



Seattle Human Rights Commission

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May 4, 2015

Seattle Board of Parks Commissioners
100 Dexter Ave. N
Seattle, WA 98109

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Re: Banning Smoking in all Public Parks

Dear Board of Parks Commissioners,

We, the Seattle Human Rights Commission (the “Commission”), write to share our concern about the proposal to ban smoking in all public parks in the City of Seattle (the “City”). The Commission is concerned that the proposed ban, though perhaps intended to protect the public from secondhand smoke, may result in disproportionate enforcement of violations by homeless residents who lack access to basic shelter and services.

Seattle is facing a homelessness crisis. The 2015 One Night Count of homeless individuals in King County conducted on January 23, 2015 by the Seattle/King County Coalition on Homelessness found 2,813 people sleeping outside in the City after the shelters were filled.¹ *This marks a 22% increase from last year* in the number of people who lack access to basic shelter. The growing homelessness crisis has also deepened racial disparities in the City because people of color are significantly over-represented in the homeless population in King County.²

With severely limited access to overnight and day-use shelter, many homeless citizens reside in our City’s public parks, particularly in those parks located in the downtown area. Many homeless residents also use tobacco. The American Journal of Preventative Medicine reports that approximately 73 percent of homeless people smoke tobacco, and reports that homeless populations face unique challenges with regards to smoking cessation.³

¹ Seattle/King County Coalition on Homelessness 2015 One Night Count Results: homelessinfo.org.

² The Committee to End Homelessness reports: “While people of color now comprise 35% of the general population in King County, nearly double that proportion (67%) of people living in emergency shelter and transitional housing are people of color.” *Homelessness Facts for King County (2012)*. <http://www.cehkc.org>.

³ Bagget, Travis P. et al. (Aug 2010). “Cigarette Smoking and Advice to Quit in a National Sample of Homeless Adults.” *American Journal of Preventative Medicine*. (Vol. 39, Issue 2, 164-172). A similar study states, “Qualitative evidence from homeless smokers suggests that homelessness may impact both the uptake of smoking and the quantity of cigarette consumption. Homeless smokers frequently cite emotional reasons for smoking, and many view tobacco uses a means of coping with ‘all the pressures of being homeless’ or as a reward for enduring the hardships of homelessness.” See Bagget, Travis P. et al. (Nov 2013). “Homelessness, Cigarette Smoking, and Desire to Quit: Results from a U.S. National Study.” *Addiction*. (Vol. 108, Issue 11, 2008-2018).

The Commission is concerned that the proposed parks smoking ban would be enforced primarily in downtown parks, and would disproportionately impact homeless individuals residing in those parks. A memorandum sent to the Board of Parks Commission by Seattle Parks and Recreation on March 19, 2015 confirms that “Most enforcement actions are expected to occur in the parks in the downtown core... [We] expect most violations to occur in Occidental Park, Victor Steinbrueck Park and Westlake Park, as these parks have the highest number of park users per square foot.”

It is highly apparent to the Commission that these parks also serve as public gathering and resting places for many homeless residents of our City who lack access to basic shelter and have few other places to go. If enforcement actions will be concentrated in downtown parks where many of those who lack access to basic shelter reside, it is likely that enforcement of the proposed ban will disproportionately impact homeless people.⁴

Current Parks Code of Conduct, adopted in 2010, prohibits “smoking, chewing, or other tobacco use within 25 feet of other park patrons and in play areas, beaches, playgrounds, or picnic areas.”⁵ This rule was adopted in response to input from Public Health – Seattle & King County, City Councilmembers, and the public, and balances legitimate public health concerns regarding secondhand smoke with nondiscriminatory enforcement practices. However, the new proposal to expand and enforce the smoking ban through the issuance of infraction citations and trespass orders that make violators subject to arrest raises serious concerns about the potential for discriminatory enforcement practices. At best the proposal would effectively bar many homeless members of our City from our downtown parks; at worst it would to a significant degree effectively criminalize homelessness in our downtown public spaces. As a result, enforcement of the ban may further contribute to a cycle of poverty and homelessness, as those unable to pay citation fines could face jail time, thereby increasing their likelihood of remaining homeless and socioeconomically marginalized.⁶

On December 10, 2012, the City of Seattle was declared to be a Human Rights City, committing itself to protect, respect and fulfill the full range of inherent human rights for all, as set forth in the Universal Declaration of Human Rights (“UDHR”) and numerous other international human rights treaties. Article 25 of UDHR states, “Everyone has the right to a standard of living adequate for the health and well-being of [himself/herself] and of [his/her] family, including food, clothing, housing and medical care and necessary social services.” Article 7 of UDHR also states, “All are equal before the law and are entitled without any discrimination to the equal protection of the law.” Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) further states that all human beings have the right “to the enjoyment of the highest attainable standard of physical and mental health.”

While the harmful health effects of tobacco use and exposure are well-documented, the right to health as established by UDHR also includes the right to an adequate standard of living and medical care, which homeless individuals are systematically denied.⁷ As a result, homeless citizens suffer adverse health

⁴ Such has been the case in other cities that have adopted similar parks smoking bans in areas with large unsheltered homeless populations. For example, the City of Boulder’s *Daily Camera* newspaper reports that the city’s smoking ban has “done more to change where homeless people hang out in downtown Boulder than three years of stepped-up foot patrols” and has “given Boulder police new tools.” See “Smoking ban key in clearing homeless from Boulder’s municipal campus.” *Daily Camera*. Aug. 23 2014. www.dailycamera.com.

⁵ Parks Code of Conduct 060 7.21.00, section 3.2.10.

⁶ Enforcement would also disproportionately impact people of color. See Dolan, K. and Carr, J. (2015) “The Poor Get Prison: The Alarming Spread of the Criminalization of Poverty.” *Institute for Policy Studies*. www.ips-dc.org/

⁷ The American Psychological Association reports, “Individuals without homes often lack access to health care treatment... People without homes have higher rates of hospitalizations for physical illnesses, mental illness, and substance abuse than other populations.” See “Health & Homelessness.” *American Psychological Association*. www.apa.org.

impacts which are often directly related to their experience of homelessness.⁸ A 2004 study of homeless deaths in King County, for example, demonstrated that the average age of death for homeless individuals was 47 years old, in comparison to approximately 80 years old for the general population.⁹ These dire figures demonstrate that homelessness itself represents a public health crisis.

The Commission believes that the City can protect the human rights of all residents by implementing policies and practices that recognize every human being's right to health as well as their right to freedom from discrimination. It recommends a more comprehensive approach to public health that recognizes the rights of *all human beings* to "an adequate standard of living." The Commission urges the Board of Parks Commissioners to reject the proposed total parks smoking ban and instead retain the current 25' rule in order to promote the health and well-being of all park users while protecting human rights.

Respectfully,



Alex Becker, Task Force Chair,
Economic, Social and Cultural Rights Task Force



Sarah Lippek, Task Force Chair,
Civil and Political Rights Task Force



Danielle Wallace, Commissioner



Sarah Bishop, Commission Co-Chair



Ethel Branch, Commission Co-Chair

⁸ The National Health Care for the Homeless Council explains, "Homelessness inevitably causes serious health problems. Illnesses that are closely associated with poverty – tuberculosis, AIDS, malnutrition, severe dental problems – devastate the homeless population. Health problems that exist quietly at other income levels – alcoholism, mental illnesses, diabetes, hypertension, physical disabilities- are prominent on the streets. Human beings without shelter fall prey to parasites, frostbite, infections and violence." See *Health Care for the Homeless Network* webpage at www.kingcounty.gov.

⁹ "Homeless people studied died at average age of 47." *Seattle Times*. Dec 14, 2004.