

EMERGENCY ORDER
IN AND FOR THE CITY OF VANCOUVER, WASHINGTON

No. 2023-03

– Homelessness –

**REGARDING CONTROL AND CLOSURE OF PUBLIC
PROPERTY AND PUBLIC RIGHTS-OF-WAY**

WHEREAS, at 9:05 hours on November 3, 2023, the City of Vancouver declared a civil emergency pursuant to Washington State Constitution Article VI, Section 11, Revised Code of Washington Chapter 38.52, and Vancouver Municipal Code Chapter 2.12 *et. seq.*, due to the humanitarian crisis and public health emergency posed by homelessness. (Declaration of Civil Emergency No. 2023-01); and

WHEREAS, the Ninth Circuit Court of Appeals has held that cities may not criminalize people for sleeping outdoors on public property, in all places, at all times, if such individuals lack the financial means to pay for shelter and there is no realistic option for them to sleep indoors for free;¹ and

WHEREAS, the City of Vancouver is entrusted with safeguarding an estimated 2400.36 acres of publicly owned property,² which includes a mix of buildings and vacant lots. The City also owns, and/or legally controls, hundreds of acres of public rights-of-way. The Vancouver City Council has previously designated certain portions of Public Property and Rights-of-Way to constitute ‘impact areas’ in which camping and outdoor habitation is prohibited at all times pursuant to Title 8.22 Vancouver Municipal Code (VMC); and

WHEREAS, the City of Vancouver has taken aggressive efforts to increase the available supply of affordable housing, reduce incidents of homelessness, and mitigate the adverse impacts of homelessness, as described more fully within City of Vancouver Declaration of Emergency 2023-01, a copy of which is incorporated by this reference as if set forth fully herein; and

¹ Martin v. City of Boise, 902 F.3d 1031, 1048 (9th Cir., 2018); City of Boise v. Martin, 140 S. Ct. 674, 205 L.Ed.2d 438 (2019); *Cert. Denied City of Boise v. Martin*, 140 S. Ct. 674, 205 L. Ed. 2d 438 (2019).

² This figure is comprised of real property under the ownership of Vancouver City Manager’s Office, Police, Fire, Parks, Parking, Operations, Transportation (remnant real property), Surface Water, Sewer, Water, and Wastewater. This figure does not include the 1,900 lane miles of paved streets maintained by the City of Vancouver. Nor does this figure include the ‘planting strips’ located between the outer-most edge of City streets and the abutting property.

WHEREAS, despite the City’s efforts to date, City Staff, including members of the Homeless Assistance and Resources Team (HART), have observed that some Public Property – not otherwise protected as “impact areas” by way of VMC 8.22 – is regularly subjected to adverse secondary impacts of camping and outdoor habitation within Vancouver City limits. These adverse impacts include soil, surface water, and groundwater contamination, destruction of vegetation and trees, and other uses which are incompatible with the long-term environmental sustainability and economic development interests planned for the long-term health, vitality and fiscal sustainability of the community as a whole; and

WHEREAS, upon declaration of a civil emergency, the City may issue an order closing to the public any or all public places including streets, public ways, parks, beaches and public buildings and issue such other orders as may be necessary for the protection of life or property; VMC 2.12.040(A); and

WHEREAS, in consultation with the City of Vancouver Homeless Response Manager and the Clark County Department of Public Health, the City has determined that homelessness has threatened, and continues to threaten, the lives of residents of the City of Vancouver, and the real property occupied by those experiencing unsheltered homelessness, and that extraordinary and immediate measures are necessary to direct roles and responsibilities in coordinating emergency activities citywide and take other steps as allowed by law to protect the public peace, safety and welfare of residents of the City of Vancouver.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED THAT:

As a result of the above-referenced situation, pursuant to Washington State Constitution Article VI, Section 11, Revised Code of Washington Chapter 38.52, and Vancouver Municipal Code Chapter 2.12, I hereby Order that a state of emergency continues to exist in the City of Vancouver, and that Emergency Order No. 2023-01 remains in full force and effect.

FURTHERMORE, based on the above situation and pursuant to Vancouver Municipal Code Chapter 2.12, I hereby issue the following additional Emergency Orders:

Section 1. Definitions. All definitions set forth within Vancouver Municipal Code (VMC) 8.22.030, as well as the following definitions, are applicable to the terms used in this emergency order unless the context otherwise requires:

- A. “Public Property” means all real property owned, or legally controlled, by the City of Vancouver.

- B. “Right-of-Way” and “Rights-of-Way” have the meaning set forth within VMC 11.01.010.

Section 2. Control of Public Property. For the duration of this Emergency Order, camping and outdoor habitation on all Public Property and Rights-of-Way within the City of Vancouver shall be conducted subject to the following time, place, and manner restrictions:

- A. **Time:** Camping and outdoor habitation shall be subject to the time restrictions set forth in Title 8.22 VMC.
- B. **Place:** Camping and outdoor habitation shall be subject to the location restrictions set forth in Title 8.22 VMC as well as such additional closures as the City Manager may order pursuant to Section 3 of this Emergency Order (E.O. 2023-03, Section 3).
- C. **Manner:** Camping and outdoor habitation shall be subject to the follow manner restrictions:
 - I. **Camping and Outdoor Habitation in Tents.** Camping and outdoor habitation in tents shall be conducted in a manner consistent with the City’s “Outside Habitation Expectations for Tent Encampments,” a copy of which is attached as Exhibit “Emergency Order 2023-03-I” and incorporated by this reference as if set forth fully herein.
 - II. **Camping and Outdoor Habitation in Vehicles.** Camping and outdoor habitation in vehicles shall be conducted in a manner consistent with the City’s “Outside Habitation Expectations for Vehicles, RVs, Trailers,” a copy of which is attached as Exhibit “Emergency Order 2023-03-II” and incorporated by this reference as if set forth fully herein.

Section 3. Closure of Public Property and Rights-of-Way. For the duration of this Emergency Order, the Vancouver City Manager may designate Public Property and Rights-of-Way as closed to camping and outdoor habitation as follows:

- A. **Availability:** the combined total of all land closed to camping and outdoor habitation pursuant to this Section:
 - I. Shall not exceed 48 acres; and
 - II. When combined with other legal and regulatory tools, shall not result in the closure of all Public Property and Rights-of-Way to camping and outdoor habitation.

B. Identification and Notice: all Public Property and Rights-of-Way closed pursuant to this Order shall be identified by:

- I. Street Address, Legal Description, or County Assessor's Parcel Number; and
- II. Map depicting the area(s) closed to camping and outdoor habitation.

C. Notice: Notice of all Public Property and Rights-of-Way closed pursuant to this Section shall be given by:

- I. Physical posting at the location of the closure. The closure of such Public Property or Right-of-Way shall be in writing and posted on a sign that is readable by a person of normal vision at a distance of two hundred feet; and
- II. Posting to a page on the City of Vancouver website: www.cityofvancouver.us.

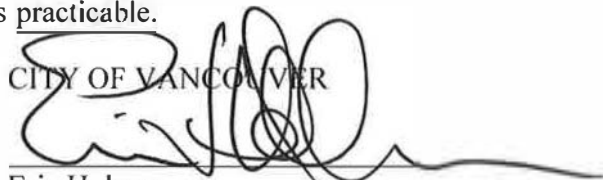
Section 4. Severability. If any section or provision of this emergency order should be declared invalid by a court of competent jurisdiction, the remaining provisions of this Emergency Order shall remain in full force and effect for the duration specified herein.

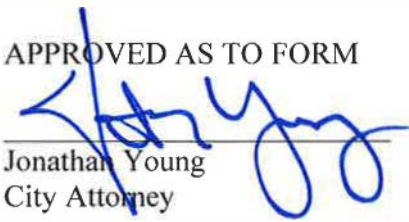
Section 5. Duration. Unless modified, extended or terminated by the Vancouver City Council or Vancouver City Manager, this Emergency Order is hereby effective immediately and shall remain in effect until the state of emergency is declared terminated as per VMC 2.12.030.

SIGNED in Vancouver, Washington, this 3rd, day of November, 2023, at 9:05 hours in the absence of the Vancouver City Council, subject to City Council ratification, confirmation, modification or rejection as soon as practicable.

ATTEST:


Natasha Ramras
City Clerk

CITY OF VANCOUVER

Eric Holmes
City Manager

APPROVED AS TO FORM

Jonathan Young
City Attorney