



## City of Florence Council Special Meeting

In Person & Videoconference  
Florence Events Center  
715 Quince Street  
Florence, OR 97439  
541-997-3437  
[www.ci.florence.or.us](http://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](http://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](http://www.ci.florence.or.us/council) after the meeting.
- To be notified of City Council meetings via email, please visit the City's website at <http://www.ci.florence.or.us/newsletter/subscriptions>.

April 29, 2024

## SPECIAL MEETING AGENDA

5:30 p.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.

Proceedings will be shown live and for rebroadcast on Cable Channel 191 and online at [www.ci.florence.or.us/citymanager/public-meetings-live](http://www.ci.florence.or.us/citymanager/public-meetings-live) and will be available after the meeting on the City's Vimeo Site.

In addition to attending in person, members of the public can listen and view the meeting through the 'GoToWebinar' platform at the following link:

<https://attendee.gotowebinar.com/register/4222207552837833824>

Meetings are also shown live on Cable Channel 191 and online at

<https://www.ci.florence.or.us/citymanager/public-meetings-live>.

Citizens wishing to express their views may submit comments in writing or verbally. For more information, please see the end of this agenda or visit the [City of Florence website](http://www.ci.florence.or.us).

### CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

The City Council will continue their discussion on the proposed City Code related to temporarily sheltering on public and private property and event-based emergency shelters as a continuation from the [December 4, 2023 City Council & Planning Commission Joint Work Session](#), [January 11, 2024 City Council Work Session](#), [March 21, 2024 City Council Work Session](#), [April 4, 2024 City Council Work Session](#), and [April 11, 2024 City Council Work Session](#). The purpose of this meeting is for the City Council to gather public input regarding the draft proposed City Code establishing time, place, and manner policies for event-based emergency shelters and temporary sheltering.

#### 1. STAFF PRESENTATION

The City Council will hear a presentation from staff providing a brief summary of the proposed City Code related to temporarily sheltering on public and private property and event-based emergency shelters.

#### 2. TIME FOR PUBLIC INPUT

The City Council will provide an opportunity to hear public input on the proposed City Code related to temporarily sheltering on public and private property and event-based emergency shelters. Public speakers will be limited to three minutes per speaker.

*Please see the end of this agenda for methods to provide public input on this item.*

#### 3. COUNCIL DISCUSSION

At the conclusion of the public input time, the City Council may discuss the proposed City Code, consider the comments made, ask additional questions of the staff, provide staff direction, and determine next steps for the process.

## COUNCIL CALENDAR

*All meetings are held in person with a virtual option unless otherwise indicated*

Date	Time	Description
May 1, 2024	3:30 p.m.	City Council Executive Session
May 6, 2024	5:30 p.m.	City Council Meeting
May 9, 2024	8:45 a.m.	City Council Work Session
May 20, 2024	5:30 p.m.	City Council Meeting
May 23, 2024	8:45 a.m.	City Council Work Session

### PUBLIC MEETINGS PROCEDURES

The April 29, 2024 City Council Special Meeting will be held in person at the Florence Events Center, with the option to view / listen to the meeting virtually through the GotoWebinar platform.

**General areas of interest for the proposed City Code include the following:**

1. Warming and Disaster Response Shelters
2. Private Property Sheltering-Zoning Districts and Places Allowed
3. Private Property Sheltering-Sanitation, Screening and Siting Requirements
4. Private Property Sheltering-Registration and Revocation
5. Public Property Sheltering-Buffers from daycares, churches, schools and homeless services
6. Public Property Sheltering-Exclusion from identified public facilities, parks, and rights-of-way and protected wetland and creek buffers
7. Definitions related to the proposed policies

**Expressing Views to the City Council:** The City Council will be accepting public input on the draft proposed City Code. The public input will be structured to address the various sections of the proposed code as outlined above in subjects one through seven. Those providing input will be asked to select one of those seven sections in order to organize the flow of the special meeting. That selection will need to be indicated on the speaker's card when filled out.

Those wishing to provide public input to the City Council on the draft proposal may do so in the following ways:

1. **Written Testimony:** Citizens wishing to express their views to the City Council are encouraged to submit written testimony in one of the following ways:
    - a. Submit written comments via email to City Recorder at [cityrecorder@ci.florence.or.us](mailto:cityrecorder@ci.florence.or.us);
    - b. Mail written comments to Florence City Hall, Attn: City Council, 250 Hwy 101, Florence, OR 97439
    - c. Drop off written comments at Florence City Hall (250 Hwy 101) during regular office hours (Monday through Friday 8 a.m. – Noon and 1:00 p.m. – 4 p.m.) or at the City of Florence drop box located at Florence City Hall to the right of the main entrance.
- \*\* Note:** Written comments received at least 2 hours prior to the meeting (April 29, 2024 at 3:30 p.m.) will be distributed to the City Council, posted to the City of Florence website, and made part of the record. There is no limit on written public comments.
2. **Verbal Testimony:** Citizens wishing to express their views to the City Council may participate in the meeting at the Florence Events Center or via GoToWebinar. To do so, please complete a speaker's card online at <https://www.ci.florence.or.us/council/city-council-special-meeting-public-input> at least 1 hour prior to the

meeting (April 29, 2024 at 4:30 p.m.). City staff will then contact the speaker to let them know the process to participate in the meeting.

- a. Public Comment on the Special Meeting Topic: Comments will be limited to three (3) minutes per person and broken out into the general areas of interest you select when filing out the speaker's card. There will be no limit on the number of speakers.
- b. Public Comments on items not on the agenda: General public comments (on items not on the City Council agenda) will not be taken at this Special Meeting.

**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:** Erin Reynolds, City Manager  
Ross Williamson, Attorney, Local Government Law Group  
Wendy FarleyCampbell, Community Development Dir.  
**Meeting Date:** April 29, 2024  
**Subject:** Emergency Shelter Siting and Temporary Sheltering Policies

## Summary Introduction

This special session of the City Council is being held to offer the public the opportunity to provide feedback on draft policies being considered for adoption. It is the Council’s objective to ascertain the proposed code language fits the needs of the community. The public’s input will guide the final language to be incorporated as Chapter 9 of [Title 1](#) of [Florence City Code](#). The proposal includes provisions for time, place, and manner to operate an emergency shelter related to weather or hazards and to establish temporary shelter due to homelessness. The draft code language incorporates research by the Transitional Housing Sub-committee (a committee of the Housing and Implementation Project Stakeholder Advisory Team) and direction from City Council, and legal counsel.

The City Council reviewed and deliberated extensively in public work sessions on the proposed code, included as Attachment 1. The proposal includes siting standards, buffers, and exclusion areas for sheltering. All of the buffers and most of the exclusion areas are illustrated on the map in Attachment 2. The work sessions included a joint meeting on [December 4, 2023](#) with the Planning Commission and four held on [January 11, 2024](#), [March 21, 2024](#), [April 4, 2024](#), and [April 11, 2024](#).

## Background—Legal Basis

A lot of work has led up to this April 29 special Council meeting. Things started in 2018, when the U.S. 9th Circuit Court of Appeals issued its opinion in the case *Martin v. City of Boise*. *Martin* determined 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.”

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The Court's opinion starts on page 38 at this link:

<https://cdn.ca9.uscourts.gov/datastore/opinions/2019/04/01/15-35845.pdf>

In the 2022 case, *Johnson v. City of Grants Pass*, the U.S. 9th Circuit Court of Appeals confirmed its prior decision in *Martin*, expanded the holding to cover the imposition of non-criminal penalties, and confirmed that the Eighth Amendment protections also apply to those sleeping in vehicles parked on public property. The Court's opinion starts on page 19 at this link:

<https://cdn.ca9.uscourts.gov/datastore/opinions/2023/07/05/20-35752.pdf>

In addition to the case law, ORS 195.530, adopted in 2021 by the Oregon Legislature, limits the City's actions. Under this law, 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 weather. The ORS section can be viewed at this link: [oregonlegislature.gov/bills\\_laws/ors/ors195.html](https://oregonlegislature.gov/bills_laws/ors/ors195.html)

ORS 195.530 limits the City's authority in regulating persons experiencing homelessness sleeping on public property. But the law does not forbid reasonable regulations and does not require the City to make all public property available for sleeping. As a result of ORS 195.530, there should be some City-owned property where a person experiencing homelessness with nowhere else to go can sleep, with or without a vehicle. The City does not need to allow sleeping on all City property, but sufficient property should be available based upon the population of persons experiencing homelessness that have nowhere else to go.

### City's Work to Date

Faced with ORS 195.530 and the 9th Circuit cases, the City started the process of creating local regulations that would comply with the law and allow the City to manage public spaces for all applicable user groups. The City broke up its tasks into three related regulatory areas: 1) parking; 2) transitional housing; and 3) sheltering on public property.

#### **1. Parking**

The City Council first addressed new parking regulations. Adopted [September 11, 2023, Ordinance No. 8, Series 2023](#) creates new comprehensive parking regulations governing parking on City streets. The ordinance defines the City's authority to regulate long-term parking on City streets, creates authority to regulate nuisance activities associated with sheltering in vehicles on city streets, and bolsters the City's authority to enforce violations by towing vehicles after providing appropriate pre-tow notice. The

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regulations were intended to maintain the City's compliance with ORS 195.530 in that the regulations focus on nuisance conduct rather than on the act of sleeping in vehicles on public streets.

## 2. Transitional housing

The City Council next took up the issue of transitional and emergency housing. Via [Ordinance No. 1, Series 2024](#), adopted [March 4, 2024](#), the Council created avenues for property owners to allow certain transitional housing options for those experiencing homelessness. The aim of the new land use regulations is to create pathways to transition people from homelessness to stable housing. With this ordinance, the City now provides expanded options for persons experiencing homelessness so that they might have somewhere to go other than the streets.

The City's transitional housing ordinance creates land use categories for missions, emergency shelters, and transitional housing. Each use has corresponding siting and management standards. With the land use code update, the Council creates mechanisms for non-governmental organizations to provide aid and support to those experiencing homelessness in Florence. When implemented, these uses will not only provide needed shelter, but will also provide other social services and counseling programs to assist in the transition to self-sufficiency.

## 3. Sheltering on public property

The third piece of the City Council's work is regulating the use of public property for sheltering when those experiencing homelessness have no other options. This is the Council's current task. Starting in December, 2023, the Council held five separate public work sessions to deliberate on potential regulations that meet legal requirements and fit the needs of the Florence community.

The current draft proposal addresses three related concepts. First, the proposal creates a temporary sheltering program for private property owners to allow limited sheltering via tent or vehicle under certain conditions and within certain standards. Second, the proposal forbids sheltering in tents or vehicles on specific City properties and rights of way. Third, the proposal creates a sheltering site clean-up policy to comply with ORS 195.505.

### Proposal Overview

Attachment 1, Proposed FCC Title 1 Chapter 9 is summarized below and in Attachment 5.

**Emergency Shelters--Event Based:** Established during a disaster or adverse weather are approved by the City Manager and City Council respectively. They will use the same standards as temporary shelters on private property and in the case of disaster events can be located in the same structure types.

**Temporary Sheltering--Private:** Available to be provided on property through a registration process that is renewable and revokable. There can be no acceptance of any payment of monetary charge nor performance of services in exchange. Handwashing, garbage, and toilet facilities must be provided or available. No visible storage is permitted. Shelters must be at least five feet from property lines and sanitation 10 feet from property lines unless located within the dwelling or the RV/Trailer.

Private Property—Non-Residential. A property owner can register with the city to locate three vehicles or tents in any combination on their property. They must be separated 10 feet from one another.

Private Property—Residential. A property owner or its tenant can register with the city to locate either a vehicle or tent on their property. The property owner and tenant(s) must both sign off.

**Temporary Sheltering—Public:** The proposed code includes provisions for buffering or excluding temporary sheltering in or on city-owned public property.

Buffers: Proposed and measured 300 feet from the property lines of licensed daycares, churches and religious institutions, elementary and secondary schools, and facilities serving those experiencing homelessness. Area within the buffers establish where temporary sheltering is not permitted within the rights of way. These are listed in Attachment 1 on page 4.

Exclusion: Areas where temporary sheltering is not permitted are proposed to be established in certain park lands, city-owned facilities open to the public, protected wetland and riparian resources, and certain rights of way. These are listed in Attachment 1 stating on page 4.

### **Public Input Process:**

The City Council will be accepting public input on the draft proposed City Code. The public input will be structured to address the various sections of the proposed code as outlined below. Those providing input will be asked to select one of those sections in order to organize the flow of the special meeting. Those unable to attend in person but wishing to comment can consult the agenda to learn about the methods and procedures to submit public testimony in writing or verbally remotely via go-to-webinar.

1. Warming and Disaster Response Shelters
  2. Private Property Sheltering-Zoning Districts and Places Allowed
  3. Private Property Sheltering-Sanitation, Screening and Siting Requirements
  4. Private Property Sheltering-Registration and Revocation
  5. City Property Sheltering-Buffers from daycares, churches, schools and homeless services
  6. City Property Sheltering-Exclusion from identified public facilities, parks, and rights-of-way and protected wetland and creek buffers
  7. Definitions related to the proposed policies
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**Items Attached:**

- **Attachment 1:** Proposed Code Title 1 Chapter 9
- **Attachment 2:** Draft Buffer & Exclusion Map
- **Attachment 3:** City of Florence Zoning Map ([flor\\_zoning\\_12\\_10\\_21.pdf \(florence.or.us\)](#))
- **Attachment 4:** Memo, Ross Williamson, Local Government Law Group, January 5, 2024
- **Attachment 5:** Draft Code Summary Slides



TITLE 1  
CHAPTER 9

## EMERGENCY SHELTER SITING AND TEMPORARY SHELTERING

SECTION:

- 1-9-1: Emergency Shelter Siting-Event Based
- 1-9-2: Temporary Sheltering Regulations Purpose
- 1-9-2-1: Definitions
- 1-9-2-2: Temporary Sheltering Program
- 1-9-2-3: Prohibited Sheltering
- 1-9-2-4: Temporary Shelter Site Cleanup
- 1-9-2-5: Removal, Storage and Retrieval of Personal Property Associated with Sheltering
- 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 subsection.
- 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 non-event-based 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: Temporary Sheltering Regulations Purpose.** The purpose of this chapter is to protect the health and safety of residents, visitors, business, and those experiencing homelessness 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 section, the following words and phrases mean:

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

**Dwelling** One or more units providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

<b>Motor vehicle</b>	A vehicle that is self-propelled or designed for self-propulsion and is operative, licensed, registered and insured.
<b>Parking lot</b>	A developed location that is designated for parking vehicles, whether developed with asphalt, concrete, gravel, or other material.
<b>Personal property</b>	Items that can reasonably be identified as belonging to an individual and that have apparent value or utility.
<b>Public property</b>	Any real property or structures owned, leased, or managed by the City, including public rights-of-way.
<b>Public rights-of-way</b>	All property dedicated to the public for transportation purposes, including streets, roads, bridges, alleys, sidewalks, trails, paths, and all other public ways and areas.
<b>Right-of-way</b>	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
<b>Recreational Vehicle or RV</b>	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.
<b>Shelter or sheltering Shelter facilities</b>	To pitch, erect, create, use, or occupy shelter facilities for the purpose of habitation, as evidenced by the use of shelter paraphernalia Includes, but are not limited to, tents, huts, temporary shelters, motor vehicles, and recreational vehicles
<b>Shelter paraphernalia</b>	Includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, and outdoor cooking devices and utensils and similar equipment.
<b>Sheltersite</b>	Any place where one or more persons have established temporary sleeping accommodations by use of shelter facilities or shelter paraphernalia.
<b>Solid waste</b>	Any garbage, trash, debris, yard waste, food waste, or other discarded materials.
<b>Store or storage</b>	To put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.
<b>Tent</b>	A portable shelter, not exceeding 90 sq. ft. and 6 ft. 5 inches in height, made of cloth or cloth-like material, supported by one or more poles and depending on the type stretched tight by cords or loops attached to pegs or stakes driven into the ground

**Vehicle**                      A motor vehicle or recreational vehicle.

**1-9-2-2: Temporary Sheltering Program**

- A. The prohibitions in Section 1-9-2-3 shall not apply to the following circumstances:
  - 1. The property involved is appropriately zoned and has all necessary approvals for the proposed recreational camping use, in a vehicle or otherwise, as provided in Title 10 (Zoning Regulations) of the Florence City Code; or
  - 2. Sheltering 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 sheltering.
- B. With 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 sheltering by either: using a tent to shelter in the back yard of the residence, or using a single vehicle parked in the driveway of the dwelling.
- C. The property owner of a commercial or industrial zoned property, a public entity, or a religious institution, may allow up to 3 (three) total vehicles or tents in any combination.
- D. A property owner who authorizes any person to shelter 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 shelter on the property; provided, however, that nothing in this section will prohibit the property owner from requiring persons sheltering to perform services necessary to maintain safe, sanitary, and habitable conditions at the shelter site or source of sanitary facilities;
  - 2. Ensure vehicles and tents are located within an on-premise parking lot, and are spaced at least 10 feet apart, for subsection B above;
  - 3. Provide a storage area for persons sheltering 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;
  - 4. Require sheltering facilities to be not less than five feet away from any property line.
  - 5. 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.
  - 6. 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 sheltering is commenced.
- E. A property owner who allows sheltering pursuant to subsection B or C of this section may revoke that permission at any time and for any lawful reason.

- F. Notwithstanding the provisions of this section, the city manager may:
1. Revoke the right of a property owner to allow sheltering on property described in subsections B and C of this section upon finding that the property owner or a person sheltering has violated any applicable law, ordinance, rule, or permit, or that any activity occurring on that property by a person sheltering is incompatible with the use of the property.
  2. Revoke permission for a person to shelter on public property authorized under subsection C upon finding that the person has violated any applicable law, ordinance, rule, or permit, or that any activity occurring on public property by the person is incompatible with the use of the property.
- G. Any person whose permission to shelter 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 sheltering 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 Sheltering**

- A. Except as expressly authorized by the Florence City Code, at all times it is unlawful to establish, use, or occupy a shelter site in the following public property locations:
1. 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 Park
    - c. Munsel Greenway Park
    - d. Rolling Dunes Park
    - f. 18<sup>th</sup> Street Pocket Park
    - g. Singing Pines Park (playground and dog park areas)
    - h. Old Town Park
    - i. Veterans' Memorial Park
    - j. Exploding Whale Memorial Park
    - k. Gallagher Park
    - l. Munsel Road Park

2. Within a Goal 5 significant riparian area or Goal 5 or Goal 17 significant wetland area as determined by the Florence Area Local Wetlands and Riparian Inventory 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 sheltering lot;
5. Public rights-of-way:
  - a. Near the following uses that serve children and those experiencing homelessness:
    - i. Within 300 feet of a church or religious institution
    - ii. Within 300 feet of, a lot or parcel containing an elementary school, secondary school, day care facility, child care facility
    - iii. Within 300 feet of a facility providing services to those experiencing homelessness persons
  - b. Within a residential zoning district;
  - c. The following which are developed and are more heavily trafficked, or that are in areas with industrial activities:
    - i. Oak St. from 21<sup>st</sup> to 43<sup>rd</sup> St.
    - ii.. Spruce St.
    - iii.. 21<sup>st</sup> Street from Highway 101 to Spruce St.
    - iv. 8<sup>th</sup> Street from Highway 101 to Quince Street
    - v. Rhododendron Dr.
    - vi. 9<sup>th</sup> Street from Highway 101 to Rhododendron Dr.
    - vii. Kingwood Street from 2<sup>nd</sup> Street to 35<sup>th</sup> Street
    - viii. Munsel Lake Road
    - ix. Within 100 feet of the edge of pavement of Hwy. 101 and Hwy. 126
    - x. 32<sup>nd</sup> St. between Oak St. and Hwy 101

xi. Streets within Old Town District Areas A, B, and C

- B. Any person sheltering in a right-of-way must adhere to the parking and street obstruction regulations as outlined in FCC 7-1-6 and 7-1-7-4.
- C. It shall be unlawful for any person, other than persons sheltering in a vehicle, to shelter or maintain a shelter site on any publicly owned property during the hours of 9:00 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 shelter facilities (excepting a vehicle) and shelter paraphernalia, on any public property during the hours of 9:00 a.m. to 8:00 p.m.
- E. Notwithstanding the provisions of this section, the City Manager may temporarily authorize sheltering 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 Shelter site Cleanup**

- A. Cleanup of illegal shelter sites will be scheduled by the chief of police or designee.
- B. Signs may be posted advising that sheltering 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 shelter sites 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 sheltering.
- 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.

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

- 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 shelter site 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 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.

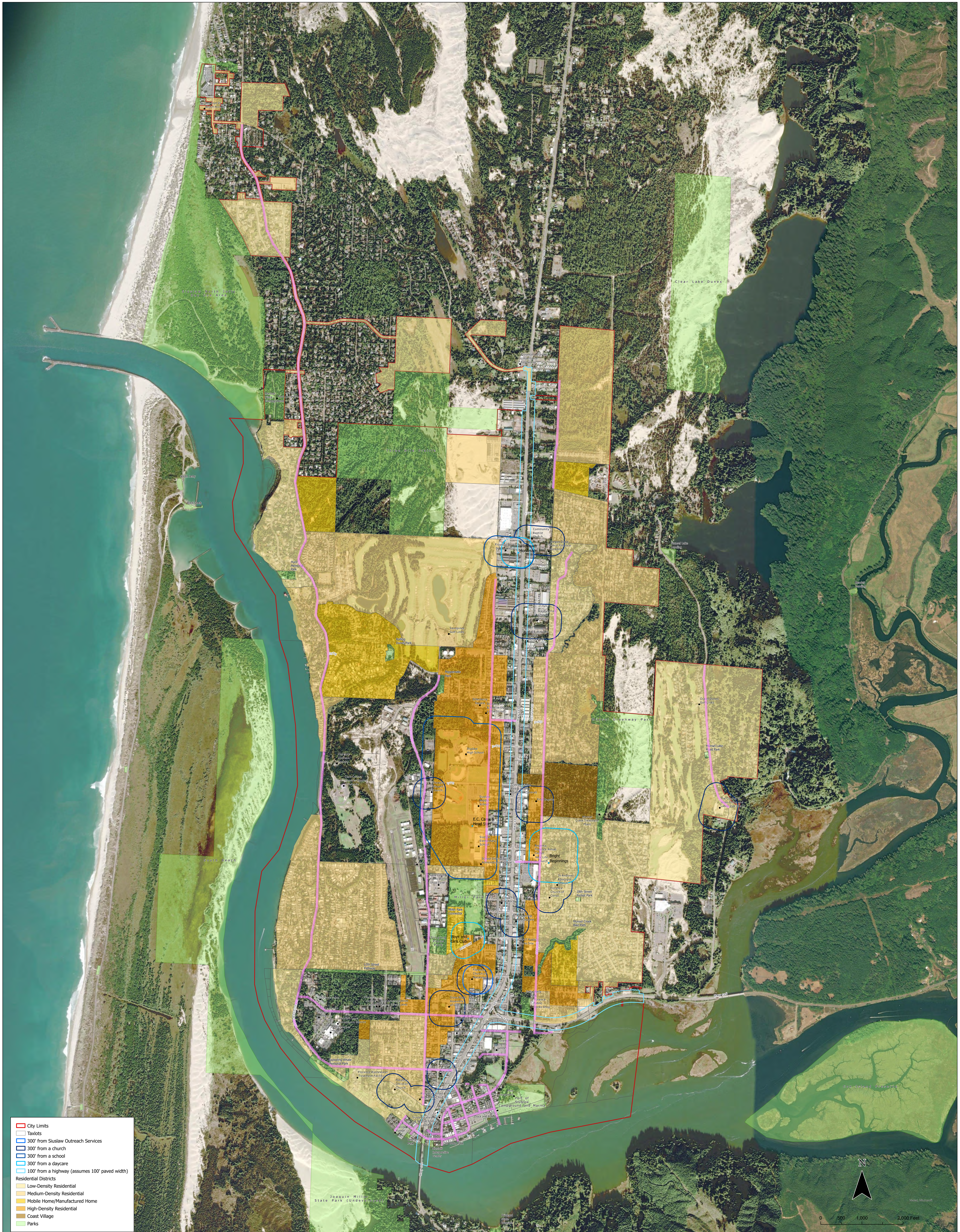
**1-9-2-7 Nonexclusive Remedy**

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.

# City of Florence Sheltering Exclusion Map - Draft 2










# Zoning Map







CITY OF  
**FLORENCE, OREGON**

## Zoning Districts






### Residential

-  Low Density
-  Medium Density
-  Mobile Home/ Manufactured Home
-  High Density
-  Coast Village





### Commercial

-  Neighborhood
-  Mainstreet Area A
-  Mainstreet Area B
-  North Commercial
-  Commercial
-  Highway



### Mixed Use

-  Old Town Area A
-  Old Town Area B
-  Old Town Area C
-  Waterfront Marine
-  Professional Office/ Institutional




### Industrial

-  Marine
-  Pacific View Business Park
-  Limited Industrial
-  Service Industrial

### Other

-  Open Space
-  Public Use Airport

### Estuaries

-  Development Estuary
-  Conservation Estuary
-  Natural Estuary

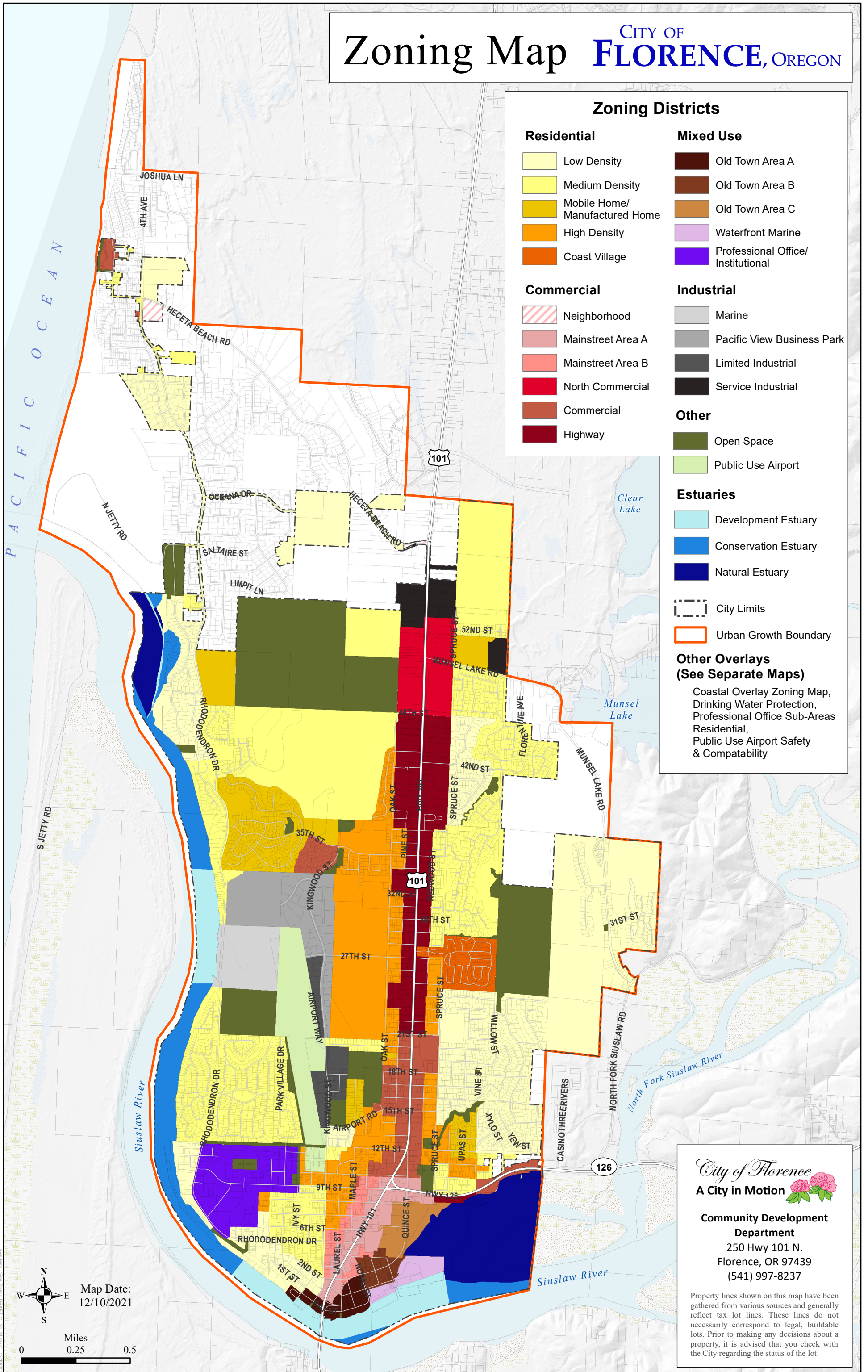
 City Limits

 Urban Growth Boundary

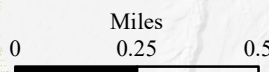
### Other Overlays

**(See Separate Maps)**

Coastal Overlay Zoning Map,  
Drinking Water Protection,  
Professional Office Sub-Areas  
Residential,  
Public Use Airport Safety  
& Compatibility



Map Date:  
12/10/2021



**Community Development  
Department**  
250 Hwy 101 N.  
Florence, OR 97439  
(541) 997-8237

Property lines shown on this map have been gathered from various sources and generally reflect tax lot lines. These lines do not necessarily correspond to legal, buildable lots. Prior to making any decisions about a property, it is advised that you check with the City regarding the status of the lot.

# Memo

**To:** Mayor and Councilors  
**From:** Ross M. Williamson  
**Date:** January 5, 2024  
**Re:** Regulating Sheltering on City Property

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## 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.

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.

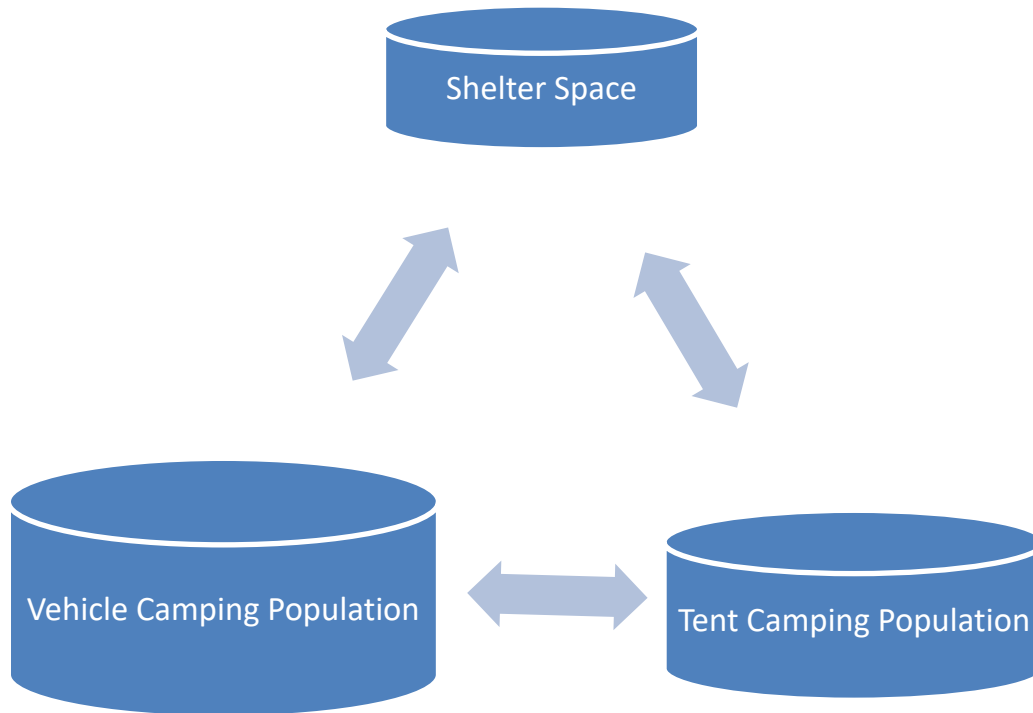
As a result of *Johnson* and ORS 195.530, there should be some City-owned property where a person experiencing homelessness with nowhere else to go can sleep overnight, with or without a vehicle. The City does not need to allow sleeping on all City property, but the available property should be sufficient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

# EMERGENCY SHELTER AND TEMPORARY SHELTERING POLICY UPDATES

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*CITY COUNCIL SPECIAL MEETING  
MONDAY, APRIL 29, 2024  
ATTACHMENT 5*

**Attachment 5**



# Florence City Code Proposals— 4-29-24

## Emergency Shelter – Event Based City Manager Designated

- Purpose: disaster victims and response and relief workers
- Application: Anyone
- Type of Shelter: tents, temporary shelters, self-contained mobile structures
- Establishment Standards: Same as temporary sheltering

## Emergency Shelter – Event Based City Council Designated

- Purpose: warming & adverse weather
- Application: non-profit or religious institution
- Type of Shelter: unspecified
- Establishment Standards: unspecified

# Florence City Code Proposals—4-29-24

## Temporary Sheltering Real Property – Non-Residences

- Applicant: Property Owner
- No compensation
- Type of Shelter:
  - 3 vehicles OR tents in any combination
- Storage: no visible personal items
- Buffer: 5' from property lines
- Sanitation: handwashing, garbage, toilet
  - Not in front yard and 10' from property lines

## Temporary Sheltering Real Property - Residences

- Applicant: Property Owner or tenant
- No compensation
- Type of Shelter:
  - One vehicle in the driveway OR
  - One tent in the backyard
- Storage: no visible personal items
- Buffer: 5' from property lines
- Sanitation: handwashing, garbage, toilet
  - Not in front yard and 10' from property lines



# Florence City Code Proposals—4-29-24

## Exclusion Areas

- Most Parks
- Significant Riparian or Wetland Areas
- Visual line of sight from a public trail
- City-owned facilities open to the public
- Certain Public Rights of Way (ROW)
- ROW adjacent to a dwelling in a residential district

## Buffers—300 ft.

- Church or religious institution
- Elementary and secondary education school
- Day care and child care facilities
- Facility providing services to a homeless persons