



## ORDINANCE NO. 28756

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

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

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

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

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

23 WHEREAS it is the City Council's intent that this ordinance will provide  
24 for and promote the health, safety, and welfare of the general public and not to  
25 create, either expressly or implicitly, or otherwise establish or designate any  
26 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 ordinance; additionally, the purpose of this ordinance 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, and

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

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

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

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

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

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



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

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

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

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

WHEREAS the City Council hereby finds that the regulatory  
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:

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 8.19 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:

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

“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 3 days, or by both such fine and imprisonment.

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



**8.19.060 Rules.**

The Office of Equity and Human Rights, in consultation 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 confirm there are 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 (not including weekends or City holidays) provided to person(s) and social service outreach agencies prior to enforcing Section 8.19.030 or Section 8.19.040 of this Chapter.

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