

RUBIO AMENDMENT 1 – adds a new finding related to the criminal penalties in the ordinance, adds a new council directive related to transparency and data

ORDINANCE No.

Amend City Code to update existing public camping restriction policies (repeal Code Sections 14A.50.020, 14A.50.025, add Code Sections 14A.50.140, 14A.50.150, 14A.50.160, 14A.50.170, and amend Sections 14A.50.050, 14A.55.010, 29.50.050)

The City of Portland ordains:

Section 1. The Council finds:

1. During the 2021 Regular Session of the Oregon Legislative Assembly, the legislature adopted House Bill 3115 (HB 3115).
2. HB 3115 requires that any city 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.
3. On June 7, 2023, the City Council passed Ordinance 191311 to comply with HB 3115, by adopting reasonable time, place, and manner regulations with respect to persons experiencing homelessness.
4. On September 29, 2023, plaintiffs filed suit challenging the City's regulations, and on November 9, 2023, the Multnomah County Circuit Court issued an injunction barring the City from enforcing the ordinance. The City sought review of the injunction from the Oregon Supreme Court through a writ of mandamus with the goal of obtaining a judicial opinion providing guidance to the City and the public regarding the permissible scope of the City's regulations. On March 7, 2024, the Oregon Supreme Court denied the City's request.
5. While the City has not been afforded guidance from the courts, the City remains required by HB 3115 to ensure the City's regulations concerning camping on public property are objectively reasonable.
6. While the current injunction by the Multnomah County Circuit Court would keep the status quo in place, the City Council believes the status quo is not working.
7. Accordingly, the City Council finds it necessary to repeal the previous ordinance and replace those provisions with new regulations governing camping on public property.
8. The new regulations do the following:
 - a. Clarify the definition of camping;
 - b. Clarify the prohibition on camping for individuals who have reasonable shelter or who decline an offer of reasonable shelter;
 - c. Focus on regulating the manner by which camping may not be done on public property; and
 - d. Reduce the criminal sanctions, and replace the warnings with a provision encouraging diversion.

9. The City Council believes the new regulations are necessary as they are likely to survive a legal challenge while also providing objectively reasonable regulations that can be enforced to help change the status quo in Portland.

10. The City Council also finds that transparency is an imperative aspect to the enforcement of this ordinance, and seeks to ensure it is not being disproportionately enforced through appropriate data collection and reporting.

NOW, THEREFORE, the Council directs:

A. Portland City Code Sections 14A.50.020 and 14A.50.025 are repealed.

B. Portland City Code Sections 14A.50.140, 14A.50.150, 14A.50.160 and 14A.50.170 are added as set forth in Exhibit A.

C. Portland City Code Sections 14A.50.050, 14A.55.010, and 29.50.050 are amended as set forth in Exhibit B

D. The Portland Police Bureau to provide quarterly aggregated data updates to Council related to the number of arrests, demographics of arrested individuals, and frequency of arrests pursuant to the City Code provisions set forth in Exhibit A. These updates should be made in a form easily accessible to the public.

Item 339 - Proposed amendment from Commissioner Mapps

Motion: Add a new Portland City Code Section 14A.50.180 to the Mayor's proposal in Exhibit A and amend Directive B of the ordinance to include a reference to the new Section 14A.50.180:

14A.50.180 Public Environment Executive Team

The Public Environment Executive Team is comprised of the Mayor, City Administrator, the Deputy City Administrators, and other executive branch employees designated by the Mayor who have responsibility for programs and services related to homelessness and unsanctioned public camping. The Public Environment Executive Team shall review policy proposals related to homelessness and unsanctioned public camping. The Public Environment Executive Team will regularly report to the Mayor on legal and policy developments regarding homelessness and unsanctioned camping and shall propose to the Mayor amendments to City Code based on any such developments, which the Mayor at their discretion may choose to introduce for consideration by City Council.

Amend City Code to update existing public camping restriction policies (repeal Code Sections 14A.50.020, 14A.50.025, add Code Sections 14A.50.140, 14A.50.150, 14A.50.160, 14A.50.170, [14A.50.180](#) and amend Sections 14A.50.050, 14A.55.010, 29.50.050)

The City of Portland ordains:

Section 1. The Council finds:

1. During the 2021 Regular Session of the Oregon Legislative Assembly, the legislature adopted House Bill 3115 (HB 3115).
2. HB 3115 requires that any city 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.
3. On June 7, 2023, the City Council passed Ordinance 191311 [in which it repealed and replaced the Portland City Code's camping restrictions in an attempt](#) to comply with HB 3115, ~~by adopting reasonable time, place, and manner regulations with respect to persons experiencing homelessness.~~
4. On September 29, 2023, plaintiffs filed suit challenging the City's regulations, and on November 9, 2023, the Multnomah County Circuit Court issued an injunction barring the City from enforcing the ordinance. The City sought review of the injunction from the Oregon Supreme Court through a writ of mandamus with the goal of obtaining a judicial opinion providing guidance to the City and the public regarding the permissible scope of the City's regulations. On March 7, 2024, the Oregon Supreme Court denied the City's request.
5. ~~While t~~The City has not been afforded guidance from the courts, ~~the City remains required by~~ [as how to comply with](#) HB 3115 ~~to ensure the City's regulations concerning camping on public property are objectively reasonable.~~
6. While the current injunction by the Multnomah County Circuit Court ~~would keep upholds~~ the *status quo* ~~in place~~, the City Council believes [that](#) the *status*

~~quo is not working~~ undermines public safety and urgently requires change.

7. Accordingly, the City Council finds it necessary to repeal the previous ordinance and replace those provisions with new regulations governing that prohibit camping on public property while complying with evolving state and federal law.

~~8. The new regulations do the following:~~

~~1. Clarify the definition of camping;~~

~~2. Clarify the prohibition on camping for individuals who have reasonable shelter or who decline an offer of reasonable shelter;~~

~~3. Focus on regulating the manner by which camping may not be done on public property; and~~

~~4. Reduce the criminal sanctions, and replace the warnings with a provision encouraging diversion.~~

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~~9. The City Council believes the new regulations are necessary as they are likely to survive a legal challenge while also providing objectively reasonable regulations that can be enforced to help change the *status quo* in Portland.~~

8. With a fluid legal environment and evolving resources available to those experience homelessness, the City Council intends to preserve flexibility in regulating public camping.

9. For example, the United States Supreme Court is considering whether the Ninth Circuit's holdings as announced in *Martin v. Boise* and *Johnson v. Grants Pass* are supported by and consistent with the Constitution of the United States of America.

10. Further, while the Oregon legislature passed HB 3115 in 2021, the Oregon Legislative Assembly has the authority to repeal that statute at a future meeting of the legislature.

11. Furthermore, the City Council finds that transparency is imperative to unsanctioned camping enforcement and that appropriate data collection and reporting is vital to ensuring enforcement is not applied disproportionately.

12. In addition, the City Council believes it is necessary for the City to pursue changes in the law to allow local governments more ability to regulate and

prohibit public camping. The City has filed an *amicus curie* brief with the United States Supreme Court seeking to overturn the Ninth Circuit's decisions in *Martin v. Boise* and *Johnson v. Grants Pass*.

13. The City Council likewise believes it is important for the City's camping rules to be no more permissive than adjoining cities.

14. Since the legal landscape may change, the City Council believes the City Code should be amended to give the City flexibility to impose camping regulations consistent with the evolving legal landscape and allow for a complete prohibition on public camping in the event the United States Supreme Court overturns *Martin v. Boise* and *Johnson v. Grants Pass* and the Oregon legislature repeals HB 3115 (2021).

NOW, THEREFORE, the Council directs:

- A. Portland City Code Sections 14A.50.020 and 14A.50.025 are repealed.
- B. Portland City Code Sections 14A.50.140, 14A.50.150, 14A.50.160 ~~and~~ 14A.50.170, and 14A.50.180 are added, as set forth in Exhibit A.
- C. Portland City Code Sections 14A.50.050, 14A.55.010, and 29.50.050 are amended as set forth in Exhibit B.
- D. The City Administrator (or such alternative city employees designated by the Mayor) to create a Public Environment Executive Team, composed of executive branch employees who have responsibility for programs, services, and compliance related to homelessness and unsanctioned public camping. The Public Environment Executive Team shall review policy proposals related to homelessness and unsanctioned public camping and evaluate changes in the state and federal legal landscape. The Public Environment Executive Team will regularly report to the Mayor on legal and policy developments regarding homelessness and unsanctioned camping and shall propose to the Mayor amendments to City Code and state law based on any such developments, which the Mayor at their discretion may choose to introduce for consideration by City Council.
- E. The Portland Police Bureau to provide quarterly aggregated data updates to Council related to the number of arrests, demographics of arrested individuals, and frequency of arrests pursuant to the City Code provisions set forth in Exhibit A. The aggregated data should be in a form easily accessible to the public.

EXHIBIT A

14A.50.140 Camping Definitions.

As used in Sections 14A.50.150-14A.50.160:

A. To camp or camping means to set up, pitch, use, or occupy camp materials with intent to facilitate sleeping, storage of personal belongings, or carrying on cooking activities. **To camp or camping** does not include merely sitting with, lying by, or possessing camp materials that are stowed, disassembled, or packed in a manner that would permit them to be immediately carried or moved.

B. Camp materials means any tent, lean-to, shack, tarp, tarpaulin, hammock, vehicle or part thereof, bed, cot, sleeping bag, blanket, mattress, stove, burn barrel, or other structure or device intentionally used for or in furtherance of sleeping, storing personal belongings, or carrying on cooking activities.

14A.50.150 Camping Prohibited.

Except as enforcement is limited pursuant to 14A.50.160, it is unlawful for any person to camp in or upon any public property or public right-of-way, other than a shelter or other location legally established in conformance with Portland City Code Title 33.

14A.50.160 Authority to Adopt Rules Relating to Camping on Public Property and Public Rights-of-Way.

A. The Mayor or the Mayor's designee shall adopt administrative rules specifying the times, places, and manners in which enforcement of 14A.50.150 shall be limited in order to comply with ORS 195.530 and any applicable federal or state law, provided that any such administrative rules will:

1. Protect access to public and private property and public rights-of-way, free of interference and intimidation from unsanctioned campsites;
2. Minimize unsanitary and hazardous materials and fire hazard;
3. Minimize damage to infrastructure, the environment, trees, and vegetation;
4. Minimize the accumulation of garbage, debris, drug paraphernalia, and bicycle parts; and
5. Prohibit camping in areas posted as "no trespassing" by the City.

B. The Mayor or the Mayor's designee shall follow the following procedures to adopt new or amended administrative rules authorized by this section:

1. Notification and Public Outreach Process: The public outreach process will include a minimum 30-day comment period. A tiered approach will be used to determine public outreach activities.

a. Tier I includes only typographical, clerical, or other minor changes to existing administrative rules. For Tier I rules, the public outreach will include posting the proposed rule changes on the City website.

b. Tier II includes new administrative rules or substantial changes to an existing rule. For Tier II rules, the public outreach will include:

(1) Posting notice of the proposed rule or substantial change on the City's website.

(2) By request or as needed, the proposed rule or substantial change will be presented in person or virtually to community stakeholder groups.

(3) If requested, a public hearing will be held at the end of the 30-day comment period. Staff will designate a date, time and location for the public hearing in the original notice described above. The notice shall include a brief description of the subjects covered by the proposed rule and the location where copies of the full text of the proposed rule may be obtained. The public hearing is by request only. The Mayor or the Mayor's designee will cancel the hearing if it receives no request three business days prior to the hearing date. A cancellation notice will be posted on the City's website and sent to the email list for that item if applicable. During the public review process, the Mayor or the Mayor's designee shall hear testimony and receive written comments regarding the proposed rules.

c. Additional factors may be used to further refine this process. Additional outreach activities may be conducted if deemed necessary.

2. Review and Adoption of Administrative Rules: Following the public outreach process, staff will review comments and submit the proposed rule to the Mayor or the Mayor's designee. The Mayor or the Mayor's designee may adopt the proposed rule, modify it, or reject it. If there is a substantial change to the proposed rule, the Mayor or the Mayor's designee may provide additional time for public review and comment prior to adoption. Unless otherwise stated, all rules will be effective upon adoption by the Mayor or the Mayor's designee. Administrative rules may list an effective date that is later than the adoption date.

3. Filing of Administrative Rules: Once approved by the Mayor or the Mayor's designee, the new or amended rule will be included in the Portland Policy Documents repository online.

4. Interim Administrative Rules: The Mayor or the Mayor's designee has the authority to immediately adopt an interim rule should it be determined that failure to act promptly would result in prejudice to the public interest. If the Mayor or the Mayor's

designee adopts an interim rule pursuant to this subsection, the Mayor or the Mayor's designee shall state the specific reasons for such prejudice. Any interim rule will be effective for a period of no longer than 120 days. The Mayor or the Mayor's designee will post public notice of the interim rule on the City's website not more than 30 days after adoption.

5. Interpretation of Administrative Rules: The Mayor or the Mayor's designee maintains authority for the interpretation and application of administrative rules adopted pursuant to this section.

14A.50.170 Enforcement.

A violation of 14A.50.150, or a violation of any administrative rule adopted pursuant to the authority in 14A.50.160, is punishable by a fine or penalty of not more than \$1000. .

14A.50.180 Camping Prohibited When Allowed by Law

Notwithstanding Sections 14A.50.140 to 14A.50.170, in the event the United States Supreme Court overturns *Martin v. Boise*, 920 F.3d 584 (9th Cir. 2019) and *Johnson v. Grants Pass*, 72 F.4th 686 (9th Cir. 2023), and the Oregon Legislative Assembly repeals ORS 195.530, then the following provisions shall govern camping on public property and public rights-of-way in the City of Portland:

A. It is unlawful for any person to camp in or upon any public property or public right-of-way, other than a shelter or other location legally established in conformance with Portland City Code Title 33.

B. A violation of 14A.50.150 is punishable by a fine or penalty of not more than \$1000.

C. Definitions:

1. **To camp** or **camping** means to set up, pitch, use, or occupy camp materials with intent to facilitate sleeping, storage of personal belongings, or carrying on cooking activities. **To camp** or **camping** does not include merely sitting with, lying by, or possessing camp materials that are stowed, disassembled, or packed in a manner that would permit them to be immediately carried or moved.

2. **Camp materials** means any tent, lean-to, shack, tarp, tarpaulin, hammock, vehicle or part thereof, bed, cot, sleeping bag, blanket, mattress, stove, burn barrel, or other structure or device intentionally used for or in furtherance of sleeping, storing personal belongings, or carrying on cooking activities.

EXHIBIT B

14A.50.050 Erecting Permanent or Temporary Structures on Public Property or Public Rights-of-Way.

A. It shall be unlawful to erect, install, place, leave, or set up any type of permanent or temporary fixture or structure of any material(s) in or upon non-park public property or public right-of-way without a permit or other authorization from the City.

B. In addition to other remedies provided by law, such an obstruction is hereby declared to be a public nuisance. The City Engineer, City Traffic Engineer, or Chief of Police may summarily abate any such obstruction, or the obstruction may be abated as prescribed in Chapter 29.60 of this Code.

C. The provisions of this Section do not apply to merchandise in the course of lawful receipt or delivery, unless that merchandise remains upon the public right-of-way for a period longer than 2 hours, whereupon the provisions of this Section apply.

D. The provisions of this Section do not apply to depositing material in public right-of-way for less than 2 hours, unless the material is deposited with the intent to interfere with free passage or to block or attempt to block or interfere with any persons(s) using the right-of-way.

E. The provisions of this Section do not apply to depositing material necessary to sleeping, or keeping warm, or dry as defined by ORS 195.530, by involuntarily homeless persons consistent with Portland City Code Sections 14A.50.020 14A.50.140, 14A.50.150, and 14A.50.160.

14A.55.010 Access to Public Property for Parade Event.

A. It is unlawful to paint, tape, or otherwise mark public property or place objects in the right-of-way for the purpose of reserving space for a parade event.

B. City of Portland may remove unauthorized materials left on public property or the right-of-way.

C. Camping overnight, to reserve a space in the public right-of-way along side the parade route, may be allowed as set forth in administrative rule. Overnight camping under this section is a limited exception to Portland City Code Sections 14A.50.020 14A.50.140, 14A.50.150, 14A.50.160, 14A.50.180 and 14A.50.030.

29.50.050 Illegal Residential Occupancy.

Residential occupancy of structures or spaces not intended for permanent residential use or occupancy is unlawful, including but not limited to structures placed, constructed or converted without permit; tents, campers, motor homes, recreational vehicles, and other vehicles.

A. Exceptions:

1. Individual sleeping accommodations within outdoor shelters legally established in conformance with Portland City Code Chapters 33.285 or 33.815, or allowed as temporary occupancies under Portland City Code Chapter 33.296;
2. Vehicles on institutional property as allowed by Oregon Revised Statutes, Chapter 203, Section 082;
3. Recreational vehicles within in a manufactured dwelling park or mobile home park as provided by Oregon Revised Statutes, Chapter 197, Section 493;
4. Motor homes and recreational vehicles within a recreational vehicle park allowed as a commercial use by Portland City Code Chapters 33.130 or 33.140; and
5. One occupied recreational vehicle provided:
 - a. The recreational vehicle is on a site with a house, attached house, or manufactured home. See Portland City Code Chapter 33.260.
 - b. The recreational vehicle is a travel trailer, park model recreational vehicle, camper or motor home.
 - c. A permanent recreational vehicle utility hookup that includes an electrical outlet, a water connection, and a sanitary sewer dump is provided on the site. A water connection and sanitary sewer dump is not required if the vehicle lacks internal plumbing.
6. Camping under ~~emergency~~ circumstances ~~as authorized~~ not prohibited by Portland City Code Sections 14A.50.140, 14A.50.150, 14A.50.160 ~~14A.50.020 B~~, authorized by Portland City Code Section 33.296.030, or authorized by declaration by the Mayor.

B. When a property has an illegal residential occupancy, the use shall be abated or brought into compliance with the current regulations for a space of the same occupancy.