

May 25, 2020

MEMORANDUM

To: Select Committee on Homeless Strategies and Investments
From: Eric McConaghy, Analyst; Aly Pennucci, Supervising Analyst
Subject: Council Bill 119796

On Wednesday, May 27, 2020, the Select Committee on Homeless Strategies and Investments will discuss and may vote on [Council Bill \(CB\) 119796](#). This legislation would impose a proviso on the use of funds across multiple departments that comprise the Navigation Team, the City's direct response to unsanctioned encampments, during the period of the civil emergency declared on March 3, 2020.

This memo (1) describes the Navigation team; (2) describes CB 119796; and (3) presents potential amendments for the Committee's consideration.

Navigation Team

The Navigation Team is an approach the City uses to address the issue of people living unsheltered in Seattle. It has a dual mission of (1) constructively engaging people living outdoors in unsanctioned encampments on public property and (2) mitigating negative community impacts by removing such encampments, as needed. Specifically, the Navigation Team assesses unsanctioned encampments to determine whether they need to be removed and offers connections to housing and other critical services for people affected by an encampment removal.

The Navigation Team is managed by the Human Services Department (HSD), and the majority of the staff on the team are either HSD employees or Seattle Police Department (SPD) Officers who have specifically volunteered for assignment to the Navigation Team. The departments of Parks and Recreation (Parks) and Finance and Administrative Services (FAS) receive funds for services they provide to the Navigation Team, such as personnel and equipment to remove litter and waste and clean up an encampment location. The Navigation Team is required to follow procedures laid out in a [director's rule](#), such as providing outreach and notification 72 hours before a removal unless the location being removed is an obstruction or hazard.

CB 119796 Summary

CB 119796 is informed by the guidance from the Centers for Disease Control and Prevention (CDC), and how the Executive has described Navigation Team¹ operations during the

¹ On March 17, 2020, a post on the City's Homelessness Response Blog title "[COVID 19 Response: Update on City efforts to expand shelter, hygiene, and outreach to individuals experiencing homelessness](#)," outlined how the Navigation Team, along with other work related to providing services to people experiencing homelessness, would operate during the COVID-19 emergency.

COVID-19 emergency. The bill as introduced would limit funding in HSD, SPD, FAS, or Parks used to remove or relocate an unsanctioned encampment until December 31, 2020, or until termination of the civil emergency proclaimed by the Mayor on March 3, 2020, whichever is earlier.

The bill would only allow funding from specified budget summary levels to be used for removal or relocation of an unauthorized encampment if the encampment:

- Constitutes an active health threat (excluding the transmission of communicable diseases, including COVID-19 and its subsequent mutations) to occupants or the surrounding neighborhood
- Poses an immediate hazard as defined in [Clerk File 320204](#)²;
- Obstructs the path of travel clearance from the encampment (e.g. does not provide 4 feet wide or greater pathway for sidewalks, pursuant to the requirements under the Americans with Disabilities Act and the City's Guidelines in Streets Illustrated), or blocks a curb ramp, or a bike lane;
- Presents a fire or safety hazard to infrastructure;
- Obstructs an entrance or exit to a building; or
- Is located in a children's play area.

This is generally consistent with the operations described in the City's Homelessness Response Blog post for the Navigation Team on [March 17, 2020](#). However, it does remove some of the discretion currently provided to the Executive. On March 17, the Executive presented in the blog post the expectations for how the Navigation Team will operate. The Executive stated that all encampment removal operations have been suspended except under extreme circumstances.

The main difference between that statement of practice by the Executive and CB 119796 is that the legislation removes discretion from interpreting what constitutes an "extreme circumstance" and instead provides greater specificity on the conditions under which use of funds for an encampment removal can occur. Table 1 provides a list of the examples of "extreme circumstances" described in the March 17 blog post where the Navigation Team would proceed with relocating or removing an encampment, and whether, under CB 119796, the relocation or removal in that circumstance could proceed.

² In Clerk File 32034, "Immediate hazard" means an encampment where people camping outdoors are at risk of serious injury or death beyond that caused by increased exposure to the elements or their presence creates a risk of serious injury or death to others; including but not limited to encampments at highway shoulders and off-ramps, areas exposed to moving vehicles, areas that can only be accessed by crossing driving lanes outside of a legal crosswalk, and landslide-prone areas.

Table 1: Navigation Team Criteria for Encampment Removals - Current Practice v CB 119796

March 17 Homelessness Response Post: Extreme Circumstances when a relocation or removal can proceed	CB 119796: Could the relocation or removal proceed if the proviso is imposed?
A living structure on a ramp or roadway	Yes, the legislation allows a relocation or removal to proceed if it presents an immediate hazard as defined in Clerk File 320204; that definition would include living on a ramp or roadway
A living structure blocking an entire sidewalk or bike lane	In part, the legislation allows removal if the encampment does not provide at least a 4 feet wide path of travel or blocks a bike lane or curb ramp
A living structure that presents fire or safety hazards to infrastructure	Yes, the relocation or removal could proceed
A living structure blocking an entry/exit to a building	Yes, the relocation or removal could proceed
A living structure in a play area	Yes, the relocation or removal could proceed

The March 17th blog post states that the “Navigation Team will continue to play a critical role in connecting individuals who are at risk for COVID-19 with expanded shelter resources, referrals to testing and medical treatment, and hygiene services.” CB 119796 does not restrict the ability for the Navigation Team to offer housing or connections to other services during the COVID-19 emergency. Further, it does not prohibit outright removals for public safety concerns; under the definition of immediate hazard, a public safety situation that creates a risk of serious injury or death to others would be an allowable cause for relocation or removal of the encampment.

CDC Guidance

The CDC has issued [Interim Guidance on Unsheltered Homelessness and Coronavirus Disease 2019 \(COVID-19\) for Homeless Service Providers and Local Officials](#). In the context of COVID-19 spread and transmission, the CDC has advised that the risks associated with sleeping outdoors or in an encampment setting are different than the risks from staying indoors in a congregate setting because outdoor settings may better accommodate increased physical distancing. The CDC guidance acknowledges that the public health concerns that can result from being unsheltered persist, however, the balance of risks need to be considered within the context of COVID-19 spread and transmission.

In order to prevent transmission of COVID-19 throughout the general population and avoid increasing risks for people experiencing homelessness, the CDC guidance suggests that for people living in encampments, the following guidance should be considered:

- If individual housing options are not available, allow people who are living unsheltered or in encampments to remain where they are.

- Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread.
- Encourage those staying in encampments to set up their tents/sleeping quarters with at least 12 feet x 12 feet of space per individual.
 - If an encampment is not able to provide sufficient space for each person, allow people to remain where they are but help decompress the encampment by linking those at [higher risk for severe illness](#) to individual rooms or safe shelter.
- Work together with community coalition members to improve sanitation in encampments.
- Ensure nearby restroom facilities have functional water taps, are stocked with hand hygiene materials (soap, drying materials) and bath tissue, and remain open to people experiencing homelessness 24 hours per day.
- If toilets or handwashing facilities are not available nearby, assist with providing access to portable latrines with handwashing facilities for encampments of more than 10 people. These facilities should be equipped with hand sanitizer (containing at least 60% alcohol).

CB 119796 as introduced is not entirely consistent with this guidance because it would not allow an encampment relocation or removal under any circumstance if the only reason for such a removal is due to COVID-19 or another communicable disease. The CDC guidance is more nuanced, suggesting that the relative risks of removal versus allowing the encampment to remain in place needs to be considered.

However, the legislative intent was not to prohibit encampment relocations or removals due to COVID-19 entirely, but rather the intent was to only allow removal to proceed if public health resources have been deployed and individual housing or other appropriate non-congregate housing options have been offered. This clarification is included in Amendment 1 described in Table 2.

Emergency Clause

CB 119796 is intended to guide spending related to the relocation or removal of encampments during the COVID-19 civil emergency. The proposal therefore includes an emergency provision and would have an immediate effective date if passed by a three-quarters of Councilmembers and signed by the Mayor.

Amendments

As of May 25, there are two potential amendments for the Committee's consideration. Table 2 provides a brief description of each amendment. Specific amendment language is provided in the attachments. Any additional amendments, if identified, will be distributed as soon as they are available.

Table 2: Potential Amendments

#	Sponsor	Description
1	Mosqueda	<p>This amendment clarifies the language in Section 2.A to correct what was intended but not accurately reflected in the bill as introduced. The bill as introduced would not allow specified funds to be spent on the relocation or removal of an encampment if the active health threat is the presence of a communicable disease (including COVID). This amendment clarifies that if the reason for the encampment relocation or removal is the presence of a communicable disease, including COVID, and certain actions have been taken prior to posting a removal notice, the relocation or removal can proceed. The changes, including modifying a recital and adding a finding, better aligns the proviso with the CDC guidance.</p> <p><i>See Attachment 1 for specific amendment language</i></p>
2	Mosqueda	<p>This amendment modifies the requirements related to a removal or relocation of an encampment that is obstructing a path of travel or blocking a curb ramp or bike lane contained in subsection 2.C.</p> <p>The bill as introduced would allow an encampment to be relocated or removed if any portion of the encampment is obstructing the path of travel (not providing a 4-foot clearance) or is blocking a curb ramp or bike lane. This amendment would first require a determination whether the obstruction can be mitigated by reconfiguring the encampment before relocating or removing the entire encampment.</p> <p>In addition, the amendment adds guidance to ensure that efforts are made to work with occupant(s) of the encampment causing the obstruction to offer appropriate housing.</p> <p><i>See Attachment 2 for specific amendment language</i></p>

Next Steps: If the Committee votes on CB 119796 at the meeting on May 27, final Council action could occur at the Full Council meeting on June 1, 2020.

Attachments:

1. Amendment 1 (Mosqueda)
2. Amendment 2 (Mosqueda)

cc: Kirstan Arestad, Executive Director

Amendment 1 To Council Bill (CB) 119796

Select Committee on Homeless Strategies and Investments

Sponsor: Councilmember Mosqueda

Amendatory language shown in [track changes](#) ~~track changes~~

Amend the recitals to CB 119796 as follows:

* * *

WHEREAS, the Centers for Disease Control and Prevention recommend against removing encampments while there is community spread of COVID-19 unless there is adequate housing available defined as individual housing and non-congregate shelter options; and

WHEREAS, there may be circumstances in which moving people is necessary, even in a pandemic, but in those limited cases such activity should be planned and implemented with great care and [appropriate individual housing or temporary](#) alternative workable living arrangements made available; and

WHEREAS, as of March 17, 2020, during the period of civil emergency in response to new cases of COVID-19, the Mayor halted encampment removals except under extreme circumstances that included situations where “living structures completely block the entire sidewalk, living structures prohibit safe entry and exit from a building or use of a facility, or are a public safety danger to occupants and/or greater community” with examples that include a living structure located on a ramp or roadway, blocking an entire sidewalk or bike lane, presenting fire or safety hazards to infrastructure (i.e. freeway supports/bridges), blocking entry or exit to a building, or being located in a play area; and

Amend Section 1 to CB 119796 as follows:

* * *

H. Limiting the removal of encampments that do not present risks to public health is expected to reduce the risk of COVID-19 transmission and contraction by allowing individuals residing in those encampments the opportunity to develop better connections to hygiene services and increase their self-distancing, rather than focusing their efforts on locating new areas to camp or clustering into fewer areas.

I. The CDC further offers the following guidelines for responding to COVID-19 among people experiencing unsheltered homelessness:

1. Encourage those staying in encampments to set up their tents/sleeping quarters with at least 12 feet x 12 feet of space per individual.

2. If an encampment is not able to provide sufficient space for each person, allow people to remain where they are but help decompress the encampment by linking those at higher risk for severe illness to individual rooms or safe shelter.

3. Work together with community coalition members to improve sanitation in encampments.

4. Ensure nearby restroom facilities have functional water taps, are stocked with hand hygiene materials (soap, drying materials) and bath tissue, and remain open to people experiencing homelessness 24 hours per day.

5. If toilets or handwashing facilities are not available nearby, assist with providing access to portable latrines with handwashing facilities for encampments of more than ten people. These facilities should be equipped with hand sanitizer (containing at least 60 percent alcohol).

J. Local and national modeling anticipate subsequent waves of COVID-19 cases as social isolation restrictions are lifted and that continued prohibitions on encampment removals for the length of the public health emergency will reduce risks to public health.

~~J.K.~~ Governor Jay Inslee's Proclamation 20-28 prohibits agencies from taking action (as defined in RCW 42.30.020), unless the matter is (1) necessary and routine; or (2) necessary to respond to the COVID-19 public health emergency.

~~K.L.~~ This legislation is necessary to respond to the COVID-19 public health emergency because it clarifies the approach the City should take to limit the spread of COVID-19 by limiting the removal of encampments to reduce the risk of COVID-19 transmission.

Amend Section 2 to CB 119796 as follows:

Section 2. The following proviso is imposed on the 2020 Budget until December 31, 2020, or until termination of the civil emergency proclaimed by the Mayor on March 3, 2020, whichever is earlier:

Of the appropriations in 2020 for the Addressing Homelessness (HSD-BO-HS-H3000), Patrol Operations (SPD-BO-SP-P1800), Cost Center Maintenance and Repairs (SPR-BO-

PR-10000), and Regulatory Compliance and Consumer Protection (FAS-BO-FA-RCCP) Budget Summary Levels in the General Fund (00100), and notwithstanding powers provided to the Mayor by Section 3 of the Proclamation of Civil Emergency dated March 3, 2020, no funds shall be used to relocate or remove unsanctioned encampments of people experiencing homelessness unless at least one of the following conditions describes the encampment that would be subject to the relocation or removal:

- A. Constitutes an active health threat ~~(excluding~~ including the transmission of communicable diseases, including COVID-19 and its subsequent mutations) ~~),~~ identified by an assessment conducted in collaboration with Public Health – Seattle King County (PHSKC), to occupants or the surrounding neighborhood, where ~~where~~ Prior to posting a notice of an encampment relocation or removal the following steps shall be taken:
1. Provide ~~Appropriate~~ appropriate public health resources or interventions, as recommended by the Centers for Disease Control (CDC) and/or PHSKC, have first been provided to address the conditions of concern, such as, in the case of COVID-19, the interventions recommended in the public health guidance provided by the CDC described in Section 1, Finding I of this ordinance;
 2. Determine that ~~The the services~~ resources or interventions provided in A.1 of this proviso did not mitigate or resolve the health threat; and
 3. ~~It is anticipated~~ Determine that relocation would resolve the health threat;
 4. If the identified active health threat is due to a declared public health emergency because of is transmission of a communicable disease, including COVID-19 and its subsequent mutations, plan and implement any relocation or removal with the strongest possible approaches deployed to protect the health and well-being of the occupants of the encampment, and offer appropriate individual housing or other non-congregate temporary living arrangements that provides sufficient space for each person, including arranging transportation for individual(s) and their belongings if the offer is accepted.
- B. Poses an immediate hazard as defined in Clerk File 320204;

* * *

Effect: This amendment clarifies the language in Section 2.A to correct what was intended but not accurately reflected in the bill as introduced.

The bill as introduced would not allow specified funds to be spent on the relocation or removal of an encampment if the active health threat is the presence of a communicable disease (including COVID).

This amendment clarifies that if the reason for the encampment relocation or removal is the presence of a communicable disease, including COVID, and certain actions have been taken prior to posting a removal notice, the relocation or removal can proceed. The changes, including modifying a recital and adding a finding, better align the proviso with the CDC guidance.

Amendment 2 To Council Bill (CB) 119796

Select Committee on Homeless Strategies and Investments

Sponsor: Councilmember Mosqueda

Amendatory language shown in ~~track changes~~ track changes

Amend Section 2 to CB 119796 as follows:

Section 2. The following proviso is imposed on the 2020 Budget until December 31, 2020, or until termination of the civil emergency proclaimed by the Mayor on March 3, 2020, whichever is earlier:

Of the appropriations in 2020 for the Addressing Homelessness (HSD-BO-HS-H3000), Patrol Operations (SPD-BO-SP-P1800), Cost Center Maintenance and Repairs (SPR-BO-PR-10000), and Regulatory Compliance and Consumer Protection (FAS-BO-FA-RCCP) Budget Summary Levels in the General Fund (00100), and notwithstanding powers provided to the Mayor by Section 3 of the Proclamation of Civil Emergency dated March 3, 2020, no funds shall be used to relocate or remove unsanctioned encampments of people experiencing homelessness unless at least one of the following conditions describes the encampment that would be subject to the relocation or removal:

* * *

- B. Poses an immediate hazard as defined in Clerk File 320204;
- C. ~~The Obstructs the~~ path of travel such that clearance from the encampment is not 4 feet wide or greater for sidewalks, pursuant to the requirements under the Americans with Disabilities Act and the City's Guidelines in Streets Illustrated, or the encampment blocks a curb ramp, or a bike lane. ;The encampment relocation or removal shall be limited to situations where the obstruction cannot be removed to restore required clearance by reconfiguring physical aspects of the encampment while ensuring that tents/sleeping quarters are set up with at least 12 feet x 12 feet of space per individual. Every effort shall be made to work with occupant(s) of the encampment causing the obstruction to offer appropriate housing services;
- D. Presents a fire or safety hazard to infrastructure;

* * *

Effect: This amendment modifies the requirements related to a removal or relocation of an encampment that is obstructing a path of travel or blocking a curb ramp or bike lane contained in subsection 2.C.

The bill as introduced would allow an encampment to be relocated or removed if any portion of the encampment is obstructing the path of travel (not providing a 4-foot clearance) or is blocking a curb ramp or bike lane. This amendment would first require a determination whether the obstruction can be mitigated by reconfiguring the encampment before relocating or removing the entire encampment.

In addition, the amendment adds guidance to ensure that efforts are made to work with occupant(s) of the encampment causing the obstruction and to offer appropriate housing.