displayed.

5.2.2. Outdoor Flags

If a commemorative flag is displayed with the US Flag, it must be displayed for no longer than the hours when the US Flag is customarily displayed, except in inclement weather, and at such other times as seems proper, as determined by the City Manager or designee.

5.2.3. Indoor Flags

The City Manager or designee may authorize the display of any approved commemorative flag in any City buildings.

5.2.4. Displaying at Half-Staff

If any other flag is displayed at half-staff, the commemorative flag will also be displayed at half-staff.

5.3. Position and Manner of Display

When displayed on the same staff, the US Flag must be at the peak, followed by the Oregon Flag, then the POW/MIA Flag, then the Wilsonville Flag, and finally any other authorized flag. In a group of flags displayed from staffs, the US Flag should be at the center and the highest point.

6. Banners

6.1. Generally

As an expression of the City's official government speech, the City Manager may authorize the display of banners to be displayed adjacent to City streets attached to public street lights or utility poles. The street lights and utility poles are not to serve as a forum for free expression by the public, except as otherwise provided in WC 6.150(2) for certain permitted Large Special Events. The length of display of banners is at the discretion of the City Manager.

6.1.1. Location of Public Streetlights and Utility Poles

The City has three districts/corridors where banners are displayed by the City or allowed on public streetlight or utility poles:

6.1.1.1. Wilsonville Road Gateway Corridor

This corridor between the railroad tracks on the west side of I-5 and Boeckman Creek Bridge on the east side of I-5 serves as a Gateway to the City. The City installs and rotates City-owned seasonal banners along this corridor to enhance the gateway. However, the City may select to substitute the seasonal banners with another theme. Select streetlight poles along the corridor may be available to organizations hosting Large Special Events pursuant to WC 6.150 (2).

6.1.1.2. Town Center Loop

Town Center Park is one of the City's premier gathering places and the space is used for many of the City's Large Special Events. Pursuant to WC 6.150 (2) organizations requesting Large Special Events are eligible to place banners on certain streetlight poles along SW Town Center Loop East and West, as well as Memorial Drive and Courtside Drive. Spacing is determined by the Public Works Department based on the number of banners being installed.

6.1.1.3. Villebois Village

Villebois has a specific banner program approved as part of the Master Sign and Wayfinding Plans approved as a component of each Sub Area Plan (SAP). Outside of ensuring compliance with the Master Sign and Wayfinding Plans, the City does not operate, manage, or maintain banners within Villebois.

6.1.2. Banner Design

6.1.2.1. Special Event banners will be designed and produced in a color scheme complementary to the existing city seasonal banners.

6.1.2.2. City seasonal banners will have the following color schemes, which may be modified as authorized by the City Manager or designee:

6.1.2.2.1. Spring: Lavender, Yellow, White

6.1.2.2.2. Summer: Dark Blue, Sky Blue, Yellow

6.1.2.2.3. Fall: Yellow, Purple, Rust, Orange

6.1.2.2.4. Winter: Blue, Yellow, White

6.1.3. Banner Production

6.1.3.1. Sizes

6.1.3.1.1. Wilsonville Road (West of I-5), Boones Ferry Road: Banners must meet the following dimensional requirements: 28.5 inches wide and 48 inches long.

6.1.3.1.2. Wilsonville Road (East of I-5), Town Center Loop, Elligsen Road, Courtside Drive, Memorial Drive: Banners must meet the following dimensional requirements: 28.5 inches wide and 96 inches long.

6.1.4. Post Sleeves

Banners shall be installed on upper and lower posts securely attached to the pole. All banners will include an upper and lower sleeve of 4 to 6 inches wide, double stitched, for banners being installed by Public Works, and widths as required by the installer for signs being installed by contractors. Banners shall include grommets on side of banner that will be next to pole for attachment to pole with zip ties. There must be one grommet on top and one on the bottom, 4 inches from the top or bottom of the banner.

6.1.5. Clearance Requirements

For banners extending over a vehicle travel lane, bike lane, or curb area, the minimum clearance is fourteen feet (14'). For all other banners the minimum clearance is eight feet (8').

6.2. Time and Occasion for Display

6.2.1. Special Event banners must be installed no earlier than fourteen days before the start of the Special Event and removed no later than fourteen days after the end of the Special Event, unless as otherwise provided in the Special Event Permit.

6.2.2. City seasonal banners will be installed consistent with the following schedule:

6.2.2.1. Spring: March 1

6.2.2.2. Summer: June 1

6.2.2.3. Fall: September 1

6.2.2.4. Winter: December 1

6.2.3. Except in Villebois, placement and removal of all banners will be done only by Public Works employees or contractors agreed upon by the Public Works Department.

6.3. Installation Fee and Responsibility.

The City Manager may charge a fee for the installation of Special Event banners, which is currently set at \$1,300 per Special Event (\$650 to install and \$650 to remove), payable in advance. This fee covers installation and removal only, and does not cover banner construction, maintenance, or storage, which the City does not provide. Banners must be installed by City Public Works employees only, as provided in WC 6.150(2)(b). The City of Wilsonville is not responsible for any damage to non-City banners from vehicles, vandalism, or any other cause.

7. Amendments to Flag Policy and Other Regulations

The City Manager is authorized to amend this Flag Policy to reflect any changes in federal or state law regarding the U.S. Flag, the State of Oregon Flag, or the POW/MIA Flag. Any other revisions to this Flag Policy must be approved by the City Council.

EXHIBIT 1 TO FLAG POLICY



U.S. Department of Veterans Affairs
Washington, D.C. 20420

Guidelines for Display of the Flag

Public Law 94-344, known as the Federal Flag Code, contains rules for handling and displaying the U.S. flag. While the federal code contains no penalties for misusing the flag, states have their own flag codes and may impose penalties. The language of the federal code makes clear that the flag is a living symbol.







In response to a Supreme Court decision which held that a state law prohibiting flag burning was unconstitutional, Congress enacted the Flag Protection Act in 1989. It provides that anyone who knowingly desecrates the flag may be fined and/or imprisoned for up to one year. However, this law was challenged by the Supreme Court in a 1990 decision that the Flag Protection Act violates the First Amendment free speech protections.

Important Things to Remember

Traditional guidelines call for displaying the flag in public only from sunrise to sunset. However, the flag may be displayed at all times if it's illuminated during darkness. The flag should not be subject to weather damage, so it should not be displayed during rain, snow and wind storms unless it is an all-weather flag.

It should be displayed often, but especially on national and state holidays and special occasions.

The flag should be displayed on or near the main building of public institutions, schools during school days, and polling places on election days. It should be hoisted briskly and lowered ceremoniously.

Image	Description
	<p>When carried in procession with other flags the U.S. flag should be either on the marching right (the flag's right) or to the front and center of the flag line. When displayed on a float in a parade, the flag should be hung from a staff or suspended so it falls free. It should not be draped over a vehicle.</p>
	<p>When displayed with another flag against a wall from crossed staffs, the U.S. flag should be on its own right (left to a person facing the wall) and its staff should be in front of the other flag's staff.</p>
	<p>In a group of flags displayed from staffs, the U.S. flag should be at the center and the highest point.</p>
	<p>When the U.S. flag is displayed other than from a staff, it should be displayed flat, or suspended so that its folds fall free. When displayed over a street, place the union so it faces north or east, depending upon the direction of the street.</p>
	<p>When the U.S. flag is displayed from as projecting from a building, the union of the flag should be placed at the peak of the unless the flag is at half-staff. When suspended from a rope extending from the building on a pole, the flag should be hoisted out, union first from the building.</p>
	<p>When flags of states, cities or organizations are flown on the same staff, the U.S. flag must be at the top (except during church services conducted at sea by Navy chaplains)</p>

The flag should never be draped or drawn back in folds. Draped red, white and blue bunting should be used for decoration, with the blue at the top and red at the bottom.

The flag may be flown at half-staff to honor a newly deceased federal or state government official by order of the president or the governor, respectively. On Memorial Day, the flag should be displayed at half-staff until noon.

Other Things Not to Do with the Flag

Out of respect for the U.S. flag, never:

- dip it for any person or thing, even though state flags, regimental colors and other flags may be dipped as a mark of honor.

- display it with the union down, except as a signal of distress.

- let the flag touch anything beneath it: ground, floor, water, merchandise.

- carry it horizontally, but always aloft.

- fasten or display it in a way that will permit it to be damaged or soiled.

- place anything on the flag, including letters, insignia, or designs of any kind.

- use it for holding anything.

- use it as wearing apparel, bedding or drapery. It should not be used on a costume or athletic uniform. However, a flag patch may be attached to the uniform of patriotic organizations, military personnel, police officers and firefighters.

- use the flag for advertising or promotion purposes or print it on paper napkins, boxes or anything else intended for temporary use and discard.

During the hoisting or lowering of the flag or when it passes in parade or review, Americans should stand at attention facing the flag and place their right hand over the heart. Uniformed military members render the military salute. Men not in uniform should remove any headdress and hold it with their right hand at their left shoulder, the hand resting over the heart. Those who are not U.S. citizens should stand at attention.

When the flag is worn out or otherwise no longer a fitting emblem for display, it should be destroyed in a dignified way, preferably by burning.

6.150. Special Use of Streets and Sidewalks and Large Special Events Signs and Street Banners.

- (1) *Signs That Do Not Require a Permit.* The following signs associated with a Special Use of Streets and Sidewalks or Large Special Event, for which a valid permit has been granted, do not require a separate sign permit:
- (a) *Signs Generally Allowed.* Temporary signs on private property not exceeding the exempt temporary sign allowances for lawn and rigid signs established in Wilsonville Code Section 4.156.05;
 - (b) *Signs Allowed for Large Special Events and Limitations.* For Large Special Events, temporary signs, including banners, a-boards, lawn signs, or other signs, on any public property described in the location description submitted with the event permit application as long as such signage:
 1. Does not exceed 24 square feet per sign;
 2. Does not unreasonably impede pedestrian, bicycle, or vehicle traffic or circulation;
 3. Does not damage landscaping, buildings, or structures;
 4. Is not attached to lamp posts, permanent sign posts, power poles, or similar public structures;
 5. Is securely attached so as to withstand the wind and other elements;
 6. Does not have guywires, strings, ropes, or other mechanisms securing the sign that could be a safety hazard; ~~and~~
 7. Does not otherwise create a nuisance or hazard; ~~and-~~
 8. Meets any and all applicable requirements of this Section 6.150.
 - (c) *Wayfinding Signs for Large Special Events.* For Large Special events, in order to assist the public in wayfinding, up to ten lawn signs in the public right-of-way are allowed provided that:
 1. Such signs are placed no more than 14 calendar days prior to the beginning of a permit period and are removed within 24 hours of the end of the event period;
 2. Except as noted in ~~(#3)~~ below, such signs meet all size, location, placement, spacing, and other non-duration related requirements for temporary lawn signs in the right-of-way in Wilsonville Code Section 4.156.10;
 3. When a Large Special Event is held in Memorial Park or the Town Center area, allowed lawn signs may be placed in the otherwise prohibited non-ODOT, non-median landscaped areas of right-of-way on Wilsonville Road and Town Center Loop East and West so long as the sign will not damage landscaping or irrigation, or otherwise have a negative impact on right-of-way maintenance, do not obstruct vision clearance, and written approval is obtained from the adjacent property owners with maintenance responsibilities for the landscaping in the right-of-way; and
 4. The number of wayfinding signs may be restricted to fewer than ten if the City deems it necessary because multiple events are being held on the same day and there is a need to protect rights-of-way from becoming confusing, distracting, overly cluttered, or in any way hazardous to the traveling public.
- (2) *Banners on Public Lights and Other Poles.* The purpose of the public pole banner program is to provide publicity for community events of general interest to Wilsonville residents and visitors and to provide a more festive character to the City's Town Center area, while maintaining design standards that provide for continued quality of life within Wilsonville. The public pole banner program is only available for City

sponsored events. For purposes of this Subsection 6.150(2), "City sponsored events" means events that meet the following criteria: (1) the event is a Large Special Event; (2) the City is providing financial or in-kind products or services to support the event; and (3) the City's contribution is highlighted through public recognition, approved use of the City's logo, or other similar publicity. For avoidance of doubt, non-City sponsored events are prohibited from displaying banners on public poles unless otherwise allowed by the City's Public Works Plan in Subsection (a) below.

- (a) *Public Works Plan.* Banners on public light and other poles will be allowed according to a plan set out by the Public Works Department.
 - (b) *Installation.* Banners on public light and other poles shall be installed by City Public Works employees only.
 - (c) *Design.* The architecture and design of the banners may include, as design elements, the name of the sponsoring organization; the name, location, and date(s) of the event; and the logo of the event. The exact architecture and design specifications are determined by the Public Works Department.
- (3) *Other Signs.* All other signs, not specifically lists in (1) and (2) above shall be governed by Wilsonville Code Chapter 4, including Sections 4.156.01 through 4.156.11, and may require a sign permit through the Planning Division.
 - (4) *Sign Enforcement.* In addition to the applicable enforcement provisions of this Chapter, the enforcement provisions of Chapter 4 shall apply to sign violations.



**DEI COMMITTEE MEETING
STAFF REPORT**

Meeting Date: December 13, 2022		Subject: City of Wilsonville Flag Policy and Update to Wilsonville Code Section 6.150	
		Staff Member: Amanda Guile-Hinman, City Attorney	
		Department: Legal	
Action Required		Advisory Board/Commission Recommendation	
<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input type="checkbox"/> Not Applicable Comments: N/A	
Staff Recommendation: Committee recommend that the City Council adopt the City Flag Policy and the revisions to Wilsonville Code Section 6.150.			
Recommended Language for Motion: I move to recommend that the City Council adopt the City Flag Policy and the revisions to Wilsonville Code Section 6.150 that are attached to the Staff Report as Attachments 1 and 2, respectively.			
Project / Issue Relates To:			
<input type="checkbox"/> Council Goals/Priorities:	<input checked="" type="checkbox"/> Adopted Master Plan(s): DEI Committee Strategic Plan	<input type="checkbox"/> Not Applicable	

ISSUE BEFORE COMMITTEE:

Consider recommending that City Council adopt the proposed City Flag Policy and revision to Wilsonville Code (WC) Section 6.150, attached hereto as Attachments 1 and 2, respectively.

EXECUTIVE SUMMARY:

The City of Wilsonville Flag Policy will codify a framework for the City to display commemorative flags on City flag poles and in City facilities, among other regulations. In response to Council concerns from the September 8, 2022 work session, proposed revisions to WC 6.150 will prohibit the display of banners on City streetlights and other poles except for City-sponsored events. This Staff Report explains the background leading to the current draft Flag Policy (Attachment 1) and the proposed revisions to WC 6.150 (Attachment 2).

A. Background

On August 9, 2022, staff brought a draft flag policy to the Diversity, Equity & Inclusion (DEI) Committee in response to the adopted Diversity, Equity and Inclusion Committee Strategic Plan (the "Plan"), and four other key considerations. These five (5) considerations are summarized below:

1. The Plan that the Council adopted via Resolution No. 2979 on July 18, 2022 includes a Strategic Action item of "Visual representation (flags, symbols, holiday decor on City property)."
2. In January 2022, the United States Supreme Court issued its decision in the matter, *Shurtleff v. City of Boston*, 142 S. Ct. 1583 (2022). That case involved a lawsuit brought against the City of Boston by a private organization when the city refused to display the organization's self-described "Christian flag" on one of the city's flag poles in its City Hall Plaza when the city allowed other groups and individuals to hoist a flag of their choosing on the particular flag pole. The Court found that the city did not shape or control the messages of previously allowed flags and did not have any written policies or internal guidance about what flags groups could fly on the City flag pole.
3. Currently, Wilsonville Code (WC) 6.150(2) allows persons who obtain a special event permit to display banners consistent with the regulations stated in WC 6.150(2). That section includes reference to a plan set out by the Public Works Department, which is currently a written internal banner policy that has not been updated since 2011.
4. The City has an internal banner policy for banners that may be placed on certain streetlights. This internal policy should be updated and incorporated into any overarching commemorative flag policy to provide one document for the City and the public to reference.
5. In December 2021, the League of Oregon Cities published its *Guide to the Public Display of Flags on Government Buildings*, which staff relied on to develop the draft City Flag Policy.

The DEI Committee proposed revisions to some of the language regarding the commemorative flag portion of the draft flag policy, among other proposed revisions.

On September 7, 2022, City Council held a work session on the draft flag policy. At that work session, Council directed staff to bring forward a revision to Wilsonville Code (WC) Section

6.150 in conjunction with the Flag Policy whereby the Code provision would limit banners that the City allows on its streetlights and other (non-flag) poles to either City events or events that the City supports in some fashion.

Staff took the draft Flag Policy (Attachment 1) and proposed revisions to WC 6.150 (Attachment 2) to the DEI Committee at its September 13, 2022 meeting. The DEI Committee had no further suggested revisions to either document. Staff then presented the draft Flag Policy and proposed revisions to WC 6.150 to City Council at its November 7, 2022 work session. Council did not propose any further revisions.

B. Proposed Recommendation

Since the Plan includes a Strategic Action item to increase visual representation in the City, staff seeks the DEI Committee's recommendation to the City Council to adopt the draft Flag Policy and proposed revisions to WC. 6.150

EXPECTED RESULTS:

An adopted Flag Policy and revise WC 6.150 to codify a framework for the City to display commemorative flags on City flag poles and in City facilities.

TIMELINE:

Assuming a recommendation from the DEI Committee, staff expects the City Council to consider adopting the Flag Policy at its January 5, 2023 meeting and to have the public hearing and first reading of the revisions to WC 6.150 at that meeting as well. The second reading will then be held on January 19, 2023.

CURRENT YEAR BUDGET IMPACTS:

N/A

COMMUNITY INVOLVEMENT PROCESS:

Staff sought feedback from the DEI Committee at its August and September 2022 meetings on the draft Flag Policy and staff will seek a recommendation from the DEI Committee at its December 2022 meeting for Council to adopt the Flag Policy and revisions to WC 6.150.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

As identified in the DEI Strategic Plan, flags can serve as visual representation of the City's mission and values. As identified in the 2021-23 City Council Goals, the Council identified the opportunity to continue supporting a focus on diversity, equity, and inclusion and to create an environment where people feel safe to engage.

ALTERNATIVES:

The City may decide to forgo a Flag Policy and choose not to display commemorative flags on City flag poles or in City facilities.

CITY MANAGER COMMENT:

ATTACHMENTS:

- 1. Draft City of Wilsonville Flag Policy
- 2. Draft revisions to WC 6.150



**DEI COMMITTEE MEETING
STAFF REPORT**

Meeting Date: December 13, 2022		Subject: Code Revisions Related to Camping	
		Staff Members: Amanda Guile-Hinman, City Attorney; Nick McCormick, Law Clerk	
		Department: Legal	
Action Required		Advisory Board/Commission Recommendation	
<input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable	
		Comments: N/A	
Staff Recommendation: N/A			
Recommended Language for Motion: N/A			
Project / Issue Relates To:			
<input type="checkbox"/> Council Goals/Priorities:	<input type="checkbox"/> Adopted Master Plan(s):	<input checked="" type="checkbox"/> Not Applicable	

ISSUE BEFORE COMMITTEE: An informational session to discuss the recent passage of Oregon laws and court rulings related to local laws regulating camping, as well as a discussion regarding community outreach for this project. In June 2020, the League of Oregon Cities published a guide for local jurisdictions regarding these Oregon laws and case law concerning camping regulations is attached hereto as **Attachment A**.

EXECUTIVE SUMMARY:

A. Federal Cases on Camping Ban Enforcement

In 2019, the 9th Circuit in *Martin v. Boise* examined the constitutionality of two Boise ordinances: one that made it a misdemeanor to use “any streets, sidewalks, parks, or public places as a camping place at any time,” and one that banned occupying or otherwise using a public or private structure without permission. The 9th Circuit ruled that these two ordinances generally violated individuals’ rights under the 8th Amendment, which prohibits government from imposing cruel and unusual punishment. What came out of *Martin* was the general understanding that a city cannot criminalize being homeless, but cities are not required to create facilities for persons experiencing houselessness and can still have reasonable time, place, and manner restrictions for camping.

After *Martin*, many jurisdictions began revising their state and local statutes to comply with the recent decision. In 2020, before these new revisions were completed, a class of individuals experiencing houselessness challenged various Grants Pass regulations that were similar to those in *Martin* before the U.S. Federal District Court of Oregon in *Blake v. Grants Pass*. Grants Pass had attempted a limited revision to its regulations in light of *Martin* to allow “sleeping” in certain circumstances, but retained all other prohibitions of camping on public property. Among the regulations were bans on camping in parks, camping on public property, and sleeping in public places when any bedding is used, as well as exclusions from parks for violating more than one regulation in one year’s time. The court stated these regulations violated *Martin*, and provided further clarification regarding when cities can or cannot enforce camping prohibitions. The Court in *Blake* held that enforcement through imposition of a civil penalty as opposed to a criminal charge did not relieve Grants Pass from the 8th Amendment analysis in *Martin*. The Court also held that the 8th Amendment prohibits a jurisdiction from punishing people for taking necessary steps to keep themselves warm and dry while sleeping (such as using bedding or a barrier between themselves and the ground).

B. New Oregon Laws Regulating Local Camping Bans

With the guidance of both *Martin* and *Blake*, the Oregon legislature passed HB 3115 in 2021 (codified as ORS 195.530), which set up specific requirements and limitations for city and county camping ordinances. A copy of HB 3115 is attached hereto as **Attachment B**.

Among the requirements is a provision stating that any regulation of use of public property by persons experiencing houselessness must be “objectively reasonable.” Whether or not a regulation is objectively reasonable depends on an analysis of all the circumstances, including the impact of the law on the person, as well as other relevant considerations related to the specific conditions involved.

The law also provides for both an affirmative defense to any crime that is objectively unreasonable, as well as a private right of action for declaratory and injunctive relief (not

money damages), which means that individuals can sue the City alleging the City Code is unreasonable on its face. The private right of action allows for the collection of attorney's fees at the judge's discretion also. The law goes into effect on July 1, 2023.

Additionally, passed as HB 3124 (2021) (attached hereto as **Attachment C**), and effective on June 23, 2021, ORS 195.505 added provisions requiring reasonable prior written notice to individuals of an intent to close an established campsite within 72 hours at each campsite entrance before closure. This policy does not apply if the site is housing illicit activities, in case of emergencies, or sites near a funeral service. Additionally, a citation cannot be given if within 200 feet of a notice posted less than two hours before or after such time.

The law also added provisions regarding the receipt and storage of persons' belongings left after a valid site closure. Any unclaimed property is to be stored at a designated facility located in that community. The city must leave reasonable notice as to where and how the person may find and retrieve their belongings. A city is not required to store goods that are deemed to have no value or utility, or are unsanitary. A city will give all weapons, illicit substances, and stolen property to law enforcement. The city will store the items for 30 days after reasonable notice is given.

C. Other Considerations Regarding Camping Bans

Other concerns related to the regulation of camping on public property include the 1989 U.S. Supreme Court decision of *Deshaney v. Winnebago County Department of Social Services*, which viewed the 14th Amendment as imposing a duty on government actors when they have created dangerous conditions for others. This has been further refined by the 9th Circuit to apply a duty to government actors where an affirmative act puts a person in danger with a deliberate indifference to a known or obvious danger. *LA Alliance for Human Rights v. City of Los Angeles*, 2021 WL 1546235.

This is an important policy consideration for cities in deciding where to prohibit camping and where to allow it. The city must ensure that regulations for camping and related prohibitions do not expose individuals to a greater danger than under current circumstances. This will sometimes require a case-by-case analysis of current environmental conditions and potential harms that may occur after site removal. It is still unclear as to how far the duty stretches under the State Created Danger principle.

D. City Project

Staff formed an inter-departmental internal team to review Wilsonville Code provisions that regulate camping, and other related provisions. This internal team has three goals: (1) to ensure that the City is compliant with HB 3115 prior to its operative date of July 1, 2023; (2) to verify, through work sessions with Councilors and feedback from the community and stakeholders, that any regulations in the Wilsonville Code reflect City values; and (3) to communicate with and educate the Council and the community about these changes in Oregon law and any

corresponding revisions to the Wilsonville Code. As staff undertake the community outreach component of this project, staff seeks feedback from the DEI Committee regarding its proposed community outreach plan.

The draft community outreach plan is attached hereto as Attachment D. Staff is particularly interested in the DEI Committee members' perspectives on the following considerations:

1. The stakeholder group list
2. The questionnaires for the stakeholder groups and the community
3. Outreach to persons with lived experiences
4. Educational components of the plan

EXPECTED RESULTS:

Contemporaneous with the community outreach, the project team has begun the process of reviewing current city code and locating code sections to be revised in light of the new state laws, with the city potentially approving a final revised code by May 2023.

TIMELINE:

Approximate timeline of expected events:

1. August 15, 2022 – First Council Work Session to inform Council of new Oregon laws
2. December 2022 – January 2023 – Stakeholder/community outreach
3. February 19, 2023 – Second Council Work Session to go over draft Code provisions* and initial community feedback
4. March 20, 2023 – Third Council Work Session to further review draft Code revisions*
5. April 17, 2023 – Fourth Council Work Session for any last revisions*
6. May 1, 2023 – First Reading of Ordinance*
7. May 15, 2023 – Second Reading of Ordinance*
8. July 1, 2023 – Any new regulations become effective

* Assumes that updates to the Wilsonville Code are necessary, which is still being determined by staff.

CURRENT YEAR BUDGET IMPACTS:

None immediately, but there could be potential costs depending on the chosen system for managing prohibitions on camping. Cities are not required to provide facilities for those who are experiencing houselessness, but may be required to create additional procedures for regulating camping.

COMMUNITY INVOLVEMENT PROCESS:

Public involvement is a focal point of the city camping code revision process to ensure a diverse group of community members and stakeholders can provide their priorities, interests, and concerns related to the potential code revisions. The project team expects several opportunities to facilitate open discussions throughout the revision process.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

There are several potential impacts on the residential, commercial, and related communities depending on the adopted code revisions. The project team will work with local residents and stakeholders to address concerns and provide equitable solutions that benefits both the community and other impacted individuals.

ATTACHMENTS:

- 1. Attachment A – League of Oregon Cities Camping Code Revision Guide
- 2. Attachment B – ORS 195.530 (HB 3115)
- 3. Attachment C – ORS 195.505 (HB 3124)
- 4. Attachment D – Community Outreach Plan



Guide to Persons Experiencing Homelessness in Public Spaces

JUNE 2022

Guide to Persons Experiencing Homelessness in Public Spaces

Cities possess a significant amount of property – from parks, greenways, sidewalks, and public buildings to both the developed and undeveloped rights of way – sizable portions of a city belong to the city itself, and are held in trust for particular public purposes or use by residents. Historically cities have regulated their various property holdings in a way that prohibits persons from camping, sleeping, sitting or lying on the property. The historic regulation and management of a city’s public spaces must be reimagined in light of recent federal court decisions and the Oregon Legislature’s enactment of HB 3115, both of which direct cities to consider their local regulations within the context of available local shelter services for those persons experiencing homelessness.

As the homelessness crisis intensifies, and the legal parameters around how a city manages its public property contract, cities need guidance on how they can regulate their property in a way that respects each of its community members, complies with all legal principles, and protects its public investments. A collective of municipal attorneys from across the state of Oregon convened a work group to create this guide, which is intended to do two things: (1) explain the legal principles involved in regulating public property in light of recent court decisions and statutory enactments; and (2) provide a checklist of issues/questions cities should review before enacting or amending any ordinances that may impact how their public property is managed.

Legal Principles Involved in Regulating Public Property

Two key federal court opinions, *Martin v. Boise* and *Blake v. Grants Pass*, have significantly impacted the traditional manner in which cities regulate their public property. In addition to these two pivotal cases, the Oregon Legislature enacted HB 3115 during the 2021 legislative session as an attempt to clarify, expand, and codify some of the key holdings within the court decisions. An additional piece of legislation, HB 3124, also impacts the manner in which cities regulate public property in relation to its use by persons experiencing homelessness. And, as the homelessness crisis intensifies, more legal decisions that directly impact how a city regulates its public property when it is being used by persons experiencing homelessness are expected. Some of these pending cases will seek to expand, limit, or clarify the decisions reached in *Martin* and *Blake*; other pending cases seek to explain how the well-established legal principle known as State Created Danger applies to actions taken, or not taken, by cities as they relate to persons experiencing homelessness.

A. *The Eighth Amendment to the U.S. Constitution*

The Eighth Amendment to the U.S. Constitution states that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. In 1962, the U.S. Supreme Court, in *Robinson v. California*, established the principle that “the Eighth Amendment prohibits the state from punishing an involuntary act or condition if it is the unavoidable consequence of one’s status or being.” 370 U.S. 660 (1962).

B. *Martin v. Boise*

In 2018, the U.S. 9th Circuit Court of Appeals, in *Martin v. Boise*, interpreted the Supreme Court’s decision in *Robinson* to mean that the Eighth Amendment to the U.S. Constitution “prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter ... because sitting, lying, and sleeping are ... universal and unavoidable consequences of being human.” The court declared that a governmental entity cannot “criminalize conduct that is an unavoidable consequence of being homeless – namely sitting, lying, or sleeping.” 902 F3d 1031, 1048 (2018).

The 9th Circuit clearly stated in its *Martin* opinion that its decision was intentionally narrow, and that some restrictions on sitting, lying, or sleeping outside at particular times or in particular locations, or prohibitions on obstructing the rights of way or erecting certain structures, might be permissible. But despite the narrowness of the decision, the opinion only truly answered some of the many questions cities are rightly asking. After *Martin*, municipal attorneys could advise their clients in limited ways: some things were clear, and others were pretty murky.

One of the most commonly misunderstood aspects of the *Martin* decision is the belief that a city can never prohibit a person experiencing homelessness from sitting, sleeping or lying in public places. The *Martin* decision, as noted, was deliberately limited. Cities are allowed to impose city-wide prohibitions against persons sitting, sleeping, or lying in public, provided the city has a shelter that is accessible to the person experiencing homelessness against whom the prohibition is being enforced. Even if a city lacks enough shelter space to accommodate the specific person experiencing homelessness against whom the prohibition is being enforced, it is still allowed to limit sitting, sleeping, and lying in public places through reasonable restrictions on the time, place and manner of these acts (“where, when, and how”) – although what constitutes a reasonable time, place and manner restriction is often difficult to define.

A key to understanding *Martin* is recognizing that an analysis of how a city’s ordinance, and its enforcement of that ordinance, can be individualized. Pretend a city has an ordinance which prohibits persons from sleeping in city parks if a person has nowhere else to sleep. A person who violates that ordinance can be cited and arrested. A law enforcement officer finds 11 persons sleeping in the park, and is able to locate and confirm that 10 of said persons have access to a shelter bed or a different location in which they can sleep. If any of those 10 persons refuses to avail themselves of the available shelter beds, the law enforcement officer is within their rights, under *Martin*, to cite and arrest the persons who refuse to leave the park. The practicality of such an individualized assessment is not to be ignored, and cities are encouraged to consider the ability to make such an assessment as they review their ordinances, policies, and procedures.

What is clear from the *Martin* decision is the following:

1. Cities cannot punish a person who is experiencing homelessness for sitting, sleeping, or lying on public property when that person has no place else to go;
2. Cities are not required to build or provide shelters for persons experiencing homelessness;

3. Cities can continue to impose the traditional sit, sleep, and lie prohibitions and regulations on persons who do have access to shelter; and
4. Cities are allowed to build or provide shelters for persons experiencing homelessness.

After *Martin*, what remains murky, and unknown is the following:

1. What other involuntary acts or human conditions, aside from sleeping, lying and sitting, are considered to be an unavoidable consequence of one's status or being?
2. Which specific time, place and manner restrictions can cities impose to regulate when, where, and how a person can sleep, lie or sit on a public property?
3. What specific prohibitions can cities impose that will bar a person who is experiencing homelessness from obstructing the right of way?
4. What specific prohibitions can cities impose that will prevent a person who is experiencing homelessness from erecting a structure, be it temporary or permanent, on public property?

The city of Boise asked the United States Supreme Court to review the 9th Circuit's decision in *Martin*. The Supreme Court declined to review the case, which means the opinion remains the law in the 9th Circuit. However, as other federal circuit courts begin considering a city's ability to enforce sitting, sleeping and camping ordinances against persons experiencing homelessness, there is a chance that the Supreme Court may review a separate but related opinion to clarify the *Martin* decision and provide clarity to the outstanding issues raised in this guide.

C. *Blake v. Grants Pass*

Before many of the unanswered questions in *Martin* could be clarified by the 9th Circuit or the U.S. Supreme Court, an Oregon federal district court issued an opinion, *Blake v. Grants Pass*, which provided some clarity, but also provided an additional layer of murkiness.

From the *Blake* case we also know the following:

1. Whether a city's prohibition is a civil or criminal violation is irrelevant. If the prohibition punishes an unavoidable consequence of one's status as a person experiencing homelessness, then the prohibition, regardless of its form, is unconstitutional.
2. Persons experiencing homelessness who must sleep outside are entitled to take necessary minimal measures to keep themselves warm and dry while they are sleeping.
3. A person does not have access to shelter if:

- They cannot access the shelter because of their gender, age, disability or familial status;
- Accessing the shelter requires a person to submit themselves to religious teaching or doctrine for which they themselves do not believe;
- They cannot access the shelter because the shelter has a durational limitation that has been met or exceeded; or
- Accessing the shelter is prohibited because the person seeking access is under the influence of some substance (for example alcohol or drugs) or because of their past or criminal behavior.

But much like *Martin*, the *Blake* decision left some unanswered questions. The key unknown after *Blake*, is: What constitutes a minimal measure for a person to keep themselves warm and dry – is it access to a blanket, a tent, a fire, etc.?

And while defining the aforementioned unknown question after *Blake* is most certainly difficult for cities, what cities must also keep ever present in their mind is the fact that the 9th Circuit Court of Appeals is presently reviewing the *Blake* decision. When the 9th Circuit finishes its review and issues an opinion, cities should reasonably expect the rules and parameters established by the Oregon district court in *Blake* to change. What types of changes should be expected, the severity of the changes, and when those changes will occur are questions municipal attorneys cannot answer at this time for their clients. Given the very real fluidity surrounding the legal issues discussed in this guide, before adopting any new policy, or revising an existing policy, that touches on the subject matter described herein, cities are strongly encouraged to speak with their legal advisor to ensure the policy is constitutional.

D. House Bill 3115

HB 3115 was enacted by the Oregon Legislature during its 2021 session. It is the product of a workgroup involving the LOC and the Oregon Law Center as well as individual cities and counties.

The bill requires that any city or county law regulating the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be “objectively reasonable” based on the totality of the circumstances as applied to all stakeholders, including persons experiencing homelessness. What is objectively reasonable may look different in different communities. The bill retains cities’ ability to enact reasonable time, place and manner regulations, aiming to preserve the ability of cities to manage public spaces effectively for the benefit of an entire community.

HB 3115 includes a delayed implementation date of July 1, 2023, to allow local governments time to review and update ordinances and support intentional community conversations.

From a strictly legal perspective, HB 3115 did nothing more than restate the judicial decisions found in *Martin* and *Blake*, albeit a hard deadline to comply with those judicial decisions was imposed. The bill provided no further clarity to the judicial decisions, but it also imposed no new requirements or restrictions.

E. House Bill 3124

Also enacted during the 2021 legislative session, HB 3124 does two things. First, it changes and adds to existing guidance and rules for how a city is to provide notice to homeless persons that an established campsite on public property is being closed, previously codified at ORS 203.077 *et seq.*, now found at ORS 195.500, *et seq.* Second, it gives instructions on how a city is to oversee and manage property it removes from an established campsite located on public property. It is important to remember that HB 3124 applies to public property; it is not applicable to private property. This means that the rules and restrictions imposed by HB 3124 are not applicable city-wide, rather they are only applicable to property classified as public.

HB 3124 does not specify, with any true certainty, what constitutes public property. There has been significant discussion within the municipal legal field as to whether rights of way constitute public property for the purpose of interpreting and implementing HB 3124. The general consensus of the attorneys involved in producing this guide is that rights of way should be considered public property for purposes of HB 3124. If an established homeless camp is located on rights of way, it should generally be treated in the same manner as an established camp located in a city park. However, as discussed below, depending on the dangers involved with a specific location, exceptions to this general rule exist.

When a city seeks to remove an established camp site located on public property, it must do so within certain parameters. Specifically, a city is required to provide 72-hour notice of its intent to remove the established camp site. Notices of the intention to remove the established camp site must be posted at each entrance to the site. In the event of an exceptional emergency, or the presence of illegal activity other than camping at the established campsite, a city may act to remove an established camp site from public property with less than 72-hour notice. Examples of an exceptional emergency include: possible site contamination by hazardous materials, a public health emergency, or immediate danger to human life or safety.

While HB 3124 specifies that the requirements contained therein apply to established camping sites, it fails to define what constitutes an established camping site. With no clear definition of what the word established means, guidance on when the 72-hour notice provisions of HB 3124 apply is difficult to provide. The working group which developed this guide believes a cautious approach to defining the word established at the local level is prudent. To that end, the LOC recommends that if, for example, a city were to enact an ordinance which permits a person to pitch a tent between the hours of 7 p.m. and 7 a.m., that the city also then consistently and equitably enforce the removal of that tent by 7 a.m. each day, or as close as possible to 7 a.m. Failing to require the tent's removal during restricted camping hours each day, *may*, given that the word established is undefined, provide an argument that the tent is now an established camp site that triggers the requirement of HB 3124.

In the process of removing an established camp site, oftentimes city officials will also remove property owned by persons who are experiencing homelessness. When removing items from established camp sites, city officials should be aware of the following statutory requirements:

- Items with no apparent value or utility may be discarded immediately;
- Items in an unsanitary condition may be discarded immediately;
- Law enforcement officials may retain weapons, drugs, and stolen property;
- Items reasonably identified as belonging to an individual and that have apparent value or utility must be preserved for at least 30 days so that the owner can reclaim them; and
- Items removed from established camping sites in counties other than Multnomah County must be stored in a facility located in the same community as the camping site from which it was removed. Items removed from established camping sites located in Multnomah County must be stored in a facility located within six blocks of a public transit station.

Cities are encouraged to discuss with legal counsel the extent to which these or similar requirements may apply to any camp site, “established” or not, because of due process protections.

F. Motor Vehicles and Recreational Vehicles

Cities need to be both thoughtful and intentional in how they define and regulate sitting, sleeping, lying, and camping on public property. Is sleeping in a motor vehicle or a recreational vehicle (RV) that is located on public property considered sitting, lying, sleeping, or camping on public property under the city’s ordinances and policies? This guide will not delve into the manner in which cities can or should regulate what is commonly referred to as car or RV camping; however, cities do need to be aware that they should consider how their ordinances and policies relate to car and RV camping, and any legal consequences that might arise if such regulations are combined with ordinances regulating sitting, lying, sleeping, or camping on public property. Motor and recreational vehicles, their location on public property, their maintenance on public property, and how they are used on or removed from public property are heavily regulated by various state and local laws, and how those laws interact with a city’s ordinance regulating sitting, lying, sleeping, or camping on public property is an important consideration of this process.

G. State Created Danger

In 1989, the U.S. Supreme Court, in *DeShaney v. Winnebago Cnty. Dep’t of Soc. Servs.*, interpreted the Fourteenth Amendment to the U.S. Constitution to impose a duty upon the government to act when the government itself has created dangerous conditions – this interpretation created the legal principle known as State Created Danger. 489 U.S. 189 (1989). The 9th Circuit has interpreted the State Created Danger doctrine to mean that a governmental

entity has a duty to act when the government actor “affirmatively places the plaintiff in danger by acting with ‘deliberate indifference’ to a ‘known or obvious danger.’” *LA Alliance for Human Rights v. City of Los Angeles*, 2021 WL 1546235.

The State Created Danger principle has three elements. First, the government’s own actions must have created or exposed a person to an actual, particularized danger that the person would not have otherwise faced. Second, the danger must have been one that is known or obvious. Third, the government must act with deliberate indifference to the danger. *Id.* Deliberate indifference requires proof of three elements:

“(1) there was an objectively substantial risk of harm; (2) the [state] was subjectively aware of facts from which an inference could be drawn that a substantial risk of serious harm existed; and (3) the [state] either actually drew that inference or a reasonable official would have been compelled to draw that inference.” *Id.*

Municipal attorneys are closely reviewing the State Created Danger principle as it relates to the use of public spaces by persons experiencing homelessness for three reasons. First, many cities are choosing to respond to the homeless crisis, the legal decisions of *Martin* and *Blake*, and HB 3115, by creating managed homeless camps where unhoused persons can find shelter and services that may open the door to many State Created Danger based claims of wrongdoing (e.g. failure to protect from violence, overdoses, etc. within the government sanctioned camp). Second, in California, at least one federal district court has recently ruled that cities have a duty to act to protect homeless persons from the dangers they face by living on the streets, with the court’s opinion resting squarely on the State Created Danger principle. Third, when imposing reasonable time, place, and manner restrictions to regulate the sitting, sleeping or lying of persons on public rights of way, cities should consider whether their restrictions, and the enforcement of those restrictions, trigger issues under the State Created Danger principle. Fourth, when removing persons and their belongings from public rights of way, cities should be mindful of whether the removal will implicate the State Created Danger principle.

In creating managed camps for persons experiencing homelessness, cities should strive to create camps that would not reasonably expose a person living in the camp to a known or obvious danger they would not have otherwise faced. And if there is a danger to living in the camp, a city should not act with deliberate indifference to any known danger in allowing persons to live in the camp.

And while the California opinion referenced above has subsequently been overturned by the 9th Circuit Court of Appeals, at least one federal district court in California has held that a city “acted with deliberate indifference to individuals experiencing homelessness” when the city allowed homeless persons to “reside near overpasses, underpasses, and ramps despite the inherent dangers – such as pollutants and contaminant.” *LA Alliance for Human Rights v. City of Los Angeles*, 2022 WL 2615741. The court essentially found a State Create Danger situation when a city allowed persons experiencing homelessness to live near interstates – a living situation it “knew” to be dangerous.

Before a city official enforces a reasonable time, place, and manner restriction which regulates the sitting, sleeping and lying of persons on public property, the official should review the enforcement action they are about to take in light of the State Created Danger principle. For example, if a city has a restriction that allows persons to pitch a tent on public property between the hours of 7 p.m. and 7 a.m., a city official requiring the person who pitched the tent to remove it at 7:01 a.m. should be mindful of all environmental conditions present at the time their enforcement order is made. The same thoughtful analysis should be undertaken when a city removes a person and their belongings from the public rights of way.

How Cities Proceed

The law surrounding the use of public spaces by persons experiencing homelessness is newly emerging, complex, and ripe for additional change. In an effort to simplify, as much as possible, the complexity of this legal conundrum, below is an explanation of what municipal attorneys know cities must do, must not do, and may potentially do.

A. What Cities Must Do

In light of the court decisions discussed herein, and the recent House bills enacted by the Oregon Legislature, cities must do the following:

1. Review all ordinances and policies with your legal advisor to determine which ordinances and policies, if any, are impacted by the court decisions or recently enacted statutes.
2. Review your city's response to the homelessness crisis with your legal advisor to ensure the chosen response is consistent with all court decisions and statutory enactments.

If your city chooses to exclude persons experiencing homelessness from certain areas of the city for violating a local or state law, the person must be provided the right to appeal that expulsion order, and the order must be stayed while the appeal is pending.

3. If your city chooses to remove a homeless person's established camp site, the city must provide at least 72-hour notice of its intent to remove the site, with notices being posted at entry point into the camp site.
4. If a city obtains possession of items reasonably identified as belonging to an individual and that item has apparent value or utility, the city must preserve that item for at least 30 days so that the owner can reclaim the property, and store that property in a location that complies with state law.

B. What Cities Must Not Do

When the decisions rendered by the federal district court of Oregon and the 9th Circuit Court of Appeals are read together, particularly in conjunction with Oregon statutes, cities must not do the following:

1. Cities cannot punish a person who is experiencing homelessness for sitting, sleeping, or lying on public property when that person has no place else to go.
2. Cities cannot prohibit persons experiencing homelessness from taking necessary minimal measures to keep themselves warm and dry when they must sleep outside.
3. Cities cannot presume that a person experiencing homelessness has access to shelter if the available shelter options are:
 - Not accessible because of their gender, age, or familial status;
 - Ones which requires a person to submit themselves to religious teaching or doctrine for which they themselves do not believe;
 - Not accessible because the shelter has a durational limitation that has been met or exceeded; or
 - Ones which prohibit the person from entering the shelter because the person is under the influence of some substance (for example alcohol or drugs) or because of their past or criminal behavior.

C. *What Cities May Potentially Do*

As previously noted, the recent court decisions, and those which are presently pending before the various federal district courts and in the 9th Circuit Court of Appeals, lack clarity in many key respects. This lack of clarity, while frustrating, also provides cities some leeway to address the homelessness crisis, specifically with how the crisis impacts the management of public property.

1. Cities may impose reasonable time, place and manner restrictions on where persons, including those persons experiencing homelessness, may sit, sleep, or lie. Any such regulation imposed by a city should be carefully vetted with the city's legal advisor.
2. Cities may prohibit persons, including those persons experiencing homelessness, from blocking rights of way. Any such regulation should be carefully reviewed by the city's legal advisor to ensure the regulation is reasonable and narrowly tailored.
3. Cities may prohibit persons, including those persons experiencing homelessness, from erecting either temporary or permanent structures on public property. Given that cities are required, by *Blake*, to allow persons experiencing homelessness to take reasonable precautions to remain warm and dry when sleeping outside, any such provisions regulating the erection of structures, particularly temporary structures, should be carefully reviewed by a legal advisor to ensure the regulation complies with all relevant court decisions and Oregon statutes.
4. If a city chooses to remove a camp site, when the camp site is removed, cities may discard items with no apparent value or utility, may discard items that are in an

unsanitary condition, and may allow law enforcement officials to retain weapons, drugs, and stolen property.

5. Cities may create managed camps where person experiencing homelessness can find safe shelter and access to needed resources. In creating a managed camp, cities should work closely with their legal advisor to ensure that in creating the camp they are not inadvertently positioning themselves for a State Created Danger allegation.

D. What Cities Should Practically Consider

While this guide has focused exclusively on what the law permits and prohibits, cities are also encouraged to consider the practicality of some of the actions they may wish to take. Prior to imposing restrictions, cities should work with all impacted staff and community members to identify if the suggested restrictions are practical to implement. Before requiring any tent pitched in the public right of way to be removed by 8 a.m., cities should ask themselves if they have the ability to practically enforce such a restriction – does the city have resources to ensure all tents are removed from public property every morning 365 days a year? If a city intends to remove property from a camp site, cities should practically ask themselves if they can store said property in accordance with the requirements of HB 3124. Both questions are one of only dozens of practical questions cities need to be discussing when reviewing and adopting policies that touch on topics covered by this guide.

Conclusion

Regulating public property, as it relates to persons experiencing homelessness, in light of recent court decisions, legislative actions, and forthcoming judicial opinions is nuanced and complicated. It is difficult for cities to know which regulations are permissible and which are problematic. This guide is an attempt to answer some of the most common legal issues raised by *Martin, Blake*, HB 3115, HB 3124, and the State Created Danger doctrine – it does not contain every answer to every question a city may have, nor does it provide guidance on what is in each community’s best interest. Ultimately, how a city chooses to regulate its public property, particularly in relation to persons experiencing homelessness, is a decision each city must make on its own. A city’s decision should be made not just on the legal principles at play, but on its own community’s needs, and be done in coordination with all relevant partners. As with any major decision, cities are advised to consult with experts on this topic, as well as best practice models, while considering the potential range of public and private resources available for local communities. Cities will have greater success in crafting ordinances which are not only legally acceptable, but are accepted by their communities, if the process for creating such ordinances is an inclusive process that involves advocates and people experiencing homelessness.

Additional Resources

The League of Oregon Cities (LOC), in preparing this guide, has obtained copies of ordinances and policies that may be useful to cities as they consider their own next steps. Additionally, several municipal advisors who participated in the development of this guide have expressed a willingness to share their own experiences in regulating public rights of way, particularly as it

relates to persons experiencing homelessness, with Oregon local government officials. If you believe these additional resources may be of use to you or your city, please feel free to contact a member of the LOC's [Legal Research Department](#).

Recognition and Appreciation

The LOC wishes to extend its sincerest thanks to the municipal attorneys who assisted in the development of this guide. Attorneys from across Oregon came together over several months to vet legal theories, share best practices, and create this guide. These attorneys donated their time, experience, and resources – seeking nothing in return. And while a core team of attorneys was gathered to build this guide, the LOC recognizes that the team's work stands on the shoulders of every city and county attorney in Oregon who has been working, and who will continue to work, to assist their community in addressing the homelessness crisis. For those attorneys not specifically named below, please know your contributions are equally recognized and respected:

- Aaron Hisel, Montoya, Hisel & Associates;
- Chad Jacobs, Beery Elsner & Hammond;
- Eric Mitton, City of Medford;
- Kirk Mylander, Citycounty Insurance Services;
- Elizabeth Oshel, City of Bend;
- Mary Winters, City of Bend; and
- Grace Wong, City of Beaverton.

Enrolled House Bill 3115

Sponsored by Representative KOTEK; Representatives DEXTER, MARSH, MCLAIN, POWER, REYNOLDS, WILDE, Senators DEMBROW, MANNING JR, RILEY

CHAPTER

AN ACT

Relating to the regulation of public property with respect to persons experiencing homelessness; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) "City or county law" does not include policies developed pursuant to ORS 203.077 or 203.079.

(b)(A) "Keeping warm and dry" means using measures necessary for an individual to survive outdoors given the environmental conditions.

(B) "Keeping warm and dry" does not include using any measure that involves fire or flame.

(c) "Public property" has the meaning given that term in ORS 131.705.

(2) Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.

(3) It is an affirmative defense to a charge of violating a city or county law described in subsection (2) of this section that the law is not objectively reasonable.

(4) A person experiencing homelessness may bring suit for injunctive or declaratory relief to challenge the objective reasonableness of a city or county law described in subsection (2) of this section. The action must be brought in the circuit court of the county that enacted the law or of the county in which the city that enacted the law is located.

(5) For purposes of subsections (2) and (3) of this section, reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.

(6) In any suit brought pursuant to subsection (4) of this section, the court, in its discretion, may award reasonable attorney fees to a prevailing plaintiff if the plaintiff:

(a) Was not seeking to vindicate an interest unique to the plaintiff; and

(b) At least 90 days before the action was filed, provided written notice to the governing body of the city or county that enacted the law being challenged of an intent to bring the action and the notice provided the governing body with actual notice of the basis upon which the plaintiff intends to challenge the law.

(7) Nothing in this section creates a private right of action for monetary damages for any person.

SECTION 2. Section 1 of this 2021 Act becomes operative on July 1, 2023.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 15, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 9, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

.....
Shemia Fagan, Secretary of State

Enrolled House Bill 3124

Sponsored by Representative LIVELY; Representatives POWER, WILDE, Senator GORSEK

CHAPTER

AN ACT

Relating to homelessness; amending ORS 203.079 and section 1, chapter 21, Oregon Laws 2018; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 203.079 is amended to read:

203.079. (1) A policy developed pursuant to ORS 203.077 shall *[include, but is not limited to,]* **conform, but is not limited, to** the following $[:]$ **provisions.**

(2) As used in this section, “personal property” means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

[(a)] **(3) [Prior to] Except as provided in subsection (9) of this section, at least 72 hours before** removing homeless individuals from an established camping site, law enforcement officials shall post a **written** notice, *[written]* in English and Spanish, *[24 hours in advance]* **at all entrances to the camping site to the extent that the entrances can reasonably be identified.**

[(b)] **(4)(a) [At the time that a 24-hour] When a 72-hour** notice is posted, law enforcement officials shall inform the local agency that delivers social services to homeless individuals **as to** where the notice has been posted.

[(c)] **(b)** The local agency may arrange for outreach workers to visit the camping site *[where a notice has been posted]* **that is subject to the notice** to assess the need for social service assistance in arranging shelter and other assistance.

[(d)] **(5)(a)** All *[unclaimed]* personal property **at the camping site that remains unclaimed after removal** shall be given to *[law enforcement officials whether 24-hour]* **a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (10) of this section, whether** notice is required **under subsection (3) of this section** or not.

(b) The unclaimed personal property must be stored:

(A) For property removed from camping sites in counties other than Multnomah County, in a facility located in the same community as the camping site from which it was removed.

(B) For property removed from camping sites in Multnomah County, in a facility located within six blocks of a public transit station.

(c) Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.

(d) Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.

(6) The written notice required under subsection (3) of this section must state, at a minimum:

(a) Where unclaimed personal property will be stored;

(b) A phone number that individuals may call to find out where the property will be stored; or

(c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.

(7)(a) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.

(b) The property shall be stored for a minimum of 30 days during which it [will] shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed [for] after 30 days may be disposed of or donated to a corporation described in section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2020. [For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials.]

[(e)] (8) Following the removal of homeless individuals from a camping site on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.

[(2)] (9)(a) The [24-hour] 72-hour notice [required] requirement under subsection [(1)] (3) of this section [shall] does not apply:

[(a)] (A) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site.

[(b)] (B) In the event of an exceptional emergency [such as] at an established camping site, including, but not limited to, possible site contamination by hazardous materials [or when there is], a public health emergency or other immediate danger to human life or safety.

(b) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection (3) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

[(3)] (10) A person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of [the] a notice [described in] required under subsection (3) of this section and within two hours before or after the notice was posted.

(11) Any law or policy of a city or county that is more specific or offers greater protections to homeless individuals subject to removal from an established camping site preempts contrary provisions of this section.

SECTION 1a. If Senate Bill 410 becomes law, section 1 of this 2021 Act (amending ORS 203.079) is repealed and ORS 203.079, as amended by section 1, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 410), is amended to read:

203.079. (1) A policy developed pursuant to ORS 203.077 shall [include, but is not limited to,] conform, but is not limited, to the following[:] provisions.

(2) As used in this section, "personal property" means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

[(a)] (3) [Prior to] Except as provided in subsection (9) of this section, at least 72 hours before removing homeless individuals from an established camping site, law enforcement officials

shall post a **written** notice, *[written]* in English and Spanish, *[24 hours in advance]* **at all entrances to the camping site to the extent that the entrances can reasonably be identified.**

[(b)] **(4)(a)** *[At the time that a 24-hour]* **When a 72-hour** notice is posted, law enforcement officials shall inform the local agency that delivers social services to homeless individuals **as to** where the notice has been posted.

[(c)] **(b)** The local agency may arrange for outreach workers to visit the camping site *[where a notice has been posted]* **that is subject to the notice** to assess the need for social service assistance in arranging shelter and other assistance.

[(d) Except as otherwise provided in paragraph (e) of this subsection:]

[(A)] **(5)(a)** All *[unclaimed]* personal property **at the camping site that remains unclaimed after removal** shall be given to *[law enforcement officials whether 24-hour]* **a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (10) of this section, whether** notice is required **under subsection (3) of this section** or not.

(b) The unclaimed personal property must be stored:

(A) For property removed from camping sites in counties other than Multnomah County, in a facility located in the same community as the camping site from which it was removed.

(B) For property removed from camping sites in Multnomah County, in a facility located within six blocks of a public transit station.

(c) Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.

(d) Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.

(6) The written notice required under subsection (3) of this section must state, at a minimum:

(a) Where unclaimed personal property will be stored;

(b) A phone number that individuals may call to find out where the property will be stored; or

(c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.

(7)(a) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.

(b) The property shall be stored for a minimum of 30 days during which it *[will]* shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed *[for]* after 30 days may be disposed of **or donated to a corporation described in section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2020.**

[(B) For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.]

[(C) Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.]

[(e) For unclaimed personal property located in Multnomah County:]

[(A) All unclaimed personal property shall be given to a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (3) of this section, whether 24-hour notice is required or not.]

[(B) Facilities for storage of personal property under paragraph (d) of this subsection must be located within six blocks of a public transit station.]

[(f)] **(8)** Following the removal of homeless individuals from a camping site on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.

[(2)] **(9)(a)** The [24-hour] **72-hour** notice [required] **requirement** under subsection [(1)] **(3)** of this section [shall] **does** not apply:

[(a)] **(A)** When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring **at an established camping site**.

[(b)] **(B)** In the event of an exceptional emergency [such as] **at an established camping site, including, but not limited to,** possible site contamination by hazardous materials [or when there is], **a public health emergency or other** immediate danger to human life or safety.

(b) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection (3) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

[(3)] **(10)** A person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of [the] a notice [described in] **required under subsection (3) of this section** and within two hours before or after the notice was posted.

(11) Any law or policy of a city or county that is more specific or offers greater protections to homeless individuals subject to removal from an established camping site pre-empts contrary provisions of this section.

SECTION 2. Section 1, chapter 21, Oregon Laws 2018, is amended to read:

Sec. 1. (1) The Department of Transportation may enter into an intergovernmental agreement with a city that has a population of 500,000 or more for the removal, storage and disposition of personal property deposited, left or displayed on property that is owned by the department.

(2) Notwithstanding ORS 377.650, 377.653 and 377.655, an intergovernmental agreement entered into under this section may provide alternative provisions related to the removal, storage and disposition of personal property if the alternative provisions conform with the requirements for local government policy for removal of homeless individuals and personal property [described] under ORS 203.079, *except that under this section the notices described in ORS 203.079 must be posted 48 hours in advance*.

(3) In addition to the requirements described in subsection (2) of this section, an intergovernmental agreement entered into under this section must include the following:

(a) Requirements for posting notice before the removal of personal property, including but not limited to the following:

(A) That the notice is created using durable materials and securely posted within 30 feet of the personal property to be removed;

(B) That the notice must provide the date the notice begins and the date upon which the city may begin removing personal property; and

(C) That the notice must provide a description of:

(i) How an individual may access personal property that is removed and stored; and

(ii) The length of time the city will store personal property before the city disposes of it.

(b) A requirement that the notice expires 10 days after the city posts the notice.

(c) A severe weather protocol regarding the weather conditions under which the city will not remove personal property.

(d) Provisions related to inventorying and storing the personal property to be removed.

(e) Provisions related to the city relinquishing unclaimed personal property after the storage period to the city's designated agent.

(f) Provisions related to when the city will provide impact reduction services, including but not limited to trash collection.

(4) The [48-hour] **72-hour** notice **under ORS 203.079** required under subsection (2) of this section does not apply:

(a) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring;

(b) Where there is an exceptional emergency, such as possible site contamination by hazardous materials; or

(c) When there is immediate danger to human life or safety.

(5) Before the city adopts an intergovernmental agreement under this section or changes to the agreement, the city shall invite public comment on the proposed agreement or the proposed changes to the agreement.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 19, 2021

Received by Governor:

Repassed by House June 9, 2021

.....M.,....., 2021

Approved:

.....
Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2021

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate June 8, 2021

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M.,....., 2021

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Shemia Fagan, Secretary of State



MEMORANDUM

TO: DEI Committee

FROM: Amanda Guile-Hinman, City Attorney

DATE: December 6, 2022

RE: Community Outreach Plan – Prohibited Camping

The goals of the prohibited camping code revision project are (1) to ensure that the City is compliant with HB 3115 prior to its operative date of July 1, 2023; (2) to verify, through work sessions with Councilors and feedback from the community and stakeholders, that any regulations in the Wilsonville Code reflect City values; and (3) to communicate with and educate the Council and the community about these changes in Oregon law and any corresponding revisions to the Wilsonville Code. To achieve these goals, staff developed a Community Outreach Plan to educate community members regarding the Oregon statutes and case law that require the City to examine its prohibited camping code provisions and to receive and incorporate feedback from the community to ensure that any revisions are consistent with the City’s values. It is important to convey that this project is not meant to solve the housing crisis or resolve housing, mental health, or other considerations for persons experiencing houselessness. While such work is underway through various other projects, such as the City’s Equitable Housing Strategic Plan and the Counties’ and Metro’s work to build shelters, this project is specifically geared toward the new state mandates resulting from HB 3115 and HB 3124 – namely, that the City must allow camping, with reasonable limitations or restrictions, unless and until there are enough beds for all involuntarily unhoused individuals in the Wilsonville community.

This Community Outreach Plan for the City’s prohibited camping code revision project consists of four (4) different components of outreach, namely: (1) educational information; (2) a community survey; (3) stakeholder surveys and interviews; and (4) interviews with individuals with lived experience.

A. Educational Information

Staff plan to develop messaging that will be available via the City’s website and in the Boones Ferry Messenger. The internal team on this project is also considering developing a video or other prompt that must be viewed before a community member completes the Let’s Talk, Wilsonville survey that is contemplated in Section B below. As an example, Bend made a video to explain its budget process that is both informative and engaging. Something similar for this project may be helpful for educational purposes. Bend’s video explaining its budget can be found here: <https://www.youtube.com/watch?v=4VmkA64pY28>

The staff team has also discussed working on a piece for the Wilsonville Spokesman to explain the reasoning and purpose behind this project.

B. Community Survey

Staff took examples from other Oregon communities that have already conducted community surveys regarding prohibited camping to develop draft questions for a community survey, which are provided below:

1. Relationship to the City of Wilsonville

- a. Live
- b. School
- c. Work
- d. Visit
- e. Business

2. Best way to receive updates on project (not helpful, slightly helpful, helpful, fairly helpful, extremely helpful)

- a. Email
- b. Mail
- c. City Website
- d. Newspaper
- e. Online sites like NextDoor

3. Do you have concerns regarding camping on public property in the Portland-Metro area (not concerned, slightly concerned, concerned, fairly concerned, extremely concerned)?

4. Do you have concerns regarding camping on public property in Wilsonville (not concerned, slightly concerned, concerned, fairly concerned, extremely concerned)?

5. What factors should the City consider when reviewing potential locations to allow overnight camping? (not important, slightly important, important, fairly important, extremely important)

- a. Parking impacts
- b. Potential impacts to communities of color
- c. Potential impacts to low-income areas
- d. Proximity to schools and childcare facilities
- e. Proximity to environmentally sensitive areas
- f. Proximity to shelters
- g. Sanitary considerations
- h. Proximity to commercial areas
- i. Proximity to pedestrian corridors
- j. Proximity to residential areas
- k. Safety considerations

6. Do you have concerns about camping in specific areas? (not concerned, slightly concerned, concerned, fairly concerned, extremely concerned)
- a. Parks/trails
 - b. Forested/environmentally sensitive areas
 - c. Parking lots
 - d. Town Center
 - e. Residential areas
 - f. Retail areas
 - g. Office/Other commercial areas
 - h. Industrial areas
 - i. Transit areas
 - j. Rights-of-way/streets
7. Do you have concerns about specific camping regulations (not concerned, slightly concerned, concerned, fairly concerned, extremely concerned)
- a. Time of day or night that camping is allowed
 - b. Compatibility with surrounding uses (schools, parks, residential, commercial, etc)
 - c. Environmental impacts
 - d. Proximity to services
 - e. Duration
 - f. Use of public parking lots
 - g. Access to buildings, sidewalks
8. Would you be supportive of a private camping program where property owners can allow a limited number of individuals or families to camp on their property? [Staff will need to include an explanation of what a private camping program looks like – other jurisdictions allow these in their codes].
- a. Not supportive, slightly supportive, supportive, fairly supportive, extremely supportive

C. Stakeholder Outreach

The staff team has developed a list of stakeholders, based on other cities' outreach efforts on similar prohibited camping projects. The list is divided into four (4) categories: (1) service providers, such as Wilsonville Community Sharing, Heart of the City, and local religious and charitable organizations; (2) community and business groups, such as the Chamber of Commerce, the Rotary Club, and local homeowners associations; (3) City advisory bodies, including the DEI Committee, the Library Board, and the Parks & Recreation Board; and (4) other public agencies, including TVF&R, the Sheriff's Office, Clackamas County code enforcement and health, housing, and human services, the School District, and Metro.

Staff plan to provide surveys to the first two categories of organizations and also conduct interviews/outreach with persons in the organizations listed in all four categories. The survey questions were similarly derived from surveys conducted by other jurisdictions.

1. Service Provider Survey Questions

a. Best way to receive updates on project (not helpful, slightly helpful, helpful, fairly helpful, extremely helpful)

1. Email
2. Mail
3. City Website
4. Newspaper
5. Online sites like NextDoor

b. Part I – Services Provided

1. Do you distribute food to persons experiencing houselessness?
2. If so, how much food did you distribute over the last year to persons experiencing houseless?
 - a. In pounds, by meal, number of hours of kitchen being open?
3. Did the total quantity of food distributed increase, decrease, or stay the same over the prior year?
4. What was your total budget for food assistance over the last year?
5. Did your total budget for food assistance purchases increase, decrease, or stay the same over the prior year?
6. Did the number of persons seeking food assistance increase, decrease, or stay the same over the last year?
7. Did you offer any sheltering assistance over the last year?
 - a. Non-overnight place to stay warm
 - b. Overnight accommodation
 - c. Multiple night accommodation
8. If so, how many people did you provide sheltering assistance to over the last year?
9. Did the number of persons seeking sheltering assistance increase, decrease, or stay the same over the prior year?
10. Did you offer any other types of assistance to persons experiencing houselessness over the last year?
 - a. If so, what types of assistance?
11. If so, how many people did you provide other assistance to over the last year?
12. Did the number of persons seeking other types of assistance increase, decrease, or stay the same over the prior year?

c. Part II – Camping on Public Property

1. What factors should the City consider when reviewing potential locations to allow overnight camping? (not important, slightly important, important, fairly important, extremely important)
 - a. Parking impacts
 - b. Potential impacts to communities of color
 - c. Potential impacts to low-income areas
 - d. Proximity to schools and childcare facilities
 - e. Proximity to environmentally sensitive areas
 - f. Proximity to shelters
2. Do you have concerns about specific camping regulations (not concerned, slightly concerned, concerned, fairly concerned, extremely concerned)
 - a. Time of day or night that camping is allowed
 - b. Compatibility with surrounding uses (schools, parks, residential, commercial, etc)
 - c. Environmental impacts
 - d. Proximity to services
3. Would you be supportive of a private camping program where property owners can allow a limited number of individuals or families to camp on their property?
 - a. Not supportive, slightly supportive, supportive, fairly supportive, extremely supportive
4. If allowed, would you be interested in providing temporary on-site camping on your property?

2. Business Group/Community Survey

1. Best way to receive updates on project (not helpful, slightly helpful, helpful, fairly helpful, extremely helpful)
 - a. Email
 - b. Mail
 - c. City Website
 - d. Newspaper
 - e. Online sites like NextDoor
2. Have you experienced individuals sleeping/camping on your property? (never, infrequently, sometimes, frequently, habitually)
3. Have you had to contact law enforcement to address sleeping/camping on your property? (never, infrequently, sometimes, frequently, habitually)
4. What factors should the City consider when reviewing potential locations to allow overnight camping? (not important, slightly important, important, fairly important, extremely important)
 - a. Parking impacts
 - b. Potential impacts to communities of color
 - c. Potential impacts to low-income areas
 - d. Proximity to schools and childcare facilities
 - e. Proximity to environmentally sensitive areas
 - f. Proximity to shelters
5. Do you have concerns about camping in specific areas? (not concerned, slightly concerned, concerned, fairly concerned, extremely concerned)
 - a. Parks/trails
 - b. Forested/environmentally sensitive areas
 - c. Parking lots
 - d. Town Center
 - e. Residential areas
 - f. Retail areas
 - g. Office/Other commercial areas
 - h. Industrial areas
 - i. Transit areas
6. Do you have concerns about specific camping regulations (not concerned, slightly concerned, concerned, fairly concerned, extremely concerned)
 - a. Time of day or night that camping is allowed
 - b. Compatibility with surrounding uses (schools, parks, residential, commercial, etc)
 - c. Environmental impacts
 - d. Proximity to services

7. Would you be supportive of a private safe camping program where property owners can allow a limited number of individuals or families to camp on their property?
 - a. Not supportive, slightly supportive, supportive, fairly supportive, extremely supportive

DRAFT

3. HOA Survey

1. Best way to receive updates on project (not helpful, slightly helpful, helpful, fairly helpful, extremely helpful)
 - a. Email
 - b. Mail
 - c. City Website
 - d. Newspaper
 - e. Online sites like NextDoor
2. Have you experienced individuals sleeping/camping on your HOA-owned property? (never, infrequently, sometimes, frequently, habitually)
3. Have you had to contact law enforcement to address sleeping/camping on your HOA-owned property? (never, infrequently, sometimes, frequently, habitually)
4. What factors should the City consider when reviewing potential locations to allow overnight camping? (not important, slightly important, important, fairly important, extremely important)
 - a. Parking impacts
 - b. Potential impacts to communities of color
 - c. Potential impacts to low-income areas
 - d. Proximity to schools and childcare facilities
 - e. Proximity to environmentally sensitive areas
 - f. Proximity to shelters
5. Do you have concerns about camping in specific areas? (not concerned, slightly concerned, concerned, fairly concerned, extremely concerned)
 - a. Parks/trails
 - b. Forested/environmentally sensitive areas
 - c. Parking lots
 - d. Town Center
 - e. Residential areas
 - f. Retail areas
 - g. Office/Other commercial areas
 - h. Industrial areas
 - i. Transit areas
6. Do you have concerns about specific camping regulations (not concerned, slightly concerned, concerned, fairly concerned, extremely concerned)
 - a. Time of day or night that camping is allowed
 - b. Compatibility with surrounding uses (schools, parks, residential, commercial, etc)
 - c. Environmental impacts
 - d. Proximity to services
7. Would you be supportive of a private camping program where property owners can allow a limited number of individuals or families to camp on their property?

- a. Not supportive, slightly supportive, supportive, fairly supportive, extremely supportive

D. Community Members Experiencing Houselessness

The staff team has discussed undertaking in-person interviews in spaces that feel safe to the interviewees, such as the Library or Wilsonville Community Sharing. The team has also discussed providing gift cards for participation. Questions the internal team has brainstormed are:

- a. How long have you been residing in Wilsonville?
- b. How long have you been camping?
- c. What types of areas do you find to be the safest places for sleeping?
- d. Do you usually sleep at night?
- e. What are some barriers you face in finding a safe place to sleep at night?
- f. What should the City consider when determining where and when people can sleep on public property?