

**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 on public property 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 housing or shelter 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 shelter and accessible housing to  
5 accommodate the needs of all people experiencing homelessness has led to unauthorized  
6 outdoor living 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 guidance 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.

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; promote the health and safety 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. The Seattle  
14 Police Department shall enforce laws against criminal conduct. The Seattle Police Department,  
15 Fire Department and other first responders shall respond appropriately to emergency situations,  
16 such as fires, crimes, or medical crises and shall cooperate with other public safety agencies in  
17 accordance with mutual aid agreements.

18 C. Definitions. The following definitions shall apply throughout this Ordinance.

19 “Adequate and accessible housing or stable shelter” means, at a minimum, living space  
20 that accommodates a person’s pets, partners and possessions:

21 (1) Where a person has both the right to reside and keep belongings on an  
22 ongoing, long-term basis and has a right to return;

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 that an individual owns and that might have value or  
21 use to that individual, regardless of whether the item is left unattended for temporary periods of  
22 time or whether it has monetary value. This does not include weapons other than knives used as  
23 cooking or eating utensils, contraband, items that pose an obvious health or safety risk, or are

1 clearly contaminated in a way which a reasonable person would conclude the items should not  
2 be stored with other property. Personal property includes non-rigid materials used for shelter,  
3 such as tents and tarps, but does not include building materials, such as wood products, metal,  
4 or rigid 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 any area that is privately owned,  
7 leased, maintained, controlled, or managed; or areas that are owned, leased, maintained,  
8 controlled, or managed by other public entities such as, public schools and colleges; the  
9 University of Washington; the Port of Seattle; or entities formed under the authority of RCW  
10 35.21.730, et seq., RCW 36.100, RCW 36.102, or RCW 35.82.

11 “Qualified outreach program” means a social service program with adequate oversight  
12 and training to conduct sufficient individualized, person-centered outreach. The City may  
13 provide the services or contract for such services and shall include standardized tools and  
14 practices consistent with a Housing First approach and with system-wide coordinated entry.  
15 Qualified outreach programs may include “peer coaches” who have themselves experienced  
16 homelessness.

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

19 “Specific public use” means lawful, appropriate use that benefits, assists, or is enjoyed by  
20 members of the public more than incidentally and occasionally, or uses or restrictions that are  
21 legally required or protected.

22 “Sufficient individualized outreach” means individualized, person-centered outreach  
23 that responds to the unique needs of each person. Sufficient outreach involves: (1) making an

1 individual assessment of each affected individual, which may include, but is not limited to,  
2 considerations of household composition; disability; mental illness or other mental or emotional  
3 capacity limitations; substance use or treatment status; geographic needs, such as proximity to  
4 personal support, healthcare, employment and other geographic considerations; and ongoing  
5 support needs; (2) identifying and offering adequate and accessible housing or stable shelter, if  
6 available, based on this individual assessment; and (3) if an offer is accepted, providing  
7 assistance with both the administrative and logistical aspects of moving into the identified  
8 adequate and accessible housing or stable shelter. Outreach will identify, wherever possible, the  
9 name of the individual and add that person to the by-name list to be prioritized through the  
10 Homeless Management Information System or other coordinated entry data-collection program.

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

17 “Unsuitable location” means:

18 (1) Any public space where the space’s functions are unreasonably impeded because of  
19 one or more persons camping in that location. Unreasonably impeded shall be further defined  
20 by a multi-department administrative rule;

21 (2) City parks, including but not limited to sports fields, playgrounds, restored natural  
22 areas, natural areas actively undergoing restoration, access or maintenance roads, and  
23 pedestrian walkways or paths unless specifically authorized by Director’s Rule;

1 (3) Public sidewalks, planting strips, and other public rights-of-way unless specifically  
2 authorized by Director’s Rule;

3 (4) The “Pedestrian Zone” of any public sidewalk as defined by Seattle Municipal  
4 Code (SMC) 15.02.046.D;

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

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

9 (7) Any portion of a public sidewalk that would interfere with any American with  
10 Disabilities Act access or improvement;

11 (8) Any public sidewalk subject to SMC 15.48.040; or

12 (9) Those portions of streets, sidewalks or parks that are likely to be or have been  
13 traditionally used as public forums under the First Amendment of the U.S. Constitution or  
14 Article 1, Section 5 of the Washington Constitution.

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

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

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

22 b. The City must identify and make available to all  
23 affected individuals who are present a nearby, alternative space owned or controlled by the

1 City to camp that is not unsafe or unsuitable or a stable shelter option.

2 c. The City must conduct sufficient individualized  
3 outreach by a qualified outreach program unless circumstances preclude doing so prior to  
4 removal.

5 d. If affected individuals are not present, the City must  
6 sequence removal actions as follow:

7 1. First, the City must attempt to move personal  
8 property to a nearby location that is visible from the unsafe and unsuitable location and  
9 that does not unreasonably interfere with a specific public use, and provide written notice  
10 that identifies alternative public space owned or controlled by the City that is not unsafe or  
11 unsuitable or a stable shelter option. Personal property may be put into storage bins close  
12 to the site to reduce interference and damage.

13 2. Second, if a location that is visible from the  
14 unsafe and unsuitable location and that does not unreasonably interfere with a specific  
15 public use is not available,, the City shall remove personal property, subject to the  
16 requirements for removal and storage in subsection 2.H of this ordinance, and after posting  
17 notice at the location of the removal with instructions for reclaiming personal property.

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

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

1                   a.       Notify individuals at the outdoor living area that they  
2 must remediate conditions during the next 72 hours or the outdoor living space will be  
3 removed and provide notice meeting the requirements of subsection 2.G of this ordinance.

4                   b.       For at least 72 hours, provide access to basic garbage,  
5 sanitation, and harm reduction services, including emptying receptacles, picking up garbage  
6 bags and containers provided for refuse and disposal of sharps, as dictated by the nature of the  
7 hazardous condition.

8                   c.       Make reasonable efforts to identify the likely source  
9 of the hazardous condition and take action against only those responsible for creating the  
10 hazardous condition.

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

20                  e.       Conduct one or more site visits by City staff or  
21 contractors for the City to: (a) inform all affected individuals prior to or during the cure  
22 period that the location has a hazardous condition and the actions needed to cure that  
23 condition; and (b) inform all affected individuals whether the hazardous condition has

1 been remedied after the cure period or, if the hazardous condition has not been remedied  
2 after the cure period, the reason it has not been remedied and next actions.

3 f. The City must conduct sufficient individualized  
4 outreach by a qualified outreach program unless circumstances preclude doing so prior to  
5 removal.

6 2. If after 72 hours the hazardous condition has not been cured,  
7 the City may remove personal property, subject to the requirements for removal and  
8 storage in subsection 2.H of this ordinance.

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

12 1. Adequate and accessible housing or stable shelter is available at  
13 the time of removal or at the time of voluntary departure, to any individuals whose persons  
14 and/or personal possessions are being removed.

15 2. The affected individuals have been engaged with sufficient  
16 individualized outreach, which has been documented, by a qualified outreach program to  
17 allow anyone interested to move voluntarily to adequate and accessible housing or stable  
18 shelter.

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

21 4. The City, having satisfied the conditions required by this  
22 subsection, and having provided 72-hour notice that meets the requirements of subsection  
23 2.G of this ordinance, may remove any person who has refused to move to the adequate

1 and accessible housing or stable shelter, after 72-hours has elapsed.

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

4 1. Notice must include the following information:

5 a. The specific date and time the anticipated removal will  
6 take place;

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

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

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

13 e. For locations that are not unsafe or unsuitable, a  
14 statement that removal will not occur in the absence of adequate and accessible housing or  
15 stable shelter for all affected individuals, and information about how the housing options  
16 can be accessed.

17 2. Notice must be provided in languages likely to be spoken by  
18 impacted individuals and consistent with the ADA.

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

22 4. If removal is from a location with a hazardous condition, the

1 notice must indicate that the City may not undertake removal if the hazardous condition is  
2 cured.

3                   5.       If removal is from an unsafe or unsuitable location or a location  
4 with a hazardous condition, notice will inform individuals of other available space in  
5 adequate and accessible housing or stable shelter, authorized encampments or in other  
6 public spaces where removal will not occur due to safety or unsuitability. The City, having  
7 satisfied the conditions required by this subsection, may remove any person who has  
8 refused to move to the adequate and accessible housing or stable shelter.

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

10 After a removal, the City will safeguard all personal property free of charge according to the  
11 following requirements.

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

15                   2.       For individuals who are absent at the time of the removal or who  
16 are present but who do not wish to move to the alternative public space owned or controlled by  
17 the City and do not have the ability to transport their personal property, the City will safeguard  
18 all personal property for a period of not less than 60 days in a manner that allows for easy  
19 identification by the owner, retrieval with minimal barriers, and ease of access. The City must  
20 post notice for 60 days at the location of the removal with instructions for reclaiming such  
21 personal property. The City may establish a program where personal property is delivered to  
22 individuals within 24 hours.

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

6                     Unsuitable Location Options – Within 30 days of the effective date of this  
7 ordinance, the City shall set up additional sanctioned, or managed encampments or spaces where  
8 people can safely camp. Such identified spaces and sites shall be numerous and large enough to  
9 accommodate the reasonably estimated unsheltered population in need of such outdoor living  
10 space.

11           Section 3. Encampment Removal Prioritization and Work Program. The Council  
12 requests that the Mayor prioritize removals from unsafe and unsuitable locations and from  
13 locations with hazardous conditions, subject to the provisions in section two of this ordinance,  
14 and deprioritize removals from locations that are not unsafe and unsuitable. Additionally the  
15 Council agrees to undertake the work program shown on Attachment B to this ordinance. The  
16 Mayor shall report to the Human Services and Public Health Committee on progress towards  
17 implementing the requirements in section two of this ordinance and the work program by  
18 January 16, 2017.

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

DRAFT

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)

16 Attachments:  
17 Attachment A - Principles from the Task force on Unsanctioned Encampment Cleanup Protocols  
18 Attachment B - Work Program  
19  
20  
21  
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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                |
|---|--------------------------|
| <p><b>Additional Shelter – Regulatory Barriers</b></p> <p>The Council will consider legislation to authorize additional interim use sanctioned encampments.</p>   | <p>By March 31, 2017</p> |
| <p><b>Budget Actions</b></p> <p>The Council will consider limitations on spending in the 2017 budget to ensure that proportional investments are made between diversion / rapid re-housing and temporary shelter.</p> <p>The Council will consider imposing provisos prohibiting spending for the remainder of 2016 and for 2017 on encampment sweeps, with exceptions for public safety and health reasons, until the Executive provides a plan for (a) reviewing and modifying Multi-department Administrative Rule 08-01 and (b) establishing additional low-barrier shelter.</p> <p>The Council will consider sufficient appropriations for the City to participate fully in implementing the recommendations of the Heroin and Prescription Opiate Addiction Task Force.</p> <p>The Council will consider additional appropriations of limitations on spending to ensure that sufficient resources are available to respond to complaints about garbage at outdoor living areas and to provide garbage services to outdoor living areas, when requested.</p> | <p>Mid-November 2016</p> |

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