

City of Florence A City in Motion

City of Florence Council Work Session

In Person & Videoconference Florence City Hall 250 Hwy 101 Florence, OR 97439 541-997-3437 www.ci.florence.or.us Meeting materials including information on each agenda item are published at least 24 hours prior to the meeting, and can be found of the City of Florence website at www.ci.florence.or.us/council.

- Items distributed during the meeting, meeting minutes, and a link to the meeting video are posted to the City's website at www.ci.florence.or.us/council as soon as practicable after the meeting.
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January 11, 2024

WORK SESSION AGENDA

8:45 a.m.

Councilors:

Rob Ward, Mayor

Sally Wantz, Council President Jo Beaudreau, Councilor Bill Meyer, Council Vice-President Robert Carp, Councilor

With 48-hour prior notice, an interpreter and/or TTY: 541-997-3437, can be provided for the hearing impaired. Meeting is wheelchair accessible.

The Florence City Council Work Session will begin in person at City Hall.

In addition, members of the public can listen and view the meeting through the 'GoToWebinar' platform at the following link: https://attendee.gotowebinar.com/register/7281656928872119645

CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE

8:45 a.m.

1. WORK SESSION DISCUSSION TOPICS

 The City Council will be discussing proposed code updates to regulate camping and event based emergency shelters as a continuation from the <u>December 4th</u> <u>Joint Work Session</u>.

COUNCIL CALENDAR All meetings are held in person with a virtual option unless otherwise indicated				
Date	Time	Description		
January 22, 2024	5:30 p.m.	City Council Meeting		
February 5, 2024	5:30 p.m.	City Council Meeting		
February 8, 2024	8:45 a.m.	City Council Work Session		
February 22, 2024	8:45 a.m.	City Council Work Session		
February 26, 2024	Save the Date	State of the City		

PUBLIC MEETINGS PROCEDURES

The January 11, 2024 City Council Work Session will be in person at City Hall.

Expressing Views to the City Council: Work Sessions do not allow time for general public comments (written or verbal). Public Comment periods are provided at City Council regular sessions which are generally held on the 1st and 3rd Mondays of each month beginning at 5:30 p.m. For the latest City Council meeting calendar, visit the City of Florence website at https://www.ci.florence.or.us/calendar.

For more information on the City of Florence's Public Meeting Policies, visit the City of Florence website at https://www.ci.florence.or.us/council/rules-procedure.



Memorandum:

To: Florence City Council

From: Wendy Farley Campbell, Community Development Director

Meeting Date: January 11, 2024

Subject: Emergency Shelter Siting and Temporary Camping Policies

Introduction

On <u>December 4, 2023</u> the City Council and Planning Commission met in a joint work session to discuss two sets of related proposed code updates: Title 10-Missions, Emergency Shelters, and Transitional Housing and Title 1-Emergency Shelter Siting and Temporary Camping. After discussing the code proposal and providing staff direction on needed edits, Planning Commission proceeded to initiate the Title 10 code updates on December 9th and held the first evidentiary hearing on January 9, 2024. The Title 1 proposal needed additional discussion and a Council work session was scheduled for January 11, 2024.

The Council will be reviewing and deliberating Attachments 2 and 3 in consideration for future adoption.

Memo, Ross Williamson, Local Government Law Group, January 5, 2024—Attachment 1

The memo discusses the existing law related to the City's regulation of sleeping on City property.

FCC 1-9 Criteria Matrix-- Attachment 2

This table includes a summary of the proposed draft emergency shelter and temporary camping code criteria. It reflects the code in or proposed for Attachment 3.

Code Section FCC 1-9--Attachment 3

The code proposal for Title 1 Chapter 9 Emergency Shelter Siting and Temporary Camping includes the movement of emergency housing siting from Title 10 Chapter 2 and the addition of provisions for legal camping. The criteria include limitations related to time and buffers and provision of sanitation well as criteria to mitigate anticipated nuisance and increase neighborhood compatibility. This version of the proposed code incorporates changes requested at the December 4th work session.

City of Florence Zoning Map—Attachment 4

Provided for reference where districts are discussed in the proposed code.

Items Attached:

- Attachment 1: Memo, Ross Williamson, Local Government Law Group, January 5, 2024
- Attachment 2: FCC 1-9 Criteria Matrix
- Attachment 3: Proposed Code Title 1 Chapter 9
- Attachment 4: City of Florence Zoning Map

Attachment 1

LOCAL GOVERNMENT LAW GROUP

An Oregon Professional Corporation

Memo

To: Mayor and Councilors

From: Ross M. Williamson

Date: January 5, 2024

Re: Regulating Sheltering on City Property

Purpose of Memo

The City is considering Code updates to regulate certain uses on City properties. These regulations are related to addressing concerns about persons experiencing homelessness in the Florence community.

This memo discusses the existing law related to the City's regulation of sleeping on City property. The memo builds upon prior memos on this subject produced during the Council's consideration of vehicle camping regulations.

Note that this memo addresses the City's regulation of its own property as to those experiencing homelessness; it does not address regulation of private property.

Regulatory Background

My earlier memos to the Council dated May 15, 2023 and August 24, 2023 contain additional information about the legal landscape for the City's regulation of its properties in relation to those experiencing homelessness. The legal landscape has not shifted significantly, so those memos remain informative.

The controlling case law in Oregon continues to be the *Martin v. City of Boise* case from 2018 and the *Johnson v. Grants Pass* case from September, 2022. Under *Martin* and *Johnson*, it is unconstitutional to punish someone for sleeping on public property if that person has nowhere else to sleep. As summarized by the *Johnson* court: "We affirm the district court's ruling that the City of Grants Pass cannot, consistent with the Eighth Amendment, enforce its anti-camping ordinances against homeless persons for the mere act of sleeping outside with rudimentary protection from the elements, or for sleeping in their car at night, when there is no other place in the City for them to go." The "sleeping" at issue under *Johnson* is sleeping on public property, including sleeping in parks and other properties open to the public, sleeping on sidewalks and other rights-of-way, and sleeping in vehicles parked on public streets.

Mayor and Councilors January 5, 2024 Page 2

The City of Grants Pass is currently seeking review of the Ninth Circuit decision before the Supreme Court of the United States. The Supreme Court is scheduled to conference on the case on January 5. Whether the Court accepts review will not be known for a while longer.

Even if the Supreme Court weighs in on the *Johnson* case, Oregon cities and counties are also governed in this area by ORS 195.530, adopted in 2021 by the Oregon Legislature. Effective July 1, 2023: "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." ORS 195.530(2). Keeping warm and dry includes taking protective measures from the cold and rain, such as use of a blanket. The statute essentially codifies the *Martin* and *Johnson* cases, so a Supreme Court ruling would not necessarily impact the City's obligations.

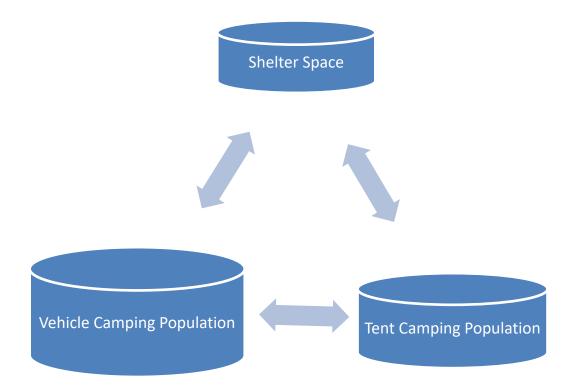
As a result of *Johnson* and ORS 195.530, there should be some City-owned property where a person experiencing homelessness with nowhere else to go can sleep overnight, with or without a vehicle. The City does not need to allow sleeping on all City property, but the available property should be sufficient based upon the population of homeless that have nowhere else to go.

Thus, based upon the population of homeless in the City, there should be sufficient places for someone to sleep on City property either out in the open (e.g., sleeping in a tent, sleeping bag, or under a tarp) or in a vehicle. The assessment of the amount of property needed to be sufficient is based upon the population of those experiencing homelessness with nowhere else to go. Shelter resources decrease the population of those with nowhere else to go and thereby reduce the amount of available property needed.

Three elements contribute to comprehensive regulation related to those experiencing homelessness. The first element is allowing for outdoor sleeping on City property (i.e., tent camping). The second element is allowing for sleeping in vehicles (i.e., vehicle camping). The third element is whether there are shelter resources in the community that reduce the number of persons that have nowhere else to go (i.e., shelter space). In 2023, the City adopted regulations related to vehicle camping. The City is now considering regulations related to tent camping.

One way to visualize these three elements is to think of each element as a swimming pool. The size of the swimming pool corresponds to the population within each element. Water can migrate from one pool to the other, illustrating populations shifting between the three elements. If there is a population greater than zero in either the "tent camping" or "vehicle camping" pools, the City can regulate the pool with objectively reasonable regulations, but must find somewhere to put the pool on City property. The "shelter space" pool is not required, but the shelter space pool draws water (i.e., population) from the other two pools, making the other two pools smaller and potentially requiring less property to house the smaller pools. To carry the illustration even farther, the City's law enforcement and code enforcement staff are akin to lifeguards. Smaller pools do not eliminate the need for

lifeguards, but smaller pools do make the job easier for the lifeguards because there are fewer people in each pool.



Conclusions

The Eighth Amendment and ORS 195.530 limit the City's authority in regulating persons experiencing homelessness sleeping on public property. The law does not allow the City to forbid all sleeping on all public property. But the law does permit the City to enact reasonable regulations and does not require the City to make all public property available for sleeping.

The number of people experiencing homelessness in the community plays a central role in the City's regulations. Whether a regulation is reasonable is influenced by the number of persons experiencing homelessness. Those experiencing homelessness with nowhere else to go must be allowed to temporarily sleep on public property.

City of Florence					
FCC 1-9 Proposed Code Summary Matrix					
	Camping Program	Emergency ShelterEvent			
Who can apply/operate	Property Owners (Private, Non-Profit, and Public)	Non-Profit, Government			
Process & Approval	On Real Property: Administrative, Registration Right-of-way: no process	Administrative, City Manager			
Permitted Zoning Districts	Commercial & Industrial Districts, and Religious Institution and residential dwelling properties in any district (except for church and residential properties camping is not permitted in Mixed Use Districts: Old Town, Waterfront Marine (Port), Professional Office)	Unspecified			
Type of Shelter	RVs/Vehicles or tents in any of above	RVs, tents, trailers, vehicles, yurts, and similar			
Number of units	Non-dwelling property—3 Dwellings1 driveway RV/vehicle or backyard tent	Unspecified			
On-site Physical Setbacks/Buffers	5' setback from side & rear property lines 10' internal separation between campers	No			
Programmatic—Part of a self-sufficiency program	No	No			
Minimum Parking Required	No	No			
Storage	Must provide, no personal items visible from the street	No personal items visible from the street			
Sanitation	Handwashing, garbage, toilet,	Handwashing, garbage, toilet			
Payment/Monetary	No	No			
Revokable by City	Yes, 4-hours notice	Yes			
Revokable by Owner	Yes, no time limits	Yes			
Length of Stay/Tenancy	Public property – 8 pm to 8 am	Unspecified			
Prohibited Areas/Geographical Buffers	Mixed Use Districts, streets in Old Town District, busy or industrial streets, all publicly owned or maintained parking lots, all but one park, within visual line of sight of a trail on public property, city hall, in rights of way within 300' of schools, daycare, churches, homeless services.	No			

TITLE 1 CHAPTER 9

EMERGENCY SHELTER SITING AND TEMPORARY CAMPING

SECTION:		
1-9-1:	Emergency Shelter Siting-Event Based	
1-9-2:	Camping Regulations Purpose	
1-9-2-1:	Definitions	
1-9-2-2:	Temporary Camping Program	
1-9-2-3:	Prohibited Camping	
1-9-2-4:	Campsite Cleanup	

1-9-2-5: Removal, Storage and Retrieval of Personal Property Associated with Camping

1-9-2-6: Violation, Penalties and Enforcement

1-9-2-7: Nonexclusive Remedy

1-9-2-8: Interpretation

1-9-1: Emergency Shelter Siting—Event Based

- A. The City Manager may designate sites or allow the siting of tents, temporary shelters, RVs, motorhomes, park models, and similar self-contained mobile structures in areas in which these uses were previously excluded, to provide housing on a temporary basis for disaster victims and response and relief workers until said conditions have been alleviated as determined by the City Manager. The provisions of 1-9-2-2-D are applicable to siting under this sub-section.
- B. The City Council may allow a warming shelter by any nonprofit organization or religious institution entity when low temperatures or adverse weather conditions endanger human life.
- C. The City Manager will review applications for emergency shelters made under Oregon Revised Statute 197.782 and on the forms provided by the city. Approval will be granted if the criteria of the ORS are met. The approval is revokable upon finding the statute is not met, to include by not limited to an unreasonable risk to public health or safety is present.
- **1-9-2:** Camping Regulations Purpose. The purpose of this chapter is to protect the health and safety of residents and regulate the use of public and private property by establishing reasonable time, place, and manner regulations.
- **1-9-2-1: Definitions.** As used in this Chapter, the following words and phrases mean:

Camp or To pitch, erect, create, use, or occupy camp facilities for the purpose of habitation,

camping. as evidenced by the use of camp paraphernalia

Camp facilities. Includes, but are not limited to, tents, huts, temporary shelters, motor vehicles,

and recreational vehicles

Camp paraphernalia.

Includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, and outdoor cooking devices and utensils and similar equipment.

Campsite.

Any place where one or more persons have established temporary sleeping accommodations by use of camp facilities or camp paraphernalia.

City manager.

The Florence city manager, or the city manager's designee.

Dwelling.

A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Motor vehicle.

A vehicle that is self-propelled or designed for self-propulsion and is operative, licensed, registered and insured.

Parking lot.

A developed location that is designated for parking vehicles, whether developed with asphalt, concrete, gravel, or other material.

Personal property.

Items that can reasonably be identified as belonging to an individual and that have apparent value or utility.

Public property.

Any real property or structures owned, leased, or managed by the City, including public rights-of-way.

Public

All property dedicated to the public for transportation purposes and administered by the City, including streets, roads, bridges, alleys, sidewalks, trails, paths, and all other public ways and areas managed by the City.

Right-of-way.

rights-of-way.

Includes public utility easements to the extent that the easement allows use by the permittee planning to use or using the public utility easement. "Right-of-way" includes the subsurface under and airspace over these areas

Recreational Vehicle or RV.

A vehicle with or without motive power that is designed for use as temporary living quarters and as further defined by the Oregon Department of Transportation in OAR Chapter 735, Division 022. Examples include motor homes, camping trailers, tent trailers, truck campers and camper vans. The RV must be operative as applicable, licensed, registered and insured.

Solid waste.

Any garbage, trash, debris, yard waste, food waste, or other discarded materials.

Store or storage.

To put aside or accumulate for use when needed, to put for safekeeping, or to

place or leave in a location.

Vehicle.

A motor vehicle or recreational vehicle.

1-9-2-2: Temporary Camping Program.

- A. The prohibitions in Section 1-9-2-3 shall not apply to the following circumstances:
 - The property involved is appropriately zoned and has all necessary approvals for the proposed camping use, in a vehicle or otherwise, as provided in Title 10 (Zoning Regulations) of the Florence City Code; or
 - 2. Camping is occurring in accordance with emergency shelter siting made pursuant to FCC 1-9-1; or
 - 3. A special event permit has been issued in accordance with FCC 7-5 authorizing camping.
- B. Notwithstanding the prohibitions in FCC 1-9-2-3, wwith written authorization of the property owner, up to one family may use a property developed with an occupied residential dwelling, with further authorization from any tenants of the property, for camping by either: using a tent to camp in the back yard of the residence, or using a single vehicle parked in the driveway of the dwelling.
- C. Notwithstanding the prohibitions in FCC 1-9-2-3, <u>T</u>the property owner of a commercial or industrial zoned property, a public entity, or a religious institution, place of worship with written authorization may allow up to 3 total vehicles or tents in any combination.
- D. A property owner who authorizes any person to camp on property must:
 - 1. Not require or accept the payment of any monetary charge nor performance of any valuable service in exchange for providing the authorization to camp on the property; provided, however, that nothing in this section will prohibit the property owner from requiring campers to perform services necessary to maintain safe, sanitary, and habitable conditions at the campsite or source of sanitary facilities;
 - 32. Ensure vehicles and/or tents are located within an on-premise parking lot, and are spaced at least 10 feet apart, for section B above;
 - 43. Provide a storage area for campers to store any personal items not stored in vehicles or tents so the items are not visible from any public right-of-way or adjacent properties;
 - 54. Require camping facilities to be not less than five feet away from any property line.
 - Provide or make access to sanitary facilities, including toilet, hand washing and solid waste disposal facilities, with such facilities except solid waste disposal not being in the front yard and all sanitary facilities being at least 10 feet from the property line of a residential use if not fully contained within a building or RV.
 - 76. Request and receive an inspection performed by the City to confirm that sanitary facilities are in place, required setbacks are met, and any storage areas are screened, before vehicle or tent camping is commenced.
- E. A property owner who allows camping pursuant to subsection B or C of this section may revoke that permission at any time and for any reason.
- F. Notwithstanding the provisions of this section, the city manager may:

- 1. Revoke the right of a property owner to allow camping on property described in subsections B and C of this section upon finding that the property owner or a camper has violated any applicable law, ordinance, rule, guideline or agreement, or that any activity occurring on that property by a camper is incompatible with the use of the property.
- 2. Revoke permission for a person to camp on public property <u>authorized under subsection</u> <u>C</u> upon finding that the person has violated any applicable law, ordinance, rule, guideline or agreement, or that any activity occurring on public property by the person is incompatible with the use of the property.
- 3. A permission revoked by the city manager under this subsection is subject to notice in the manner provided in FCC xx-xx and a right to appeal and hearing procedure as provided in FCC xx-xx.
- G. Any person whose permission to camp on property has been revoked pursuant to subsections E or F of this section must vacate and remove all belongings from the property within four hours of receiving such notice.
- H. All persons participating in a camping program described in subsections B and C of this section do so at their own risk, and nothing in this section or chapter creates or establishes any duty or liability for the City or its officers, employees or agents, with respect to any loss related to bodily injury (including death) or property damage.

1-9-2-3 Prohibited Camping

- A. Except as expressly authorized by the Florence City Code, at all times it is unlawful to establish, use, or occupy a campsite in the following public locations:
 - City of Florence park sites developed with active use recreational facilities, designed as public gathering spaces, hosting community drinking water wells, or containing significant riparian or wetland areas including, but not limited to:
 - a. Miller Park
 - b. Pepperoaks Pocket Park
 - c. Munsel Greenway Park
 - d. Rolling Dunes Park
 - f. 18th Street- Pocket Park
 - g. Singing Pines Park (playground and dog park areas)
 - h. Bay St. Gazebo Old Town Park
 - i. Veterans' Memorial Park
 - j. Exploding Whale Memorial Park
 - k. Gallaghers Park
 - I. Munsel Road Park

- 2. Within a significant riparian or wetland area <u>as determined by FCC 10-7</u> or visual line of sight from a constructed and signed recreational trail on public property;
- 3. The following city-owned facilities, and associated grounds, that are open to the public for the purpose of conducting city business:
 - a. City Hall
 - b. Florence Senior and Activity Center
 - c. Florence Events Center
 - d. Public Works
 - e. Justice Center
 - f. Florence Municipal Airport
- 4. City owned or maintained parking lots unless identified as a vehicle camping lot;
- 5. The following p-Public rights-of-way:
- a. Near the following uses that serve children and homeless:
 - i. abutting Within 300 feet of a church or religious institution
 - <u>ii.</u> <u>or wWithin 23</u>00 feet of, a lot or parcel containing an elementary school, secondary school, day care facility, child care facility,
 - iii. -orWithin 300 fee of a facility providing services to homeless persons facility providing services to homeless persons in accordance with FCC 7-1-7-4-D;
- b. -Adjacent to a lot or parcel containing a dwelling;
- 7. <u>c.</u> The following <u>which are</u> developed <u>public rights-of-way that</u> are more heavily trafficked, or that are in areas with industrial activities:
 - i.a. Oak St. from 21st to 43rd St.
 - b. Bay St.
 - ii.e. Spruce St.
 - iii.d. 21st Street from Highway 101 to Spruce St.
 - ive. 8th Street from Highway 101 to Quince Street
 - v.f. Rhododendron Dr.
 - vig. 9th Street from Highway 101 to Rhododendron Dr.
 - viih. Kingwood Street from 2nd Street to 35th Street
 - viii. Munsel Lake Road
 - <u>ix</u>j. Public rights of way <u>W</u>within 100 feet of the edge of pavement of Hwy. 101 or Hwy. 126

xk. 32nd St. between Oak St. and Hwy 101

I. Harbor St.

xim. Streets within the Old Town Districts Areas A, B, and C

- B. Any person camping in a vehicle in a right-of-way must adhere to the parking and street obstruction regulations in a public ROW as outlined in FCC 7-1-6 and 7-1-7-4.
- C. Except as expressly authorized by the Florence City Code, ilt shall be unlawful for any person, other than persons camping in a vehicle, to camp or maintain a campsite on any publicly owned property during the hours of 8:00 a.m. to 8:00 p.m.
- D. Except as expressly authorized by the Florence City Code, it shall be unlawful for any person, to store personal property, including camp facilities (excepting a vehicle) and camp paraphernalia, on any public property during the hours of 8:00 a.m. to 8:00 p.m.
- E. Notwithstanding the provisions of this section, the City Manager may temporarily authorize camping or storage of personal property on public property by written order that specifies the period of time and location upon finding it to be in the public interest and consistent with City Council goals and policies.
- F. The City Manager may adopt administrative rules to implement the provisions of this section.

1-9-2-4 Campsite Cleanup

- A. Cleanup of illegal campsites will be scheduled by the chief of police or designee.
- B. Signs may be posted advising that camping is prohibited. Whether or not a sign is posted, a specific dated and timed notice will be posted and distributed in the area of a scheduled cleanup at least 72 hours before the cleanup.
- C. Notwithstanding subsections A and B of this section, cleanup of campsites may occur immediately and without notice if the chief of police or designee determine that either of the following conditions exist:
 - 1. An emergency such as possible site contamination by hazardous materials or where there is an immediate danger to human life or safety;
 - 2. Illegal activity other than camping.
- D. At the time of the cleanup, written notice will be posted and distributed announcing the telephone number where information on picking up the stored property can be obtained during normal business hours.
- E. Written notices will be in both English and Spanish.
- F. Copies of all notices shall be provided to the Oregon Department of Human Services and/or the Lane County Human Services Department.

1-9-2-5 Removal, Storage and Retrieval of Personal Property Associated with Camping

A. Personal property will be separated from solid waste during cleanups. Solid waste will be immediately discarded. Items of personal property will be turned over to the police department

- and stored. The personal property shall be stored for no less than 30 days, during which time it will be reasonably available to persons claiming ownership of the personal property.
- B. When conducting a campsite removal, the City shall arrange in advance for a location for personal property to be stored.
- C. Any personal property that remains unclaimed for 30 days after the cleanup may be disposed of, sold, donated, used, or transferred as abandoned personal property, but no waiting period beyond the 30 days is required prior to the disposal, sale, donation, use, or transfer.
- D. Weapons, drug paraphernalia, and items which reasonably appear to be either stolen or evidence of a crime may be retained and/or disposed of by the police department in accordance with the department's written policies and procedures.

1-9-2-6 Violation - Penalty

Violation of this chapter is a civil infraction subject to a civil penalty as provided in FCC 1-4.

1-9-2-7 Nonexclusive Remedy

The remedies described in this chapter shall not be the exclusive remedies of the City for violations of this chapter.

1-9-2-8 Interpretation

This chapter is to be interpreted consistent with applicable state and federal law.

Attachment 4

