

## MEMORANDUM

**To:** Human Services and Public Health Committee  
**From:** Ketil Freeman, Central Staff  
**Date:** October 12, 2016  
**Subject:** Council Bill 118794 – City Responses to Homeless Individuals Living on Public Property

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On October 14, the Human Services and Public Health Committee will continue discussion of Council Bill 118794. Councilmembers Bagshaw and O'Brien have each prepared separate substitutes to the bill that would significantly amend the legislation as introduced.

This memorandum briefly describes similarities and differences between the proposed substitutes.

### Background

As introduced the legislation would: (1) establish requirements and conditions for outreach, notice, and availability of alternative shelter that must be satisfied prior to removing unsanctioned encampments from public property; (2) set minimum standards for storing and safeguarding personal property that are removed from unsanctioned encampments; (3) establish affirmative obligations for the City when sanitation and harm reduction services are requested; and (4) establish 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.

Consideration of the bill is occurring during Council consideration of the Mayor's proposed biennial budget. The proposed budget reflect shifts in funding to implement the Mayor's proposed [Pathways Home](#) Initiative, which is informed by two reports: (1) [Seattle / King County: Homeless System Performance Assessment and Recommendations with Particular Emphasis on Single Adults](#) by Focus Strategies and (2) [Recommendations for the City of Seattle's Homeless Investment Policy: The Path Forward - Act Now, Act Strategically, and Act Decisively](#) by Barbara Poppe and Associates. Homeless services investments proposed by the Mayor are currently being considered by the Budget Committee.

### Proposed Substitutes

Both proposed substitutes would significantly amend the bill as introduced. Additionally, both proposed substitutes share the following substantive and structural changes:

- Both substitutes would make requirements related to encampment removal applicable only to City actions occurring on City-owned property, not all publicly owned property within the city limits;
- Both substitutes would make the requirements of the bill applicable to only encampment removals, not removals of vehicles being used as shelter;
- Both substitutes would request that the Mayor prioritize removal actions in areas that are unsafe or unsuitable or where there are hazardous conditions;
- Removal requirements in both substitutes would terminate two years from the effective date of the bill; and
- Both substitutes would restructure the bill to reorganize, consolidate, and clarify removal requirements.

Some key differences between the two substitutes are summarized in the table below.

Issue Area	Bagshaw Substitute	O’Brien Substitute
1. <i>Definition Of Unsuitable Location</i>	<p>Areas of City-owned property with a public use that would be impeded by an encampment with the following areas listed as unsuitable <i>per se</i>:</p> <ul style="list-style-type: none"> <li>▪ All parks, unless authorized by Director’s Rule</li> <li>▪ All sidewalks and other areas of public rights-of-way, unless authorized by Director’s Rule, with specific exclusions for areas of the sidewalk needed for pedestrian travel, speech activity, ADA compliance, access to utilities, and for sidewalks where the Sit/Lie Ordinance applies.</li> </ul>	<p>Areas of City-owned property with a public use that would be impeded by an encampment with the following areas listed as unsuitable <i>per se</i>:</p> <ul style="list-style-type: none"> <li>▪ Improved areas of parks</li> <li>▪ Restored natural areas of parks or areas undergoing restoration</li> <li>▪ Public sidewalks in front of houses and dwelling units</li> </ul>
2. <i>Removal Requirements From Unsafe Or Unsuitable Areas</i>	<p>The City would immediately remove an encampment when a person is present.</p> <p>When a person is not present, the City would first seek to temporarily store and move the property to a nearby location that does not impede a public use. If there is no such nearby location, the City would <i>immediately</i> remove and store the property.</p>	<p>The City would immediately remove and encampment when a person is present.</p> <p>When a person is not present, the City would first seek to move the property to a nearby location that does not impede a public use. If there is no such nearby location, the City would remove and store the property <i>after providing 24-hour notice</i>.</p>
3. <i>Removal Requirements From Areas Where There Are Hazardous Conditions</i>	<p>The City would provide a 72-hour period to cure the hazardous condition and assistance in doing so. If the condition is not cured within 72 hours, the City would <i>immediately</i> remove the encampment.</p>	<p>The City would provide a 72-hour period to cure the hazardous condition and assistance in doing so. If the condition is not cured within 72 hours, the City would remove the encampment <i>after providing 48-hour notice</i>.</p>
4. <i>Removal Requirements From Areas That Are Not Unsafe Or Unsuitable</i>	<p>If after outreach is provided and an offer of adequate housing or stable shelter is extended and declined, and 72-hour notice is provided, the City would remove the encampment.</p>	<p>The substitute is silent on removal after requirements have been met. However, the option for removal is implicit in the requirement.</p>
5. <i>Standards For Removing, Storing And Safeguarding</i>	<p>The substitute would establish less specific standards for storing and safeguarding personal property to allow more flexibility for implementation.</p>	<p>The substitute would incorporate specific standards to increase the likelihood that personal property would be returned.</p>

Issue Area	Bagshaw Substitute	O'Brien Substitute
<i>Personal Property</i>	<ul style="list-style-type: none"> <li>▪ The period for storing property would be reduced from 90 days to 60 days.</li> <li>▪ A program to allow delivery as a method for return of personal property would be authorized.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The period for storing property would be reduced from 90 days to 60 days.</li> <li>▪ A program to allow delivery as a method for return of personal property would be authorized.</li> </ul>
6. <i>Penalties</i>	There would be no penalties to the City for violations.	Penalties for violations would be reduced from \$250 per violation to \$50 per violation.
7. <i>Rulemaking</i>	The substitute would provide direction to the Executive to establish within 30-days of the effective date of the ordinance additional managed or sanctioned encampments or to identify by rule spaces where encampments may locate that are sufficient to accommodate the estimated demand for such spaces.	The substitute would provide authorization for the Executive to promulgate by rule standards for storing and safeguarding personal property, which due to its size would be impracticable for the City to store and safeguard.
8. <i>Other Implementation Actions</i>	<p>The substitute would set out a work program to:</p> <ul style="list-style-type: none"> <li>▪ Consider land use legislation authorizing additional sanctioned encampments;</li> <li>▪ Consider proportional spending over the biennium between rapid-rehousing and diversion programs and temporary shelter;</li> <li>▪ Consider imposing budget provisos to induce changes to MDAR 08-01;</li> <li>▪ Consider appropriations to help fund implementation of the Heroin and Prescription Opiate Addiction Task Force; and</li> <li>▪ Consider appropriations to fund additional sanitation and clean-up services to respond to complaints and requests.</li> </ul>	<p>The substitute would:</p> <ul style="list-style-type: none"> <li>▪ Establish the Council's commitment to consider legislation based on similar principles for vehicles used as residences by April 30, 2017.</li> <li>▪ Establish an 11 member advisory committee to advise on removal protocols and implementation.</li> <li>▪ Direct the Mayor to enter into memoranda of understanding with other public entities that own land within the City, such as King County and Washington State, that establish that City participation in removals on other public property would be conducted according to the requirements of the ordinance.</li> <li>▪ Direct the Mayor to establish a community response line for requests for harm reduction and sanitation services.</li> </ul>

cc: Kirstan Arestad, Central Staff Executive Director