

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, RCW
9 Ch.36.102, or RCW 35.82.

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.

23 “Removal” means action to remove people, camps, structures, or personal property

1 located at outdoor living spaces.

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

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

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

22 “Unsuitable location” means a public space that has a specific public use that is
23 substantially impeded as a result of an outdoor living space in that location. Improved areas of

1 City parks, including restored natural areas or natural areas actively undergoing restoration,
2 and public sidewalks in front of houses and dwelling units are per se unsuitable. Sidewalks in
3 commercial areas are prohibited to sitting and lying during certain hours under SMC
4 15.48.040.

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

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

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

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

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

18 d. If affected individuals are experiencing mental or
19 physical health issues and the removal would exacerbate such issues, then the qualified
20 outreach program will formulate a collaborative strategy to provide a removal plan that
21 minimizes the harm to affected individuals.

22 e. If affected individuals are not present, the City must

1 sequence removal actions as follow:

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

7 2. Second, after 24 hours the City shall remove
8 personal property, subject to the requirements for removal and storage in subsection 2.H of
9 this ordinance, and after posting notice at the location of the removal with instructions for
10 reclaiming personal property.

11 E. Outdoor living spaces that have hazardous conditions. If an outdoor living
12 space is not in an unsafe or unsuitable location but there are hazardous conditions, the City may
13 undertake removal action if conducted in accordance with the procedures set forth in this Section.

14 1. Prior to conducting removal actions based on a hazardous
15 condition or hazardous conditions, the City must do the following:

16 a. For at least 72 hours, provide access to basic garbage,
17 sanitation, and harm reduction services, including emptying receptacles, picking up garbage
18 bags and containers provided for refuse and disposal of sharps, as dictated by the nature of the
19 hazardous condition.

20 b. Make reasonable efforts to identify the likely source
21 of the hazardous condition and take action against only those responsible for creating the
22 hazardous condition.

23 c. Provide a meaningful opportunity to cure the

1 hazardous condition, including: (a) an effective cure notice of the specific conditions that
2 create the hazardous condition and information on how that condition can be remedied;
3 and (b) provision of necessary items, such as garbage bags and bins, gloves, rodent traps,
4 intravenous needle receptacles, and/or portable toilets, among others, that would allow
5 the individuals to cure the hazardous condition. The City must allow individuals at least
6 72 hours to cure the hazardous condition before posting notice of removal, and shall not
7 conduct removal if the hazardous conditions have been cured.

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

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

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

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

23 1. Adequate and accessible housing is available at the time of

1 removal or at the time of voluntary departure, to any individuals whose persons and/or
2 personal possessions are being removed.

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

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

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

10 1. Notice must include the following information:

11 a. The specific date and time the anticipated removal will
12 take place;

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

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

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

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

22 2. Notice must be provided in languages likely to be spoken by

1 impacted individuals, and through methods capable of being understood by persons with
2 physical and mental disabilities.

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

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

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

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

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

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

20 a. Personal property must be photographed and catalogued by
21 location and with identifying details of the personal property prior to being put into storage.

22 Such information must be searchable by computer and by calling a City agent.

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

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

6 d. Photo identification shall not be required as a condition of
7 retrieval.

8 e. The City must post notice for 60 days at the location of the
9 removal with the location of the seized personal property and instructions for reclaiming such
10 personal property.

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

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

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

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

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

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

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

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

18 Section 5. Individuals Using Vehicles as Residences. The 2016 one night count of
19 unsheltered homeless identified over 900 people using vehicles as residences. The
20 unsheltered population living in vehicles faces similar instability to those who reside in
21 outdoor living spaces and risk impoundment of their vehicles and loss of personal property.
22 The Human Services and Public Health Committee and the Gender Equity Safe Communities
23 and New Americans Committee of the Council shall draft, consider, and introduce to the full

1 Council legislation in 2017, based on the same principles contained in this ordinance,
2 coupled with a long-term goal of providing adequate housing for those individuals living in
3 vehicles. The legislation should address the multiple ordinances and laws that govern parking
4 throughout the City with the goal of providing stability and protections for those people
5 using vehicles for shelter commensurate to those established in this ordinance. To achieve
6 that goal, the legislation will provide to people living in their vehicles protected areas for
7 parking and modifications of parking standards, provide for outreach to address the reasons
8 for homelessness, and establish standards for notice and safeguarding personal property,
9 including impounded vehicles, equivalent to those established in this ordinance. The
10 Committees named above shall be tasked with proposing legislation that meets these
11 purposes to the Full Council by April 30, 2017.

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

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

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

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

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

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

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

17 Section 7. Collaboration with other entities. The City will only direct, engage, cooperate,
18 or contract with any other entity to engage in any removal action in accordance with this
19 ordinance. The Mayor is directed to negotiate with Washington State, King County, and any
20 other relevant public landowning entities a Memoranda of Understanding establishing that City
21 employees will assist other public entities in managing their properties within the City only in a
22 manner consistent with the principles and requirements of this ordinance, and to ensure that
23 regular inspection, maintenance, and scheduled or emergency repairs to roads, highways, and

1 related infrastructure on other governmental and public entity-owned lands within the City of
2 Seattle are carried out in a manner consistent with the principles set forth in this ordinance.

3 Section 8. Community response line

4 A. For the benefit of all City residents, the City has an interest in preventing the
5 build-up of garbage, human waste, and other refuse at outdoor living spaces and other
6 public spaces. The Executive shall designate an appropriate department or office to serve as
7 the coordinating entity for requests for clean-up and/or basic services.

8 B. The City shall investigate requests for a clean-up or a health and safety
9 inspection including a site visit if adequate information is provided that there may be a
10 legitimate concern about health and/or safety.

11 C. The City shall provide outreach, basic garbage, sanitation, and harm reduction
12 services upon request at outdoor living spaces containing more than five individuals.

13
14 Section 9. This ordinance shall take effect and be in force 30 days after its approval by the
15 Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
16 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

17 Passed by the City Council the _____ day of _____, 2016,
18 and signed by me in open session in authentication of its passage this _____ day of
19 _____, 2016.

20 _____
21 President _____ of the City Council

22 Approved by me this _____ day of _____, 2016.

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Edward B. Murray, Mayor

Filed by me this _____ day of _____, 2016.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

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

1 **Attachment A – Principles from the Task force on Unsanctioned Encampment Cleanup**

2 **Protocols**

- 3 1. When it is necessary to require people to move, there must be adequate and personalized
4 outreach.
- 5 2. When it is necessary to disband an encampment, all occupants will be offered a safe and
6 appropriate shelter option.
- 7 3. Low-barrier (person-centered), housing-focused shelter must be expanded, as well as
8 permanent housing options (buildings and rent assistance), to meet the threshold of
9 offering “safe and appropriate” housing or shelter for all.
- 10 4. Homelessness is a crisis in Seattle that demands urgent action by the public, private, and
11 non-profit sectors. The City’s approach to unsheltered homeless people should do no
12 further harm.
- 13 5. Action must be taken to enhance and reform the effectiveness of our current human
14 services system to achieve better outcomes and a significant reduction in the number of
15 people sleeping outside. The City needs a transition plan for this systemic transformation
16 with timelines and measurements.
- 17 6. The City of Seattle’s current approach to managing and removing encampments has
18 negatively impacted homeless individuals and neighborhoods and new protocols and
19 approaches are needed to make sure that our actions match our community values.
- 20 7. Any future approach to managing encampments needs to establish a mechanism to
21 measure and substantially respond to community impacts from encampments.
- 22 8. Increased funding and resources for housing, mental health, and drug treatment are
23 needed from the State and Federal levels to expand treatment housing and capacity.

- 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.