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**DATE:** September 17, 2021  
**TO:** Mayor and City Council  
**CC:** Eric Holmes, City Manager  
**FROM:** Jonathan Young, City Attorney; Sara Baynard-Cooke, Assistant City Attorney  
**RE:** Amendments to VMC 8.22 Camping- Analysis of Ordinance Options A and B

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On September 20, 2021, City Council will consider whether to adopt one of two ordinances amending VMC Chapter 8.22 (“Ordinance Option A” and “Ordinance Option B”), which are being presented for second reading and a public hearing. This memorandum provides an analysis of the difference between the ordinances and explains Staff’s recommendation for adoption of Option A in more detail.

The only distinction between the two versions of the ordinance is the language relating to Camping Impact Areas. If Council adopts either version, unless occurring within a City-approved Supportive Campsite, camping shall be illegal at all times within Camping Impact Areas. Under both versions, Camping Impact Areas include (1) areas within 1000 feet of any Supportive Campsite and (2) public water stations, wastewater facilities, and stormwater facilities. The only distinction between the Ordinance Options is in regard to a third component of the Camping Impact Area, which was included in order to address environmental concerns. Specifically, Ordinance Option A and Ordinance Option B differ by prohibiting camping in certain environmentally-sensitive areas, defined differently under each option as follows:

<b>Ordinance Option A</b>	<b>Ordinance Option B</b>
Within two hundred feet (200') of the nearest edge of the Columbia River, Vancouver Lake, Burton Channel, Peterson Channel, Fisher's Creek, or Burnt Bridge Creek.	Upon land classified as one or more of the following: <ul style="list-style-type: none"> <li>a. Habitats of Local Importance as defined by VMC 20.740.100;</li> <li>b. Riparian Buffers of Fish and Wildlife Habitat Conservation areas as defined by VMC 20.740.110;</li> <li>c. Frequently Flooded Areas as defined by VMC 20.740.120; or</li> <li>d. Wetland Buffer area of Wetlands as defined by VMC 20.740.140.</li> </ul>

**A. Ordinance A is Staff's Recommended Ordinance**

As stated in the staff report, Staff recommends adoption of Ordinance Option A. First, Option A is more easily mapped and provides greater clarity to the public and law enforcement regarding areas where camping is prohibited. Also, the 200-foot buffer from designated water bodies is based on principles adopted by [Leave no Trace: Center for Outdoor Ethics](#) and recommended by the National Park Service and other agencies and associations. These agencies advocate keeping campsites at least 200 feet away from rivers, lakes, and creeks in order to maintain water quality, aquatic habitat, and access routes for wildlife. Thus, there is a clear connection between the 200-foot buffer and the environmental concern.

**B. Concerns regarding Ordinance B**

Ordinance B addresses environmental concerns with camping by prohibiting camping in designated flood areas, wetlands, and habitat conservation areas, as defined under VMC Title 20. Staff identified and mapped those areas by using County GIS data, which includes both federal and state designations.

One concern with Ordinance B is that the general public may have difficulty identifying the boundaries of the protected areas. Where the fixed 200-foot buffer under Ordinance Option A can be determined by pacing 70 feet from a designated water body, Ordinance B protection areas will vary in size based on the designation. Although maps would be provided on the City's website, in practice, these maps may be more difficult to access for individuals experiencing unsheltered homelessness. Areas will need to be clearly marked with signs in order to place the public on notice of no-camping zones. Because VMC Chapter 8.22 makes violation of the code a criminal misdemeanor, it is important to place the public and law enforcement on adequate notice of all areas where camping is prohibited 24/7, otherwise, this section may be rendered susceptible to legal challenge.

Additionally, the protected areas under Ordinance Option B will change over time, with changes in the environment. That means under Option B, the City's Critical Areas Protection Map would need to be routinely updated, along with any signs designating the protection areas, which will require significantly more staff time to administer and enforce than Option A.

Finally, Ordinance Option B may be overinclusive in protecting environmentally sensitive areas. For example, camping in certain flood zones, particularly those with a lower risk of flooding, may have no significant environmental impact. Similarly, during months when certain designated wetlands are dry, isolated camping in those areas may not have a significant impact on the environment. Moreover, camping may not impact all of the designated habitat protection areas; rather, whether there is an impact may depend on the type of species. In sum, absent an analysis of each of the identified protection areas under Ordinance Option B, staff is unable to confirm the level of impact caused by camping with a high degree of confidence.

### **C. Councilmembers' Concerns of Fire Danger**

The discussion of including critical protection areas designated under VMC Title 20 within Camping Impact Areas stemmed in part from a discussion concerning fire danger caused by camping fires. The discussion largely pertained to camping on or near power lines on property owned by Bonneville Power Administration (BPA). After mapping the critical protection areas, however, it appears Ordinance Option B may not be the most effective tool to address the fire concerns raised. To this end, in lieu of Option B, Staff would recommend the City take a series of alternate steps to address fire danger attributed to unsheltered camping.

First, staff is preparing to reach out to BPA and request that BPA partner with the City to prevent camping under power lines. The Vancouver Police Department has a standard practice of entering into Trespass Agreements with landowners. These agreements direct law enforcement to trespass individuals seen on the property under certain, owner-specified conditions to the extent permitted by law. Historically, BPA has not taken advantage of Trespass Agreements as a tool to protect the community from fire danger. Staff is prepared to remind them that this tool remains available to them and urge BPA to consider using it.

Second, in consultation with the City's Fire Marshal and other Fire Department personnel, Staff is also considering whether there are areas where camping may be of a greater concern due to campfires and the increased risk of fire danger. Staff is currently compiling data to determine whether there is a connection between fire response and camping by people experiencing unsheltered homelessness. Staff is also working with the Fire Marshall to identify areas, including steep slope areas, where both the topography of the land and available fuels (e.g., dried grass or shrubs) cause a greater risk. And Staff is considering other factors that increase fire danger, such as obstacles that inhibit access by fire suppression equipment. Identifying locations that are at greater risk of fire danger, with the possibility of later expanding Camping Impact Areas to include such locations, may better address Councilmembers' concerns regarding fire hazards.

Since more work is required, and we are entering the (wet) fall season when fire danger decreases, Staff proposes to continue this analysis and return to Council in spring 2022 with an update. If the data supports expanding Camping Impact Areas to include areas that pose a greater fire risk, Staff is prepared to bring forward a proposal to amend Title 8 to expand Camping Impact Areas to prohibit camping in specific, narrowly crafted, fire protection areas.

We hope you find this information to be of use. We will be available at the Public Hearing Monday, September 20, 2021 to answer any questions you may have. In the meantime, as always, should you have individual questions or concerns, please do not hesitate to contact Staff.