

MEMORANDUM

To: Human Services and Public Health Committee
From: Eric McConaghy, and Ketil Freeman, Central Staff
Date: September 27, 2016
Subject: Council Bill 118794 – City Responses to Homeless Individuals Living on Public Property

On September 28, the Human Services and Public Health Committee (Committee) will continue discussion of Council Bill (CB) 118794. This memorandum (1) discusses four substantive changes to the proposal that could be made to the existing bill or incorporated into a new bill and (2) describes next steps in the Committee review process.

Background

CB 118794 was drafted by the American Civil Liberties Union of Washington and Columbia Legal Services working with community organizations and legal advocates. The goal of the legislation is “protecting the public health, public safety, and civil rights of all people, including those experiencing homelessness.”¹

The legislation seeks to do this by: (1) establishing requirements and conditions for outreach, notice, and availability of alternative shelter that must be satisfied prior to removing unsanctioned encampments or vehicles from public property; (2) setting minimum standards for storing and safeguarding personal property, including vehicles, that are removed from unsanctioned encampments or impounded; (3) establishing affirmative obligations for the City when sanitation and harm reduction services are requested; and (4) establishing an advisory committee to advise the City on encampment removals.

Violations of requirements in the bill would result in a penalty of \$250 per violation. The Office for Civil Rights would be responsible for enforcement.

Four Substantive Changes

Since the Committee last met on September 22, Councilmembers Bagshaw, Herbold, and O’Brien have convened meetings with advocates and other stakeholders to discuss changes to substantive elements of the bill. Those substantive changes are set out in the table below.

Potential amendatory language is shown in [track changes](#) on attachment A to this memorandum.

In addition to the amendments set out in the table below, changes to other procedural and substantive elements that are currently being discussed are (1) modified notice and outreach requirements to allow expedited removal of encampments in unsafe and unsuitable areas, (2) modified penalties for violations, and (3) defining a minimum standard for outreach.

¹ CB 118794 at page 12, line 21.

| Issue Area | As Introduced | Proposed Change |
|--|--|---|
| <p>1. <i>Applicability to Public Property</i></p> <p><i>Attachment A, page 4, lines 13-16 and page 14, lines 1-7</i></p> | <p>The requirements of the bill would apply to City actions on all publicly owned property within the City limits, including property owned by the State of Washington, the Seattle School District, the Port of Seattle, and any other government.</p> <p>As a practical matter this limitation would not legally constrain the actions of other public entities, but it would limit the City’s ability to participate in removal activities on non-City public property that do not conform to the requirements of the bill.</p> | <p>The requirements of the bill would apply only to City actions on City-owned property. The requirements would not apply to property owned by public schools and colleges, the University of Washington, or other public entities, like public development authorities.</p> <p>Proposed language would direct the Mayor to negotiate interlocal agreements, which are consistent with the purpose of the bill, to govern how the City would undertake removal actions on property owned by other governments</p> |
| <p>2. <i>Definition of Unsuitable Location</i></p> <p><i>Attachment A, page 5, lines 8-22</i></p> | <p>Unsuitable locations would be defined as “a location that has a specific public use that is substantially impeded as a result of an outdoor living space or vehicle used as a residence in that location and where the public lacks alternative means to accomplish the specific use.”² An example of an unsuitable location could include a Seattle Parks Department playfield.</p> <p>The Department of Neighborhoods Director would designate unsuitable areas through a rulemaking process.</p> | <p>The following City property would be defined as unsuitable:</p> <ul style="list-style-type: none"> ▪ Improved areas of city parks; ▪ Restored natural areas of city parks and areas undergoing restoration; ▪ Areas of rights-of-way in front of homes and businesses; and ▪ Areas downtown and in Commercial zones to which the limitations of the “Sit Lie” ordinance³ apply. |
| <p>3. <i>Applicability to Vehicles Used as Residences</i></p> <p><i>Attachment A, throughout</i></p> | <p>The requirements of the bill would apply equally to outdoor living space and vehicles used as residences.</p> | <p>The requirements of the bill would apply only to outdoor living areas, such as unsanctioned encampments.</p> <p>In acknowledgement of instability experienced by people living in vehicles, the Council would state its intent to consider legislation with similar protections for the unsheltered homeless population living in vehicles.</p> |

² Id. at page 4, line 20.

³ [Seattle Municipal Code 15.48.040](#).

| Issue Area | As Introduced | Proposed Change |
|---|---|---|
| 4. <i>Bill Term</i> <i>Attachment A, page 15, lines 12- 19</i> | The requirements of the bill would apply until changed by future ordinance. | The requirements of the bill would terminate two years after the bill's effective date. |

Next Steps

Proposed substantive changes discussed today could be made to the existing bill or incorporated into a new bill. Councilmember Bagshaw is identifying a date for special committee meeting in early October. At that meeting, the Committee may make amendments to the current bill, or a new bill, and make a recommendation to the Full Council.

Attachment

cc: Kirstan Arestad, Central Staff Executive Director