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REGINA L. PHILLIPS (3)
ANDREW ZARRO (4)
MARK N. DION (5)

CITY COUNCIL WORKSHOP

Encampments

September 14, 2023 at 5:00 PM in Council Chambers

REMOTE PARTICIPATION:

The City Council will conduct this meeting from Council Chambers, located on the second floor of City Hall. The public may attend the meeting in person, however space in Council Chambers is limited. The public is therefore strongly encouraged to attend remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

Please click the link below to join the webinar:

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AGENDA ITEMS:

Introduction: Purpose of Workshop (Kate Snyder, Mayor)

ECRT Update (Chief Keith Gautreau, Fire Department)

Legal Context: Relevant Laws, Case Law, City Ordinances, and Policies (Michael Goldman, Corporation Counsel)

Potential Executive Session: The Council may vote to go into executive session to consult with Corporation Counsel concerning its legal rights and duties, pursuant to 1 M.R.S. section 405(6)(E).

Policy discussion: options, legal considerations, costs, etc. (Council and staff)

Next steps (Council and staff)

ADJOURNMENT:

§18. Homelessness crisis protocol

A person who lacks a home who commits a listed offense because the person lacks a home must be treated in accordance with the homelessness crisis protocol adopted by the responding law enforcement agency under subsection 2. [PL 2021, c. 393, §1 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Law enforcement agency" has the same meaning as in Title 25, section 3701, subsection 1. [PL 2021, c. 393, §1 (NEW).]

B. "Listed offense" means:

- (1) Criminal trespass in violation of section 402, subsection 1, paragraph C or F;
- (2) Disorderly conduct in violation of section 501-A, subsection 1, paragraph A;
- (3) Indecent conduct in violation of section 854 that is based on urinating in public;
- (4) Possession of a scheduled drug in violation of chapter 45 that is based on using the scheduled drug; or
- (5) Public drinking in violation of Title 17, section 2003-A, subsection 2. [PL 2021, c. 393, §1 (NEW).]

[PL 2021, c. 393, §1 (NEW).]

2. Adoption of homelessness crisis protocol. This subsection governs the adoption of homelessness crisis protocols by the Attorney General and law enforcement agencies. A homelessness crisis protocol must include access and referral to crisis services, mental health and substance use disorder professionals, emergency and transitional housing and case management services.

A. By January 1, 2022, the Attorney General shall adopt a model homelessness crisis protocol.

Rules adopted pursuant to this paragraph are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 393, §1 (NEW).]

B. By March 1, 2022, all law enforcement agencies shall adopt homelessness crisis protocols. The protocol of a law enforcement agency may, but is not required to, conform to the protocol adopted by the Attorney General. [PL 2021, c. 393, §1 (NEW).]

[PL 2021, c. 393, §1 (NEW).]

3. Law enforcement response to a listed offense by a person who lacks a home. A law enforcement officer who responds to a call regarding or encounters a person who is committing or has committed a listed offense shall inquire whether the person has a home or lacks a home. If the person lacks a home, the law enforcement officer shall respond to the person using the homelessness crisis protocol adopted by the officer's law enforcement agency under subsection 2.

[PL 2021, c. 393, §1 (NEW).]

REVISOR'S NOTE: §18. Crimes involving minors (As enacted by PL 2021, c. 447, §1 is REALLOCATED TO TITLE 17-A, SECTION 19)

SECTION HISTORY

PL 2021, c. 393, §1 (NEW).

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OFFICE OF THE ATTORNEY GENERAL

HOMELESSNESS CRISIS PROTOCOL

I. Purpose

This protocol is issued to all law enforcement agencies by the Attorney General to comply with the requirement of 17-A M.R.S. §18 [PL 2021, c. 393, §1] that the Attorney General adopt a model homelessness crisis protocol.

II. Declaration of Public Policy

The intent of the Legislature in adopting *An Act to Require the Use of Homelessness Crisis Protocols by Law Enforcement Agencies* is to provide a response other than traditional entry into the criminal justice system for homeless persons whose public behavior constitutes certain low-level violations of law. Citing or arresting homeless persons for these low-level or quality of life infractions or life-sustaining activities are emotionally and physically traumatizing, as well as disruptive to progress toward ending homelessness. Public order may be best served through the promotion of referrals to available services, even when services have been previously declined. This procedure is the preferred approach, with citation or arrest being a last resort. However, recognizing that each situation is likely to present unique factors that will inform the level of response required, the protocol does not constitute the exclusive means by which relevant situations must be managed nor does it discourage the application of judicious discretion based on the totality of a given situation.

III. Definitions

As used in this protocol, unless the context otherwise indicates, the following terms have the following meanings:

- A. "Homeless person" means a person who lacks a fixed, regular, and adequate nighttime residence.
- B. "Law enforcement agency" means any state, county, municipality, or other political unit within the territory belonging to the State or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government that employs law enforcement officers.

C. “Law enforcement officer” means any person who is vested by law with the authority to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

D. “Listed offense” means:

- a. The provisions of the crime of Criminal Trespass that violates 17-A M.R.S. § 402(1)(C) – A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters any place from which that person may lawfully be excluded and that is posted in accordance with [the law] or in a manner reasonably likely to come to the attention of intruders or that is fenced or otherwise enclosed in a manner designed to exclude intruders; *or* criminal trespass in violation of 17-A M.R.S. § 402(1)(F) – A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters or remains in a cemetery or burial ground at any time between 1/2 hour after sunset and 1/2 hour before sunrise the following day, unless that person enters or remains during hours in which visitors are permitted to enter or remain by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting.
- b. The provision of the crime of Disorderly Conduct that violates 17-A M.R.S. § 501-A(1)(A) - A person is guilty of disorderly conduct if, in a public place, the person intentionally or recklessly annoys others by intentionally (1) making loud and unreasonable noises; (2) activating a device, or exposing a substance, that releases noxious and offensive odors; or (3) engaging in fighting, without being licensed or privileged to do so.
- c. The provision of the crime of Indecent Conduct that violates 17-A M.R.S. § 854 that is based on urinating in public.
- d. The provisions of the crime of possession of a scheduled drug in violation of 17-A M.R.S. c. 45 that is based on using the scheduled drug; or
- e. Public drinking in violation of 17 M.R.S. § 2003-A(2) - A person is guilty of public drinking if the person drinks liquor in any public place within 200 feet of a notice posted conspicuously in the public place by the owner or authorized person that forbids drinking in the public place or after being forbidden to do so personally by a law enforcement officer unless the person has been permitted to do so by the owner or authorized person.

IV. Minimum Standards

- A. By March 1, 2022, all law enforcement agencies must adopt a homelessness crisis protocol. The protocol may, but is not required to, conform with the standards of this model protocol of the Attorney General.
- B. The chief administrative officer of each law enforcement agency shall certify to the Attorney General in a manner prescribed by the Attorney General that such a protocol has been adopted

and that law enforcement officers of the agency have been provided orientation and training concerning the requirements of the protocol.

- C. The protocol must include a statement that diversion from the criminal justice system is desired and preferred when encountering a homeless person engaged in a listed offense or other criminal behavior designated by the agency.
- D. The protocol must, at a minimum, include referral to available crisis services, mental health and substance use disorder professionals, emergency and transitional housing, and case management services, and the method or means of accessing such services.
- E. The protocol must describe the procedure by which a law enforcement officer is required to comply when encountering a homeless person who is committing or has committed a listed offense or other criminal behavior enumerated in the agency's homelessness crisis protocol.
- F. The protocol must provide for a periodic review of the agency's protocol at least once every two (2) years to which the agency invites relevant stakeholders to discuss the effectiveness and sufficiency of the agency's protocol.
- G. The protocol constitutes a public record that is available for inspection or copying under 1 M.R.S. § 408-A.

V. Procedure

- A. A law enforcement officer who responds to a call or otherwise encounters a person who is committing or has committed a listed offense shall inquire whether the person has a home or lacks a home. If the person lacks a home, the law enforcement officer shall respond to the person using the homelessness crisis protocol adopted by the officer's law enforcement agency.

Dated: 1 March 2022


 AARON M. FREY
 Attorney General

**PORTLAND POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE**

	Subject:	HOMELESS CRISIS PROTOCOL	Policy #:	40N
	Distribution:	Internal/External	Effective:	12/18/2022
	By Order of:	Chief of Police	Revised:	

I. Purpose

The purpose of this policy is to comply with the Maine Attorney General Homelessness Crisis Protocol as mandated by 17-A MRSA §18.

II. Policy

Recognizing that many individuals who commit low level, quality of life offenses are in need of services, it has long been the policy and practice of the Portland Police Department to utilize social services and medical facilities in lieu of law enforcement action wherever appropriate and practicable. This policy codifies that long term practice and adds the administrative requirements of the Maine Attorney General Homelessness Crisis Protocol.

III. Definitions

- A. Crisis/Outreach Worker:** A medical or behavioral health provider who specializes in crisis intervention and services. For purposes of this policy, all members of the Behavioral Health Unit are considered to be crisis/outreach workers.
- B. Homeless Person:** a person who lacks a fixed, regular, and adequate nighttime residence. For purposes of this policy, long term stayers at the City Shelter are considered homeless persons.
- C. Homeless Referral Card:** A preprinted note card with contact information for local crisis services, mental health and substance use disorder professionals, emergency and transitional housing, and case management services.
- D. Listed Offenses:**
 - 1. Criminal Trespass in violation of**
 - 17-A § 402(1)(C):** A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters any place from which that person may lawfully be excluded and that is posted in accordance with [the law] or in a manner designed to exclude intruders or
 - 17-A § 402(1)(F):** A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters or remains in a cemetery or burial ground at any time between a ½ hour after sunset and a ½ hour before sunrise the following day, unless that person enters or remains during hours in which visitors are permitted to enter or remain by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting.

2. **Disorderly conduct in violation of 17-A MRS §501(1)(A):** A person is guilty of disorderly conduct if, in a public place, the person intentionally or recklessly causes annoyance to others by intentionally (1) making loud and unreasonable noises; (2) activating a device, or exposing a substance, that releases noxious and offensive odors; or (3) engaging in fighting, without being licensed or privileged to do so.
3. **Indecent Conduct in violation of 17-A MRS §854 that is based on urinating in public;**
4. **Possession of a Scheduled Drug in violation of 17-A MRS c.45 that is based on using the scheduled drug; or**
5. **Public Drinking in violation of 17 MRS §2003-A(2):** a person is guilty of public drinking if the person drinks liquor in any public place within 200 feet of a notice posted conspicuously in the public place by the owner or authorized person that forbids drinking in the public place or after being forbidden to do so personally by a Law Enforcement Officer, unless the person has been given permission to do so by the owner or authorized person.

IV. Procedures:

- A. Citing or arresting homeless persons for low-level or quality of life infractions may be necessary to resolve an immediate problem, however it rarely provides a long-term positive impact on public safety. In many cases, the homeless person and the community may be better served through referral to services in lieu of law enforcement action.
- B. While diversion from the criminal justice system is desired and preferred, officers must evaluate the unique circumstances of each situation to determine the most appropriate course of action.
- C. An officer who responds to a call or otherwise encounters a person who is committing or has committed a Listed Offense, shall inquire whether the person has a home or lacks a home. If the person lacks a home, the officer shall assess the situation to determine if diversion is appropriate. That assessment should include, but is not limited to:
 1. Availability of services;
 2. Willingness of the individual to accept services;
 3. Willingness of the service provider to accept the individual;
 4. Immediate history of police contacts and/or community complaints;
 5. Impact of diversion on the community to include other homeless individuals; and
 6. Likelihood of continued disruption of public order if law enforcement action is not taken.
7. If an officer determines that diversion is appropriate and the individual is in need of immediate services, they should attempt to facilitate transport of the individual to a service provider (Milestones, City of Portland Shelter, etc) or medical facility as required or request that a crisis or outreach provider be dispatched to the scene, if available.

8. If diversion is appropriate, but the individual does not require immediate services, the officer shall document the contact in CAD as a disposition and provide the individual with a Homeless Services Referral Card prior to clearing.
9. If an officer determines that law enforcement action is necessary given the circumstances at hand, they shall summons or arrest the individual and provide a Homeless Services Referral Card.

V. Administration

A. The Behavioral Health Coordinator will:

1. Maintain the Homeless Services Referral Card to ensure that the information contained on the card is complete and accurate; and
2. Conduct ongoing assessment of the availability of services to include a written report to the Chief annually in January

Chapter 25 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

***Cross reference(s)**--Ordinances dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city saved from repeal, § 1-4(3); ordinances establishing or prescribing grades in the city saved from repeal, § 1-4(6); dogs running at large prohibited, § 5-17; buildings and building regulations, Ch. 6; cemeteries, Ch. 7; land use, Ch. 14; loitering, § 17-1; parks, recreation and public buildings, Ch. 18; peddlers and solicitors, Ch. 19; farmers markets, Ch. 21; sewers, Ch. 24; broadband communications network, Ch. 27; traffic and motor vehicles, Ch. 28; vehicles for hire, Ch. 30.

State law reference(s)--Highways generally, 23 M.R.S.A § 1 et seq.; local highway law, 23 M.R.S.A § 2701 et seq.

Art. I. In General, §§ 25-1--25-15
Art. II. Obstructions and Encumbrances, §§ 25-16--25-45
 Div. 1. Generally, §§ 25-16--25-25
 Div. 2. Permit, §§ 25-26--25-45
Art. III. Street Acceptances, §§ 25-46--25-65
Art. IV. Street Grades, §§ 25-66--25-80
Art. V. Street Names and Numbers, §§ 25-81--25-95
Art. VI. Sidewalk and Curbing Construction and Maintenance, §§ 25-96--25-115
Art. VII. Excavations, §§ 25-116--25-170
 Div. 1. Generally, §§ 25-116--25-150
 Div. 2. Street Opening Permit, §§ 25-151--25-170
Art. VIII. Removal of Snow and Ice, §§ 25-171--25-190
Art. IX. Moving of Structures, §§ 25-191--25-205
 Div. 1. Generally, §§ 25-191, 25-192
 Div. 2. Permit, §§ 25-193--25-205

ARTICLE I. IN GENERAL

Sec. 25-1. Barbed wire prohibited.

No fence of barbed wire, or of which barbed wire is a part, shall be erected or maintained along the line of any such streets, ways, or public places in the city without a revocable permit issued by the building inspector therefor. The city council may provide by order for a reasonable fee for such permit. No permit shall be issued unless the building inspector determines that such barbed wire will be erected and maintained in such a way as to adequately protect users of such streets, ways and public places.

25-1

* * *

Sec. 25-19. Reserved.
Sec. 25-20. Reserved.
Sec. 25-21. Reserved.
Sec. 25-22. Reserved.
Sec. 25-23. Reserved.
Sec. 25-24. Reserved.
Sec. 25-25. Reserved.

DIVISION 2. PERMIT

Sec. 25-26. Required.

(a) No person shall place or cause to be placed in or on, or shall suspend over any street, way or public place in the city any article or thing whatsoever, including but not limited to portable sidewalk signs, except under a duly authorized permit therefor issued pursuant to the provisions of this division.

Except during declared festivals or other approved events that require a sidewalk occupancy permit under this section, this section shall not apply to a table or other structures used by (1) street artists to create or sell works of art or (2) individuals who set up a table and/or chairs in compliance with chapter 19, article II, sec. 19-24 subparagraph (a)(1), (2), (5) and (6), to engage in an activity other than commercial speech, protected by the first amendment to the United States and Maine Constitution including but not limited to the distribution of political or religious literature, or the gatherings of signatures on petitions.

(b) No person shall expand a food service establishment to the outside on any street, way or public place in the city except under a duly authorized outdoor dining permit issued pursuant to the provisions of this division.

(c) Notwithstanding this section, business owners may place benches or flower pots on city sidewalks without obtaining a permit, provided that the benches or flower pots are located directly in front of the business, that a minimum of four feet of open sidewalk remains for the free passage of pedestrians, and that such benches and flower pots are only permitted on the sidewalk during business hours.

(Code 1968, § 703.7; Ord. No. 370-78, 7-5-78; Ord. No. 353-84, § 1, 4-23-84; Ord. No. 57-05/06, 9-19-05; Ord. No. 93-07/08, 3-3-08; Ord. No. 26-11/12, 8-15-11)

Sec. 25-27. Fees and fines.

25-5

(a) The following fees are hereby established for the issuance of a revocable street and sidewalk occupancy permit:

- (1) Objects other than portable signs, including but not limited to tables, chairs, barricades and bollards, ninety-two dollars (\$92.00) for one (1) fiscal year or any portion thereof;
- (2) Portable signs, twenty-five dollars (\$25.00) plus twenty cents (\$0.20) per square foot of signage. Square footage is calculated pursuant to section 14-369(b) of the land use ordinance. Permits remain valid until there is a change:
 - a. In the sign dimensions; or
 - b. In the use, lessee or ownership of the business causing a change in the business name, design or dimensions.
- (3) Vehicles, equipment, or construction materials, as follows:
 - a. The Parking Space Permit shall be \$32.50 per day or any portion thereof;
 - b. The Sidewalk Permit shall be \$27.50 per day or any portion thereof;
 - c. The Single Lane Closure Permit shall be \$150.00 per day or any portion thereof; and
 - d. the Street Closure Permit shall be \$300.00 per day or any portion thereof.
- (4) Use of city property (including but not limited to festivals, events, promotions, demonstrations, parades, marches, road races, walkathons, fundraisers, press conferences, rallies, protests, sampling, poll taking, banners and public displays), fee as provided by annual order of the city council;
- (5) Use of streets, ways or public places by street goods vendors as defined in Section 19-16 for purposes of vending, thirty-eight dollars (\$38.00) per day or any

portion thereof;

- (6) Permit to Portland's Downtown District or similar organization/business to hold events on not less than twenty-four (24) hours' notice to the city manager, within area or areas designated in permit, one hundred dollars (\$100.00) per fiscal year or any portion thereof;
- (7) Location of dumpster on city-owned property, except as part of a street festival or other special event declared by the city council, two hundred twenty-five dollars (\$225.00) per fiscal year or any portion thereof.
- (8) Operation of a bike sharing system (as defined in 25-31 below,) according to the following fee schedule:

Station-less Systems (or Hybrid systems not meeting 50% docking point threshold):

Initial Annual Permit Fee, per operator per calendar year:

Up to 250 bicycles \$1,500

251 to 500 bicycles \$2,500

More than 500 bicycles \$500 per every additional 250 bicycles or fraction thereof

Annual Renewal Fee (Station-less Systems), per operator per calendar year:

Up to 250 bicycles \$1,000

251 to 500 bicycles \$2,000

More than 500 bicycles \$ 250 per every additional 250 bicycles or fraction thereof

Bicycle Parking Mitigation: To help mitigate the increased bicycle parking demands of a Station-less Bike Sharing System, the operator will either: 1) provide and have installed within the public right-of-way bicycle parking sufficient to accommodate the equivalent of 10% of the number of bicycles deployed in

the operator's fleet with approved bicycle racks in approved locations or 2) make a financial contribution to the Sustainable Transportation Fund for the purchase and installation by the City of bicycle parking sufficient to accommodate the equivalent to 10% of the number of bicycles deployed in the operator's fleet.

Station-based/Hybrid Systems (Station-based systems must provide at least 50% as many docking points as bikes):

Initial Annual Permit Fee, per operator per calendar year:

Up to 250 bicycles \$500

251 to 500 bicycles \$1,000

More than 500 bicycles \$250 per every additional 250 bicycles or fraction thereof

Plus \$50 per approved docking station.

Annual Renewal Fee, per operator per calendar year:

Up to 250 bicycles \$500

251 to 500 bicycles \$1,000

More than 500 bicycles \$250 per every additional 250 bicycles or fraction thereof

Plus \$25 per approved docking station.

Within one year following the issuance of the first permit for a bike sharing system, the fee schedule above is to be re-assessed.

Should the number of bicycles be increased during any calendar year requiring additional fees, the difference in permit fees paid to date will be payable and a revised permit application is to be filed before their deployment. A reduction in bicycles in any one calendar year will not trigger a refund of permit fees paid.

(b) The following fees are hereby established for the issuance of a revocable outdoor dining permit:

- (1) Outdoor dining on sidewalks or public ways other than dedicated City parking spaces, eighty-four dollars (\$84.00) plus two dollars (\$2.00) per square foot of dining area per fiscal year or any portion thereof.
- (2) Outdoor dining in parks, eighty-four dollars (\$84.00) plus six dollars and thirty cents (\$6.30) per square foot of dining area per fiscal year or any portion thereof. In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the director of parks and recreation or his or her designee. For the purposes of this section, the area abutting the buildings which border Monument Square and extending ten (10) feet from the façade of said buildings shall be considered a sidewalk. The ten (10) foot area shall be measured from that portion of the façade that protrudes furthest into the sidewalk. The area beyond the ten (10) foot sidewalk shall be considered park space.
- (3) Outdoor dining in one dedicated City parking space, \$3,000 for a full season (April 15-October 31).
- (4) Outdoor dining in two consecutive dedicated City parking spaces, \$5,000 for a full season (April 15-October 31).

(c) The following violation fines are hereby established for the failure to obtain a street occupancy permit or follow an approved management plan for vehicle traffic and/or pedestrian detours:

- (1) \$125.00 per day for failure to obtain a revocable street and sidewalk occupancy permit; and
- (2) \$100.00 a day for failure to follow an approved management plan for vehicle traffic and/or pedestrian detours

(Code 1968, § 703.7A; Ord. No. 472-71, § 1, 9-20-71; Ord. No. 409-75, 7-21-75; Ord. No. 379-79, 12-3-79; Ord. No. 353-84, § 2, 4-23-84; Ord. No. 592-84, § 1, 5-21-84; Ord. No. 145-96, § 2, 1-17-96; Ord. No. 63-98, 8-3-98; Ord. No. 76-98, § 1, 8-17-98; Ord. No. 225-00, 5-15-00; Ord. No. 279-01, 5-21-01; Ord. No. 223-01/02, § 3, 5-6-02; Ord. No. 250-04/05, 5-16-05; Ord. No. 246-05/06, 5-15-06; Ord. No. 93-07/08, 3-3-08; Ord. No. 226, 5-17-10; Ord. 247-14/15, 6-24-2015; Ord. No. 189-17/18, 4-18-2018; Ord. No. 218-17/18, 7-1-2018; Ord. No.

217-17/18), 7-1-2018; Ord. No. 193-18/19, 4-8-2019; Ord. No. 244-18/19, 5-20-2019; Ord. No. 79-20/21, 9-21-2020; Ord. No. 46-21/22, 9-20-2021; Ord. 256-21/22, 7-1-2022)

Editor's note--The boundaries for the Portland Downtown District (formerly known as the Downtown Improvement District and Portland's Downtown District) were created by Order Number 306-92, passed on March 16, 1992, amended by Order Number 185-95, passed on February 22, 1995 and amended by Order Number 158-04, passed on March 1, 2004 with an effective date of July 1, 2004. The boundaries were expanded by Order 242-17/18, passed on June 18, 2018.

Sec. 25-28. Issuance after approval by city manager; regulations.

The city manager or his or her designee is hereby authorized to issue revocable permits for the location, protection, maintenance and use of structures, trees, and other installations placed in, on, above, or beneath public ways or other property, and for outdoor dining on any street, way or public place upon receipt of proof of insurance in a form and in an amount satisfactory to the city. The director of parks and recreation or his or her designee is hereby authorized to issue revocable permits for outdoor dining in city parks. The city manager is also hereby authorized to promulgate from time to time such reasonable rules and regulations governing the design, construction, size and location of portable sidewalk signs as may be consistent with this division and in furtherance of the public interest, such rules and regulations to be submitted to the city council for approval. The city manager is further authorized to promulgate such other regulations as may be required for the location of other installations or structures in or use of the public ways, and for outdoor dining on streets, ways or other public places.

(Code 1968, § 703.7A; Ord. No. 472-71, § 1, 9-20-71; Ord. No. 409-75, 7-21-75; Ord. No. 379-79, 12-3-79; Ord. No. 353-84, § 3, 4-23-84; Ord. No. 145-96, § 3, 1-17-96; Ord. No. 93-07/08 3-3-08)

Sec. 25-29. Content.

The permit issued under this division shall contain such terms, conditions and restrictions as the city manager shall require.

(Code 1968, § 703.7A; Ord. No. 472-71, § 1, 9-20-71; Ord. No. 409-75, 7-21-75; Ord. No. 379-79, 12-3-79)

Sec. 25-30. Revocation; removal of installation.

The permit issued under this division shall be revocable by the city manager by written notice to the holder of such permit. Any such structure, tree or other installation, or furniture

utilized for outdoor dining not removed or relocated, or otherwise disposed of, in the manner and within the time specified in the notice shall be considered a defect in the public way or other public property and may be removed by the city without further notice and without any liability on the city's part whatsoever to the holder of the permit, his or her successors and assigns, and in the event the city shall be required to remove such installations, the costs of removal shall be borne by the permit holder.

(Code 1968, § 703.7A; Ord. No. 472-71, § 1, 9-20-71; Ord. No. 409-75, 7-21-75; Ord. No. 379-79, 12-3-79; Ord. No. 93-07/08, 3-3-08)

Sec. 25-31. Bike Sharing Systems.

(a) A "bike sharing system" is defined as a system of bicycles, electric bicycles, helmets, or similar bike-share-related merchandise that is made available for rent for general public use, generally for short periods of time, and may include docks or stations for storing bicycles when not in use.

(b) Bike sharing systems require annual revocable street occupancy permits pursuant to this section and section 25-27(a) (8), above.

(c) The City Manager or her or his designee is hereby authorized to develop regulations to further delineate reasonable rules for operation of a bike sharing system, including limits on the number of bikes (including per operator), where bikes and other bike-share-related merchandise may be stored or parked on public ways, requirements for insurance, indemnity and bonding, the conduct and responsiveness of bike share operators, requirements for data sharing and reporting, restrictions on advertising and signage, and other relevant factors to ensure safe and effective operation of such a system. The rules will be submitted to the City's Sustainability & Transportation Committee for review and comment prior to adoption and, following adoption, shall undergo an annual review by the Committee of the rules' effectiveness.

(d) The City Manager may set a cap on the number of bike sharing systems that may operate in the city at one time. If such a limit is set, the City shall determine operators through a competitive bidding process.

Chapter 18 PARKS, RECREATION AND PUBLIC BUILDINGS AND GROUNDS*

***Cross reference(s)**--Sports, games prohibited in cemeteries, § 7-133; land use, Ch. 14; streets, sidewalks and other public places, Ch. 25.

State law reference(s)--Parks, trees and playgrounds, 30 M.R.S.A. § 3801 et seq.

Art. IA. In General, §§ 18-1--18-10

Art. IB. Dedication of Parks and Public Grounds, §§ 18-11--18-15

Art. II. Regulations for Parks and Public Grounds, §§ 18-16--18-65

Art. III. Public Landings, §§ 18-66--18-80

Art. IV. Airport Facilities, §§ 18-81--18-85

Art. V. Waterfront Facilities §§ 18-96--18-99

ARTICLE IA. IN GENERAL

Sec. 18-1. Reserved.

Sec. 18-2. Reserved.

Sec. 18-3. Reserved.

Sec. 18-4. Reserved.

Sec. 18-5. Reserved.

Sec. 18-6. Reserved.

Sec. 18-7. Reserved.

Sec. 18-8. Reserved.

Sec. 18-9. Reserved.

Sec. 18-10. Parks Commission.

(a) *Findings.* The City Council hereby finds that:

(1) Several city parks and public grounds including, but not limited to, Deering Oaks, Eastern Promenade, Western Promenade, Baxter Woods, Baxter Pines, Riverside Golf Course, Payson Park and Stroudwater Park are already all protected by and through deed covenants and restrictions;

(2) The city's cemeteries are already protected by Chapter Seven (7) of the Portland City Code;

(3) The Land Bank has protected twenty-six (26) properties for

18-1

* * *

prevent the City from the following:

(a) Improving or maintaining dedicated parks and public grounds in a manner consistent with the design of the park or public ground or approved master plan;

(b) Using dedicated parks or public grounds for any of the following:

- (1) Athletic contests;
- (2) Playgrounds and/or recreational structures;
- (3) Outdoor restaurant seating;
- (4) Outdoor markets;
- (5) Outdoor performance spaces or performances;
- (6) Signs and other advertising;
- (7) Food trucks or vendors; and/or
- (8) Festivals; or

(c) Granting permits, licenses or leases (no more than one (1) year or less in length) for the use, maintenance and/or improvement of dedicated parks or public grounds.

(Order 203-13/14, 5-28-2014)

Sec. 18-13. Inalienability of Parks and Public Grounds. Except as authorized in sections 18-12 and 18-14, dedicated parks and public grounds may not be removed from the list in section 18-11, or used, sold and/or permanently disposed of for non-recreational purposes.
(Order 203-13/14, 5-28-2014)

Sec. 18-14. Disposition of Parks and Public Grounds. Any request to a council committee or the city council to add or remove a dedicated park or public ground from the list in section 18-11, sell or otherwise permanently dispose of a dedicated park or public ground for non-recreational purposes, or establish a use and/or improvement other than those listed in 18-12, shall be reviewed by the parks commission who shall provide an advisory opinion on any such request prior to review by the council committee and the city council, and shall only become effective upon review and approval by seven (7) members of the city council.

(Order 203-13/14, 5-28-2014)

Sec. 18-15. Reserved.

ARTICLE II. REGULATIONS FOR PARKS AND PUBLIC GROUNDS

Sec. 18-16. Scope.

The provisions of this article shall apply to any of the parks or public grounds belonging to or under the control of the city.
(Code 1968, § 501.1)

Sec. 18-17. Trucks prohibited.

No vehicle either loaded or unloaded, used for the transportation of freight, materials or other like commodities shall be allowed on any of the roadways of the parks or public grounds, except with the prior written consent of the parks authority; provided, however, that such vehicle owned or employed by the city may be permitted in the parks or public grounds for the purpose of maintenance or repair work.
(Code 1968, § 501.1)

Cross reference(s)--Traffic and motor vehicles, Ch. 28.

Sec. 18-18. Loitering in parks.

Except as provided below for Tommy's Park and Post Office Park, no person shall stop, loiter, be or remain in any of the parks of the city or in any of the paths, drives, streets, boulevards or roadways of the parks between the hours of 10:00 p.m. and 6:30 a.m. of the day immediately following, except for the purpose of traveling across or through such parks; nor shall any person park an automobile and remain therein between the hours of 10:00 p.m. and 6:30 a.m. of the day immediately following on any of the drives, streets, boulevards, promenades or roadways within the parks of the city, unless said person or persons has the prior written authorization of the city manager to be in said park or parks or their drives, streets, boulevards, promenades or roadways during the aforementioned hours.

No person shall stop, loiter, be or remain in Tommy's Park or Post Office Park or in any of the paths of these two parks between the hours of 1 a.m. and 6:30 a.m. on any given day, except for the purpose of traveling across or through such parks.
(Code 1968, § 711.20; Ord. No. 11-84, 6-6-84; Ord. No. 197-00, 5-1-00)

Cross reference(s)--Loitering generally, § 17-1.

Sec. 18-19. Operation of motor vehicles.

Chapter 17 OFFENSES, MISCELLANEOUS PROVISIONS*

*Cross reference(s)--Alarm systems, Ch. 2.5; rules of conduct in
cemeteries, § 7-123 et seq.; police, Ch. 20; traffic and motor vehicles, Ch. 28.

Art. I. In General, §§ 17-1--17-14

Art. II. Offenses Against Public Peace, §§ 17-15--17-30

Art. III. Offenses Against Public Safety, §§ 17-31--17-60

Div. 1. Generally, §§ 17-31--17-40

Div. 2. Weapons, §§ 17-41--17-43

Art. III-A. Trigger Locking Devices, §§ 17-44--17-60

Art. IV. Obscenity, §§ 17-61--17-69

Art. V. Regulation of Tobacco, §§ 17-70--17-98

Div. 1. Generally, §§ 17-70--17-80

Div. 2. Miscellaneous Provisions, §§ 17-81--17-85

Div. 3. Nonsmoking on Designated City Trails, §§ 17-86--17-89

Div. 4. Secondhand Smoke on Playgrounds, Beaches, and Athletic
Facilities, §§17-90-17-93

Div. 5. Secondhand Smoke in Indoor and Outdoor Eating Areas,
§§ 17-94-17-95

Div. 6. Smoking Prohibited in City Parks and Public Grounds
§§ 17-96-17-97

Div. 7. Sale of Flavored Tobacco Products Prohibited, § 17-98.

Art. VI. Mercury Thermometers, §§ 17-99--17-107

Div. 1. Generally, §§ 17-99--17-100

Div. 2. Restrictions, §§ 17-101--17-107

Art. VII. Reserved, §§ 17-108--17-112

**Art. VIII. Recreational Use of Marijuana by Adults 21 Years of
Age or Older, §§ 17-113--17-119**

**Art. IX. Moratorium on Retail Marijuana Establishments and
Retail Marijuana Social Clubs, §§ 17-120-17-123**

**Art. X. Moratorium on Marijuana Caregiver Retail Stores, Testing
Facilities, Manufacturing Facilities, and Grow Facilities, §§
17-124-17-128**

Art. XI. Facial Recognition Technology, §§ 17-130--17-138

ARTICLE I. IN GENERAL

Sec. 17-1. Loitering.

(a) The following definitions shall apply in this section:

- (1) *Loitering* shall mean remaining in essentially one (1) location, seated or standing, and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; and to stand around.
- (2) *Public place* shall mean any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public streets, sidewalks, ways, grounds, schools, areas or parks.

(b) It shall be unlawful for any person to loiter either alone and/or in consort with others in a public place in such manner as to:

- (1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;
- (2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress and egress therein, thereon and thereto;
- (3) Manifest a purpose to promote, engage or solicit another person to engage in sexual intercourse or a sexual act in return for a pecuniary benefit;
- (4) Manifest a purpose to traffic in or furnish what the person knows or believes to be a schedule or counterfeit drug or any hypodermic apparatus.

(c) When any person causes or commits any of the conditions enumerated in subsection (b) herein, a police officer or any law

enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section.

(Code 1968, § 703.1A; Ord. No. 408-71, 8-16-71; Ord. No. 76-75, § 1, 1-20-75; Ord. No. 358-92, 6-3-92)

Cross reference(s)--Loitering in parks, § 18-18; streets, sidewalks and other public places, Ch. 25.

Sec. 17-2. Prohibition against abusive solicitation.

(a) *Purpose.* It is the intent of this chapter to impose reasonable manner of limitations on solicitation, as defined herein, in order to protect the safety of the general public against abusive solicitation while respecting the constitutional right of free speech.

(b) *Definitions.* The following words or phrases as used in this chapter shall have the following meanings:

- (1) "Solicitation" means any request made in person seeking an immediate donation of money or other item of value. A person shall not be deemed to be in the act of solicitation when he or she passively displays a sign or gives any other indication that he or she is seeking donations without addressing his or her solicitation to any specific person, other than in response to an inquiry by that person.
- (2) "Donation" means a gift of money or other item of value and shall also include the purchase of an item for an amount far exceeding its value under circumstances where a reasonable person would understand that the purchase is in substance a gift.
- (3) "Abusive solicitation" means to do one or more of the following while engaging in solicitation or immediately thereafter:
 - a. Blocking or impeding the passage of the person solicited;
 - b. Following the person solicited by proceeding behind, ahead or alongside of him or her after the person solicited declines to make a donation;

such removal shall be submitted to the record owner of the property as soon as practicable after the charges are incurred.

(j) *Penalties.*

- (1) Any person who violates paragraph (c) of this section (*Prohibitions*) shall be punished by a fine of not less than five hundred dollars (\$500.00) per violation plus costs; shall reimburse the property Owner or the City for all costs reasonably incurred by the Property Owner or the City for removal of the graffiti; and shall perform no less than twenty-five (25) hours of community service. In addition, the City may seek equitable relief including, but not limited to, injunctive relief.
- (2) Every parent or legal guardian having custody or control of a minor who violates paragraph (c) of this section shall be jointly and severally liable with the minor for the penalties imposed in this paragraph.
- (3) Any person who violates paragraph (d) or (e) of this section, (*Possession of graffiti implements*) or (*Furnishing graffiti implements*), shall be punished by a fine of up to two hundred fifty dollars (\$250.00) per violation plus costs.

(Ord. No.264-10/11, 6-20-11

Sec. 17-7. Reserved.
Sec. 17-8. Reserved.
Sec. 17-9. Reserved.
Sec. 17-10. Reserved.
Sec. 17-11. Reserved.
Sec. 17-12. Reserved.
Sec. 17-13. Reserved.
Sec. 17-14. Reserved.

ARTICLE II. OFFENSES AGAINST PUBLIC PEACE*

***Cross reference(s)**--Dogs disturbing the peace, § 5-18; disorderly conduct

prohibited in cemeteries, § 7-132; noise while making excavations, § 25-133.

State law reference(s)--Offenses against public order, 17-A M.R.S.A. § 501 et seq.

Sec. 17-15. Urination and defecation in public.

(a) No person in the city shall urinate or defecate upon any sidewalk, street, public way or upon any public place or public property, or in immediate proximity thereto.

(b) Whoever violates any of the provisions of this section shall be punished by a minimum fine of one hundred dollars (\$100.00) for the first offense; a minimum fine of three hundred dollars (\$300.00) for a second offense; and a minimum fine of five hundred dollars (\$500.00) for each and every offense thereafter. In any action in which the city prevails, it shall be entitled to attorneys' fees and all costs of prosecution.
(Ord. No. 246-93, § 2, 3-22-93)

Sec. 17-16. Curfew for minors under fifteen.

No parent, legal guardian or other person having the care and control of a child under the age of fifteen (15) years shall permit such child to be or remain in or on any of the streets, ways or public places of the city after 9:00 p.m., unless such child shall be engaged in the performance of some lawfully authorized employment or shall be in the course of active travel over the streets, ways or public places between a specific point of origin and a specific destination or shall be accompanied by such parent, legal guardian or other adult person.
(Code 1968, § 703.2)

Sec. 17-17. Disorderly conduct.

(a) No person shall, in a public place, intentionally or recklessly cause annoyance to others by intentionally engaging in fighting, without being licensed or privileged to do so.

(b) No person shall, in a private or public place, knowingly accost, insult, taunt or challenge any person with offensive, derisive or annoying words, or by gestures or other physical conduct, which would in fact have a direct tendency to cause a violent response by an ordinary person in the situation of the person so accosted, insulted, taunted or challenged.

City of Portland | Executive Department
Danielle West, *Interim City Manager*



Administrative Policy

Enforcement and Removal Policies and Procedures Relating to Unauthorized Campsites on City Properties

1. Background

The City of Portland, like many communities around the nation, is experiencing crisis levels of individuals experiencing homelessness, including a growing number of unauthorized campsites on public property. Such campsites pose safety and health concerns for people living in them and around them, as they create challenges related to human waste, garbage, exposure to communicable diseases, exposure to violence and other human health concerns. At the same time, the City is mindful that any enforcement activity must be rooted in respect for the people we serve, and that the delivery of social services is an essential part of this policy's effectiveness.

2. Purpose

The City of Portland seeks to provide a standardized procedure governing the enforcement of State and local laws prohibiting loitering and/or camping on public property. It also seeks to establish a clear and standardized procedure for the cleanup of public property being used unlawfully for the purpose of shelter and/or temporary residence and for the disposition of property discovered within those camps.

In establishing this policy, the City also recognizes that enforcement activity is most effective when social services and resources are offered in conjunction with that activity, and reflect fundamental principles for addressing encampments, as identified by the U.S. Interagency Council on Homelessness (USICH). These principles include establishing a multi-sector response, conducting comprehensive and coordinated outreach, and addressing basic needs and providing storage.

3. Policy Statement

When City-run emergency shelters are at capacity, City of Portland staff shall take a general non-involvement approach to any found unauthorized campsites, viewing those campsites through the lens of not criminalizing people creating shelter due to a lack of housing.

When, however, emergency shelter is available or when campsites or other activity constitute "obstructions" (as defined herein), present immediate hazards, or are found in "emphasis areas" that meet specific criteria as outlined in this policy, unauthorized campsites and obstructions will be removed.

Where applicable, personal property removed from unauthorized campsites will be temporarily stored in a manner that is in harmony with other local, state and federal laws;

Whenever practical, City staff will collaborate with community partners to ensure that enforcement activity is accompanied by direct service delivery and engagement.

4. Purpose

The goals of this policy are to:

- Provide consistent processes and procedures for removing campsites from City of Portland property;
- Where applicable, temporarily store personal property in a manner that is in harmony with other local, state and federal laws;
- Whenever practical, collaborate with community partners to ensure that enforcement activity is accompanied by direct service delivery and engagement.

5. Definitions

- 5.1. "City" means the City of Portland, including its officers, employees, agents, or any contractors and sub-contractors.
- 5.2. "Emphasis Area" means an area or location where homeless campsites have become a repeated or consistent problem. When designating an Emphasis Area, the City shall make a determination based on the totality of the circumstances of a particular location. The City shall follow the guidelines outlined in Section 14.
- 5.3. "Campsite" means one or more tent, lean-to, structure, tarpaulin, pallet, or makeshift structure used for purposes of habitation located in an identifiable area within the City of Portland. Habitation is evidenced by the presence of bedding materials, campfires, cooking materials, storage of clothing and other personal belongings or items, gathered together in a manner where it appears to a reasonable person that the site is being used for habitation purposes. Campsites do not include sites a reasonable person would conclude are no longer in use, because any remaining materials are garbage, debris, or waste.
- 5.4. "Immediate hazard" means a campsite where people camping outdoors are at risk of serious injury or death beyond that caused by increased exposure to the

elements, or their presence creates a risk of serious injury or death to others, or the campsite presence is causing imminent compromise to the structural integrity of the surrounding location. Immediate hazard campsites include but are not limited to areas exposed to moving vehicles, areas that can only be accessed by crossing driving lanes outside of a legal crosswalk, or other critical areas, where the lack of sanitation facilities results in human solid or liquid waste being discharged therein.

- 5.5. "Obstruction" means people, tents, personal property, garbage, debris or other objects related to an campsite that: are on a public sidewalk; interfere with the pedestrian or purposes of public rights-of-way; or interfere with areas that are necessary for or essential to the intended use of a public property or facility.
- 5.6. "Personal Property" means an item that: is reasonably recognizable as belonging to a person; has apparent utility in its present condition and circumstances; and is not hazardous.
- 5.7. Examples of personal property include but are not limited to identification documents, personal papers and/or legal documents, tents or tarps, collapsible chairs, bicycles, strollers, radios and other electronic equipment, eyeglasses, prescription medications, photographs, jewelry, and medical devices such as crutches or wheelchairs.
- 5.8. Personal property does not include building materials such as wood products, shopping carts, metal, pallets, or rigid plastic, nor does it include other large and/or bulky items such as furniture (sofas, dressers, etc.). The relevant staff member will determine whether an item is personal property, and in cases when the status of an item cannot reasonably be determined in the staff member's good faith and best judgment based on the totality of the circumstances, the staff member will treat the item as personal property under this rule.

6. Removing Obstructions and Immediate Hazard Campsites

- 6.1. Those circumstances arising to obstructions and immediate hazard campsites may be cause for immediate removal according to applicable laws and rules. The provisions of Sections 7, 8, 9, and 10 of this policy do not apply to removing obstructions and immediate hazard campsites. While the provisions of this Section 5 apply to obstructions and immediate hazard campsites, for purposes of simplicity, the provisions outlined herein in Section 5 shall refer to these collectively as "obstructions."
- 6.2. If an obstruction is observed and is to be immediately removed by City personnel observing the obstruction, a notice is not required to be affixed to the obstruction before its removal.

- 6.3. If the obstruction is determined to be under control of an individual present where the obstruction is observed, oral notice to immediately remove the obstruction shall, if reasonably possible, be given to the individual.
- 6.4. Physical obstructions that are personal property shall be removed and stored by the City as provided for in Section 12 and may be recovered as provided for in Section 13.
- 6.5. Garbage, debris, litter and waste may be immediately removed and disposed of.
- 6.6. Upon removing an obstructing campsite, the City shall post a notice as provided for in Section 12.

7. Campsite Removal Prioritization

- 7.1. The removal of campsites may be prioritized after an inspection of campsite locations by park rangers or community police officers. The inspection shall be documented in a format acceptable by the City. The prioritization may be revised at any time as a result of new campsites being identified, additional campsites being inspected, or as new information about a campsite's condition becomes available.
- 7.2. The following criteria, which have no relative priority, shall be considered when prioritizing campsites for removal: (1) objective hazards such as moving vehicles and steep slopes; (2) criminal activity; (3) quantities of garbage, debris, or waste; (4) other active health hazards to occupants or the surrounding neighborhood; (5) difficulty in extending emergency services to the site; (6) imminent work scheduled at the site for which the campsite will pose an obstruction; (7) damage to the natural environment or environmentally critical areas, and (8) the proximity of individuals experiencing homelessness to uses of special concern including schools, playgrounds, or facilities for the elderly.
 - 7.2.1. In the event that area emergency shelters are at capacity, City personnel will not notice any campsites for removal.
 - 7.2.2. The Social Services Administrator will notify the Police Department, Department of Parks & Recreation, and Office of the City Manager when area emergency shelters are at capacity, and when they are no longer at capacity.

8. Campsite Removal and Notice Requirements

- 8.1. For campsites other than "Immediate Hazard Campsites" or Obstructions, notices shall be prominently posted at the campsite no fewer than 24 hours before a campsite removal.
- 8.2. The notice shall contain the following: (1) the date and time the notice was posted; (2) a warning that garbage, debris, waste, litter and abandoned property

will be disposed of immediately; (4) the location where any personal property remaining may be stored by the City if removed; (5) information on how personal property may be claimed by its owner; (6) a warning that failure to claim within one (1) week may result in the destruction of said property, and (7) contact information for emergency shelter resources.

- 8.3. Removal notices shall be posted at the campsite in a manner reasonably calculated to be seen, preferably in multiple locations.
- 8.4. Notices shall also be posted on, or as close as reasonably practicable, to each tent or structure which is subject to removal. Notices so posted on or near each tent or structure shall contain the same information as outlined in Section 7.1.
- 8.5. If individuals are present at the campsite, oral notice shall, if reasonably possible, be given to the individuals that the campsite is subject to removal as provided for in the posted notice.
- 8.6. Nothing in this section shall prohibit the City from posting notice that the removal of a large campsite will occur over a period of several days, until completion, so long as removal operations commence within the time frame identified in the notice.
- 8.7. City personnel overseeing a campsite removal should document the notices posted at a campsite site. Photographic documentation is recommended.

9. Identifying or Providing Alternative Shelter Options Before Removal of a Non-Obstructing or Immediate Hazard campsite

- 9.1. Prior to removing a campsite, City personnel shall offer alternative shelter locations for individuals in the campsite. Except as provided in section 8.2 below, the alternatives must be available to the campsite occupant starting on the date a campsite removal notice is posted and continue to be available until the campsite removal is completed.

10. Outreach for Campsite Removals

- 10.1. The City of Portland Social Services Administrator will coordinate with community partners to ensure that City personnel are accompanied by outreach staff during the removal of inhabited campsites whenever practical.

11. Campsite Cleanup

- 11.1. All designated City personnel, vendors, and other personnel necessary for a campsite removal and cleanup shall be present at the start of an campsite removal.
- 11.2. Whenever practical, City personnel must be accompanied by outreach staff at the removal of any inhabited campsite.

- 11.3. If there are any individuals remaining on site, a final warning and reasonable opportunity to leave shall be given prior to further enforcement.
- 11.4. The City shall take reasonable steps to segregate personal property from material that is not personal property, provided the segregation does not pose a danger to the individual segregating the personal property from the other material.
- 11.5. Tents and/or structures that were not previously posted with a notice but are in the immediate area of tents or structures that were posted with a notice may be removed, if the tents or structures were placed in the immediate area after notices were posted.
- 11.6. Personal property shall be stored as provided for in Section 12 and may be recovered as provided for in Section 13.
- 11.7. The City may remove and dispose of garbage, debris, waste, hazardous items, and other like material. Items of personal property which may present a health and safety hazard either immediately or during storage due to contamination by blood, liquid waste, solid waste, dirt, filth or other potentially infectious agent shall be removed and disposed of.
- 11.8. If, during the removal process, an individual on site is protesting removal of a personal property item, as that term is defined herein, the City shall provide a reasonable opportunity for the individual to remove it. However, the individual shall be advised that campsite removal work at the site shall continue and that if the individual fails to remove the personal property item before cleanup is complete, such item may be retrieved from storage. The individual shall be provided with the contact information for the storage facility identified in Section 12.
- 11.9. If the individual has an item that does not meet the definition of personal property, as defined herein, the person shall be provided a reasonable opportunity to remove the item. However, the individual shall be advised that campsite removal work at the site shall continue and that if the individual fails to remove the item before cleanup is complete, such item may be deemed abandoned and disposed of.
- 11.10. City personnel should thoroughly document their actions during the removal process to adequately corroborate that personal property which is being disposed of is either hazardous or has no apparent remaining utility.
- 11.11. When called to the scene, Portland Police Department members will identify, seize, and securely store any weapons found at the campsite site.
- 11.12. Property attributable to a crime (e.g. weapons, items that have been reported to be stolen, etc.) will be handled in accordance with the Police Department's established evidentiary policy and practice.

12. Post-campsite Removal Notice

- 12.1. A notice shall be prominently posted at the site where an campsite has been removed and the site cleaned up.
- 12.2. The notice shall state: (1) the date the cleanup was performed; (2) whether personal property was stored by the City; (3) where the personal property is stored; (4) how any stored personal property may be claimed by its owner; (5) that property not claimed will be destroyed after one (1) week, and (6) contact information for outreach personnel who can assist individuals with shelter alternatives and other services. This notice shall not be removed by the City for a minimum of one (1) week.

13. Storage of Personal Property Removed from Campsite

- 13.1. The City shall store all personal property encountered when removing obstructions and immediate hazards, or when removing campsites, provided the City has no obligation to store personal property that is hazardous (for example, a needle-strewn tent) or is reasonably expected to become a hazard during storage (for example, wet bedding materials).
- 13.2. Personal property shall be stored at a location accessible by public transportation.
- 13.3. The campsite site shall be posted with a notice if personal property is removed from the site.
- 13.4. The notice shall contain the same information as referenced in Section 11.2 and shall not be removed from the site by the City for a minimum of one (1) week.
- 13.5. The City shall maintain a log of personal property removed from a campsite. Each item logged shall be kept until the personal property is recovered by its owner, or the property is discarded as permitted under these rules. The log shall indicate:
 - 13.5.1. Camp location and date of camp cleanup.
 - 13.5.2. Description of each item of property, including the type of item, color, brand name (if known), and marks thereon identifying the owner.
 - 13.5.3. To whom the property was released and the date of release, or, in the event the property is not recovered, the date of destruction or disposal.
 - 13.5.4. Containers, backpacks, boxes, etc. that contain personal property can be sealed at the site, and inventoried as a single item. City personnel will conduct a visual inspection of the bag to determine if valuables, hazardous materials or perishable items are enclosed. Valuables will be inventoried separately. Hazardous materials or perishable items will be disposed of.

- 13.6. Personal property that is not recovered after one (1) week, excluding the date the property was stored, may be destroyed or disposed of by the City.

14. Recovering Stored Property

- 14.1. Individuals claiming personal property that has been removed from a campsite may contact the Social Services Administrator or designated community partner who will inform the individual how the property may be recovered.
- 14.2. Personal property may be recovered by the individual at the location where the property is stored.
- 14.3. The individual shall describe the personal property sought with particularity. No formal legal identification, such as displaying a valid driver's license, will be required as a predicate before an individual can recover the property. The log of personal property, as referenced in section 13.5, shall indicate the name as provided by the individual who received the recovered property. If there are no circumstances indicating a competing claim of ownership, the property shall be released to the individual seeking its recovery. Storage of personal property shall be at no cost to the individual.

15. Campsite Removal from an Emphasis Area

- 15.1. The City may identify a specific area as an Emphasis Area.
- 15.2. An area may not be identified as an Emphasis Area, and enforcement of an Emphasis Area shall not commence until: a campsite or obstruction removal has occurred; the area is otherwise free of campsites; and the area has been posted with signage as an Emphasis Area.
- 15.3. If an area has been designated as an Emphasis Area, the area shall be inspected and monitored by the City on a regular basis. The area shall be signed, and may be fenced. The signage shall identify: (1) the location of the Emphasis Area; (2) that camping is prohibited in the Emphasis Area; (3) that any material found in the Emphasis Area may be removed without further notice; (4) where any personal property removed is stored; and (5) how any stored personal property may be claimed by its owner.
- 15.4. Individuals camping in an Emphasis Area and their campsite-associated personal property may be removed as an obstruction.

DocuSigned by:

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Danielle P. West
Interim City Manager

7/1/2022

Date