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8.19.010 Purposes.

1. 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.

**Response:** *The prohibitions do not sustainably promote these interests (or promote them at all.) The primary reason for this is that enforcement of the bill will create arrest records, criminal convictions, and legal financial debt that will undermine housing access for people who live outside. It has no direct connection to increased trash, etc. services.*

1. 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.

**Response:** *This can be accomplished without involving the criminal legal system. Also, not sure if shelter in Tacoma is time limited (e.g. only overnight or only for a certain number of days per month) such that people subject to the ordinance will, by virtue of shelter operations, be subject to enforcement under this ordinance when no shelter is contemporaneously available. Also, does Tacoma have sufficient capacity for the entire population of unsheltered people? If not, then Martin may be violated. See e.g. Warren v. Chico order on TRO (attached).*

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

8.19.020 Defined Terms.

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

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

**Response:** *Does this mean that the City does not intend daytime enforcement (such as when overnight shelter is not open?) If so, then getting an explicit statement about that in the text is important. It would also be good to explicitly exclude vehicles from this definition (unless you think raising that issue will result in vehicles being explicitly INCLUDED, increasing the risk that vehicle residents will be subject to this ordinance even when they are lawfully parked in vehicles that they lawfully own and operate.)*

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

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

**Response:** *This broad definition (combined with the definition of “store” will effectively punish people for owning blankets, etc. For example, does a person who possesses a blanket “accumulate” that blanket when she holds it in her possession while waiting for the shelter to open? Also, this provision suggests that the government can seize (or criminally punished people for owning) their unabandoned but temporarily unattended property. Binding 9th Cir. precedent recognizes a protected 4th Amendment interest in homeless people’s unabandoned but unattended property that cannot be deprived without adequate due process under the 14th Amendment. The City of Tacoma cannot circumvent those protections by local ordinance. Not sure what the legislative “fix” is other than to remove the ban on storing camping paraphernalia or to build in advance processes that must be completed before enforcement can occur (e.g. person is offered a place where they can store and access their property, they are provided a reasonable time to use the storage facility, etc.)*

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

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

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

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

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

8.19.030 Unauthorized Use Of Public Property.

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

**Response:** *There is no exception for people who cannot access housing or shelter, nor any exception for people with disabilities.*

8.19.040 Unauthorized Storage Of Personal Property On Public Property.

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

8.19.050 Penalty For Violations.

Violation of Section 8.19.030 or Section 8.19.040 of this Chapter is a misdemeanor offense and shall be punished upon conviction of such violation by a fine of not more than $1,000, or by imprisonment not to exceed 90 days, or by both such fine and imprisonment.

**Response:** *This citywide, criminal camping ban brings this ordinance under the scope of the 8th Amendment and Martin. Because the prohibition and definitions are broad, no exceptions are included for people for whom no alternative shelter exists, and discretion about enforcement of vague terms like “accumulate” are left to law enforcement discretion, the application of this ordinance may violate the 4th, 8th, 14th Amendments, and the ADA (among other things.)*

8.19.060 Rules.

The Chief of Police is hereby authorized to adopt rules, regulations, administrative policies, and procedures for implementing and enforcing Section 8.19.030 or Section 8.19.040 of this Chapter as to any Camping and/or Storing of personal property within outdoor portions of Public Property or Streets against persons experiencing homelessness that complies with Constitutional requirements.