



SUBSTITUTE ORDINANCE NO. 28831

1 BY REQUEST OF COUNCIL MEMBER BUSHNELL

2 AN ORDINANCE relating to public health and safety; amending Title 8 of the
3 Tacoma Municipal Code by enacting a new Chapter 8.19 thereto, to be
4 known and designated as “Use of Public Property”; providing for an effective
5 date of October 31, 2022, and providing for severability.

6 WHEREAS it is the policy of the City Council that all individuals residing in
7 the City have adequate shelter, and this ordinance is intended to encourage and
8 promote this objective, and

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

14 WHEREAS the Tacoma City Charter grants the City Council the authority to
15 exercise the police power of the City established pursuant to Article XI, Section 11
16 of the State Constitution, to preserve the public peace, health, and safety, and to
17 regulate public property within the City, and

18 WHEREAS Revised Code of Washington (“RCW”) 35.22.280 empowers
19 first-class cities to regulate and control the use of streets and sidewalks, to declare
20 and abate nuisances, to provide for the punishment of conduct and practices
21 dangerous to public health or safety, and to provide for regulations necessary for
22 the preservation of public morality, health, peace and good order, and
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1 WHEREAS the 2022 Pierce County homeless Point-in-Time count identified
2 1,851 persons experiencing homelessness in Pierce County, including in the City of
3 Tacoma, and estimates that the total number of individuals experiencing homeless
4 in Pierce County is 4,300, and
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6 WHEREAS the City supports permitted temporary shelters throughout the
7 City to house unsheltered individuals, and

8 WHEREAS the City is also the primary funder, along with the city of
9 Lakewood, of Aspen Court, a city-permitted emergency and transitional housing
10 facility located at 8620 South Hosmer Street, in Tacoma, and
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12 WHEREAS Aspen Court is the only permitted emergency and transitional
13 housing located south of South 84th Street and east of Interstate 5, on South
14 Hosmer Street, and

15 WHEREAS, on May 9, 2017, the City Council declared a public health
16 emergency related to homeless encampments, and
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18 WHEREAS, in order to address the homelessness emergency and to keep
19 the residents of temporary shelters and of Aspen Court safe, in addition to
20 protecting the public health and safety of nearby communities, buffers should be
21 imposed around these locations prohibiting unsanctioned camping, and
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23 WHEREAS, without buffers prohibiting camping around temporary shelters
24 and Aspen Court, the City's ability to keep the community safe and promote public
25 health in these locations will be negatively impacted, and
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1 WHEREAS the City is establishing a 10-block buffer around these permitted
2 temporary shelters and Aspen Court in order to provide sufficient space and safety
3 measures to ensure the protection of the community and those staying at these
4 shelters against the adverse impacts of unsanctioned camping, and
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6 WHEREAS the City can reasonably accommodate individuals experiencing
7 homelessness within a 10-block buffer of temporary shelters and of Aspen Court
8 through offerings of shelter beds, and is actively working on expanding capacity,
9 and
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11 WHEREAS the 10-block buffer around Aspen Court will continue only as
12 long as it is permitted as emergency and transitional housing, and

13 WHEREAS unsanctioned encampments have a negative impact on
14 neighborhoods where they are located and can decrease a neighborhood's
15 willingness to host a shelter, and
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17 WHEREAS prohibiting camping around temporary shelters will foster support
18 from community members to host a temporary shelter in their neighborhood, and

19 WHEREAS it is the City Council's intent that camping on public property is a
20 public health and safety concern due to interference with other intended uses, such
21 as daily operations of the City; park recreational activities; pedestrian, bicycle, and
22 vehicular traffic; and other public uses, and
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24 WHEREAS it is the City Council's intent that camping without adequate
25 sanitation services, such as sewer, water, and garbage, presents a public health
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1 and safety concern due to the increased risk of spread of disease and potential for
2 residents and visitors contracting illness, and

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

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6 WHEREAS the City Manager or delegee will establish maps documenting
7 the 10-block radius around the current permitted temporary shelters and Aspen
8 Court, post such maps on the City's website, and provide additional outreach to the
9 community, and

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11 WHEREAS, for any newly permitted temporary shelters, the City Manager
12 will also update these maps on the website, and conduct additional outreach to the
13 community, and

14 WHEREAS, pursuant to *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019),
15 the Ninth Circuit Court of Appeals determined that the United States Constitution
16 prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on
17 all public property within a jurisdiction, on homeless individuals who could not
18 obtain shelter, and

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20 WHEREAS other cities have adopted limited, geographic prohibitions on
21 unauthorized camping, such as the cities of Everett, Washington; Portland, Oregon;
22 and Los Angeles, California, and

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24 WHEREAS the City Council hereby finds that the regulatory requirements
25 established by the proposed ordinance are necessary to preserve the public peace,
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1 health, safety, and welfare of both the City's housed and unhoused community
2 members and

3 WHEREAS the ordinance language as proposed in Exhibit "A" will go into
4 effect on October 31, 2022; Now, Therefore,

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6 BE IT ORDAINED BY THE CITY OF TACOMA:

7 Section 1. That the City Council hereby adopts the Recitals of this
8 Ordinance as its formal legislative findings.

9 Section 2. That Title 8 of the Tacoma Municipal Code is hereby amended
10 by the addition of a new Chapter 8.19 thereto, to be known and designated as
11 "Use of Public Property," to read as set forth in the attached Exhibit "A."
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13 Section 3. That the effective date of this ordinance shall be
14 October 31, 2022.

15 Section 4. If any provision of this ordinance of its application to any person
16 or circumstance is held invalid, the remainder of the ordinance or the application
17 of the provision to other persons or circumstances is not affected.
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Section 5. That the City Clerk, in consultation with the City Attorney, is authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy 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](#)

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.](#)

8.19.010 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.



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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:

“Aspen Court” means a city permitted emergency and transitional housing facility located at 8620 South Hosmer.

“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.

“Temporary Shelter” means a shelter permitted under Tacoma Municipal Code 13.06.080.

“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 that is within 10 blocks of a Temporary Shelter and Aspen Court, as long as Aspen Court is permitted as emergency and transitional housing.

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, within any Public Property that is within 10 blocks of a Temporary Shelter and Aspen Court, as long as Aspen Court is permitted as emergency and transitional housing.

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 \$250, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment.

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