



Normandy Park  
Est. 1951



## Collective Statement from South King County Mayors Regarding House Bill 1380

January 21, 2025

Representative Mia Gregerson  
321 John L. O'Brien Building  
PO Box 40600  
Olympia, WA 98504

Dear Rep. Gregerson,

Thank you for the opportunity to provide feedback on House Bill 1380. While we understand that the intent behind this proposal is to protect those individuals experiencing homelessness and occupying the public right-of-way and other spaces, we are concerned that this bill will compromise public safety, interfere with the intended uses of public spaces, and lead to litigation rather than solutions. We are the State's partner in helping individuals experiencing homelessness get access to crisis services, substance use treatment, mental health services, health care, shelter, and other services, and we encourage you to be our partner in bringing services to these individuals.

Responding to homelessness is a complex issue that requires balancing compassion for those experiencing homelessness with the safety and needs of other community members. The reasons for homelessness - such as inadequate housing, high housing costs, lack of mental health treatment services, substance use disorder, lack or insufficient competitive training and education to allow more people to earn a livable wage, high health care costs, and the like - are not due to a lack of state guidance but rather a need for and an absence of direct state funding and direct state response to the foregoing issues.

We believe that House Bill 1380 will channel the scarce resources we collectively have into litigation instead of services. Additionally, because the language is vague, we fear this legislation will effectively eliminate our ability to keep our sidewalks, roadways, parks, wetlands, shorelines, and other public infrastructure accessible and safe for cars, bikes, and pedestrians.

Cities are obligated under State and federal laws to invest in and maintain many public spaces for specific purposes, such as environmentally sensitive areas (wetlands, shorelines, buffers, greenbelts, wellheads, infiltration areas, etc.) and sidewalks for the passage of individuals with disabilities. Parks programs targeting youth development and success in the form of sports, activities, and life skills are established and run in our parks systems. Urban green spaces are created for the health and welfare of residents who may not have the means to travel to the mountains to experience nature. People will face challenges taking advantage of these spaces and programs when they are occupied by the unhoused. This bill will put these investments at significant risk by creating a statutory conflict between laws and obligations that would be resolved in our court system.

The following terms are used throughout the bill, without definition, criteria, or examples to provide further direction: "objectively reasonable," "totality of circumstances," and "measures necessary for an individual to survive outdoors." These terms point to elements that evolve. It is possible that measures "necessary for an individual to survive outdoors" could be satisfactory at one point and then change due to weather or the actions or inaction of the

person surviving. Similarly, the term “totality of circumstances” could rely on shelter availability – funding for shelter may be there today but gone tomorrow based on revenue collections and economic conditions beyond our ability to control. A city could adopt an ordinance that meets the standard one day, and then it doesn’t the next – a nearly impossible scenario to ensure compliance and fend off costly litigation.

The provisions of House Bill 1380 subject municipalities to awards of attorneys’ fees, increasing the likelihood that this will lead to litigation. This section incentivizes advocacy groups and lawyers to sue municipalities, with the lawyers receiving a financial benefit without fear of municipalities collecting attorneys’ fees for frivolous lawsuits against the municipalities.

This legislation mirrors Oregon’s ORS § 195.530, which Oregon adopted to comply with the now-abrogated Johnson v. Grants Pass Ninth Circuit decision. The Oregon law uses the same objectively reasonable language that is proposed in House Bill 1380. Three months after the statute became operative on July 1, 2023, Duncan v. City of Portland was filed to litigate an ordinance. The City of Portland settled and paid Duncan \$175,000 for attorney’s fees to prevent spending additional resources. Portland adopted a new ordinance in July 2024. It’s unclear whether that ordinance meets the standard in state law because litigation has not otherwise defined what is meant by “objectively reasonable.”

We believe with near certainty that the vague, undefined standard and provisions in attorney’s fees in HB 1380 will also lead to litigation in Washington. Let us work together for a better solution. One that puts our money into services, not into our already overloaded courtrooms.

Sincerely,

Mayor Troy Linnell, City of Algona  
Mayor Nancy Backus, City of Auburn  
Mayor Kevin Schilling, City of Burien  
Mayor Jeff Wagner, City of Covington  
Mayor Traci Buxton, City of Des Moines  
Mayor Jan Molinaro, City of Enumclaw

Mayor Jim Ferrell, City of Federal Way  
Mayor Dana Ralph, City of Kent  
Mayor Sean P. Kelly, City of Maple Valley  
Mayor Eric Zimmerman, City of Normandy Park  
Mayor Armondo Pavone, City of Renton  
Mayor Thomas McLeod, City of Tukwila

CC:

House Housing Committee  
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Rep. Adison Richards, Vice Chair  
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Rep. Cyndy Jacobsen, Assistant Ranking Minority Member  
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Rep. Julio Cortes  
Rep. Jeremie Dufault  
Rep. Andrew Engell  
Rep. Debra Entenman  
Rep. Debra Lekanoff  
Rep. Julia Reed  
Rep. Joe Timmons

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<sup>1</sup> City of Portland Ordinance 191811: <https://www.portland.gov/council/documents/ordinance/passed/191811>