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City of Seattle
Department of Finance and Administrative Services
Attention: Frances Samaniego
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SENT VIA EMAIL: frances.samaniego@seattle.gov

RE: Notice of Proposed Rule Making for FAS 17-01 and MDARs 17-01 – Public Comment by SCLC

Dear People:

The Seattle Community Law Center (SCLC) is thankful for the opportunity to comment on the proposed rules relating to encampment removal. SCLC delivers civil legal aid to people living with disabilities who are low-income and homeless. Fifty percent of the individuals we serve face the realities of homelessness; the majority are unsheltered. The root cause of their poverty and their homelessness is severe medical impairments and/or mental disorders. Generally speaking, our clients find it difficult to engage with service providers, and with government agencies or officials. The City of Seattle's (the City) proposed rules for enforcing rules around encampments will affect our clients and are paramount to our clients' ability to engage with human services (including legal services), government services, and other services.

Some of the content of these rules serves the goal of clearing a path toward resource engagement and ultimately housing. However, some of the content of these rules requires improvement in order to prevent the creation of additional legal and non-legal barriers for people who are homeless. Where possible we have tried to make recommendations where we see opportunity for improvement within the City's proposed rules.

**COMMENTS RELATED TO FAS 17-01 UNAUTHORIZED CAMPING ON CITY PROPERTIES;
ENFORCEMENT PROCEDURES; AND REMOVAL OF UNAUTHORIZED PROPERTY**

Section 3.1

In section 3.1, the City defines "emphasis area" by referring to the process of designating an area where encampments are prohibited. In reviewing the entirety of the FAS proposed rule and the proposed MDARs, the process of designating an area is not described.

Recommendation. Outline what the process of designating an area as an "emphasis area" will be in either the FAS rules or the MDARs, and allow the public to comment.

Section 3.3

Section 3.3 defines an encampment that is an “immediate hazard.” Although we believe the City was well intentioned in its effort to lay the groundwork for limiting the risk to homeless people living in unsafe conditions, this definition is overly broad and unclear.

Section 3.5

Section 3.5 defines what the City means by “personal property.” The list of examples does not include “paperwork” or “documents.” Shelters and programs run by local and national government agencies (the judicial system, Social Security, DSHS, local Seattle shelters) often have strict identification rules or require that a person keep a record of important documents. Losing access to these items is such a barrier that there are national and statewide campaigns to help people who are homeless replace their ID. *See generally If You Are Homeless or Need Help (National Coalition for the Homeless http://www.nationalhomeless.org/need_help/).*

It is important for personnel responsible for conducting removal to include “paperwork” or “documents” in the short list of things they can remember as “personal property.”

Recommendation. Include “documents” or “paperwork” in the list of examples of personal property.

Section 4.1

Section 4.1 states that obstructions and immediate hazard encampments may be removed immediately. It is clear that the City’s intention is to keep residents of the City safe. However, to completely eliminate any due process for this kind of an encampment is short sighted and could have the effect of creating more harm than good.

Recommendation. Do not dispose of the person-centered lens that inspired 72 hours of notice of removal and offers of shelter and outreach to individuals living in other types of encampments. The elimination of due process procedures is unnecessary, particularly given the built-in process of designating “emphasis areas” that the City is proposing to use.

Section 7.1 and 7.2

Section 7.1 states that the City shall offer “alternative locations” for individuals in an encampment or identify available housing or other shelter for encampment occupants. Will the City be opening a shelter specifically to support encampment removals? Is the City setting aside shelter beds that would otherwise be filled for the purpose of supporting encampment removals? Is a voucher for a short stay at a motel considered an “alternative location”?

Further, we find it problematic to explicitly state in this rule that the City has authority to remove a person from the only place they have found to create a home, but making it clear that the City will not be bothered by the fact that the individual is excluded from all alternative locations because of their behavior. This leaves the most vulnerable segments of the homeless population, individual with mental disorders, at greater risk of harm and homelessness.

Recommendations. This section requires a definition of “alternative locations.” Also, if the City is going to remove people from their home, whether that home is a tent or a house, the City needs to provide an alternative home. Clarity is needed in these two sections.

COMMENTS RELATED TO MULTI-DEPARTMENTAL ADMINISTRATIVE RULES MDAR 17-01

Section 4.3

Analysis. Section 4.3 gives authority to the Director of Finance and Administrative Services or the Director’s designees “authority during an encampment removal action to act as the complainant to request police action to exclude individuals from any City-owned or City-controlled property or to enforce the trespass laws of the City including without limitation SMC 18.12.279 and 12A.08.040.” It offers the authority to exclude “or charge with trespass” individuals who are “reasonably believed to reside at the encampment being removed and who refuse to leave, or individuals who obstruct the expeditious progress of the removal.”

We urge you to remove reference to the authority to request police action to exclude individuals during an encampment removal action. Charging individuals present at the site with misdemeanors unnecessarily criminalizes the act of being homeless.

For example, clients of the Seattle Community Law Center who live outside often do so because they have removed themselves or been pushed out of traditional homeless programs or services in large part because they live with mental health disorders that include but are not limited to PTSD, schizophrenia, generalized anxiety disorder, and major depressive disorder. It is typical for us to witness their symptoms related to these diagnoses, which include but are not limited to: disorganized behavior, incoherent speech, rapid and frenzied speaking, disorientation, paranoia, agitation, irritability, hostility, hypervigilance, social isolation, fear and mistrust of authority, guilt, auditory and visual hallucinations, difficulty maintaining close relationships, and feelings of hopelessness about the future. Behaviors associated with mental health disorders are almost always a significant contributing factor in the root cause of their homelessness.

Highlighting, and making explicit, the authority to hand out misdemeanor charges works against the City’s ultimate goal of reducing barriers and creating a pathway home. Further, we are concerned that this portion of the rule has the effect of piling on additional legal problems that our clients will need to address prior to establishing housing, or medical and economic stability. It is counter-productive.

Recommendations. We recommend that the City take the opportunity to remove any part of the rules and regulations that give authority to criminalize homelessness. Further, we recommend the following:

- All persons involved in removal to go through specialized training on de-escalation techniques, working with people that live with intellectual and behavioral disabilities, and other specialized skills relevant to the population prior to participating in removal.
- Individuals with their belongings will be given direction and transportation to another location where the individual may stay.


The City should consider the impact these rules may have on individuals expressing their First Amendment rights or people who are otherwise engaged in lawful protest.

GENERAL COMMENT

The City lacks the low-income and affordable housing necessary to support its stated plan to move people out of homelessness. We recommend that the city create low-income and affordable housing and make it available and accessible to high-barrier populations. Without this, the City's encampment policies are at grave risk of resulting in a cyclical pattern of repeated efforts with no improved outcomes.

Thank you for the opportunity to comment. Please do not hesitate to contact me with questions.

Sincerely,



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