

Illegal Camping

Ad-Hoc Taskforce Recommendations

February 8, 2023

Problem

- Recent court decisions and State of Oregon legislative action means the City's code for Parks and camping is out of compliance and the Police Department is unable to enforce it.

- Council established an ad hoc committee to review local code and recommend amendments to align with the legal framework.

Direction

Agenda

- Defining “Success”
- Legal Framework
- Reasonable Objective Standards
- Implementation Options
- Public Property
- Next Steps

The image features a dark grey background with several concentric, light grey circles of varying radii, some solid and some dashed. In the center, there is a bright green speech bubble shape. The speech bubble has a rectangular top and a pointed bottom. Inside the green shape, the text "Defining 'Success'" is written in a white, sans-serif font. The text is centered horizontally and vertically within the green area.

Defining "Success"

City Parameters

- Ad-hoc Committee Assignment
- Funding considerations
 - Start-up
 - Long term commitment
- Meeting legal requirements
- Availability of services to support the unhoused

01

Establish and
manage a
shelter

02

Establish a
managed
campsite

03

Establish an
unmanaged
campsite

04

Establish
regulations
for protection
from the
elements

Options

Reality

There is currently no City funding source to provide managed facilities

"Success"

The City's compliance with Case Law and State Regulations

This is not a discussion on homelessness, but a discussion on State law compliance

The image features a central green speech bubble with a white outline and a small tail pointing downwards. Inside the bubble, the words "Legal Framework" are written in a clean, white, sans-serif font. The background is a dark gray with several thin, light gray concentric circles and dashed lines, creating a subtle pattern.

Legal Framework

Case Law

- **Boise Case**
 - Forbids criminal punishment when no reasonable alternatives exist
- **Grants Pass Case (on appeal to full 9th Circuit)**
 - Expands on Boise to restrict civil violations and fines if reasonable alternative doesn't exist
 - Establishes minimum measures to keep warm and dry (does not define)
 - Imposes due process right for park exclusions
- **Neither Case**
 - Establishes the right to camp
 - Allows people to choose when, where, how to rest in public
 - Requires the City to provide shelter
 - If shelter is NOT provided, the City SHALL provide a reasonable accommodation for persons to rest/protect from elements

State Law



HB 3115

Codifies Boise/Grants Pass into State Law

Must allow persons protection from the elements on public property

Reasonable restrictions may apply (time, place, and manner)

Implementation by June 30, 2023



HB 3124

72-hour posting requirements to clear established camp site

Storage of unclaimed property from camp site clean up for period



HB 2006

Local gov't required to approve proposed emergency shelters on any property in the UGB, regardless of zoning standards (bill sunset July 1, 2023)

Proposed Compliance Framework

- Compliance with Boise/Grants Pass/HB 3115
 - Ad-Hoc Committee assigned responsibility
 - Code modifications/Policy Implementation
- HB 3124
 - No code modifications required
 - Already implemented by the Police/Public Works Departments
- HB 2006
 - Mandatory implementation
 - No code modifications required
 - City has not been approached by any interested party



Reasonable
Objective Standards



Time Place Manner

- Reasonable objective standards
 - A city may impose restrictions on how a person achieves protection from the elements, but they must be reasonable.
 - Reasonable is not defined and is a continuing question which will need to be answered in the courts.

Time Considerations

- If permitted at same location for 24-hours – results in establishing a camp
- Ad hoc committee request
 - If different day/evening location is established, allow for use of evening location to start before dark in the winter months.
- Park Hours

Place Considerations

- Requirement – Cities shall provide a public place for people to protect themselves from the elements.
- Grants Pass Implications – There shall be a due process to exclude individuals from parks.
 - Parks are open to all public, and may be used by all public in the same manner, unless excluded through due process procedure
- Lebanon Parameters –
 - Do not have capacity to support a 24-hour/365-day camp
 - Public parks already authorized for use (Grants Pass, public use)
 - Establish place during non-park hours

Place Considerations

Criteria Evaluation

- Property is owned by the City, not any other gov't entity
- Does not impact water, wastewater, storm water infrastructure
- Does not impact environmental areas (i.e., floodplain)
- No physical safety hazards for the individuals using the place
- Not adjacent to residential neighborhoods, including sidewalks and parking strips
- Accessible by walking, bikes, vehicles and transit
- Sanitation facilities would or could be made available
- If not a building, the site could accommodate tents
- Proximity to other services

Manner Considerations

- Prohibit the use of fire or open flame
- Prohibit use of materials that cannot be removed without assistance
- Allow tents, tarps, etc. so long as not attached to a structure, street sign, landscape, etc. or dug/hammered into ground
- Cannot block walkways, parking/access areas, ADA paths of travel, recreational paths and equipment
- Rules for use of space to be posted at sites

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Public Property

Considerations

- Time restrictions
- ADA access/path of travel
- Proximity to services
- Public Use
- Grants Pass implications (due process to be excluded from parks)

Daytime Accommodations

- How parks are currently used/regulated
 - Allowed to put up tents/canopies, etc.
- Use of parks
 - Grants Pass implications - Due process right for exclusion from parks
 - Cities cannot exclude individuals following park rules from the park without due process
 - ALL parks, when not reserved, would need to be available for persons to protect themselves from the elements

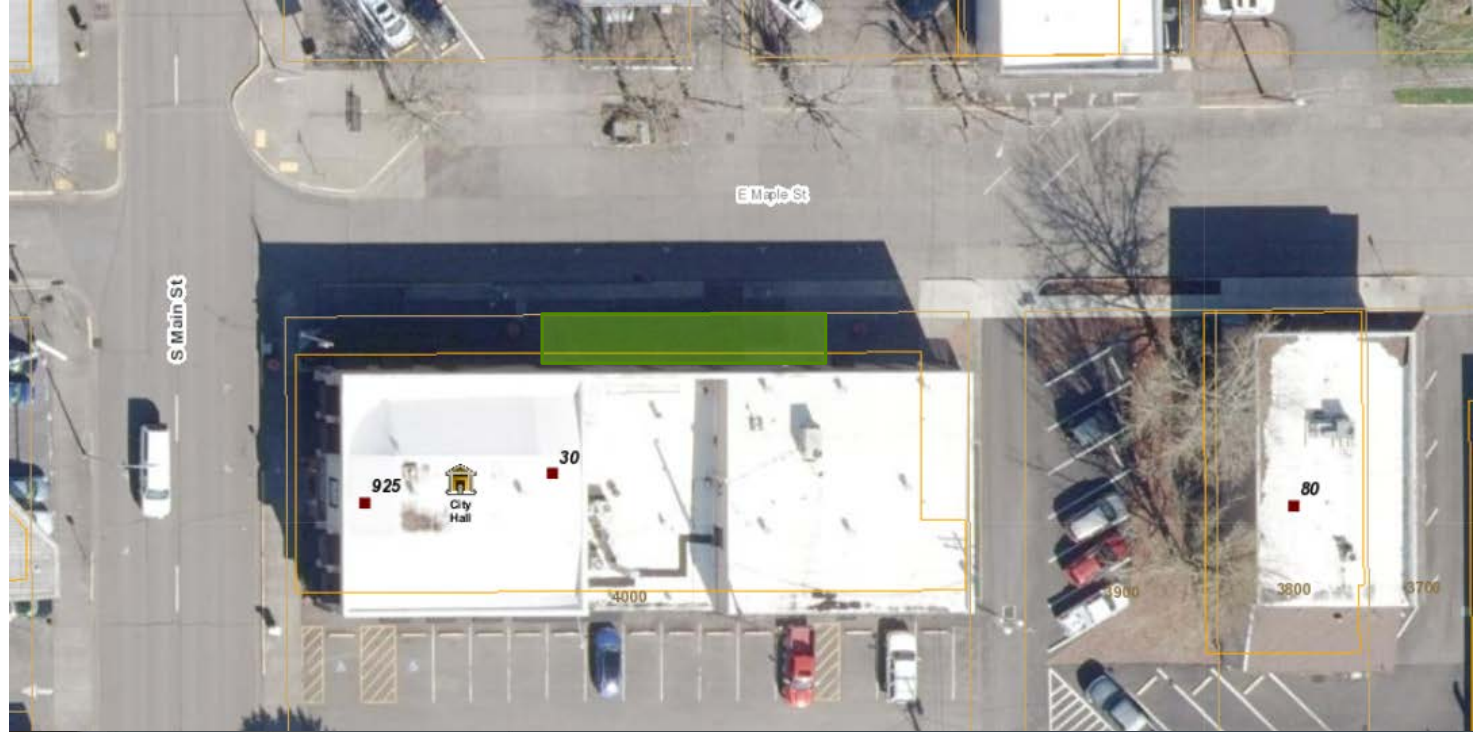
Evaluation of Public Property for overnight

- Used Place criteria evaluation
- City property
- Limit impact to residential areas
- Maintain public access/ADA paths
- Police/Public Works considerations

Overnight Accommodations



Overnight Accommodations



Overnight Accommodations



Overnight Accommodations





Proposed Code Amendments

Park Ordinance Ch. 12.12

Proposed Amendments:

- Consolidate regulations regarding park hours, park closures, and park exclusion (currently in Ch. 12.14) into Chapter 12.12
- Establish park hours for daily between 7:00am – 10:00pm
- Establish clear rules for camping in city parks
- Reorganize the chapter to consolidate sections based on topic

**Public
Sleeping Areas
Ordinance
Ch. 12.14**

Proposed Code Additions:

- **Definitions**
- **Designation of Public Sleeping Areas – Through Council Resolution (Place)**
- **Time Restrictions**
- **Use of Designated Public Places (Manner)**

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Next Steps

Ad-Hoc Committee Recommendations

- City Ordinance to amend Chapter 12.12 and 12.14
- City Resolution to establish site locations
- City Council meeting adoption process

Implementation

- 60 days after Ordinance adoption
- Site Prep
 - Production of signage
 - Contracting for restroom/handwashing facilities
 - Delineation of areas for designated site
 - Establishment of site rules

Next?

- Other areas of consideration:
 - Vehicle camping on private property
 - RV camping on private property
 - Vehicle camping on public streets
 - RV camping and implications of Grants Pass ruling