

2021 Oregon Homeless Legislation

HB 2006 – Emergency Shelters/Transitional Housing Accommodations/Low-barrier Emergency Shelters and Navigation Centers

Emergency Shelters

- Defines “emergency shelter” as a building or cluster of buildings that provides shelter on a temporary basis for individuals and families who lack permanent housing.
- Provides that a building or cluster of buildings used as an emergency shelter under an approval granted under section 3 of this 2021 Act or section 11, chapter 12, Oregon Laws 2020 (first special session):
 - May resume its use as an emergency shelter after an interruption or abandonment of that use for two years or less, notwithstanding ORS 215.130(7).
 - May not be used for any purpose other than as an emergency shelter except upon application for a permit demonstrating that the construction of the building and its use could be approved under current land use laws and local land use regulations.
- Provides that an approval of an emergency shelter under this measure or section 11, chapter 12, Oregon Laws 2020 (first special session) is void unless the shelter is operating within two years following the approval.
- Requires a local government to approve an application for the development or use of land for an emergency shelter, if the emergency shelter:
 - Includes sleeping and restroom facilities for clients
 - Will comply with applicable building codes
 - Is located inside and urban growth boundary or in an area zoned for rural residential use
 - Will not result in the development of a new building that is sited within an area designated under a statewide planning goal relating to natural disasters and hazards (flood plains or mapped environmental health hazards) unless the development complies with regulations directly related to the hazard;
 - Has adequate transportation access to commercial and medical services; and
 - Will not pose any unreasonable risk to public health or safety.
- Requires an emergency shelter, as defined by the measure, to be operated by:
 - A local government (ORS 174.116)
 - An organization with at least two years of experience operating an emergency shelter using best practices that is:
 - A local housing authority (ORS 456.375)
 - A religious corporation (ORS 65.001); or
 - A public benefit corporation (ORS 65.001), whose charitable purpose includes the support of homeless individuals, that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code on or before January 1, 2018; or
 - A nonprofit corporation partnering with any other entity identified as an approved operator by the measure.
- Provides that an emergency shelter approved under the provisions of the measure:
 - May provide the following on-site for its clients and at no cost to the clients:
 - Showering or bathing;
 - Storage for personal property;
 - Laundry facilities;
 - Service of food prepared on-site or off-site;
 - Recreation areas for children and pets;

- Case management services for housing, financial, vocational, educational or physical or behavioral health care services; or
 - Any other services incidental to shelter.
- May include youth shelters, winter or warming shelters, day shelters and family violence shelter homes (ORS 409.290).
- Provides that an emergency shelter approved based on the provisions of this measure are authorized to provide additional services to individuals who are transitioning from unsheltered homeless status and allows the organization providing services to charge a fee of no more than \$300 per month per client and only to clients who are financially able to pay the fee and who request the services.
- Clarifies that the approval of an emergency shelter as defined by the measure is not a land use decision and is subject to review only under ORS 34.010 to 34.100.
- Provides that the emergency shelter approval requirement/process is repealed on July 1, 2022 for applications not completed and submitted before the date of the repeal.

Enhanced Transitional Housing Accommodations Definition

- Amends the definition of “transitional housing accommodations” to include areas in parking lots or facilities for individuals or families to reside overnight in a motor vehicle, without regard to whether the motor vehicle was designed for use as temporary living quarters.
- Provides that any political subdivision may:
 - Allow any public or private entity to allow overnight camping by homeless individuals living in vehicles on the property of the entity.
 - May impose reasonable conditions upon offering camping space, including establishing a maximum number of vehicles allowed.
- Requires entities approved by a political subdivision to provide camping spaces must also provide access to sanitary facilities, including toilet, handwashing and trash disposal facilities.
- Authorizes the Oregon Housing and Community Services Department to use resources from the Emergency Housing Account for development of technical assistance and training resources for organizations developing and operating emergency shelters and transitional housing accommodations based on the measure.

Low-barrier emergency shelters:

- Defines “low-barrier emergency shelter” as an emergency shelter that follows established best practices to deliver shelter services that minimize barriers and increase access to individuals and families experiencing homelessness.
- Requires the Oregon Housing and Community Services Department to award grants and provide technical assistance to organizations to fund:
 - The construction, purchase or lease of facilities to be used as low-barrier emergency shelters;
 - The operation, use or staffing of low-barrier emergency shelters, including the costs to provide clients with access to the shelters;
 - The development or use of amenities or facilities that provide no-cost services to individuals and families who are homeless, including restroom and hygiene facilities, laundry facilities, dining facilities, storage for personal property, meeting or gathering spaces and facilities providing case management services; or
 - Rapid rehousing services and supports for individuals and families.
- Requires the Oregon Housing and Community Services Department to:
 - Ensure that funds are distributed among different region of the state; and
 - Prioritize funding areas of highest need as identified in the August 2019 Oregon Statewide Shelter Study.

- Ensure that grants are awarded through a competitive process that emphasizes collaborative proposals; or to one or more community action agencies.

Navigation Centers

- Defines “navigation center” as a low-barrier emergency shelter that is open seven days per week and connects individuals and families with health services, permanent housing and public benefits.
- Authorizes the Oregon Department of Administrative Services to award grants to local governments to:
 - Plan the location, development or operations of a navigation center;
 - Construct, purchase or lease a building for use as a navigation center;
 - Operate a navigation center that has been constructed, purchased or leased; or
 - Contract for the performance of activities related to a navigation center.
- Requires local governments receiving a grant to return all moneys granted if the navigation center subject to the grant is not operating on or before July 1, 2022.
- The following grants were awarded to specified nonprofit organizations and local governments through HB 5042 to establish and/or operate navigation centers to assist individuals and families with access to health services, permanent housing, and public benefits. The grants were awarded as follows:
 - \$1,500,000 to the City of McMinnville for a navigation center;
 - \$1,500,000 to the City of Roseburg for a navigation center;
 - \$2,000,000 to Bybee Lakes Hope Center for a navigation center;
 - 2,500,000 to the City of Bend for a navigation center;
 - \$2,500,000 to the City of Medford for a navigation center;
 - \$5,000,000 to the City of Salem for a navigation center; and
 - \$5,000,000 to Lane County for a navigation center within the City of Eugene

HB 3115 – Homelessness: Codification of Martin v. Boise

HB 3115 seeks to codify the 2019 9th Circuit Court of Appeals decision in Martin v. Boise relating to local laws regulating the acts of sitting, lying, sleeping, or keeping warm and dry in outdoor public spaces with regards to persons experiencing homelessness. The measure includes the following key provisions:

- Defines “keeping warm and dry” to mean using measures necessary for an individual to survive outdoors given the environmental conditions but does not include using any measure that involves fire or flame.
- Defines “public property” to mean the term as it is defined in ORS 131.705.
- Provides that “city or county law” does not include policies developed pursuant to ORS 203.077 or 203.079.
- Provides that any city or county 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.
- Creates an affirmative defense to a charge of violating a city or county law regulating the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public that the law is not objectively reasonable.
- Authorizes a person experiencing homelessness to bring suit for injunctive or declaratory relief to challenge the objective reasonableness of these city or county laws and requires that the action be brought in the circuit court of the county that enacted the law or of the county in which the city that enacted the law is located.
- Requires “reasonableness” to be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.

- Allows the court, in its discretion, to award reasonable attorney fees to a prevailing plaintiff if the plaintiff:
 - Was not seeking to vindicate an interest unique to the plaintiff; and
 - At least 90 days before the action was filed, provided written notice to the governing body of the city or county that enacted the law being challenged of an intent to bring the action and the notice provided the governing body with actual notice of the bases the plaintiff intends to challenge the law.
- Clarifies that the measure does not create a private right of action for monetary damages.
- Provides that the requirements of the measure become operative on July 1, 2023

HB 3124 – Removal of Homeless from Established Camping Sites – Notice and Personal Property Requirements

- Defines “personal Property as any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.
- Requires law enforcement officials, at least 72 hours before removing homeless individuals from an established camping site to post a written notice in English and Spanish at all entrances to the camping site to the extent that the entrances can reasonably be identified.
- Requires law enforcement officials, when a 72-hour notice is posted, to inform the local agency that delivers social services to homeless individuals as to where the notice has been posted.
- Requires all personal property at the camping site that remains unclaimed after removal to be given to a:
 - law enforcement official,
 - local agency that delivers social services to homeless individuals,
 - outreach worker,
 - local agency official or a person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance, whether the 72-notice is required or not.
- Requires unclaimed personal property to be stored:
 - For property removed from camping sites in counties other than Multnomah County, in a facility located in the same community as the camping site from which it was removed.
 - For property removed from camping sites in Multnomah County, in a facility located within six blocks of a public transit station.
 - Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.
 - Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.
- Requires the written notice, at a minimum, to include:
 - Where unclaimed personal property will be stored;
 - A phone number that individuals may call to find out where the property will be stored; or
 - If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.
- Requires unclaimed property to be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.
- Requires personal property to be stored for a minimum of 30 days during which time it shall be reasonably available to any individual claiming ownership.
- Personal property unclaimed after 30 day may be disposed of or donated to a 501(c)(3) corporation (Internal Revenue Code as amended and in effect on Dec. 31, 2020).
- Provides that the 72-hour notice requirement does not apply:

- When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site.
- In the event of an exceptional emergency at an established camping site, including, but not limited to, possible site contamination by hazardous materials, a public health emergency or other immediate danger to human life or safety.
- Allows a notice to be posted at least 24 hours before removing individuals from a camping site if a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service.
- Prohibits a person authorized to issue a citation for unlawful camping (under state law, administrative rule or city or county ordinance) from issuing a citation within 200 feet of a notice required by the measure and within two hours before or after the notice was posted.
- Provides that any law or policy of a city or county that is more specific or offers greater protections to homeless individuals subject to removal from an established camping site preempts contrary provisions of this measure.
- Effective Date: Took effect on the date the Governor signed the measure into law on June 23, 2021.

HB 3261 – Project Turnkey: Zoning for Hotel/Motel Conversion to Emergency Shelter/Affordable Housing

- Requires a local government to unconditionally allow the conversion of the lawful use of a property, notwithstanding any statewide land use planning goals or land use regulations:
 - From use as a hotel or motel, to use as an emergency shelter.
 - From use as a hotel or motel, or a hotel or motel that was converted to an emergency shelter, to use as affordable housing.
- Provides that the conversion requirement only applies to areas:
 - Within an urban growth boundary;
 - Not designated by the local government as specifically for heavy industrial uses;
 - With adequate transportation access to commercial and medical services; and
 - Not within an area designated for a statewide land use planning goal relating to natural disasters or hazards, including flood plains or mapped environmental health hazards, unless the converted use complies with regulations directly related to the disasters or hazards.
- Authorizes a local government to require a converted use to comply with:
 - Applicable building codes;
 - Occupancy limits; or
 - For affordable housing uses, reasonable standards relating to siting or design, if the standards do not, individually or cumulatively, prohibit the conversion through unreasonable costs or delay.
- Provides that conversions identified by the measure does not constitute a land use decision as defined in ORS 197.015.
- Provides that a local government is not required to consider whether the conversion significantly affects an existing or planned transportation facility for the purposes of implementing a statewide land use planning goal relating to transportation.
- Defines the following terms for purposes of the measure:
 - “Affordable housing” means housing in which all units are affordable to households with incomes equal to or less than 60 percent of the area median income as defined in ORS 458.610 and whose affordability is enforceable by an affordable housing covenant, as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

- “Conversion” includes an alteration to a building that changes the number of units but does not expand the building footprint.
- “Emergency shelter” means a building that provides shelter on a temporary basis for individuals and families who lack permanent housing.
- “Lawful use” includes a nonconforming use as described in ORS 215.130 (6) or any other local land use regulation allowing for the continuation of a use that was lawful when first enacted.
- Applies to conversions or applications for conversions on or after January 1, 2021.
- Effective Date: Took effect on the date the Governor signed the measure into law on May 6, 2021.

NOTE: In 2020, the Oregon Legislature allocated a total of \$65 million of CARES Act funding through the Oregon Joint Legislative Emergency Board for Project Turnkey for the purpose of acquiring motels/hotels for use as non-congregate shelter for people experiencing homelessness or at-risk of homelessness. The two funds included:

- \$30 million designated for shelter opportunities in counties or tribal communities impacted by the 2020 wildfires has been fully allocated, resulting in the funding of seven projects for a total of 388 units in six counties (appropriated on 10/23/2020).
- \$35 million designated for shelter opportunities in the remaining areas of the state. Of this amount, \$31.2 million has been allocated to date (appropriated on 11/9/2020).

During the 2021 Legislative Session, an additional 9.7 million was appropriated in HB 2004 to the Oregon Community Foundation to complete Project Turnkey projects in Deschutes, Multnomah, Malheur and Yamhill counties. In addition, \$800,000 was appropriated for a Turnkey project in Salem and \$5,107,713 was appropriated for a Turnkey project in Corvallis in HB 5006.