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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

SEATTLE/KING COUNTY COALITION ON
HOMELESSNESS, a non-profit organization;
ELIZABETH HALE; ALEX HALE; and
CARLO PAZ,

No.

COMPLAINT

Plaintiffs,

vs.

CITY OF BURIEN, a municipal corporation,

Defendants.

Plaintiffs, Seattle/King County Coalition on Homelessness (hereinafter referred to as the
“Coalition on Homelessness”), Elizabeth Hale, Alex Hale, and Carlo Paz allege as follows:

I. INTRODUCTION

On September 25, 2023, the City of Burien enacted Ordinance 818, as amended by
Ordinance 827 (hereinafter referred to as the “Ordinance”), which prohibits Burien residents
experiencing homelessness from living on public land for survival when they have no place else
to live. Specifically, the Ordinance prohibits living on public land for survival during the
daytime and only permits using public land for survival between the hours of 7:00 p.m. and 6:00
a.m. in certain designated and posted areas.

1 Three of the plaintiffs are unhoused people living in Burien. As written, the ordinance
2 prohibits them from setting down a bag containing all of their possessions in any public space;
3 makes it a crime for them to cook food for themselves in an outdoor setting; and subjects them to
4 arrest for covering themselves with a blanket or tarp while out in the rain in a public space.
5 Burien does not provide adequate shelter or housing for these people yet subjects them to
6 criminal enforcement if they try to engage in life sustaining activities in public spaces. As a
7 result, by depriving unhoused people of the ability to protect themselves from the elements and
8 engage in life-sustaining activities, Burien is banishing them from the city they live in under
9 threat of arrest.

10 By criminalizing the act of sleeping unhoused in the City of Burien between 7:00 p.m.
11 and 6:00 a.m. in a city that lacks enough shelter to accommodate all of its homeless residents, the
12 City of Burien is attempting to discourage and prevent unhoused individuals from continuing to
13 live within the City limits. In other words, through passage of its Ordinance, the City of Burien
14 is banishing Burien residents experiencing homelessness from living in the City of Burien.
15 Burien's ordinance is therefore cruel punishment in violation of the Washington constitution.
16 Additionally, Burien's ordinance deprives its residents of due process and equal protection of the
17 law because it is vague and gives law enforcement unfettered discretion to decide whether a
18 person is violating the ordinance. Plaintiffs seek declaratory and injunctive relief so that the City
19 of Burien is restricted from enforcing their Ordinance.

20 II. PARTIES

21 1. The Coalition on Homelessness is a non-profit organization that advocates on
22 behalf of unhoused individuals residing in King County by seeking policy changes to help
23 address systemic causes of homelessness and other barriers affecting the homeless community.
24

1 This includes addressing ordinances, policies, and procedures that criminalize homelessness. The
2 Coalition on Homelessness also provides training and support to people who provide direct
3 services to unhoused residents, including those in Burien.

4 2. Elizabeth Hale is an unsheltered resident of Burien, Washington.

5 3. Alex Hale is an unsheltered resident of Burien, Washington.

6 4. Carlo Paz is an unsheltered resident of Burien, Washington.

7 5. The City of Burien is a municipality and a political subdivision of the State of
8 Washington.

9 III. JURISDICTION AND VENUE

10 6. This Court has jurisdiction over the subject matter.

11 7. This claim arose in King County, Washington.

12 8. The Defendant City of Burien is located entirely within King County, Washington.

13 9. Venue properly lies within King County, the County where the City of Burien lies.

14 This case meets the criteria for the Kent case assignment under LCR 82(e)(3)(B).

15 IV. FACTS

16 A. Burien responds to the homelessness crises by passing a banishment ordinance 17 targeting unhoused Burien residents

18 10. King County is in the middle of a serious affordable housing crisis. As a result,
19 many residents of King County are experiencing homelessness and are without shelter. The
20 Washington Department of Commerce used 2022 Point-in-Time Count (“PIT Count”) to
21 estimate that more than 53,000 people experienced homelessness in King County in the course of
22 2022. Predicative modeling indicates that 62,000 will be homeless in King County by 2028.

23 11. According to the King County Regional Homelessness Authority’s 5-Year Plan,
24 King County needs 18,200 new units of temporary housing to provide shelter to individuals

1 experiencing homelessness in King County. The number of individuals experiencing
2 homelessness in King County greatly outnumbers the number of shelter beds available in the
3 county. Burien additionally lacks adequate shelter space to house its unhoused residents.

4 12. According to the PIT Count, 51% of individuals experiencing homelessness
5 identify as having a disability, which is likely an undercount. These disabling conditions include
6 mental and physical disabilities, as well as alcohol use disorder, substance abuse disorders and
7 chronic health conditions that are exacerbated by lack of access to housing. These disabling
8 conditions present as additional barriers, preventing access to or availability of shelter offerings.

9 13. Like other municipalities, the City of Burien is experiencing an increase in the
10 number of individuals experiencing homelessness within its jurisdiction. With limited shelter
11 availability in the City of Burien, homeless individuals have resorted to utilizing public land to
12 sleep and survive upon. In turn, the City of Burien has responded by repeatedly and forcibly
13 removing homeless individuals from public land and restricting their ability to utilize public land
14 for survival. Yet, with no place to go and limited and insufficient shelter capacity in the City of
15 Burien, the problem persists.

16 14. On September 25, 2023, after months of debate, the City of Burien passed
17 Ordinance 818, as amended by Ordinance 827 (hereinafter referred to as the “Ordinance”). A
18 copy of this ordinance is attached hereto as **Exhibit A**.

19 15. The Ordinance prohibits individuals from using nonresidential public property as
20 temporary or permanent dwelling, lodging, residence or living accommodation between the
21 hours of 7:00 p.m. and 6:00 a.m., except for in areas that the Burien City Manager has posted
22 and designated.

23 16. The Ordinance provides an additional exception if no shelter space is available
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1 when the person is on public property. The Ordinance defines “available overnight shelter” as a
2 public or private shelter with available overnight space, open to individuals experiencing
3 homelessness and at no charge. Furthermore, the Ordinance provides: “If a person cannot utilize
4 an overnight shelter due to voluntary actions such as intoxication, drug use, unruly or assaultive
5 behavior, or violation of shelter rules, the overnight shelter space shall still be considered
6 available for this section.”

7 17. As a result, if law enforcement determines, in its discretion, that a person’s actions
8 interfere with their ability to stay at a shelter are “voluntary” as opposed to compelled by their
9 physical or mental condition, then that law enforcement officer can arrest that person even if
10 there is no shelter available for that person..

11 18. The Ordinance provides the Burien City Manager the authority to provide permits
12 to unhoused individuals living in Burien that would allow individuals experiencing homelessness
13 to camp overnight within the City limits.

14 19. Burien later amended Ordinance 818 by passing Ordinance 827, which purportedly
15 prohibits camping during the day in addition to the nighttime camping ban outside of posted and
16 designated areas. The amended part of the Ordinance states: “Camping, dwelling, lodging,
17 residing, or living on nonresidential public property shall not be permitted in Burien except
18 during the times stated immediately above.”

19 20. It is not clear if use of the word “permitted” implies the Burien City Manager will
20 not provide permits for daytime use of public land for survival or if daytime use of public land is
21 not allowed.

22 21. Individuals who violate the Ordinance are guilty of a misdemeanor.

23 22. The Ordinance became effective on November 1, 2023.

1 23. At the time of this lawsuit, South King County lacks sufficient shelters to
2 accommodate the number of unhoused individuals residing in South King County. Similarly, the
3 City of Burien lacks shelter capacity to enforce this ordinance against individuals experiencing
4 homelessness residing within its jurisdiction.

5 24. According to its website, the City of Burien, located in South King County,
6 currently has two shelters located within the city limits: a family shelter and a women-only
7 shelter. There is also an emergency shelter run by volunteers that serves as an overnight severe
8 weather shelter during times of extreme cold and can sleep up to 50 people. Burien’s Web site
9 states: “It is important to acknowledge the deficits in shelter services here in Burien. While there
10 are some beds for individuals and families, there are not designated spaces for single men, youth,
11 or couples to find shelter. The beds that are available are continually full and shelters have to
12 turn people away because they are over capacity. The need far exceeds the available resources.”¹

13 25. In summary, the City of Burien lacks any shelter offerings for single men, youth or
14 couples and lacks sufficient shelter for all other unhoused groups.

15 26. While the Ordinance is unclear, the City states on its Web site that the ordinance
16 prohibits camping during the daytime: “Camping on public property is prohibited during daytime
17 hours.”² Thus, a person is at risk of arrest if they attempt to sleep in Burien unsheltered during
18 the day or at night between the hours of 7 p.m. to 6 a.m. in non-designated areas.

19 27. As defined in the ordinance, indicia of camping includes but are not limited to
20 “bedding cots, sleeping bags, tents or other temporary shelters, personal belongings storage, and
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22 ¹ https://www.burienwa.gov/residents/resident_resources/human_services/homelessness_response

23 ²

24 https://www.burienwa.gov/residents/resident_resources/human_services/homelessness_response/ordinance_827_frequently_asked_questions

1 cooking equipment use or storage.”

2 28. In a June 7, 2023 letter, the Deputy King County Executive, April Putney,
3 reiterated its offer to provide \$1,000,000 in funding to the King County Regional Homelessness
4 Authority to assist individuals experiencing homelessness in Burien, to transfer ownership of up
5 to 35 pallet shelters, and to provide up to 100 parking spaces for the city to use at the county’s
6 Metro Transit Park and Ride or garage. While the City of Burien only recently agreed to identify
7 a location to allow the funds to be spent on shelter, no shelter has yet been made available.

8 29. The City of Burien has not released plans or guidance to homeless individuals in
9 the City of Burien, explaining the steps the City of Burien intends to take to enforce the
10 ordinance, where individuals are permitted to camp, or how shelter offerings will be made
11 available.

12 30. Moreover, the City of Burien has yet to release plans explaining how it intends to
13 ascertain available shelter capacity on any given night and which shelters it will consider in
14 making such a determination. It remains unclear where and when Burien residents experiencing
15 homelessness may camp in the City of Burien.

16 31. The City of Burien will rely on shelters outside of its jurisdiction to enforce its
17 Ordinance.

18 32. The City of Burien has also yet to identify certain areas where camping in the City
19 of Burien is allowed and have also failed to provide information to homeless individuals on how
20 the permitting process will work. This means that camping in the City of Burien is currently
21 prohibited during both daytime and nighttime hours since the city has failed to designate areas
22 where utilization of public land for sleeping and survival is allowed and has provided no
23 information as to the permitting process.

1 33. The City of Burien has previously responded to the homelessness crisis by
2 transporting individuals to available shelters outside of the City of Burien.³ In 2019, pursuant to
3 a pilot program announced by the City of Burien, homeless individuals who remained in public
4 parks after dusk were asked to voluntarily remove their belongings and leave. In an attempt to
5 comply with constitutional protections, the City of Burien would then provide individuals
6 information and offer transportation to shelters. Individuals who refused to leave were subject to
7 arrest. As the City of Burien lacks shelters for single men, youth or couples and shelters for
8 women and families are at capacity, this necessarily meant that homeless individuals were
9 transported to shelters outside of the City of Burien. The City intends to take similar action or
10 arrest or threaten arrest of Burien residents experiencing homelessness if they refuse to comply
11 with the Ordinance and accept removal from the City of Burien.

12 34. The lack of clarity and guidance from the City of Burien has left homeless
13 individuals residing in the City of Burien concerned that they will be subject to criminal
14 penalties if they continue to survive on public land within City limits.

15 35. In addition to the lack of guidance, the City of Burien already disallows camping
16 in city parks beginning one hour after sunset and remaining closed until sunrise. BMC 7.30.230.
17 Violations of Chapter 7.30 BMC is Class 1 civil infraction, subject to a fine, and individuals who
18 violate BMC 7.30.230 are guilty of a misdemeanor. BMC 7.40.010-.020. This restriction
19 regulates and restricts spaces and results in less space currently available to Burien residents
20 needing to camp for survival in the municipality. Cumulatively, these restrictions and violations
21 discourage Burien residents experiencing homelessness from continuing to live in the City of
22 Burien. If they continue to reside in Burien, they run the risk of running afoul of an ambiguous
23 _____

24 ³ <https://b-townblog.com/city-of-burien-starts-pilot-program-to-connect-local-homeless-to-services/>

1 ordinance that may result in their arrest.

2 36. Burien's Ordinance has the impact of discouraging homeless individuals from
3 continuing to reside in the City of Burien, under threat of arrest.

4 37. The City of Burien's Ordinance does not punish certain actions, but, rather, it
5 punishes and outlaws one's status as homeless in the City of Burien.

6 38. By criminalizing the very act of being homeless in the City of Burien, the City of
7 Burien is attempting to banish homeless individuals from the City of Burien.

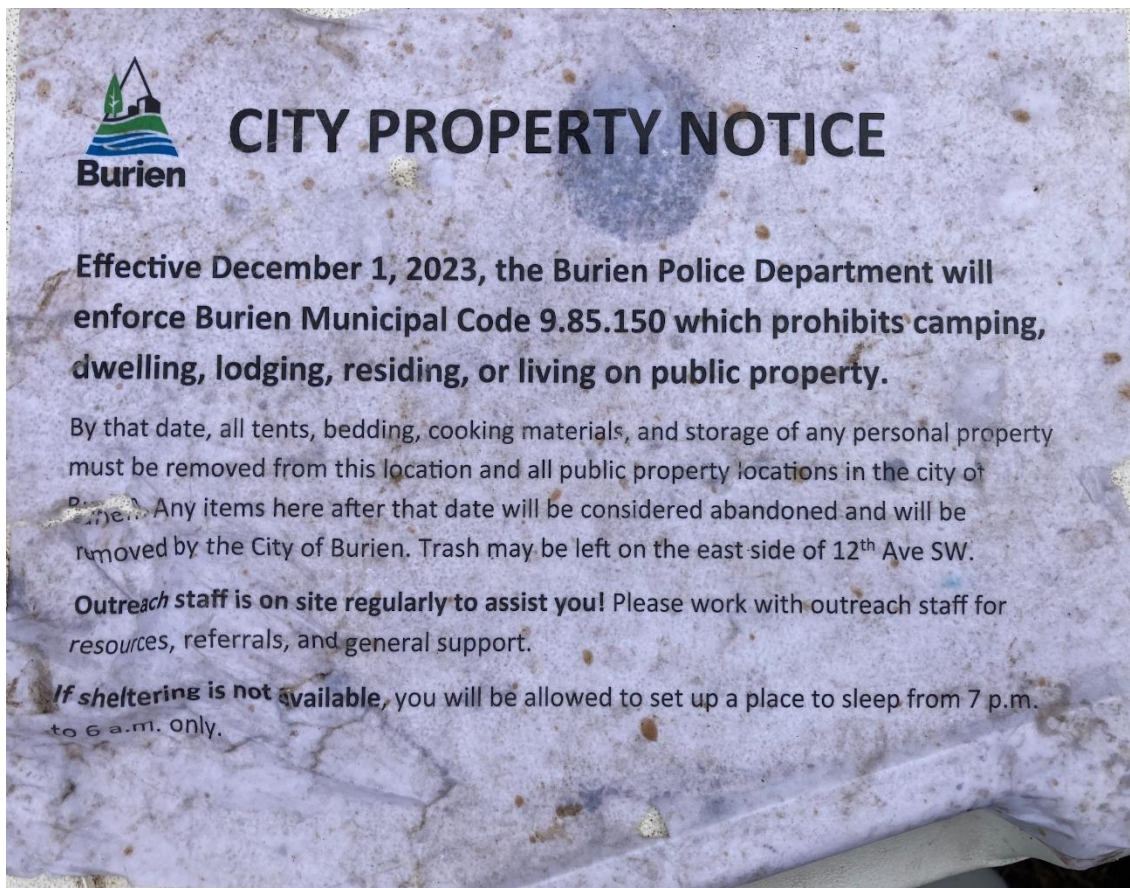
8 **B. The Seattle/King County Coalition on Homelessness has dedicated significant resources**
9 **towards addressing the passage and enforcement of Burien's Ordinance**

10 39. In an attempt to prevent dire negative consequences for homeless individuals
11 living in the City of Burien, the Coalition on Homelessness has spent significant time and
12 resources following, researching, and responding to attempts by the City of Burien to pass this
13 ordinance. This includes following council meetings for several months; connecting with
14 homeless individuals, housed community residents, and agencies working to support homeless
15 individuals in Burien; requesting information from council as to planned enforcement of the
16 Ordinance; and otherwise diverting staff time to address the Ordinance. The Coalition on
17 Homelessness has diverted these resources from other uses critical to fulfilling the organization's
18 mission in order to counteract the City of Burien's actions in passing and enforcing its
19 Ordinance.

20 40. Moreover, preventing the criminalization of homelessness is germane to the
21 mission of the Coalition on Homelessness. The City of Burien's Ordinance has frustrated the
22 Coalition on Homelessness's mission of pursuing and advocating for tolerance and sound policy
23 solutions that do not turn on banishment and criminalizing individuals for being homeless.
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2 **C. Burien begins enforcing its ordinance on December 1, 2023, evicting residents of the**
3 **Ambaum encampment**

4 41. On December 1, 2023, Burien began enforcement of its ordinance in spite of the
5 fact that there is inadequate shelter space available in Burien to house all unsheltered residents of
6 Burien. A true and correct copy of a notice posted at the site is below:



19 42. On December 1, 2023, deputies of the King County Sheriff's Office, acting as
20 officers of the Burien Police Department, arrived at the Ambaum encampment, near SW 120th
21 Street and Ambaum Boulevard, and informed residents that they could not live on the site any
22 longer. They were informed if they did not have their property packed up and ready to leave that
23 they could be arrested.

1 43. No person was arrested on December 1, 2023 and all residents dispersed.
2 Defendants did not offer shelter to all residents of the Ambaum site and, specifically, did not
3 offer housing or shelters to any of the unhoused plaintiffs. Officers for the City of Burien
4 recommended shelters in Seattle as places that the Ambaum residents could go to.

5 44. After the residents of the Ambaum site dispersed, the city removed and disposed of
6 all property remaining on site.

7 **D. Several unsheltered plaintiffs are at risk of arrest or banishment from the City of**
8 **Burien as a result of Burien's Ordinance.**

9 45. Plaintiffs Elizabeth Hale and Alex Hale are a married couple, formerly residing at
10 the Ambaum encampment.

11 46. The Hales have lived in Burien for approximately the past six years. Prior to living
12 unsheltered in Burien, they rented an apartment in Burien.

13 47. When Mr. Hale lost his job and his income, they lost their housing and became
14 homeless.

15 48. The Hales have nowhere to live if they are forced to leave Burien.

16 49. There are no shelters within Burien where they could live. The Hales fear arrest if
17 they continue to live in Burien.

18 50. Plaintiff Carlo Paz lived at the Ambaum encampment.

19 51. Mr. Paz has experienced homelessness in Burien for several years and fears arrest
20 if he refuses to leave Burien.

21 52. Mr. Paz has nowhere to go or live if the City of Burien attempts to enforce or
22 threatens to enforce its Ordinance.

23 53. All of these unhoused Plaintiffs are afraid that the Defendant will enforce its
24 ordinance and threaten them with arrest if they do not leave Burien for a shelter outside of

1 Burien or if they attempt to live on public property during the day.

2 54. All of these unhoused Plaintiffs have personal property that they carry about their
3 person and are afraid that if they set their property down or unattended to for any period of time
4 that they may be subject to arrest or loss of their property by the City.

5 55. On December 15, 2023, the three unhoused Plaintiffs, through counsel, emailed the
6 City Manager of Burien and asked for a permit to allow them to legally live on public land
7 pursuant to the Ordinance. As of the date of the commencement of this lawsuit, the City did not
8 respond or otherwise grant their request for a permit.

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10 **V. CLAIMS FOR RELIEF**

11 **A. FIRST CLAIM FOR RELIEF: Deprivation of rights guaranteed by Washington**
12 **Constitution, art. 1, Sec. 14 by imposing banishment and inflicting cruel punishment.**

13 56. Plaintiffs incorporate by reference the allegations above as if fully set forth herein.

14 57. Pursuant to the City of Burien's new Ordinance, individuals who camp in public
15 during the hours of 7:00 p.m. and 6:00 a.m. will be subject to criminal sanctions. The City of
16 Burien's Ordinance permits the City Manager to provide for a process that would allow a
17 homeless individual to request a camping permit from the City of Burien.

18 58. However, the City of Burien has not identified space for homeless individuals to
19 camp within city limits, and no process has been revealed that would allow a homeless individual
20 to request and receive a camping permit from the City of Burien

21 59. It is an element of the crime of public camping that there is sufficient shelter space
22 available for the person to sleep at overnight.

23 60. Moreover, the City of Burien does not have sufficient shelter capacity to offer
24 shelter to all individuals experiencing homelessness in the City of Burien. Without sufficient

1 shelter, the City of Burien cannot enforce or threaten to enforce an Ordinance that subjects
2 homeless individuals to criminal sanctions for using public land for survival in the City of
3 Burien.

4 61. Despite the lack of shelter capacity, the City of Burien began enforcing its
5 Ordinance against homeless individuals found living on public land beginning on December 1,
6 2023. Subjecting homeless individuals to misdemeanor charges because they are sleeping in
7 public in a City with insufficient shelter offerings is cruel punishment.

8 62. As no spaces have been identified in the City of Burien to allow a homeless person
9 to live, a homeless individual would need to leave the City of Burien every night in order to
10 lawfully camp on public land or risk criminal sanctions. Prohibiting homeless individuals from
11 using public land to survive and live within the city limits between 7:00 p.m. and 6:00 a.m. is not
12 practicable or financially feasible for homeless individuals with little resources and amounts to
13 banishment. None of the unhoused Plaintiffs have the means to leave Burien every night and
14 return every morning.

15 63. Moreover, the mere passage of the City of Burien's Ordinance also has the effect
16 of forcing homeless individuals from the City of Burien due to substantiated fears of resulting
17 criminal sanctions. The threat of criminal sanctions serves as a deterrent factor allowing the City
18 of Burien to discourage and effectively banish homeless individuals from residing on public land
19 within City limits.

20 64. Furthermore, if the City of Burien attempts to enforce its Ordinance by bussing
21 individuals out of the City limits or threatening to subject them to criminal sanctions if they
22 refuse to comply, this action not only is unlawful but also constitutes banishment from the City
23 of Burien and a violation of the unhoused Plaintiffs' rights to intrastate travel and the freedom to
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1 remain living in Burien.

2 65. The threat of enforcing this ordinance also constitutes cruel punishment. Under
3 this ordinance, homeless individuals residing in the City of Burien will perpetually live in fear of
4 criminal sanctions if they violate a vaguely defined Ordinance. The continued threat of criminal
5 sanctions if an individual refuses to refrain from living outside, is found living on the wrong
6 parcel of public land, or otherwise refuses to be forced to seek shelter outside of the City of
7 Burien is unusually cruel and amounts to banishment.

8 66. Burien’s ordinance further imposes cruel punishment by subjecting individuals
9 who are unable to stay at any shelter due to disabilities or past conduct to criminal enforcement,
10 even if the cause of the past conduct no longer exists or is due to involuntary behavioral health
11 conditions such as alcoholism or substance abuse disorder. The Ordinance places the authority
12 solely within law enforcement to determine if a person’s alcohol use disorder or substance abuse
13 disorder is “voluntary” or not, a task that law enforcement is wholly unsuited to perform.

14 67. The City of Burien intends on punishing homeless individuals as a result of their
15 status as homeless and intends on subjecting homeless individuals to criminal sanctions for
16 engaging in unavoidable conduct – sleeping in public in a city that lacks sufficient shelter
17 capacity.

18 68. For example, as amended, the Ordinance prohibits the act of “living on
19 nonresidential public property ... except at the times stated immediately above.” Living is
20 commonly defined as “the condition of being alive”⁴, thus Burien’s ordinance is facially
21 overbroad and unconstitutional. The ordinance in its breadth and vagueness gives Burien the
22 authority to arrest almost any individual found on nonresidential public property who refuses to
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24 ⁴ Merriam-Webster, *online at <https://www.merriam-webster.com/dictionary/living>*.

1 go to a shelter.

2 69. Enforcement of the Ordinance will force homeless individuals, including the
3 unhoused plaintiffs, to either seek shelter outside of the City of Burien or be subject to criminal
4 sanctions. This amounts to banishment and is cruel punishment.

5 70. By taking steps to enforce this ordinance, Defendants are inflicting cruel
6 punishment on homeless individuals found on public land within city limits contrary to
7 Washington Constitution article 1, § 14.

8 **B. SECOND CLAIM FOR RELIEF: Deprivation of due process guaranteed by the**
9 **Washington Constitution, Article I, § 3 by subjecting homeless individuals to a facially**
10 **vague permitting law and process of designating areas for public camping.**

11 71. Plaintiffs incorporate by reference the allegations above as if fully set forth herein.

12 72. The City of Burien's Ordinance provides the City of Burien Manager unfettered
13 discretion to set-aside certain places for public camping and to authorize camping on public land
14 through a permitting system. Yet, the City of Burien has failed to take any action to designate
15 certain areas for public camping or to explain how the permitting process will work.

16 73. The City has provided no useful guidance as to where homeless individuals can
17 sleep and rest in the City of Burien leading up to passage and enforcement of the city's
18 Ordinance.

19 74. It is also impracticable and unreasonable to expect unhoused individuals to request
20 and wait for a permit in order to camp and survive in the City of Burien. This presumes that
21 homelessness is necessarily a planned event and that it is possible for all homeless individuals to
22 seek and receive a permit that then allows them to utilize public land for living in the City of
23 Burien.

24 75. It is also unreasonable to expect homeless individuals to comply with an

1 Ordinance that permits living only in certain areas if the areas in which camping is permitted
2 remains unidentified.

3 76. Furthermore, as amended, the Ordinance prohibits the act of “living on
4 nonresidential public property ... except at the times stated immediately above.” Living is
5 commonly defined as “the condition of being alive”⁵, thus Burien’s ordinance is overbroad and
6 unconstitutional.

7 77. The ordinance in its breadth and vagueness gives Burien the authority to arrest
8 almost any individual found on nonresidential public property who has no shelter available but
9 who, in the determination of law enforcement, cannot go to a shelter because of the law
10 enforcement officer’s determination that the person’s “voluntary actions” prevent them from
11 going to a shelter. “Voluntary actions”, as defined by Burien, include the statuses of having
12 alcohol use disorder, substance use disorder, or a disability that causes behavioral manifestations
13 that violate shelter program rules. The discretion granted to law enforcement to determine if a
14 person’s disability or behavior is “voluntary” is unconstitutional.

15 78. By failing to designate areas for public camping in a jurisdiction that lacks shelter
16 capacity and by conditioning the right of homeless individuals to live in the City of Burien on
17 obtaining a permit from the City Manager, and by vesting the City Manager with such authority
18 to grant or deny such a permit, the Defendant has deprived Plaintiffs of their right to due process.

19 **C. THIRD CLAIM FOR RELIEF: Violation of Washington Const. art. 1, § 7 by**
20 **threatening to unlawfully seize and remove homeless individuals and their property from**
21 **the City of Burien.**

22 79. Plaintiffs incorporate by reference the allegations above as if fully set forth herein.

23 80. Under the City of Burien’s Ordinance, the City purportedly plans to forcibly
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⁵ Merriam-Webster, *online at <https://www.merriam-webster.com/dictionary/living>*.

1 remove individuals from the City of Burien who are utilizing public land to camp and survive. If
2 Burien residents are found camping on public land, they will be either be forced to leave the City
3 of Burien to seek shelter or risk criminal sanctions.

4 81. Seizing and removing homeless individuals from the City of Burien and
5 transporting them to nearby jurisdictions or otherwise forcing homeless individuals to seek
6 shelter outside the City limits amounts to the disturbance of the private affairs of homeless
7 individuals residing in the City of Burien.

8 82. Furthermore, as the Ambaum encampment sweep demonstrates, the Defendants
9 will also seize and destroy personal property of persons found camping on public land, without
10 due process.

11 83. Furthermore, the constant threat of removal as a result of one's banishment from
12 the City of Burien amounts to a violation of one's right not to be disturbed in their private affairs
13 without authority of law. The City of Burien may not make use of a vague and unenforceable law
14 to evict and displace homeless individuals from its municipality without process or authority of
15 law.

16 84. By seizing and removing homeless individuals from the City of Burien, the City of
17 Burien is violating the rights of homeless individuals to be free from the disturbance of their
18 private affairs pursuant to Washington Constitution, art. 1, §7.

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21 **E. FOURTH CLAIM FOR RELIEF: Violation of the state privileges and immunities**
22 **guaranteed by the Washington Constitution, Article I, § 12 by discriminating against**
23 **people with disabilities by subjecting them to worse treatment irrationally.**

24 85. Plaintiffs incorporate by reference the allegations above as if fully set forth herein.

86. Burien's Ordinance provides that shelter will be considered available even if an

1 individual's condition or disability prevents them from making use of that shelter.

2 87. For example, a person's disability or substance abuse disorder may prevent them
3 from making use of a shelter that may otherwise be available. Regardless, pursuant to the City of
4 Burien's Ordinance, the shelter will be considered available and an individual experiencing
5 homelessness may be subject to enforcement pursuant to the Ordinance if they are found
6 utilizing public land for sleep and survival.

7 88. Under this ordinance, similarly situated individuals are not receiving like treatment.

8 89. Freedom from discrimination is protected by the privileges and immunities clause
9 of the Washington State Constitution, Article I, § 12.

10 90. By subjecting individuals experiencing homelessness who live with a disability to a
11 discriminatory ordinance that subjects them to worse treatment irrationally, the City of Burien is
12 violating the equal protection rights of such individuals.

13 **F. FIFTH CLAIM FOR RELIEF: Violation of the state privileges and immunities**
14 **guaranteed by the Washington Constitution, Article I, § 12 by denying homeless**
15 **residents of Burien the right to reside in Burien, in violation of their right to intrastate**
16 **travel**

17 91. Plaintiffs incorporate by reference the allegations above as if fully set forth herein.

18 92. Burien's Ordinance banishes homeless residents of Burien by making it
19 impracticable for them to live within the city.

20 93. The Ordinance, by banishing Burien's homeless residents, denies them the right to
21 reside in Burien without threat of arrest, in violation of their state constitutional rights to
22 intrastate travel.

23 **G. SIXTH CLAIM FOR RELIEF: Declaratory Judgment, RCW 7.24 et seq.**

24 94. This Court has the power to declare rights, status, and other legal relations between
Plaintiffs and Defendants pursuant to RCW 7.24.010.

1 95. Furthermore, the City of Burien’s Ordinance is a municipal ordinance within the
2 meaning of RCW 7.24.020.

3 96. Plaintiffs contest that the Ordinance, by making it criminal penalty to live in public
4 in a jurisdiction that does not have sufficient shelter capacity, is unconstitutional.

5 97. Plaintiffs further contest that any attempt by the City of Burien to enforce the
6 ordinance would result in a violation of the constitutional rights of homeless individuals residing
7 in the City of Burien.

8 98. As a result, Plaintiffs seek declaratory relief as to whether the City of Burien’s
9 Ordinance is unconstitutional and whether the City of Burien can take any action to enforce the
10 ordinance.

11 99. Plaintiffs are entitled to relief as prayed for below.

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1 **VI. RELIEF REQUESTED**

2 Plaintiffs hereby request that the Court grant the following relief:

- 3 a) Injunctive relief prohibiting the enforcement of the City of Burien’s Ordinance;
- 4 b) Declaratory relief stating that Defendant’s ordinance is unconstitutional on its face or
- 5 as-applied to the Plaintiffs; and
- 6 c) Such other relief as this Court may deem necessary, appropriate, or reasonable.

7 DATED this 3rd day of January, 2023.

8 **NORTHWEST JUSTICE PROJECT**

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