



**ORDINANCE NO. 799**

**AN ORDINANCE CREATING AND ADOPTING CHAPTER 8.65, HB 3115 | *Martin v. Boise* IMPLEMENTATION TO THE MUNICIPAL CODE OF THE CITY OF BROWNSVILLE, OREGON;**

**WHEREAS**, Title 8 of the Brownsville Municipal Code (BMC) defines Health and Safety, and;

**WHEREAS**, the Council desires to create a response to HB 3115 | *Martin v. Boise* as defined herein, and;

**WHEREAS**, Council desires to pass this ordinance as an emergency, and;

**NOW THEREFORE**, the City of Brownsville ordains as follows:

**Chapter 8.65  
HB 3115 | *Martin v. Boise***

Sections:

**8.65.010 Purpose and scope.**

**8.65.020 Definitions.**

**8.65.030 Powers and duties.**

**8.65.040 City Administrator.**

**8.65.050 Vehicles.**

**8.65.060 Designated space and rules.**

**8.65.070 Method of financing and operating.**

**8.65.010 Purpose and scope.**

The State of Oregon has codified the United States Ninth Circuit Court's ruling on the *Martin v. Boise* case. The State's decision to codify this case into law unduly burdens municipalities by delegating requirements for a specific class of people that places significant financial obligations and other responsibilities onto municipalities. By the State adopting code and mandating implementation for this purpose, the State is violating the Oregon Constitution, Article 1, Section 20. The State has allowed municipalities to pass time, place and manner ordinances to comply with this unfunded mandate that comes into full effect of law starting July 1<sup>st</sup>, 2023.

**8.65.020 Definitions.**

All definitions shall come from the State of Oregon for this Chapter. The City does not discriminate against individuals based on the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color, religion, sex or national origin.



“Camping” means staying overnight in any temporary or make-shift structure including a vehicle.

“Designated Space” means City owned public property.

“Riparian areas” means a boundary of two hundred feet from the Calapooia river or any other water tributary of the Calapooia river.

“Unlawful Campsite” means a location where a person unlawfully places onto private or public property any bedding, sleeping bag, or other sleeping matter; any stove or fire; and/or any structure such as a hut, lean-to-tent, or other temporary structure for the purpose of camping.

“Vehicles” means any car, truck, recreational vehicle or other mode of transportation that’s primary purpose is to transport persons.

#### **8.65.030 Powers and duties.**

- A. The powers, duties and responsibilities of the City shall not be further limited or defined that would cause the City to incur any financial, expertise, or liability burden as follows:
  - 1) By the State of Oregon,
  - 2) By City/County Insurance Services (CIS) or other insurance or agent used by the City of Brownsville,
  - 3) By any non-profit or other special interest group.
- B. It shall be the duty of the State of Oregon to provide grant funding for this undue burden caused by this unfunded mandate. The City of Brownsville does not have the financial wherewithal or personnel to address this matter as mandated.

#### **8.65.030 City Administrator.**

- A. The City Administrator shall have all authority to address both routine and unforeseen issues as they arise concerning these matters.
- B. The City Administrator shall maintain a record of all issues and file a report to Council on each matter.

#### **8.65.050 Vehicles.**

- A. Persons are only allowed to sleep in vehicles including cars, trucks, recreational vehicles on private property as allowed by local law.
- B. Persons are allowed to sleep in vehicles including cars, trucks, recreational vehicles from 9:00 p.m. to 7:00 a.m. on City owned public property in designated space(s). The City shall have designated space clearly marked with rules signage and any designated space(s) will have use location and information available on the City website.
- C. Abandoned recreational vehicles shall become the property of the State of Oregon, and any associated costs to abate, remove or dispose of an abandoned recreational vehicle shall be billed to the State of Oregon.



**8.65.060 Designated space and rules.**

- A. City owned public property that has been designated space for overnight camping will adhere to the guidelines and conditions as follows:
- 1) Camping is allowed on a daily basis from the hours 9:00 p.m. to 7:00 a.m.
  - 2) No camping, loitering, or use of the property is allowed between the hours of 7:00 a.m. to 9:00 p.m. Violators will be trespassed from the property.
  - 3) The City is not responsible for any loss of property, injury, or any other claim resulting from the use of any designated space.
  - 4) The City does not have the financial wherewithal to provide background checks, medical services, utilities or any other amenities to anyone using the designated space for sleeping purposes, and will not be held liable or responsible for any such services.
  - 5) The City will not provide social services to any person using the designated space including the distribution of drug paraphernalia.
  - 6) Any refuse left behind that has to be removed by the City will be billed to the State of Oregon.
  - 7) Any injury suffered by City personnel or damage to equipment in the cleanup of any designated space identified through this ordinance will be billed to the State of Oregon.
- B. Any person in need of social services should contact Linn County for programs and services offered through Linn County & the State of Oregon.
- C. Camping in riparian areas is strictly prohibited.
- D. The City designated space shall be the South Lagoon located at 34371 OR 228.
- E. Regulations governing use of designated spaces or unlawful camping include but are not limited to the following rules:
- 1) Persons using any property in the City whether or not a permit fee has been paid shall be subject to the rules herein and if ordered to leave a property due to violating a rule or regulation within this Chapter, is subject to fee and/or privilege forfeiture by the City.
  - 2) No person shall camp overnight, except in areas specifically designated by the City.
  - 3) No person shall park a pickup-mounted or truck-mounted camper, camp trailer, motor home, or other camp unit in places other than those provided and designated for such purposes unless the person has obtained a permit or permission from the City authorizing such use.
  - 4) No person shall engage in unlawful camping within the City.
  - 5) No person shall operate a concession, either fixed or mobile, solicit, sell or offer for sale, peddle, hawk, or vend any goods, wares, merchandise, foods, liquids, or services without written permission from the City.
  - 6) No person shall allow any animal in the person's custody to annoy or molest any person or other pet.
  - 7) No person shall in any manner, pursue, hunt, trap, or molest any bird or animal.



- 8) All persons shall pick up and properly dispose of their domestic animal's waste while visiting any property within the City.
- 9) No person shall build, light, or maintain any fire except in a stove, pit or fireplace especially designated for such purpose; provided, however, that a person may use a portable gas, gasoline, charcoal, or oil camp stove if the portable gas, gasoline, charcoal, or oil camp stove is in a safe operating condition and used in a manner so as to not start a fire.
- 10) No person shall leave unattended any fire built, lighted, or maintained.
- 11) No person shall pick, mutilate, dig or remove any plant whether living or dead, or in any way deface, mutilate, burn, destroy or defile any tree or plant within the limits of such areas.
- 12) No person shall alter, deface, mutilate or destroy any trail, road, parking lot, bridge, fence, building, sign, barrier, or other facility or structure.
- 13) No person shall dig up or remove any soil, stones, rocks, or other substances whatsoever, make any excavation, or lay or set off any blast or cause or assist therein.
- 14) No person shall discharge, set off, explode, or burn any fireworks, firearm, air, CO<sub>2</sub>, or spring-actuated rifle or pistol, slingshot, arrow, or other similar devices designed or used to propel a projectile, in or over any property in the City. Such activities are strictly reserved to City authorized personnel.
- 15) No person shall fly or allow to be flown a self propelled aircraft, including but not limited to remote controlled model aircraft and drones, except in areas designated and identified for such purpose.
- 16) No person shall throw rocks, sticks, or other objects, which may endanger the safety of any other person.
- 17) No person shall dive, swim or engage in any water activity in an unsafe manner.
- 18) No person shall use abusive, threatening, obscene, or indecent language or gestures in a manner which causes a public nuisance.
- 19) No person shall fight, promote, instigate, or encourage fighting or similar violent conduct which would threaten the physical well-being of any person.
- 20) No person shall commit the act of public indecency as defined in ORS 163.465.
- 21) No person shall operate radios, television, musical instruments, and other noise producing devices, or otherwise cause unnecessary sound in such a manner and at such times so as to disturb other persons.
- 22) No person shall cause, attempt to cause, or bring about any public demonstrations or disturbances, or in any way create a public nuisance.
- 23) No person may make any noise that would reasonably disrupt normal sleeping activities during quiet hours; 10:00 p.m. to 7:00 a.m.
- 24) No person shall, within the City, refuse to disclose that person's identity to City personnel or law enforcement officer who requests such information.
- 25) No person shall obstruct, harass, or interfere with the official duties of City personnel or a law enforcement officer.



- 26) No person shall deposit any rubbish, garbage, glass or other litter except in receptacles designated for that purpose.
- 27) No person shall remove items from containers designated for recyclables, garbage, sewage, or waste.
- 28) No person shall dump household or commercial garbage.
- 29) No person shall depart from the campsite before removing all camping equipment and cleaning up the campsite.
- 30) No person shall maintain a campsite in an unsightly, unsafe, unclean, or unsanitary condition.

**8.65.060 Private property.**

- A. No person shall be permitted at any time to camp on sidewalks abutting private property, including businesses, due to the property liability implications associated with such a practice. The City shall not create an undue burden for private residences and private business owners.
- B. Persons loitering near private residences and private business are subject to trespass and removal from the property.
- C. Any personal property or rubbish shall not be allowed to be placed on or along sidewalks and/or pathways. The City retains the right to dispose of any such materials as deemed necessary by the City Administrator.

**8.65.070 Method of financing and operating.**

The City of Brownsville does not have the financial ability to operate the requirements of this unfunded mandate imposed by the State of Oregon. The City has made time, place and manner guidelines as allowed by law.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR  
this    <sup>th</sup> day of June, 2023.

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Mayor Adam Craven

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City Administrator Scott McDowell