



ORDINANCE NO. 28756

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BY REQUEST OF MAYOR WOODARDS, DEPUTY MAYOR BLOCKER, AND COUNCIL MEMBER THOMS

AN ORDINANCE relating to public health and safety; amending Title 8 of the Tacoma Municipal Code by enacting a new Chapter 8.19 thereto, to be known and designated as "Use of Public Property"; and providing for severability.

WHEREAS it is the intent of this ordinance to provide for and promote the health, safety, and welfare of the general public and not to create, either expressly or implicitly, or otherwise establish or designate any particular class or group of persons or individuals who will or should be especially protected or benefited or discriminated against by the terms of this chapter, and

WHEREAS it is the City Council's intent that camping on public property is a public health and safety concern due to interference with other intended uses, such as daily operations of the City; park recreational activities; pedestrian, bicycle, and vehicular traffic; and other public uses, and

WHEREAS it is the City Council's intent that camping without adequate sanitation services, such as sewer, water, and garbage, presents a public health and safety concern due to increased risk of spread of disease and potential for residents and visitors contracting illness, and

WHEREAS it is the City Council's intent that this ordinance will provide for and promote the health, safety, and welfare of the general public and not to create, either expressly or implicitly, or otherwise establish or designate any particular class or group of persons or individuals who will or should be



1 especially protected or benefited or discriminated against by the terms of this
2 ordinance; additionally, the purpose of this ordinance is to divert calls to the City
3 requesting enforcement of criminal laws to using these calls for service to locate
4 and provide shelter for persons currently experiencing homelessness, and

5 WHEREAS camping in such public property areas does not allow the
6 public to use those areas for their intended purposes, and

7 WHEREAS it is the City Council's intent that this ordinance will provide
8 that camping should only occur in designated campgrounds with proper
9 facilities, when possible, and

10 WHEREAS the homeless population in the Puget Sound region
11 continues to grow, and the City has experienced increasing use of its parks and
12 public spaces property for camping and the storage of personal property, and

13 WHEREAS the City is committed to creating adequate acceptable
14 shelter to meet current and future shelter needs, complying with CDC
15 recommendations, including options for clean and sober, harm reduction, sites
16 with pets, sites accommodating existing communities, low barrier sites, and
17 sites for just one person, and

18 WHEREAS it is the City Council's intent that the City meet with
19 stakeholders and work to determine how best to develop and modify as
20 necessary rules related to the enforcement of this ordinance, and

21 WHEREAS, pursuant to *Martin v. City of Boise*, 920 F.3d 584 (9th Cir.
22 2019), the Ninth Circuit Court of Appeals determined that the United States
23 Constitution prohibits the imposition of penalties for sitting, sleeping, or lying
24



1 outside on public property, on homeless individuals who could not obtain
2 shelter, and

3 WHEREAS it is the City Council's intent to use non-police responders to
4 contact homeless individuals using public areas for camping and activities of
5 daily living by offering acceptable sheltering alternatives and transportation to
6 acceptable shelters and, if refused, describe consequences of refusing
7 acceptable shelter, and

8
9 WHEREAS it is the City Council's intent to limit the use of police to
10 enforce where homeless individuals using public areas for camping and
11 activities of daily living to situations where acceptable sheltering alternatives
12 and (as necessary) transportation to acceptable shelters has been offered by
13 nonpolice responders and refused, and

14
15 WHEREAS, in the use of police enforcement of public areas for unlawful
16 camping, it is the intent of the City Council that for homeless individuals the
17 municipal court not impose a penalty or fine and allow for the prompt
18 expungement of any criminal record created that would interfere with future
19 attempts of homeless individuals to enter into permanent housing, and

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21 WHEREAS it is the City Council's intent that this ordinance not be
22 construed as preventing police enforcement of other crimes (murder, rape,
23 robbery, arson, assault, theft, etc.) occurring at illegal camping sites, and

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25 WHEREAS the City Council hereby finds that the regulatory
26 requirements established by the proposed ordinance are necessary to preserve
the public peace, health, safety, and welfare; Now, Therefore,



BE IT ORDAINED BY THE CITY OF TACOMA:

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Section 1. That Title 8 of the Tacoma Municipal Code is hereby amended by the addition of a new Chapter 8.19 thereto, to be known and designated as "Use of Public Property," to read as set forth in the attached Exhibit "A."

Section 2. If any provision of this ordinance of its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney



EXHIBIT "A"

**TITLE 8
PUBLIC SAFETY**

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- Chapter 8.01 Penalty Provision
- Chapter 8.02 Abandoned Iceboxes
- Chapter 8.03 Defenses
- Chapter 8.04 Advertising
- Chapter 8.06 Aircraft
- Chapter 8.07 Baby Chicks And Rabbits
- Chapter 8.08 *Repealed*
- Chapter 8.09 *Repealed*
- Chapter 8.10 Deposit Of Trash In Or Around Charitable Donation Boxes
- Chapter 8.11 Arrest Of Persons Subject To Court Order
- Chapter 8.12 Disorderly Conduct
- Chapter 8.13 Obstructing Pedestrians Or Traffic
- Chapter 8.13A Regulation Of Solicitation
- Chapter 8.13B Solicitations To Occupants Of Vehicles On Public Roadways Prohibited
- Chapter 8.14 Display Of Certain Flags Prohibited
- Chapter 8.16 Display Of U.S. Flag Regulations
- Chapter 8.17 False Reports Of Crime
- Chapter 8.18 Impersonating Peace Officer
- [Chapter 8.19 Use of Public Property](#)

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Chapter 8.19
USE OF PUBLIC PROPERTY

Sections:

- [8.19.010 Purposes.](#)
- [8.19.020 Defined Terms.](#)
- [8.19.030 Unauthorized Use Of Public Property.](#)
- [8.19.040 Unauthorized Storage Of Personal Property On Public Property.](#)
- [8.19.050 Penalty For Violations.](#)
- [8.19.060 Rules.](#)

8.19.010 Purposes.

A. It is the purpose of this Chapter to promote the public health, safety, general welfare, and economic health and well-being of the City, its residents, and its visitors by making the areas of City of Tacoma Public Property open to the general public readily accessible, and to prevent the uses of Public Property which interfere with the rights of others to use Public Property for which it is intended and to prevent harm to the health, safety, and welfare of the public.

B. It is also the purpose of this Chapter to provide for and promote the health, safety, and welfare of the general public and not to create, either expressly or implicitly, or otherwise establish or designate any particular class or group of persons or individuals who will or should be especially protected or benefited or discriminated against by the terms of this Chapter. Additionally, the purpose of this Chapter is to divert



calls to the City requesting enforcement of criminal laws to using these calls for service to locate and provide shelter for persons currently experiencing homelessness.

1 C. For purposes of interpreting this Chapter, if any definition, requirement, or provision in this Chapter
2 conflicts with those in a different provision or Chapter of the Tacoma Municipal Code, the definition,
3 requirement, or provision in this Chapter shall apply.

3 **8.19.020 Defined Terms.**

4 As used in this Chapter, the following terms shall have the following definitions:

5 “Available Overnight Shelter” means a public or private facility, with available overnight space, and has
6 storage available for personal items, open to person(s) or family units experiencing homelessness, at no
7 charge.

8 “Camp” means to pitch, erect, or occupy Camp Facilities, or to use Camp Paraphernalia, or both, for the
9 purpose of, or in such a way as will facilitate, remaining overnight. The term shall not include overnight
10 use of Public Property by the City or the governmental entity that owns or has a property interest in such
11 Public Property.

12 “Camp Facilities” means, without limitation, tents, huts, and temporary shelters.

13 “Camp Paraphernalia” means, without limitation, blankets, pillows, tarpaulins, cots, beds or bedding,
14 sleeping bags, hammocks, non-City designated cooking facilities, and/or other similar equipment.

15 “City” means the City of Tacoma, Washington, the area within the territorial limits of the City.

16 “Pier” means any pier, wharf, dock, float, gridiron, or other structure where watercraft may anchor or
17 moor.

18 “Public Property” means all property in which the City or any other governmental entity has a property
19 interest, including easements. The term includes, without limitation, all parks, Piers, Streets, trails,
20 forests, park museums, pools, beaches, open spaces, public squares, public schools and associated athletic
21 facilities, grounds around City or other publicly owned or leased buildings, including, but not limited to,
22 parking lots, and any other property in which the City or any other governmental entity has a property
23 interest of any type.

24 “Store” means to put aside, accumulate, or leave on Public Property for later use, or for safekeeping.

25 “Street” means, without limitation, any easements, highway, lane, road, street, right-of-way, boulevard,
26 alley, and all Public Property open as a matter of right to public vehicle travel or parking.

27 **8.19.030 Unauthorized Use Of Public Property.**

28 Unless otherwise permitted by the Tacoma Municipal Code, it shall be unlawful for any person to Camp
29 within any Public Property.

30 **8.19.040 Unauthorized Storage Of Personal Property On Public Property.**

31 It shall be unlawful for any person to Store personal property, including, without limitation, Camp
32 Facilities and Camp Paraphernalia, on any Public Property.

33 **8.19.050 Penalty For Violations.**

34 A. First and second violations of Section 8.19.030 or Section 8.19.040 of this Chapter are a class 4 civil
35 infraction, pursuant to RCW 7.80.120, subject to a penalty of \$25, not including statutory assessments.

36 B. Third and subsequent violations of Section 8.19.030 or Section 8.19.040 of this Chapter are a
37 misdemeanor offense and shall be punished upon conviction of such violation by a fine of not more than
38 \$250, or by imprisonment not to exceed 3 days, or by both such fine and imprisonment.

39 The financial penalty for a first and second violation, and a fine for a third and subsequent violation may
40 be suspended by the court if the individual is financially incapable of paying the amount. The court may
41 authorize the individual to perform community service in lieu of paying the financial penalty or fine.



8.19.060 Rules.

1 The Office of Equity and Human Rights, in consultation with the Chief of Police, is hereby authorized to
2 adopt rules, regulations, administrative policies, and procedures for implementing and enforcing
3 Section 8.19.030 or Section 8.19.040 of this Chapter, as to any Camping and/or Storing of personal
4 property within outdoor portions of Public Property or Streets against persons experiencing homelessness,
5 that complies with Constitutional requirements. The rules shall provide that the City first confirm there
6 are available overnight shelter options that can be utilized by the particular person(s) experiencing
7 homelessness, and that transportation to the preferred shelter is offered by non-police responders, with
8 72 hours' notice of enforcement (not including weekends or City holidays) provided to person(s) and
9 social service outreach agencies prior to enforcing Section 8.19.030 or Section 8.19.040 of this Chapter.

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