

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION

MERVIN B. STURGEON.

on behalf of himself and others similarly situated,

Plaintiff,

Civil Action No.

v.

CITY MANAGER ROBERT HERRON,
individually and in his official capacity,
THE CITY OF WHEELING, its division,
THE WHEELING POLICE DEPARTMENT, and
THE WEST VIRGINIA DIVISION OF HIGHWAYS,
an agency of THE WEST VIRGINIA DEPARTMENT
OF TRANSPORTATION

Defendants.

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S EMERGENCY
MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY
INJUNCTION

I. INTRODUCTION

The question before the Court is whether the Defendants, in the midst of an unprecedented public health crisis and without due process, may tear down the residences and destroy the personal property of individuals that live in Wheeling's tent encampments.

Plaintiff in this action, an unsheltered houseless Wheeling resident living on public property, seeks preliminary injunctive relief to prevent the City of Wheeling and its employees from seizing and destroying his personal property without adequate or appropriate notice.

The City has the authority to clean its public spaces. It simply may not do so in a way that violates people's constitutional rights.

As discussed in greater detail below, plaintiff is likely to prevail on the merits

of his claims that the City's sweeps are unconstitutional. The destruction of personal property constitutes an unreasonable seizure in violation of the Fourth Amendment of the U.S. Constitution, and Article III, Section Six of the West Virginia Constitution. In the absence of a warrant, probable cause, or exigent circumstances, courts addressing the situation have deemed sweeps similar to the ones threatened here as to violate the Fourth Amendment. In the United States Supreme Court's words, "an officer who happens to come across an individual's property in a public area could seize it only if Fourth Amendment standards are satisfied—for example, if the items are evidence of a crime or contraband." *Soldal v. Cook Cty.*, 506 U.S. 56, 68 (1992).

Additionally, the destruction of personal property pursuant to an official municipal policy or procedure, without adequate pre-deprivation notice and an opportunity to contest the seizure, violates procedural due process protections required by the Fourteenth Amendment and under Article III, Sections 10 and 17 of the West Virginia Constitution. The City of Wheeling could easily employ procedural protections similar to those used in other major cities¹ and follow the Centers for Disease Control and Prevention guidance regarding how to treat encampments during the COVID-19 crisis.² To not do so is unconstitutional. Finally, the City's policy and practice of tearing down residences and destroying property without adequate notification, even moreso in the midst of a global

¹ See Excerpt from Tent City, USA report, National Law Center on Homelessness and Poverty, attached as Exhibit A. Included in this excerpt are examples of procedural protections in place in a number of municipalities, including Charleston, West Virginia.

² People Experiencing Homelessness and COVID-19, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html> (last visited Sept. 2, 2020) ("If individual housing units are not available, do not clear encampments during community spread of COVID-19. **Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread.**"). Emphasis added.

pandemic, deprives Plaintiff and members of the prospective class of fundamental rights—to their homes and their personal belongings—which are vital to their emotional and physical well-being. These actions would violate Plaintiff's rights to substantive due process as guaranteed by the Fourteenth Amendment and under Article III, Sections 1 and 10 of the West Virginia Constitution.

Using its April 14, 2020 teardown at the encampment in the Tunnel Green area of Wheeling as a guide, the City is likely to seize and destroy Plaintiff's personal property that constitutes life necessities (clothing, blankets, food and medications) and irreplaceable possessions like personal papers, books, jewelry and pictures in future sweeps. Plaintiff requests not that the City refrain from maintaining public property, but that they do so in a way that respects basic constitutional rights and is protective of public health in the midst of a global health crisis. Respecting the constitutional rights of encampment residents by providing meaningful and effective pre-deprivation notice, inventorying and safeguarding the property for a reasonable time, and making it available for retrieval by the owner before destroying it would not adversely affect the City's ability to satisfy essential health, safety, and welfare concerns. Ensuring adequate, stable housing is available for encampment residents during a global pandemic should be a necessary prerequisite to moving forward with the dismantling of any encampment. Given that many other cities already employ the requested procedures, Plaintiff's request is eminently reasonable.

Plaintiff incorporates by reference the factual allegations contained in their Verified Class Action Complaint.

II. ARGUMENT

A. Standard of Review

Plaintiff seeks a TRO and preliminary injunction to prevent ongoing, irreparable injury: the destruction of their homes and personal property without

due process of law. All four relevant factors weigh heavily in Plaintiff's favor: (1) likelihood of success on the merits; (2) likelihood of irreparable harm absent relief; (3) the balance of equities; and (4) the public interest. *See Winter v. Nat. Res. Dep't Cent.*, 555 U.S. 7, 20 (2008); *see also Mountain Valley Pipeline, LLC v. W. Pocahontas Props. Ltd. P'ship*, 918 F.3d 353, 366 (4th Cir. 2019). As demonstrated below, Plaintiff is likely to succeed on the merits, and injunctive relief will prevent severe and irreparable harm to Plaintiff, is consistent with the balance of equities, and serves the public interest. Accordingly, this Court should grant Plaintiff's motion.

B. Plaintiff Will Likely Succeed on the Merits of His Constitutional Claims

1. Seizing and Destroying Plaintiff's Personal Property Constitutes an Unreasonable Seizure under the Fourth Amendment and under the West Virginia Constitution

A Fourth Amendment "seizure" occurs where there is some meaningful interference with an individual's possessory interests in that property." *See Soldal*, 506 U.S. 61, 63 (quoting *United States v. Jacobsen*, 466 U.S. 109, 113 (1984)). "Destroying property meaningfully interferes with an individual's possessory interest in that property." *Altman v. City of High Point*, 330 F.3d 194, 205 (4th Cir. 2003) (citing *Jacobsen* at 124-25). The protection against seizures extends to "persons, houses, papers and effects." U.S. Const. Amend. IV. "The people's 'effects' include their personal property." *Altman*, 330 F.3d at 202 ("Reviewing the cases in which the Court has addressed the meaning of 'effects,' it becomes apparent that the Court has treated the term 'effects' as being synonymous with personal property."). The state constitution's corollary of the Fourth Amendment protection from unlawful searches and seizures—at Section Six of Article III of the West Virginia Constitution—is traditionally construed as being in harmony with

Fourth Amendment law. *See State v. Duvernoy*, 156 W.Va. 578, 582 (W. Va. 1973).

Fourth Amendment protection against seizures applies in both the criminal and civil contexts. *Soldal*, 506 U.S. at 66-67. The motivation for the seizure is irrelevant. *Id.* at 69. Consequently, it is immaterial whether City employees confiscate the property for aesthetic concerns or to investigate a crime. Either way, the seizure triggers Fourth Amendment scrutiny.

Notably, the United States Supreme Court has indicated that, “an officer who happens to come across an individual’s property in a public area could seize it only if Fourth Amendment standards are satisfied – for example, if the items are evidence of a crime or contraband.” *Id.* at 68. Generally, the Supreme Court “has viewed a seizure of personal property as per se unreasonable within the meaning of the Fourth Amendment unless it is accomplished pursuant to a judicial warrant issued upon probable cause and particularly describing the items to be seized.” *Altman*, 330 F.3d at 202 (citing *United States v. Place*, 462 U.S. 696, 701 (1983)).

The Court has, however, found reasonable some warrantless seizures. In cases scrutinizing warrantless seizures, the court “must balance the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion.” *Place*, 462 U.S. at 703.

Balancing the interests in this case, it is clear that any interest the City has in crime that has been reported in the area or in the in the aesthetic appearance of public places does not justify destroying Plaintiff’s property. This is especially true if steps can be taken readily and relatively simply to avoid the property destruction. As discussed in the next section on procedural due process, other municipalities have managed to take these steps and safeguard the constitutional rights of individuals. Wheeling can do the same.

In *Pottinger v. City of Miami*, a lawsuit that challenged policies and procedures that applied to Miami's homeless residents, the court found unconstitutional property sweeps similar to the one that has occurred here and ones that may occur any day now. In holding that the seizure of the residents' personal property was unlawful, the Court stated: "The property of homeless individuals is due less no protection under the Fourth Amendment than that of the rest of society. Requiring the City to follow its own written policy with respect to the property of the homeless class members should not be significantly more burdensome than it is with respect to any other property." *Pottinger v. Miami*, 810 F. Supp. 1551, 1573 (S.D. Fla. 1992).

In another similar case, eight individuals in Los Angeles sued the city after police officers seized and destroyed their personal possessions. *Lavan v. City of Los Angeles*, 797 F. Supp. 2d 1005 (C.C.D.C. 2011). The plaintiffs alleged that the actions were in violation of their rights under the Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution, and sought a temporary restraining order and preliminary injunction to enjoin the City from continuing with its unconstitutional practices. *Id.* at 1009. The Court issued the preliminary injunction, stating "the property of the homeless is entitled to Fourth Amendment protection." *Id.* at 1016. The Court further noted that, even *if* the City had a valid reason to seize Plaintiffs' property, it would turn "what could be an otherwise lawful seizure into an unlawful one by forever depriving an owner of his or her interests in possessing the property without recourse . . ." *Id.* Here, the City of Wheeling seek to similarly seize and destroy the property of individuals without offering recourse. These actions violate the Fourth Amendment rights of affected individuals and must be enjoined.

2. Seizing and Destroying Plaintiff's Personal Property Without Adequate Notice or Opportunity to Be Heard Violates Plaintiff's Rights to Procedural Due Process

Wheeling's practice of simply taking encampment residents' property and throwing it away violates Plaintiff's procedural due process rights as guaranteed under the Fourteenth Amendment and under Article III, Sections 10 and 18 of the West Virginia State Constitution.

The government may not deprive a citizen of his property without affording him due process of law. U.S. Const. amend. XIV; W.Va. Const. art. III, §§ 10, 18. *See, e.g., United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 48 (1993) ("Absent extraordinary circumstances, individuals generally at minimum receive notice and an opportunity to be heard before Government deprives them of property."). Plaintiff and prospective class members have a constitutionally-protected property interest in their own possessions. The City's seizure and "destruction" of encampment residents' property constitutes a "deprivation" subject to procedural due process protections. *See Tri-County Paving, Inc. v. Ashe County*, 281 F.3d 430, 436 (4th Cir. 2002) ("Due process of law generally requires that a deprivation of property 'be preceded by notice and opportunity for hearing appropriate to the nature of the case.'"). While only post-deprivation process is required when the challenged conduct is "random and unauthorized" (so that state authorities cannot predict when such unsanctioned deprivations will occur) the City in this case must accord plaintiff's pre-deprivation process because the sweeps reflect an official practice or policy. *See Zinermon v. Burch*, 494 U.S. 113, 127 (1990). "The controlling inquiry is solely whether the state is in a position to provide for pre-deprivation process." *See O'Neal v. Rollyson*, 729 F. App'x 254, 256 (4th Cir. 2018) (quoting *Hudson v. Palmer*, 468 U.S. 517, 534). As it appears the City plans its sweeps in advance, pre-deprivation process is practicable and constitutionally mandated.

The process due in a particular situation involves balancing “the private interest, the governmental interest, and the value of the available procedure in safeguarding against an erroneous deprivation.” *Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976).

As discussed below in the section on irreparable harm, the private interest is significant. The affected property may be essential to plaintiff’s health or may involve irreplaceable personal items. On the other hand, the City cannot have any interest in simply seizing and destroying people’s possessions.

Providing pre-deprivation notice of the sweep, inventorying seized property, and then safeguarding it for a reasonable time period are not significantly burdensome. Indeed, adequate pre-deprivation notice will reduce the property that must be seized. And finally, the suggested procedures will be highly effective in protecting Plaintiff’s property rights and preventing unnecessary seizures.

For the foregoing reasons, Plaintiff is likely to prevail on the merits of their Fourteenth Amendment procedural due process claims.

3. Seizing and Destroying Plaintiff’s Personal Property Without Notice and Without Providing Alternative Housing Amidst the COVID-19 Pandemic Violates Plaintiff’s Substantive Due Process Rights

Substantive due process is the notion that due process not only protects certain legal procedures, but also protects certain rights unrelated to procedure. *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997). The “protections of due process have for the most part been accorded to matters relating to marriage, family, procreation, and the right to bodily integrity.” *Albright v. Oliver*, 510 U.S. 266 (1994). Substantive due process is guaranteed under the Fourteenth Amendment of the United States Constitution and Art. III, Sections 1 and 10 of the West Virginia Constitution.

Substantive due process is violated only when it “can properly be characterized as arbitrary, or conscience shocking, in a constitutional sense.” *Collins v. City of Harker Heights*, 502 U.S. 115, 128 (1992). Although the state’s failure to protect an individual against some danger does not generally violate the guarantee of due process, it may do so when the state has affirmatively acted to put a person in a position of danger that the individual would not have otherwise faced. *See e.g., Winnebago County Dep’t of Soc. Servs.*, 489 U.S. 189, 197 (1989).

In one case involving the sweep of an encampment in the winter, a federal district court found that the plaintiff had brought facts to plausibly support a substantive due process claim based on the “danger creation” doctrine, and that they knew or should have known “that their conduct threatened the plaintiff’s continued survival, but nonetheless continued their conduct in a manner that has created substantial risk to [the plaintiff’s] ability to continue to survive.” *See Sanchez v. City of Fresno*, 914 F.Supp.2d 1079, 1101 (C.E.D.C. 2012). Defendants, in sweeping encampments during the time of a global pandemic—at time in which city residents are under a government order to stay at home to prevent the spread of a dangerous respiratory virus—without providing alternative housing, are similarly creating a substantial risk to Plaintiff’s ability to survive. Plaintiff is likely to succeed on the merits of their constitutional claims.

B. Plaintiff Will Suffer Irreparable Harm if the Court Declines to Issue This Injunction

Unless this Court grants the requested temporary restraining order and/or preliminary injunction to enjoin property “sweeps,” plaintiff will suffer irreparable harm. When an alleged constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary. *See, e.g., Johnson v. Bergland*, 586 F.2d 993, 995 (4th Cir. 1978) (“Violations of first amendment rights constitute per se irreparable injury.”) (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); *Am.*

Fed'n of Teachers-W. Va., AFL-CIO v. Kanawha Cty. Bd. of Educ., 592 F. Supp. 2d 883, 905 (S.D. W. Va. 2009) (violation of “fundamental constitutional right ... demonstrate[s] irreparable harm”).

As discussed above, the sweeps, as currently designed, are likely to violate plaintiff's Fourth and Fourteenth Amendment rights, as well as the corollary rights afforded to them under the West Virginia Constitution. In this case, the destruction of the few meager items plaintiff possesses would be irreparable. In the case of clothing and food, it could affect their health, safety, and very lives. As noted by one court addressing a challenge in Miami by homeless people to similar property sweeps, “the loss of such items such as clothes and medicine threatens the already precarious existence of homeless individuals by posing health and safety hazards; additionally, the prospect of such losses may discourage them from leaving the parks and other areas to seek work, food or medical attention.” *Pottinger*, 810 F. Supp. At 1573.

C. Defendants Will Not Be Irreparably Harmed if They Are Enjoined From Conducting Sweeps Until They Adopt Procedures that Protect Plaintiff's Constitutional Rights

Plaintiff does not contend that the City cannot clean or maintain its public property. Rather, Plaintiff argues that the City must do so in a way that respects his constitutional rights. In order to prevent erroneous deprivations of property, the constitutional norm has been to require that the owner be given advance notice and an opportunity to prevent the taking prior to the action. Requiring adequate pre-confiscation notice in this case would prevent an unreasonable seizure and a violation of due process by allowing people to remove or otherwise safeguard their property before the sweeps occur. Requiring the City to inventory and safeguard confiscated property for a reasonable period of time to allow individuals who do not receive or understand the notice to retrieve their possessions would prevent

irreparable harm to plaintiff and prospective class members and reduce the City's liability for damage claims. Neither of these requirements would be unduly burdensome for the City. And, as one court has already recognized, "the City's interest in having clean parks is outweighed by the more immediate interest of the [homeless people] in not having their personal belongings destroyed." *Id.* at 1572.

D. Granting the Injunction Will Serve the Public Interest

It is in the public interest to ensure that the government does not unfairly, arbitrarily, or unnecessarily deprive people of their personal property. Enforcing the constitutional standards discussed above will promote that result.

E. A Bond is Not Necessary in this Case

This Court has discretion to and should waive FRCP 65(c)'s bond requirement. *See e.g., Pashby v. Delia*, 709 F.3d 307, 331-32 (4th Cir. 2013). The preliminary injunction will result in no monetary loss for Defendants. Moreover, Plaintiff is an individual in an underserved community and any bond is outside his already very limited resources.

III. CONCLUSION

For these reasons, this Court should grant Plaintiff's motion and enjoin Defendants, their officials, officers, employees, agents assigns, and those acting in concert with them, from conducting any property sweeps of homeless persons' personal property until adequate policies are promulgated to protect and safeguard plaintiff's Fourth, Fifth and Fourteenth Amendment Rights and the corollary rights granted to him under the West Virginia Constitution.

Respectfully submitted,

by Counsel,

/s/ Loree Stark

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CERTIFICATE OF SERVICE

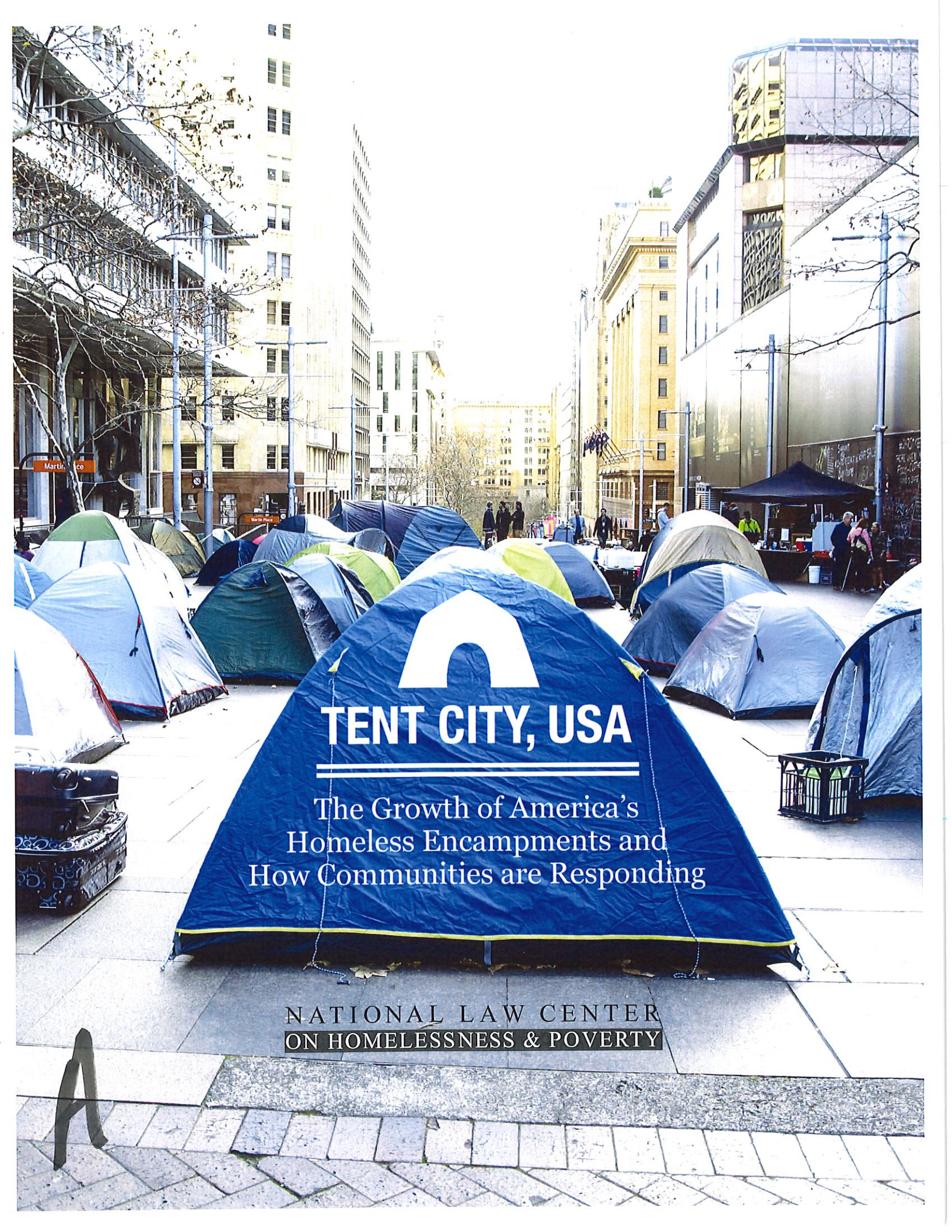
I, Loree Stark, do hereby certify that on this 2nd day of September, 2020,
that I electronically filed a true and exact copy of *Memorandum in Support of
Emergency Motion for a Temporary Restraining Order and Preliminary
Injunction* with the Clerk of Court using the CM/ECF System and emailed same
to:

Robert Herron, City Manager
citymanager@wheelingwv.gov

Rosemary Humway-Warmuth, Esq., Wheeling City Solicitor
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Byrd E. White, III, Cabinet Secretary, Commissioner of Highways
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/s/ Loree Stark
West Virginia Bar No. 12936



TENT CITY, USA

The Growth of America's
Homeless Encampments and
How Communities are Responding

NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

Appendix V. Indianapolis Ordinance No. 2, 2016

CITY-COUNTY GENERAL ORDINANCE NO. 2, 2016 Proposal No. 12, 2016

PROPOSAL FOR A GENERAL ORDINANCE amending the Revised Code to add certain protections for the homeless.

WHEREAS, on January 28, 2015, outreach workers counted 1,666 persons in Marion County who were homeless; and

WHEREAS, based on national research, the number of persons who experience homelessness at some point during the year is three to five times the number counted during a point-in-time count such as the January 28, 2015 count; and

WHEREAS, the estimated number of persons in Marion County who experience homelessness during the course of a year ranges from 5,000 (point-in-time results x 3) and 8,330 (point-in-time results x 5); and

WHEREAS, Marion County has a shortage of shelters that can accommodate individuals and families, victims of domestic violence, and unmarried couples, and the County therefore provides limited help to those experiencing homelessness; and

WHEREAS, there is a shortage of transitional housing as well as permanent housing for those experiencing homelessness; and

WHEREAS, there is also a shortage of emergency shelter space operated by secular entities for individuals and families; and

WHEREAS, the persons experiencing homelessness should be entitled to protection from arbitrary and capricious treatment by local government; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Title I, Chapter 231 of the "Revised Code of the Consolidated City and County," is hereby amended by adding a new Article V, to read as follows:

ARTICLE V. PROTECTIONS FOR THE HOMELESS

Sec. 231-501. Purpose and intent.

No person should suffer unnecessarily or be subject to unfair discrimination or arbitrary treatment based on his or her homeless status. It is the intent of this article to lessen the adverse effects and conditions caused by the lack of a home or residence.

Sec. 231-502. Definitions.

For purposes of this Article:

(a) the term "emergency" means situations when a failure to act immediately could lead to serious harm to public health or safety.

(b) the term "homeless" has the definition set forth at 24 CFR Sections 91.5, 582.5, and 583.5;

(c) the term "camp" means a place on public property with temporary accommodations of tents or other structures in which homeless persons have been living.

Sec. 231- 503. Protections in the event of displacement.

(a) If a homeless person is to be displaced from a camp, the city, through the department of public works, must maintain and catalogue their personal items, including but not limited to, clothing, blankets, identification documents, birth certificates, and other personal documents and effects, in a safe and secure place for a minimum of 60 days. After 60 days, if the city has made reasonable efforts to notify the displaced person, the city may securely dispose of any unclaimed personal items. For purposes of this subsection, the

GENERAL ORDINANCE RECORD 2016

G.O. No. 2, 2016
Page 2

obligations to maintain and catalogue personal items shall be limited to those items that may fit entirely within one 96-gallon container per displaced person.

(b) For purposes of subsections (b) through (d) of this section, the term "city" refers to the department of public safety. Before the city may displace a homeless person from a camp, the city must give at least fifteen (15) days' notice to the homeless persons living in the camp, to the Reuben Engagement Center, and to the Indianapolis Continuum of Care or similar organizations designated by the city; provided, however, that if the city makes a written determination that an emergency exists, the city may give whatever notice is reasonable under the circumstances.

(c) Upon receiving the notice described in subsection (b), the Indianapolis Continuum of Care or similar organization designated by the city will coordinate the efforts of all participating service providers, faith-based organizations, street ministries, the Reuben Engagement Center, and volunteers to ensure that the homeless persons to be displaced are provided available transitional housing or permanent housing, and comprehensive wrap-around services for which they are eligible, unless the homeless person refuses the assistance. The transitional or permanent housing must be safe, reasonably clean and maintained, and approved by the city.

(d) If there is insufficient available housing and services as described in subsection (c) to meet the needs of all displaced homeless persons in a camp scheduled to be closed by the city, the city must wait until there is sufficient available housing and services before it can close the camp, and in the interim the city will give priority to long-term residents of the camp; provided, however, that if the city makes a written determination that an emergency exists, the city does not need to wait until there is sufficient available housing and services before it can close the camp.

SECTION 2. This ordinance shall be in effect from and after its passage by the Council and compliance with IC 36-3-4-14.

The foregoing was passed by the City-County Council this 8th day of February, 2016, at 8:30 p.m.

ATTEST:

Maggie A. Lewis
President, City-County Council

NaTrina DeBow
Clerk, City-County Council

Presented by me to the Mayor this 11th day of February, 2016.

NaTrina DeBow
Clerk, City-County Council

Approved and signed by me this _____ day of February, 2016.

Joseph H. Hogsett, Mayor

Appendix VI. Charleston, WV Encampment Ordinance

CITY OF CHARLESTON HOMELESS ENCAMPMENT AND TRANSIENT OUTDOOR TEMPORARY LIVING POLICY

1. Purpose and intent.

It is a goal of the City of Charleston that all of its residents have permanent housing. Any resident who is homeless is encouraged to take advantage of the free assistance and available services offered within the City, provided by the Kanawha Valley Collective (a collective of non-profit homeless and related service providers funded, in part, by City, hereinafter "KVC"), including, but not limited to, shelter, wrap-around services, and permanent housing. Based on a review of current federal and assistance provider publications on homeless encampments and discussions with the primary organizations in Charleston that provide services for the homeless, living outdoors in a homeless encampment or a transient outdoor living situation is disfavored by a majority of homeless advocates and service providers, is inconsistent with the City's goal, and is discouraged.

Notwithstanding, it is the intent of this policy to lessen the adverse conditions affecting homeless individuals while also recognizing the interests of businesses, private property owners and all residents and visitors to the City of Charleston.

2. Definitions. For the purposes of this policy only, the following terms are defined as follows:

- (a) "Homeless" means: An individual or family with a primary residence that is: a public or private place not designed for or ordinarily used as a regular living or sleeping accommodation for human beings; or an emergency shelter.
- (b) "Encampment" means: homeless individuals or families residing out of doors on a common site for 30 days or more, which may or may not include common areas designed to provide food, living and sanitary services to occupants of the encampment.
- (c) "Transient outdoor temporary living" means: a homeless person(s) residing out of doors on public property in a fixed location for seven or more days and less than 30 days.
- (d) "Sorting Exercise" means: a separation of things of personal, legal, or material value from things without such value.

3. Procedure when closing an encampment.

- (a) Before the City closes an encampment located on public property, the City will provide at least 14 days' written notice of its intent to close the encampment site in a manner reasonably intended to inform individuals residing at the encampment site. At a minimum, City will post the notice at places of ingress and egress to the encampment and at any existing common areas of the encampment, and will provide notice to individuals present at the encampment during the posting. The notice will state the designated closing date on which all remaining structures and personal

property will be removed from the real property and indicate that no person will be permitted to remain on the property beyond the designated closing date.

(b) Within forty-eight (48) hours of the notice provided pursuant to subsection 3(a) herein, the City will provide a copy of the notice to designated representatives of the KVC and Mountain State Justice.

(c) On the designated closing date of the encampment, and at the time designated for closing but prior to taking any action in furtherance thereof, the City will provide or facilitate the following:

1. Outreach workers from KVC or its affiliated entities will be available on site to provide and assist with temporary shelter, housing, wrap-around services, and/or other emergency services;
2. Upon consultation with KVC and/or its affiliated entities, City will provide transportation from the site to location(s) in the City providing temporary shelter, housing and/or other emergency services;
2. All homeless individuals still present at the encampment at the designated closing date and time will be given at least 60 minutes to remove their personal property and/or structures from the site;
3. For all remaining personal property and structures, City will conduct a sorting exercise on site. Representatives from KVC or their affiliated entities and representatives from Mountain State Justice will be notified of the sorting exercise and will be invited to participate in the sorting exercise;
4. The City will store or facilitate the storage of any personal items not discarded in the sorting exercise at a location accessible by public transportation and accessible to those with disabilities for a minimum of 14 days. City will coordinate with the KVC and its affiliated entities on a case-by-case basis to determine the best available location for storage;
5. The City will document by photograph the personal items to be stored and will organize the personal items in a manner reasonably designed to facilitate identification and retrieval of the personal items by owner(s);
6. The City will post notice for at least 14 days at the location of the encampment identifying the location of stored personal property and providing instructions for reclaiming stored personal property;
7. After a minimum of 14 days following posting of the notice set forth in 3(c)(6) herein, the City may dispose of any unclaimed personal items.

(d) Upon receiving the notice described in subsection 3(a) herein, the KVC and its affiliates (Covenant House, Prestera, Roark-Sullivan Lifeway Center, Sojourners), any similar organizations designated by the City, and Mountain State Justice will coordinate the efforts of all interested service providers, faith-based organizations, street ministries, and volunteers to ensure that the homeless persons from the encampment are offered shelter or permanent housing, and comprehensive wrap-around services for which they are eligible.

(e) To the extent that any homeless person from the encampment requests shelter and shelter is not available, that person for whom shelter is unavailable may be allowed to remain on the site of the

encampment, if on public property, beyond the date and time of closure until shelter or other reasonable solution is determined.

(f) If an owner of private property knowingly permits an encampment to exist on their property and requests the City's assistance in removing said encampment, the City will contact homeless services providers, including outreach workers, at least 24 hours prior to taking action to remove the encampment from the private property. City will require confirmation that the encampment has received a minimum of 24-hour notice of the closing, and that individuals in the encampment have been offered shelter or other emergency services.

4. Procedure for transient outdoor living situations.

(a) When the City is made aware of a transient outdoor living situation, it will contact and request assistance from outreach worker(s), and may make contact with the individual(s) to notify them that an outreach worker will be contacting them and that under City policy they have forty-eight (48) hours to remove any personal items and vacate the site. Upon notice from City, the outreach worker(s) will make contact with the individual(s) in the transient outdoor living situation to offer services and inform them that under City policy, they have a maximum of forty-eight (48) hours to remove any personal items and vacate the site. The outreach worker(s) will advise the City when contact is made and services are offered, and will coordinate with City until the individual(s) relocate to a location to receive shelter and/or services with assistance from the outreach worker(s) or vacate the property.

(b) After the expiration of at least forty-eight (48) hours after confirmation that persons in a transient living situation have been advised of City policy and services have been offered, the City may require that individuals leave the site, and may remove and discard any personal items that remain at the site.

5. Exigent Circumstances; Public Safety

Notwithstanding the notice, time periods and other procedures set forth in this policy, City may take any and all actions at any time to enforce state and local laws in circumstances that pose an imminent threat to the health, safety or welfare of any individual or the public.

Appendix VII. Draft Seattle Ordinance Protecting the Rights and Property of Homeless Individuals

CITY OF SEATTLE

AN ORDINANCE to Protect Public Health and Safety, and REDUCE THE HARMS EXPERIENCED BY UNSHELTERED RESIDENTS _____

COUNCIL BILL _____

AN ORDINANCE relating to city responses to people who are homeless living on public property, and setting standards and procedures for remedying unsafe conditions and protecting the rights and property of homeless individuals.

WHEREAS, the Mayor and the City Council convened the Housing Affordability and Living Agenda (“HALA”) Task Force and charged it with creating a plan to generate 50,000 units of housing over the next decade, which the Task Force did;

WHEREAS, pending the implementation of the HALA plan, the City lacks affordable permanent and/or transitional housing to meet the needs of those experiencing homelessness in the City;

WHEREAS, this lack of housing has resulted in a public health crisis and exacerbated the harms experienced by unsheltered residents in the City;

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 homelessness in Seattle since 2011;

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, 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, the City's lack of sufficient and appropriate beds to accommodate the needs of all people experiencing homelessness has led to unauthorized outdoor living spaces in the City;

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, 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, overnight shelters will continue to remain critical and life-saving services, particularly during times of individual crisis or severe weather;

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;

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, it is the intent of this body to provide clear procedures to ensure that the City can respond appropriately and adequately to such concerns, as well as to emergency situations, without subjecting unsheltered individuals to greater hardships;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section I. Definitions.

The following definitions apply through this ordinance:

A. "Adequate and accessible housing" for purposes of this ordinance and as used throughout means, at a minimum, indoor living space: (1) where a person has the right to reside and keep his or her 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.

B. "City" means the City of Seattle and any of its contractors, agents, employees or partners.

C. "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.

D. "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.

E. "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 may include pets.

F. "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 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.

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

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

I. "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.

J. "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.

K. "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.

Section II. 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 clean-up including a site visit if more than three (3) separate requests are made.

C. The City shall provide basic garbage, sanitation, and harm reduction services upon request at outdoor living spaces containing more than five (5) individuals

Section III. Removal or 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 IV, 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 beginning at least 30 days before the time of removal or impoundment, to all individuals whose persons, personal possessions and/or vehicles are being removed or impounded.

B. The affected individuals have been engaged with sufficient outreach over a period of not less than 30 days, to allow those 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.

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 removal or impound will take place, which must not be fewer than thirty (30) days from 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 (2) above; and

e. 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.

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

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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 above requirements have been met.

Section IV. 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 a nearby, alternative location to camp or park that is not unsafe or unsuitable to all affected individuals.
4. The City must conduct sufficient individualized outreach.

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

1. The City must provide access to basic garbage, sanitation, and harm reduction services as dictated by the nature of the hazardous condition, for at least 72 hours.
2. The City must 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. The City must 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. The City must conduct direct outreach through site visits 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, and if not, why not.

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 (5) 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 location;

f. Contact information for the outreach organizations that will work with that site as described in subsection (4) below; 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 location 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 location 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 location.

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 location 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.

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- 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 above requirements have been met.

Section V. 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 VI. 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;
- 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 eleven (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, but may be reappointed to subsequent terms.

- 1. 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.

C. 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 VII. 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 of Civil Rights shall be charged with the oversight, investigation and enforcement of the provisions of this ordinance.

Appendix VIII. San Francisco Draft Ordinance on Encampment Removal

[Administrative Code - Homeless Encampments]

Ordinance amending the Administrative Code to require the City to store personal property removed from homeless encampments and provide prior notice of such removal; establishing property maintenance requirements for homeless encampments; and requiring the City to develop a relocation plan prior to requiring the relocation of occupants of a homeless encampment.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Chapter 20 of the Administrative Code is hereby amended by adding Article XVI, to read as follows:

ARTICLE XVI: HOMELESS ENCAMPMENTS

SEC. 20.16-1. Definitions

SEC. 20.16-2. Personal Property Removal and Storage

SEC. 20.16-3. Property Maintenance

SEC. 20.16-4. Relocation Plan

SEC. 20.16-5. Administrative Implementation

SEC. 20.16-6. Undertaking for the General Welfare

SEC. 20.16-1. DEFINITIONS.

"City" means the City and County of San Francisco and its departments.

"Encampment" means a site where tents, tarpaulins, or other non-permanent structures are used as temporary quarters for sleeping and shelter for a person or persons. Note: we do not want protections only for encampments above 30 – because for one it is going to be much easier for the city to relocate encampments while they are small instead of waiting until it grows large. We do want bathrooms and garbage when city chooses to let it be when size is 30+.

"Personal Property" means property that consists of readily identifiable personal effects including, but not limited to, blankets, clothing, radios, TVs, sleeping bags, ground covers, toiletries, eye glasses, jewelry, medications, personal papers, recyclables, shoes, tarpaulins, bags, backpacks, tents, luggage or other items of significant value.

SEC. 20.16-2. PERSONAL PROPERTY REMOVAL AND STORAGE.

(a) The City may not remove Personal Property from public space without giving prior written notice to the occupants of the Encampment. The City shall provide such notice at least 24 hours before the Personal Property is to be removed, unless there is an immediate threat to public health.

(b) The notice described in subdivision (a) may be served personally upon the owner of the Personal Property, or may be posted in a conspicuous location within or near the location for at least 7 days, and shall state:

(1) The date by which the City will remove the Personal Property;

(2) That Personal Property will be stored for 120 days, except Personal Property that poses a threat to public health, including, but not limited to, weapons, open food containers, and items infested with insects or vermin; and

(3) The process for retrieving Personal Property.

(c) Upon the removal of Personal Property from an Encampment, the City shall catalogue and store the Personal Property for at

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least 120 days, provided, however, that the City is not required to store Personal Property that poses a threat to public health, including, but not limited to, weapons, open food containers, and items infested with insects or vermin.

SEC. 20.16-3. PROPERTY MAINTENANCE.

(a) The City shall not engage in cleaning of a section of a street or sidewalk on which an Encampment is located between the hours of 10:00 p.m. and 7:00 a.m.

(b) The City shall provide the following facilities and services in every Encampment that contains more than 30 people in a 150 foot radius:

(1) At least one toilet for every 30 occupants;

Outreach and needs assessment of occupants and

(3) Waste management services including, but not limited to, collection containers for solid waste, scheduled collection and disposal of containerized waste, and collection of recyclable waste.

SEC. 20.16-4. RELOCATION PLAN.

(a) Before issuing an order requiring the relocation of occupants of an Encampment, the City shall:

(1) Engage in outreach to the occupants of the Encampment to assess their needs and to solicit input on the planned relocation;

(2) Develop and carry out a communication plan to inform the occupants of the Encampment, residential neighbors, and local businesses about the timing of the relocation;

(3) Collaborate with the occupants of the Encampment to develop a relocation plan that identifies permanent housing into which the occupants may move. If sufficient permanent housing is not available, the relocation plan shall identify temporary shelter into which the occupants of the Encampment may move, and shall include a plan for transitioning the occupants from temporary shelter to permanent housing within a reasonable time period.

(4) Provide 15 days written notice of the order to relocate, either by personal service upon the occupants of the Encampment or by posting such notice in a conspicuous location within or near the Encampment.

(b) The foregoing subsection (a) shall not apply if the City finds that immediate relocation is necessary due to an immediate threat to public health; provided, however, the City shall attempt to mitigate the health emergency prior to declaring a threat to public health, and give the occupants whatever notice is reasonable under the circumstances before the relocation occurs. In the event personal property is removed or encampments are relocated because of immediate threat to public health the department shall notify the Board of Supervisors within 5 business days.

SEC 20.16-5. ADMINISTRATIVE IMPLEMENTATION.

(a) The Department of Public Works shall be responsible for implementing Sec.20.16.2 of this Article XVI.

(b) The Department of Public Works may issue rules, regulations, and/or guidelines, consistent with the objectives and requirements of Sec.20.16-3 of this Article XVI.

(c) Consistent with Charter requirements, the Department of Homelessness and Supportive Housing may enter into contracts or other agreements with other City departments, public agencies, and private entities, including not-for-profit organizations, to administer Sec. 20.16.4 of this Article XVI.

(d) Within twelve months of the effective date of this Article XVII, and every twelve months thereafter, the [Department] shall submit to the Board of Supervisors a report that summarizes:

(1) Occasions of personal property removal and storage

(2) Number and location of encampments for which garbage and toilets were provided

(3) Number of people relocated and outcome of that relocation, including numbers placed in

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temporary shelter, permanent housing, and other pertinent information.

(4) Information on any determinations of public health threat, reason for determination and documentation of threat, length of time threat remained in public space and remediation efforts, such as pest control, garbage service or other steps taken to address public health threat.

(e) All City officers and entities shall cooperate with the [Department] in the implementation and administration of this Chapter 106.

SEC. 26.16-6. UNDERTAKING FOR THE GENERAL WELFARE.

In enacting and implementing this Article XVI, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section _____. **Effective Date.** This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance. [If the operative date of the ordinance is different than the effective date, then note the operative date in this section and change the title of the section to "Effective and Operative Dates," or note the operative date elsewhere in the ordinance.]

Section _____. **Scope of Ordinance.** In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance. [Applicable if ordinance revises or deletes existing Code section(s); not applicable if ordinance only adds new Code section(s).]

Section _____. [Some ordinances may call for other standardized sections. The Legislative Handbook on the I:\ drive includes standardized sections for General Welfare, Severability, Sunset, and other common provisions.]

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
ATTORNEY'S NAME
Deputy City Attorney

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