



ORDINANCE NO. 2023-04A

**AN ORDINANCE OF THE CITY OF MOLALLA, OREGON,
AMENDING THE MUNICIPAL CODE BY ADDING A NEW SECTION 9.16.015
REGULATING AND PROHIBITING PUBLIC CAMPING ON PUBLIC PROPERTY.**

WHEREAS, State of Oregon House Bill 3115 requires the City of Molalla to allow individuals and families that are temporarily experiencing the effects of homelessness to rest or camp in relatively safe and sanitary locations while they are actively seeking access to stable and affordable housing; and

WHEREAS, Due to the House Bill requirement, the City is required to establish codes to allow for legal resting or camping during reasonable time periods, while protecting sensitive areas of the City that are disproportionately impacted by the negative effects of such activity; and

WHEREAS, The City desires to discourage camping in areas where such activities fundamentally undermine the public's ability to use that public property for its intended purpose and create unsafe and unsanitary living conditions, which can threaten the general health, welfare and safety of the City and its inhabitants; and

WHEREAS, The City encourages the active participation of all concerned persons, organizations, businesses, and public agencies to work in partnership with the City and the homeless community to address the impacts of homelessness in the community.

NOW, THEREFORE, THE CITY OF MOLALLA ORDAINS AS FOLLOWS:

Section 1. TITLE. This Ordinance shall be known as the Regulating and Prohibiting Public Camping on Public Property Ordinance of the City of Molalla.

Section 2. PURPOSE. It is found and declared that:

- A. When persons establish campsites on public sidewalks, public rights-of-way, under bridges, and in other areas not designated for camping;
- B. Such persons, by such actions create unsafe and unsanitary living conditions which pose a threat to the peace, health, and safety of themselves and the community;
- C. Camping, resting, lying, or sleeping on a playground, under a pavilion, a recreation area or sports field fundamentally undermines the public's ability to use that public property for its intended purpose;
- D. Camping, resting, lying, or sleeping on rights of way, or in a manner that obstructs public sidewalks prevents the public's ability to use that public property for its

intended purpose and can in some situations create violations in the American with Disabilities Act (ADA) or result in imminent threats to life;

- E. These regulations are meant strictly to regulate the use of publicly owned property, and are not intended to regulate activities on private property; and
- F. The enactment of this provision is necessary to protect the peace, health, and safety of the City and its inhabitants.

Section 3. DEFINITIONS. As used in this Ordinance, the following terms and phrases shall have the meaning set forth herein:

"Camp" or Camping" means to temporarily pitch, erect, create, use, or occupy camp facilities for the purposes of habitation, as evidenced by the use of camp paraphernalia.

"Campsite" means any place where one or more persons have established temporary sleeping accommodations by use of camp facilities and/or camp paraphernalia.

"Camp Facilities" include, but are not limited to, tents, bivouacs, huts, other temporary or portable shelters, and vehicles or recreation vehicles as defined by ORS.

"Camp Paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or other sleeping matter, or non-city designated cooking facilities and similar equipment.

"Fire" includes, but is not limited to, open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, or other sources of heat.

"Natural area" means any land designated as natural resource area or wetland as identified on the City of Molalla Zoning Map, including all riparian areas associated with Bear Creek, Creamery Creek, and Shorty's Pond.

"Parking Lot" means a developed location that is designated for parking motor vehicles, whether developed with asphalt, concrete, gravel, or other material. It also means any real property, land or structure owned, leased, or managed by a public agency, including utility easements. A public agency includes, but is not limited to the City of Molalla, Clackamas County, and Oregon Department of Transportation.

"Public rights-of-way" means all City-owned or controlled rights-of-way, whether in fee title or as a hold of a public easement for right-of-way or public access purposes. Public rights-of-way include but are not limited to any public road, street, sidewalk, or private street or other property that is subject to a public access easement dedicated or granted to the City for vehicular, pedestrian, or other means, and any planter strip or landscape area located adjacent to or contained within streets that is part of the public right-of-way.

“Resting” means the acts of sitting, lying, sleeping, or keeping warm and dry outdoors, as defined in House Bill 3115.

"Store" or "Storage" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

"Park Areas" means publicly owned grounds operated under the supervision of the City of Molalla whether within or outside of the corporate limits of the City of Molalla providing outdoor passive and active recreation opportunities.

Section 4. PROHIBITED CAMPING. This section’s regulations are meant strictly to regulate the use of public property within the City of Molalla and are not intended to regulate activities on private property.

A. Except as expressly authorized by the City of Molalla Municipal Code, it shall be unlawful for any person(s) to establish or occupy a campsite at any time on the following public property and/or:

1. All Park Areas within the City of Molalla.
2. On all public sidewalks.
3. Identified wetlands or natural areas.
4. Fields used for sporting events or recreational use.
5. When a Molalla Sheltering Facility is open, all public camping is prohibited. Exceptions include when a Molalla Sheltering Facility is at capacity, or if an individual has been denied access.
6. Any residential zone.
7. Within 1,000 feet of a playground or school.

B. Except as expressly authorized by the City of Molalla Municipal Code, it shall be unlawful for any person to camp or maintain a campsite on any public property from dawn to dusk. Fires are prohibited in all Parks and publicly owned property.

C. Except as expressly authorized by the City of Molalla Municipal Code, it shall be unlawful for any person to knowingly leave unattended or store personal property, including camp facilities and camp paraphernalia, on any public property from dawn to dusk. Fires are prohibited in all Parks and publicly owned property.

Personal property left unattended may be removed and disposed by the City, in accordance with State law, if:

1. The property poses an immediate threat to public health, safety, or welfare; or

2. The property has been posted with a written notice in accordance with State Law.
 3. Any property removed by the City shall be held and disposed of pursuant to State law if not claimed within 30-days after removal.
 - a. Individuals may claim their property, without a fee, by contacting the Police Department or Parks Department within 30 days.
 - b. Items that have no apparent utility or are in unsanitary condition may be immediately discarded.
 - c. Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be retained and disposed of by the Police Department in accordance with applicable legal requirements for the property in question.
 4. The City of Molalla is not responsible for theft, damage, etc. to any personal property left unattended on public property.
- D. Notwithstanding the provisions of this Chapter, the City Manager or designee may temporarily authorize camping or storage of personal property on public property by written order that specifies the period of time and location:
1. In the event of emergency circumstances.
 2. Upon finding it to be in the public interest and consistent with City Council goals and policies.

Section 5. PERMITTED CAMPING/RESTING. Areas for permitted camping are hereby identified in Resolution No. 2023-11.

Section 6. PENALTIES AND ENFORCEMENT.

- A. Violation of any provisions in this Ordinance is a Class D violation pursuant to ORS 153.019. Each day that a violation occurs will be considered a separate offense.
- B. In addition to any other penalties that may be imposed, any campsite used for overnight sleeping in a manner not authorized by this Ordinance or other provisions of this code shall constitute a public nuisance and may be abated in accordance with State law.

Section 7. SEVERABILITY. If any court of competent jurisdiction declares any Section of this Ordinance invalid, such decision shall be deemed to apply to that Section only and shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared invalid.

Section 8. EFFECTIVE DATE. Due to the urgent nature, this Ordinance shall become effective immediately upon adoption of the Molalla City Council.

The First Reading was held on June 14, 2023, and moved to a Second Reading by 7-0 vote of the City Council.

The Second Reading was held on June 14, 2023 and adopted by the City Council by 7-0 vote of the City Council.

The amended title of Ordinance No. 2023-04(A) was introduced to City Council on June 28, 2023 and adopted by _____ vote of the City Council.

Signed on June 28, 2023.

Scott Keyser, Mayor

Date

ATTEST:

Christie Teets, CMC
City Recorder

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