



# **CAMPING ORDINANCES IN 2022**

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

## MARTIN V. BOISE (2018)

- 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 “involuntarily sitting, lying, and sleeping in public” if there are not enough shelter beds available



# BLAKE V. GRANTS PASS (2022)

- Ninth Circuit Court of Appeals affirming Decision of District of Oregon (Medford Div.)
  - Seeking En Banc / Supreme Court Review
- Clarifies/extends Martin:
  - Under 8<sup>th</sup> Amd, can't punish civilly when civil and criminal are intertwined
  - Must allow “necessary minimal measures” for people experiencing homelessness to “keep themselves warm and dry” – must allow “rudimentary forms of protection from the elements”
  - Must provide procedural due process to exclude people from public places such as parks
  - Creates questions about “car camping”



# HB 3115 (2021)

- 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 persons experiencing homelessness
  - Affirmative defense to charge of violating such a law
  - May independently challenge reasonableness of law
    - Not for \$ but declaratory/injunctive relief
- “Objectively reasonable” based on totality of circumstances
  - Not one-size fits all, what works best in Hillsboro may not work in Astoria or Burns



# HB 3115 (2021)

- 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.)
  - May continue to enforce other, existing ordinances, such as scattering rubbish, fires on public properties, vandalism, etc.



# HILLSBORO MUNICIPAL CODE (CURRENTLY)

- **9.44.010 Prohibited Camping**
  - No person may camp in or upon any place where the general public has access or under a bridgeway or viaduct, unless otherwise specifically authorized by this code or by declaration of the manager in emergency circumstances.
- **9.32.060(F)(2) Park Rules**
  - Overnight Camping prohibited in City Parks
- **6.12.040(2) Recreational Vehicles and Trailers**
  - No Person May: Live, sleep or reside in a recreational vehicle or trailer located on a lot or on a public street unless the street or lot is designated for overnight camping.
- **1.01.020 Definitions**
  - **CAMP**, to set up or to remain in or at a campsite for the purpose of establishing or maintaining a temporary place to live.
  - **CAMPSITE**, a place where bedding, a 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, vehicle or part thereof.

Constitutionality depends on enforcement and shelter bed availability, but similar to laws found unconstitutional in *Boise* and *Grants Pass*.



## CODE AMENDMENTS

- 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
- Continuing to work with Police Department as well as others in the interim
- 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



# LIMITATIONS OF CAMPING ORDINANCES

Ordinances regulating camping do not:

- Reduce the number of persons living outside.

Homelessness will still be visible in our community until we reduce unsheltered homelessness through proven solutions.

- Provide a solution to homelessness.

Only proven solutions, such as expanding prevention, outreach, and available shelter and housing options can reduce homelessness.

- Seek to manage the impacts that may result from camping activities.

Ordinances simply regulate camping by providing some basic parameters that are objectively reasonable given our current local context. Other ordinances needed to manage impacts.

