



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5798
January 19, 2021
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 5798: First Reading of Ordinance No. 21C-02 - Use of Mercer Island Public Property	<input type="checkbox"/> Discussion Only
RECOMMENDED ACTION:	Set Ordinance No. 21C-02 for second reading and adoption on February 02, 2021.	<input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

DEPARTMENT:	Police
STAFF:	Mike Seifert, Sergeant
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 21C-02
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

SUMMARY

This agenda bill presents a proposed ordinance related to unsanctioned camping on public property which was added to the City's work plan in 2020. Work on this ordinance was suspended in mid-2020 due to the COVID-19 Pandemic. The ordinance provides definitions for both public property and camping and establishes regulations to ensure that public property is used in a safe manner and remains accessible for the intended public purpose, while complying with applicable case law.

BACKGROUND

The City is responsible for managing the use of public property in a way that promotes the health, safety, and wellbeing of its residents and visitors while also ensuring public lands are available for their intended public use. The City of Mercer Island stewards and manages a wide variety of public lands, including parks, open spaces, rights-of-way, utility easements, and more. These lands serve a variety of public functions.

Unsanctioned camping on public lands poses potential risks. For example, camping in areas without suitable sanitation services presents public health concerns due to potential transmission of disease and illness. Unsanctioned camping on public property may also prevent such property from being used for its intended public purpose.

Current Mercer Island City Code Sections [9.30.160](#) and [9.30.210](#) regarding enforcement of appropriate standards for the use of public lands are limited as (1) they only prohibit unsanctioned camping in parks, not all public property and (2) recent court decisions require cities to factor in additional considerations that are not present in the current code.

USE OF MERCER ISLAND PUBLIC PROPERTY

Ordinance No. 21C-02 as presented in Exhibit 1 creates a new section in the Mercer Island City code relating to the use of Mercer Island public property. The ordinance establishes definitions for both public property and camping and establishes regulations to ensure that public property is used in a safe manner and remains accessible for the intended public purpose.

Upon adoption of this ordinance unsanctioned camping on all public property will be prohibited instead of being limited solely to the City's parks. "Camping" is defined as *"to pitch, erect, or occupy camp facilities, or to use camp paraphernalia, or both, for the purpose of, or in such a way as will facilitate remaining overnight or parking a vehicle for the purpose of occupying the vehicle overnight."*

The ordinance recognizes current court decisions regarding uses of public property. Pursuant to *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019), it is unconstitutional to penalize persons experiencing homelessness for using public property for sitting, sleeping, or lying when they are unable to obtain shelter. As such, the ordinance contains a section suspending enforcement of the camping prohibition within outdoor portions of parks and streets if there is no overnight shelter available. Suspension of enforcement applies only to individuals experiencing homelessness.

Beginning in 2021, the City Council authorized funding to support the Human Services Funding Collaborative and Eastside shelters. This Collaborative provides assistance and shelter services to multiple demographics in the region.

While preparing this ordinance, staff met with an attorney from the American Civil Liberties Union (ACLU) to gather input from the ACLU as an interested stakeholder.

RECOMMENDATION

Set Ordinance No. 21C-02 for second reading and adoption on February 02, 2021.