



[Home](#) / [Council Documents](#)

191311

Ordinance

Amend City Code to update existing public camping restriction policies to comply with House Bill 3115 (amend Code Sections 3.18.020, 14A.50.020, 14A.50.050, 17.43.120, 20.12.010, 20.12.030, 20.12.100, 20.12.230, add Code Section 14A.50.025, and repeal Code Sections 20.12.070 and 20.12.150)

Passed

Amended by Council

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); and
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 with regards to persons experiencing homelessness;
3. HB 3115 provides a defendant charged for violating City Code an affirmative defense that the law was not objectively reasonable under the requirements of HB 3115;
4. HB 3115 further provides an affirmative right of action for persons experiencing homelessness to bring a suit for injunctive or declaratory relief challenging the objective reasonableness of a provision of City Code, including the potential for an attorney fee award;
5. The City desires to comply with HB 3115 by adopting reasonable time, place, and manner regulations which allow persons experiencing homelessness to temporarily camp in relatively safe and sanitary locations while they are actively seeking access to stable housing and to adopt reasonable policies related to removal of established

Introduced by

[Mayor Ted Wheeler](#)

Contact

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date
June 7, 2023

Changes City Code


camping sites;

6. Camping on public property can undermine the public's ability to use those spaces for their intended purpose and create unsafe and unsanitary living conditions, which can threaten the general health, welfare and safety of the community;
7. The City finds there is a need to update various City code provisions to comply with HB 3115;
8. The City will ensure the District Attorney's Office is aware of the additional affirmative defense that may be asserted under HB 3115;
9. The City further intends to comply with HB 3115 by clarifying that the existing prohibited conduct in City Code Chapter 20.12 aim to provide reasonable time, place, and manner regulations which allow all persons, including those experiencing homelessness, to enjoy City parks in a safe manner, that respects and balances the needs of the City as the steward of City parks, and the community's need to ensure safe and responsible behavior; and
10. The City encourages the active participation of all concerned persons, organizations, businesses and public agencies to work in partnership with the City and the community to address the short and long-term impacts of homelessness in the homeless community.

NOW, THEREFORE, the Council directs:

- A. Portland City Code Sections 3.18.020, 14A.50.020, 14A.50.050, 17.43.120, 20.12.010, 20.12.030, 20.12.100, 20.12.230 are amended, Portland City Code Section 14A.50.025 is added, and Portland City Code Sections 20.12.070 and 20.12.150 are repealed, as set forth in Exhibit A.

Documents and Exhibits

 [Exhibit A \(https://www.portland.gov/sites/default/files/council-documents/2023/exhibit-a_2.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2023/exhibit-a_2.pdf) 145.51 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed as amended by Council
June 7, 2023

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

In 2021, the Oregon Legislature passed HB 3115, requiring all cities and counties to meet compliance by July 1, 2023 with the law.

- HB 3115 requires all cities and counties to ensure their camping ordinances are “objectively reasonable as to time, place, and manner with regards to persons experiencing homelessness.”
- In light of the law and a legal settlement related to the work in question (regarding ADA accessibility on public rights of way), this ordinance simplifies and clarifies camping restrictions within the City of Portland.
- This ordinance updates existing public camping restriction policies in order to comply with the requirements outlined in HB 3115.

Financial and Budgetary Impacts

The financial and budgetary impacts of this ordinance include, but are not limited to:

- Continued funding of the Street Services Coordination Center, the Impact Reduction Program, and the Portland Bureau of Transportation’s abandoned auto and derelict RV programs (through the regular budget process).
- This ordinance does not amend the budget.
- These new restrictions do not require new funding. The City of Portland will use existing resources to enforce this ordinance city-wide.

Community Impacts and Community Involvement

The existing ordinance will remain in place and will be updated to ensure the policies comply with the requirements outlined in HB 3115. The City has briefed jurisdictional partners regarding the proposed changes and has also met with service providers who work directly with the homeless population. Input has also been provided by the bureaus and teams who would implement the revised ordinance. Post adoption, extension outreach will be conducted to inform the general public about the revisions including but not limited to: community-based organizations, government agencies, businesses, and people experiencing homelessness. The City is also proposing revisions that are similar to neighboring jurisdictions, such as Beaverton, so that the ordinances are easier to understand.

100% Renewable Goal

This ordinance limits open fires and accumulation of trash and debris, as well as sewage and hazardous substances.

Budget Office Financial Impact Analysis

This ordinance amends City Code to add time, manner, and place restrictions on camping on public property and the public right of way to comply with House Bill 3115 (HB 3115), which was passed by the Oregon legislature in 2021. HB 3115 requires all cities and counties to ensure their camping ordinances are “objectively reasonable as to time, place, and manner with regards to persons experiencing homelessness.” The code changes apply to people who are involuntarily homeless which is defined as “having no means to acquire one’s own shelter and not otherwise having access to shelter or other alternative options for housing.” The law requires all cities and counties to meet compliance by July 1, 2023.

The proposed code changes add the following time, place, manner, and enforcement language to city code:

Time restrictions that prohibit day camping: The ordinance amends code to allow an involuntarily homeless person to camp between the hours of 8 pm and 8 am. After 8 am, the person must dismantle the campsite and all removal personal property until 8 pm.

Place restrictions: The proposed code changes specify several places where camping would be always prohibited. Restrictions include the pedestrian use zone, 250 feet from a school or childcare center, in the public right-of-way along the High Crash Corridor, and City Parks.

Manner restrictions: Prohibitions include use of gas heaters in or around a campsite, obstructing access to a private property or business adjacent to the public right-of-way, alterations to the ground or infrastructure, environmental damage, and the accumulation or leaving behind garbage, debris, unsanitary hazardous materials, sewage, or drug paraphernalia.

Enforcement: If at any time, place, or manner restrictions are violated, the proposed code changes give the Portland Police Bureau the ability to issue citations, which they do not issue currently. For the first and second violation, a person will be given a written warning (the second violation cannot be issued less than 24 hours from the first citation). On the third violation or subsequent violations that occurred within the previous year, the code change states that a person can be given a fine of no more than \$100 or imprisoned for a period not to exceed 30 days, or both. The violations will be tracked in RMS.

It is difficult to quantify the potential impacts to the City’s budget that would result from the proposed code changes. However, the changes could result in increased costs if enforcement reaches levels that impact city

services and programs impacted by the time, place, and manner restrictions. According to the Police Bureau, calls for persons violating the time/place/manner restrictions will be treated as low-priority calls, in most instances. These calls will likely be handled by Neighborhood Response Teams, as the team is able to respond. The calls are not expected to draw officers away from responding to higher priority calls.

At this point, it is expected that the Circuit Courts will be addressing the citations. From a policy perspective, CBO notes that fines and fees can perpetuate the cycle of poverty for people with low or no income. The Mayor's Office indicated that they do not expect the convictions to be a revenue source for the city. According to the Mayor's Office, they also have agreed to support the District Attorney's efforts to identify alternatives to criminal or financial penalties for those cited. Due to timing constraints, CBO was unable to explore the alternative strategies that could be offered to people convicted under the code changes.

In the near term, the costs to operate the Impact Reduction Program, PBOT's derelict RV program, or the Streets to Services Coordination Center (SSCC) are not expected to increase as result of the proposed code changes. The FY 2023-24 Approved Budget includes approximately \$16.7 million in General Fund, non-General Fund, and intergovernmental resources for the Impact Reduction Program, \$2 million in one-time General Fund resources to fund derelict RV clean-up (allocated to SSCC), \$6.3 million in one-time General Fund resources to support SSCC's personnel and operating costs, and \$3 million in Transportation Operating Funds for PBOT's abandoned auto and derelict RV programs. CBO notes that further clarity is needed on whether the City's campsite removal notice policy will be revised if the code change is approved by Council.

The cost of this ordinance will also be realized in the city's efforts to reduce the number of involuntarily homeless through increasing the number of affordable housing and shelter sites. On November 3, 2022, Portland City Council approved five resolutions with the intent to fast-track construction of affordable housing and move homeless Portlanders closer to services. Subsequently, Council passed Ordinance 191050, which revised the FY 2022-23 budget to include \$17.8 million in one-time General Fund resources for the development and operation of three designated camping sites, \$16.5 million of which was carried over to the FY 2023-24 Approved Budget. Operational costs to support the temporary alternative shelter sites are an estimated \$12.8 million dollars, which currently do not have a dedicated ongoing funding source. Thus, to maintain the city's recent efforts to expand shelter capacity, ongoing resources will be required in the next one to two years, depending on the pace of implementation.

Agenda Items

451 Time Certain in [May 31-June 1, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/5/31) (<https://www.portland.gov/council/agenda/2023/5/31>)

Passed to second reading as amended

Motion to amend Section 1, Finding 8, of the ordinance regarding the Hearings Office to strike and replace it with the following sentence, The City will ensure the District Attorney's Office is aware of the additional affirmative defense that may be asserted under HB 3115: Moved by Wheeler and seconded by Mapps. (Y-5)

Motion to amend Ordinance to add Finding 11 as follows, The City of Portland Resolution number 37595 directed the establishment of at least six designated camping sites that must be diversely spread across the City that will serve as an alternative to self-sited unsanctioned encampments, offer mental health and substance abuse treatment services to people in Portland experiencing homelessness, and Directive B as follows, That the enforcement of Portland City Code Section 14A.50.025 (Enforcement) be integrated into the timeline, and phased as such, as to match the delivery date of the first two designated camping sites such that there is congruence in the enforcement and ability of people to have meaningful places to move to after being given the initial warnings and allow sufficient time for the training dean to provide training to city officers: Moved by Rubio and seconded by Wheeler. (Y-Rubio; N-Ryan, Gonzalez, Mapps, Wheeler). Motion failed to pass.

Passed to second reading as amended June 7, 2023 at 2:00 p.m.

473 Regular Agenda in [June 7-8, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/6/7) (<https://www.portland.gov/council/agenda/2023/6/7>)

Passed As Amended

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Absent

Commissioner Carmen Rubio Nay

Mayor Ted Wheeler Yea