

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO PUBLIC HEALTH AND SAFETY AND DECLARING A CONTINUING STATE OF PUBLIC HEALTH EMERGENCY RELATING TO HOMELESSNESS AND COVID-19; AUTHORIZING SUCH ACTIONS AS ARE REASONABLE AND NECESSARY TO MITIGATE THE CONDITIONS GIVING RISE TO SUCH PUBLIC HEALTH EMERGENCY; AND DECLARING AN EMERGENCY SO THIS ORDINANCE SHALL BE EFFECTIVE UPON ADOPTION.

WHEREAS, persistent and increasing homelessness is a public health and safety issue that greatly impacts people experiencing homelessness, as well as the entire community, all citizens, neighborhoods, and businesses; and

WHEREAS, the Olympia City Council passed Ordinance No. 7146 on July 17, 2018, finding and declaring a public health emergency relating to human health and environmental conditions caused by increasing homelessness in the City of Olympia; and

WHEREAS, since the adoption of Ordinance No. 7146, the number of homeless persons and tents within the downtown zone of the City of Olympia dramatically increased, particularly since August 2018, causing serious and detrimental conditions relating to human health, sanitation, and welfare; and

WHEREAS, the Olympia City Council passed Ordinance No. 7179 on December 18, 2018, finding that the public health emergency relating to human health and environmental conditions caused by increasing homelessness in the City of Olympia was continuing; and

WHEREAS, the Olympia City Council passed Ordinance No. 7192 on May 7, 2019, finding that the public health emergency relating to human health and environmental conditions caused by increasing homelessness in the City of Olympia was continuing; and

WHEREAS, the Olympia City Council passed Ordinance No. 7207 on November 12, 2019, finding that the public health emergency relating to human health and environmental conditions caused by increasing homelessness in the City of Olympia was continuing; and

WHEREAS, the number of homeless persons occupying portions of the downtown zone within the City of Olympia has caused significant and real problems for public health and safety relating to human excrement, urine, trash, refuse, needles associated with drug use; all of which pose a serious and immediate danger to public health; and

WHEREAS, the Olympia City Council finds that in Olympia and Thurston County and throughout the nation, large numbers of individuals, families and unaccompanied youth are experiencing homelessness due to such factors as job loss, rising housing costs, stagnant and declining wages, family crisis, domestic violence, trauma, substance abuse or addiction, and mental health issues, and discrimination based on race, disability, sexual orientation, gender expression, and transgender status; and that such conditions have not abated or decreased since the adoption by Council of Ordinance No. 7146 on July 17, 2018, but have shown increasing signs within the City of Olympia; and

WHEREAS, communities such as Seattle, Washington; Tacoma, Washington; Portland, Oregon; and Los Angeles, California, have declared states of emergency in order to provide expedited emergency services

and shelters for unsheltered individuals, families and unaccompanied youth and are continuing to struggle with the effects of homelessness within their respective jurisdictions; and

WHEREAS, the supply of available temporary shelter beds in Thurston County and City of Olympia is inadequate to meet demand of homeless persons; and

WHEREAS, the Eighth Amendment to the U.S. Constitution, as interpreted by the Ninth Circuit Court of Appeals in *Martin v. City of Boise*, 902 F.3d 1031 (Sept. 4, 2018), precludes the City from enforcing criminal ordinances against homeless persons for sleeping outside on public property when there is no access to alternative shelter or lawful camping sites, and the United States Supreme Court declined review of the Ninth Circuit's decision on December 16, 2019, resulting in the *Boise* decision being the law within the Ninth Circuit; and

WHEREAS, the Olympia City Council finds there is an emergency need for designated public property so homeless persons may lawfully camp within the City of Olympia with public sanitation facilities, potable water, and collection of trash and refuse for proper solid waste disposal; and

WHEREAS, the experience of being unsheltered is traumatic and endangers public health as these conditions expose occupants to harmful weather conditions, communicable diseases such as hepatitis, tuberculosis, respiratory illnesses, malnutrition, and violence; and exacerbate medical conditions such as high blood pressure, diabetes and asthma because there is no safe place to properly store medications or syringes; and

WHEREAS, mental health issues such as depression or schizophrenia often develop or intensify for unsheltered individuals, and those conditions frequently co-occur with a complex mix of severe physical, alcohol and/or substance use, and other social problems; and

WHEREAS, when a patient's health is continually compromised by unstable conditions, health care services are rarely effective, and inpatient hospitalization or residential drug treatment and mental health care rarely have lasting impacts when a patient is returned to a homeless environment; and

WHEREAS, other environmental degradation can occur, such as damage to critical wetlands and wetland and river buffers when occupied by encampments, or surface water contamination due to runoff from garbage that can find its way into groundwater, rivers, and to other waterbodies causing harm to people, fish and wildlife; and

WHEREAS, conditions necessitating a public health emergency continue to exist in the City of Olympia, including widespread unsanctioned camping, threats of communicable diseases from unsanitary conditions, environmental degradation from human waste and garbage, illegal drug use, and improper use of public and private property throughout our community; and

WHEREAS, the above circumstances are and continue to present significant public health and safety issues for the entire community and necessitate urgent further actions to mitigate the conditions giving rise to this threat to public health and safety; and

WHEREAS, the City of Olympia is confronted with exigent financial circumstances related to this public health and safety emergency to protect its citizens and residents, and to protect the community; and

WHEREAS, the growing homeless population in the City of Olympia has surpassed Olympia's available means and resources, such that assistance is urgently needed from Thurston County and the State of Washington to make available county and state lands, buildings and other resources to help provide temporary camping and shelter for Olympia's homeless population; and

WHEREAS, the public health emergency relating to homelessness has been further compounded and exacerbated by the special dangers posed by the novel coronavirus COVID-19 pandemic to persons who are homeless, and said pandemic has been recognized as a public health emergency by federal, state and City declarations related to the danger posed by the COVID-19 virus; and

WHEREAS, the above circumstances warrant the exercise of the City of Olympia's power to declare a public health emergency under authority of Article XI, Section 11, of the Washington State Constitution; 35A.11.020 RCW; 35A.11.030 RCW; 35A.13.190 RCW; 35A.38.010 RCW; 35.33.081 RCW; Chapter 38.52 RCW; Chapter 39.04 RCW; WAC 197-11-880; and other applicable laws and regulations, and pursuant to Chapter 2.24 of the Olympia Municipal Code, and pursuant thereto, and the authorization of such extraordinary measures as are reasonable and necessary in light of such continuing public health emergency to mitigate the conditions giving rise to the public health emergency;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. The above-stated recitals are adopted as findings of the Olympia City Council and are incorporated by this reference as though fully set forth herein.

Section 2. It is hereby declared that a continuing state of public health emergency exists due to an exigent threat to human health and environmental conditions related to homelessness affecting the City of Olympia. Therefore:

- A. The City Manager is hereby authorized and empowered to carry out those powers and duties as are reasonable and necessary to mitigate the effects of the emergency.
- B. All of the personnel, services and facilities of the City of Olympia will be utilized as needed, in response to the emergency needs of the community.
- C. Those departments, officers, and employees of the City of Olympia are authorized and empowered, among other things, to do the following:
 - (1) Obligate funds for emergency expenditures as directed by the City Council;
 - (2) Enter into contracts and incur obligations necessary to combat such emergency situations to protect the public health and safety of persons and property;
 - (3) Provide appropriate emergency shelter or lawful camping sites to houseless individuals; and
 - (4) Take other actions, as appropriate, in response to such public health emergency.
- D. Each designated City department is authorized to exercise the powers vested under Section 2 of this Ordinance in the light of these exigencies of an extreme emergency situation without regard to time consuming procedures and formalities prescribed by law (with the exception of mandatory constitutional requirements).
- E. The Mayor is authorized to submit a written request to the Board of Commissioners for Thurston County, and to Governor Jay Inslee, to make available county and state lands, buildings, and other resources to address the public health emergency caused by the rapidly growing homeless population in the City of Olympia.

Section 3. Sunset Provision. This ordinance shall sunset and no longer be in force or effect at 11:59 p.m. on December 19, 2021. The City Council shall, no later than six (6) months after the effective date of this ordinance, review the conditions that have given rise to this public health emergency to determine if such conditions warrant keeping in place the extraordinary measures authorized herein to respond to this continuing public health emergency. If the City Council finds such conditions still exist, the City Council may extend this ordinance for an additional six (6) month period, and can do so successively until the sunset date on December 19, 2021.

Section 4. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 6. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 7. Effective Date. This Ordinance is for the immediate preservation of public peace, health, safety, and welfare pursuant to City of Olympia public health emergency Ordinance No. 7233 and shall take immediate effect upon adoption, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: