



## ORDINANCE NO. 29105

1 BY REQUEST OF DEPUTY MAYOR BUSHNELL AND COUNCIL MEMBERS  
2 DIAZ, RUMBAUGH, AND SADALGE

3 AN ORDINANCE relating to use of municipal property; amending Chapter 8.19  
4 of the Municipal Code to prohibit use of municipal property for civil  
5 immigration enforcement, and providing for civil remedies.

6 WHEREAS the City has heard from residents regarding their fear of using  
7 municipal property and services for civil immigration enforcement because of the  
8 concern that they may be exposed to Immigration and Customs Enforcement  
9 ("ICE") and Customs and Border Patrol ("CBP") immigration enforcement actions,  
10 and

11 WHEREAS the City has heard from residents and local business owners that  
12 the fear of ICE and CBP civil immigration enforcement actions causes disruption of  
13 economic activity, undermines community cohesion, and erodes trust in law  
14 enforcement, and that ICE civil immigration enforcement activities have led to the  
15 loss of life and exacerbated racial profiling and cultural alienation, and

17 WHEREAS in other states, cities, and counties ICE and CBP civil  
18 immigration enforcement actions have disrupted the use and enjoyment of  
19 municipal property and services and have required local governments to  
20 reallocate law enforcement resources to locations where ICE and CBP civil  
21 enforcement actions are taking place, thereby negatively impacting their ability to  
22 carry out local law enforcement strategic priorities to protect public safety, and  
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1           WHEREAS activities by federal agents of ICE and CBP in the State of  
2 Minnesota, and specifically the cities of Minneapolis and St. Paul, have resulted in  
3 widespread civic protest of civil immigration enforcement activities and directly  
4 resulted in the homicides of two American citizens during civil immigration  
5 enforcement operations by ICE and CBP agents, and  
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7           WHEREAS substantial evidence from major cities across the country  
8 demonstrates that civil immigration enforcement activities disrupt and interfere  
9 with public access to and use of municipal property and services for the purposes  
10 for which they are intended, creates public health and safety risks, and drains  
11 local public resources, and  
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13           WHEREAS in furtherance of the City's strategic priorities the City has  
14 invested substantial resources to develop, maintain, and provide public access  
15 to municipal property for the use and enjoyment of the public, to provide and  
16 administer public programs and City services, to support and foster economic  
17 development and recreation, and to perform the day-to-day operations and  
18 business of the City, and  
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20           WHEREAS municipal property is a critical access point relied upon by all  
21 residents and visitors, and preserving their safety, accessibility, and operational  
22 continuity is a matter of practical necessity and fiscal responsibility, and  
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24           WHEREAS to protect public safety, the City strives to foster trust and  
25 cooperation between the City, including its police department, and its immigrant  
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1 communities by encouraging immigrants to report crime and speak to the police  
2 without fear of being arrested or detained by, or reported to, federal immigration  
3 authorities, and

4           WHEREAS if the City were to assist with the enforcement of federal  
5 immigration laws, including permitting the use of municipal property to assist in  
6 that enforcement, it would unquestionably discourage that critical cooperation  
7 and involvement and would undermine public safety and the functionality of  
8 municipal property and services, and

9           WHEREAS the City has the power and authority as proprietary owner to  
10 preserve property under its control for the use and purpose to which it is lawfully  
11 dedicated, and to determine what activities upon its property that are not lawfully  
12 mandated under state or federal law are permissible and impermissible, and to  
13 prohibit those activities that are impermissible, and

14           WHEREAS the Tenth Amendment to the United States Constitution  
15 prohibits the federal government from conscripting state and local officials and  
16 resources to assist with federal regulatory schemes including civil immigration  
17 enforcement, and

18           WHEREAS federal law does not mandate that state and local officials  
19 generally assist or cooperate with federal civil immigration enforcement efforts,  
20 and does not preempt local governments from withholding cooperation for

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1 federal civil immigration enforcement activities including withholding use of  
2 municipal property for civil immigration enforcement, and

3 WHEREAS as the proprietary owner of real property, appurtenances, and  
4 improvements dedicated for public uses and services, the City has the right to  
5 deny use of such City owned or controlled properties to ICE or CBP for civil  
6 immigration enforcement operations and believes that all City residents and visitors  
7 should be free from the fear or distress caused by civil immigration enforcement  
8 activities and operations by federal ICE or CBP agents conducted on municipal  
9 property, and  
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12 WHEREAS the City Council finds that property owned or controlled by  
13 the City should not be used without the permission or consent of the City by  
14 agents of the federal government, including but not limited to agents of ICE and  
15 CBP, for civil immigration enforcement purposes, and that a policy prohibiting  
16 such use is a proper exercise of the City's power as proprietary owner of such  
17 municipal property and a proper exercise of its police power for the public  
18 safety, health, and general welfare, and for the continuance, delivery, and  
19 maintenance of business and governance operations of the City, and  
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21 WHEREAS it is not the intent of the City Council through this ordinance  
22 to regulate, or unlawfully discriminate against, the activities of the federal  
23 government, rather it is the intent of the City Council through this ordinance to  
24 define as proprietary owner what activities are not permissible within and upon  
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1 municipal property, to preserve municipal property and law enforcement  
2 resources for programs and services that further the City's strategic priorities, to  
3 ensure that the use of municipal property does not undermine that mission by  
4 discouraging residents' participation in the City's affairs, and to authorize the  
5 City Attorney to enforce the provisions of this ordinance through civil remedies  
6 available to the City including declaratory and injunctive relief, and  
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8 WHEREAS, based upon the foregoing the City Council has determined that  
9 it is in the best interest of the City, and the public health, safety, and welfare of  
10 residents to adopt and codify the provisions of this ordinance attached hereto as  
11 Exhibit "A"; Now, Therefore,  
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13 BE IT ORDAINED BY THE CITY OF TACOMA:

14 Section 1. The City Council adopts the foregoing recitals as its  
15 legislative findings and intent supporting the adoption of this ordinance.  
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17 Section 2. That Chapter 8.19 of the Municipal Code, "Use of Public  
18 Property," is hereby amended as set forth in Exhibit "A," attached hereto and  
19 incorporated herein by this reference.

20 Section 3: That the City Clerk, in consultation with the City Attorney, is  
21 authorized to make necessary corrections to this ordinance, including, but not  
22 limited to, the correction of scrivener's/clerical errors, references, ordinance  
23 numbering, section/subsection numbers, and any references thereto.  
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Section 4. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney



EXHIBIT "A"

CHAPTER 8.19  
USE OF PUBLIC PROPERTY

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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.
- [8.19.045](#) [Unauthorized Use of Public Property - Civil Immigration Enforcement](#)
- 8.19.050 Penalty For Violations.

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**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 Street.

“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.

["Civil immigration enforcement" shall mean any and all operations or activities, including staging and surveillance, conducted by CBP, ICE or any other federal law enforcement agency or other federal agency, that has as one of its objectives the identification or apprehension of a person or persons in order to investigate them for a violation of the immigration laws and subject them to, \(1\) civil immigration detention, \(2\) removal proceedings, or \(3\) removal from the United States, but shall not mean and include those enforcement operations or activities conducted to effect a criminal arrest or pursuant to authority of a judicial warrant or other lawful court order.](#)

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

["Criminal arrest" shall mean and refer to an arrest that is for \(i\) the sole or primary purpose of preparing the person subject to such arrest for criminal prosecution for an alleged violation of state or federal law that carries a sentence of imprisonment and for which the law requires an initial appearance before a federal judge, federal magistrate or other judicial officer, or \(ii\) for contempt of the court in which a judicial proceeding is taking place or will be taking place.](#)

["Customs and Border Patrol" or "CBP" shall mean that federal law enforcement agency engaged in civil immigration operations or enforcement.](#)

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

["Immigration and Customs Enforcement" or "ICE" shall mean the United States Immigration and Customs Enforcement agency including Enforcement and Removal Operations and Homeland Security investigations and shall include any successor federal agency charged with the enforcement of federal immigration laws](#)



1 “Judicial warrant” shall mean a warrant issued upon probable cause by a federal or state court judge that orders entry onto or entry of real property or any building or structure located thereon to lawfully search for a person, property or evidence pursuant to the warrant.

2 “Municipal Property” means all real property (including easements) and appurtenances and  
3 improvements thereto, including by way of example and not limitation, municipal buildings, utility  
4 infrastructure, garages, parking lots, parks, playgrounds, plazas, vacant lots, unimproved rights of way,  
5 and storage facilities, when owned or controlled by the City of Tacoma, exclusive of improved public  
6 rights of way used for pedestrian and vehicular travel and real property, appurtenances and improvements  
7 thereto, that are subject to an existing lease, real estate contract or concession agreement to which the  
8 City is a party or are otherwise under control of a person or entity other than the City.

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

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

15 “Public Property” means all property in which the City or any other governmental entity has a property  
16 interest, including easements. The term includes, without limitation, all parks, Piers, Streets, trails,  
17 forests, park museums, pools, beaches, open spaces, public squares, public schools and associated athletic  
18 facilities, grounds around City or other publicly owned or leased buildings, including, but not limited to,  
19 parking lots, and any other property in which the City or any other governmental entity has a property  
20 interest of any type.

21 “Staging” shall mean use of municipal property for logistical coordination or as an operations base, or to  
22 otherwise assemble, mobilize, process persons, or to deploy personnel, vehicles, equipment, or materials.

23 “Store” means to put aside, accumulate, or leave on Public Property for later use, or for safekeeping.

24 “Street” means, without limitation, any easements, highway, lane, road, street, right-of-way, boulevard,  
25 alley, and all Public Property open as a matter of right to public vehicle travel or parking.

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

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**8.19.045 Unauthorized Use of Public Property - Civil Immigration Enforcement**

1 A. Construction and election of other remedies. This section shall be liberally construed for the  
2 accomplishment of the purposes set forth in this chapter and the policies set forth in this section. Nothing  
3 in this section shall modify, reduce, or limit any rights granted under state or federal law to the extent that  
4 distinction or differential treatment on the basis of citizenship or immigration status is authorized by  
5 federal or state law, regulation, or intergovernmental contract. Further, this section shall not be  
6 construed to limit or interfere in any law enforcement action taken to effectuate a criminal arrest or  
7 pursuant to a judicial warrant.

8 B. Additional Defined Terms.

9 For purposes of this section, the term "signs" or "signage" shall mean signs or signage installed by the  
10 City to inform persons or federal law enforcement agencies or agents that the municipal property is  
11 owned or controlled by the City and that the municipal property shall not be used for civil immigration  
12 enforcement activities or operations to assemble, mobilize, stage, or deploy federal personnel, vehicles, or  
13 equipment, or for surveillance or logistical coordination for civil immigration enforcement operations or  
14 activities.



For purposes of this section, the term “section” shall mean and refer to Section 8.19.050 of the Tacoma Municipal Code.

C. Limitations on use of Municipal Property.

1. Municipal property shall not be used or occupied for civil immigration enforcement purposes.

2. Any use of municipal property for civil immigration enforcement purposes shall only be with the express permission, consent, and authorization of the City, given by and through the City Manager or designee or, with respect to Tacoma Public Utilities municipal property, by and through the Director of Tacoma Public Utilities, or designee.

3. It is the policy of the City to ensure that where practicable and appropriate, and as City resources allow (i) physical barriers such as locked gates should be installed and used to limit access to municipal property, or (ii) signage should be installed to support compliance with this section.

4. It is the policy of the City that City employees who become aware of the attempted or actual use of a municipal property in violation of this section, should promptly report the attempted or actual use to their department director or the office of the city manager or, with respect to Tacoma Public Utilities municipal property, the office of director of public utilities; provided that, reporting such activity does not endanger the City employee or others.

5. It is the policy of the City when practicable and as City resources allow, to make available a signage template for display by private property owners, tenants and leaseholders, including but not limited to businesses, nonprofit organizations, and faith institutions, who may use such signage if they choose that states: “This property is a Stand Together Tacoma partner. No agent of the federal government, including Immigration and Customs Enforcement (ICE) or Customs and Border Patrol (CBP), may enter these premises for purposes of civil immigration enforcement absent a valid judicial warrant or lawful court order. This property may not be used for civil immigration enforcement activities or operations, including as a staging area, processing location, surveillance operations, or operations base.”

Property owners, tenants and leaseholders that display this signage do so at their own discretion and assume any legal or other risks associated therewith. The City cannot prevent ICE or CBP or other federal agents from conducting immigration enforcement activity on private property.

F. Nothing in this section shall be construed as restricting or interfering with the execution of lawful judicial warrants and other lawful court orders, activities to effect a criminal arrest, or the enforcement of criminal law, nor as limiting the rights of any person or entity under state or federal law, nor as creating a duty of care or legal obligation of the City or its officials, employees, volunteers or agents to prevent or prohibit civil enforcement activities on municipal property, other public property, or private property, nor as guaranteeing the safety of any individual or creating a special relationship between the City and any person or entity.

**8.19.050 Penalty For Violations.**

A. 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. The City’s intent is that individuals subject to enforcement under TMC Section 8.19.030 or 8.19.040 and who are qualified will be considered for referral to therapeutic court.

B. The provisions of Section 8.19.045 of this Chapter may be enforced by the City of Tacoma, by and through the office of the City Attorney, by means of a civil action for injunctive or declaratory relief in any court of competent jurisdiction; provided that, nothing herein is intended to limit or preclude the City from seeking any other remedy that may be available in contract, at law or in equity.