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CAMPUS PARKING PUBLIC HEARING

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January 5, 2021

Via Zoom Videoconference

DIXIE CATTELL & ASSOCIATES  
COURT REPORTERS & VIDEOCONFERENCING  
(360) 352-2506

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APPEARANCES :

FOR DEPARTMENT OF  
ENTERPRISE SERVICES :

MR. JACK ZEIGLER  
MS. MARIJANE KIRK  
MS. COURTNEY KLECK  
MS. ANN LARSON  
DEPARTMENT OF ENTERPRISE SERVICES  
1500 Jefferson Street  
Olympia, WA 98504

1 BE IT REMEMBERED that on Tuesday, January 5, 2020,  
2 at 4:00 p.m., via Zoom videoconference, before REBECCA S.  
3 LINDAUER, Certified Court Reporter, in and for the State of  
4 Washington, the following proceedings were had, to wit:

5

6 MR. ZEIGLER: Good afternoon. My name is Jack  
7 Zeigler, and I am the policy and rules manager for the  
8 Department of Enterprise Services. I have been delegated  
9 authority by the director of Enterprise Services to act on  
10 his behalf as presiding officer at this hearing.

11 I call this hearing to order at 4:00 p.m. on January 5,  
12 2021. DES is holding this public hearing pursuant to the  
13 Administrative Procedures Act, Chapter 34.05 RCW; the Open  
14 Public Meetings Act, and Chapter 42.30 RCW; and DES's  
15 enabling statute, Chapter 43.19 RCW.

16 Enterprise Services, in collaboration with stakeholders  
17 and customers, intends to update and clarify rules governing  
18 parking on the state capitol campus. Enterprise Services is  
19 addressing issues with overnight and extended parking on  
20 Deschutes Parkway that are raising concerns about public  
21 health, safety, and the environment. Because of these  
22 circumstances, changes are necessary to the current parking  
23 and traffic control regulations under Title 200 WAC.

24 The purpose of this hearing is to take public comment  
25 on proposed changes to Chapter 200-200 WAC, parking and

1 traffic control on the capitol grounds. The department has  
2 concluded a robust rulemaking process towards finding a  
3 solution that is sustainable, defensible, and fair. The  
4 department actively sought and included participation from  
5 anyone interested.

6 The preproposal Statement of Inquiry, CR-101, was filed  
7 on November 6, 2019, as WSR 19-24-04 -- I'm sorry -- 094 and  
8 published in Issue 19-22 of the Washington State Register on  
9 November 19 -- November 20, 2019.

10 DES filed a Notice of Proposed Rulemaking, the CR-102,  
11 on December 2, 2020, as WSR -- excuse me -- as WSR  
12 20-24-132. The Office of the Code Reviser published the  
13 notice in Issue 20-24 of the Washington State Register on  
14 December 16, 2020.

15 The hearing will consist of two parts. First, we'll  
16 provide a brief summary of the proposed rules. Second, we  
17 will receive oral testimony from anyone wanting to testify.

18 If you want to testify, please use the Q&A button at  
19 the bottom of your screen to indicate you want to testify.  
20 Please provide your name and if you are testifying on behalf  
21 organization provide the name of the organization as well.  
22 Please note that all public attendees are muted. I will  
23 call on individuals to testify in the order in which they  
24 have submitted their name and unmute the individual  
25 testifying.

1           A court reporter is recording this hearing, and the  
2 transcript will become part of the official rulemaking file.  
3 The official rulemaking file will be made available on our  
4 rulemaking website shortly after we adopt the rules. This  
5 hearing provides an opportunity to receive your comments.  
6 It is not intended as an interactive forum or as a question  
7 and answer session.

8           I would like now to introduce those individuals who are  
9 sitting with me today on this hearing panel. First, we have  
10 MariJane Kirk, assistant director of the business resources  
11 division.

12           MS. KIRK: Good afternoon. This is MariJane Kirk.

13           MR. ZEIGLER: We also have with us Courtney Kleck,  
14 fleet operations and parking services manager also of the  
15 business resources division.

16           MS. KLECK: Hi, everybody. So I'm going to show  
17 my video right now, but I'm actually going take my video off  
18 in a moment. I'm going to be behind the scenes doing a lot  
19 of the administrative activities and functions.

20           MR. ZEIGLER: Providing court reporter services,  
21 Ms. Becky Lindauer from Cattell and Associates.

22           THE COURT REPORTER: Hi.

23           MR. ZEIGLER: And also with us today is Ann  
24 Larson, director of government relations for the Department  
25 of Enterprise Services.

1 MS. LARSON: Hi. Thank you for joining us.

2 MR. ZEIGLER: At this time, MariJane Kirk will  
3 summarize the proposed rule.

4 MS. KIRK: Thank you, Jack.

5 The Department of Enterprise Services, DES, began  
6 addressing issues with overnight and extended parking on  
7 Deschutes Parkway affecting public health, safety, and the  
8 environment in the fall of 2019. The agency filed a formal  
9 notice in November 2019 to conduct rulemaking to adopt  
10 enforceable restrictions related to parking on the capitol  
11 campus.

12 Rulemaking was paused in March 2020 when resources were  
13 diverted to support the state's response to the COVID  
14 pandemic. Rulemaking restarted in September 2020.

15 DES received a great deal of information and feedback  
16 through discussions with neighboring jurisdictions, law  
17 enforcement, community groups, campus neighbors, organizers  
18 of campus events, the general public, and campus parkers.  
19 We processed this information through our decision-making  
20 framework, which included, number one, a rule that aligns  
21 with DES's responsibilities regarding stewardship of the  
22 capitol campus in alignment with the campus purpose and use  
23 as defined in RCW, WAC, and the campus master plan.

24 Second, a rule that allows for flexibility when setting  
25 time-limited and permitted parking times that support the

1 campus purpose and use and fall within DES statutory  
2 authority.

3 And, third, consideration of parking regulation  
4 enforcement by Washington State Patrol in the context of an  
5 implementation plan coordinated with regional partners.

6 DES also engaged a community sounding board to gain  
7 detailed feedback on an initial draft rule. Interest  
8 categories on the sounding board were regional coordination,  
9 issues affecting unhoused individuals, safety and security,  
10 public health, campus business use, campus events,  
11 recreational use, historic preservation, and campus  
12 neighbors.

13 DES is in the final phase of this rulemaking effort,  
14 seeking public comment on the proposed rule. The proposed  
15 rule makes changes to four areas of our current rule.  
16 First, clarifies the authority of the DES director to  
17 establish enforceable parking restrictions on the capitol  
18 campus and where that authority applies, including that it  
19 applies to Deschutes Parkway.

20 Second, clarifies that DES must take measures that make  
21 it clear where parking restrictions exist on the capitol  
22 campus to include signage, paint marks, barricades,  
23 et cetera.

24 Third, better defines permitted parking and types of  
25 permitted parking included -- including for campus events.



1           And, fourth, clarifies that the rules for permitted  
2 parking space apply to all parkers, not just state  
3 employees, by moving language from Section 200-200-200 in  
4 the rule to Section 200-200-193.

5           MR. ZEIGLER: I will now open up this hearing to  
6 public testimony. The first person to testify is Carrie  
7 Graf. Please state your name and organization for the  
8 record, Carrie.

9           MS. GRAF: Yes, hello. My name is Carrie Graf,  
10 and I'm an attorney with the Northwest Justice Project.

11           MR. ZEIGLER: Okay.

12           MS. GRAF: Great. Thank you so much. Go ahead.

13           MR. ZEIGLER: Go ahead.

14           MS. GRAF: So as I just stated, I'm an attorney  
15 with the Northwest Justice Project, which is a statewide  
16 legal aid organization. One of the issues that we focus on  
17 is the rights of homeless and vehicle-sheltered individuals,  
18 and I'm based in our Olympia office. I will submit a more  
19 thorough version of my comments made today in writing later  
20 this week along with Columbia Legal Services and Just  
21 Housing Olympia.

22           As a big picture, my organization, the Northwest  
23 Justice Project, shares concerns of Columbia Legal Services  
24 and Just Housing that DES is engaging in this rulemaking  
25 process primarily or solely to remove people living in RVs

1 and other vehicles along Deschutes Parkway. The result of  
2 the rules that currently stands has been simply to shuffle  
3 these individuals to Olympia and other Thurston County  
4 jurisdictions.

5 Along with Columbia Legal Services and Just Housing  
6 Olympia, Northwest Justice Project is asking DES to pause  
7 its rulemaking and instead engage with Thurston County and  
8 the City of Olympia in regional efforts to create a safe  
9 parking lot for vehicle-sheltered individuals. Thurston  
10 County recently designated funds towards creation of such a  
11 lot, and Olympia has designated a parcel of land. We  
12 believe it would make more sense for DES to first direct  
13 resources towards this regional creation of a safe lot and  
14 then, once there is a place for people living in vehicles to  
15 go, work on creating parking rules for Deschutes Parkway.

16 Pushing ahead with this rule as it currently stands  
17 only increases the burden on Olympia and other neighboring  
18 jurisdictions. And my organization, Northwest Justice  
19 Project, has two specific comments to make today in addition  
20 to those given by Columbia Legal Services and Just Housing.

21 First, there are a series of recent and pending legal  
22 cases that call into the question the legality of rules like  
23 that proposed by DES that would essentially punish people  
24 for being homeless. I would like to note that my  
25 organization, Northwest Justice Project, is currently suing

1 the City of Lacey over the constitutionality of their 2019  
2 ordinance that, like DES's proposed rule, resulted in  
3 expulsion of people living in RVs. That case is currently  
4 being considered by the U.S. District Court of Western  
5 Washington in Tacoma, and I will note that a number of  
6 people forced out of Lacey due to this ordinance ended up  
7 along Deschutes Parkway, highlighting both the  
8 ineffectiveness of these types of laws and the need for a  
9 regional solution.

10 Second, Northwest Justice Project is concerned about  
11 the impact of this rule on disabled individuals. One of the  
12 most common reasons that people lose housing is because of  
13 serious disability, and a high proportion of individuals  
14 living in vehicles are disabled. Several months ago the  
15 City of Olympia considered sweeping people living in  
16 vehicles along Ensign Road, some of whom had moved there  
17 from Deschutes Parkway. Many of them lived with ongoing  
18 serious disabilities and were likely to become sick or even  
19 die if forced to leave. They invoked the Americans with  
20 Disabilities Act and the Washington Law Against  
21 Discrimination to request more time to stay and make  
22 alternative plans. They were granted this modification  
23 request but only with extensive advocacy and support.

24 The situation of the Ensign Road residents highlights  
25 two things: one, that government entities, like the City of

1 Olympia and DES, likely have obligations under the ADA and  
2 Washington Law Against Discrimination to modify parking  
3 rules that impact disabled people who live in their  
4 vehicles.

5 And, second, that situation highlighted the government  
6 entities seeking to regulate parking should create and make  
7 known an easy process for requesting modifications to those  
8 parking regulations. DES's proposed rule regulating parking  
9 on Deschutes Parkway does not address the impact it is  
10 likely to have on disabled people who live in vehicles nor  
11 does it address the rights of disabled individuals. In  
12 light of this, DES should pause its rulemaking efforts to  
13 minimize serious harm to some of the most vulnerable members  
14 of our community.

15 Alternatively, if DES does go forward with implementing  
16 the proposed rule, the rule should include a simple process  
17 by which disabled vehicle-sheltered individuals can request  
18 modifications under the rule under the ADA and Washington  
19 Law Against Discrimination.

20 Thank you so much for your time today and consideration  
21 of my comments. And as mentioned, you will receive those  
22 comments in written form by the end of the week.

23 MR. ZEIGLER: Thank you, Ms. Graf. I appreciate  
24 that.

25 MS. GRAF: Thanks.

1 MR. ZEIGLER: Okay. Next signed up to testify is  
2 Tyler Gundel with Just Housing Olympia.

3 So, Tyler, go ahead and state your name and the  
4 organization you represent and testify.

5 MS. GUNDEL: Hi. My name is Ty Gundel, and I am  
6 providing testimony on behalf of Just Housing Olympia.

7 MR. ZEIGLER: Thank you.

8 MS. GUNDEL: So Just Housing Olympia is a Thurston  
9 County-based organization with both housed and unhoused  
10 members that provide safety, health, and advocacy support to  
11 people living in local encampments. In recent years we have  
12 worked especially close with people living in their  
13 vehicles, including those who used to live along Deschutes  
14 Parkway. We are also currently providing intensive support  
15 for those living along Ensign Road in Olympia, and this  
16 includes working with local partners and other neighboring  
17 jurisdictions to participate in the creation of safe parking  
18 options in Thurston County.

19 We, like Carrie mentioned, believe that the rule  
20 changes proposed by the Department of Enterprise Services  
21 will only serve to cause harm to individuals living in their  
22 vehicles and will also exacerbate the ongoing housing crisis  
23 in Thurston County. Because of this, our ask is also that  
24 DES cease efforts to implement these proposed rule changes  
25 and instead redirect resources towards supporting regional

1 and ongoing efforts to create legal and safe parking options  
2 for people living in their vehicles.

3 It is clear to us that DES -- that the DES proposed  
4 rule changes are being proposed in direct response to our  
5 region's growing homeless crisis and specifically the  
6 increased number of people we saw living in their vehicles  
7 along Deschutes Parkway last year. In recent years Thurston  
8 County has witnessed a huge increase in the number of people  
9 living without shelter or housing in our community,  
10 including the number of people living in their vehicles.

11 Thurston County's 2020 point in time count showed a  
12 rise in the number of individuals sleeping in their vehicles  
13 and RVs in 2019. Families and individuals living in their  
14 vehicles are struggling to survive. For many individuals  
15 experiencing homelessness in Olympia, their vehicle is their  
16 home, and it is their only form of shelter and their last  
17 refuge before resorting to sleeping unsheltered in a tent in  
18 the woods or on the street. And, in our experience,  
19 demographically a significant number of those living in  
20 their vehicles in our community are elderly and chronically  
21 disabled.

22 In addition to the rapid increases in the number of  
23 people living in their vehicles in Thurston County, we have  
24 simultaneously witnessed the ineffective and unjust  
25 shuffling around of people who are just trying to survive.

1 Just in the last year and a half, we have witnessed this  
2 vulnerable group of community members being pushed around  
3 from place to place and from jurisdiction to jurisdiction  
4 while still no safe and legal option has been created for  
5 people to relocate to.

6 We have always been opposed to this, what we call a  
7 Whac-A-Mole approach, the displacement and punishment as a  
8 response to homelessness, and we see these proposed rule  
9 changes as an extension of this harmful and ineffective  
10 response to homelessness.

11 We also see that DES holds some responsibility for the  
12 shuffling around of these vulnerable community members.  
13 Less than six months ago over 30 people living in their  
14 vehicles that were parked along Deschutes Parkway were  
15 displaced in August of 2020. And what our community saw as  
16 a result of that was an instantaneous and drastic increase  
17 in the number of people living along Ensign Road in Olympia.  
18 As Carrie mentioned, that resulted in City of Olympia trying  
19 to remove folks, but that was halted by an affidavit of the  
20 Attorney General's Office that warned that it could violate  
21 the eviction moratorium.

22 However, since the stay of removal, the City of Olympia  
23 and Thurston County have doubled down on their efforts to  
24 try and create safe parking options for our community. The  
25 City of Lacey and Tumwater are also at the table. DES

1 continues not to be at the table. And so these efforts, in  
2 our view, represent significant progress for our community's  
3 regional response to homelessness, and we're very hopeful  
4 that it will result in safe parking options for folks in the  
5 future, but we do see DES's efforts to implement the  
6 proposed rule changes currently under consideration as  
7 something that directly conflicts with these coordinated  
8 efforts and which also threatens to increase the burden  
9 that's currently being carried by --

10 THE COURT REPORTER: Excuse me. You're breaking  
11 up.

12 MS. GUNDEL: Sorry.

13 THE COURT REPORTER: You said "carried by," and  
14 then you broke up.

15 MS. GUNDEL: Just carried by these -- carried out  
16 by these other local jurisdictions. So, again, as Carrie  
17 alluded to, when we see these types of rules put in place,  
18 more often than not we just see people move to other  
19 locations. The root issues are not addressed. So we see  
20 that this will likely just increase the burden of other  
21 local jurisdictions like Thurston County, City of Lacey,  
22 City of Olympia as they continue to struggle --

23 THE COURT REPORTER: Excuse me. They -- excuse  
24 me. "They continue to struggle," then you faded off.

25 MS. GUNDEL: Yeah. Struggle to respond to our



1 regional housing and homelessness crisis.

2 THE COURT REPORTER: Thank you.

3 MS. GUNDEL: Yes, of course. Thank you.

4 So, again, just in closing, we again urge DES to go  
5 back to the drawing board essentially and redirect resources  
6 towards trying to implement solutions that are more likely  
7 to effectively address these issues. Thank you for your  
8 time.

9 MR. ZEIGLER: Thank you, Ms. Gundel.

10 Next up to testify is Sarah -- I apologize if I  
11 mispronounce your last name -- Nagy with Columbia Legal  
12 Services. Go ahead.

13 MS. NAGY: Thank you. My name is Sarah Nagy. I'm  
14 a staff attorney with Columbia Legal Services. We're a  
15 statewide nonprofit organization that advocates for laws  
16 that advance social, economic, and racial equity for people  
17 living in poverty. I work here locally in our Olympia  
18 office, and I thank you very much for this opportunity to  
19 offer comment to the proposed rules.

20 Our organization has represented and advocated on  
21 behalf of houseless people and vehicle residents, and as the  
22 proposed changes will involve restricting overnight and  
23 extended parking on Deschutes Parkway, we, like the  
24 Northwest Justice Project and Just Housing Olympia, are  
25 concerned that they pose a significant risk of harm to

1 people who live in their vehicles. In particular, we're  
2 concerned that the threat of no notice impound that the  
3 proposed rules create raises significant legal and  
4 constitutional questions.

5 Recently in the case of City of Seattle v. Steven Long,  
6 the Court of Appeals for Division I held that the impound  
7 process for vehicles -- that is where someone's vehicular  
8 home is held under threat of forced sale until they pay or  
9 agree to pay their impound debts -- violates Washington  
10 State's Homestead Act. The case also involves issues such  
11 as whether a vehicle home can be impounded when there are  
12 other alternatives to impoundment and whether excessive  
13 fines and fees can be imposed on people in deep poverty.  
14 This case is currently pending before the Washington Supreme  
15 Court, and a decision in this case can potentially impact  
16 parking restrictions and impound laws on a statewide basis.  
17 It's been recommended that jurisdictions review their  
18 impound and towing procedures in light of this ruling.

19 In light of these pending changes and increased  
20 protection for vehicle residents, we urge DES to seek  
21 solutions other than impoundment for vehicle residents who  
22 have no legal parking option in Thurston County. We're  
23 asking that DES identify alternative legal places for people  
24 to park before enacting stricter enforcement of parking  
25 restrictions which will only increase the physical and

1 financial burden on houseless vehicle residents.

2 Thank you very much for your time. I will also submit  
3 written comment later this week. Thank you.

4 MR. ZEIGLER: Thank you very much.

5 No one else has signed up to testify at this time.

6 Does anyone else wish to testify? If so, please indicate  
7 now using the Q&A feature.

8 So no one else has signed up; so at this time we'll go  
9 off the record. We will go back on the record if someone  
10 arrives and wishes to testify before the conclusion of this  
11 hearing at 6:00. Thank you.

12 (Recessed at 4:22 p.m.)

13 (Reconvened at 5:55 p.m.)

14 MR. ZEIGLER: It is now 5:55. No one else has  
15 shown up to testify. I would like to thank you for coming.  
16 If you wish to submit written comments, we are accepting  
17 comments through our online rules proposal comment tool. In  
18 addition, we're accepting input on the rule implementation  
19 framework under development. Links to the online comments  
20 and to the rule implementation framework survey are  
21 available on our website at [des.wa.gov/about/policies-laws-](https://des.wa.gov/about/policies-laws-rules/rulemaking)  
22 [rules/rulemaking](https://des.wa.gov/about/policies-laws-rules/rulemaking). DES accepts comments and input through  
23 close of business Friday, January the 8th, 2021. This  
24 public hearing is concluded at 5:56.

25 (Concluded at 5:56 p.m.)

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C E R T I F I C A T E

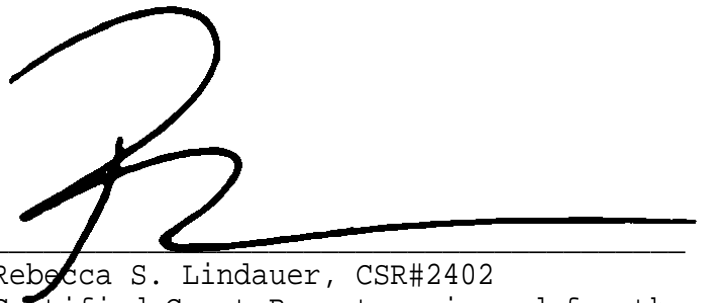
I, REBECCA S. LINDAUER, a Certified Court Reporter in and for the State of Washington, residing at Lacey, do hereby certify:

That the foregoing public hearing discussion was taken before me and completed on the 5th day of January 2021, and thereafter transcribed by me by means of computer-aided transcription; that the public hearing is a full, true, and complete transcript of the proceedings;

That I am not a relative, employee, attorney, or counsel of any party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the public hearing discussion and promptly mailing the same to MR. JACK ZEIGLER.

IN WITNESS HEREOF, I have hereunto set my hand this 14th day of January 2021.



Rebecca S. Lindauer, CSR#2402  
Certified Court Reporter, in and for the  
State of Washington, residing at Lacey.

<b>0</b>	<b>5:55</b> 18:13,14	<b>aid</b> 8:16	<b>breaking</b> 15:10
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