

**A BILL FOR AN ORDINANCE REPEALING) ORDINANCE BILL NO. 2023-06
AND REPLACING LEBANON MUNICIPAL CODE)
CHAPTERS 12.12 PARKS AND PUBLIC PLACES)
AND 12.14 PARK HOURS AND PARK) ORDINANCE NO. 3001
CLOSURE)**

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, in 2021 the Oregon Legislature passed Oregon House Bill 3115 which 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. Pursuant to the law, 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 an entire community.

WHEREAS, on February 10, 2021, the Council appointed an *ad hoc* committee on illegal camping with the mission of providing recommendations to the City Council to assist members of the Lebanon homeless community and comply with legal requirements established by federal courts and state law. The *ad hoc* committee has recommended the attached ordinance language to replace LMC 12.12 and 12.14; and

WHEREAS, the Council held a work session on February 8, 2023 in order to review and discuss the recommendations of the *ad hoc* committee; 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 for those suffering homelessness to sleep with the ability to provide themselves protection from the elements, and the need to maintain all public spaces for the benefit of all residents of Lebanon.

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

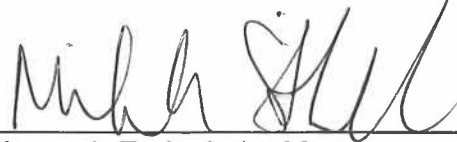
Section 1. Chapter 12.12 – Parks and Public Places, of the Lebanon Municipal Code is repealed and replaced with the language in Attachment “A”

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. This ordinance shall be effective July 1, 2023.

Passed by the Lebanon City Council by a vote of 4 for and 0 against
and approved by the ~~Mayor~~ this 12th day of April 2023.
Council President

CITY OF LEBANON, OREGON



Kenneth E. Jackola, Mayor
Michelle Steinhebel, Council President



ATTESTED BY:



Kim Scheafer, MMC, City Recorder

Chapter 12.12 PARKS AND PUBLIC PLACES

12.12.010 - Applicability.

The regulations contained in this chapter shall be applicable to municipal parks, recreation areas, and other public space or way contained within the Lebanon corporate limit, or other real property owned by the city of Lebanon to the extent that the city enacts or prescribes rules and regulations for the park. All police and penal ordinances and charter provisions necessary to protect and preserve the peace and order in defined parks shall also apply to recreation areas and other public spaces or ways. The enforcement of the ordinances and provisions by penalties of fine or imprisonment and the power to make arrests and serve processes of court therein or upon persons therein or thereon may be made with like manner and with like effect in an established park, recreation area, public space or way.

12.12.020- Definitions.

The following definitions shall apply for the purposes of this chapter:

"Alcoholic beverage" is any beverage having an alcoholic content of more than one-half of one percent by volume.

"City park" is defined to mean all city of Lebanon owned or maintained parks, playgrounds and public recreation areas. The park boundaries include all sidewalks, vanity strips, and curbs in the designated area, and extend through any adjacent streets to include all city rights-of-way in the designated zone.

"Public space" is a place to which the general public has access and includes, but is not limited to, highways, streets, parks and playgrounds or designated public recreational areas.

"Recreation areas" means any area within a public park dedicated for recreational purposes including but not limited to playgrounds, sports fields, gardens, walking trails, bike paths, Gazebos and other similar amenities, as well as all public trails maintained by the city for public use.

"Roller skates" or "roller blades" means a shoe or boot with a set of wheels attached for skating over a flat surface. These terms also include a metal frame with wheels attached that can be fitted to the sole of a shoe or boot.

"Scooter" means a foot-operated vehicle, consisting of a narrow board mounted between two wheels tandem with an upright steering handle attached to the front wheel.

"Skateboard" means a board or similar platform made from any substance mounted on wheels.

"Smoke" or "smoking" means the carrying or holding of a lighted pipe, cigar, cigarette or other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance. Smoking also includes the use of any inhalant delivery system, which includes any device that can be used to

deliver nicotine in the form of a vapor or aerosol to a person inhaling from the device. Smoking does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product.

12.12.030 – Park Hours.

- A. Lebanon Parks shall be closed to access and use by members of the public between 10:00pm and 7:00am, unless a reservation has been made, paid for, and accepted, or as otherwise authorized by this chapter. Park hours shall be posted at the major entry points to each park, however, that the absence of signage shall not justify a violation of nor preclude enforcement of this section.

12.12.040 – Alcohol in parks and public places.

Unless otherwise permitted by law or a government licensing agency, no person shall, within any city park or recreation area, or other public space or way, drink or consume alcohol. As authorized by law or a government licensing agency, the following activities associated with alcohol in parks and public places may be permissible:

- A. **Sales in city parks.** It is unlawful for any person to sell an alcoholic beverage in a city park without a special event type of license issued by the State of Oregon Liquor and Cannabis Commission, hereinafter referred to as OLCC, (if required) and granted by the police chief (or designee) and a city park alcohol permit issued by the public works director (or designee).

B. City Park Alcohol Permit.

1. **Issuance Authority.** Notwithstanding prohibition against the use or possession of alcoholic beverages in a city park set forth in other ordinances of the city, the public works director (or designee) shall have the right to issue a City Park Alcohol Permit for the use and possession of alcoholic beverages in city parks.
2. **Fees.** Fees for city alcohol permits shall be designated by City Council resolution.
3. **Permit forms and submittal requirements.** Any person or organization may request a City Park Alcohol Permit, subject to the following submittal requirements:
 - a. Permit applications shall be made on forms provided by the public works director (or designee), along with any additional information requested to evaluate the request;
 - b. Provide a Certificate of Liability Insurance, in an amount specified in the City Park Alcohol Permit Application, naming the City of Lebanon as an additional insured;
 - c. Payment of a fee as designated by resolution of city council.
4. **Conditions.** Granting a city park alcohol permit shall be discretionary with the public works director and, if issued, such conditions may be attached thereto as will be in the best interest of peace, health, and safety to all community members.

12.12.050 - Camping in designated city parks.

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

1. "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.
2. "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.
3. "Day" is a twenty-four-hour period starting at 1:00pm through the overnight period to 1:00pm 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 12:00 noon.
4. "Self-contained" means any vehicle that has manufactured-installed toilet facilities.
5. "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.

C. **Length of Stay.** 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).

D. **Fees.** For all campsites regulated by this section, a daily fee, as established by City Council resolution, shall be charged for the reservation and use of the campsite.

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

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.

12.12.060 - Park and facility reservations.

A. Park and Facility Reservations - General.

1. The use of the city park shelters, facilities and other areas within the park may be reserved for private functions by individuals or groups. A standard form shall be completed for each reservation and approved by the city manager or their designee.

2. A nonrefundable fee may be established by resolution of city council and may be charged for reservation of a shelter for private use. The fee may be waived by the city manager or designee for public use.
3. It is unlawful for anyone to interfere with or prohibit the use of a park shelter by the reserving party.

B. Park and Facility Reservations – For After Hours Use.

Reservations of park facilities for after park closure may be granted by the public works director (or designee) if the following occur:

1. An application, in a form prescribed by the Director, has been completed which identifies a specific applicant, with a designated reason for the use of the park after the hours of closure. In appropriate situations, the Public Works director (or designee) may require the applicant to show proof of adequate liability insurance coverage, with the city listed as an insured.
2. The Director (or designee) may use the following to determine whether or not to grant the reservation:
 - a. The night of the week for which the reservation is sought;
 - b. The specific hours past closure of the park for which the reservation is sought;
 - c. The number of people which may be reasonably expected at the event for which the reservation is sought;
 - d. The noise, traffic, parking, or other needs which may be required for the event for which the reservation is sought; or
 - e. Other considerations for which the neighborhood surrounding the park may require to preserve the health, safety and welfare of the neighborhood.

12.12.070 - Park Use – Rules and Restrictions

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.

The sections below provide specific standards and/or restrictions for specific activities in parks and public places:

- A. **Alcohol and/or drug use.** No person shall enter or remain in a park or public facility while in a visibly intoxicated condition. Refer to Section 12.12.030 (Alcohol in parks and public places) for specific alcohol use regulations.
- B. **Animals.** No person shall, within any city park, recreation area or other public space or way, unless within a designated dog park as established by the city, keep or permit in such area a dog or other animal, unless kept in a vehicle or on a leash. Persons keeping such animals shall also be responsible for the removal of any

excrement left by their animals in any park, recreation area or other public space or way.

- C. **Bicycle, scooters, roller skates and other wheeled vehicles prohibited.** No person, other than a police officer or reserve police officer in the furtherance of the officer's duty, shall ride or operate a bicycle, scooter, skateboard, roller skates or rollerblades upon benches, upon picnic tables, alongside or under picnic shelters or alongside or under gazebos located within any city park or recreation area open to the public, except upon park roads and designated bike trails within said parks or recreation areas.
- D. **Digging.** No person shall, within any city park or recreation area, or other public space or way, dig up or remove any soil, stones, rocks, or other substances whatever, without permission from the director of public works or their designee.
- E. **Dumping.** No person shall, within any city park or recreation area, or other public space or way, dump household or commercial garbage or debris brought from lands outside the park or recreational area.
- F. **Fire and other heating sources.** No person shall, within any city park or recreation area, or other public space or way, 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 within the park if in a safe operating condition.
- G. **Littering.** No person shall, within any city park or recreation area, or other public space or way, deposit any rubbish, garbage, glass, or other litter except in receptacles designated for that purpose.
- H. **Parking.** No person shall, within any city park or recreation area, or other public space or way, operate or park any truck, trailer, or other vehicle in any area other than an area specifically designed for such purposes.
- I. **Plants and Trees.** No person shall, within any city park or recreation area, or other public space or way, pick, mutilate, dig or remove any plant, living or dead, or deface, mutilate, burn, destroy or defile any tree or plant within the limits of such area.
- J. **Speeding.** No person shall, within any city park or recreation area, or other public space or way, drive a vehicle at a speed greater than is posted.
- K. **Vandalism.** No person shall, within any city park or recreation area, or other public space or way, alter, deface, mutilate, or destroy any trail, road, parking lot, bridge, fence, building, sign, barrier or other facility or structure.

12.12.080 - Smoking prohibited in city parks

No person shall smoke in a city park except as specifically authorized by this chapter.

- A. **Signs.** "No Smoking" signs, which identify the area where smoking is prohibited, shall be posted at the entrance(s) to all city parks, and at reasonable places and intervals at locations where smoking is prohibited; provided, however, that the

absence of a "no smoking" sign shall not justify a violation of nor preclude enforcement of this section.

B. Smoking area – Special permit – Issuance authority. Any applicant who seeks a public event or exhibition permit from the City of Lebanon may request, as part of that application, that a "permitted smoking area" be allowed as part of the public event or exhibition. Such requests shall be evaluated consistent with this chapter and Chapter 5.36. If approved, such areas shall be clearly marked and set aside for no other purpose and shall be situated away from common areas (i.e., not located near entrances, exits, walkways, lobbies, picnic sites, recreational fields, shelters, gazebos, restrooms, activity areas, and similar amenities or uses). If such approval is granted, it shall be the responsibility of the event organizer to provide appropriate receptacles for the disposal of all smoking related trash and debris

C. Exceptions.

1. Camping. Smoking shall be permitted in all specifically designated campsites as defined by this Chapter. This exception is limited to the immediate area surrounding a lawfully reserved and occupied campsite but does not extend to the common areas of any city park.
2. Motor Vehicles. The restrictions of this section shall not apply to persons within a motor vehicle.

12.12.090 - Exclusion of persons from parks and public facilities.

- A. If a police officer, or designee of the chief of police, has probable cause to believe that a person has violated any section of the Lebanon Municipal Code, or any laws of the state of Oregon, or established park rules while in a public park or public facility, a police officer or designee of the chief of police may exclude that person from any or all parks or public facilities for a period of not more than thirty days in accordance with the following procedure:
1. Written notice shall be given to the person to be excluded from a park or public facility. The exclusion period shall take effect immediately upon giving the notice.
 2. The notice shall prominently specify the beginning and ending dates of the exclusion period.
 3. 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 or public place during the exclusion period.
 4. At any time within the exclusion period, a person having received a notice may apply in writing to the chief of police, or his designee, for a temporary waiver from the exclusion for good reason shown.
 5. At any time within the exclusion period, if an individual violates the exclusion order by entering a city park or public facility, the exclusion order should be extended for an additional one hundred eighty days.

- B. Any person receiving an exclusion notice may appeal the issuance of such notice by appealing to the Lebanon Municipal Judge in a form provided for that purpose. Such written notice of appeal shall be delivered within three business days from the date of its issuance to the Lebanon Municipal Court. The Municipal Judge shall conduct a due process hearing on the appeal within ten business days after receipt of the notice. At such hearing, the Municipal Judge shall offer an opportunity for the appellant to offer evidence. The chief of police or designee may appear at such hearing to provide evidence and/or may supply Municipal Judge with any written reports concerning the reason for the exclusion order. The Oregon Rules of Evidence shall not apply at such hearing, but the Municipal Judge may rely upon such evidence as is allowed in administrative proceedings under ORS Chapter 183.
- C. After hearing such evidence as may be offered, the Municipal Judge may modify, affirm or reverse the decision of the chief of police or designee as to any exclusion order made. Notice of such decision shall be sent to the appellant, in writing, at the address given by the appellant for such purpose. The decision of the Municipal Judge shall be made within five business days of the hearing.
- D. The decision of the Municipal Judge shall be final and not appealable.
- E. The exclusion order shall remain in effect pending the decision of the Municipal Judge.

12.12.100 - Closure of parks.

- A. A police officer of the city of Lebanon may close any park, or any part thereof, in accordance with this section, in the interest of public safety, health and welfare in the event that conditions exist in or near the park which involve any of the following, but not limited to the following, circumstances:
 - 1. Life or property reasonably appear to be endangered and other means cannot reasonably be utilized to eliminate the danger;
 - 2. An overcrowding of persons or vehicles has occurred, impairing access of emergency assistance or emergency vehicles;
 - 3. Park property or other property located near the park reasonably appear to be endangered; or
 - 4. 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 or public facility, and is of such consequence that cessation of the disturbance cannot otherwise be accomplished;
 - 5. A hazardous condition exists;
 - 6. That violation(s) of criminal offenses or ordinances 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

7. Other conditions exist such that the safety of persons or property cannot reasonably be assured.
- B. Closure of the park, or any part thereof, whether for an emergency or for any reason, may be accomplished at the direction of a police officer by erecting barricades prohibiting access to any such park, or any part thereof, at appropriate locations. Notice that any park, or part thereof, is closed shall be posted at appropriate locations during the period of such closure.
- C. During the closure of a park, or portion thereof, it is unlawful for any person to enter the park, or any part thereof, that has been closed or to remain in the park, or part thereof, after having been notified of the closure and having been requested to leave the park, or portion thereof, by a police officer

12.12.110 - Violation and penalty.

Violation of any provision of this chapter shall be punishable by a fine not to exceed five hundred dollars. Each day of violation shall constitute a separate offense. Notwithstanding and in lieu of the penalties provided under this section, a person violating this chapter 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

12.12.120 - Extending park regulations to other city owned property.

The city council, by resolution, may adopt rules applicable to property owned or under the control of the City of Lebanon, including adopting some or all rules and regulations contained within this chapter.

12.12.130 – Severability

Invalidity of a section or part of a section of this chapter shall not affect the validity of the remaining section or parts of sections.

Ordinance Bill No. 2023-06, Ordinance No. 3001 Exhibit “B”

Chapter 12.14 –DESIGNATION AND REGULATION OF PUBLIC SLEEPING AREAS

12.14.010 – Definitions

“City Park” is defined to mean all city of Lebanon owned and maintained parks, playgrounds and public recreation areas. The park boundaries include all sidewalks, vanity strips, and curbs in the designated area, and extend through any adjacent streets to include all city rights-of-way in the designated zone.

“Designated Sleeping Areas” are 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.

“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, excluding any measure that involves fire or flame.

“Recreation Areas” means any area within a public park dedicated for recreational purposes including but not limited to playgrounds, sports fields, gardens, walking trails, bike paths, and other similar amenities, as well as all public trails maintained by the city for public use.

“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.

12.14.030 – Public Access to Public Parks and Designated Sleeping Areas

All members of the public may sit, lie down and sleep and seek protection from the elements in Public Parks and Designated Sleeping Areas subject to the following:

- A. **Public Parks.** Persons may sit, lie and sleep with protection from the elements in all Lebanon public parks, except for designated campsites and areas marked as reserved, and excluding recreation areas, restroom facilities, gazebos and picnic shelters, reserved areas, parking and vehicle maneuvering areas and improved walkways during identified park hours as established in Chapter 12.12 of the Lebanon Municipal Code and/or posted at each park. All rules and regulations for park use as established in Chapter 12.12 shall remain in full force and effect.

B. Designated Sleeping Areas. Persons may sleep with protection from the elements in Designated Sleeping Areas as established by City Council resolution between the hours of 6:00 pm to 7:00 am. The Designated Sleeping areas shall be continuously signed with the boundary of the area that may be utilized, the hours of use, and may include reasonable rules for use of the Designated Sleeping Areas.

12.14.050 – Use of Public Parks and Designated Sleeping Areas

The following provides the manner in which persons may use Public Parks and Designated Sleeping Areas for protection from the elements.

A. Location.

1. A clear path a minimum of 36-inches in width shall be continuously maintained for pedestrian accessibility purposes for any portion of the Public Park or Designated Sleeping Areas that includes a sidewalk or pedestrian pathway.
2. All vehicular access points, driveways, and labeled emergency access areas within the Public Park or Designated Sleeping Areas shall remain clear of all personal property and individuals seeking protection from the elements.

B. Temporary Structures and Materials may be used or erected within the Public Parks or Designated Sleeping Areas during the allowed time periods, subject to the following:

1. Temporary Structures and Materials shall not be tied to, secured to, staked or anchored, or propped against any permanent structures or ground located on or adjacent to the Public Park or Designated Sleeping Areas..
2. Temporary Structures and Materials and all property shall be removed from the Public Park or Designated Sleeping Areas during times which the area is not designated for use under this chapter or Public Park regulations. Any property that remains within the Public Park or Designated sleeping Areas during periods of time not compliant with Section 12.14.030 of this chapter will be considered abandoned and handled in compliance with state law.
3. Temporary Structures and Materials shall not be used or erected in a manner which would constitute a danger, or obstruct designated walkways, driveways or points of emergency access to adjacent properties.

C. No person shall, within any Public Park or Designated Sleeping Areas, build, light or maintain any fire except as may be allowed in 12.12.070(f).

D. Restroom, hand washing stations, and trash receptacles may be provided within Public Parks and Designated Sleeping Areas, but it is not guaranteed the facilities will be available during all times which the Public Park or Designated Sleeping Areas are available for protection from the elements.

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

1. 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;

2. 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;
3. 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 right-of-way;
4. 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.

Section 12.14.060 - 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.