

ORDINANCE NO. 20-1018

AN ORDINANCE of the City Council of the City of SeaTac, Washington adding a new Chapter 8.25 to the SeaTac Municipal Code related to Unlawful Camping and Storage of Personal Property on Public Property and amending Section 2.45.280 of the SeaTac Municipal Code.

WHEREAS, pursuant to Article XI, Section 11 of the Washington Constitution and RCW 35A.11.020, the City of SeaTac is authorized to regulate public property, including City Hall, the SeaTac Community Center, parks, public rights-of-way, and all other public property within the City; and

WHEREAS, public property is intended to be used by the public for public purposes, including daily City operations, park recreational use, pedestrian, bicycle and vehicular transportation, and other public uses; and

WHEREAS, camping without adequate sanitation services, such as sewer, water, and garbage, presents a public health and safety concern by increasing the spread of disease and potential for members of the public, including individuals experiencing homelessness, to contract illnesses; and

WHEREAS, it is important to maintain public property consistent with its intended use while balancing the needs of those experiencing homelessness with the impact on the entire community; and

WHEREAS, pursuant to *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019) the Ninth Circuit Court of Appeals held: (1) that the Eighth Amendment to the United States Constitution prohibits cities from enforcing Ordinances that criminalize camping on all public property at all times; and (2) it is permissible for cities to enforce an ordinance that criminalizes camping in

certain locations at all times, but only if the cities also do not enforce the prohibition of camping in other locations when there is no available shelter; and

WHEREAS, this Ordinance is intended comply with the Court’s decision in *Martin v. Boise* by limiting the areas; and

WHEREAS, law enforcement will comply with *Martin v. City of Boise* by making an inquiry of individuals, in certain situations, to ascertain whether they are homeless and offer them safe and legal shelter; and

WHEREAS, if no overnight shelter is available, then the provisions of this Ordinance will not be enforced, except in those areas specifically noted; and

WHEREAS, the City of SeaTac will continue to treat homeless individuals with respect, dignity and compassion and strive to minimize harm and trauma when providing assistance; and

WHEREAS, the City has human services funding available for local organizations for the purpose of improving the coordination of existing services, including programs for individuals experiencing homelessness; and

WHEREAS, the City Council hereby finds that the requirements established by this Ordinance is necessary for the preservation of the public peace, health, safety, and welfare; and

WHEREAS, the City Council has considered this matter during a regular public meeting, has given careful review and consideration to the matter, and finds that the best interests of the City of SeaTac will be served by adoption of this Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

Section 1. A new Chapter 8.25 entitled “Unlawful Camping and Storage of Personal Property on Public Property” is hereby added to the SeaTac Municipal Code to read as follows:

Chapter 8.25 Unlawful Camping and Storage of Personal Property on Public Property

Sections:

- 8.25.010 Purpose.
- 8.25.020 Definitions.
- 8.25.030 Unlawful camping or Storage of Personal Property in public places.
- 8.25.040 Penalty for Violations.
- 8.25.050 Enforcement.

8.25.010 Purpose.

The purpose of this Chapter is to prevent harm to the health or safety of the public and to promote the public health, safety and general welfare by prohibiting camping and storage of personal property on public property, which interferes with the rights of others to use the areas in the manner for which it is intended.

8.25.020 Definitions.

The following definitions are applicable to this Chapter:

- A. "Available Overnight Shelter" means a public or private shelter, with an available overnight space, open to an individual experiencing homelessness at no charge. Available Overnight Shelter also includes a hotel or motel that is made available to an individual experiencing homelessness at no charge.
- B. "Camp" means to pitch, use, or occupy camp facilities for the purposes of habitation, as evidenced by the use of camp paraphernalia.
- C. "Camp facilities" include, but are not limited to, tents, huts, temporary shelters. "Camp facilities" does not include tents, huts, or temporary shelters when used temporarily in a park for recreation or play during daylight hours when the park is open to the public.
- D. "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks or cooking facilities or equipment.
- E. "Park" means any publicly owned area controlled by the City or other governmental entity for park purposes. Park also includes all associated areas, including parking lots for parks.
- F. "Public Property" means any real property, building, structure, equipment, sign, shelter, vegetation, trail, and public open space, including all associated areas such as parking lots, controlled or owned by the City or any other governmental agency.
- G. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- H. "Street" means any highway, lane, road, street, right-of-way, sidewalk, boulevard, alley,

and every way or place in SeaTac open as a matter of right to public pedestrian and vehicular travel.

8.25.030 Unlawful Camping or Storage of Personal Property in public places.

A. It shall be unlawful for any person to camp or to store personal property, including camp facilities or camp paraphernalia, in the following areas:

1. Any park; or
2. Any street; or
3. Any public property, improved or unimproved.

8.25.040 Penalty for Violations.

A. Violation of any of the provisions of this Chapter is a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. Notwithstanding, the maximum fine imposed for a first conviction for violation of this Chapter shall be no more than one hundred dollars (\$100.00).

B. Prior to imposing any fine for violation of this Chapter, the Court shall make an inquiry into a person's ability to pay. The Court is explicitly authorized to impose a requirement to perform community service in lieu of paying a fine.

8.25.050 Enforcement.

A. A violation of SMC 8.25.030 shall be enforced at all times on any street located within one thousand (1,000) feet east or west of the International Boulevard South right-of way, or at Angle Lake Park, Angle Lake Trail, and City Hall.

B. Except as provided in subsection (A) of this Section, a violation of SMC 8.25.030 shall be enforced as follows:

1. Prior to issuing any citation or arrest pursuant to this Chapter, the investigating officer shall inquire whether the unlawful camping and storage of personal property is due to homelessness. If the officer learns that such is the case, the officer shall determine, in accordance with relevant department policy, there is Available Overnight Shelter to accommodate the subject of the investigation. If the officer determines there is no Available Overnight Shelter, the officer shall not issue a citation.

2. If the officer determines there is Available Overnight Shelter, the officer may, within his or her discretion:

- a. Provide directions to the shelter location.
- b. Offer one-time transport to the shelter locations.

3. Any individual who refuses to accept the shelter space offered is subject to citation or arrest pursuant to SMC 8.25.040.

Section 2. Section 2.45.280 of the SeaTac Municipal Code is hereby amended to read as follows:

2.45.280 Camping prohibited.

No person shall camp in any ~~park, area except in areas specifically designated and/or marked for that purpose, if any.~~ and any penalties and enforcement of this provision shall be in accordance with Section 8.25 of the SeaTac Municipal Code.

Section 3. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. This Ordinance shall be in full force and effect five (5) days after passage and publication as required by law.

ADOPTED this 13th day of October, 2020 and signed in authentication thereof on this 13th day of October, 2020.

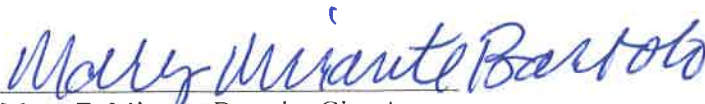
CITY OF SEATAC


Erin Sitterley, Mayor

ATTEST:


Kristina Gregg, City Clerk

APPROVED AS TO FORM:


Mary E. Mirante Bartolo, City Attorney

[Unlawful Camping Ordinance]
[Effective Date: 10/24/20]