



Legislation Details (With Text)

File #: CB 118794 **Version:** 1 **Name:** CB 118794
Type: Council Bill (CB) **Status:** Retired
In control: City Clerk

On agenda: 10/14/2016

Final Action: **Ord. No.**

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.

Sponsors: Mike O'Brien

Indexes:

Attachments: 1. Attachment A to Central Staff Memo (9/28/16), 2. CB 118794 Bagshaw Substitute (10/14/16), 3. CB 118794 O'Brien Substitute (10/14/16), 4. Central Staff Memo (9/22/16), 5. Central Staff Memo (9/28/16), 6. Draft Definitions from the ACLU and Columbia Legal Services (9/22/16), 7. Draft Guiding Principles September 2017 (9/22/16), 8. Excerpts from USICH and Focus Strategies Reports (9/22/16), 9. Statement of Principles March 2016 (9/22/16), 10. Summary and Fiscal Note, 11. Central Staff Memo (10/14/16)

Date	Ver.	Action By	Action	Result
6/4/2018	1	City Clerk	Retired	
10/14/2016	1	Human Services and Public Health Committee	discussed	
9/28/2016	1	Human Services and Public Health Committee	discussed	
9/22/2016	1	Human Services and Public Health Committee	discussed	
9/6/2016	1	City Council	referred	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

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.

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 or vehicles used as residences can raise public health and/or safety concerns to which the City must respond; and

WHEREAS, removing outdoor living spaces or impounding vehicles being used as residences when there is not sufficient adequate and accessible alternative housing 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;

WHEREAS, the January 29, 2016, One Night Count found 2,942 individuals sleeping unsheltered in Seattle, an increase of 4.6 percent from the previous year and part of a 67 percent increase in unsheltered homelessness in Seattle since 2011;

WHEREAS, the City’s lack of sufficient adequate and accessible housing to accommodate the needs of all people experiencing homelessness has led to unauthorized outdoor living spaces in the City;

WHEREAS, in 2013, the City's Human Services Department found disproportionality of homelessness among people of color and other groups such as veterans and LGBTQ individuals;

WHEREAS, the City is committed to protecting the civil rights as well as the public health and safety of all people, including those experiencing homelessness;

WHEREAS, no person should suffer or be subject to unfair discrimination or arbitrary treatment based on housing status;

WHEREAS, in response to the increase in the number of people experiencing homelessness, the Mayor declared a Civil Emergency on Homelessness in November 2015 that called for federal and state assistance, as well as innovative and proactive strategies to assist those in need;

WHEREAS, shelter will continue to remain a critical and life-saving service, particularly during times of individual crisis or severe weather; and

WHEREAS, it is the intent of this body to provide clear procedures to ensure that the City can respond appropriately and adequately to needs of individuals as well as the health and safety of all neighborhoods, and to emergency situations, without subjecting unsheltered individuals to greater hardships; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Definitions. The following definitions apply through this ordinance:

“Adequate and accessible housing” means, at a minimum, living space:

(1) Where a person has the right to reside and keep belongings on an ongoing, long-term basis at any time of day or night;

(2) That meets living standards commonly acceptable to society, and includes safety from other individuals, the elements, and exposure to disease or filth, room to move about, storage space for belongings, the ability to maintain current household composition, accommodation for physical or mental limitations, and access to hygiene facilities; and

(3) That is actually accessible to the individual who is or will be living in that space, including that the individual must not be barred as a result of criminal background, treatment status, ability to show identification, household composition, physical or mental limitations, or otherwise.

“City” means The City of Seattle and any of its contractors, agents, employees, or partners.

“Hazardous condition” means a condition that creates an imminent and likely public health or safety harm. The public health or safety harm must be created by the presence of a particular condition and not a generalized harm common to all who are unsheltered.

“Household” means a group of individuals who wish to live together because they are relatives, are in a family relationship, or for other reasons. A household includes pets.

“Impoundment” means any action by the City to remove or tow a vehicle used as a residence without the express approval of the vehicle’s owner.

“Outdoor living space” means any outdoor public space that homeless individual(s) use to live or sleep in, as evidenced by the presence of a sleeping bag, shelter, tarp, tent, bed, cardboard, metal sheeting, furniture, or other objects demonstrating an intent to live in the location for one or more days, whether or not continuously.

“Personal property” means any item which an individual owns and which might have value or use to that individual, regardless of whether the item is left unattended for temporary periods of time or whether it has monetary value. Personal property includes vehicles. This does not include weapons other than knives, contraband, items which pose an obvious health or safety risk, or are clearly contaminated in way which a reasonable person would conclude the items should not be stored with other property.

“Public space” means any area which is owned, leased, maintained, controlled, or managed by a government or public entity.

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

“Specific public use” means a lawful designated and recognized function, including but not limited to park use, schools, and recreational areas. The City shall establish by Director’s rule the criteria for and a process by which the Department of Neighborhoods may define a “specific public use” for a particular location, for purposes of designating an “unsuitable location”.

“Unsafe location” means a location that poses imminent danger of harm to individuals residing in that location or to the general public. The danger of harm must be created by the presence of the specific outdoor living space or vehicle used as a residence at the particular location and not generalized danger of harm common to all who are unsheltered.

“Unsuitable location” means 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 public use. The City shall establish by rulemaking criteria for and a process by which the Department of Neighborhoods may designate specific sites as unsuitable based on a showing of need. Designations of unsuitability must leave ample nearby, public spaces that are not unsafe or unsuitable.

Section 2. Community response line

A. For the benefit of all City residents, the City has an interest in preventing the build-up of garbage, human waste, and other refuse at outdoor living spaces and other public spaces. The City Customer Service Bureau shall serve as the coordinating entity for requests for clean-up and/or basic services.

B. The City shall investigate requests for a clean-up or a health and safety inspection including a site visit if adequate information is provided that there may be a legitimate concern about health and/or safety.

C. The City shall provide outreach, basic garbage, sanitation, and harm reduction services upon request at outdoor living spaces containing more than five individuals.

Section 3. Removal and impoundment. The City may respond appropriately to emergency situations such as fires, crimes, or medical crises as it normally would outside outdoor living spaces. However, except as specified in Section 4 of this ordinance, the City may undertake a removal or impoundment action only when the City has satisfied the following conditions:

A. Adequate and accessible housing is available at the time of removal or impoundment, or at the time of voluntary departure, to any individuals whose persons, personal possessions, and/or vehicles are being removed or impounded.

B. The affected individuals have been engaged with sufficient individualized outreach over a period of not less than 30 days, to allow anyone interested to move voluntarily to adequate and accessible housing. Sufficient outreach involves, at a minimum: (1) making an individual assessment of each affected individual, which includes, but is not limited to, considerations of household composition; disability; mental illness or

other mental or emotional capacity limitations; substance use or treatment status; geographic needs, such as proximately to personal support, healthcare, employment and other geographic considerations; and ongoing support needs; (2) identifying and offering adequate and accessible housing based on this individual assessment; and (3) if an offer is accepted, providing assistance with both the administrative and logistical aspects of moving into the identified adequate and accessible housing. Outreach shall identify wherever possible where the individual is already working with service providers and coordinate with those efforts, and shall integrate with other City and King County data sharing projects to prevent avoidable duplication of data and effort.

C. The City has provided written notice meeting the following requirements:

1. Notice must include the following information:

- a. The specific date and time the anticipated removal or impound will take place, which must not be fewer than 30 days from the notice date;
- b. Explanation of the actions that will be taken during the removal or impoundment and how loss of personal property can be avoided;
- c. Information about where personal property will be safeguarded if seized during the removal or impoundment and how it can be retrieved after removal or impoundment;
- d. Contact information for the outreach organizations that will work with that site as specified in subsection 3.B of this ordinance; and
- e. A statement that removal or impoundment will not occur in the absence of adequate and accessible housing for all affected individuals, and information about how the housing options can be accessed.

2. Notice must be provided in languages likely to be spoken by impacted individuals, and through methods capable of being understood by persons with physical and mental disabilities.

3. Notice must be posted in a conspicuous location at the relevant outdoor living space or on the

relevant vehicle, as well as affixed to all tents and structures used for shelter at that location.

D. During a removal or impoundment, the City will safeguard all personal property free of charge according to the following requirements:

1. For individuals present at the time of the removal or impoundment who have accepted the offer of an adequate and accessible housing but do not have the ability to transport their personal property, the City shall transport all personal property to the location of the accepted housing the day of the removal or impoundment.

2. For individuals absent at the time of the removal or impoundment, the City must document that those individuals had actual notice of the removal or impoundment.

3. For individuals absent at the time of removal or impoundment, or present but who did not accept the offer of adequate and accessible housing and do not have the ability to transport their personal property, the City will safeguard all personal property as follows:

a. Personal property must be photographed and catalogued by location and with identifying details of the personal property prior to being put into storage. Such information must be searchable by computer and by calling a City agent.

b. The location of the storage facility must be accessible by public transportation and accessible to those with disabilities.

c. Its operating hours must extend beyond normal business hours to accommodate those who work or have other obligations during midweek during normal business hours.

d. Photo identification shall not be required as a condition of retrieval.

e. The City must post notice for 90 days at the location of the removal or impoundment with the location of the seized personal property and instructions for reclaiming such personal property.

f. Within 24 hours of the removal, a City agent or employee must return to the site and seek to inform individuals of how to retrieve their items.

g. After 90 days, the City may dispose of any unclaimed personal items provided all the requirements of subsections 3.D.3.a-f of this ordinance have been met.

Section 4. Hazards and unsafe or unsuitable conditions

A. If an outdoor living space or a vehicle used as a residence is in an unsafe or unsuitable location, or creates or contains a hazardous condition, the City may undertake a removal or impoundment action if conducted in accordance with the procedures set forth in this Section.

B. Prior to conducting removal or impoundment actions based on unsafe or unsuitable locations, the City must do the following:

1. The City must inform all individuals staying at such location the reasons that it is unsafe or unsuitable at least 48 hours prior to any removal or impoundment.

2. If an outdoor living space covers both safe or suitable and unsafe or unsuitable locations, the City may only undertake removal or impoundment actions that are in the unsafe or unsuitable location.

3. The City must identify and make available to all affected individuals a nearby, alternative public space owned or controlled by the City to camp or park that is not unsafe or unsuitable.

4. The City must conduct sufficient individualized outreach.

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

1. For at least 72 hours, provide access to basic garbage, sanitation, and harm reduction services, including emptying receptacles and containers provided for refuse and disposal of sharps, as dictated by the nature of the hazardous condition.

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

3. Provide a meaningful opportunity to cure the hazardous condition, including: (a) an effective cure notice of the specific conditions that create the hazardous condition and information on how that condition

can be remedied; and (b) provision of necessary items, such as garbage bags and bins, rodent traps, intravenous needle receptacles, and/or portable toilets, among others, that would allow the individuals to cure the hazardous condition. The City must allow individuals at least 72 hours to cure the hazardous condition before posting notice of removal or impoundment, and shall not conduct removal or impoundment if the hazardous conditions have been cured.

4. Conduct site visits by City staff to: (a) inform all affected individuals prior to or during the cure period that the location has a hazardous condition and the actions needed to cure that condition; and (b) inform all affected individuals whether the hazardous condition has been remedied after the cure period or, if the hazardous condition has not been remedied after the cure period, the reason it has not been remedied.

D. Prior to removal or impoundment, the City must provide written notice meeting the following requirements:

1. Notice must include the following information:

a. The specific date and time the removal or impound will take place;

i. The removal or impound may not take place fewer than 48 hours from the date of notice in the case of unsafe or unsuitable location;

ii. The removal or impound may not take place fewer than five days from the date of notice in the case of a hazardous condition;

b. Explanation of how the location of the outdoor living space or vehicle is unsafe and/or unsuitable, or the hazardous condition has not been remedied;

c. Explanation of the actions that will be taken during the removal or impoundment and how loss of personal property can be avoided;

d. Information about where personal property will be safeguarded if seized during the removal or impoundment and how it can be retrieved after removal or impoundment;

e. Clear directions to the alternative public space owned or controlled by the City;

f. Contact information for the outreach organizations that will work with that site as described in subsection 4.D. 4 of this ordinance; and

g. If available, a statement that adequate and accessible housing is available for all affected individuals.

2. Notice must be provided in languages likely to be spoken by impacted individuals, and through methods capable of being understood by persons with physical and mental disabilities.

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

4. Sufficient individualized outreach must involve, at a minimum, the following actions:

a. Informing all affected individuals of the availability of the alternative public space owned or controlled by the City for the outdoor living space or vehicle, or offering adequate and accessible housing; and

b. Offering assistance with both the administrative and logistical aspects of moving into the identified alternative public space owned or controlled by the City or adequate and accessible housing.

E. During a removal or impoundment, the City will safeguard all personal property free of charge according to the following requirements:

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

2. For individuals who are absent at the time of the removal or impoundment or who are present but who do not wish to move to the alternative public space owned or controlled by the City and do not have the ability to transport their personal property, the City will safeguard all personal property as follows:

a. Personal property must be photographed and catalogued by location and with

identifying details of the personal property prior to being put into storage. Such information must be searchable by computer and by calling a City agent.

- b. The location of the storage facility must be accessible by public transportation and accessible to those with disabilities.
- c. The location's operating hours must extend beyond normal business hours to accommodate those who work or have other obligations during midweek during normal business hours.
- d. Photo identification shall not be required as a condition of retrieval.
- e. The City must post notice for 90 days at the location of the removal or impoundment with the location of the seized personal property and instructions for reclaiming such personal property.
- f. Within 24 hours of the removal, a City agent or employee must return to the site and seek to inform individuals of how to retrieve their items.
- g. After 90 days, the City may dispose of any unclaimed personal items provided all the requirements of subsections 4.E.2.a-f of this ordinance have been met.

Section 5. Collaboration with other entities. The City will only direct, engage, cooperate, or contract with any other entity to engage in any removal or impoundment action in accordance with this ordinance.

Section 6. Implementation and Advisory Committee

To ensure the ordinance meets the goals of protecting the public health, public safety, and civil rights of all people, including those experiencing homelessness, the City shall establish an Implementation and Advisory Committee ("Committee").

A. The functions and duties of the Committee shall be to:

- 1. Advise the Mayor, Council, and relevant departments of concerns and issues with regard to City's removal and impoundment actions, and provide recommendations, findings, or other reports as appropriate related to such concerns and issues; and
- 2. Review proposed implementation plans and guidelines, and provide comments regarding the

same to department staff charged with contracting outreach workers, notice, storage, etc...

B. The Committee shall consist of 11 members. The Mayor shall appoint one member. Each Councilmember shall appoint one member and the Council collectively shall appoint one member. The members will be appointed to serve staggered three 3 year terms and may be reappointed to subsequent terms. Any vacancy in an unexpired term shall be filled in the same manner as the original appointment. A member whose term is ending may continue on an interim basis as a member with voting rights until such time as a successor for that position has been appointed.

C. The Committee members should have current or recent (within the last five years) professional, personal, or research experience associated with provision of services to individuals experiencing homelessness, or with public health or public safety.

D. The Director of the Human Services Department and the Director of the Finance and Administrative Services Department shall assign at least one staff member to support the work of the Committee. A representative of various City Departments, including but not limited to the Office for Civil Rights, Parks and Recreation Department, Seattle Police Department, Department of Transportation, and/or the City Attorney's Office, shall attend the committee meetings upon request of the Committee.

Section 7. Penalties. Failure by the City or any of its partners, agents, or contractors to follow the requirements of this ordinance shall result in a penalty paid by the City to each affected individual of \$250 per violation, in addition to any actual damages incurred. The Seattle Office for Civil Rights shall be charged with the oversight, investigation, and enforcement of the provisions of this ordinance.

Section 8. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2016, and signed by

me in open session in authentication of its passage this ____ day of _____, 2016.

President _____ of the City Council

Approved by me this _____ day of _____, 2016.

Edward B. Murray, Mayor

Filed by me this _____ day of _____, 2016.

Monica Martinez Simmons, City Clerk

(Seal)