

**A BILL FOR AN ORDINANCE REPEALING ) ORDINANCE BILL NO. 2023-12  
AND REPLACING LEBANON MUNICIPAL CODE )  
CHAPTERS 12.12 PARKS AND PUBLIC PLACES)  
AND 12.14 PARK HOURS AND PARK ) ORDINANCE NO. 3007  
CLOSURE )**

**WHEREAS**, the Lebanon City Council approved changes to LMC 12.12 and 12.14 on April 12, 2023, Ord. No. 2023-06, which limited the Council's regulatory options and required that the Council designate a specific location for those suffering homeless to sleep overnight; and

**WHEREAS**, the Lebanon City Council has received public comments and believes that adoption of an Ordinance providing greater flexibility and imposing reasonable time, place and manner restrictions related to the use of public property for sitting, laying and sleeping in the event a Designated Sleeping Area is not adopted is in the best interest of the City; and

**WHEREAS**, due to various federal court decisions and state regulations, Lebanon's existing ordinances addressing regulations of parks and public spaces and illegal camping have become unenforceable, resulting in enforcement confusion, and creating health and safety concerns; and

**WHEREAS**, Oregon House Bill 3115 requires that any city or county law regulating the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be "objectively reasonable" based on the totality of the circumstances as applied to all stakeholders, including persons experiencing homelessness. What is objectively reasonable may look different in different communities. Cities retain the ability to enact reasonable time, place and manner regulations, aiming to preserve the ability of cities to manage public spaces effectively for the benefit of the entire community; and

**WHEREAS**, the revisions to LMC 12.12 and 12.14 are necessary in order to protect the health and safety of Lebanon residents and provide the maximum enjoyment of Lebanon's public property and parks to all residents, as well as complying with the requirements of federal and state law. The Council finds that these regulations are reasonable under the totality of the circumstances, including the limited resources available to the City, the need to provide a location(s) for those suffering homelessness to sleep with the ability to provide themselves protection from the elements, and the need to maintain public spaces for the benefit of all residents of Lebanon.

**NOW, THEREFORE, THE CITY OF LEBANON ORDAINS AS FOLLOWS:**

**Section 1.** Chapter 12.12 – Parks and Public Places, of the Lebanon Municipal Code is repealed and replaced with the language in Attachment "A"

**Section 2.** Chapter 12.14 – Park Hours and Park Closure, of the Lebanon Municipal Code is repealed and replaced with Chapter 12.14 – Designation and Regulation of Public Sleeping Areas, as set forth in Attachment "B".

Section 3. Effective Date. The Lebanon City Council finds that an emergency exists and this Ordinance shall be effective immediately upon passage.

Passed by the Lebanon City Council by a vote of 6 for and 0 against and approved by the Mayor this 28th day of June 2023.

CITY OF LEBANON, OREGON

  
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Kenneth E. Jackola, Mayor   
Michelle Steinhebel, Council President

ATTESTED BY:

  
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Donna Trippett, Deputy City Recorder

**Chapter 12.12.050 is amended as follows:**

**12.12.050 - Camping in designated city parks.**

A. Definitions. As used in this section, the following definitions apply:

"Camp, camping" means the establishment of temporary accommodations and structures for overnight stay in the outdoors and may include use of fire within city designated fire rings/pits within the designated campsite boundary.

"[Designated] Campsite" means City of Lebanon property improved and designated for camping within specified site areas subject to a reservation, time limit, and payment of a fee as established by city council resolution. ~~Campsite does not include designated public places for the purpose of protection from the elements, as defined in Chapter 12.14.~~

"Day" is a twenty-four-hour period starting at one p.m. through the overnight period to one p.m. the next calendar day. If the end of the day falls on the calendar day at the end of the reservation period, the day shall end at twelve noon.

"Self-contained" means any vehicle that has manufactured-installed toilet facilities.

"Winter season" is defined by the director of public works and generally extends from mid-October to mid-April.

~~B. Camping Prohibited. No person shall, within any city park or recreation area, or other public space or way, camp with or without a tent, trailer, motor vehicle, truck-mounted camper or motor home except in specifically designated city improved and delineated campsites that are subject to and managed through a reservation system.~~

B. C.Length of Stay. [Designated] Campsites may be reserved by a person or group for a period ten days in a four-week period. An extension may be granted by special permission of the director of public works (or designee).

C. D.Fees. For all [Designated] Campsites regulated by this section, a daily fee, as established by city council resolution, shall be charged for the reservation and use of the [Designated] Campsite.

D. E.Camping During the Winter Season. Overnight camping during the winter season shall be restricted to recreational vehicles that are self-contained.

E. F.Use of Fire or Other Heating Sources. No person shall, within a Designated Campsite build, light, or maintain any fire except in a stove, pit or fireplace especially designated for such purpose; however, portable gas, kerosene, propane, charcoal and oil-lamp stoves may be used if in a safe operating condition.

**Chapter 12.14 is repealed and replaced as follows:**

**Chapter 12.14 –CAMPING PROHIBITED EXCEPT IN DESIGNATED CAMPSITES AND REGULATION OF DESIGNATED SLEEPING AREAS AND OVERNIGHT SLEEPING AREAS**

12.14.010 – Definitions

“City Park” has the meaning defined in LMC 12.12.020.

“Designated Sleeping Area” is any public place that has been expressly authorized by the Lebanon City Council via adoption of a Resolution for persons seeking to rest or sleep with protection from the elements.

“Overnight Sleeping Area” is any public place that is not prohibited by the time, place and manner restrictions imposed by this code when a Designated Sleeping Area or Areas have not been identified by the Lebanon City Council or a Designated Sleeping Area has been closed by the City Manager.

“Protection from the elements” - means taking rudimentary precautions to protect oneself from the elements including temporary structures and materials given the environmental conditions in Designated Sleeping Areas or Overnight Sleeping Areas, excluding any measure that involves fire or flame.

“Public Space” has the meaning defined in LMC 12.12.020.

“Recreation Area” has the meaning defined in LMC 12.12.020.

“Temporary Structure and Materials” means rudimentary precautions such as structures constructed with material, to last for a specific period and specific purpose, for a limited time after which the structure is to be dismantled and includes, but is not limited to, tents, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, and similar equipment. Temporary Structures and Materials explicitly does not include metal, plywood, wood materials, pallets, or similar materials.

For purposes of ORS 195.500 through 195.530, an “established camping site” mean any place where one or more persons have established temporary sleeping accommodations by use of Temporary Structures and Materials and/or camp paraphernalia for more than 72 consecutive hours.

**12.14.020 –Camping Prohibited**

Except as specifically allowed in LMC 12.12.050, Camping or creating an Established Campsite is prohibited on any Public Space in Lebanon.

## Attachment B

### 12.14.030 – Designated Sleeping Area and Overnight Sleeping Areas

A. **Designated Sleeping Areas.** Persons may rest or sleep with protection from the elements in Designated Sleeping Areas as established by City Council resolution subject to the following:

1. Time.
  - a. Use of Designated Sleeping Areas is allowed between the hours of 6:00 pm and 7:00 a.m.
  - b. Enforcement of time restrictions may be suspended by the City Manager, Police Chief, or designee for severe weather events or when necessary or appropriate to respond to an individual's medical condition, disability or unique circumstances.
2. Place
  - a. The Designated Sleeping Area shall be continuously signed with the boundary of the area that may be utilized and the hours of use.
  - b. Prior to any enforcement action, information sufficient to identify the location of the Designated Sleeping Area shall be distributed to any individual seeking to lay down or sleep with protection from the elements during the relevant time period.
3. Manner
  - a. Temporary Structures and Materials may be used or erected within the Designated Sleeping Area(s) during the allowed time periods.
    - i. Temporary Structures and Materials shall not be tied to, secured to, staked or anchored, or propped against any permanent structures or ground located at a Designated Sleeping Area.
    - ii. Temporary Structures and Materials and all property shall be removed from the Designated Sleeping Area during times which the area is not designated for use under this chapter. Any property that remains within the Designated Sleeping Areas during periods of time when the Area is not open will be considered abandoned and handled in compliance with state law.
    - iii. All personal items and materials shall be fully contained within the Designated Sleeping Area.
    - iv. Individuals may not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility in the Designated sleeping areas.
  - b. No person shall in any Designated Sleeping Area, build, light or maintain any fire.
  - c. Digging, excavation, terracing of soil, alteration of ground or infrastructure, or damage to vegetation or trees is prohibited.
  - d. All animals maintained by any individual utilizing a Designated Sleeping Area are subject to 6.04.050, Running at Large.
  - e. Restroom, hand washing stations, and trash receptacles may be provided within Designated Sleeping Areas, but it is not guaranteed the facilities will be available during all times which the Designated Sleeping Areas are open.
4. The City Manager is authorized to close a Designated Sleeping Area in the event of any emergency, on the advice of law enforcement, for health and safety concerns, or on the recommendation of the Fire Marshall. Such closure shall be effective until the next scheduled City Council meeting.

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B. **Overnight Sleeping Area.** In the absence of a City Council resolution identifying a Designated Sleeping Area, or a closure of a Designated Sleeping Area by the City Manager, the following Time, Place, and Manner restrictions shall apply to Overnight Sleeping Areas:

1. Time.
  - a. Use of Overnight Sleeping areas is allowed between 6 p.m. and 7 a.m.
  - b. Enforcement of time restrictions may be suspended by the City Manager, Police Chief, or designee for severe weather events or when necessary or appropriate to respond to an individual's medical condition, disability, or unique circumstances.
2. Place.
  - a. Overnight Sleeping is prohibited at all times in the following locations:
    1. City owned property that is not open to the public.
    2. Public sidewalks and landscape planter strips in all zones.
    3. Within 1,000 feet of a school, or youth club or organization utilized for the benefit of children in the community.
    4. On or adjacent to, or within 50-feet of any city maintained trail or multi-use path.
    5. Anywhere between the edge of the water and 50 feet beyond the top of the bank of a waterway including any canal.
    6. Areas within 50-feet of any entrance to any city owned buildings or structures.
    7. Any place where the act of protecting oneself from the elements, which may include the use of temporary structures and materials, create a physical impediment to emergency or nonemergency ingress, egress, or access to property, whether private or public, or which impedes the safe use of all public rights-of-way or access to and from public or private property.
    8. Any vehicle lane, bicycle lane or roundabout within any public right-of-way.
    9. Within city owned parking lots, including landscape areas within and around the perimeter of the parking lot.
    10. Any location that has been determined by the Fire Chief, Fire Marshal, or designee to constitute an elevated threat of fire at a particular time of the year.
    11. Within 100 feet of the centerline of any active railroad.
3. **Manner**
  - a. Temporary Structures and Materials may be used or erected within the Overnight Sleeping Area(s) during the allowed time periods.
    1. Temporary Structures and Materials shall not be tied to, secured to, staked or anchored, or propped against any permanent structures or ground located at a Designated Sleeping Area.
    2. Temporary Structures and Materials shall be dismantled within the Overnight Sleeping Area during times which the area is not designated for overnight sleeping use under this chapter.
    3. Individuals may not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility.
  - b. No person shall in any Overnight Sleeping Area, build, light or maintain any fire.

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- c. Digging, excavation, terracing of soil, alteration of ground or infrastructure, or damage to vegetation or trees is prohibited.
- d. All animals maintained by any individual utilizing an Overnight Sleeping Area are subject to 6.04.050, Running at Large.

### **12.14.040 - Obstruction of City Property Prohibited.**

No person shall obstruct a street, sidewalk, public right-of-way, Recreation Area or other public property:

- A. by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, in a manner that impedes passage, as provided by the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990), as amended from time to time;
- B. by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, on a city sidewalk, public right-of-way or recreation area;
- C. by obstructing any portion of any street or other public right-of-way open to use by motor vehicles, or any portion of a bike lane, bike path, or other public right-of-way open to use by bicycles, by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, anywhere within the street, bike lane, bike path, or other public rights-of-way;
- D. No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer or other designee authorized by the Chief of Police that the conduct violates this section and receiving information regarding locations where they can sit, lie down and sleep and seek protection from the elements during all relevant time periods.

### **12.14.050 - Violations – Penalties and enforcement.**

- A. Violations of this chapter is a Class "D" violation per ORS Chapter 153. Each day that a violation occurs will be considered a separate offense.
- B. Notwithstanding and in lieu of the penalties provided in this section, a person violating this section shall, upon conviction for a third or subsequent offense, be guilty of having committed a criminal misdemeanor and shall be punished by a fine not to exceed \$1,000 or imprisonment not to exceed 30 days, or by both such fine and imprisonment
- C. In addition to any other penalties that may be imposed, violation of this chapter shall constitute a public nuisance and may be abated in accordance with ORS 202.077 and 203.079.