

ORDINANCE NO. 232

**AN ORDINANCE OF MALHEUR COUNTY, OREGON
ADDING TITLE 3 CHAPTER 16 TO THE MALHEUR COUNTY CODE ESTABLISHING
USE OF COUNTY PROPERTY FOR CAMPING**

This ordinance was heard at a public hearing before the County Court on June 7, 2023 and June 21, 2023.

WHEREAS, the Malheur County Court recognizes that it needs to balance public health and safety with transportation system users, family recreation and homeless individuals camping on County property; and as such desires to implement regulations to address these concerns; and

WHEREAS, Camping on County rights-of-way are not an appropriate use for the County's transportation system. Often rights-of-ways are gravel, remote, narrow, used for farm to market access, provide a means for transporting farm equipment, and are not lighted. The County is to maintain a safe, secure and effective rural transportation system for everyone. Camping on or along County rights-of-way is unsafe. Camping can interfere with the ability of the County or rural road assessment district to safely maintain rights-of-way, including County Roads, local access roads, bridges, and vegetation; and

WHEREAS, ORS 195.500 requires counties to develop a policy that recognizes the social nature of the problem of unhoused individuals camping on county property and implement a policy to ensure the most humane treatment for removal of homeless individuals from camping sites. The policy is on file with the Malheur County Court and will be posted on the County website.

WHEREAS, ORS 195.530 requires that any 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 regard to persons experiencing homelessness; and

WHEREAS, the County Court finds that the use of County property for camping as stated in Exhibit A and as an addition to the Malheur County Code is in the public interest.

NOW, THEREFORE, THE MALHEUR COUNTY COURT ordains as follows:

Section 1. Findings. The above-stated findings are hereby adopted.

Section 2. Malheur County Code Title 3 Chapter 16 entitled "Use of County Property For Camping" is created and adopted as shown on the attached Exhibit A.

Section 3. Malheur County Code Title 3 Chapter 5 (Road Hazards) and Title 4 Chapters 1 (Bully Creek Park) and 1A (Cow Hollow Park) are amended as shown on the attached Exhibit B.

Section 4. All other provisions of the Malheur County Code remain unchanged and in full effect.

Section 5. If any provision, section, phrase, or word of this ordinance or its application to any

person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

Section 6. Emergency. This ordinance is necessary for the preservation of the public peace, health and safety; an emergency is hereby declared to exist and this ordinance shall take effect July 1, 2023.

APPROVED and ADOPTED by the Malheur County Court this 21st day of June 2023.

Malheur County Court Judge Dan P. Joyce

Malheur County Commissioner Ron Jacobs

Malheur County Commissioner Jim Mendiola

ATTEST:

Kim Ross, Recording Secretary

EXHIBIT A

Title 3, Chapter 16

USE OF COUNTY PROPERTY FOR CAMPING

- 3-16 1: Purpose and Scope
- 3-16 2: Definitions
- 3-16 3: Time, Place and Manner Regulations
- 3-16 4: Vehicles, Automobiles or Recreational Vehicles
- 3-16 5: Violations and Enforcement

3-16 1: Purpose and Scope.

A. Purpose. The purpose of this chapter is to adequately protect the health, safety and public welfare of the County by addressing time, place and manner camping regulations that identify when, where, and how camping is allowed on County property, as well as define enforcement and compliance. This chapter addresses camping in tents and other portable shelters.

B. Scope. This chapter is meant to regulate the use of County property and is not intended to regulate activities on private property or property owned by other public entities. This chapter does not allow violation of other ordinances, rules or laws of the County or within the city limits of Nyssa, Ontario, Vale, Adrian or Jordan Valley.

3-16 2: Definitions.

Definitions. For purposes of this chapter, the following terms and phrases have the meanings assigned to them below:

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

“Camp Facilities” include, but are not limited to, tents, huts, temporary shelters, lean-tos, or any other temporary and removal structures or parts thereof.

“Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or outdoor cooking devices and similar equipment.

Note. Camp facilities and camp paraphernalia do not include vehicles, automobiles or recreation vehicles used for camping.

“Campsite” means any locations where one or more persons have temporary sleeping or living

accommodations by use of camp facilities and/or camp paraphernalia.

“Established campsite” means a campsite in place for over 24 consecutive hours in one location.

“County property” means all real property, land, and right-of-way owned, leased (either to County or by County), controlled, or managed by the County.

“Personal property” means an item that can reasonably be identified as belonging to an individual and that has apparent value or utility. Personal property includes camp facilities and camp paraphernalia.

“Recreational fire” means a fire for the cooking of food, warmth, fellowship or ceremonial purposes.

“Right-of-way” means roads, and other public right-of-way dedicated and accepted by the County, either in fee title or as holder of a public easement for right-of-way or public access purposes. Public rights-of-way include but are not limited to any County Road, local access road or other property that is subject to a public access easement dedicated or granted to the County for vehicular, pedestrian or other means. This includes roads maintained and within a rural road assessment district.

“School” means public or private elementary, middle or high school or other school attended primarily by children under 18 years of age.

16-3 3: Time, Place and Manner Regulations.

Camping is permitted on County property subject to the time, place, and manner regulations contained herein.

A. Time Regulations.

Except as expressly authorized in the Malheur County Code, County’s camping policy, rules adopted for a County park or by the County Court, camping is prohibited on any County property between the hours of 7:00 a.m. to 10:00 pm.

B. Place regulations.

Except as expressly authorized in the Malheur County Code, or by the Malheur County Court, it shall be unlawful for any person to camp on the following County property:

1. Cow Hollow Park without permission from the park manager, County or Cow Hollow Park Association.

2. Bully Creek Park without the permission of the park manager. Bully Creek Park is the boundary of the recreation area managed by the County under a Management Agreement with Bureau of Reclamation.
3. Arcadia Industrial Park Subdivision.
4. Malheur County Courthouse and all surrounding parking lots used for Courthouse parking.
5. On or within any County road right-of-way, including undeveloped right-of-ways.
6. On or within any County property zoned Ontario – College District (O-CD) (such as Extension Office property).
6. Any County property that is fenced, posted with signs such as “keep out” or “no trespassing” or otherwise not open to the public.
7. Within 500 feet of any public, private or parochial school and childcare facility or preschool as defined in ORS 329A.250 as amended.
8. Within twenty-five (25) feet of the public entrance to a business, including the front entrance of a County business.
9. Within twenty-five (25) feet of a public or private driveway.
10. On or within one hundred (100) feet of County property located within any area zoned residential or industrial on the County or city zoning maps or ordinances in effect at the time
11. All County Property along Lytle Boulevard leased to private individuals for grazing.
13. Malheur County Fairgrounds and parking lots used for the fairgrounds.
14. Malheur County Community Correction developed lot and paved parking area.
15. Stone House Museum.
16. Brogan Community Park.
17. Malheur County Health Department.
18. Malheur County Justice Court.
19. Any property not within 3 miles of a city’s limits (In other words more than 3 miles from the city limits of Vale, Ontario, Nyssa, Adrian and Jordan Valley).

C. Manner Regulations.

At times and locations where camping is permitted under this chapter, the following regulations apply:

1. Camping in a manner that reduces the clear, continuous sidewalk width to less than three (3) feet is prohibited. Camping that obstructs fire hydrants or clear vision for traffic, pedestrians or traffic devices is prohibited.
2. At no time may huts, lean-tos, shacks, or any other structures, whether constructed with plywood, wood materials, pallets, or other materials, be built, or placed on County property for camping. Items such as tents and similar items used for shelter that are readily portable are not prohibited by this section.
3. Camping must be limited within a spatial footprint of one hundred fifty (150) square feet in surface area. The intent of this section is to allow a person to sleep and maintain essentials, while still maintaining the ability of everyone to use public spaces as designed and intended. A group of up to three may camp together (group camps). To prevent larger campsites and the cumulative impacts that can result, group camps may not be within 150 feet of any group camps.
4. Individuals may not accumulate, discard or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility on County property, or on any adjacent public or private property.
5. Open flames, recreational fires, burning of garbage, bonfires, or other fires, flames, or heating deemed unsafe by the County environmental health director, applicable fire district or applicable city fire department are prohibited. Some cooking stoves and other means of keeping warm may be permitted.
6. Dumping of gray water (i.e., wastewater from baths, sinks, and the like) or black water (i.e., sewage) into any facilities or places not intended for gray water or black water disposal is prohibited. This includes but is not limited to storm drains, which are not intended for disposal of gray water or black water.
7. Digging, excavation, terracing of soil, alteration of property or infrastructure, or damage to vegetation or trees is prohibited. Unauthorized connections to utilities and use of power generators are prohibited.
8. Storage of personal property such as tires, gasoline, lumber, furniture, extra propane tanks, combustible material, lumber or other items or materials (except as needed for an individual to camp, sleep or keep warm and dry) is prohibited.

9. Except as expressly authorized by the Malheur County Code, all persons are prohibited from leaving personal property, camp facilities and camp paraphernalia, unattended on any County property for more than twenty-four (24) hours.

10. All animals on County property must be leashed or crated at all times.

3-16 4: Vehicles, Automobiles or Recreational Vehicles.

It is prohibited at all times for any person to use County property to camp in vehicles, automobiles or recreation vehicles, provided the County Court may, in its discretion, designate certain County properties or portions of properties where camping in licensed and fully operable vehicles, automobiles or recreation vehicles may be allowed on a limited basis, and may set the terms and conditions of camping that may be allowed. Any such use of County property will follow environmental health and building code provisions.

3-16 5: Violations and Enforcement.

A Violation. A violation of this chapter is a Class D civil infraction. Citations will only be issued when other means of achieving compliance have been unsuccessful or are not practical for the situation. Violators will be cited into the Malheur County Justice Court.

B. Prior to civil infraction. Before a civil infraction citation is issued, the County enforcement officer will contact the person(s) and provide a reasonable opportunity to cure or remedy the alleged violation. The enforcement officer shall consider weather conditions, if the person has a disability and other appropriate factors in determining a reasonable period of time to cure. In most cases, the enforcement officer will assess whether the person subject to the citation has been referred to service providers, and make a referral if it appears none have been made.

C. Campsite and Property Removal. A violation of this chapter may result in the removal of an established campsite (existing more than 24 hours). In addition, when enforcement personnel determine a campsite endangers public health and safety, the campsite may be removed immediately. Typically, removal of a campsite and clean-up of the camp, camp material, camp paraphernalia or other personal property will not occur until after a request for voluntary compliance has been made, except in the case of an exceptional emergency, such as possible contamination by hazardous materials, a public health emergency or when there is an immediate danger to human life or safety or illegal activities. Any camp, camp materials, camp paraphernalia or person property in violation of the standards or manner regulations in this chapter may be removed or cleaned-up by the County or its contractors, subject to the requirements in section D below. A campsite and individual may be subject to removal or citation, or both.

D. Policies Related to Campsite and Personal Property Removal.

1. Prior to removing an established campsite on County property, at least 72-hours in

advance, except in the case of emergency, danger to human life or safety or criminal/illegal activity, the County will post notice (in English and Spanish) at the location of the established campsite stating the individuals must leave and all remaining personal property will be removed by the County. The notice will state: (a) an address where the unclaimed personal property will be stored; (b) list a phone number and hours a person can claim ownership and collect or make arrangements to collect their personal property; or (c) list a phone number and address individuals may call to find out where the property will be stored. The County will also inform local agencies that deliver services to homeless individuals that such notice has been posted and the location of the notice.

2. A campsite may be removed for violation of this chapter without posting a 72-hour notice when there are grounds for law enforcement officials to believe that illegal activity, other than camping, is occurring on the campsite or in the immediate vicinity of the campsite, or the property that comprises the campsite is being used or intended to be used to commit or facilitate the commission of otherwise illegal activity; or in the event of an exceptional emergency, such as possible site contamination by hazardous materials or when there is an immediate danger to human life or safety.

3. Once the 72-hour notice has been posted, the County may remove the established campsite and personal property beginning 72 hours after posting and for up to ten (10) days following the posting.

4. After the established campsite has been removed subject to a 72-hour notice or for campsites when no advance notice is required due to the circumstances, the camp and all associated camp facilities, camp paraphernalia and personal property can be removed by County.

5. When removing individuals and property from campsites, enforcement personnel will make reasonable efforts to remove individuals without the use of force, arrest or citation.

6. When removing camp facilities, camp paraphernalia and personal property, the County will make reasonable efforts to determine if the property belongs to an individual and if it has any apparent value or utility. The County will make reasonable efforts to identify which established campsite personal property was removed from and aid in connecting people with their property. Items that are perishable, or have no apparent use or value, or that are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, discarded and not stored.

7. Weapons, drug paraphernalia, or other contraband, and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials. Items that appear to have a value of \$1,000 or more shall be given to law enforcement officials for storage and safe keeping, and shall be made available as described in section D9 below.

8. When personal property, camp paraphernalia and camp facilities are removed and notice was not provided in D1 the County must post notice at or near as possible to the location where the personal property was collected. The notice will state where the personal property is being stored, list a phone number and hours a person can claim ownership and collect or make arrangements to collect their personal property.

9. Personal property removed from a campsite and unclaimed at the time of removal will be stored by the County for a minimum of thirty (30) days, or the duration required by law at the time of the removal. To the extent possible, the County will store personal property at a County building or facilities in the same community of the campsite so that individuals can reasonably retrieve personal property. The County will make reasonable efforts to provide a range of times the storage location will be available for individuals to collect their personal property. The County may dispose of any personal property that remains unclaimed after thirty (30) days, or such duration as required by law.

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EXHIBIT B

The Malheur County Code is amended to state:

1. The following provision shall be added to Malheur County Code Title 3 Chapter 5 entitled Road Hazards:

3-5-3 HOMELESS INDIVIDUALS CAMPING ON COUNTY RIGHT-OF-WAY. Camping is prohibited on County right-of-way as defined and set out in Malheur County Code Title 3 Chapter 16.

2. The following provisions in Malheur County Code Title 4 Chapter 1 (Bully Creek Park) shall be added or amended to read:

4-1-2:

J. Continuous Overnight Camping. No person shall continuously camp at Bully Creek Park ~~for longer than twenty (20) days~~ without the permission of the park manager. No individual may designate Bully Creek Park as an address to receive mail at the park without the permission of the park manager.

4-1-3:

D. Camping By Homeless Individuals. It shall be unlawful to camp, as defined in Malheur County Code Title 3 Chapter 16, at Bully Creek Park without the permission of the park manager.

~~4-1-6 Camping By Homeless: The provisions of ORS 203.079 are incorporated herein by reference. These provisions shall be implemented prior to removing homeless individuals from camping at Bully Creek Park, during the season the park is open for use by the public.~~

3. The following provisions shall be amended and added to Malheur County Code Title 4 Chapter 1A (Cow Hollow Park):

4-1A-2 A.

9. Continuous Overnight Camping. No person shall continuously camp at Cow Hollow Park ~~for longer than fourteen (14) days~~ without the permission of the county.

4-1A-2 B.

3. Camping By Homeless Individuals. It shall be unlawful to camp, as defined in Malheur County Code Title 3 Chapter 16, at Cow Hollow Park without the permission of the county, Cow Hollow Park Association, or the park manager.

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