

# CAMPING ORDINANCES IN 2023

Martin v. Boise, Blake v. Grants Pass, and HB 3115



# MARTIN V. BOISE (2018)

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- 9<sup>th</sup> Circuit Opinion
- 8<sup>th</sup> Amendment to U.S. Constitution forbidding cruel and unusual punishment prohibits cities from prosecuting people experiencing homelessness for “involving sitting, lying, and sleeping in public” if there are not enough shelter beds available



# BLAKE V. GRANTS PASS (2022)

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- Ninth Circuit Court of Appeals affirmed Decision of District of Oregon (Medford Div.)
- The Decision clarifies/extends *Martin v. Boise*
  - Must allow “necessary minimal measures” for people experiencing homelessness to “keep themselves warm and dry” - must allow “rudimentary forms of protections from the elements”
  - Must provide procedural due process to exclude people from public places such as parks



# House Bill 3115 (2021)

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- Codifies principles of cases in Oregon
- Provides that local law regulating sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to public must be objectively reasonable as to time, place and manner with regards to person experiencing homeless
  - “Objectively reasonable” based on the totality of circumstances
    - Not one-size fits all, what works best for Winston may not work in Roseburg or Sutherlin.



# House Bill 3115 (2021)

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- What CAN cities do?
  - Time: Prohibit camping during certain hours, etc.
  - Place: Limit camping to certain areas of the City
  - Manner: Restrict amount of personal property and how camping occurs (tents, structures, etc.)
  - City can continue to enforce other existing ordinances, such as scattering rubbish, fires on public property, vandalism, etc.



# Winston Municipal Code (Currently)

- 90.090 Definitions

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- Campsite - Any place where any bedding, sleeping bag, or other sleeping matter, or any stove or fire, is placed, established or maintained, whether or not such place incorporates the use of any tent, lean-to, shack or any other structure erected or maintained for shelter, or any vehicle or part thereof.
- Recreational Vehicle or Trailer Coach - Any vehicle used or maintained for use as a conveyance upon highways or city streets, so designed and so constructed as to permit occupancy thereof as a temporary dwelling or sleeping place for one or more person, having no foundation other than wheels or jacks.

- 90.091 Regulations

- (A) Except by permit issued by the city for camping in a city park, it is unlawful to camp in or upon any sidewalk, street, alley, lane, public right-of-way or any other place to which the general public has access, or under any bridge way or viaduct.
- (B) No RV, trailer coach or campsite shall be used or occupied on any tract of ground not designated for such use within the corporate limits of the city.



# Code Amendments

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- Need to update code in light of recent court decisions and HB 3115
- Under HB 3115, code changes must take effect by July 1, 2023
- May need to examine other code provisions in light of the Grants Pass ruling related to “car camping”.
- Some jurisdictions considering other code revisions to address secondary effects of camping (crime, vandalism, etc)



# *Next Steps/Options*

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- *OPTION 1* - The City takes no action and after July 1, 2023 public owned property can be utilized with no specified limitations or guidelines.
- *OPTION 2* - The City passes an ordinance with assistance from the League of Oregon Cities and our insurance carrier that will place reasonable limitations (time, place and manner) on camping in public owned spaces.
- *Option 3* - The City creates a program for locating and dedicating a specific public owned area within the corporate limits that will be set apart for the aid and transition of those persons experiencing homelessness.