

ORDINANCE NO. 182-2023

AN ORDINANCE OF THE CITY OF DONALD PROHIBITING CAMPING AT CERTAIN PUBLIC PROPERTIES

WHEREAS, House Bill 3115, enacted by the Oregon Legislature during its 2021 session, requires that any municipal code provision regulating the acts of sitting, lying, sleeping, or keeping warm or dry outside on public property must be “objectively reasonable’ based on the totality of circumstances as applied to all Stakeholders, including persons experiencing homelessness; and

WHEREAS, the Ninth Circuit Court of Appeals has interpreted the Eighth Amendment of the United States Constitution prohibiting cruel and unusual punishment to include criminalizing camping in all places, at all times, by those who lack the financial means to pay for adequate shelter unless adequate shelter is available to such person free of charge; and

WHEREAS, the City recognizes that people experiencing homelessness need a place to sleep, shelter themselves, and store belongings consistent with the safety and security of all people in the City, including homeless people, residents, and the traveling public, while also protecting all people from unsafe and dangerous conditions; and

WHEREAS, in order to balance the rights of people without shelter to use some public places to meet the basic needs with the City’s obligation to manage public spaces to meet their intended uses and to maintain health and safety for everyone in Donald, the City by this Ordinance establishes reasonable time, place and manner regulations consistent with the requirements of State and Federal law to allow for legal camping during reasonable time periods; and

NOW THEREFORE, THE CITY OF DONALD ORDAINS AS FOLLOWS:

Section 1. There is hereby adopted a Chapter 95.10 and 95.11, as set forth on Exhibit A, hereto.

Section 2. All other provisions of the Donald Municipal Code remain unchanged and in full force and 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. This ordinance takes effect 30 days after its second reading.

The first reading of this Ordinance was conducted on May 9, 2023. The second reading of this Ordinance was conducted on May 16, 2023 and was passed and adopted by the City Council on May 16, 2023 as follows:

5 AYES

1 NAYS


0 ABSTENTIONS

This Ordinance shall take effect on the thirtieth day after the date of enactment below, as per City Charter Section 36.

SIGNED and **DATED** this 16th day of May, 2023.


Rick Olmsted, Mayor

ATTEST


Eric Underwood, City Manager

PASSED by the City Council: May 16, 2023

SIGNED by the Mayor: May 16, 2023

EFFECTIVE: June 16, 2023

EXHIBIT A

95.10 DEFINITIONS. For purposes of this section, the following words and phrases shall mean:

CAMP means to occupy a Campsite for over 24 hours.

CAMPSITE means a location upon City Property where Camping Materials are placed or vehicles are parked.

CAMPING MATERIALS include, but are not limited to, vehicles used as a temporary or permanent residence, tents, huts, awnings, lean-tos, chairs, tarps, collections of personal property and/or similar items that are, or reasonably appear to be, arranged and/or used as camping accommodations.

CITY PROPERTY includes, but is not limited to, parks, rights of way, parking lots, easements, or other land owned, leased, controlled, or managed by the City.

PERSONAL PROPERTY means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

RELOCATE means to move off City Property or to a different City Property. This definition does not include moving to another portion of the same City Property.

95.11 CAMPING PROHIBITED ON CITY PROPERTY

A. It is unlawful for any person to Camp upon City Property unless otherwise authorized by law or by declaration of the City Manager.

B. Unless otherwise authorized by law or by declaration of the City Manager, it is unlawful to establish a Campsite for any period of time at the following locations:

- City Hall and adjacent sidewalks, 10710 Main Street NE;
- Water Treatment Plant and adjacent sidewalks and greenspaces, 10983 Rees Street NE;
- Sewer Treatment Plant and adjacent parking lot and greenspace, 10501 Donald Road;
- Fire Station and adjacent sidewalk and greenspaces, 20909 Feller Street NE;
- Skate Park and Basketball Courts, 10861 Main Street NE;
- Hometown Park, 10730 Main Street NE;
- (Former) DCC property, 10790 Main Street NE;
- The City-owned property consisting of 280 feet by 245 feet of area located in Marion County on Donald Road leased to G.K. Machine, Inc.
- Within 500 feet of any residence.
- Any loading zone at any time, or any designated parking space for which a time limit is prescribed.

C. Where camping is permitted, it is unlawful for any person to Camp after 8 A.M. or prior to 8 P.M.

D. At least once every 24 hours an individual that has placed a Campsite, Camping Materials or Personal Property on City Property must Relocate.

E. The City shall only remove individuals and unclaimed Personal Property from a Campsite as provided by ORS 195.505.

F. Any camping inside or adjacent to a vehicle shall be subject to the provisions of Chapters 71, 72 and 94 of this Code. A vehicle used for Camping must relocate to a lawful campsite that is at least 1000 yards from its previous location.

G. Violation of this section is punishable by a fine of not more than \$125, or an amount determined at the discretion of the municipal judge.

H. If the City refers a service provider to an individual who is cited for a violation of this Section and the individual demonstrates they meaningfully engaged with that or another similar service provider after receiving the citation and before the hearing, the fine is eligible to be reduced or eliminated at the discretion of the judge.