

7-11-2022

7-18-2022

ORDINANCE NO. M-4379

AN ORDINANCE of the City of Vancouver, Washington renaming Chapter 8.22 of the Vancouver Municipal Code, protecting certain areas that are particularly vulnerable to a dangerous wildfire event by prohibiting camping and outside habitation in those areas; amending VMC 8.22.010 “Findings”, VMC 8.22.020 “Purpose”, VMC 8.22.030 “Definitions”, VMC 8.22.040 “Unlawful Camping”, VMC 8.22.050 “Unlawful Storage of Personal Property in Public Places”, VMC 8.22.070 “Permit”; providing for severability; and providing for an immediate effective date.

WHEREAS, homelessness is a serious problem in Clark County and the number of people experiencing homelessness and engaging in outside habitation is increasing; and

WHEREAS, although Chapter 8.22 VMC is titled “Camping,” the activities covered by Chapter 8.22 VMC are not exclusively activities related to “camping”, which connotes a voluntary recreational activity, and are instead often associated with individuals experiencing homelessness and their attempts to shelter themselves from the elements; and

WHEREAS, “Supportive Campsites,” as authorized under VMC 8.22.040 and VMC 8.22.070, are more properly called “Safe Stay Communities”, since the term “campsites” suggests a recreational purpose rather than a place of habitation; and

WHEREAS, both community members who are experiencing homelessness and housed individuals are at increased risk of fire hazards when camping and outside habitation occurs in areas that are vulnerable to dangerous wildfires; and

WHEREAS, the Vancouver Fire Department has observed an almost 600% increase since 2016 in the amount of outside fire ignitions; and

WHEREAS, the Burnt Bridge Creek drainage area, which is a wildland urban interface, is particularly vulnerable to a dangerous wildfire event since the area is heavily vegetated, has limited access and limited water supply, and there are residential homes in close proximity; and

WHEREAS, the steep slopes that exist along the Burnt Bride Creek, coupled with the usual afternoon onshore winds, has the potential to allow an uncontrolled wildfire to not only threaten the lives of anyone recreating or residing outside in the canyon, but could also damage or destroy homes adjacent to the Burnt Bridge Creek trail system; and

WHEREAS, there is an immediate need to protect the public from the heightened risk of fires caused by outside ignitions since it is currently wildfire season in the Pacific Northwest, when the City is at the highest risk of dangerous wildfires; and

WHEREAS, 24-hour daily bans on outside habitation in certain public spaces are only permissible if adequate shelter is available free of charge, or adequate public space remains unrestricted from outside habitation (*Martin v. Boise*, 920 F.3d 584); and

WHEREAS, following an opportunity for public testimony, it is apparent that expanding the areas in which camping and outside habitation is prohibited 24 hours daily to include areas that are particularly vulnerable to a dangerous wildfire event will increase public health and safety, benefiting both individuals experiencing homelessness and the greater Vancouver community.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. The title of Chapter 8.22 of the Vancouver Municipal Code, as last amended by Ordinance M-3323 on 10/06/1997, is hereby amended to read as follows:

Chapter 8.22

CAMPING AND OUTSIDE HABITATION

Section 2. The Vancouver City Council hereby adopts the factual record supplied within Staff Report SR-090-22 as findings in support of this Ordinance and Section 8.22.010 of the Vancouver Municipal Code entitled “Findings,” as last amended by Ordinance M-4348 on 9/20/2021, is hereby amended to read as follows:

Section 8.22.010 Findings

It is the purpose of this chapter to address:

A. *Adverse Public Impacts of Camping and Outside Habitation.* People camping and habitating outside on public property and on public right-of-way create a public health and safety hazard due to the lack of proper food storage, cooking, electrical and/or sanitary facilities. People without proper sanitary facilities have openly urinated, defecated, and littered on private and public property and on the public right-of-way. Use of public property for purposes of camping, outside habitation, ~~purposes~~ or storage of personal property interferes with the rights of others to use the areas for the purposes for which they were intended and creates public health and safety dangers to the city's sensitive ecological areas, including the city's water sources, through illegal dumping and improper disposal of human waste. People cooking with open flames while camping or habitating outside endanger the lives and property of those nearby through uncontrolled fire. There is an increased risk of a dangerous wildfire event in certain areas along the Burnt Bridge Creek, due to the existence of one or more of the following characteristics: steep slopes, typical afternoon onshore winds, heavy vegetation, limited vehicle access, limited water supply, and the presence of nearby residences.

B. *Adverse Impacts of Camping and Outside Habitation on the Poor and Infirm.* Many individuals who ~~camp or~~ habitate outside on public property do so, not by choice, but due to a lack of financial means to afford adequate shelter. These individuals are also adversely mentally and physically impacted by being unsheltered camping. Single females who habitate outside camp occupants

experience a disproportionately high incidence of violent crime as compared to other people. Families with children who habitate outside camp as a result of a lack adequate shelter are also disproportionately adversely impacted through risk of physical danger and impediments to childhood education.

- C. *Constitutional Limitations on Available Remedies.* The Eighth Amendment to the United States Constitution prohibits “cruel and unusual punishment”; the Ninth Circuit Court of Appeals has interpreted this prohibition to forbid cities from criminalizing camping and outside habitation in all places, at all times, by those who lack the financial means to pay for adequate shelter unless adequate shelter is available to such person free of charge.
- D. *Safe Stay Communities ~~Supportive Campsites~~.* The establishment of Safe Stay Communities ~~Supportive Campsites~~ creates a means of connecting individuals to services that reduce barriers to obtaining shelter and housing while providing options for lawful camping which are incidental to the receipt of such services.
- E. *Need for Specific Population Safe Stay Communities ~~Themed Supportive Campsites~~.* The City has an important government interest in protecting the physical safety and emotional well-being of residents of Safe Stay Communities ~~campsites~~ occupied by single occupant females, and families with children. The establishment of Specific Population Safe Stay Communities ~~Themed Supportive Campsites~~ as defined herein reserved for members of these

groups serves that important government interest and is substantially related to accomplishing those objectives.

Section 3. Section 8.22.020 of the Vancouver Municipal Code entitled “Purpose” as last amended by Ordinance M-4348 on 9/20/2021 is hereby amended to read as follows:

Section 8.22.020 Purpose.

It is the purpose of this chapter to:

- A. Prevent harm to the health and safety of individuals who ~~camp~~ habitate outside due to a lack of financial means to afford adequate shelter by establishing Safe Stay Communities ~~supportive campsites~~ where adequate shelter is provided to the poor or infirm at no cost.
- B. Prevent harm to the health and safety of the public and to promote the public health, safety and general welfare by prohibiting camping within all Camping and Outside Habitation Impact Areas at all times, except as allowed within a Safe Stay Community ~~supportive campsite~~.
- C. Prevent harm to the health or safety of the public and to promote the public health, safety and general welfare by making public streets and other areas readily accessible to the public and to prevent use of public property for camping and

outside habitation purposes or storage of personal property which interferes with the rights of others to use the areas for which they were intended.

Section 4. Section 8.22.030 of the Vancouver Municipal Code entitled “Definitions” as last amended by Ordinance M-4348 on 9/20/2021 is hereby amended to read as follows:

Section 8.22.030 Definitions.

The following definitions are applicable in this chapter unless the context otherwise requires:

"Camp" or “camping” means to pitch, create, use, or occupy camp and outside habitation facilities for recreational ~~the purposes of habitation, as evidenced by the use of camp~~ paraphernalia.

"Camp and outside habitation facilities" include, but are not limited to, tents, huts, temporary shelters, or vehicles.

~~"Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or non-city designated cooking facilities and similar equipment.~~

“Camping and Outside Habitation Impact Area” means the areas specified within VMC 8.22.040(B).

"Camp and outside habitation paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or non-city designated cooking facilities and similar equipment.

“Family” means two or more “Family or Household Members” as defined by RCW [26.52.010](#).

“Outside habitation” means to pitch, create, use, or occupy camp and outside habitation facilities

for purposes of shelter for habitation.

"Park" means the same as defined in VMC [15.04.020](#).

~~"Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.~~

~~"Street" means any highway, lane, road, street, right of way, boulevard, alley, and every way or place in the City of Vancouver that is publicly owned or maintained for public vehicular travel.~~

~~"Safe Stay Community Supportive Campsite"~~ means a camp and outside habitation facility for which a permit has been sought and obtained from the Vancouver city manager, or their designee, pursuant to VMC 8.22.070(B), and/or a city-sponsored Safe Stay Community supportive campsite established under VMC 8.22.070(F).

~~"Safe Stay Community supportive campsite Operator"~~ means a person, firm, corporation, or municipal corporation with a valid ~~Supportive Campsite~~ Safe Stay Community operator permit issued pursuant to VMC 8.22.070 or, in the case of a city-sponsored Safe Stay Community supportive campsite, an approved Safe Stay Community Camp facility operator as designated by the city manager or their designee.

~~"Specific Population Safe Stay Community Themed Supportive Campsite"~~ means a Safe Stay Community supportive campsite with spaces reserved for either (A) a single occupant identifying as female; or (B) a Family with one or more children under eighteen years of age at the time of admission to the Safe Stay Community supportive campsite.

~~"Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.~~

~~"Street" means any highway, lane, road, street, right of way, boulevard, alley, and every way or~~

place in the City of Vancouver that is publicly owned or maintained for public vehicular travel.

“Vehicle” means the same as defined in RCW [46.04.670](#), as adopted by Ordinance [M-3276](#).

Section 5. Section 8.22.040 of the Vancouver Municipal Code entitled “Unlawful Camping” as last amended by Ordinance M-4348 on 9/20/2021 is hereby amended to read as follows:

Section 8.22.040 Unlawful eCamping and Outside Habitation.

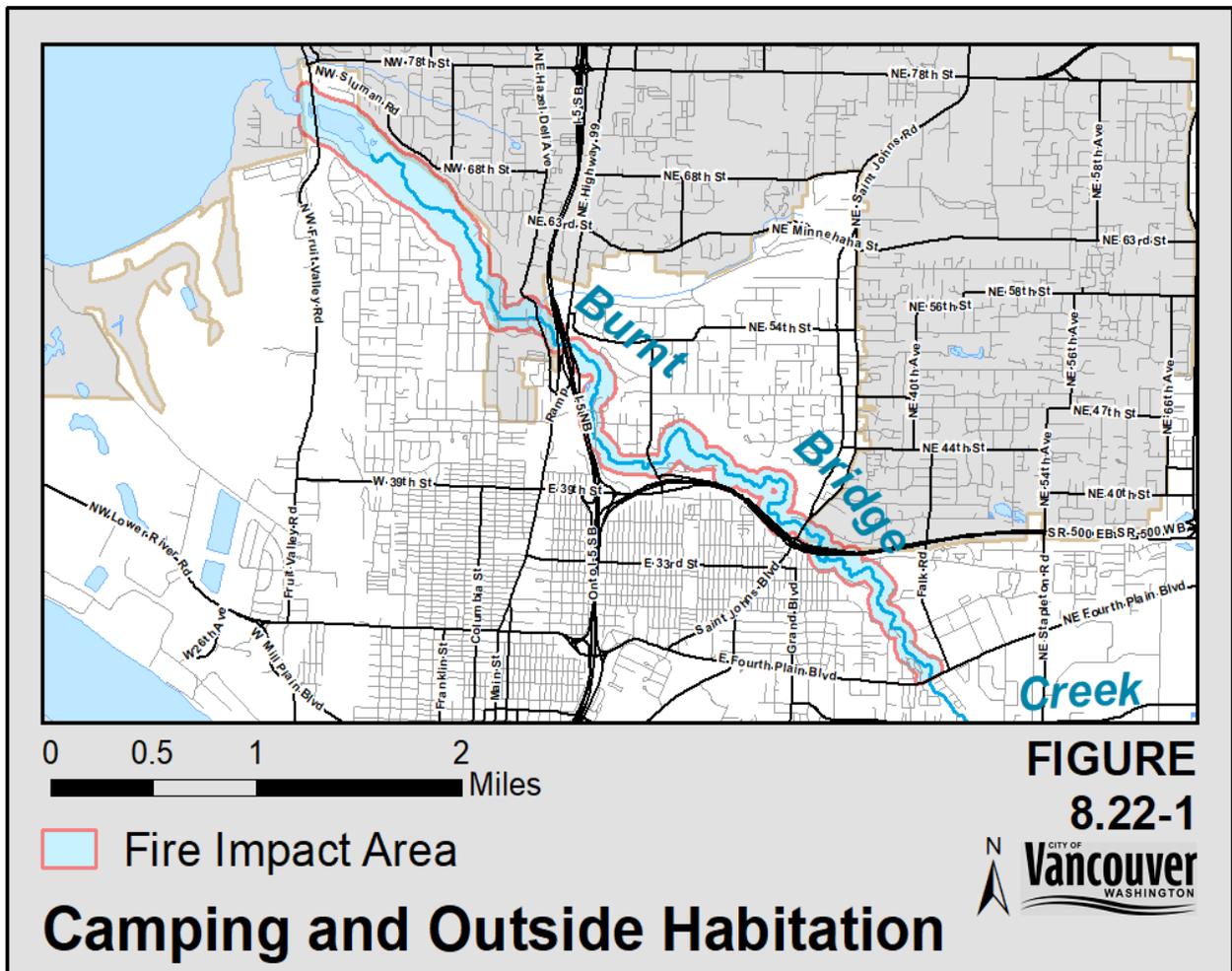
A. ~~Safe Stay Communities~~~~Supportive Campsites~~. ~~Camping~~ Outside habitation shall be allowed at all times within ~~Safe Stay Communities~~~~supportive campsites~~ by those residing therein. Residence in a ~~Supportive Campsite~~ Safe Stay Community shall be at the approval of the Safe Stay Community ~~supportive campsite~~ Operator.

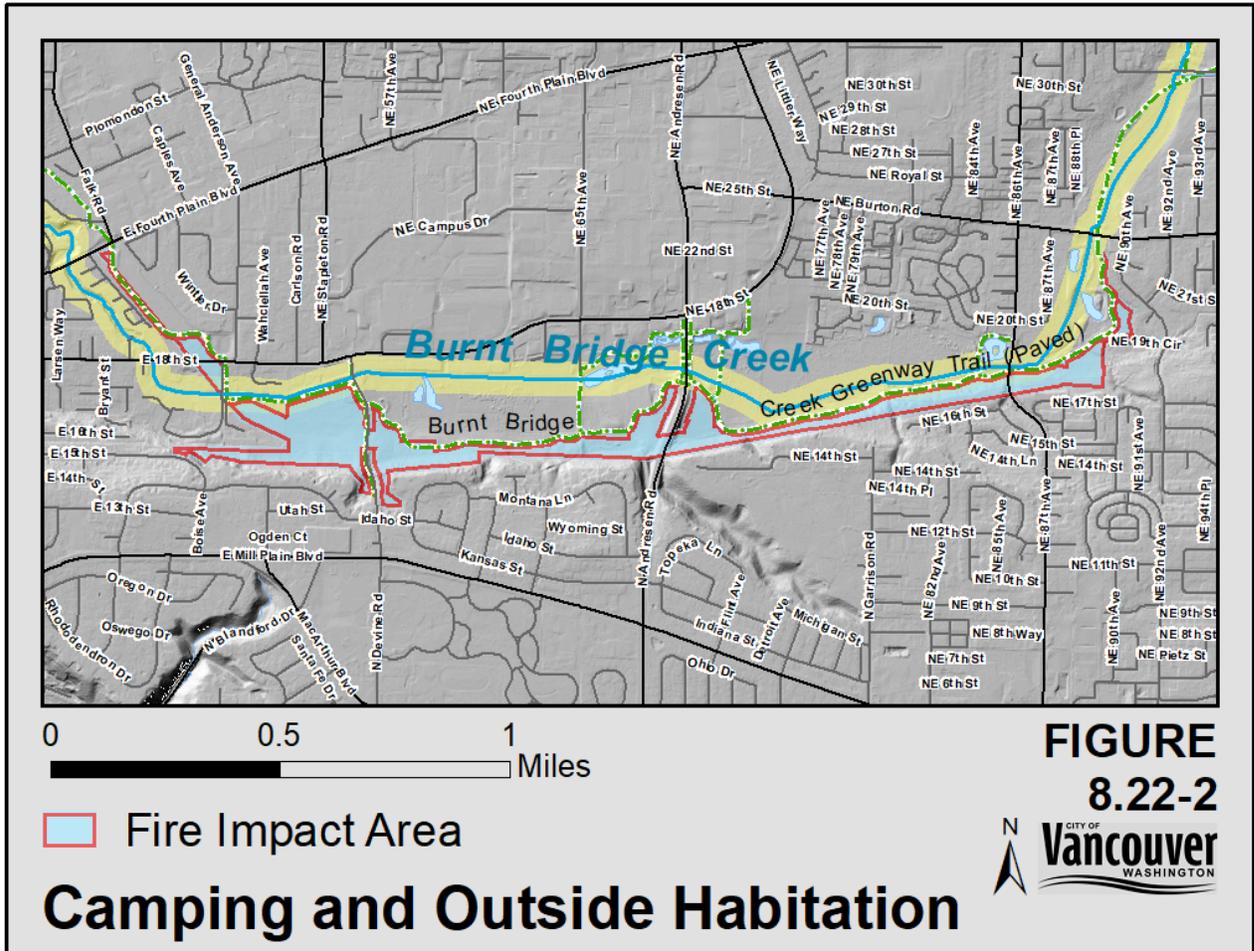
B. Camping and Outside Habitation Impact Areas. Except to the extent expressly allowed pursuant to Section A, it shall be unlawful to camp or habitate outside at any time within a Camping and Outside Habitation Impact Area. The following locations are Camping and Outside Habitation Impact Areas:

1. Within one thousand 1,000 feet of the nearest point of any Safe Stay Community~~supportive campsite~~;
2. Upon any land used to operate a public water station, wastewater or stormwater facility;
3. Within two hundred 200 feet of the nearest edge of the Columbia River, Vancouver Lake, Burton Channel, Peterson Channel, Fisher’s Creek, or Burnt Bridge Creek;
4. Upon the following land:

(a) all the Burnt Bridge Creek drainage area from Vancouver Lake to East Fourth Plain Boulevard, as depicted in Figure 8.22-1; and

(b) portions of the southern slope of the Burnt Bridge Creek drainage area, from the ridgeline north to the paved trail of the Burnt Bridge Creek drainage, between East Fourth Plain Boulevard and NE Burton Road, as depicted in Figure 8.22-2.





C. Daytime Camping and Outside Habitation Prohibited. Except as otherwise provided within this chapter, during the hours of 6:30 a.m. to 9:30 p.m., it shall be unlawful for any person to camp, occupy camp and outside habitation facilities for purposes of habitation, or use camp and outside habitation paraphernalia in the following areas, ~~except as otherwise provided by ordinance or as permitted pursuant to Section [8.22.070](#) of this ordinance:~~

1. Any park;
2. Any street; or

3. Any publicly owned or maintained parking lot or other publicly owned or maintained area, improved or unimproved.

D. *Daytime Camping and Habitation in Vehicles Prohibited*. Except as otherwise provided within this chapter, during the hours of 6:30 a.m. to 9:30 p.m., it shall be unlawful for any person to occupy a vehicle for the purpose of camping or habitating while that vehicle is parked in the following areas, ~~except as otherwise provided by ordinance or as permitted pursuant to Section [8.22.070](#) of this ordinance:~~

1. Any park;
2. Any street; or
3. Any publicly owned or maintained parking lot or other publicly owned or maintained area, improved or unimproved.

Section 6. Section 8.22.050 of the Vancouver Municipal Code entitled “Unlawful storage of personal property in public places” as last amended by M-4348 on 9/20/2021 is hereby amended to read as follows:

Section 8.22.050 Unlawful storage of personal property in public places.

Except as otherwise provided within this chapter, during the hours of 6:30 a.m. to 9:30 p.m., it shall be unlawful for any person to store personal property, including camp and outside habitation facilities (other than vehicles) and camp and outside habitation paraphernalia, in the following areas; ~~except as otherwise provided by ordinance or as permitted pursuant to Section [8.22.070](#) of this ordinance:~~

1. Any park;
2. Any street; or
3. Any publicly owned or maintained parking lot or publicly owned or maintained area, improved or unimproved.

Section 7. Section 8.22.070 of the Vancouver Municipal Code entitled “Permit” as last amended by M-4348 on 9/20/2021 is hereby amended to read as follows:

Section 8.22.070 Permit.

A. *Authority of the City Manager.* The City Manager is authorized to:

1. Promulgate procedures and policies necessary for the acceptance of applications, investigation, issuance, denial, and revocation of all camping permits of the types specified in this chapter and the establishment of city-sponsored Safe Stay Communities ~~supportive campsites~~ ~~campsites~~;
2. Issue, deny, and revoke outside habitation permits and Safe Stay Community Operator camping ~~camping~~ permits in furtherance of the purposes of this chapter;
3. Delegate any or all functions under this chapter; and
4. Request the assistance of other city departments to investigate, administer, and enforce the provisions of this chapter.

B. *Types of Outside Habitation Camping Permits.* The following types of ~~camping~~ outside habitation permits are established and may be issued by the city manager, or their designee, pursuant to procedures and policies promulgated under this chapter:

1. *Nighttime Employment Outside Habitation ~~Camping~~ Permit.* The city manager, or their designee, is authorized to permit persons who present satisfactory evidence of nighttime employment to camp, occupy camp and outside habitation facilities, use camp and outside habitation paraphernalia, or store personal property in parks, streets, or any publicly owned parking lot or publicly owned area, improved or unimproved, in the city of Vancouver, except within Ceamping and Outside Habitation ~~Impact~~ Areas as prohibited by VMC 8.22.040(B).

2. *Safe Stay Community ~~Supportive Campsite~~ Operator Permit.* The city manager, or their designee, is authorized to issue a Safe Stay Community ~~supportive campsite~~ Operator Permit to a person, firm, corporation, or municipal corporation upon receipt of satisfactory evidence that the applicant possesses suitable qualifications to operate a Safe Stay Community~~supportive campsite~~ in compliance with the provisions of this chapter. The duration of a Safe Stay Community ~~supportive campsite~~ Operator Permit shall be for an initial period of not more than one year. A ~~supportive campsite~~ Safe Stay Community ~~Operator Permit may be renewed no more than twice by the city manager for a period not to exceed one year each. The request for an extension shall be processed in the same manner as an initial Safe Stay Community~~supportive campsite~~ ~~Operator Permit application.~~~~

a. Upon receipt of an application for a Safe Stay Community ~~supportive campsite~~ Operator Permit under this chapter, the city manager, or their designee, shall provide notice to all owners and residents of record of property, as shown on the most recent property tax assessment roll, located within 1,200 feet of the proposed supportive campsite and shall send a copy of the application to the city departments of police, parks, public works, community development, and fire. Each of these departments shall inspect the application and each such department shall report to

the city manager, or their designee, any problems which the proposed activity is expected to pose for the public. Such reports shall make any necessary recommendations for protecting the public peace, health, safety, life, property, and welfare in the event a permit is, or was, issued.

b. In evaluating whether to grant or deny an application for a Safe Stay Community ~~supportive campsite~~ Operator Permit, the City Manager, or their designee, shall evaluate whether the resulting Safe Stay Community ~~Supportive Campsite~~ will be (i) equitably dispersed throughout the City in relation to other existing Safe Stay Communities ~~Supportive Campsites~~, (ii) located where the Safe Stay Community ~~Supportive Campsite~~ will avoid areas of highest economic vulnerability within surrounding residential areas in the City, (iii) afford accessibility in compliance with the Americans with Disabilities Act, (iv) be located within one half mile of public transit, and (v) comply with all requirements of the State Environmental Policy Act.

c. The city manager, or their designee, shall review and approve rules and regulations regarding the admission to, and operation of, all Safe Stay Communities ~~supportive campsites~~.

C. The city manager, or their designee, may approve a permit as provided under this section when, from a consideration of the application, reports from other city departments, and from such other information as may otherwise be obtained, the City Manager, or their designee, finds that:

1. Adequate sanitary facilities are provided and accessible at or near the proposed Safe Stay Community ~~camp~~ site;
2. Adequate trash receptacles and trash collection are provided; and
3. The ~~camping~~ outdoor habitation activity will not unreasonably disturb or interfere with the safety, peace, comfort and repose of private property owners.

D. The city manager, or their designee, is authorized to revoke a permit that has been issued if the

city manager, or their designee, finds lack of compliance with any requirement of subsection C, above, or evidence that a Safe Stay Community ~~supportive campsite~~ Operator has failed or refused to require ~~campsite~~community residents comply with any rule or regulation promulgated under subsection (B)(2)(c), above, or of any ordinance or statute.

E. Any person who is denied a permit, or had their permit revoked, may appeal the denial/revocation to a hearings examiner appointed by the city manager, or their designee. Notice of appeal must be in writing, and filed with the city clerk within seven (7) working days from the date of the denial or revocation.

F. City staff may propose city-sponsored Safe Stay Communities~~supportive campsites~~. Such proposals will be evaluated for approval by the city manager, or their designee, applying the criteria under subsection (B)(2) and (C) of this section and the availability of city resources.

Section 8. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 9. Effective Date. This Ordinance is required for the immediate preservation of the public health and safety and shall become effective immediately upon final passage.

Read first time: July 11, 2022

Ayes: Councilmembers Harless, Perez, Fox, Paulsen, Stober, Hansen, Mayor McEnerny-Ogle

Nays: None

Absent: None

Read second time: July 18, 2022

PASSED by the following vote:

Ayes: Councilmembers Harless, Fox, Stober, Hansen

Nays: Councilmembers Perez, Paulsen

Absent: Mayor McEnerny-Ogle

SIGNED this 18th day of July, 2022.

DocuSigned by:
Anne McEnerny-Ogle
6C89D9089EC5424...
Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:
Natasha Ramras
BCF6734E40E94AE...
Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:

9A7DC2E31F694A2...
Jonathan Young, City Attorney

SUMMARY

ORDINANCE NO. M-4379

AN ORDINANCE of the City of Vancouver, Washington renaming Chapter 8.22 of the Vancouver Municipal Code, protecting certain areas that are particularly vulnerable to a dangerous wildfire event by prohibiting camping and outside habitation in those areas; amending VMC 8.22.010 “Findings”, VMC 8.22.020 “Purpose”, VMC 8.22.030 “Definitions”, VMC 8.22.040 “Unlawful Camping”, VMC 8.22.050 “Unlawful Storage of Personal Property in Public Places”, VMC 8.22.070 “Permit”; providing for severability; and providing for an immediate effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at (360) 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).