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**AGENDA ITEM SUMMARY****SPRINGFIELD  
CITY COUNCIL**

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**Meeting Date:** 3/6/2023  
**Meeting Type:** Work Session  
**Staff Contact/Dept.:** Mary Bridget Smith/CAO  
**Staff Phone No:** 541-744-4061  
**Estimated Time:** 50 Minutes  
**Council Goals:** Mandate

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**ITEM TITLE:** CAMPING ORDINANCE UPDATE

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**ACTION REQUESTED:** Receive information about updating the City's camping ordinance including review of camping enforcement data.

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**ISSUE STATEMENT:** The City's camping ordinance is out of compliance with HB3115 and recent federal court rulings, and must be repealed or revised to include reasonable time, place, and manner restrictions by July 1, 2023.

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**ATTACHMENTS:** 1: Council Briefing Memorandum  
2: Camping Enforcement Data Information Sheet  
3: PowerPoint Presentation

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**DISCUSSION/ FINANCIAL IMPACT:** The Council has been evaluating its camping code in light of the HB3115 requirements. The purpose of this work session is to go over 2022 camping enforcement data, recap the previous discussion and provide additional direction so staff can return with a draft ordinance for the public hearing and first reading scheduled on April 17, 2023.

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## MEMORANDUM

City of Springfield

Date: 3/6/2023  
To: Nancy Newton, City Manager  
From: Mary Bridget Smith, City Attorney  
Subject: Camping Code/HB3115

COUNCIL  
BRIEFING  
MEMORANDUM

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**ISSUE:** The City's camping ordinance is out of compliance with HB3115 and recent federal court rulings, and must be repealed or revised to include reasonable time, place, and manner restrictions by July 1, 2023.

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### COUNCIL GOALS/

#### MANDATE:

Council Goals: Mandate

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#### BACKGROUND:

##### Legal Summary:

The City possesses a significant amount of real property and like many jurisdictions has historically regulated its various property holdings by prohibiting people from camping, sleeping, sitting or lying on its property, but that regulation must be re-examined in light of recent federal court rulings and the Oregon Legislature's enactment of HB3115.<sup>1</sup>

##### *Federal Case Opinions*

In *Martin v. Boise*, the U.S. 9<sup>th</sup> Circuit Court of Appeals interpreted the 8<sup>th</sup> Amendment of the U.S. Constitution to find that sitting, sleeping and lying outside is an unavoidable consequence of being homeless; therefore, governments could not criminalize homeless individuals for sitting, sleeping and lying outside. *Martin v. Boise*, 902 F3d 1031,1048 (2018). Later, the same court affirmed a lower court ruling *Blake v. City of Grants Pass* and found that persons experiencing homelessness are entitled to take necessary minimal measures to keep themselves warm and dry while sleeping outside. *Johnson v. City of Grants Pass*, 50 F.4th 787, 813 (9th Cir. 2022).

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<sup>1</sup> 195.530 Noncamping use of public property by homeless individuals; attorney fees. (1) As used in this section:(a) "City or county law" does not include policies developed pursuant to ORS 195.500 or 195.505.(b)(A) "Keeping warm and dry" means using measures necessary for an individual to survive outdoors given the environmental conditions. (B) "Keeping warm and dry" does not include using any measure that involves fire or flame. (c) "Public property" has the meaning given that term in ORS 131.705. (2) 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. (3) It is an affirmative defense to a charge of violating a city or county law described in subsection (2) of this section that the law is not objectively reasonable. (4) A person experiencing homelessness may bring suit for injunctive or declaratory relief to challenge the objective reasonableness of a city or county law described in subsection (2) of this section. The action must 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. (5) For purposes of subsections (2) and (3) of this section, reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness. (6) In any suit brought pursuant to subsection (4) of this section, the court, in its discretion, may award reasonable attorney fees to a prevailing plaintiff if the plaintiff:(a) Was not seeking to vindicate an interest unique to the plaintiff; and (b) At least 90 days before the action was filed, provided written notice to the governing body of the city or county that enacted

***HB3115***

Enacted in 2021, HB3115 (now ORS 195.530) codifies the principles from *Martin* and *Boise* requires cities and counties to revise their camping prohibitions with an implementation July 1, 2023 deadline.

**Data about Camping on Public Property in Springfield:**

Attachment 2 is an informational sheet about the City's 2022 illegal camping calls. When analyzing this data, keep in mind, it is limited to camping calls and does not include every interaction or citation involving someone experiencing homelessness nor does it include calls for trespass on private property. The data shows that overall camping calls are a small but increasing percentage (1.4%) of SPD's total calls. Nearly three quarters of the calls occur west of 28<sup>th</sup> Street and most are resolved short of an issuing a citation. Most enforcement is initiated by patrol officers, but Community Service Officers and CAHOOTS have also assisted. Almost a half of the calls included vehicles.

**Previous Discussion Summary:**

The following discussion summarizes the Council's discussions about potential code provisions and issues to consider.

***24-hour Time Limit/Personal Property***

The Council discussed implementing a 24-hour time limit and restricting personal property. These restrictions are related to preventing large and/or established camps from occurring on public property because these types of camps can create trash, hazardous materials, are inconsistent with the property's intended use and create conflict among community members. Some ways to limit these types of camps from being created include limiting the amount of personal property, a 24-hour time limit (or similar time limit) and a requirement to move periodically similar to parking regulations. Several communities have incorporated similar limits into their code, but one challenge with a time limit is enforcement. For example, it may not always be possible to check back in on a potential illegal camping situation within 24 hours or inclement weather could make enforcing such a time limit unreasonable.

***Warming Fires/Burning***

The Council had an initial discussion about warming fires and in the meantime has also received public testimony about this topic. One challenge with allowing warming fires is the increased fire risk of allowing individuals to openly burn on public land. Allowing warming fires also conflicts with other legal authorities like the Fire Code and LRAPA's regulations about open burning. For example, LRAPA prohibits outdoor burning in the Springfield UGB on properties of less than .5 acre. LRAPA does allow some recreational fires on private property, but a warming fire would not fall under its recreational fire definition.

Under the Fire Code, a warming fire would be considered a recreational fire but there are several requirements that are at cross purposes with homeless warming fires, such as being a certain distance from any structures and having an extinguisher or other equipment available. Since 2019, Eugene Springfield Fire has responded to an average of 105 calls per year for smoke, tent and trash bin fires. Finally, most of the examples of camping ordinances in other

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the law being challenged of an intent to bring the action and the notice provided the governing body with actual notice of the basis upon which the plaintiff intends to challenge the law. (7) Nothing in this section creates a private right of action for monetary damages for any person.

communities prohibit burning and SMC Section 5.292 already prohibits burning in parks, roads and parking lots.

#### *Sidewalk Access*

Many communities experience the friction between individuals experiencing homelessness sheltering on a public sidewalk and the needs of other people travelling on the sidewalk and accessing buildings by way of the sidewalk. In fact, a group of individuals recently sued the City of Portland for violating Title II of the ADA and Section 504 of the Federal Rehabilitation Act by allowing camping to occur on sidewalks to the extent that disabled persons cannot access the sidewalk. The City of Springfield does not have homeless individuals camping on sidewalks to the extent that Portland experiences, but Title II and Section 504 of the Federal Rehabilitation Act access provisions apply to the City sidewalk system. Springfield also regulates its sidewalks in this context. For example, SMC 5.270 prohibits people from obstructing building entrances and SMC 5.272 prohibits leaving injurious or unsightly materials on streets, parks and parking lots.

#### *Environmentally Sensitive Areas*

Being located close to two rivers and having a ground water supply creates many areas in Springfield that are environmentally sensitive whether it be wetland or riverbank. There are several ways the City could look at regulating camping in these areas. For example, the Water Quality and/or Wellhead Protection Maps may serve as a basis. There are also some laws that already regulate behavior in these areas such as ORS 164.775 which prohibits littering within 100 yards of (or directly in) state waters as defined by ORS 468B.005(10).<sup>2</sup>

#### *Other Regulations that Apply to Sheltering Outside*

When people experience homelessness and have to shelter outside, they are often subject to many regulations that would not typically apply to people who are able to live in a private residence. For example, the Springfield Municipal Code prohibits drinking and urinating in public, damaging shrubs, open burning and indecent exposure. The state also prohibits littering. The relevance of these code sections to amending the camping ordinance is that it will be important for the City to avoid incorporating provisions in the new camping code that are duplicative or inconsistent with existing municipal code or state statutes because it could create confusion over enforcement and be viewed as unreasonably overregulating persons experiencing homelessness.

#### *Shelter Availability*

One of the issues in *Martin v. Boise* was that people were being cited for illegal camping without first determining whether there was available shelter space. Now, the City of Boise has incorporated determining shelter availability into their process. Before issuing a citation, the police or designee must initiate contact with shelters on a daily basis to determine space availability and no citation may be issued unless the officer first confirms the shelter has available overnight space that can be used by the individual. Spaces are not available to an individual if they cannot stay there due to factors like a disability, minor children present, or a

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<sup>2</sup> “Water” or “the waters of the state” include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

religious activity requirement. This would be an additional enforcement step but recall that current low barrier shelter options for individuals in Springfield are low in number.

*Exceptions for Emergency Situations*

The Council discussed incorporating the ability of the City to modify or suspend enforcement in the event of an emergency or weather conditions. Several other communities have included similar provisions as well.

Next Steps:

The Council is scheduled to conduct a first reading on the draft code and hold public hearing at the April 17, 2023, regular session. To change the municipal code, ordinances must be read at two regular meetings and do not become final until after the second reading (often the second reading occurs on the next regular session consent calendar). This approach gives the Council enough time to consider an ordinance before adoption. The Council's options after the April 17<sup>th</sup> regular session include directing staff to make changes to the draft ordinance and bring back to a subsequent regular meeting for an additional reading or to place the draft ordinance on the consent agenda for adoption. The purpose of the public hearing is to provide an opportunity for the community to give input on the draft code. If the Council makes changes to the draft ordinance, it may also separately decide whether to hold a second public hearing.

Staff will also work on implementing the communication strategy discussed at the January 23, 2023, work session.

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**RECOMMENDED ACTION:** Provide direction on changing the illegal camping municipal code.

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*2022 Illegal Camping Calls for Service*

## 1. Calls for Service Comparison

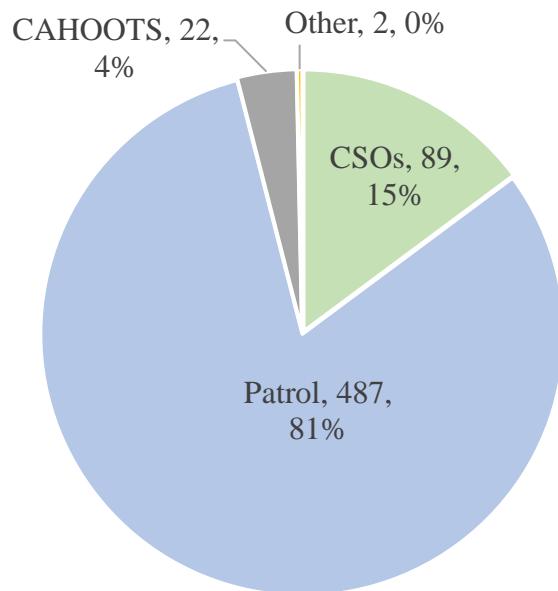
|  | 2019   | 2020   | 2021   | 2022   |
|--|--------|--------|--------|--------|
| <i>Total Calls for Service</i>                             | 54,922 | 50,172 | 50,157 | 49,921 |
| <i>Illegal Camping Calls</i>                               | 480    | 394    | 498    | 674    |
| <i>% of all Calls that were related to illegal camping</i> | 0.9%   | 0.8%   | 1.0%   | 1.4%   |

- Illegal Camping Calls were calls for service that were specifically designated as illegal camping (i.e. the “nature code” was illegal camping)

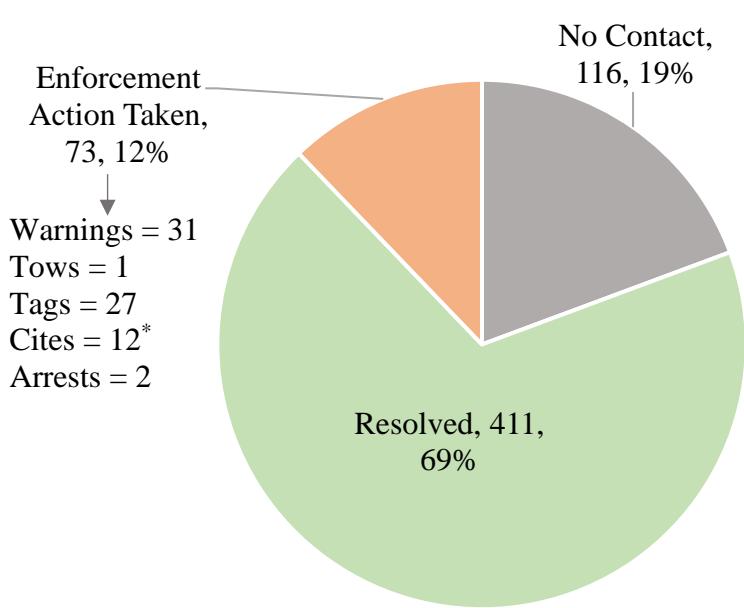
## 2. SPD Response

|                                |     |
|--------------------------------|-----|
| Total Illegal Camping Calls    | 674 |
| Dispatched Calls               | 600 |
| Not Dispatched/Info-Only Calls | 74  |
| Illegal Campers with a Vehicle | 327 |

- Illegal Campers with a Vehicle – calls where the officer added a vehicle plate.
- Responder pie chart displays primary/initial responders



### 3. Dispositions for Dispatched Calls



- No Contact – UTL, GOA, REL, etc. – Officers did not contact the offender(s).
- Resolved – ADVI, RESL, etc. – The issue was a misunderstanding or was resolved through discussion; no enforcement action taken.
- Enforcement Action Taken – TOW, CIT, ARR, etc. – some level of enforcement action was taken. The vehicle was towed, the offenders were cited or arrested, or the offenders were trespassing. Cites/arrests were not necessarily related to the illegal camping.\*

#### No Contact

UTL – Unable to Locate

GOA – Gone on Arrival

REL – Relayed

#### Resolved

ADVI – Advised

RESL – Resolved

UNFD – Unfounded

ASST – Assisted

PCHK – Patrol Check

WELC – Welfare Check

REPT – Report Taken

#### Enforcement Action Taken

TAG – Vehicle Tagged

TOW – Vehicle Towed

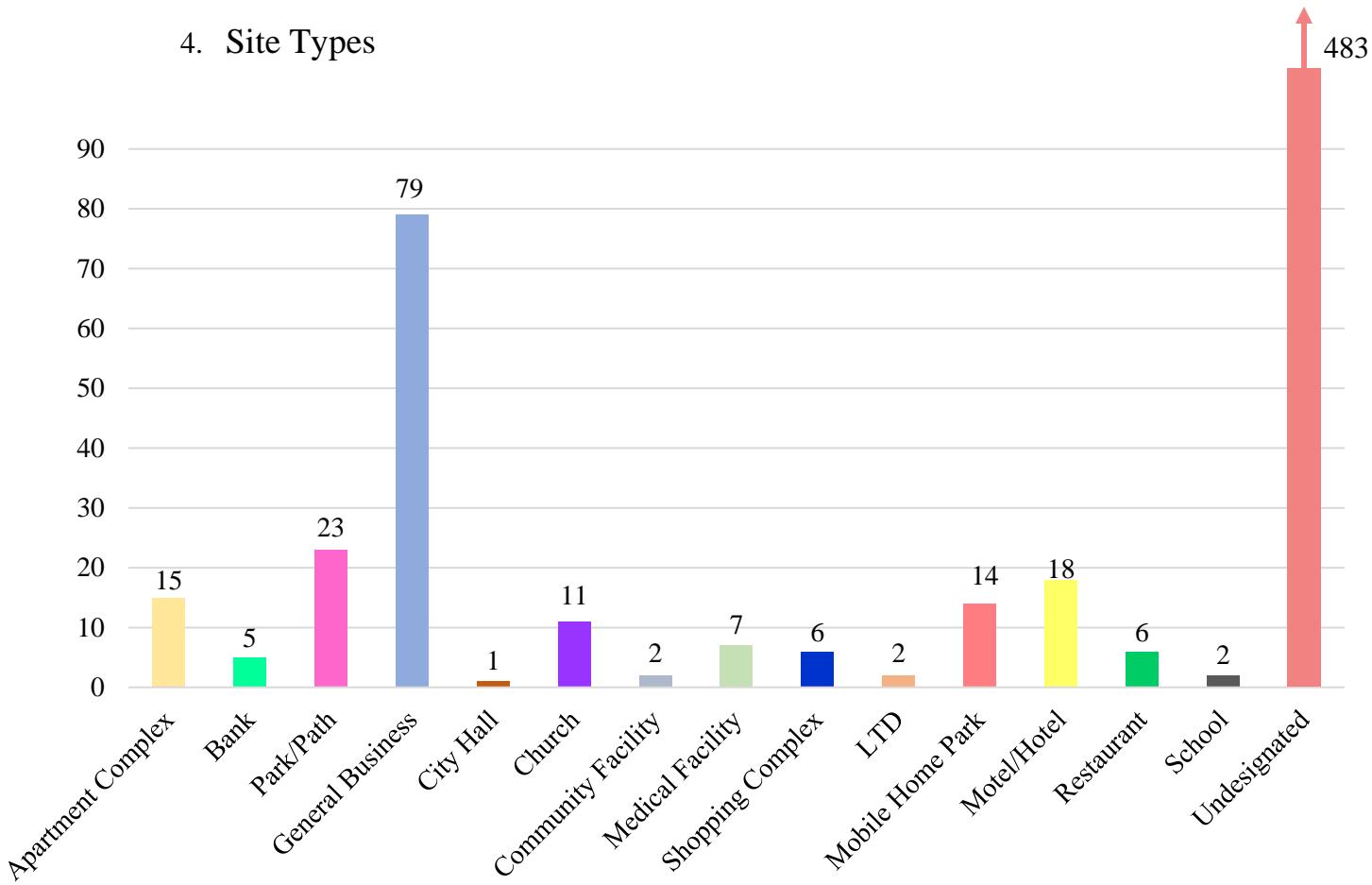
ARR – Arrest

WARN – Warning

CIT – Citation

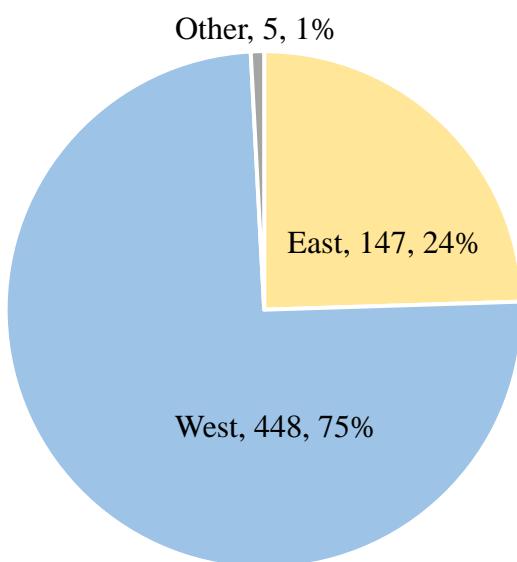
\*The cite count for Call Dispositions represents the number of times an illegal camping call resulted in a citation (for anything). SPD issued 16 citations for illegal camping. Illegal camping citations may have been given out on calls that did not have a nature code of illegal camping.

#### 4. Site Types



- Undesignated locations represent locations that were not geotagged to a registered business address. Undesignated locations include residential areas and curbsides.

#### 5. Districts



- “West” indicates west of 28<sup>th</sup> Street, and “East” indicates east of 28<sup>th</sup> Street.
- “Other” indicates addresses that were discovered to be on county/Eugene property

# Camping Ordinance and HB 3115

March 6, 2023

Presented by: City Attorney's Office

# Discussion Agenda

- This work session is intended to provide information about camping on public property and receive Council guidance on the revision of the City's camping code.
- This subsequent regular session in April will include a public hearing and first reading of the proposed ordinance and code.

# Legal Back Drop

A governmental entity cannot criminalize conduct that is an unavoidable consequence of being homeless – namely sitting, lying, or sleeping.

HB 3115 - Any city or county law that regulates the act 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.

# Initial Council Discussion

- 24-hour time limit
- ROW - safety issues with on-ramps, high traffic areas
- Burning/warming fires
- Flexibility to change areas in an emergency
- Limit storage of personal property
- Waterways/sensitive areas
- ADA access
- Maintain distance from other camping

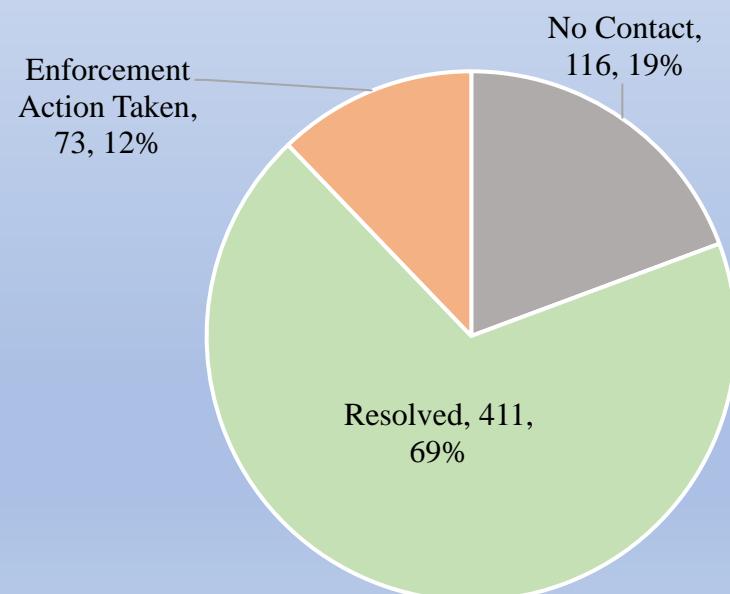
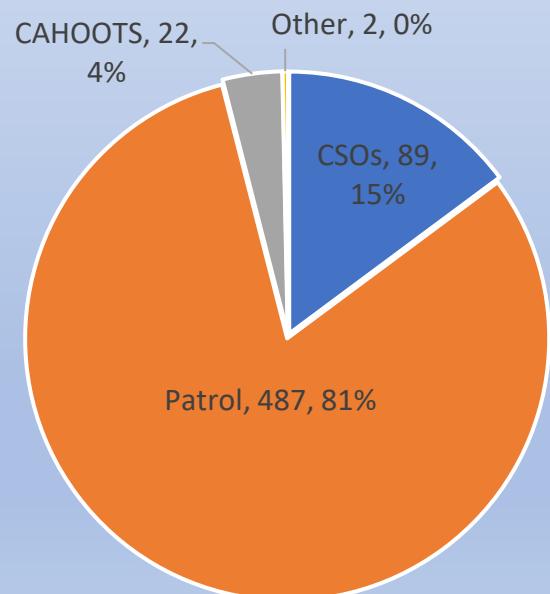
# Camping Enforcement Data

- Small percentage of SPD overall calls
- Increasing
- Half of the calls involve a vehicle

|                                |     |
|--------------------------------|-----|
| Total Illegal Camping Calls    | 674 |
| Dispatched Calls               | 600 |
| Not Dispatched/Info-Only Calls | 74  |
| Illegal Campers with a Vehicle | 327 |

# Camping Enforcement Data Con't

- Most occur west of 28<sup>th</sup> Street
- Mostly patrol response with little enforcement



# Conclusion

- This area of the law is developing
- Next - Public Hearing on new code  
4/17/2023
- Next - focus on community input