

ORDINANCE NO. 2022-22

**AN ORDINANCE OF THE CITY OF RICHLAND, WASHINGTON,
AMENDING RICHLAND MUNICIPAL CODE TITLE 8: HEALTH
AND SANITATION, ADDING CHAPTER 8.10 ENTITLED
REGULATING PUBLIC CAMPING.**

WHEREAS, the City of Richland is a first class charter city formed under Article XI, Section 10 of the Washington State Constitution; and

WHEREAS, pursuant to Article XI, Section 11 of the Washington State Constitution, RCW 35.22.195 and RCW 35A.11.020, the City of Richland (City) is authorized to regulate public property, including City Hall, John Dam Plaza, parks, public rights-of-way, and all other public property within the City; and

WHEREAS, camping on public property, including City Hall and other city facilities, John Dam Plaza, parks, public rights-of-way, and other public property is a public health and safety concern due to interference with other intended uses, such as daily operations of the City, events at John Dam Plaza, park recreational activities, pedestrian, bicycle and vehicular traffic, and other public uses; and

WHEREAS, camping without adequate sanitation services, such as sewer, water, and garbage, presents a public health and safety concern due to increased risk of spread of disease and potential for citizens contracting illnesses; and

WHEREAS, public property is intended for, and should be, available to the public for its intended purposes, including daily City operations, park recreational use, pedestrian, bicycle and vehicular transportation, and other public areas; and

WHEREAS, camping in such public areas does not allow the public to use those areas for the intended purposes; and

WHEREAS, camping should only occur in designated campgrounds with proper facilities; and

WHEREAS, pursuant to *Martin v. City of Boise*, 920 F. 3d 584 (9th Cir. 2019) the Ninth Circuit Court of Appeals: 1) determined that the United States Constitution prohibits imposition of criminal penalties for sitting, sleeping, or lying outside on public property on homeless individuals who could not obtain shelter; and 2) identified that ordinances prohibiting sitting, lying, or sleeping outside at particular times or in particular locations may be constitutionally permissible since other public space would still be available, regardless of available shelter space; and

WHEREAS, the City Council hereby finds that the regulatory requirements established by the proposed amendments to the Richland Municipal Code are necessary for the preservation of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the City of Richland as follows:

Section 1. The recitals set forth above are hereby adopted as findings of the Richland City Council for this Ordinance and are incorporated herein by reference.

Section 2. Title 8 of the Richland Municipal Code is hereby amended to add a new Chapter 8.10 entitled Regulating Public Camping.

**Title 8
HEALTH AND SANITATION**

Chapters:

8.04 Health District

8.08 Food Establishments

8.10 Regulating Public Camping

8.16 Repealed

**Chapter 8.10
REGULATING PUBLIC CAMPING**

Sections:

8.10.010 Purpose.

8.10.020 Definitions.

8.10.030 Unlawful camping.

8.10.040 Storage of personal property in public places.

8.10.050 Removal of unauthorized encampments and individual camps.

8.10.060 Penalty for violations.

8.10.070 Enforcement suspended.

8.10.080 Severability.

8.10.010 Purpose.

It is the purpose of this chapter to prevent harm to the health and safety of the public and environment, and to promote the public health, safety and general welfare and environment by keeping public streets, sidewalks, parks, and other City-owned and/or City-maintained public property within the City readily accessible to the public, and to prevent use of City-owned and/or City-maintained public property for camping purposes or storage of personal property which interferes with the rights of others to use the areas for the purposes for which they were intended.

8.10.020 Definitions.

The following definitions are applicable in this chapter unless the context otherwise requires:

“Actively engaged in the process of exiting homelessness” means an individual is presently participating in the activities necessary to achieve housing, whether temporary or permanent. The City of Richland recognizes that availability of permanent housing, transitional housing and treatment services will impact an individual’s ability to successfully move out of homelessness into housing; and therefore, there are no specific timelines outlined within Chapter 8.3 RMC. Such

status shall be determined by the city manager or designee. When determining whether an individual is actively engaged in the process of exiting homelessness, the city manager or designee shall take into account whether the individual is:

1. In a local database maintained by the Benton County Department of Human Services (BCDHS) with an active enrollment in an outreach project and/or coordinated entry; or

2. Working with a non-BCDHS entering service provider; or

3. Actively working with a street outreach project towards permanent housing or any other intervention requested by the individual (for example, treatment). “Actively working” includes:

a. The outreach worker is building rapport with the individual and has not yet entered any enrollment into BCDHS’s database; or

b. The outreach worker and individual are (i) in the documentation gathering phase for purposes of accessing housing or treatment facilities, and (ii) the individual is attending required appointments in order to achieve housing or treatment options; or

4. Participating in any other activity, program, or process deemed necessary to secure permanent housing.

“Camp” means to pitch, erect or occupy camp facilities, or to use camp paraphernalia or both, for the purpose of, or in such a way as will facilitate, remaining overnight, or parking a camper, recreational vehicle, trailer, or other vehicle for the purpose of remaining overnight.

“Camp facilities” include, but are not limited to, tents, huts, temporary shelters, campers, recreational vehicles, or trailers.

“Camp paraphernalia” includes but is not limited to tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.

“Contraband” means any property that is unlawful to produce or possess.

“Litter” shall have the same meaning as used in RCW 70.93.030(6) and (11) as adopted or may be amended.

“Park or park facility” means any real property, building, structure, equipment, sign, shelter, swimming pool, vegetation, playground, or other physical property owned or controlled by the City for park purposes. Park or park facility includes all associated areas, including but not limited to parking lots for parks and pools.

“Personal property” means an item that is:

1. reasonably recognizable as belonging to a person;
2. in its present condition has apparent utility and/or value; and

3. is not hazardous or unsanitary.

“Right-of-way” shall have the same meaning as is stated in RMC 12.08.010.

“Solid waste” shall have the same meaning as used in RCW 70.95.030(22) as adopted or may be amended.

“Store” means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

“Stormwater drainage facility” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, evaporate, divert, treat, or filter stormwater. Stormwater facilities include, but are not limited to, pipes, ditches, culverts, street gutters, detention ponds, retention ponds, evaporation ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and swales.

“Trail” means a public path constructed for the primary purpose of allowing recreational non-motorized transportation.

“Unauthorized encampment” means two or more camp facilities in an identifiable area which appear to be used for unlawful camping. For purposes of this chapter an identifiable area includes areas where the camp facilities are in sight of each other and/or areas where each camp facility is located within 300 feet of another camp facility.

8.10.030 Unlawful camping.

It is unlawful for any person to camp in the following City-owned and/or City-maintained areas, except as otherwise provided by the Richland Municipal Code or where specifically designated:

A. Any right-of-way;

B. Any trail, park, or park facility;

C. Any publicly owned parking lot or publicly owned area, improved or unimproved;

D. Any publicly owned stormwater drainage facility; or

E. Any other City-owned or City-maintained property.

8.10.040 Storage of personal property in public places.

It is unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following City-owned and/or City-maintained areas, except as otherwise provided by the Richland Municipal Code:

A. Any right-of-way;

B. Any trail, park, or park facility;

C. Any publicly owned parking lot or publicly owned area, improved or unimproved;

D. Any publicly owned stormwater drainage facility; or

E. Any other City-owned or City-maintained property.

This section shall not apply to vehicles, including trailers, recreational vehicles, and campers, which are unoccupied and parked in rights-of-way, unless otherwise prohibited by law.

8.10.050 Removal of unauthorized encampments and individual camps.

Upon a determination by law enforcement or designated City personnel that an area constitutes an unauthorized encampment or that an individual is engaged in unlawful camping or storage of personal property in public places, the personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed subject to the following provisions:

A. If the unauthorized encampment, unlawful camping, or unlawful storage of personal property results in an immediate and significant risk of harm to any person or impedes pedestrian or vehicular traffic, then police, City staff, or contracted agent may immediately remove any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste, which shall be stored or disposed in the same manner as set forth in RMC 8.10.050(B)(2).

B. Prior to removing property from an unauthorized encampment or unlawful camp, or removing personal property unlawfully stored on City-owned or City-maintained public property other than those specified in RMC 8.10.050(A), the following shall occur:

1. The City shall post at least a 72-hour advanced notice, which shall include the following:

a. The address or location of the unauthorized encampment, unlawful camping, or unlawful storage of personal property;

b. A statement that camping or storage activity is prohibited by RMC 8.10.030, RMC 8.10.040, and/or RMC 8.10.050;

c. A statement that any individual continuing to use the area for unlawful camping or storage of personal property may be subject to criminal penalties pursuant to Chapter 8.10 RMC;

d. A statement that any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste remaining after the notice period is subject to removal and, as may be applicable, temporary storage by the City.

2. At the end of the 72-hour notice period, any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed by City personnel or agents thereof.

a. Any personal property that is removed shall be stored by the City for at least sixty (60) days prior to being disposed.

b. Notice of where personal property removed from the encampment may be claimed shall be posted at the location.

c. If the name and contact information for the owner of a particular item of personal property can reasonably be identified, the City shall attempt to contact the identified owner and provide notice that the item has been removed and how to claim the item.

d. Any contraband located at the area shall be seized and properly disposed or retained as evidence of criminal activity.

e. Any litter or solid waste found at the area shall be properly disposed.

C. Any individual who receives a notice under this section, or whose property is removed from an area pursuant to this section, has a right to meet with the city manager or designee to raise any concerns, objections, or extenuating circumstances. At the conclusion of the meeting, a City representative present for the meeting shall prepare a written decision detailing the individual's concerns, as well as the City's response. Notice and procedure to set up a meeting shall be posted at or near the encampment site. If an individual requests a meeting prior to removal of property, the removal of the individual's property shall be stayed pending resolution of the meeting; provided, that removal may still occur if the personal property, camping paraphernalia, camp facilities, or other property, contraband, litter, and solid waste constitutes an immediate threat to the public health, safety, or welfare.

8.10.060 Penalty for violations.

Violation of any of the provisions of Chapter 8.10 RMC is a misdemeanor, and shall be punished upon conviction of such violation by a fine of not more than \$1,000 or by confinement not to exceed 90 days, or by both such fine and confinement.

8.10.070 Enforcement suspended.

A. Except as otherwise provided in this section, enforcement of criminal provisions of this chapter shall be suspended any time there is no space or beds available through the voucher program operated by Benton County Department of Human Services, to the extent such available space or beds are required by law. In such circumstances, all provisions of this chapter shall continue to apply to camping, storage of personal property, including camp facilities and camp paraphernalia, and unauthorized encampments at the following:

1. The real property containing:

- a. Richland City Hall (Benton County PID No. 1-11982020629019);
- b. John Dam Plaza (Benton County PID No. 1-11983020625000);
- c. Howard Amon Park (Benton County PID No. 1-11984012586008; 1-11981020636002);
- d. Leslie Groves Park (Benton County PID No. 1-35084020923000; 1-35081020922000; 1-36081000000000);
- e. Riverfront Trail (Benton County PID No. 1-11981020624001);

- f. Columbia Playfields (Benton County PID No. 1-10981020600036);
- g. George Prout Memorial Pool (Benton County PID No. 1-10981020600005);
- h. Columbia Point Marina (Benton County PID No. 1-13983020018002);
- i. Richland Public Library (Benton County PID No. 1-11982020629012);
- j. Richland Police Department (Benton County PID No. 111981020623003); and
- k. Richland City Shops (Benton County PID No. 1-16984020002002).

2. Park facilities, including but not limited to all buildings, structures, equipment, signs, shelters, swimming pools, water recreation facilities, playgrounds, bathrooms, courts or designated sports fields available for reservation, or any other fixture or improvement and the real property within 30 feet of such facilities. Unless constructed as a part of such park facility, natural vegetation shall not be considered to be a “park facility” for purposes of this section;

3. Public rights-of-way and City-owned real property marked No Trespassing; and

4. Publicly owned stormwater drainage facilities.

B. Enforcement of the criminal provisions of this chapter may also be temporarily suspended by law enforcement or the city manager or designee for the purpose of allowing an individual actively engaged in the process of exiting homelessness to continue working towards exiting homelessness; provided, that such suspension shall not authorize any individual to be located at any of the locations identified in RMC 8.10.070(A). Such suspension may only occur during the period while an individual is actively engaged in the process of exiting homelessness. Nothing in this section shall guarantee or create rights to have enforcement of this chapter waived or suspended for any individual found to be violating the terms of this chapter. This section shall not preclude enforcement of this chapter against a person actively engaged in exiting homelessness where the violation results in a significant risk of harm to any person or impedes pedestrian or vehicular traffic, or where the person violates any other federal, state, or local law. Further, nothing in this section shall preclude the City from requiring an individual to move from any location identified in RMC 8.10.070(A) to other available public property. Failure to work toward exiting homelessness and/or failure to follow other park and City regulations will result in immediate enforcement of Chapter 8.10 RMC subject to shelter bed availability (through the voucher program) as required by law.

The city manager may adopt such rules and procedures necessary to identify individuals actively engaged in exiting homelessness and to notify the Richland Police Department of such individuals.

C. Nothing in this chapter shall preclude enforcement of any other federal, state, or local laws, including enforcement of Chapter 9.22 RMC.

8.10.080 Severability.

If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances is not affected.

Section 3. This Ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

Section 4. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 5. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including but not limited to the correction of scrivener's errors/clerical errors, section numbering, references, or similar mistakes of form.

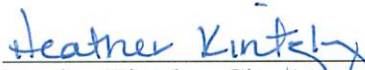
PASSED by the City Council of the City of Richland, Washington, at a regular meeting on the 5th day of July, 2022.


Michael Alvarez, Mayor

Attest:


Jennifer Rogers, City Clerk

Approved as to Form:


Heather Kintzley, City Attorney

First Reading: June 21, 2022
Second Reading: July 5, 2022
Date Published: July 10, 2022