



**Ashland Livability,
homelessness caselaw recap,
camping ordinance update**

City Council Study Session
November 6, 2023

General overview of homeless services that the City supports in Ashland

- The City provides funding for both capital improvements and direct services from the City's general fund and from federal and sometimes state grant funding.
- The City dedicates staff time for local and regional planning efforts, and technical support to organizations that provide direct services.
- The City of Ashland is an entitlement jurisdiction for CDBG funds. As a condition of receiving the funding the City is required to identify the needs of homeless families and individuals, describe the nature and extent of homelessness in the community and the region, and identify the need for facilities and services for homeless individuals, as well as the same needs for homeless families with children and other homeless subpopulations. This is done through participation in the Jackson County Continuum of Care.
- The City also facilitates the development of needed resources that are identified through long-range planning processes as well as emergent needs as they arise.



HUD Continuum of Care Program

What is a CoC? It is a group of organizations and agencies that collectively coordinate homeless assistance activities and resources in a community.

The HUD Continuum of Care Program is two separate but related things:

- The CoC Program provides funding designed to assist individuals (including unaccompanied youth) and families experiencing homelessness and provide the services needed to help such individuals move into transitional and permanent housing, with the goal of long-term stability.
- More broadly, the CoC Program is designed to promote community-wide planning and strategic use of resources to address homelessness; improve coordination and integration with mainstream resources and other programs targeted to people experiencing homelessness; improve data collection and performance measurement; and allow each community to tailor its programs to the strengths and challenges in assisting homeless individuals and families within that community.



Jackson County Continuum of Care (CoC)

- To be qualified to be a CoC and to submit a collaborative application for CoC funding, a community must have a board of directors that has representation from the CDBG entitlement Jurisdictions in the community and representation from people with lived experience and from a variety of service providers and special populations within the community
- A CoC is responsible for several community wide activities related to homelessness:
 - The CoC is the HUD designated entity to apply for federal CoC funding through the annual CoC competitive grant process.
 - Promote a community-wide commitment to ending homelessness.
 - Must establish certain community-wide processes which include data collection and reporting as well as planning for needed resources to address emerging trends in among the homeless population.
 - This is accomplished through a variety of HUD required data collection, reporting and planning tools, which can include:
 - The annual Point in Time Count (PIT)
 - The Housing Inventory Chart (HIC)
 - Coordinated Entry List
 - Homelessness Management Information System Reporting
 - Annual performance Reports from funded grantees (APR's)



Homelessness is a Housing Problem

City of Ashland Housing Program

The term “Ashland Housing Program” is applied to various activities the City undertakes to address the unmet housing needs within our community. As there is no single means of adequately addressing the housing issues facing the City, a comprehensive approach toward program development has evolved over time. This comprehensive approach is appropriate to ensure we can implement all tools available to increase the supply of affordable housing.



What does the Affordable Housing Program Do?

Public Education

Housing & Human Services Commission



- ✓ Education Materials
- ✓ Fair Housing Trainings
- ✓ Rental Housing Forum

Land Use Initiatives

Process Improvements



- ✓ Cottage Housing
- ✓ Affordable Housing Density Bonus
- ✓ Affordable Housing for Annexations and Zone Changes

Grants Financial Awards

Incentives



- ✓ Community Development Block Grants (CDBG)
- ✓ Affordable Housing Trust Fund
- ✓ Social Service Grants

Fee Waivers Tax Exemptions



- ✓ System Development Fee Waiver
- ✓ Community Development and Engineering Fee Waiver
- ✓ School Construction Excise Tax Waiver

Homelessness Continuum of Services

City of Ashland Programs

Severe Weather Shelter:

- **Health & Public Safety**
- **Over Night Shelter**
 - 8:00 p.m. – 8:00 a.m.
- **Shelter Thresholds**
 - Cold – 32° or below
 - Hot – 95° or above
 - Smoke – 150 Air Quality Index

Emergency Order Shelter:

- **Governor’s Emergency Declaration** on Homelessness to Jan. 10, 2024
- **30 accepted applicants** under state grant
- **71 days operations**
 - Nov. 1-Jan. 10 funded
 - Navigation services for rehousing

OHRA Center

Resource Center:

- **Walk-In navigation**
 - Client specific
 - Rehousing focus
- **52 shelter positions**
 - 6 mos. stability



Homelessness Overview

U.S. Dept. of Housing & Urban Development

- Around 582,000 individuals are homeless in the country
 - 18 of every 10,000 people in the U.S.
 - More than 270,000 - nearly half of homeless - are in California, New York & Florida
 - 40% are unsheltered nationally
 - Odds of becoming homeless are 1 in 200
 - Life expectancy of homeless is 42 to 52 years without assistance

Triggers

- Poverty or debilitating condition
- Traumatic event
- Loss of a job
- Healthcare costs
- Criminal Background preventing employment



Homelessness Overview

Types of Homelessness

- Transitional (less than year; result of life change/event – divorce, abuse, family/health crisis, etc.)
- Episodic (at least three periods in 12 months)
- Chronic (at least a year or repeatedly for four periods in 12 months – with disabling condition)
- Hidden (live with others temporarily)

Who is Homeless

- Nearly 75% are 25 or older
- 18% are children under 18
- 8% are 18-24
- Families are the fastest growing segment
- The vast majority of homeless are not considered a danger (including those with mental illness)



Homelessness Overview

West Coast

- California – 44 of every 10,000 in state
 - Highest rate of homelessness
- Oregon – 42 of every 10,000 in state

Oregon

- State has fourth highest rate of unsheltered homelessness in US
 - At least 18,000 experience homelessness per 2022 count
- 63% increase in homelessness in six years (2017-2022)
 - Center Oregon – 86% increase
 - Eugene-Springfield/Land County – 110% increase
 - **Medford-Ashland/Jackson Co. – 132 % increase**
 - Salem/Marian-Polk Co. – 150% increase
 - 62% of state's homeless are "unsheltered" (outdoors/cars)



Homelessness Overview

Governor's Emergency Declaration

- Effective dates – Jan. 10, 2023–Jan. 10, 2024
- For areas with increase of 50% or greater homelessness
- Funding – \$11,125,617 to address unsheltered homelessness
- Goals
 - Prevent 8,750 households from homelessness
 - Add 600 low-barrier shelter beds
 - Rehouse at least 1,200 households

Jackson County/Ashland Goals

- Prevent 1,200 households from homelessness
- Add 67 low-barrier shelter beds
- Rehouse at least 133 households



Homelessness Overview

Ashland

- Homelessness estimated at 80-125 (approx. 10% of Jackson Co. est.)
- Balance needs of all citizens
 - Preserve health and public safety
 - Dusk-to-Dawn sleeping lawn
 - Severe Weather Shelter – prevent health risk or loss of life
 - Emergency Homeless Shelter – stability & navigate to housing
 - Enforce behavioral expectations
 - No exclusive use of parks & public rights-of-way (ROW)
 - Trespass
 - Partner with community organizations
 - Multi-agency coordination for continuum of care approach



Ashland Support – 2023–2025 BN Budget

Funding

Oregon “All In” Grant	
Expend by Jan. 10, 2024	\$1,158,100
Oregon Admin. Service Grant (DAS)	\$1,000,000
Ashland General Fund	
FY2023–2024	\$ 100,000
FY2024–2025	\$ 100,000
	<u>\$ 2,358,100</u>

Expenditures

Emergency Shelter Purchase (\$2 mil. with \$600,000 seller note)	\$ 1,413,961
Seller’s note service	\$ 74,704
Homeless (bldg., ops. & navigation, etc.)	\$ 669,435
Severe Weather Shelter & Dusk-to-Dawn lawn	\$ 200,000
	<u>\$ 2,358,100</u>



Severe Weather Shelter Operation

There are several criteria used to call a Severe Weather Shelter:

- Health & Public Safety Measure Activated by City Manager
- Levels
 - Cooling/Warming Locations
 - Peak Time Cooling/Warming Shelter
 - Overnight Cooling/Warming Shelter
 - Emergency Shelter
- Shelter Thresholds
 - Cold Weather – 32° or below
 - Hot Weather – 95° or above
 - Smoke – Air Quality Index of 150 and above (“unhealthy for everyone”)



Severe Weather Shelter – Location Criteria

- Accommodate priority use
 - Emergency shelter/event congregate – (approx. 3,000 – 4,000 sq. feet)
 - Supply distribution/management
- Near transit – within walking distance to a bus stop (1/4 mile)
- Near existing retail – within walking distance (groceries & personal items)
- Access to City utilities (water, sewer, electric)
- Located outside of natural hazard areas
(floodplain, steep slopes, vulnerable to wildfire, inaccessible in severe weather)
- Allow flexible/multiple functional use (pallet houses, temp. car camping)



Emergency Homeless Shelter – Location Criteria

- Existing Structure
- Adequate transportation to commercial & medical services
- Does not pose reasonable risk to public health or safety
- Includes sleeping and restroom facilities
- Complies with applicable building codes



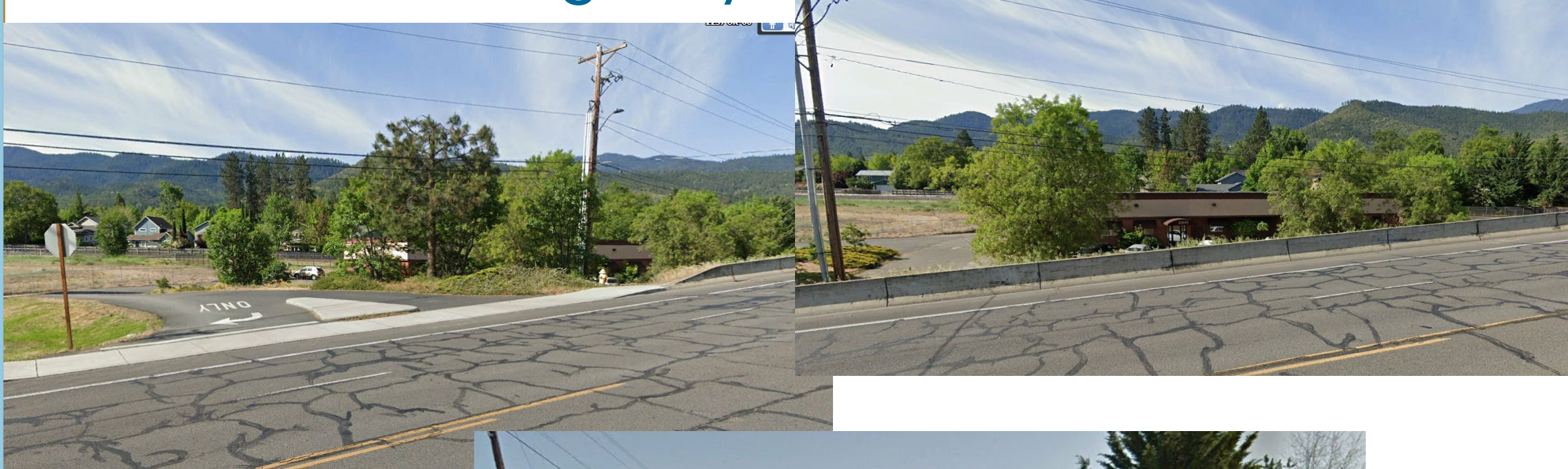
Ashland Emergency Shelter



Ashland Emergency Shelter



Ashland Emergency Shelter



Ashland Emergency Shelter

Shelter Is NOT

- A drop-in / “come & go” shelter
- A campground
- A nightly sleep/camping lawn
- A permanent accommodation

Shelter Is

- State funded for Nov. 1–Jan. 10 operation only
 - Assigned beds for at least 30 beds
- Requires Application/Screening for Admission
 - Court case history and sex offender registry website check
- Operated by an experienced shelter operator
 - Experienced on-site staff
 - Supervised during all operating hours
 - Behavioral standards for occupants
- Navigation support for permanent housing placement
- Includes limited food service



Ashland Emergency Shelter

Shelter Will Have

- Fencing & site plantings for screening
- Access gate with site curfew hours
- Interior access point and exterior security cameras
- Exterior security lighting & smoking area
- Adequate toilet & sanitation stations

During Emergency Shelter Operations

- APD Will
 - Expand patrol presence from downtown to include Ashland Street/Clay Street/bike path area
 - Expand cadet program from three using vacancy savings to assist in patrol of City parks & other properties
 - Explore possibility for store front office in Exit 14 area



Ashland Emergency Shelter

During Emergency Shelter Operations

- Other City, including Ashland Park & Recreation actions
 - Assist with provision of front gate and Clay Street Park access to Siskiyou School
 - Daily Clay Street Park visits and maintenance
 - Coordinate on activities at Clay Street Park and other parks with APD
 - Work to maintain the Clay Street Park, Emergency Shelter and railroad ROW free of wildfire hazards



Ashland Emergency Shelter – Timeline

2022

- **Apr.-Jun.** – The City received notice and accepts Housing Insecurity Grant for \$1,000,000
- **May** – Discussion of Shelter Site selection criteria at Housing & Human Services Commission meeting
- **Dec. 2022** – The City adopted the revised Severe Weather Shelter resolution, which changed criteria for activation

2023

- **Jan. 10** – Governor Issues Executive Declaration on homelessness emergency
- **Jan. 17** – Public presentation at Council meeting of Severe Weather Shelter next steps
- **Feb. 7 & May 2** – Staff exec. session presentation to Council of Severe Weather Shelter location alternatives
- **Apr. 18** – Council approves application for state “All In” Grant



Shelter Operation Planning – Timeline

- **Jun. 6** – The Council accepts “All-In” state grant at the regular business meeting; Severe Weather Shelter search transitions to meet grant requirements
- **Jun. 20 / Aug. 1** – Staff exec. session presentation to Council of Severe Weather Shelter location alternatives
- **Aug. 15** – Purchase offer acceptance at a City Council regular meeting for 2200 Ashland Street property acquisition.
- **Aug. 20** – Security walk of Siskiyou School property and Clay Street Park
- **Sep. 6–7** – Mailing of Mayor’s letter to residential neighborhoods on Emergency Homeless Shelter purchase and notification of Sep. 14th neighborhood meeting
- **Sep. 11** – City Council & City Manager neighborhood walks to notify about Emergency Shelter, Sep. 14 neighborhood meeting, and dedicated City questions and answers webpage
- **Sep. 12** – The City completes purchase of 2200 Ashland Street property



Shelter Operation Planning – **Next Steps**

- **Sep. 15** – Property’s seller will complete move out of building; site available for City remodeling and site improvements
- **Sep. 16 – October 15** – The City will make short term improvements and necessary site work to open the Emergency Shelter
- **Oct. 2** – Public forum on Emergency Shelter at Council Chambers, including update presentation on shelter implementation
- **Mid Oct.** – Emergency shelter open house at Emergency Shelter; Application process initiated
- **Nov. 1** – Full operation with accepted applicants

2024

- **Jan. 10** – Emergency shelter transitioning to Severe Weather Shelter operations status
- **Jan. 11 – Mar. 30** – Severe Weather Shelter operations



Legal Department's Outline:

1. Legal summary on houselessness
2. Proposed Camping Ordinance Introduction
3. Livability Team
4. Other Ordinances used to improve livability
5. Thoughts?



Case law Review

8th Amendment: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Robinson v CA: the 8th Amendment prohibits the state from punishing an involuntary act or condition if it the unavailable consequence of one’s status or being. 370 US 660 (1962).

Martin v. Boise:

- Prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter...because sitting, lying, and sleeping are...universal and unavoidable consequences of being human.”
- A governmental entity cannot “criminalize conduct that is an unavoidable consequence of being homeless- namely sitting, lying, or sleeping.



Case law Review

Martin v. Boise take aways:

- Cities cannot punish a person who is experiencing homelessness for sitting, sleeping or lying on public property when that person has no place else to go
- Cities are not required to build or provide shelters for persons experiencing homelessness
- Cities CAN continue to impose traditional sit, sleep, and lie prohibitions and regulations on persons who DO HAVE access to shelter

Post Martin:

- The US Supreme Court denied review; *Johnson v. City of Grants Pass* follows



Case law Review

Johnson v Grants Pass:
Formerly *Blake v. City of Grants Pass*

- Amended opinion: Issued July 5, 2023
- Affirmed *Martin* and extended:

“Our decision reaches beyond *Martin* slightly. We hold, where *Martin* did not, that class certification is not categorically impermissible in cases such as this, that “sleeping” in the context of *Martin* includes sleeping with rudimentary forms of protection from the elements, and that *Martin* applies to civil citations where, as here, the civil and criminal punishments are closely intertwined. Our decision does not address a regime of purely civil infractions, nor does it prohibit the City from attempting other solutions to the homelessness issue.” (underline added)



Case law Review

Johnson v Grants Pass:
Formerly *Blake v. City of Grants Pass*

- Take Aways:
- Whether a city's prohibition is a civil or criminal violation is irrelevant. If the prohibition punishes an unavoidable consequence of one's status as a person experiencing homelessness, then the prohibition, regardless of its form, is unconstitutional.
- Persons experiencing homelessness who must sleep outside are entitled to take necessary minimal measures to keep themselves warm and dry while they are sleeping.
- Cities should be cautious when enforcing camping regulations that implicates their gender, age, disability, familial status, or religion.

Post Johnson v. Grants Pass.

- *Grants Pass* was appealed to all judges on the 9th Circuit, which denied review. The City is currently appealing to the U.S. Supreme Court. A basis for review will be if there is a split in how the other circuits address this same legal question.



Relevant Legislation: HB3124

- Versions of HB 3124 have been around since the 1990s. It outlines how law enforcement should go about clearing a camp.
- If it is an “**established**” **campsite**, the camp must be given a 72 hour-posting notice in order to give the camp occupants time to pack their things.
- At the time of removal of a campsite, a social service professional will accompany law enforcement to provide outreach
- Unclaimed “**personal property**” is defined as “any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.” This property must be stored for 30 days. Items with no “apparent utility or value” or that is “insanitary” may be immediately discarded.
- **Left unclear:** What is the process for CLAIMED personal property that impacts public spaces?



Relevant Legislation: HB3115

- HB 3115 was enacted by the Oregon Legislature during its 2021 session. It is the product of a workgroup involving the LOC and the Oregon Law Center as well as individual cities and counties.
- The bill requires that any city or county law regulating the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be “**objectively reasonable**” based on the totality of the circumstances as applied to all stakeholders, including persons experiencing homelessness. What is objectively reasonable may look different in different communities. The bill retains cities’ ability to enact reasonable time, place and manner regulations, aiming to preserve the ability of cities to manage public spaces effectively for the benefit of an entire community



Think of HB3115 as: A codification of the *Boise and Grants Pass cases*.

Proposed Amendments to AMC 10.46

Proposed Ordinance Summary:

- A) starts with the premise that people cannot camp on public property.
- B) BUT, that can be suspended if there is an emergency or if someone is homeless/there is no shelter/designated space available.
- C) Even if someone is experiencing homelessness, camping is not allowed in these high-community impact spaces and in these specific scenarios.
- D) Provides specific guidance for vehicles.
- E) Describes a process for removing a campsite and details a fair process for the removal of property
- F) Going back to section B, if someone is experiencing homelessness and there are no other shelter/ or space available, then they can camp in any place outside of the special no-places designated in Section B. BUT, if there is a scenario where all the shelters are filled and there is no more room in designated spaces, then management can specify time/place/manner restrictions. Some cities write those into their ordinance. We opted not to, to give flexibility for changing scenarios.



Ashland Livability Team

What?

- Modeled after the Medford Livability team, it is designed to be a coordinated effort by a variety of city departments to improve livability in the City of Ashland. It gives a name and approach to the coordinated effort it will take to enforce the proposed camping ordinance and improve livability in Ashland for all its residents.
- The second prong is the strong outreach the team will take. It is a goal to establish relationships with providers throughout the valley so that we can route people experiencing homelessness to the right provider or outreach provider in what could be an intervention point or the first step out of homelessness.
- Homelessness is a community and societal issue, it only makes sense to approach it with a community mindset

Who is involved?

- City: Legal, Facilities, Parks, Fire, Police, Municipal Court
- Community Resource / Outreach programs, OHRA included.



Ashland Livability Team

This is a list of everyone
Medford Partners with:

Agencies/ Community Partners of the City of Medford's
Chronically Homeless Outreach Partnership

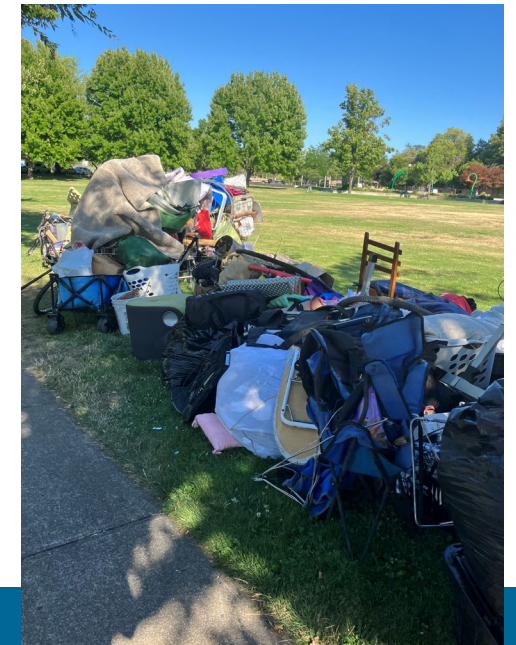
Addictions Recovery Center	AllCare Health
Hearts with a Mission	OnTrack
Options	Rogue Retreat
Jackson County Mental Health	Jackson Care Connect
Jackson County District Attorney's Office	Jackson County Parole & Probation
Medford City Attorney's Office	Medford Municipal Court
Medford Parks & Recreation	City of Medford Planning Department
City of Medford Police Department	Medford Gospel Mission
Mercy Flights & Mercy Flights MIH	La Clinica
ACCESS	Columbia Care
Department of Human Services	Jackson County Jail
Maslow	Veteran's Administration
The Pathfinder Network	Recovery Café
Oasis	Jackson County Sheriff's Office
Jackson County Sexual Assault Response Team	Ashland Police Department
Community Works	Set Free Ministries



Ordinance Success Story

Junk, 9.12.010:

“Junk” includes all old machinery, old machine parts, old appliances or parts thereof, old iron, or other metal, glass, paper, plastics, resins, cardboard, waste fats and oils, food waste, used bottles and cans, old lumber, old wood, or other waste, debris, or discarded material, or material stockpiled for the purpose of recycling.



Ordinance Success Story

Persistent Violation, 10.120.010:

A. The person is convicted in Ashland Municipal Court for any combination of the following crimes or violations occurring in separate incidents within a six-month period within an enhanced law enforcement area:

1. Three (3) or more Class A, B or C felonies or Class A, B or C misdemeanors;
2. Two (2) Class A, B or C felonies or Class A, B, or C misdemeanors plus one (1) or more violations of the sections set forth below;
3. Three (3) or more violations of any of the following sections or laws:
 - a. AMC [9.08.110](#) – Scattering Rubbish;
 - b. AMC [9.08.170](#) – Unnecessary Noise;
 - c. AMC [9.16.010](#) – Dogs – Control Required;
 - d. AMC [10.40.030](#) – Consumption of alcoholic liquors in public places prohibited;
 - e. AMC [10.40.040](#) – Open Containers Prohibited;
 - f. AMC [9.16.015](#) – Dog License Required; or
 - g. ORS [475B.381](#) – Use of marijuana in public place prohibited.



B. The person knowingly enters an enhanced law enforcement area in violation of a Municipal Court expulsion order as a term of the person's probation or a court expulsion order pursuant to AMC [10.125.010](#)

Other Areas To Look At?

Measure 110 Dynamic: With the decriminalization of certain drugs, there has been an increase in drug use in public spaces across Oregon. Cities have look to see the legal preemption risks in banning public drug consumption.

Thoughts?



**THANK YOU! WE ARE BETTER
TOGETHER!**

**To submit questions/comments and
view updates, please visit
ashland.or.us/EmergencyShelter**

