City *of* Tigard

Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL, LOCAL CONTRACT REVIEW BOARD & TOWN CENTER DEVELOPMENT AGENCY

MEETING DATE AND TIME:	MAY 9, 2023 - 6:30 p.m. Business Meeting
MEETING LOCATION:	Hybrid - City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223 - See PUBLIC NOTICE below

PUBLIC NOTICE:

City of Tigard Council meetings are hybrid meetings where some Council, staff, or public will participate in person and some will participate remotely.

How to comment:

- Written public comment may be submitted electronically at www.tigard-or.gov/Comments by noon the day before the meeting.
- If attending the meeting in person, please fill out the public comment sign-in sheet at the front of the room and come to the microphone when your name is called.
- If you prefer to call in, please call 503-966-4101 when instructed to be placed in the queue. We ask that you plan on limiting your testimony to three minutes.
- You may comment through video through the Teams app. Go to this link to learn how to participate by video: May 9, 2023 Council Meeting (https://www.tigard-or.gov/Home/Components/Calendar/Event/3460/372).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-718-2419 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

VIEW LIVESTREAM ONLINE: https://www.tigard-or.gov/boxcast

CABLE VIEWERS: The City Council meeting will be shown live on Channel 21 (1st Tuesdays) and Channel 28 (2nd & 4th Tuesdays) at 6:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

Thursday 6:00 p.m. Friday 10:00 p.m. Saturday 7:30 p.m. Sunday 11:30 a.m. Monday 6:00 a.m.

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MEETING LOCATION: Hybrid - City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

6:30 PM

1. BUSINESS MEETING

   A. Call to Order

   B. Roll Call

   C. Pledge of Allegiance

   D. Call to Council and Staff for Non-Agenda Items

2. PUBLIC COMMENT

   A. Follow-up to Previous Public Comment

   B. Tigard Area Chamber of Commerce

   C. Tigard High School Student Envoy

   D. Update from Police Commander McDonald

   E. Public Comment – Written

   F. Public Comment – In Person

G. Public Comment – Phone-In

H. Public Comment – Video

3. CONSENT AGENDA: (Local Contract Review Board) The Consent Agenda is used for routine items including approval of meeting minutes, contracts or intergovernmental agreements. Information on each item is available on the city's website in the packet for this meeting. These items may be enacted in one motion without separate discussion. Council members may request that an item be removed by motion for discussion and separate action.

A. CONTRACT FOR POLICE MODULAR BUILDING IMPROVEMENTS

- *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*

4. GUARANTEED MAXIMUM PRICE CONTRACT AMENDMENT FOR P & C CONSTRUCTION WORK ON UNIVERSAL PLAZA **6:45 p.m. estimated time**

5. TOWN CENTER DEVELOPMENT AGENCY PUBLIC HEARING: FY 23 THIRD QUARTER SUPPLEMENTAL BUDGET **6:55 p.m. estimated time**

6. CITY OF TIGARD'S RESPONSE TO HB 3115 **7:05 p.m. estimated time**

7. NON-AGENDA ITEMS

8. ADMINISTRATIVE REPORT **7:50 p.m. estimated time**

9. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

10. ADJOURNMENT **7:55 p.m. estimated time**

AIS-5217	**3. A.**
Business Meeting	
Meeting Date:	05/09/2023
Length (in minutes):	Consent Item
Agenda Title:	Contract for Police Modular Building Improvements
Authored By:	Toni Riccardi
Presented By:	Project Manager Justin James
Item Type:	Motion Requested
Public Hearing Newspaper Legal Ad Required?:	Yes
Public Hearing Publication Date in Newspaper:	03/29/2023

Information

EXPLANATION OF ISSUE

The purpose of this action is to approve the Police Modular Building Improvement contract.

ACTION REQUESTED

Staff recommends the Local Contract Review Board award the contract to Randall Construction Co. for an estimated amount of $275,000.00 and authorize the City Manager to take the steps necessary to execute the contract.

BACKGROUND INFORMATION

Work under this project will include:

- New metal roof and siding on both modular buildings behind City Hall. Replace windows of East mod. Plywood interior of East modular building to be used by the Police Department for various activities. New lighting and bring internet into building. Address building structural issues like dry rot and settling.

The city issued an Invitation to Bid for the project March 29, 2023 with notice published in the Daily Journal of Commerce. Upon closing, the city received responses from three contractors:

- P&C Construction
- Randall Construction Co.
- TS Construction LLC

The Contracts team has reviewed the bids and determined that Randall Construction Co. has submitted the lowest reasonable bid. Randall Construction Co. has no State of Oregon Contractor Construction Board violations and is not on the Bureau of Labor and Industries ineligible list. Accordingly, it is recommended and award for the city's Police Modular Improvement contract to Randall Construction Co. in the amount of $275,000.00.

ALTERNATIVES & RECOMMENDATION

The Local Contract Review Board may choose to not award this contract and direct staff to resolicit for the work.

ADDITIONAL RESOURCES

None

Fiscal Impact

Cost: $275,000

Budgeted (yes or no): Yes

Where budgeted?: * Two accounts, See below.

Additional Fiscal Notes:

This is budgeted in the Police Federal Treasury Asset Forfeiture Funds @$120,000 and Facilities Building Improvement Fund @$155,000. Project is scheduled for completion on 8/31/2023 and will require "carry-over" of remaining funding. The contract will be for an estimated $275,000.

Attachments

No file(s) attached.

AIS-5242	**4.**
Business Meeting	
Meeting Date:	05/09/2023
Length (in minutes):	10 Minutes
Agenda Title:	Guaranteed Maximum Price Contract Amendment for P&C Construction Work on Universal Plaza
Authored By:	Sean Farrelly
Presented By:	Redevelopment Project Manager Farrelly
Item Type:	Motion Requested Local Contract Review Board
Public Hearing Newspaper Legal Ad Required?:	No
Public Hearing Publication Date in Newspaper:	

Information

EXPLANATION OF ISSUE

This item is to consider approval of a Guaranteed Maximum Price (GMP) contract amendment for construction of Universal Plaza.

ACTION REQUESTED

Staff requests the Local Contract Review Board approve the Guaranteed Maximum Price ("GMP") contract amendment for the Universal Plaza Construction Manager General Contract with P&C Construction the amount of $505,588 and authorize the City Manager to take the steps necessary to execute the contract amendment.

BACKGROUND INFORMATION

The City of Tigard and its redevelopment agency, the Town Center Development Agency (TCDA), are focused on continuing the revitalization of downtown Tigard. The City's strategic vision is to be "an equitable community that is walkable, healthy, and accessible for everyone." The adopted City Center TIF District Plan aims to support this vision by "develop[ing] urban spaces that will provide active and passive recreational opportunities for pedestrians and attract residents and visitors to downtown."

In 2017, the TCDA Board directed that an agency-owned property in downtown Tigard be redeveloped as a large public plaza. Envisioned as the most important public space in the city's most important district, the future Universal Plaza, herein referred to as the "Project," was envisioned as a hub of activity, a stimulus for downtown's continued redevelopment, and an emblem of civic pride and identity for Tigard residents.

On April 12, 2022, the Local Contract Review Board authorized a Guaranteed Maximum Price of $5.6 Million for P&C Construction to construct the Universal Plaza and trail/boardwalk connection to the Fanno Creek Trail.
Construction commenced on June 2, 2022.

Seven change orders to the contract have been necessary to address unforeseen construction costs or for additional value-added scope elements. Only five of the change orders have cost implications. They total

$505,588, bringing the total GMP contract amount to $6,105,588. Following is a brief description of each change order:

Change Order 01: $17,101: Unforeseen costs associated with the construction of Universal Plaza, including reincorporating subdrainage piping at porous asphalt; rerouting of sink venting, additional concrete mock-ups; change in swing color.

Change Order 02: $58,762: Inclusion of project related alternates including food cart greywater infrastructure; inclusion of a swing structure; security camera cabling; and additional boulders.

Change Order 03: $0.00: Documentation of scope/costs billed against GMP allowances.

Change Order 04: $26,410: Unforeseen costs associated with the construction, including re-routing sewer line; added storm line and area drain; changes in design of boardwalk; and schedule extension.

Change Order 05: $0.00: Documentation of scope/costs billed against GMP allowances.

Change Order 06: $150,084: Inclusion of the Jason Snider Community Tables in the project (advancing scope originally planned for Phase 2)

Change Order 07: $253,231: This Change Order includes both unforeseen costs associated with construction and additional value-added scope elements to enhance the community experience. The unforeseen costs include repaving in the location of a negotiated stormwater easement on B&B PrintSouce property; strengthening the monument sign for safety; installing additional boulders for water feature protection. Additional value-added scope elements include installing hedge screening at the Steven's Marine fence line; installing mag locks on restroom doors; and acquiring moveable seating and shading.

The increases to the GMP for the Change Orders are offset with available project contingency funds resulting in no net change to the Total Project Budget.

ALTERNATIVES & RECOMMENDATION

The Local Contract Review Board may choose to not approve this amendment. Such a decision would require P&C Construction to evaluate options for covering costs incurred by subcontractors that are beyond the GMP. P&C Construction would likely look to the city for redress. The staff recommendation is to approve the GMP amendment given that project contingency funds are available for this very purpose, and because the change orders that necessitate the amendment have resulted in a safe, finished and attractive public space.

ADDITIONAL RESOURCES

April 12, 2022: Local Contract Review Board: Guaranteed Maximum Price Amendment for P&C Construction to Build Universal Plaza
April 6, 2021: Local Contract Review Board: Exemption to Competitive Bidding and Approval of Findings for Universal Plaza

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Fiscal Impact

Cost:	$505,588
Budgeted (yes or no):	Partially
Where budgeted?:	TCDA/CIP Q3 Amendment

Additional Fiscal Notes:

$55,588 is in the current budget. $450,000 of these funds are included in the TCDA/CIP Q3 Supplemental Amendment. See Q3 Supplemental Budget for additional detail.

Attachments

No file(s) attached.

AIS-5166 **5.**

Business Meeting

Meeting Date: 05/09/2023

Length (in minutes): 10 Minutes

Agenda Title: TOWN CENTER DEVELOPMENT AGENCY PUBLIC HEARING: FY 23 THIRD QUARTER SUPPLEMENTAL BUDGET

Authored By: Kalena Plath

Presented By: Budget Manager Kalena Plath

Item Type: Motion Requested
Resolution
Public Hearing
Town Center Development Agency

Public Hearing Legal Ad Required?: Yes

Publication Date: 05/01/2023

Information

EXPLANATION OF ISSUE

This FY 2023 Third Quarter Budget Supplemental accounts for the additional change orders in the Universal Plaza that have resulted in a total increase in the FY 23 budget.
The change orders include:

- Reincorporating subdrainage piping at porous asphalt; rerouting of sink venting, additional concrete mock-ups; change in swing color.
- Inclusion of project related alternates including food cart greywater infrastructure; inclusion of a swing structure; security camera cabling;and additional boulders.
- Costs associated with the construction, including re-routing sewer line; added storm line and area drain; changes in design of boardwalk; and schedule extension.
- Inclusion of the Jason Snider Community Tables in the project (advancing scope originally planned for Phase 2)
- Repaving in the location of a negotiated stormwater easement; strengthening the monument sign for safety; installing additional boulders for water feature protection. Additional value-added scope elements include installing hedge screening at the fence line; installing mag locks on restroom doors; and acquiring moveable seating and shading.

ACTION REQUESTED

Finance recommends the City Council adopt the FY 2023 Third Quarter Budget Supplemental.

BACKGROUND INFORMATION

Dates of Previous and Potential Future Considerations
This is the first time this information has been presented.

ALTERNATIVES & RECOMMENDATION

Finance recommends the City Council approve the resolution adopting the FY 2023 Third Quarter Budget Supplemental.

ADDITIONAL RESOURCES

N/A

Fiscal Impact

Cost:	$450,000
Budgeted (yes or no):	Yes
Where Budgeted (department/program):	Q3 Adjustment

Additional Fiscal Notes:

With the $450,000 supplemental request, the overall Universal Plaza project budget is $8,620,00. This supplemental request is to ensure the FY 23 expenditures are aligned with FY 23 budget appropriation.

Budget appropriation for TCDA would increase by $450,000 reducing the reserve for future expenditures in the TCDA City Center Debt Service Fund.

The change in reserves is reflected in the FY24 proposed budget.

Attachments

Resolution

FY23 Q3 Budget Supp Exhibit A

CITY OF TIGARD, OREGON
TIGARD TOWN CENTER DEVELOPMENT AGENCY
RESOLUTION NO. 23-

A RESOLUTION TO ADOPT THE FY 2023 THIRD QUARTER BUDGET SUPPLEMENTAL INCLUDING BUDGET ADJUSTMENTS TO TOWN CENTER DEVELOPMENT AGENCY (TCDA) URBAN DEVELOPMENT.

WHEREAS, the TCDA acknowledges those items that were unknown at the time the FY 2023 budget was adopted; and

WHEREAS, the TCDA recognizes approximately $450,000 of unanticipated budget in operations and transfers; and

WHEREAS, the increase in budget is offset by $450,000 reduction in reserves for future expenditures.

NOW, THEREFORE, BE IT RESOLVED by the Tigard Town Center Development Agency that:

SECTION 1: The FY 2022-23 budget is hereby amended Q3 Supplemental Summary Exhibit A.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2023.

_____
TCDA Chair

ATTEST:

_____
TCDA Recorder

Q3TCDA01

New request for additional funds in Urban Renewal City Center Capital Improvements (940). Additional change orders at Universal Plaza have resulted in a total increase in funding required, while there is some contract savings within the project this request will provide a transfer of available funds to the City Center Capital Improvement fund, from the City Center Debt Service fund. This will reduce the reserve for future expenditures in the Debt Service fund. Adequate funds and budget authority is currently available in the fund, however the additional appropriation is needed to ensure all projects in progress will not exceed the scheduled appropriation balance.

Fund 1 of 1 **City Center Capital Improvements**		**Q3**	
Resources			
Beginning Fund Balance	**$4,392,128**	**$-**	**$4,392,128**
Property Taxes	$-	$-	$-
Franchise Fees	$-	$-	$-
Special Assessments	$-	$-	$-
Licenses & Permits	$-	$-	$-
Intergovernmental	$1,818,000	$-	$1,818,000
Charges for Services	$-	$-	$-
Fines & Forfeitures	$-	$-	$-
Interest Earnings	$10,868	$-	$10,868
Miscellaneous	$-	$-	$-
Other Financing Sources	$900,000	$-	$900,000
Transfers In from Other Funds	$349,500	$450,000	$799,500
Total Resources	**$7,470,496**	**$450,000**	**$7,920,496**
Requirements			
Capital Improvements	$6,520,000	$450,000	$6,970,000
TCDA	$394,500	$-	$394,500
	$-	$-	$-
	$-	$-	$-
Program Expenditures Total	**$6,914,500**	**$450,000**	**$7,364,500**
Debt Service	$-	$-	$-
Loan to TCDA	$-	$-	$-
Work-In-Progress		$-	$-
Transfers to Other Funds	$-	$-	$-
Contingency	$-	$-	$-
Total Budget	**$6,914,500**	**$450,000**	**$7,364,500**
Reserve For Future Expenditure	**$555,996**	**$-**	**$555,996**
Total Requirements	**$7,470,496**	**$450,000**	**$7,920,496**

Q3TCDA01

New request for additional funds from Urban Renewal City Center Debt Service(945). Additional change orders at Universal Plaza have resulted in a total increase in funding required, while there is some contract savings within the project this request will provide a transfer of available funds to the City Center Capital Improvement fund, from the City Center Debt Service fund. This will reduce the reserve for future expenditures.

Fund 1 of 1 **City Center Debt Service**		**Q3**	
Resources			
Beginning Fund Balance	**$852,751**	**$-**	**$852,751**
Property Taxes	$773,146	$-	$773,146
Franchise Fees	$-	$-	$-
Special Assessments	$-	$-	$-
Licenses & Permits	$-	$-	$-
Intergovernmental	$-	$-	$-
Charges for Services	$-	$-	$-
Fines & Forfeitures	$-	$-	$-
Interest Earnings	$2,132	$-	$2,132
Miscellaneous	$-	$-	$-
Other Financing Sources	$-	$-	$-
Transfers In from Other Funds	$-	$-	$-
Total Resources	**$1,628,029**	**$-**	**$1,628,029**
Requirements			
	$-	$-	$-
	$-	$-	$-
	$-	$-	$-
	$-	$-	$-
Program Expenditures Total	**$-**	**$-**	**$-**
Debt Service	$540,000	$-	$540,000
Loan to TCDA	$-	$-	$-
Work-In-Progress	$-	$-	$-
Transfers to Other Funds	$349,500	$450,000	$799,500
Contingency	$-	$-	$-
Total Budget	**$889,500**	**$450,000**	**$1,339,500**
Reserve For Future Expenditure	**$738,529**	**$(450,000)**	**$288,529**
Total Requirements	**$1,628,029**	**$-**	**$1,628,029**

AIS-5204 **6.**

Business Meeting

Meeting Date: 05/09/2023

Length (in minutes): 45 Minutes

Agenda Title: City of Tigard's Response to HB 3115

Authored By: Kim Ezell

Presented By: City Attorney Rihala and Program Manager Ezell

Item Type: Update, Discussion, Direct Staff

Public Hearing Legal Ad Required?: No

Publication Date:

Information

EXPLANATION OF ISSUE

Tigard and our neighboring jurisdictions are developing time, place, and manner ordinances in response to HB 3115 and recent case law. Under HB 3115,any regulation of sitting, lying, sleeping, or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place, and manner prior to July 1, 2023. The City's current code regulating camping was enacted prior to court decisions such as *Martin v. Boise* and does not comply with HB 3115. In addition to repealing Tigard Municipal Code Chapter 7.80, staff is asking Council for policy direction on how Tigard should address when, where, and how the houseless community can camp in Tigard.

ACTION REQUESTED

Staff seeks policy direction from Council on the City's response to HB 3115 and the proposed ordinance presented.

BACKGROUND INFORMATION

Issues around houselessness and camping in public are complex with strong feelings on all sides. For months the internal team has been considering options for this proposed ordinance. Considerations included how other local jurisdictions are proceeding, how those elements could be implemented in Tigard, and how to balance the intended use of properties with the needs of our houseless community.

Additionally, it is important to recognize that this proposed ordinance targets a very narrow slice of the overall societal issues involving houselessness. Work on this ordinance has been in parallel with ongoing conversations with Washington County and houseless service providers in Tigard regarding bigger-picture issues such as the provision of services, shelter, and long-term housing opportunities. This ordinance and requested Council guidance is limited to only time, place, and manner of camping.

Tigard's neighboring jurisdictions are also considering similar ordinances. While all jurisdictions are working to align their ordinances, differences in populations, geographies, city services, and houseless services have led to major and minor differences in proposed ordinances across the region.

Based on those and other considerations, staff recommends that Council consider the following time, place, and regulations:

- **TIME**
  - Camping prohibited between 9am and 7pm

- **PLACE**
  - Camping prohibited in -
    - Sensitive lands
    - City parks
    - City parking lots
    - SW Burnham and Main Streets
    - 500 ft. of houseless services, schools, and freeway entrances/exits

- **MANNER**
  - Camping may not reduce mobility access below 36 inches or otherwise impede travel
  - 10 ft. buffer around driveways, entrances/exits of buildings, fire hydrants, other utility infrastructure
  - May not start or maintain a fire or use a gas heater
  - May not dig, excavate, erect/install fixtures, harm vegetation
  - May not accumulate, discard, or leave behind trash, hazardous materials, or feces
  - Campsite is limited to 12x12 feet and cannot be within 20 feet of another campsite
  - No unauthorized connections to electrical outlets or other utilities

Public Involvement
Significant public involvement has been completed with concerned stakeholder groups.

Since January 2023, the City has engaged the Community Homelessness Assessment and Response Team (CHART), which has provided feedback and will continue to be consulted for feedback on the ordinance and implementation concerns.

The Committee for Community Engagement (CCE) was briefed and consulted on the ordinance in February. Staff is scheduled to return to the CCE in May for further guidance.

The Chief's Advisory Panel has been consulted and gave feedback to staff on the direction of the Time, Place, and Manner ordinance.

Staff has had multiple 1-1 and group conversations with neighboring jurisdictions about the status of each community's ordinance and how we can align our respective ordinances.

Feedback from all of these conversations has been incorporated into the proposed draft ordinance.

Impacts (Community, Budget, Policies and Plans/Strategic Connection)
Council adopted 'Reduce Houselessness' as a 2023-2024 Council Goal. A key element of staff's action plan to accomplish the Goal is to enact and implement a time, place, manner ordinance that will support the entire community.

Dates of Previous and Potential Future Considerations
Staff will return to Council on May 23 with an updated ordinance based on Council guidance.

ALTERNATIVES & RECOMMENDATION

The proposal before Council is based on the City's goals and consistency with neighboring jurisdictions decisions. Council has the discretion to change any element of the proposal.

ADDITIONAL RESOURCES

Attachments

Presentation

Map

TPMOrdinance_DRAFT

Response to HB 3115

Council Presentation

May 9, 2023

PRESENTATION OUTLINE

Section	Summary
1	HB 3115 Overview
2	Tigard's Current State
3	Neighboring Jurisdictions
4	Ordinance Goals
5	Considerations for Time, Place, Manner
6	Next Steps
7	Questions?

HB 3115 OVERVIEW

Martin v. Boise

- Prohibiting camping without an available shelter bed is a violation of a person's 8th Amendment rights against cruel and unusual punishment
- A bed is available only if it is one that may actually be used by the specific individual (ex. a shelter that does not allow animals is not available for an individual with a pet)
- Cities may adopt reasonable time, place, and manner regulations
- Generally interpreted as only applying to criminal ordinances

Johnson v. Grants Pass

- Reaffirmed and expanded *Boise*
- Allowing sleeping in public places, yet prohibiting campsites with bedding or a structure is unconstitutional
- Applies to both civil and criminal ordinances

HB 3115

- State law that codified Martin v. Boise and says that all cities must be in compliance by July 1, 2023

TIGARD'S CURRENT STATE

Currently in Tigard…

- Ordinance prohibits any camping, this is unconstitutional and must be removed by July 1 (Chapter 7.80 Camping Prohibited in Certain Places)

- Ordinance prohibits camping in 'sensitive lands' (7.52.180 Camping in Sensitive Areas) which include:
  - Flood hazard area
  - Drainageways
  - Wetland areas
  - Steep slopes
  - Significant fish and wildlife habitat areas
  - Significant tree groves

- Park rules close some parks after certain hours, which effectively prohibits camping in many Tigard parks

NEIGHBORING JURISDICTIONS

Washington County

Staff presented on Time, Place, Manner at the Board's April 4 Work Session.

- **TIME** – May camp for no more than 5 consecutive days
- **PLACE** – Prohibits camping on County property, in sensitive lands, and within 500 ft of houseless services, shelters, and schools
- **MANNER** – Camps limited to one structure within 144 sq. ft; only materials necessary to shield from the elements; restrictions on amount of garbage; no open flames; no obstruction of public assets like fire hydrants, travel paths, or emergency exits

Beaverton

Presented a draft ordinance to Council on March 7 and going back to Council May 16. The ordinance applies to camping in tents and vehicles.

- **TIME –** Prohibits camping 8am – 8pm
- **PLACE –** Prohibits camping within 500 feet of schools, houseless services, and freeway entrances/exits and on City property
- **MANNER –** Prohibits fires; erecting structures; digging or trenching; camps must be 150 feet apart from one another; must allow 36" of sidewalk clearance

NEIGHBORING JURISDICTIONS

Hillsboro

Convening a stakeholder group in late March through May to make recommendations to Council

- **TIME –** Considering prohibiting camping 8am – 7pm
- **PLACE and MANNER –** Authorizes City Manager to create place and manner guidelines

Cornelius

Adopted an ordinance in April 2023

- **TIME –** Camping prohibited 7am – 9pm
- **PLACE –** Buffers around houseless services, schools, and freeway entrances/exits
- **MANNER –** Camps must leave 36” of walking space on sidewalks, creates buffers around business entrances and driveways

ORDINANCE GOALS

- ✓ Clear to understand and enforce
- ✓ Enhance the livability including health and safety for all community members
- ✓ Protect the environment, community assets, and infrastructure of Tigard
- ✓ Align ordinance with neighboring jurisdictions' ordinances

ORDINANCE APPLICABILITY

Time, Place, Manner is only in effect when *shelter is unavailable.*

Shelter is not available when:

- Shelters are at maximum capacity
- A person has overstayed a maximum stay rule
- A person is excluded from shelter for a lawful reason
- An otherwise available shelter cannot meet a person's mental or physical health needs
- An otherwise available shelter does not accommodate a person's family, age, gender, sexual orientation or other status
- An otherwise available shelter has rules about drugs or alcohol a person does not meet
- Requires participation in a religion a person does not wish to participate in
- Requires a person to leave a pet unattended

TIME

CONSIDERATIONS

- Two approaches to measuring time –
  - A time to time prohibition
  - A maximum number of days or hours for camping
- When houseless services are available

RECOMMENDATION

Camping prohibited from 9am – 7pm

PLACE

CONSIDERATIONS

- Neighboring jurisdictions have prohibited in sensitive lands, parks, City/County property, and buffers around houseless services, schools, and freeway entrances/exits
- Must have areas where camping is not prohibited
- Balance the intended use of the property and the need to have areas not prohibited from camping

RECOMMENDATION

Camping prohibited in:

- Sensitive lands
- City parks
- City parking lots
- Burnham and Main Sts.
- 500 ft. of houseless services, schools, and freeway entrances/exits

MANNER

CONSIDERATIONS

- Neighboring jurisdictions are largely consistent with manner regulations that protect integrity of and access to public infrastructure
- Balance allowing families to remain together in a campsite while discouraging large encampments

RECOMMENDATION

- Camping may not reduce mobility access below 36 inches or otherwise impede travel
- 10 ft. buffer around driveways, entrances/exits of buildings, fire hydrants, other utility infrastructure
- May not start or maintain a fire or use a gas heater
- May not dig, excavate, erect/install fixtures, harm vegetation
- May not accumulate, discard, or leave behind trash, hazardous materials, or feces
- Campsite is limited to 12x12 feet and cannot be within 20 feet of another campsite
- No unauthorized connections to electrical outlets or other utilities

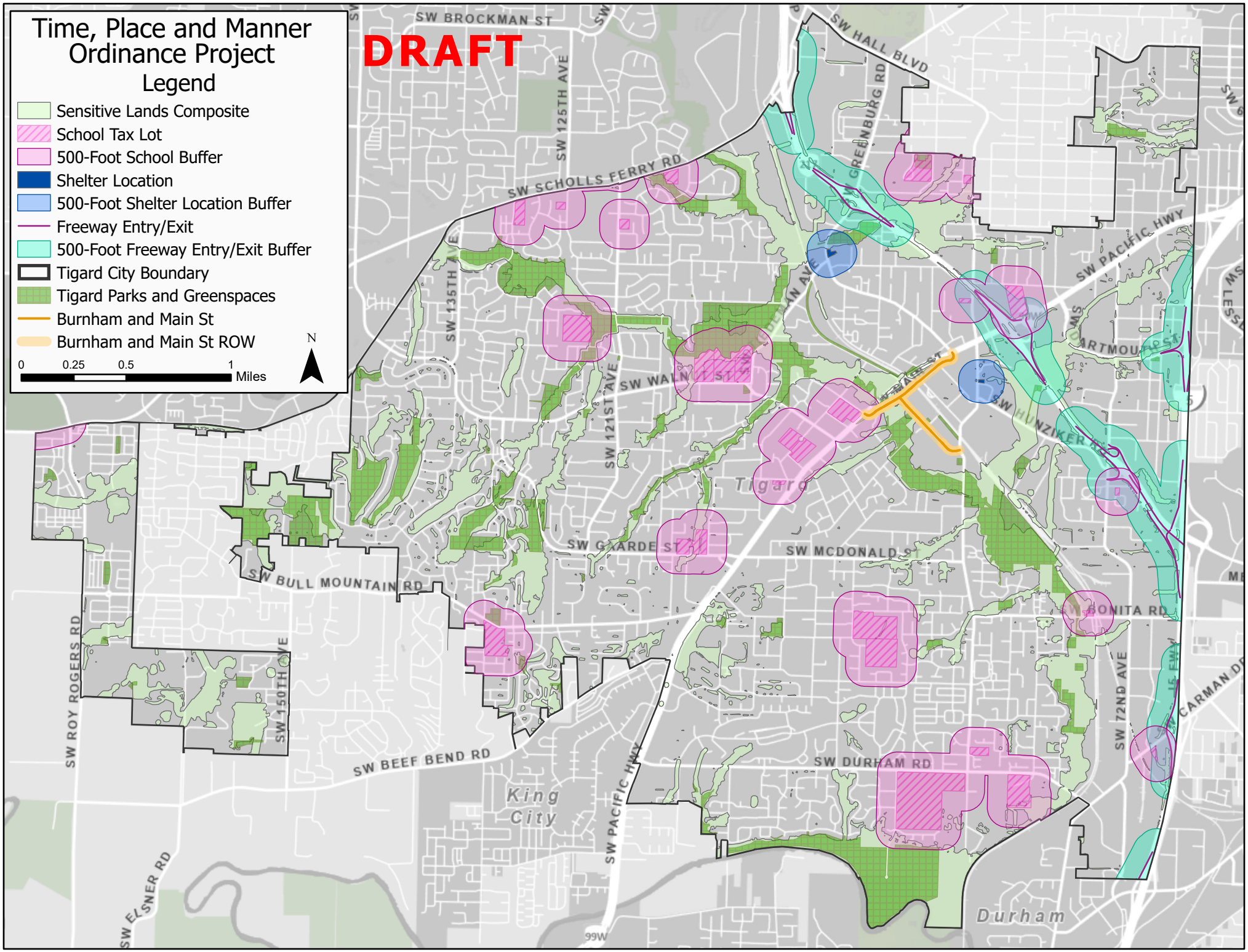
SUMMARY

Time	Place	Manner
Camping allowed 7pm – 9am	Not in Sensitive lands	Campsite cannot reduce mobility access below 36 inches
	Not in City parks	Campsite cannot obstruct travel
	Not on City parking lots	10 ft. buffer around driveways, entrances/exits of buildings, fire hydrants, other utility infrastructure
	Not on Burnham and Main Sts.	May not start or maintain a fire or use a gas heater
	Not within 500 ft. of houseless services, schools, and freeway entrances/exits	May not dig, excavate, erect/install fixtures, harm vegetation
		May not accumulate, discard, or leave behind trash, hazardous materials, or feces
		Campsite is limited to 12x12 feet and cannot be within 20 feet of another campsite
		No unauthorized connections to electrical outlets or other utilities

NEXT STEPS

Date	Action	
April 10	Staff workshop to align on ordinance goals and recommendations	
April 19	CHART feedback on TPM Proposal	Ongoing communication and collaboration with neighboring jurisdictions, service providers, and the Tigard community
May 9	Bring TPM considerations to Council for direction	
May 17	CHART and CCE feedback on TPM	
May 23	Bring final ordinance to Council for adoption	

Questions?


Time, Place and Manner Ordinance Project
Legend
Sensitive Lands Composite
School Tax Lot
500-Foot School Buffer
Shelter Location
500-Foot Shelter Location Buffer
Freeway Entry/Exit
500-Foot Freeway Entry/Exit Buffer
Tigard City Boundary
Tigard Parks and Greenspaces
Burnham and Main St
Burnham and Main St ROW
0 0.25 0.5 1 Miles
N
DRAFT
SW BROCKMAN ST
SW 125TH AVE
SW HALL BLVD
SW GREENBURG RD
SW SCHOLLS FERRY RD
SW 135TH AVE
SW 121ST AVE
SW WALNUT ST
SW PACIFIC HWY
SW HUNZIKER RD
SW BULL MOUNTAIN RD
SW ROY ROGERS RD
SW 150TH AVE
SW BEEF BEND RD
SW MCDONALD ST
SW DURHAM RD
SW 72ND AVE
SW BONITA RD
SW PACIFIC HWY
SW EISNER RD
Tigard
King City
Durham
99W

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 23-

AN ORDINANCE PROHIBITING AND REGULATING CAMPING IN THE CITY OF TIGARD

WHEREAS, houselessness is a critical concern in the Tigard community and the Tigard City Council has adopted as a Council goal 'Reduce Houselessness' through compassionate care for all community members; and

WHEREAS, the court decisions *Martin v. Boise* and *Johnson v. Grants Pass* held that prohibiting camping in the absence of available shelter violates a person's Eighth Amendment rights against cruel and unusual punishment, but that a municipality may adopt reasonable time, place, and manner regulations; and

WHEREAS, Oregon House Bill 3115 (2021) codified the *Boise* decision and required all local government regulation of sitting, lying, sleeping, or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place, and manner prior to July 1, 2023 ; and

WHEREAS, the intent of this ordinance is to enhance the livability, including health and safety, for all community members as well as to protect the environment, community assets, and infrastructure of Tigard; and

WHEREAS, camping in certain sensitive or high-risk areas creates a danger to the environment, the public, and the persons experiencing homelessness; and

WHEREAS, camping on or near certain locations or infrastructure prevents the public's ability to use those locations for their intended purpose and may result in imminent threats to life safety; and

WHEREAS, when shelter is not available, this ordinance allows a person to sleep protected from the elements and maintain the essentials for living, while still allowing others to use public spaces in a safe way, as designed and intended.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Municipal Code Chapter 7.80, Camping Prohibited in Certain Areas, is hereby repealed in its entirety and replaced with the attached Exhibit A.

SECTION 2: Tigard Municipal Code Section 7.52.180, Camping in Sensitive Areas, is hereby deleted.

SECTION 3: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity does not affect the other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION 4: This ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.

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PASSED: By _____ vote of all council members present after being read by number and title only, this _____ day of _____, 2023

_____
Carol A. Krager, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2023.

_____
Heidi Lueb, Mayor

Approved as to form:

_____
City Attorney

_____
Date

DRAFT

Exhibit A

Tigard Municipal Code Chapter 7.80

Prohibited Camping

7.80.010 Definitions.

"Available shelter" means a shelter that has space for a person experiencing homelessness. A shelter is not available if the shelter:

1. Is at capacity and does not have space to accommodate the person experiencing homelessness;
2. Has a maximum stay rule or temporal requirement or deadline the person has exceeded or not met;
3. Has excluded the person from the shelter for any lawful reason;
4. Cannot reasonably accommodate the person's mental health or physical needs;
5. Is unavailable due to the person's family status, age, gender, gender identity, sexual orientation, or other status;
6. Excluding general rules that prohibit alcohol or drug use in the shelter or on shelter grounds, is unavailable to the person because the shelter has rules about alcohol or drug use that the person does not meet;
7. May prohibit a minor child to be housed in the same facility with at least one parent or legal guardian;
8. Requires participation in religious activity or receipt of religious information or religious teaching the person does not wish to participate in or receive; or
9. Requires a person to leave their pet(s) unattended in order to stay at the shelter. This section does not apply to service animals under the Americans with Disabilities Act.

"Camp" means to set up or remain in or at a campsite for the purpose of establishing or maintaining a permanent or temporary place to live.

"Camp materials" may include, but are not limited to, tents, huts, awnings, lean-tos, chairs, tarps or tarpaulins, cots, beds, sleeping bags, blankets, mattresses, sleeping or bedding materials, food or food storage items, or similar items that are or appear to be used as living or sleeping accommodations, or to assist with living or sleeping activities.

"Campsite" means any place where the use of any tent, lean-to, shack, or other structure is placed, established, or maintained for the purpose of maintaining a permanent or temporary place to live and includes all camp materials.

"City park" means any parkland, public parkways, public squares, trails, greenways, playgrounds, and other recreation areas, whether publicly or privately owned, dedicated, leased, or otherwise set aside for public use and not under the supervision or control of any other public agency.

"Freeway" means a highway for through traffic where access to the highway is fully controlled except as may be allowed at designated interchanges and includes Interstate 5 and Highway 217.

"Person experiencing homelessness" means a person who lacks a fixed, regular, and adequate nighttime residence.

"Person without available shelter" means a person experiencing homelessness and who does not have access to available shelter.

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"Property where homeless services are provided" means any property where regular, direct services to persons experiencing homelessness are provided or have been provided in that calendar year. Such services include, but are not limited to service of food prepared on-site or offsite, showering or bathing, storage for personal property, case management, or laundry facilities.

"Right-of-way" means an area that allows for the passage of people, goods, or utilities. Right-of-way may include freeways, pedestrian connections, and streets. A right-of-way may be dedicated or deeded to the public for the public use or owned by the City or other public body.

"Shelter facility" means a building that provides, or has provided in that calendar year, emergency shelter on a temporary basis for individuals and families who lack permanent housing.

7.80.020 Prohibited Camping.

It is unlawful for any person to camp in or upon any right-of-way or City park, unless specifically authorized by this Chapter or by local emergency declaration.

7.80.030. Time, Place, and Manner Regulations.

A. A person without available shelter may camp only if all of the following time, place, and manner regulations are met.

B. Time Regulations. A person without available shelter may camp between the hours of 7 p.m. and 9 a.m. After 9 a.m., a person without available shelter must dismantle the campsite and remove all personal property and camp materials from the campsite.

C. Place Regulations. A person without available shelter may not camp in the following places at any time:

1. Within any environmentally sensitive lands, as defined by the Tigard Community Development Code.

2. Within any City parking lot.

3. Within any City park.

4. Within 500 feet from a shelter facility or a property where homeless services are provided.

5. Within 500 feet from a public or private elementary school, secondary school, or career school attended primarily by minors.

6. Within 500 feet from an egress or ingress to a freeway.

7. On SW Main Street or SW Burnham Street.

D. Manner Regulations. A person without available shelter may camp if the person without available shelter complies with all of the following manner regulations:

1. A campsite or camp materials may not obstruct that portion of the sidewalk, multi-use path or pedestrian path in a manner that results in less than 36 inches of unobstructed area for

passage or in any other way that impairs access as required by the Americans with Disabilities Act.

2. A campsite or camp materials may not obstruct any portion of any street, bike lane, or bike path intended for travel for vehicle, bicycle, pedestrian or other legal mode of travel or impair unobstructed use thereof.

3. A campsite or camp materials may not create a physical impairment to pedestrian ingress and egress, including within 10 feet of driveways or 10 feet of entrances or exits from buildings.

4. A camp or camp materials may not create a physical impairment to emergency ingress or egress or emergency response including within 10 feet of any fire hydrant, utility pole, or other utility, fire gate/bollards, or public infrastructure used for emergency response.

5. A person without available shelter may not (a) start or maintain any fire for the purpose of burning any combustible material in or around a campsite; or (b) use a gas heater in or around a campsite.

6. A person without available shelter may not accumulate, discard, or leave behind in or around a campsite (a) any rubbish, trash, garbage, debris, or other refuse; (b) any unsanitary or hazardous materials; or (c) any animal or human urine or feces.

7. A person without available shelter may not erect, install, place, leave, or set up any type of permanent or temporary fixture or structure of any material or materials in or around a campsite. For purposes of this subsection, a "permanent or temporary fixture or structure" does not include a tent, tarpaulin, or other similar item used for shelter that is readily portable.

8. A person without available shelter may not dig, excavate, terrace soil, alter the ground or infrastructure, cause environmental damage, or damage vegetation or trees in or around the campsite.

9. A campsite must be limited within a spatial footprint of 12 feet by 12 feet, or 144 square feet, and a campsite may not be within 20 feet of another campsite. Multiple persons without alternative shelter may camp together in a single campsite, subject to the limitations of this subsection.

10. Unauthorized connections or taps to electrical or other utilities, or violations of building, fire, or other relevant codes or standards, are prohibited.

11. Obstruction or attachment of camp materials to public infrastructure or private property structures, including bridges or bridge infrastructure, fire hydrants, utility poles, streetlights, traffic signals, signs, fences, trees, vegetation, vehicles or buildings is prohibited.

7.80.040 Violation.

A. Violation of this Chapter is punishable as follows:

1. Class 3 civil infraction;
2. Citation in lieu of arrest for criminal trespass in the second degree; or
3. Arrest for criminal trespass in the second degree.

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B. A civil infraction or citation in lieu of arrest issued pursuant to Section 7.80.040(A)(1) or (2) may be accompanied by an order of exclusion for up to 60 days.

C. An arrest for criminal trespass pursuant to Section 7.80.040(A)(3) may be accompanied by an order of exclusion for not more than 180 days.

D. Nothing in this Section is intended to prescribe any particular or order of violation or penalty. A police officer has discretion to impose a violation tailored to the circumstances and necessary to maintain the health and safety of persons experiencing homelessness and the community.

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