

AGENDA

TOWN HALL MEETING
Proposed Civil Exclusion Zone

February 5, 2018

5:30 PM

SENIOR CENTER

1112 West Ninth Street

The Dalles, Oregon

1. CALL TO ORDER
2. PROPOSED CIVIL EXCLUSION ZONE
3. ADJOURN

This meeting conducted in a handicap accessible room.

Prepared by/
Izetta Grossman
City Clerk

Chief's Corner Article published in The Dalles Chronicle on November 25, 2017

Everyone has seen them. They are the men and women walking and talking to themselves, or yelling obscenities at no one in particular. Or sitting quietly in doorways, rocking back and forth, or sprawling on nests of dirty blankets on our sidewalks.

So intertwined are homelessness and mental health patients that it is impossible to focus on one without addressing the other. We are cycling the people in greatest need between the street, hospital emergency room, mental health out-patient programs, warming shelter, and jail at a great expense and often without real progress.

Many of our homeless population also have substance/alcohol issues that contribute or directly caused them to be homeless. These problems are difficult enough to treat and manage when the sufferer has a stable home and financial situation, but when the person has no way of getting to treatment appointments, paying for or managing a regimen of medications, and is constantly in the company of people with similar issues, treatment can be all but impossible.

The trend in recent years has been to create homeless drop-in centers, frequently as adjuncts to shelters, where police can take homeless people and have workers try and find a resolution to their situation. Sometimes, the solution is as simple as calling a relative who will take them in, then putting them on a bus. That solution is often cheaper than a single night in jail.

Our homeless problem is far beyond the reach of local law enforcement. Homelessness is a state wide, societal problem. Funding for the mentally ill, and substance abuse programs have either been cut or eliminated at the state level in favor of other services that are perceived as more critical.

So as your law enforcement, we recognize that homelessness itself is not a crime, but we do have a fundamental responsibility to deal with any persons who violate our laws and ordinances. There is a small percentage of our local homeless community that choose not to follow the laws and rules. There are numerous examples of persons who have been arrested upwards of 20 plus arrests for Theft, Trespassing, Indecent Exposure, and Assault. Whether homeless, or not homeless, that is unacceptable and we have an obligation to protect the many victims from these person's bad behavior.

The majority of our homeless community are law abiding and rarely have negative interactions with law enforcement. In most cases, if a person is homeless, we try to determine what the person needs. We work closely with Center for Living when dealing with someone who is mentally ill, even if they are committing a crime, we recognize that jail is not always the best solution. Our intentions are always try to find a solution to get the person the help they need.

Less than a month ago I observed one of our repeat offenders defecate on a very public side walk in the middle of the day. When I contacted him he said it was an emergency. I reminded him that he was only a minute walk from a public bathroom. I am aware this same person had

been arrested for urinating near the front doors of the Safeway in the middle of the day. I asked him what he needed to get off the street. He said nothing that he wanted to be homeless. He told me he was not mentally ill, that he did have an alcohol problem. He said he has family in town, but chooses to be on the street. I asked him what it would take to get him to quit going to the bathroom in public. He said there was nothing I could do to make him stop going to the bathroom in public. I asked him what his thoughts would be if the court requested he work off his charge by working with the county's work crew. He said there was no way he would do work crew. I am aware this person was just arrested again last week for urinating in public. Although, it makes me sad to see this person in such a bad way, it is inexcusable to allow a grown man to continue to expose himself in front of children and families in our community.

Unfortunately, we find homeless persons that don't want help and refuse to be held accountable when they continuously break the laws. The exclusion zones, or what I would rather refer to as "safety zones " would only be implemented after the court determines the person chooses not to accept help, refuses work crew, or fails to complete other forms of accountability.

Because these persons have not been held accountable for their continuous bad behavior we estimate approximately 10% of our calls to service are in response to these six to ten persons that we deal with almost daily. This is not good use of our resources and I would propose if the safety zones were implement and a person who had been notified by the court that they were not allowed to be in the safety zone violated the ordinance, they could potentially be sentenced to 30 days in jail.

If we hold the few bad actors accountable for their bad behavior, they will realize there are consequences in this community and they will either stop violating the minor crimes and ordinances, or go somewhere else.

By the way, if you are not homeless, the safety zones would apply to you too if you chose to continuously violate the law inside the safety zones.

We are asking you our citizens to please get involved, help us with the many homeless that may be mentally ill, fallen on tough times, or chose to be homeless, but don't break the laws. That is where we should be focusing our attention and resources as a community.

We as your law enforcement simply want better tools to keep our downtown safe and more abilities to deal with the criminal element, whether homeless, or not.

GENERAL ORDINANCE NO. 17-_____

**AN ORDINANCE ESTABLISHING CIVIL EXCLUSION ZONES,
ESTABLISHING A PROCESS FOR EXCLUSION AND AN APPEAL HEARING**

WHEREAS, the downtown area of the City of The Dalles includes a variety of commercial businesses offering services to the community, including local residents and visitors, as well as historic resources which attract tourists to the community; and

WHEREAS, illegal activities committed by individuals can have a negative impact upon local residents, visitors, and tourists who patronize local shops, restaurants, and businesses, and use public facilities such as the Lewis and Clark Festival Park and the Commercial Dock, affecting the economic well-being and quality of life for the community; and

WHEREAS, a tool commonly used by other cities to address these types of problems is the creation of civil exclusion zones which are established to protect the public from those persons who engage in illegal conduct which poses a threat to the safety and welfare of the general public, and has a detrimental impact upon the quality of life in the community; and

WHEREAS, the City Council has determined that adoption of an ordinance establishing a civil exclusion zone for a designated portions of the City is necessary and appropriate to protect the safety and welfare and quality of life of the general public;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE
DALLES ORDAINS AS FOLLOWS:**

Section 1. Establishment of Civil Exclusion Zones. Two civil exclusion zones are hereby established, with the boundaries of the zones as shown on the maps attached as Exhibits “A” and “B”. The boundaries of the zones are described as follows:

Zone #1:

Beginning at a point at the Southeast corner of the property adjacent to the property owned by the Northern Wasco County Parks & Recreation District (Assessor’s Map No. 1N 13E 4AA Tax Lot 600); thence North along the Park District’s property to a point intersecting with West Second Street; thence crossing West 2nd Street and the Union Pacific Railroad tracks along the Eastern boundary line of the property identified as Assessor’s Map No. 1N 13E 4AA Tax Lot 100, to the Northeast corner of said tax lot; thence West a distance of _____ feet along the North boundary of the property described as Assessor’s Map No. 1N 13E 3BB Tax Lot 100; thence North to the Northern boundary of West 1st Street; thence East along West 1st Street along a line which includes the City’s commercial dock, a distance of _____ to a point on the Northwest corner of the

property identified as Assessor's Map No. 1N 13E 3AC Tax Lot 100; thence South along the Eastern boundary of the property described as Assessor's Map No. 1N 13E 3AC Tax Lot 300, and continuing along the Eastern boundary of Taylor Street until it intersects with East 3rd Street; thence West along East 3rd Street to the point of beginning.

Zone #2:

Beginning at a point at the Southeast corner of the property adjacent to the property owned by the Northern Wasco County Parks & Recreation District (Assessor's Map No. 1N 13E 4AA Tax Lot 600); thence North along the Park District's property to a point intersecting with West Second Street; thence crossing West 2nd Street and the Union Pacific Railroad tracks along the Eastern boundary line of the property identified as Assessor's Map No. 1N 13E 4AA Tax Lot 100, to the Northeast corner of said tax lot; thence West a distance of _____ feet along the North boundary of the property described as Assessor's Map No. 1N 13E 3BB Tax Lot 100; thence North to a point on the South boundary line of the property described as Assessor's Map No. 2N 13E 34CC Tax Lot 400; thence West along the North boundary lines of the properties described as Assessor Map No. 2N 13E 34CC Tax Lots 400, 300, 200, and 100 to the intersection with West 1st Street; thence crossing over the Union Pacific Railroad tracks West, parallel with the Interstate 84 freeway; thence continuing West to a point past the intersection of West 2nd and Webber Streets; thence North along the West boundary line of Webber Street to the intersection with northern boundary of West 8th Street; thence East along West 8th Street to the intersection with the Eastern boundary of Cherry Heights Road; thence North to the intersection of Cherry Heights Road and the southern boundary of West 6th Street; then East along the Southern boundary of West 6th Street to a point adjacent to the West 3rd Place and Trevitt Street intersection; thence along the Northern boundary of West 3rd Place and continuing to the point of beginning.

Section 2. Civil Exclusion. A person is subject to exclusion for a period of ninety (90) days from entering or remaining in the civil exclusion zone described in Section 1 if that person has been cited to appear, arrested or otherwise taken into custody within a civil exclusion zone for any of the following offenses:

- A. Any assault, as defined by ORS 163.160 through 163.185, and ORS 163.208.
- B. Strangulation, as defined by ORS 163.187.
- C. Menacing, as defined by ORS 163.190.
- D. Harassment, as defined by ORS 166.065.
- E. Disorderly Conduct in the Second Degree, as defined by ORS 166.025.
- F. Recklessly endangering another person, as defined by ORS 163.195.

- G. Criminal Trespass in the Second Degree, as defined by ORS 164.245.
- H. Any sexual offense, as defined by ORS 163.355 through 163.465.
- I. Endangering the welfare of a minor, as defined by ORS 163.575.
- J. Unlawful use of marijuana or marijuana items in a public place, as defined by ORS 475B.280.
- K. Unlawful possession of marijuana or a marijuana product by any person under the age of 21 years, as defined in ORS 475.684.
- L. Any offense under state law governing the possession, use, distribution or sale of alcoholic beverages.
- M. Drinking in a public place as defined by General Ordinance No. 93-1175, section 2.
- N. Possession or using a weapon in violation of ORS 166.180, 166.190, 166.220, 166.240, 166.250, 166,272, or General Ordinance No. 93-1175, section 5.
- O. Discharge of a weapon within the city limits, as defined by General Ordinance No. 93-1175, section 4.
- P. Any degree of criminal mischief, as defined by ORS 163.305 through 164.365.
- Q. A graffiti-related offense, as defined in ORS 164.381 through 164.386.
- R. Arson or reckless burning as defined in ORS 164.305 through 164.335.
- S. Theft as defined in ORS 164.015 through 164.095.
- T. Littering as defined in ORS 164.775 through 164.805.
- U. Possession of tobacco by a minor in violation of ORS 167.400.
- V. Entry onto or remaining on public property within the boundaries of the exclusion zones described in Section 1, when the property is closed to the public between the hours of 7:00 PM to 7:00 AM.
- W. Public Indecency as defined in ORS 163.465.
- X. Illegal camping on public property as defined in Section 18 of General Ordinance No. 93-1162.

Section 3. Violation. If a person excluded from the civil exclusion zones is found within the boundaries of the civil exclusion zones described in Section 1 during the exclusion period, that person may be arrested for the offense of criminal trespass in the second degree. A person is not considered to be within a civil exclusion zone if the person is within an exclusion zone and the person is:

- A. In the act of obtaining social, medical, or like services;
- B. In the act of seeking employment or performing work directly related to lawful employment;
- C. Attending a public meeting;
- D. Attending a court hearing, meeting with an attorney or criminal justice personnel, or engaging in an activity ordered by a court;
- E. In the act of filing an appeal to an exclusion notice issued under this ordinance; or
- F. Attending religious services or otherwise exercising a constitutional right.

Section 4. Issuance of Exclusion Notices. The Chief of the City Police Department is designated as the person in charge of exclusion zones for the purpose of issuing exclusion notices in accordance with the provisions of this ordinance, and may authorize employees of the City Police Department to issue exclusion notices in accordance with this ordinance.

Section 5. Procedure for Exclusion.

- A. Written notice shall be given to any person excluded from a civil exclusion zone. The notice shall specify the area from which the person is excluded, the length of the exclusion, the offense(s) the person is accused of violating, and a description of the offending conduct. Warnings of consequences for failure to comply shall be prominently displayed on the notice. The notice shall include information on the time limit to file an appeal and the place to deliver the appeal. Unless otherwise provided in the exclusion notice, the term of exclusion shall take effect upon issuance.

Section 6. Appeal. A person receiving an exclusion notice shall have the right to a hearing to have the exclusion rescinded, the period of exclusion reduced, or to request a variance.

- A. An appeal of the exclusion must be filed, in writing, within five (5) calendar days of the issuance of the notice of exclusion. The appeal must be filed with

the clerk of the Municipal Court. A hearing on the appeal shall be held before the Municipal Court Judge within twenty (20) calendar days of the appeal.

B. The hearing may be rescheduled for good cause shown, but shall be rescheduled no later than five (5) additional business days from the request for rescheduling. If an appeal is timely filed, a period of exclusion shall be stayed, pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of exclusion shall be effective immediately upon issuance of the municipal court’s decision.

C. The City shall have the burden to show by a preponderance of evidence the validity of the exclusion. If the municipal court finds by a preponderance of the evidence that the exclusion was based upon the conduct proscribed by Section 2, and if the exclusion is otherwise in accordance with law, the municipal court shall uphold the exclusion. However, if the municipal court finds that the City has not met its burden of proof, or that the exclusion is otherwise unlawful, then the municipal court shall enter an order rescinding the exclusion. In the event the municipal court finds that the City has met its burden of proof, but that the length or scope of the exclusion is unreasonable under the circumstances, the municipal court may issue an order shortening the length of the exclusion or allowing for a variance. The decision of the municipal court is final.

Section 7. Variance.

A. The municipal court may in its discretion grant a variance to an excluded person at any time during the period of exclusion if the person:

1. Presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person’s exclusion;
2. Establishes that he or she resides within an exclusion zone; or
3. Presents a plausible need to obtain goods and services not otherwise available outside the exclusion zone to satisfy the person’s essential needs.

B. The variance shall be in writing, for a specific period of time and only to accommodate a specific purpose, all of which shall be stated on the variance. The excluded person shall keep the variance document on his or her person at all times the person is within the exclusion zone.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2017

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Abstaining, Councilors: _____

Absent, Councilors: _____

**AND APPROVED BY THE MAYOR THIS ____ DAY OF _____,
2017.**

Stephen E. Lawrence, Mayor

Attest:

Izetta Grossman, City Clerk

PROPOSED AMENDMENTS TO NUISANCE ORDINANCE TO ADDRESS ILLEGAL CAMPING

Section 18. Camping on Public Property. No person shall camp in or upon public property or public right-of-way, unless permission to camp is provided by the City. For purposes of this section, the following definitions apply:

- a. “Camp” means to set up, or to remain in or at a campsite, for the purpose of establishing or maintaining a temporary place to live.
- b. “Campsite” refers to those locations where bedding, sleeping bag(s), 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, or any vehicle or part thereof.
- c. “Camp structure” includes huts, lean-tos or tents used for shelter. Bridges, overpasses, or highway embankments do not by themselves constitute a camp structure.

Abatement and clean-up of illegal campsites shall be done in accordance with the policy and procedures adopted by the City Police Department.