

ORDINANCE NO. 2402

AN ORDINANCE AMENDING BEND CODE CHAPTER 5 TO ADD SECTION 5.70 – SAFE PARKING

Findings

A. This Code amendment is part of the short-term strategy for expanding shelter options for people experiencing homelessness. The Code amendment creates “Safe Parking” programs to allow business, nonprofit, religious, or public entities as owners or lessees of property to provide safe places to park for people who lack permanent shelter and cannot obtain other low-income housing.

B. Under ORS 203.082, cities may allow religious institutions to offer up to three vehicles to be used for overnight camping by people experiencing homelessness, with the provision of access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities.

C. Under ORS 446.265, cities may allow the establishment of transitional housing accommodations used as individual living units by one or more individuals who lack permanent or safe shelter and who cannot be placed in other low income housing. These accommodations are intended to be used by individuals or families on a limited basis for seasonal, emergency or transitional housing purposes and may include yurts, huts, cabins, fabric structures, tents and similar accommodations. The transitional housing accommodations may provide parking facilities, walkways and access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities. Transitional housing accommodations are not subject to ORS chapter 90.

D. The City of Bend is a home rule city and can adopt rules and ordinances for the protection of the public health, safety, and welfare. The Safe Parking programs provide for the safety and protection of people living in the City of Bend, including those who live with and without permanent and safe shelter. The programs created by this Code are consistent with ORS 446.265 and ORS 203.082, and add additional options for safe parking for people experiencing homelessness.

E. According to the “Point-in-Time” counts, people experiencing homelessness in Deschutes, Jefferson, and Crook Counties increased from 594 individuals in 2015 to 969 individuals in 2020, including a 10% increase from 2019 to 2020. The Point-in-Time count is understood by many service providers to be an undercount of those experiencing homelessness. Since 2020, the number of people experiencing both homelessness and housing insecurity has increased as reported by numerous social service agencies and community members in Bend. There are not enough emergency, permanent or seasonal shelter beds available to house everyone experiencing homelessness in Bend and Central Oregon.

F. Council finds that there is a need for additional places for people without

permanent or safe shelter to sleep.

G. State and federal rules prohibit and/or limit the amount of time a person can camp, whether in a tent, recreational vehicle, or other vehicle on state or federal lands. The Bend Development Code does not allow use of a motorhome, recreational vehicle, travel trailer, tent, or similar device as a dwelling unit. The Bend Municipal Code does not allow parking of a vehicle in the right of way for more than three days at a time. Due to these and other regulations, there are not sufficient places for people experiencing homelessness to sleep overnight in vehicles for extended periods of time.

H. Concurrently with this Ordinance, the Bend City Council is considering amendments that would clarify that use of vehicles and tents for overnight sleeping under the Safe Parking programs created by this Ordinance is not use of a recreational vehicle, etc., as a dwelling unit prohibited by the Bend Development Code.

I. Under an emergency order dated March 16, 2020, adopted by the Bend City Manager and ratified by the Bend City Council, and presently in effect through March 21, 2021, at least two locations have provided space for people experiencing homelessness to sleep overnight in vehicles or recreational vehicles. The City desires to create a code that would allow the continuation of these programs after the emergency order expires or is terminated, if the locations apply for and receive authorization under the new Code.

J. The Code will allow "Overnight Camping" for up to three vehicles to be used by people who lack access to permanent or safe shelter and who cannot obtain other low income housing for overnight camping on property owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, and provision of sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities. No fee or charge may be assessed for camping under the proposed code.

K. The Code will also allow "Temporary Overnight Parking Accommodations" for up to six vehicles and/or movable tents, huts, or yurts for overnight accommodation of people who lack permanent or safe shelter and who cannot obtain other low income housing in a parking lot, or paved or gravel surface of property owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee. The City may specifically authorize more than six vehicles and/or tents, huts, or yurts on property owned or leased by a public entity, based on the size of the parcel, supervision plan, and sanitation plan proposed by the public entity. The program host must receive authorization from the City, provide a plan for sanitation facilities, meet with and provide notice to neighboring properties, and set policies establishing the hours people may be at the site, how people will be selected to stay at the site, and the number of vehicles/tents that will be allowed. No fee or charge may be assessed for parking under the proposed Code.

L. The Council finds that the authorization required by the proposed Code for "Temporary Overnight Parking Accommodations" is not a permit or otherwise a land use decision under state land use and planning law.

THE CITY OF BEND ORDAINS AS FOLLOWS:

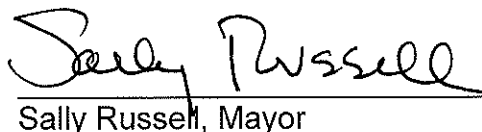
- Section 1.** Chapter 5 of the Bend Code is amended to add Section 5.70 as shown on the attached Exhibit A.
- Section 2.** All other provisions of Chapter 5 of the Bend Code remain unchanged and in full effect.
- Section 3.** If any provision, section, phrase, or word of this ordinance or its application 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 4.** Due to the increasing numbers of people experiencing homelessness and the lack of shelter beds in the City of Bend, this ordinance is critical to ensure public health and safety. The ordinance is therefore necessary on an emergency basis and will be effective immediately upon adoption on its second reading.

First Reading Date: March 17, 2021

Second Reading and adopted by roll call vote on April 7, 2021.

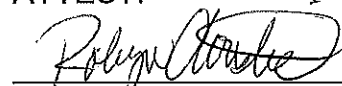
YES: Mayor Sally Russell
Mayor Pro Tem Gena Goodman Campbell
Councilor Melanie Kebler
Councilor Anthony Broadman
Councilor Megan Perkins
Councilor Rita Schenkelberg

NO: none



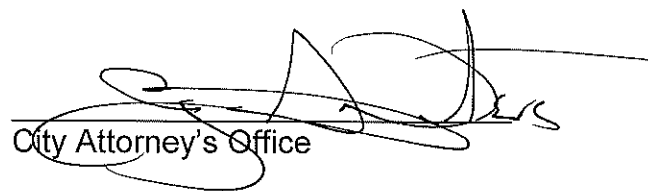
Sally Russell, Mayor

ATTEST:



Robyn Christie, City Recorder

Approved as to form:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

City Attorney's Office

Chapter 5.70 SAFE PARKING PROGRAMS

5.70.005 Purpose and Scope

A. Safe parking, provided through overnight camping and transitional overnight parking accommodations described in this chapter, is intended to be used by individuals, families, or households who lack permanent or safe shelter and who cannot obtain other low income housing on a limited basis for seasonal, emergency or transitional shelter purposes.

B. For purposes of this chapter, the term "vehicle" includes a car, camper, trailer, or recreational vehicle, and "tent" includes fabric structures, hard-shelled huts (so-called Conestoga hut or similar), or similar movable structure. All vehicles must be operable and movable, either by their own power or towing if designed to be towed.

5.70.010 Overnight Camping.

A. Notwithstanding any other provision of this code or the Bend Development Code up to three vehicles may be used by people who lack access to permanent or safe shelter and who cannot obtain other low income housing for overnight camping in a parking lot, or paved or gravel surface of a parcel of any size owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable.

B. A property owner or lessee who allows overnight camping on a property pursuant to this section shall:

1. Provide persons camping overnight with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all times people are authorized to be present for overnight camping; and
2. Not require payment of any fee, rent or other monetary charge for overnight camping authorized by this section.

C. A property owner who permits overnight camping pursuant to this section, may revoke that permission at any time and for any reason. Any person who has permission to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.

D. The provisions of this section are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code.

5.70.015 Transitional Overnight Parking Accommodations

- A. With authorization from the City, up to six (6) vehicles and/or tents may be used for overnight accommodation of people who lack permanent or safe shelter and who cannot obtain other
-

low income housing in a parking lot, or paved or gravel surface of property owned or leased by a religious institution, nonprofit, business or public entity, with permission of the property owner and lessee, if applicable, as temporary transitional overnight parking accommodations. A public entity may allow more than six (6) vehicles and/or tents on property owned or leased by the public entity, with a plan approved by the City, based on the size of the parcel, supervision plan, and sanitation plan proposed by the public entity. Temporary transitional overnight parking accommodations must be located at least 150 feet from a child care facility or school, unless the parking accommodations are located on property owned or leased by a public entity or religious institution.

- B. These temporary transitional overnight parking accommodations are intended to be used by individuals, families, or households on a limited basis for seasonal, emergency or transitional housing purposes. The transitional overnight parking accommodations may provide parking facilities, walkways and access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities. Any sanitation or other facilities added to the location for temporary transitional overnight parking accommodation must be temporary and removable.
 - C. Temporary transitional overnight parking accommodations must, at a minimum:
 - 1. Apply for and receive authorization for operation from the City Manager or designee, and agree to abide by all conditions, including acceptance of liability and demonstration of insurance coverage in amounts acceptable to the City. City authorization is not a land use decision;
 - 2. Provide access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities at all hours people are authorized to be present for overnight parking, including the additional hours campers may stay at the site;
 - 3. Provide supervision, case management, or supportive services. Supervision must include at a minimum nightly contact with each camper;
 - 4. Develop policies that set out how individuals who may stay at the site will be selected, number of continuous days that someone may stay at the site, hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m., what supervision will be provided, and what structures and other items may be placed on the site;
 - 5. Not require payment of any fee, rent, or other monetary charge for temporary transitional housing accommodation; and
 - 6. Prior to allowing any person to stay overnight as part of a temporary transitional overnight parking accommodation, provide notice of the intention to allow temporary transitional overnight parking to each property owner and occupant of each adjacent
-

property, and, every night any person stays overnight, post a notice at a prominent location on the site. These notices must include the following information:

- a. The name of the property owner or lessee and person or entity providing site supervision, and a telephone number where the entity or individual providing supervision may be contacted;
 - b. The number of approved vehicles and/or tents; and
 - c. The hours that overnight campers may stay at the site in addition to 9:00 p.m. to 7:00 a.m.
- D. Property owners who allow temporary transitional overnight parking under this section may revoke permission for program operation at any time and for any reason. Any person who is on property for temporary transitional overnight parking accommodations under this section must leave the property immediately after permission has been revoked.
- E. The provisions of this section for temporary transitional overnight parking are not intended to limit or otherwise change any land uses that may be permitted on property under the Bend Development Code.

5.70.020 Enforcement

- A. Notwithstanding any other provision of this section, the City Manager or designee may:
1. Revoke authorization for temporary transitional overnight parking for violations of the requirements of this chapter;
 2. Prohibit overnight camping or temporary transitional overnight parking on a property if the City finds that any activity related to the overnight camping or temporary transitional overnight parking on that property constitutes a nuisance or other threat to the public welfare; or
 3. Revoke permission for a person to camp overnight, whether in a temporary transitional overnight parking accommodation or not, on City-owned property if the City has a reasonable suspicion that the person has violated any applicable law, ordinance, rule, guideline or agreement, or that the activity constitutes a nuisance or other threat to the public welfare.
- B. No activity associated with overnight camping or temporary transitional overnight parking is allowed to occur that constitutes a nuisance or other threat to the public welfare.
- C. Violation of the provisions of this chapter is a Class A infraction each day a violation occurs.
- D. The City Manager may adopt administrative rules in the manner provided in Section 1.30.005 of this code to implement this section.
- E. Nothing in this section of this code creates any duty on the part of the City or its agents to ensure the protection of persons or property with regard to permitted overnight camping or temporary transitional overnight parking accommodations.
-