



ORDINANCE NO. 1063

**AN ORDINANCE AMENDING STAYTON MUNICIPAL CODE CHAPTER 8.12
AND REPEALING CHAPTER 2.64 TO COMPLY WITH ORS 195.505
AND 195.530**

WHEREAS, City recognizes that people experiencing homelessness need a place to sleep, sit, lie, shelter themselves, keep warm and dry, and store their belongings; and

WHEREAS, the City is committed to ensuring the most humane treatment of persons experiencing homelessness in regards to the removal of persons experiencing homelessness from campsites on publicly-owned property in City; and

WHEREAS, the City is committed to ensuring the safety and security of all people within the City, including people experiencing homelessness, property owners, and the general public, while protecting all people in the City from unsafe and dangerous conditions; and

WHEREAS, it is the official policy of the City that, in accordance with ORS 195.500 and ORS 195.510, its responses to homelessness and the removal of campsites shall be undertaken in accordance with these principles; and

WHEREAS, the Eighth Amendment to the United States Constitution prohibits cities from criminalizing the acts of sitting, lying, sleeping, and keeping warm and dry outdoors on public property that is open to the public by individuals who have no alternative adequate shelter; and

WHEREAS, ORS 195.530 requires that any regulations that regulate the acts of sitting, lying, sleeping, and keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place, and manner as applied to persons experiencing homelessness; and

WHEREAS, City recognizes that the State of Oregon is experiencing a housing crisis that has resulted in an increase in unsanctioned camping in public spaces and rights-of-way; and

WHEREAS, City recognizes that there are persons experiencing homelessness within the City that do not have alternative adequate shelter but must still sit, lie, sleep, shelter, store their belongings, and keep warm and dry; and

WHEREAS, due to the City's small size, persons experiencing homelessness seeking a place to sit, lie, sleep, and keep warm and dry within the City have, to date, been transitory, resulting in few persons experiencing homelessness within the City at any given time; and

WHEREAS, the public rights-of-way within the City were designed and intended for travel, transportation, the provision of utility services, and other uses and were not designed or intended for use as campsites; and

WHEREAS, the City's parks were designed for recreational uses and outdoor activities and was not designed or intended for use as a campsite; and

WHEREAS, due to the City's public rights-of-way and parks not being designed or intended for use as campsites, persons experiencing homelessness camping in those locations often lack access to safe and sanitary hygiene facilities and trash facilities, resulting in unsanitary conditions that are harmful to persons experiencing homelessness and the general public; and

WHEREAS, due to the City's public rights-of-way not being designed or intended for use as campsites, the acts of sitting, lying, sleeping, and keeping warm and dry may be dangerous to persons experiencing homelessness and other users of the public rights-of-way due to the potential congestion of the public rights-of-way and due to the proximity to vehicles, bicycles, and pedestrians; and

WHEREAS, the City has a responsibility to ensure that the City's rights-of-way and parks are safe, passable, accessible, and in sanitary condition, and to otherwise act to avoid death and injury to all users of the public rights-of-way and parks, including persons experiencing homelessness; and

WHEREAS, City Council and City staff have identified all City-owned public lands that are open to the public, including the City's parks, recreational spaces, and improved and unimproved public rights-of-way; and

WHEREAS, in accordance with the Eighth Amendment to the United States Constitution and ORS 195.530, the City intends to enact and enforce regulations that are reasonable as applied to unhoused persons who have no alternative shelter, when regulating the acts of sitting, lying, sleeping, and keeping warm and dry outdoors on City-owned public property that is open to the public; and

WHEREAS, the City intends that the above-described regulations support the need to be healthy, safe, and to have access to public places for all community members; and

WHEREAS, the City intends that the above-described regulations address issues such as fire risk, environmental degradation, unsafe vehicle or pedestrian travel, unsanitary conditions, trash, and health and public safety hazards to people sitting, lying, sleeping and keeping warm and dry, to neighboring businesses, and to community members in a manner that is objectively reasonable in regards to persons experiencing homelessness; and

WHEREAS, the City formed a Task Force to review applicable laws, consider existing City code provisions, seek public input, and provide guidance to the City Council regarding potential code amendments to comply with State law; and

WHEREAS, the Homeless Task Force has considered and provided guidance to the City Council regarding potential amendments to the City Municipal Code intended to define developed parks

and public facilities and provide a process for regulating the use of and camping on or in developed parks and public facilities; and

WHEREAS, it is understood that additional amendments may be made based on addition work of the Task Force; and

WHEREAS, the City Council held a meeting on June 19, 2023, at which the Council considered potential amendments, after members of the public were invited to provide comment on the subject of homelessness in the City; and

WHEREAS, this Ordinance is the result of the City Council’s consideration of the City’s legal obligations, the needs of persons experiencing homelessness within the City, the needs of other community members within the City, the public comment received at the Council meeting, and the City’s duty to protect the health, safety, and welfare of all its community members.

NOW, THEREFORE, THE CITY OF STAYTON ORDAINS:

Section 1. Findings. The findings in the above recitals are hereby adopted as support for these code amendments.

Section 2. Amend. Stayton Municipal Code Chapter 8.12, Use of Public Parks, Public Property, and Waterways, is hereby amended as set forth in Exhibit 1.

Section 3. Repeal. Stayton Municipal Code Chapter 2.64, Disposition of Unclaimed Personal Property, is hereby repealed.

Section 3. Continued Effect. All unamended provisions of the City of Stayton’s Municipal Code shall remain unchanged and in full force and effect.

Section 4. Severability. The sections, subsections, paragraphs, and clauses of this ordinance and the attached Code provisions are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs, and clauses.

Section 5. Codification. Provisions of this Ordinance shall be incorporated into the City of Stayton’s Municipal Code, and the words “ordinance” or “section” may be changed to “code,” “article,” “chapter,” “division,” or another word, and the sections of this Ordinance may be renumbered or re-lettered, provided however that any recital clause and boilerplate provisions of this Ordinance need not be codified, and the City Recorder is authorized to correct any cross-references and any typographical errors.

Section 6. Effective Date. This ordinance shall go into full force and effect on the 30th day after adoption by the Stayton City Council and the Mayor’s signing.

ADOPTED BY THE STAYTON CITY COUNCIL THIS 17TH DAY OF JULY 2023.

CITY OF STAYTON

Signed: 7/17/, 2023

BY: 
Brian Quigley, Mayor

Signed: 7-18, 2023

ATTEST: 
Julia Hajduk, City Manager

CHAPTER 8.12

USE OF PUBLIC PARKS, PUBLIC PROPERTY AND WATERWAYS

SECTIONS

8.12.010	Definitions
8.12.020	Camping Permit
8.12.030	Park Hours
8.12.040	Prohibited Behavior in Public Parks and Facilities
8.12.050	Prohibiting Consumption of Alcoholic Beverages on Public Property
8.12.060	Exclusion of Persons from Parks and Public Facilities
8.12.070	Emergency Closure of Parks and Public Facilities
8.12.080	Violation: Penalty

8.12.010 DEFINITIONS

As used in this Chapter, the following mean:

1. **CAMP:** To set up or to remain in or at a campsite.
2. **CAMPSITE:** Any place where any bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to stay, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
3. **CITY:** City of Stayton, Oregon
4. **DEVELOPED PARK:** The following areas are considered developed parks for the purposes of this chapter: Pioneer Park; Santiam Park; North Slope Park; Quail Run Park; Henry A. Porter Dog Park; Westtown Park; Community Garden; Community Center Park; Riverfront Park, Neitling Park, Wildlife Meadows Park, and Mill Creek Park.
5. **PARK:** Real property owned, managed, or leased by the City of Stayton for recreational purposes, other than dedicated rights-of-way.
6. **PUBLIC FACILITY:** Any publicly owned structure or infrastructure used for the operation and maintenance of City functions. Facilities include, but are not limited to, Water and Wastewater treatment plants, City buildings, waterways, and public right of way.
7. **RECREATION VEHICLE:** A vacation trailer or other vehicular or portable unit which is either self-propelled, carried, or towed by a motor vehicle and which is intended for human occupancy and is designed for vacation or recreational purposes but not a permanent residence. Recreational vehicles also include travel trailers, motorhomes, campers, boats, boat trailers, snowmobiles, all-terrain vehicles (ATVs), and trailers designed primarily to carry ATVs or snowmobiles. Recreational vehicles do not include utility trailers or canopies.

8. **POWER CANAL a waterway (Reid Power Canal).** See Stayton Ditch.
9. **STAYTON DITCH a waterway, also known as POWER CANAL or REID POWER CANAL.** The Stayton Ditch is the waterway which flows west from the N. Santiam River dividing the Wilderness Area Park from the Riverfront Park in Stayton. The Stayton Ditch flows from the North Santiam River west to First Ave in Stayton, crossing First Ave flowing back into the N. Santiam River, as illustrated below in Exhibit A.
10. **SMOKING:** Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant or other tobacco or tobacco-like product or substance in any manner or any form.
11. **TOBACCO PRODUCT:** Any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other means of ingestion.
12. **TOBACCO USE:** Smoking, chewing or other ingestion of any tobacco product.

8.12.020 **CAMPING PERMIT**

1. No person may camp in or upon a public facility.
2. No person shall camp in or upon any developed park or under any bridge unless a permit is obtained from the Chief of Police or designated representative or by declaration of the Mayor in emergency circumstances. An application shall be filed with the City for each RV, tent, or campsite.
3. The Chief of Police or designated representative may issue a permit to any person to park a recreational vehicle (RV) or to camp upon any developed park property. A permit issued under this section shall be issued when the Chief of Police or designated representative finds that the following criteria will be met.
 - a. The applicant has made arrangements for appropriate sanitary facilities and drinking water;
 - b. The proposed activity for which the permit is issued is not likely to disturb the peace and quiet of any person;
 - c. The proposed activity is unlikely to result in litter, trash, garbage, sewage, or other unsanitary material being placed or left on public property; and,
 - d. A permit shall not be issued for camping in a developed park unless it is in conjunction with another City approved event, such as a festival in the park and does not interfere with the needs of the City such as normal city services.
4. The permit may be granted for up to ten days. A permit shall not be issued to the same applicant more than once in any thirty-day period.

8.12.030 **PARK HOURS**

Developed parks of the City shall be closed to access and use by the public between the hours of 10:00 p.m. and 6:00 a.m. unless a permit has been issued by the Chief of Police or designee or a facility use permit has been issued by the City.

8.12.040 PROHIBITED BEHAVIOR IN PUBLIC PARKS, PUBLIC PROPERTY, AND FACILITIES

1. No person shall make, assist in making, continue, or cause to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures; or unnecessary noise; or by any other act to breach the public peace; or annoy, disturb, injure, or endanger the comfort, repose, health, safety, welfare, or peace of others while in any park or public facility in accordance with the State Disorderly Conduct laws.
2. No person shall blow, spread, or place any nasal or other bodily discharge, or spit, urinate, or defecate on the floors, walls, partitions, furniture, fittings, or any portion of a public restroom located in any park, or in any place in a public restroom or public facility, excepting directly into the particular fixture provided for that purpose.
3. No person shall damage or do anything that will or could cause damage to the public parks, public property, waterways, and facilities.
4. No person shall use the City's recreational equipment and facilities for activities other than their intended or approved purpose or in a way that could cause damage to them.
5. Smoking of tobacco, marijuana, or any other substances including E-Cigarettes and use of smokeless tobacco is prohibited at any City-owned property, park and facilities. Smoking or vaping is prohibited outside the front street façade of any building in the area designated as Downtown in the Comprehensive Plan Map and properties on both sides of N. First Avenue between Water Street and Washington Street. Smoking is defined as inhaling, exhaling, breathing, or carrying any lighted cigar, cigarette, E-cigarette, vape pen, or other tobacco product in any manner or in any form.
6. Fires are not permitted except in designated fire rings or barbeque stands.
7. No person shall enter into, put anything into, or cause anything to end up into the waterway known as the Stayton Ditch.
8. No person shall swim, float, kayak, raft, boat, fish, wade, play in or participate in any similar recreation activity in the Stayton Ditch.
9. The Stayton Ditch may be accessed for official use such as by the City of Stayton, Santiam Water Control District, Stayton Fire District, or other governmental or public safety organizations.
10. Except as authorized by 8.12.020, where camping is permitted no person shall camp between the hours of 8 AM to 8 PM

8.12.050 PROHIBITING CONSUMPTION OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY

No person shall drink or consume alcoholic beverages in or upon any public street or sidewalk, alley, public grounds, parks, City-owned facilities and properties, except when a permit for that purpose has been issued pursuant to this SMC or a business establishment has received OLCC approval for an outdoor eating area.

- a. Upon application to the City, the City Administrator, or designee may grant a revocable facility use permit to responsible persons or organizations for an event or activity at which alcoholic beverages may be served and consumed in City-owned facilities or on City property.
- b. The City Council shall adopt rules governing facility use permits by Resolution.
- c. The Stayton Police may issue an ordinance violation citation for violating the Facility Use Rules which also may include revoking the "Facility Use" permit.

8.12.060 EXCLUSION OF PERSONS FROM PARKS AND PUBLIC FACILITIES

1. If there is probable cause to believe that a person has violated the Stayton Municipal Code, Titles 6 or 8, 9, or Chapters 10.04, or 10.12, or any related state law, while in a public park or public facility, that person may be excluded from the park or public facility where the incident occurred for a period of not more than thirty (30) days in accordance with the following procedure:
 - a. Written notice shall be given to the person to be excluded from a park or public facility. The exclusion period shall take immediate effect.
 - b. The notice shall prominently specify the beginning and ending dates of the exclusion period.
 - c. The notice shall specify the location(s) they are excluded from which is based on the original offense location. The exclusion location shall only reflect the location of the original offense. For example: If the person commits a crime in the park they should only be excluded from the park(s) and not the Stayton Pool or the Community Center.
 - d. The notice shall prominently display a trespass warning describing the potential consequences of unlawful behavior after receipt of an exclusion notice and for entering a park, public property or facility during the exclusion period.
 - e. At any time within the exclusion period, a person having received a notice may apply in writing to the Chief of Police or designee for a temporary waiver from the exclusion for good reason shown. Good reason may include but not limited to such things as employment purposes, first amendment activities, a funeral or wedding. The Chief of Police will have 48 hours to make a decision on the waiver.
 - f. The excluded individual may appeal the exclusion to the Stayton Municipal Court which shall hear the appeal at the next available Municipal Court hearing date.

The Municipal Court may overturn the exclusion, agree with the exclusion or extend the exclusion. The Municipal Court decision is final. An exclusion is stayed during the time of the appeal.

- g. This Section shall not apply to City-owned properties with long term lease by a business organization, such as the movie theater or the Moose Lodge. Those properties are considered to be privately controlled.
- h. If a person is excluded from City business offices, reasonable accommodations will be made for legitimate City business to be conducted.

8.12.070 EMERGENCY CLOSURE OF PUBLIC PROPERTIES, PARKS, AND WATERWAYS

- 1. The Police Chief or designee may close a public property, park, waterway or part thereof, at any time by erecting barricades, signs, locking mechanisms or other appropriate measures prohibiting and barring access to any such public property, park, waterway or part thereof, at appropriate locations. Notice that any public property, park, waterway or part thereof, is closed shall be posted at appropriate locations during the period of such closure.
- 2. The Police Chief or designee may close any public property, park, waterway, or any part thereof, in accordance with this section, in the interest of public safety, health, and welfare in the event conditions exist in or near that premises which involve any of the following circumstances:
 - a. Life or properties appear to be endangered and other means cannot reasonably be utilized to eliminate the danger;
 - b. An overcrowding of persons or vehicles has occurred, impairing access of emergency assistance or emergency vehicles;
 - c. The subject premises or other property located near the premises reasonably appears to be endangered;
 - d. Persons making, assisting in making, continuing, or causing to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures, or unnecessary noise, or by any other act to breach the public peace; or annoying, disturbing, injuring, or endangering the comfort, repose, health, safety, welfare, or peace of others in any park, public facility, or waterway and is of such consequence that cessation of the disturbance cannot otherwise be accomplished;
 - e. A hazardous condition exists;
 - f. That violation(s) of criminal offenses or code is occurring and is caused by sufficient numbers of persons, or is of such consequence that cessation of the disturbance cannot otherwise be accomplished; or,
 - g. Other conditions exist such that the safety or protection of persons or property cannot reasonably be assured.

3. During the closure of a park, public premises or waterway, or portion thereof, in accordance with this chapter, it shall be unlawful for any person to enter upon the premises, or any part thereof, that has been closed, or to remain in the premises, or part thereof, after having been notified of the closure and having been requested to leave by an authorized authority.
4. Such emergency closure shall not exceed 18 hours without the written approval of the City Administrator.

8.12.080 VIOLATION: PENALTY

1. A violation of a provision of this chapter is punishable by a fine approved by Stayton City Council Resolution.
2. In addition to the remedies and fees provided for in this Chapter, any person authorized to enforce the provisions of this chapter may issue an enforcement complaint, as defined in section 6.04.020, to any person found in violation of the provisions of this chapter.
3. If there is probable cause to believe a person has violated provisions of this Chapter, constituting a crime under Oregon Revised Statutes that person may be prosecuted accordingly, and if convicted, fined accordingly.