



SUBSTITUTE NO. 2 ORDINANCE NO. 28831

1 BY REQUEST OF MAYOR WOODARDS

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 November 14, 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 out of door
22 storage of possessions, and
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24 WHEREAS, without buffers prohibiting camping around temporary shelters
25 and Aspen Court, the City's ability to keep the community safe and promote public
26 health in these locations will be negatively impacted, and



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WHEREAS the City is establishing a 10-block buffer around these permitted temporary shelters and Aspen Court in order to provide sufficient space and safety measures to ensure the protection of the community and those staying at these shelters against the adverse impacts of unsanctioned camping, and

WHEREAS the 10-block buffer around Aspen Court will continue only as long as it is permitted as emergency and transitional housing, and

WHEREAS unsanctioned encampments have a negative impact on neighborhoods where they are located and can decrease a neighborhood's willingness to host a shelter, and

WHEREAS prohibiting camping around temporary shelters will foster support from community members to host a temporary shelter in their neighborhood, and

WHEREAS camping alongside Rivers, Waterways, Creeks, Streams, and the Shorelines of Puget Sound, including but not limited to the Puyallup River, First Creek, Roosevelt Ditch, T Street Gulch, Clear Creek, Swan Creek, Squally Creek, the Thea Foss Waterway, the Middle Waterway, the St. Paul Waterway, the Blair Waterway, Wapato Creek, the Hylebos Waterway, Hylebos Creek, and the shorelines of Commencement Bay (collectively referred to hereinafter as "Protected Waters"), contributes to littering and human waste being found in and around the Protected Waters, and

WHEREAS many of the Protected Waters are habitat for Endangered Species Act species, and



1 WHEREAS upland habitat that supports the life cycle of those species is
2 degraded by the litter and human waste found in and along the Protected Waters,
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5 WHEREAS the City's critical areas preservation section of its Shoreline
6 Master Program specifically calls out for concern for "any activity which would
7 destroy the natural vegetation; result in a significant change in critical habitat,
8 water temperature, physical, or chemical characteristics; or alter natural
9 contours and/or substantially alter existing patterns of tidal, sediment, or storm
10 water flow on any land which meets the classification standards for any critical
11 area," and

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13 WHEREAS camping alongside the Protected Waters affects the Puyallup
14 Tribe's public health and safety, and affects the Tribe's ability to practice its Treaty-
15 protected rights to harvest and consume fish and shellfish, and

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17 WHEREAS discharge of human waste, garbage/trash and accumulated
18 debris, styrofoam, and other petroleum-based products into the Protected
19 Waters have had an adverse impact to the fish and the Tribal members who eat
20 those fish in those areas, and

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22 WHEREAS prohibiting camping within 200 feet of the Puyallup River will
23 protect those camping alongside a fast-moving river and decrease the necessity for
24 dangerous water rescues, and

25 WHEREAS prohibiting camping within 200 feet of the Protected Waters will
26 protect the integrity of the Protected Waters, and protect the Tribal members and



1 their fishing rights as well as the local community who enjoy and recreate along
2 these protected waters, and

3 WHEREAS the City can reasonably accommodate individuals experiencing
4 homelessness within a 10-block buffer of temporary shelters and of Aspen Court
5 and within 200 feet of Protected Waters through offerings of shelter beds, and is
6 actively working on expanding capacity, and

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

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

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

17 WHEREAS the City Manager or delegee will establish maps documenting
18 the 10-block radius around the current permitted temporary shelters and Aspen
19 Court, and 200 feet from the Protected Waters, post such maps on the City's
20 website, and provide additional outreach to the community, and

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WHEREAS, for any newly permitted temporary shelters, the City Manager will also update these maps on the website, and conduct additional outreach to the community, 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 criminal penalties for sitting, sleeping, or lying outside on all public property within a jurisdiction, on homeless individuals who could not obtain shelter, and

WHEREAS other cities have adopted limited, geographic prohibitions on unauthorized camping, such as the cities of Everett, Washington; Portland, Oregon; and Los Angeles, California, 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 of both the City’s housed and unhoused community members and

WHEREAS the ordinance language as proposed in Exhibit “A” will go into effect on November 14, 2022; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

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



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Section 2. 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 3. That the effective date of this ordinance shall be November 14, 2022.

Section 4. 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.

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.

Section 6. By the end of April 2023, the City Manager shall provide an update to the City Council on progress towards a Mental Health Court and Community Court.

By the end of April 2024, the City Manager shall report and present the following information to City Council:

- (1) Number of people offered services when this ordinance is implemented, and of those, the number of people who accepted services, before and after implementation, and delineated between the prohibited camping areas and non-prohibited camping areas;



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(2) Number of temporary shelters or safe parking sites in the city, before and after implementation of this ordinance;

(3) Number of safety issues received by South Sound 911 in areas prohibiting camping and storage of personal belongings, before and after implementation of this ordinance;

(4) Number of 311 requests related to homelessness in areas prohibiting camping and storage of personal belongings, before and after implementation of this ordinance;

(5) Staffing levels of the HEAL Team, including number of FTEs on staff, budgeted FTEs, and hours worked, before and after implementation of this ordinance; and

(6) Statistics and data provided by the Tacoma Police Department on the enforcement of the ordinance.

Section 7. That the City Manager shall work with staff to ensure that the least restrictive voluntary enforcement methods possible are used, prior to seeking involuntary compliance of this ordinance.

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.



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

4 **8.19.020 Defined Terms.**

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

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

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

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

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

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

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

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

18 “Protected Waters” means all public property, within 200 feet of mapped Rivers, Waterways, Creeks,
19 Streams, and the Puget Sound Shorelines, including but not limited to the Puyallup River, First Creek,
20 Roosevelt Ditch, T Street Gulch, Clear Creek, Swan Creek, Squally Creek, the Thea Foss Waterway, the
21 Middle Waterway, the St. Paul Waterway, the Blair Waterway, Wapato Creek, the Hylebos Waterway,
22 Hylebos Creek, and the shorelines of Commencement Bay.

23 “Public Property” means all property in which the City or any other governmental entity has a property
24 interest, including easements. The term includes, without limitation, all parks, Piers, Streets, trails, forests,
25 park museums, pools, beaches, open spaces, public squares, public schools and associated athletic facilities,
26 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, provided that if the 10-block radius bisects a
block or a public parcel, such as a park or a school, that the entire block or parcel shall be included in the
prohibited area for camping; or within 200 feet of Protected Waters.

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, provided that if the
10-block radius bisects a block or a public parcel, such as a park or a school, that the entire block or parcel
shall be included in the prohibited area for storage of personal property; or within 200 feet of Protected
Waters.



1 **8.19.050 Penalty For Violations.**

2 Violation of Section 8.19.030 or Section 8.19.040 of this Chapter is a misdemeanor offense and shall be
3 punished upon conviction of such violation by a fine of not more than \$250, or by imprisonment not to exceed
4 30 days, or by both such fine and imprisonment, provided that, no less than two weeks prior to issuance of any
5 infraction pursuant to this chapter, notice shall be posted at the location where camping or storage of personal
6 belongings is occurring, so that the Tacoma Pierce County Coalition to End Homelessness can be notified and
7 interested non-governmental organizations and mutual aid groups can offer assistance and resources as needed
8 at this location;

9 Except that no posting of such notice, nor notice to any organization, is required when there is a reasonable
10 belief there is significant risk to life, public health or safety, or property due to the camping or storage of
11 personal belongings at this location as prohibited herein.

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