

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to City responses to people who are homeless living on public property; setting standards and procedures for remedying unsafe conditions and protecting the rights and property of homeless individuals.

..body

WHEREAS, neighborhoods and communities in the City of Seattle, both sheltered and unsheltered, are increasingly experiencing negative impacts from the crisis of homelessness; and

WHEREAS, the condition and/or location of outdoor living spaces can raise public health and/or safety concerns to which the City must respond; and

WHEREAS, removing outdoor living spaces when there is not sufficient adequate and accessible alternative housing exacerbates the hazards facing unsheltered individuals and fails to address neighborhood concerns;

WHEREAS, the long-term solution for homelessness is a “housing first” approach that provides sufficient adequate and accessible permanent housing for people who are homeless;

WHEREAS, finding permanent and sustainable housing for homeless individuals is a priority for the City, as is avoiding additional harm to those who are living unsheltered;

WHEREAS, homelessness is a public health crisis causing increased disease and premature death for people who are homeless;

1 WHEREAS, the January 29, 2016, One Night Count found 2,942 individuals sleeping
2 unsheltered in Seattle, an increase of 4.6 percent from the previous year and part of a 67
3 percent increase in unsheltered homelessness in Seattle since 2011;

4 WHEREAS, the City's lack of sufficient adequate and accessible housing to accommodate the
5 needs of all people experiencing homelessness has led to unauthorized outdoor living
6 spaces in the City;

7 WHEREAS, in 2013, the City's Human Services Department found disproportionality of
8 homelessness among people of color and other groups such as veterans and LGBTQ
9 individuals;

10 WHEREAS, the City is committed to protecting the civil rights as well as the public health and
11 safety of all people, including those experiencing homelessness;

12 WHEREAS, no person should suffer or be subject to unfair discrimination or arbitrary treatment
13 based on housing status;

14 WHEREAS, in response to the increase in the number of people experiencing homelessness, the
15 Mayor declared a Civil Emergency on Homelessness in November 2015 that called for
16 federal and state assistance, as well as innovative and proactive strategies to assist those
17 in need;

18 WHEREAS, shelter will continue to remain a critical and life-saving service, particularly during
19 times of individual crisis or severe weather; and

20 WHEREAS, it is the intent of this body to provide clear procedures to ensure that the City can
21 respond appropriately and adequately to needs of individuals as well as the health and
22 safety of all neighborhoods, and to emergency situations, without subjecting unsheltered
23 individuals to greater hardships; NOW, THEREFORE,

1 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

2 Section 1. Task Force Principles. The Council and Mayor hereby adopt the principles
3 consistent with the criteria of this ordinance that were recommended by the Task Force on
4 Unsanctioned Encampment Cleanup Protocols; Attachment A to this Ordinance is the full list of
5 those adopted principles by Task Force on Unsanctioned Encampment Cleanup Protocols.

6 Section 2. Requirements for Removal of Unsheltered Persons Living Outdoors.

7 A. Purpose. The purpose of section 2 of this ordinance is to establish
8 enforcement procedures for the removal of unsanctioned encampments on public property that
9 increase the stability of and reduce harm to unsheltered individuals living outside within the
10 Seattle city limits; protect the public health, safety and welfare of all Seattle residents, whether
11 sheltered or unsheltered; protect the civil liberties of unsheltered persons, and established
12 procedural requirements for protecting and safeguarding personal property.

13 B. Enforcement of criminal codes and duties of first responders. Nothing in
14 the ordinance shall be interpreted as preventing or discouraging the Seattle Police Department
15 from enforcing laws against criminal conduct. The Seattle Police Department, Fire Department
16 and other first responders shall respond appropriately to emergency situations, such as fires,
17 crimes, or medical crises and shall cooperate with other public safety agencies in accordance
18 with operative mutual aid agreements.

19 C. Definitions. The following definitions shall apply throughout this Ordinance.

20 “Adequate and accessible housing” means, at a minimum, living space:

21 (1) Where a person has both the right to reside and keep belongings on an
22 ongoing, long-term basis at any time of day or night;

23 (2) That meets living standards commonly acceptable to society, and includes

1 safety from other individuals, the elements, and exposure to disease or filth, room to move
2 about, storage space for belongings, the ability to maintain current household composition,
3 accommodation for physical or mental limitations, and access to hygiene facilities; and

4 (3) That is actually accessible to the individual who is or will be living in that
5 space, including that the individual must not be barred as a result of criminal background,
6 treatment status, ability to show identification, household composition, physical or mental
7 limitations, substance use disorder, or otherwise.

8 “City” means The City of Seattle and any of its contractors, agents, employees, or
9 partners acting in that capacity.

10 “Hazardous condition” means a condition that creates an imminent public health or
11 safety harm. The public health or safety harm must be created by the presence of a
12 particular condition and not a generalized harm common to all who are unsheltered.

13 “Household” means any number of related persons or a group of eight or fewer
14 unrelated individuals who wish to live together. A household includes pets, but pets are not
15 counted towards the number of persons in a household.

16 “Outdoor living space” means any outdoor public space that homeless individual(s)
17 use to live or sleep in, as evidenced by the presence of a sleeping bag, shelter, tarp, tent, bed,
18 cardboard, metal sheeting, furniture, or other objects demonstrating an intent to live in the
19 location for one or more days, whether or not continuously.

20 “Personal property” means any item which an individual owns and which might have
21 value or use to that individual, regardless of whether the item is left unattended for temporary
22 periods of time or whether it has monetary value. This does not include weapons other than
23 knives, contraband, items which pose an obvious health or safety risk, or are clearly

1 contaminated in a way which a reasonable person would conclude the items should not be stored
2 with other property. Personal property includes non-rigid materials used for shelter, such as
3 tents and tarps, but does not include building materials, such as wood products, metal, or rigid
4 plastic.

5 “Public space” means any area within the City limits which is owned, leased, maintained,
6 controlled, or managed by the City, and does not include Public Development Authorities,
7 privately owned land, public schools and colleges, the University of Washington, the Port of
8 Seattle, or entities formed under the authority of RCW 35.21.730, et seq., RCW 36.100 or
9 RCW Ch.36.102.

10 “Qualified outreach program” means a social service program with adequate
11 oversight, training, and clinical supervision to conduct sufficient individualized outreach, and
12 that the City contracts with or provides. Such programs shall have an established record of
13 providing sustained, equitable, person-centered care, and staff providing services shall have
14 training in the following areas: working with people with behavioral health issues including
15 substance use disorder, mental disorders, or both; trauma-informed care, including people
16 who have experienced or are experiencing gender- and gender-identity-based violence and
17 violence based on sexuality; outreach, assessment, and engagement; harm reduction practices
18 (including but not limited to safe needle exchange, use, and disposal, carrying and dispensing
19 Narcan, informing individuals of rights (Good Samaritan Law) and treatment options
20 (Buprenorphine and Methadone); cultural competence; confidentiality and grievance
21 procedures; and may include peer coaches that include adequate oversight and clinical
22 supervision. “Removal” means action to remove people, camps, structures, or personal
23 property located at outdoor living spaces.

1 “Specific public use” means lawful, appropriate use that benefits, assists, or is enjoyed by
2 members of the public more than incidentally and occasionally.

3 “Sufficient individualized outreach” means individualized, person-centered outreach
4 that responds to the unique needs of each person. Sufficient outreach involves: (1) making an
5 individual assessment of each affected individual, which includes, but is not limited to,
6 considerations of household composition; disability; mental illness or other mental or emotional
7 capacity limitations; substance use or treatment status; geographic needs, such as proximity to
8 personal support, healthcare, employment and other geographic considerations; and ongoing
9 support needs; (2) identifying and offering adequate and accessible housing, if available, based
10 on this individual assessment; and (3) if an offer is accepted, providing assistance with both the
11 administrative and logistical aspects of moving into the identified adequate and accessible
12 housing. Outreach will identify, wherever possible, the name of the individual and add that
13 person to the by-name list to be prioritized through the Homeless Management Information
14 System or other coordinated entry data-collection program.

15 “Unsafe location” means a public space that poses imminent danger of harm to
16 individuals residing in that location or to the general public. The danger of harm must be
17 created by the existence of the specific outdoor living space at that particular location and not
18 generalized danger of harm common to all who are unsheltered. Unsafe locations include, but
19 are not limited to, rights-of-way in industrial areas actively used for transporting people or
20 goods and for providing ingress and egress to real property.

21 “Unsuitable location” means a public space that has a specific public use that is
22 substantially impeded as a result of an outdoor living space in that location. Improved areas of
23 City parks, including restored natural areas or natural areas actively undergoing restoration,

1 and public sidewalks in front of houses and dwelling units are per se unsuitable. Sidewalks in
2 commercial areas are prohibited to sitting and lying during certain hours under SMC
3 15.48.040.

4 D. Outdoor living spaces that are unsafe or unsuitable. If an outdoor living
5 space is in an unsafe or unsuitable location, the City may undertake immediate removal action if
6 conducted in accordance with the procedures set forth in this section.

7 1. Prior to conducting removal actions based on unsafe or
8 unsuitable locations, the City must do the following.

9 a. The City must inform all individuals staying at such
10 location the reasons that it is unsafe or unsuitable.

11 b. The City must identify and make available to all
12 affected individuals who are present a nearby, alternative public space owned or controlled
13 by the City to camp that is not unsafe or unsuitable.

14 c. The City must conduct sufficient individualized
15 outreach by a qualified outreach program unless circumstances preclude doing so prior to
16 removal.

17 d. If affected individuals are not present, the City must
18 sequence removal actions as follow:

19 1. First, the City may attempt to move personal
20 property to a nearby location that is visible from the unsafe and unsuitable location and
21 that does not unreasonably interfere with a specific public use, and provide written notice
22 that identifies alternative public space owned or controlled by the City that is not unsafe or

1 72 hours to cure the hazardous condition before posting notice of removal, and shall not
2 conduct removal if the hazardous conditions have been cured.

3 d. Conduct site visits by City staff to: (a) inform all
4 affected individuals prior to or during the cure period that the location has a hazardous
5 condition and the actions needed to cure that condition; and (b) inform all affected
6 individuals whether the hazardous condition has been remedied after the cure period or, if
7 the hazardous condition has not been remedied after the cure period, the reason it has not
8 been remedied and next actions.

9 e. The City must conduct sufficient individualized
10 outreach by a qualified outreach program unless circumstances preclude doing so prior to
11 removal.

12 2. If after 72 hours the hazardous condition has not been cured,
13 the City shall provide 48-hour notice of removal that meets the requirements of subsection
14 2.G of this ordinance.

15 F. Outdoor living spaces that are not unsafe or unsuitable. If an outdoor
16 living space is not in an unsafe or unsuitable location, the City may undertake a removal
17 action only when the City has satisfied the following conditions:

18 1. Adequate and accessible housing is available at the time of
19 removal or at the time of voluntary departure, to any individuals whose persons and/or
20 personal possessions are being removed.

21 2. The affected individuals have been engaged with sufficient
22 individualized outreach by a qualified outreach program over a period of up to 30 days, to
23 allow anyone interested to move voluntarily to adequate and accessible housing.

1 3. The City has provided written notice meeting the requirements
2 of subsection 2.G of this ordinance.

3 G. Notice procedures. Prior to removing an outdoor living space the City
4 must provide notice meeting the following requirements.

5 1. Notice must include the following information:

6 a. The specific date and time the anticipated removal will
7 take place;

8 b. Explanation of the actions that will be taken during the
9 removal and how loss of personal property can be avoided;

10 c. Information about where personal property will be
11 safeguarded if seized during the removal and how it can be retrieved after removal;

12 d. Contact information for the qualified outreach
13 program that will work with that site; and

14 e. For locations that are not unsafe or unsuitable, a
15 statement that removal will not occur in the absence of adequate and accessible housing for
16 all affected individuals, and information about how the housing options can be accessed.

17 2. Notice must be provided in languages likely to be spoken by
18 impacted individuals, and through methods capable of being understood by persons with
19 physical and mental disabilities.

20 3. Notice must be posted in a conspicuous location at the relevant
21 outdoor living space, as well as affixed to all tents and structures used for shelter at that
22 location.

1 4. If removal is from an unsafe or unsuitable location or a location
2 with a hazardous condition, notice will inform individuals of other available space in adequate
3 and accessible housing, authorized encampments or in other public spaces where removal will
4 not occur due to safety or unsuitability.

5 H. Standards for removing, storing, and safeguarding personal property.

6 During a removal, the City will safeguard all personal property free of charge according to the
7 following requirements.

8 1. For individuals present at the time of the removal who do not have
9 the ability to transport their personal property, the City shall transport all personal property to the
10 alternative public space owned or controlled by the City.

11 2. For individuals who are absent at the time of the removal or who
12 are present but who do not wish to move to the alternative public space owned or controlled by
13 the City and do not have the ability to transport their personal property, the City will safeguard
14 all personal property as follows:

15 a. Personal property must be photographed and catalogued by
16 location and with identifying details of the personal property prior to being put into storage.
17 Such information must be searchable by computer and by calling a City agent.

18 b. The location of the storage facility must be accessible by
19 public transportation and accessible to those with disabilities.

20 c. The location's operating hours must extend beyond normal
21 business hours to accommodate those who work or have other obligations during midweek
22 during normal business hours.

1 d. Photo identification shall not be required as a condition of
2 retrieval.

3 e. The City must post notice for 60 days at the location of the
4 removal with the location of the seized personal property and instructions for reclaiming such
5 personal property.

6 f. Within 24 hours of the removal, a City agent or employee
7 must return to the site and seek to inform individuals of how to retrieve their items.

8 g. After 60 days, the City may dispose of any unclaimed
9 personal items provided all the requirements of subsections 2.E.2.a-f of this ordinance have
10 been met.

11 h. The City may establish a program where personal property
12 is delivered to individuals within 24 hours.

13 I. Penalties. Failure by the City or any of its partners, agents, or contractors to
14 follow the requirements of this ordinance shall result in a penalty paid by the City to each affected
15 individual of \$50 per violation, in addition to any actual damages incurred. The Seattle Office for
16 Civil Rights shall be charged with the oversight, investigation, and enforcement of the provisions
17 of this ordinance.

18 J. Rulemaking. The Executive is authorized to promulgate such rules and
19 protocols as are reasonably necessary for implementation. Rulemaking should be guided by the
20 provisions of section two of this ordinance; and the specific guidance set out below:

21 Personal Property – The Executive is authorized to promulgate by rule protocols
22 to respond to circumstances where the size of personal property would make it
23 impracticable for the City to transport and store the personal property.

1 Section 3. Encampment Removal Prioritization and Work Program. The Council
2 requests that the Mayor prioritize removals from unsafe and unsuitable locations and from
3 locations with hazardous conditions, subject to the provisions in section two of this ordinance,
4 and deprioritize removals from locations that are not unsafe and unsuitable. The Mayor shall
5 report to the Human Services and Public Health Committee on progress towards implementing
6 the requirements in section two of this ordinance and the work program by January 16, 2017.

7 Section 4. Sunset Clause. In keeping with the recognition that public camping as a
8 substitute for permanent housing is detrimental to the health and safety of all, and that these
9 measures are an interim response to a situation the City is expected to resolve through other
10 policy measures, the provisions in section 2 of this ordinance shall expire 24 months after its
11 effective date unless expressly extended by the City Council.

12 Section 5. Individuals Using Vehicles as Residences. The 2016 one night count of
13 unsheltered homeless identified over 900 people using vehicles as residences. The
14 unsheltered population living in vehicles faces similar instability to those who reside in
15 outdoor living spaces and risk impoundment of their vehicles and loss of personal property.

16 The Human Services and Public Health Committee and the Gender Equity Safe Communities
17 and New Americans Committee of the Council shall draft, consider, and introduce to the full
18 Council legislation in 2017, based on the same principles contained in this ordinance,
19 coupled with a long-term goal of providing adequate housing for those individuals living in
20 vehicles. The legislation should address the multiple ordinances and laws that govern parking
21 throughout the City with the goal of providing stability and protections for those people
22 using vehicles for shelter commensurate to those established in this ordinance. To achieve
23 that goal, the legislation will provide to people living in their vehicles protected areas for

1 parking and modifications of parking standards, provide for outreach to address the reasons
2 for homelessness, and establish standards for notice and safeguarding personal property,
3 including impounded vehicles, equivalent to those established in this ordinance. The
4 Committees named above shall be tasked with proposing legislation that meets these
5 purposes to the Full Council by April 30, 2017.

6 Section 7. Implementation and Advisory Committee. To ensure the ordinance meets the
7 goals of protecting the public health, public safety, and civil rights of all people, including those
8 experiencing homelessness, the City shall establish an Implementation and Advisory Committee
9 (“Committee”).

10 A. The functions and duties of the Committee shall be to:

11 1. Advise the Mayor, Council, and relevant departments of concerns and issues
12 with regard to City’s removal actions, and provide recommendations, findings, or other reports
13 as appropriate related to such concerns and issues; and

14 2. Review proposed implementation plans and guidelines, and provide comments
15 regarding the same to department staff charged with contracting outreach workers, notice,
16 storage, etc...

17 B. The Committee shall consist of 11 members. The Mayor shall appoint one member.
18 Each Councilmember shall appoint one member and the Council collectively shall appoint one
19 member. The members will be appointed to serve staggered three 3 year terms and may be
20 reappointed to subsequent terms. Any vacancy in an unexpired term shall be filled in the same
21 manner as the original appointment. A member whose term is ending may continue on an interim
22 basis as a member with voting rights until such time as a successor for that position has been
23 appointed.

1 C. The Committee members should have current or recent (within the last five years)
2 professional, personal, or research experience associated with provision of services to individuals
3 experiencing homelessness, or with public health or public safety.

4 D. The Director of the Human Services Department and the Director of the Finance and
5 Administrative Services Department shall assign at least one staff member to support the work of
6 the Committee. A representative of various City Departments, including but not limited to the
7 Office for Civil Rights, Parks and Recreation Department, Seattle Police Department,
8 Department of Transportation, and/or the City Attorney's Office, shall attend the committee
9 meetings upon request of the Committee.

10 Section 8. Collaboration with other entities. The City will only direct, engage, cooperate,
11 or contract with any other entity to engage in any removal action in accordance with this
12 ordinance. The Mayor is directed to negotiate with Washington State, King County, and any
13 other relevant public landowning entities a Memoranda of Understanding establishing that City
14 employees will assist other public entities in managing their properties within the City only in a
15 manner consistent with the principles and requirements of this ordinance, and to ensure that
16 regular inspection, maintenance, and scheduled or emergency repairs to roads, highways, and
17 related infrastructure on other governmental and public entity-owned lands within the City of
18 Seattle are carried out in a manner consistent with the principles set forth in this ordinance.

19 Section 9. Community response line

20 A. For the benefit of all City residents, the City has an interest in preventing the
21 build-up of garbage, human waste, and other refuse at outdoor living spaces and other
22 public spaces. The [Reserved] shall serve as the coordinating entity for requests for clean-
23 up and/or basic services.

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Monica Martinez Simmons, City Clerk

2 (Seal)

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4 Attachments:

5 Attachment A - Principles from the Task force on Unsanctioned Encampment Cleanup Protocols

6 Attachment B 0 Work Program

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- 1 9. When required due to unsafe and unsuitable locations, the moving of people should be
2 respectful of individuals and their belongings, but also administratively and logistically
3 feasible to complete in a reasonable period of time.
- 4 10. The City should enter into memorandums of understanding with all applicable public
5 agencies, including the State, to establish common protocols and procedures when it is
6 necessary to disband an encampment.
- 7 11. The City should prohibit encampments and intervene expeditiously in unsafe location.
- 8 12. The City should intervene expeditiously to correct conditions or disband an encampment
9 in the case of hazardous conditions.
- 10 13. In the case of unsuitable locations with an intended public use as defined in legislation
11 and rulemaking, encampments are prohibited and intervention should be expeditious.
- 12 14. People in low impact encampments should receive the services required to remain safe
13 and low impact.
- 14 15. The City commits, through policies and procedures, to both reduce friction between
15 encampments and neighborhoods and to implement successful interventions to preserve
16 health and safety for all.
- 17 16. Outreach to people living in encampments should be well-resourced, well-documented,
18 incorporate robust and consistent engagement, inter-agency communication, and data
19 sharing.
- 20 17. Outreach to people living outdoors should involve formerly/currently homeless people as
21 part of the action and connect people to ongoing services and housing.