



Req. #21-0389

ORDINANCE NO. 28756

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

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

7 ~~WHEREAS the Tacoma City Charter grants the City Council the authority to~~
8 ~~exercise the police power of the City established pursuant to Article XI, Section 11~~
9 ~~of the State Constitution, to preserve the public peace, health, and safety, and to~~
10 ~~regulate public property within the City, and~~

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

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

20 WHEREAS it is the City Council's intent that camping without adequate
21 sanitation services, such as sewer, water, and garbage, presents a public health
22 and safety concern due to increased risk of spread of disease and potential for
23 residents and visitors contracting illness, and
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1 WHEREAS it is the City Council's intent that this ordinance will provide for
2 and promote the health, safety, and welfare of the general public and not to create,
3 either expressly or implicitly, or otherwise establish or designate any particular class
4 or group of persons or individuals who will or should be especially protected or
5 benefited or discriminated against by the terms of this ordinance; additionally, the
6 purpose of this ordinance is to divert calls to the City requesting enforcement of
7 criminal laws to using these calls for service to locate and provide shelter for
8 persons currently experiencing homelessness, and

9
10 WHEREAS camping in such public property areas does not allow the public
11 to use those areas for their intended purposes, and

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

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

18 ~~18~~ WHEREAS the City is committed to creating adequate acceptable shelter
19 to meet current and future shelter need, complying with CDC recommendations,
20 including options for clean and sober, harm reduction, sites with pets, sites
21 accommodating existing communities, and sites for just one person, and

22 WHEREAS, pursuant to *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019),
23 the Ninth Circuit Court of Appeals determined that the United States Constitution

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22 prohibits the imposition of penalties for sitting, sleeping, or lying outside on public
23 property, on homeless individuals who could not obtain shelter, and

WHEREAS it is the City Council's intent to use non-police responders to
enforce use of public areas for camping and activities of daily living by offering
transportation to acceptable shelters and if refused describe consequences of refusing
acceptable shelter, and

WHEREAS it is the City Council's intent to limit the use of Police for
enforcement of use of public areas for camping and activities of daily living to
situations where transportation to acceptable shelters has been offered by non-
police responders and refused, and

23 WHEREAS in the use of Police enforcement of public areas for camping,
it is the intent of the City Council that no fine or criminal record be created that would
interfere with future attempts to enter into permanent housing, and

2425 WHEREAS the City Council hereby finds that the regulatory requirements
2526 established by the proposed ordinance are necessary to preserve the public peace,
26 health, safety, and welfare; Now, Therefore,

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BE IT ORDAINED BY THE CITY OF TACOMA:

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 or 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

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.

C. 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.

"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.

"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.

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.

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

B. Third and subsequent violations of Section 8.19.030 or Section 8.19.040 of this Chapter are a misdemeanor offense and shall be punished upon conviction of such violation by a fine of not more than \$250, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment.

Penalties related to camping on public property will be annulled when person(s) accept shelter or use designated

— 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

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24 ~~exceed 90 days, or by both such fine and imprisonment.~~

22 **8.19.060 Rules.**

~~The Office of Equity and Human Rights, in consult with 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. The rules shall provide that the City first confirms there is~~
~~reasonable Available Overnight Shelter options that can be utilized by the particular person(s) experiencing homelessness and that transportation to the preferred shelter is offered by non-police responders, with 72 hours notice of enforcement provided to person(s) and social services outreach agencies prior to enforcing Section 8.19.030 or Section 8.19.040 of this Chapter.~~

~~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.~~

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