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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 recommended by the Task Force on Unsanctioned Encampment Cleanup Protocols as shown on
4 Attachment A to this Ordinance, to the extent they are not in conflict with this Ordinance.

5 Section 2. Requirements for Removal of Unsheltered Persons Living Outdoors.

6 A. Purpose. The purpose of section 2 of this ordinance is to establish
7 enforcement procedures for the removal of unsanctioned encampments on public property that
8 increase the stability of and reduce harm to unsheltered individuals living outside within the
9 Seattle city limits; protect the public health, safety and welfare of all Seattle residents, whether
10 sheltered or unsheltered; protect the civil liberties of unsheltered persons ~~by establishing~~
11 ~~procedural requirements for protecting and safeguarding their personal possessions, including~~
12 ~~those necessary for survival~~; and minimize conflicts related to the use of public 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, or the Port of
8 Seattle.

9 “Qualified outreach program” means a social service program with adequate oversight
10 and training to conduct sufficient individualized, person-centered outreach, and that the City
11 contracts with or provides. Qualified outreach programs may include “peer coaches” who have
12 themselves experienced homelessness. ~~Removed all standards which are key to a qualified~~
13 program’s work to connect homeless persons with needed services and housing]

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14 “Removal” means action to remove people, camps, structures, or personal property
15 located at outdoor living spaces.

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

18 “Sufficient individualized outreach” means individualized, person-centered outreach
19 that responds to the unique needs of each person. Sufficient outreach involves: (1) making an
20 individual assessment of each affected individual, which includes, but is not limited to,
21 considerations of household composition; disability; mental illness or other mental or emotional
22 capacity limitations; substance use or treatment status; geographic needs, such as proximity to
23 personal support, healthcare, employment and other geographic considerations; and ongoing

1 support needs; (2) identifying and offering adequate and accessible housing, if available, based
2 on this individual assessment; and (3) if an offer is accepted, providing assistance with both the
3 administrative and logistical aspects of moving into the identified adequate and accessible
4 housing. Outreach will identify, wherever possible, the name of the individual and add that
5 person to the by-name list to be prioritized through the Homeless Management Information
6 System or other coordinated entry data-collection program.

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

13 “Unsuitable location” means:

14 (1) Any public space where the space’s function is substantially~~unreasonably~~ impeded
15 because of one or more persons camping in that location.~~Unreasonably impeded shall be~~
16 ~~further defined by a multi department administrative rule;~~

17 (2) Improved or routinely-maintained areas of City parks, including but not limited to
18 sports fields, restored natural areas, natural areas actively undergoing restoration, routinely
19 used access or maintenance roads, and pedestrian walkways or paths;

20 (3) Public sidewalks, planting strips, and other public right-of-way fronting single- and
21 multi-family dwelling units;

22 (4) Public sidewalks fronting any active business during business hours;

23 (5) The “Pedestrian Zone” of any public sidewalk as defined by Seattle Municipal

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1 Code (SMC) 15.02.046.D;

2 (6) The “Corner Curb Radius” of any public sidewalk as defined by SMC
3 15.02.042.M;

4 (7) Any portion of a public sidewalk that prevents full access to and the use of fire
5 hydrants, utility facilities, or transit facilities;

6 (8) Any portion of a public sidewalk that ~~would~~ interferes with any American with
7 Disabilities Act access or improvement;

8 (9) Any public sidewalk subject to SMC 15.48.040.

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

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

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

16 b. The City must identify and make available to all
17 affected individuals who are present a nearby, alternative public space owned or controlled
18 by the City to camp that is not unsafe or unsuitable, ~~or a stable shelter option.~~

19 c. The City must conduct sufficient individualized
20 outreach by a qualified outreach program unless circumstances preclude doing so prior to
21 removal.

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

1 sequence removal actions as follow:

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

7 2. Second, if a location that is visible from the
8 unsafe and unsuitable location and that does not unreasonably interfere with a specific
9 public use is not available, or if a location is available and after ~~24~~12 hours the affected
10 individual is not present, the City shall remove personal property, subject to the
11 requirements for removal and storage in subsection 2.H of this ordinance, and after posting
12 notice at the location of the removal with instructions for reclaiming personal property.
13 [No notice for removing personal property in a circumstance where a visible location is
14 not available is not constitutional]

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

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

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

1 hazardous condition.

2 b. Make reasonable efforts to identify the likely source
3 of the hazardous condition and take action against only those responsible for creating the
4 hazardous condition.

5 c. Provide a meaningful opportunity to cure the
6 hazardous condition, including: (a) an effective cure notice of the specific conditions that
7 create the hazardous condition and information on how that condition can be remedied;
8 and (b) provision of necessary items, such as garbage bags and bins, gloves, rodent traps,
9 intravenous needle receptacles, and/or portable toilets, among others, that would allow
10 the individuals to cure the hazardous condition. The City must allow individuals at least
11 72 hours to cure the hazardous condition before posting notice of removal, and shall not
12 conduct removal if the hazardous conditions have been cured.

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

19 e. The City must conduct sufficient individualized
20 outreach by a qualified outreach program unless circumstances preclude doing so prior to
21 removal.

22 2. If after 72 hours the hazardous condition has not been cured,
23 the City shall provide 48-hour notice of removal that meets the requirements of subsection

1 2.G of this ordinance.

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

5 1. Adequate and accessible housing is available at the time of
6 removal or at the time of voluntary departure, to any individuals whose persons and/or
7 personal possessions are being removed.

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

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

13 4. The City, having satisfied the conditions required by this
14 subsection, shall provide 72-hour notice that meets the requirements of subsection 2.G of
15 this ordinance and remove any person, who has refused to move to the adequate and
16 accessible housing, after 72-hours has elapsed. [\[? how do these two notice provisions work\]](#)

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

19 1. Notice must include the following information:

20 a. The specific date and time the anticipated removal will
21 take place;

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

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

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

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

8 2. Notice must be provided in languages likely to be spoken by
9 impacted individuals, and through methods capable of being understood by persons with
10 physical and mental disabilities.

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

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

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

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

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

1 2. For individuals who are absent at the time of the removal or who
2 are present but who do not wish to move to the alternative public space owned or controlled by
3 the City and do not have the ability to transport their personal property, the City will safeguard
4 all personal property for a period of not less than 9045 days in a manner that allows for easy
5 identification by the owner, retrieval with minimal barriers, and ease of access. The City must
6 post notice for 9045 days at the location of the removal with instructions for reclaiming such
7 personal property. The City may establish a program where personal property is delivered to
8 individuals within 24 hours.

9 I. Rulemaking. The Executive is authorized to promulgate such rules and
10 protocols as are reasonably necessary for implementation. Rulemaking should be guided by the
11 principles recommended by the Task Force on Unsanctioned Encampment Cleanup Protocols,
12 adopted by section one of the ordinance; the provisions of section two of this ordinance; and the
13 specific guidance set out below:

14 Qualified Outreach Program – [Reserved] Basic standards should be included in
15 the Ordinance

16 Unsuitable Location – [Reserved] Language already proposed acceptable to
17 various constituencies

18 Personal Property – [Reserved] Language already proposed and accepted

19 Standards for removing, storing, and safeguarding personal property – [Reserved]
20 Language already proposed and accepted, except for a few details, e.g. what is an
21 excessive amount of property

22 Section 3. Encampment Removal Prioritization and Work Program. The Council
23 requests that the Mayor prioritize removals from unsafe and unsuitable locations and from

1 locations with hazardous conditions, subject to the provisions in section two of this ordinance,
2 and deprioritize removals from locations that are not unsafe and unsuitable. Additionally the
3 Council and the Mayor agree to undertake the work program shown on Attachment B to this
4 ordinance. The Mayor shall report to the Human Services and Public Health Committee on
5 progress towards implementing the requirements in section two of this ordinance and the work
6 program by January 16, 2017.

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

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1 Section 5. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2016,
5 and signed by me in open session in authentication of its passage this ____ day of
6 _____, 2016.

7 _____
8 President _____ of the City Council

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

10 _____
11 Edward B. Murray, Mayor

12 Filed by me this _____ day of _____, 2016.

13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)

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17 Attachments:
18 Attachment A - Principles from the Task force on Unsanctioned Encampment Cleanup Protocols
19 Attachment B 0 Work Program

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3 **Attachment A – Principles from the Task force on Unsanctioned Encampment Cleanup**
4 **Protocols**

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

- 1 8. Increased funding and resources for housing, mental health, and drug treatment are
2 needed from the State and Federal levels to expand treatment housing and capacity.
- 3 9. When required due to unsafe and unsuitable locations, the moving of people should be
4 respectful of individuals and their belongings, but also administratively and logistically
5 feasible to complete in a reasonable period of time.
- 6 10. The City should enter into memorandums of understanding with all applicable public
7 agencies, including the State, to establish common protocols and procedures when it is
8 necessary to disband an encampment.
- 9 11. The City should prohibit encampments and intervene expeditiously in unsafe location.
- 10 12. The City should intervene expeditiously to correct conditions or disband an encampment
11 in the case of hazardous conditions.
- 12 13. In the case of unsuitable locations with an intended public use as defined in legislation
13 and rulemaking, encampments are prohibited and intervention should be expeditious.
- 14 14. People in low impact encampments should receive the services required to remain safe
15 and low impact.
- 16 15. The City commits, through policies and procedures, to both reduce friction between
17 encampments and neighborhoods and to implement successful interventions to preserve
18 health and safety for all.
- 19 16. Outreach to people living in encampments should be well-resourced, well-documented,
20 incorporate robust and consistent engagement, inter-agency communication, and data
21 sharing.
- 22 17. Outreach to people living outdoors should involve formerly/currently homeless people as
23 part of the action and connect people to ongoing services and housing.
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Attachment B – Work Program

City Action	Timeframe
Additional Shelter [Reserved]	[Reserved]
Community Response Line for Sanitation and Harm Reduction Services [Reserved]	[Reserved]
Qualified Outreach [Reserved]	[Reserved]
Coordination with Other Public Entities [Reserved]	[Reserved]
Unsheltered Individuals Living in Vehicles [Reserved]	[Reserved]
Implementation and Advisory Committee [Reserved]	[Reserved]

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