

ORDINANCE NO. 1113

**AN ORDINANCE OF TOWN OF LAKEVIEW ESTABLISHING CAMPING REGULATIONS
AND A CAMPSITE REMOVAL POLICY.**

WHEREAS, the Town of Lakeview council (the “council”) recognizes the competing concerns surrounding homeless individuals camping on public property within Town of Lakeview (“Town”) and desires to implement regulations to address these concerns; and

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

WHEREAS, on or about August 22, 2023 the council adopted certain camping regulations by its adoption of Ordinance No. 900 (the “Original Ordinance”); and

WHEREAS, the council held a public meeting at the Town Hall on November 12, 2024 to provide persons the opportunity to appear and object to the camping regulations contained in this Ordinance No. 1113 (this “Ordinance”); and

WHEREAS, the council desires to replace and supersede the Original Ordinance (and the camping regulations contained therein) by the council’s adoption of the camping regulations and campsite removal policy contained in the attached Exhibit A to this Ordinance.

NOW, THEREFORE, THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

1. Findings; Definitions. The above-stated findings are hereby adopted.
2. Purpose. The purpose of this Ordinance No. 1113 (this “Ordinance”) is to minimize any adverse public safety and health impacts of camping on Town property while providing some areas of Town property, in the absence of alternative forms of shelter, where homeless persons may keep warm and dry while resting and/or sleeping.
3. Adoption of Camping Regulations. The council hereby adopts the camping regulations contained in the attached Exhibit A.
4. Original Ordinance – Replaced and Superseded. This Ordinance amends, replaces, and supersedes the Original Ordinance in its entirety (and all Town ordinances, resolutions, and/or policies in conflict with this Ordinance); provided, however, (a) this Ordinance does not relieve any person of any obligations that may have accrued under the Original Ordinance prior to the effective date of this Ordinance, and (b) Town may continue the enforcement, prosecution, conviction, and/or punishment of any person who has or will violate the Original Ordinance prior to the effective date of this Ordinance.
5. Interpretation; Severability; Errors. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. All prior and contemporaneous agreements, discussions, understandings, and negotiations, whether written or oral, express or implied, are merged herein, and to the extent inconsistent herewith, are of no further force and effect. The provisions of this Ordinance are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity,

enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the council to cure editorial and/or clerical errors.

APPROVED AND ADOPTED by the Town Council of the Town of Lakeview and signed by the mayor this _____ day of _____, 2024.

Ayes: _____
Nays: _____
Abstentions: _____
Absent: _____
Vacancies: _____

By: _____, Mayor

ATTEST:

By: _____

DRAFT

Exhibit A
Camping Regulations

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

“Alley” means a way or thoroughfare, dedicated to public use, but not more than 20 feet wide which is platted or dedicated for the purpose of, or in use as, secondary access to property otherwise served by a street.

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

“Camp Facilities” includes, without limitation, tents, huts, temporary shelters, lean-tos, shacks, and/or any other structures or parts thereof.

“Camp paraphernalia” includes, without limitation, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, and/or outdoor cooking devices and similar equipment.

“Campsite” means any place where one or more persons have established living accommodations by use of camp facilities and/or camp paraphernalia.

“Town manager” means Town’s then-appointed town manager (and his or her designee).

“Town property” means all real property, land and public facilities owned, leased (either to Town or by Town), controlled, and/or managed by Town.

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

“Fire Department” means the Town of Lakeview Fire Department.

“Personal property” means any item that can reasonably be identified as belonging to a person and that has apparent value or utility.

“Public park” means all property owned or controlled by Town and operated for public use for recreational and/or open space purposes.

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

“Right-of-way” means streets, public utility easements, and/or other public rights-of-way.

“Sidewalk” means the portion of the street between the curb line and adjacent property line intended for use of pedestrians, including multi-use pathways (i.e., pathways for bicycles and pedestrians).

“Street” means any highway, lane, road, street, right-of-way, alley, and/or every way or place in Town that is publicly owned or maintained for vehicular travel.

“Vehicle(s)” means either a “motor vehicle” as defined in ORS 801.360 (including a motor vehicle with an attached “camper” as defined in ORS 801.180) or a “motor home” as defined in ORS 801.350.

2. Time, Place, and Manner Regulations. Camping is permitted on Town property subject to the time, place, and manner regulations contained in this Ordinance. Notwithstanding anything to the contrary in this Section 2, the town manager is authorized to declare that camping, sleeping, and/or keeping warm and dry are permitted at particular times and at particular Town property locations not otherwise permitted under this Ordinance. Notice of such town manager declaration will be posted at the Town of Lakeview Town Hall and such other locations on Town property where community notices are regularly posted, if any.

2.1 Time Regulations. Except as expressly authorized by Town's municipal code, camping is prohibited on all Town property from one hour after sunrise to one hour before sunset. During those times when camping is prohibited, all camp facilities and camp paraphernalia must be removed from Town property.

2.2 Place Regulations. Unless otherwise specifically authorized by Town's municipal code or by authorization of the town manager, camping is prohibited on Town property (a) not open to the public, (b) within or upon any right-of-way, parking lot/space, cemetery, and/or public park, (c) within 100 feet of any street in which it is lawful for vehicular travel to exceed 25 miles per hour, (d) within 25 feet of the public entrance to a business, (e) within 10 feet of a public or private driveway, (f) within any residential district, (f) [REDACTED], (g) [REDACTED], and/or (h) any other Town property designated by the town manager from time to time.

2.3 Manner Regulations. At times and locations where camping is permitted under this Ordinance, the following regulations apply: (a) camping, sleeping, and/or keeping warm and dry in a manner that reduces the clear, continuous sidewalk width to less than four feet is prohibited; (b) camping, sleeping, and/or keeping warm and dry in a manner than obstructs vehicular and/or pedestrian passage is prohibited; (c) at no time may camp facilities, whether constructed with plywood, wood materials, pallets, and/or other materials, be built or placed on Town property by anyone other than, or as authorized by, the public entity that owns or controls the Town property in question (tents and similar items used for shelter that are readily portable are not prohibited by this subsection); (d) persons engaged in camping are allowed to use a sleeping bag, bedroll, and/or other material used for bedding purposes (e.g., materials used to keep warm and dry while sleeping are permitted provided any tent or tarpaulin used to keep warm and dry may not exceed 50 square feet in surface area); (e) a camp or camping must be limited within a spatial footprint of 150 square feet in surface area (the intent of this subsection is to permit a person to sleep and maintain the essentials for living, while still maintaining the ability of everyone to use public spaces as designed and intended); (f) persons may not accumulate, discard, and/or leave behind garbage, debris, fecal matter, unsanitary, or hazardous materials, and/or other items of no apparent utility in a right-of-way, on Town property, and/or on any adjacent public or private property; (g) open flames, recreational fires, burning of garbage, bonfires, and/or other fires, flames, and/or heating deemed unsafe by fire department are prohibited (some cooking stoves and other means of keeping warm may be allowed if permitted by fire department); (h) 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, without limitation, storm drains which are not intended for disposal of gray water or black water); (i) unauthorized connections or taps to electrical or other utilities, or violations of building, fire, and/or other relevant codes or standards, are prohibited; (j) obstruction or attachment of camp facilities, camp paraphernalia, and/or personal property to fire hydrants, utility poles, and/or other utility or public infrastructure, fences, trees, vegetation, vehicles, and/or buildings is prohibited; (k) storage of personal property, including, without limitation, vehicle tires, bicycles, and/or associated components (except as needed for personal use), gasoline, generators, lumber, household furniture, extra propane tanks, combustible material, or other items or materials, is prohibited (other than what is related to camp, sleep, and/or keeping warm and dry); (l) digging, excavation, terracing of soil, alteration of property or infrastructure, and/or damage to vegetation or trees is prohibited; and (m) except as expressly authorized by Town's municipal code, all persons are prohibited from leaving personal property,

including, without limitation, camp facilities and camp paraphernalia, unattended on any Town property for more than 24 hours. Notwithstanding anything contained in this Ordinance providing otherwise, the town manager may temporarily authorize storage of personal property on Town property by written order that specifies the period of time and location for the storage under the following circumstances: (x) emergency circumstances; (y) in conjunction with a special event permit; and/or (z) upon finding it to be in the public interest and consistent with the council's goals and policies.

3. Vehicle Camping. The following regulations apply to the use of vehicles for habitation and/or sleeping purposes on streets within Town where Town's municipal code does not otherwise prohibit such activity: (a) the use of a vehicle for habitation and/or sleeping is prohibited on any street on which extended parking is prohibited under Town's municipal code; (b) the use of a vehicle for habitation and/or sleeping on any street may not exceed 24 hours in any 30-day period; (c) the vehicle must be legally parked in compliance with Town's municipal code and all other policies; (d) open flames, recreational fires, burning of garbage, bonfires, and/or other fires, flames, and/or heating deemed unsafe by the fire department are prohibited in, on, and/or around vehicles (some cooking stoves and other means of keeping warm may be allowed if permitted by fire department); (e) dumping of gray water (e.g., wastewater from baths, sinks, and the like) or black water (e.g., sewage) into any facilities and/or places not intended for gray water and/or black water disposal is prohibited, including, without limitation, storm drains which are not intended for disposal of gray water and/or black water); (f) storage of material outside a vehicle is prohibited other than what is incidental to short-term loading or unloading the vehicle; (g) vehicles must be operational (i.e., capable of being started and driven under their own power, or ready to be towed if designed to be towed) and may not be discarded or left inoperable in the right-of-way and/or on Town property; (h) no building and/or erecting of any structures connecting and/or attaching to vehicles is permitted, including, without limitation, tents that are not designed and manufactured to be attached to a vehicle; and (i) persons may not accumulate, discard, and/or leave behind garbage, debris, fecal matter, unsanitary and/or hazardous materials, and/or other items of no apparent utility in the right-of way, on Town property, and/or on any adjacent public or private property.

4. Fines, Enforcement. Any person who violates Section 2 or 3 of this Ordinance will be subject to a fine in an amount not to exceed \$35.00. Notwithstanding the foregoing, if the same person commits a second violation of Section 2 or 3 of this Ordinance within 180 days from the commission of a prior violation, provided the violator was convicted of the prior violation, the violator will be subject to a fine of no more than \$150.00. Each separate violation of Section 2 or 3 of this Ordinance will be subject to a separate fine and each 48-hour period that a violation persists after initial citation will constitute a separate violation. The court is encouraged to order participation in drug and/or alcohol treatment programs, employment assistance programs, emergency shelter or housing assistance services, other social services, or community service in lieu of imposing a fine and/or imposing the maximum amount of a fine. Nothing herein will preclude Town from pursuing any other remedy or remedies available at law and/or in equity including, without limitation, injunctive relief or restitution for property damage and restoration.

5. Campsite Removal – 195.500 – ORS 195.505.

5.1 Campsite Removal Policy. Town recognizes the social nature of the problem of persons camping on Town property. In accordance with ORS 195.500 – ORS 195.505, Town has developed the campsite removal policy contained in this Section 5 to ensure the most humane treatment for the removal of persons from campsites on Town property. Any Town law and/or policy that offers greater protections to persons subject to removal from an established campsite supersedes contrary provisions of this Section 5.

5.2 Campsite Removal. Upon determination by enforcement personnel that a camp or camping in violation of this Ordinance has become an established campsite, or enforcement personnel determine a campsite otherwise in compliance with this Ordinance endangers the public health and safety, the campsite may be removed consistent with this Section 5. Upon a determination by enforcement personnel that a camp or camping in violation of this Ordinance is not an established campsite, the campsite may be removed without complying with the notice requirements under Section 5.3.

5.3 Notice Required. The following notice requirements apply to the removal and clearing of campsites: (a) notice is not required prior to removal and clearance of a campsite that is not an established campsite; and (b) at least 72 hours before removing individuals and personal property from an established campsite, enforcement personnel must post written notice, in English and Spanish, at all entrances to the campsite to the extent that the entrances can reasonably be identified. The written notice required under Section 5.3(b) must state or contain, at a minimum, the following: (x) where unclaimed personal property will be stored; (y) the telephone number that individual(s) may call to find out where personal property will be stored; or (z) if a permanent storage location has not yet been determined, the address and telephone number of an agency that will have the information when available. If a funeral service is scheduled with less than 72-hours' notice at a cemetery at which there is an established campsite, or a campsite is established at a cemetery less than 72 hours before the scheduled service, the written notice required under Section 5.3(b) may be posted at least 24 hours before removing persons from the campsite.

5.4 Exceptions to Notice Requirements. Notwithstanding anything contained in this Ordinance to the contrary, the 72-hour notice required under Section 5.3(b) will not be applicable (i.e., will not be required) under the following circumstances: (a) when there are grounds for enforcement personnel to reasonably believe that illegal activities other than camping are occurring at an established campsite; and/or (b) an exceptional emergency at an established campsite, including, without limitation, possible site contamination by hazardous materials, a public health emergency, and/or other immediate danger to human life or safety.

5.5 Local Agencies. When a 72-hour notice is posted under Section 5.3(b), enforcement personnel must inform the local agency that delivers social services to homeless individuals as to where the notice has been posted. The local agency may arrange for outreach workers to visit the campsite that is subject to the notice to assess the need for social service assistance in arranging shelter and other assistance.

5.6 Personal Property.

5.6.1 All personal property at a campsite that remains unclaimed after removal/clearing, whether notice is required under this policy or not, must be given to a (a) law enforcement official, (b) local agency that delivers social services to homeless individuals, (c) outreach worker, (d) local Town/agency official, or (e) person authorized to issue a citation for unlawful camping under state law, administrative rule, or Town or county ordinance.

5.6.2 Unclaimed personal property must be stored in a facility located in the same community as the campsite from which it was removed. Items that have no apparent value or utility or are in an unsanitary condition may be immediately discarded upon removal of persons from the campsite. Weapons, controlled substances other than prescription medication, and items that appear to be either stolen or evidence of a crime must be given to or retained by law enforcement officials.

5.6.3 Unclaimed personal property removed from a campsite must be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably

be determined. Unclaimed personal property will be stored in a manner in which it is possible to identify the date the property was removed and location where the property was removed. Unclaimed personal property will be stored for a minimum of 30 days during which it must be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed after 30 days may be disposed of or donated to a corporation described in section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2020.

5.7 Policy Evaluation. Following the removal of persons and/or personal property from a campsite on Town property, law enforcement officials, local Town/agency officials, and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes to this policy are needed.

5.8 Prohibition on Citations in Limited Circumstances. A person authorized to issue a citation for unlawful camping under state law, administrative rule, and/or Town or county ordinance may not issue the citation if the citation would be issued within 200 feet of a notice required under Section 5.3(b) and within two hours before or after the notice was posted.

6. Town Manager Authority. The town manager may adopt administrative rules to implement any of the provisions of this Ordinance.

7. Preemption. If and to the extent any provisions of Town's municipal code conflict with any provisions of this Ordinance, the provisions of this Ordinance will control and supersede the conflicting provisions contained in Town's municipal code.