



MONROE PLANNING COMMISSION

SUBJECT:	DISCUSSION - Proposed Code Amendments Regarding Temporary Homeless Encampments
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DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
08/12/2019	Community Development	Ben Swanson Shana Restall	Shana Restall	New Business # 1

Discussion: 08/12/2019
Public Hearing:

- Attachments:**
1. DRAFT Temporary Encampments Code (Clean)
 2. DRAFT Temporary Encampments Code (Track Changes Version)
 3. Memo from the Washington City Insurance Authority (WCIA)
 4. Section 35.21.915 RCW, Temporary Encampments for the Homeless—Hosting by Religious Organizations Authorized—Prohibitions on Local Actions

REQUESTED ACTION: None, this meeting is informational only. A public hearing on this topic will take place at a later date.

POLICY CONSIDERATIONS

Temporary homeless encampments, which provide temporary shelter to homeless persons, have become more frequent in the Puget Sound area over the past decade. The Washington State legislature adopted Engrossed House Bill 1956 on March 23, 2010 that authorizes religious organizations to host temporary encampments and limits a local government’s ability to regulate these encampments. Specifically, it prohibits local governments from enacting an ordinance or regulation with respect to the provision of homeless housing that imposes conditions other than those necessary to protect public health and safety and do not substantially burden the decisions or actions of a religious organization. Engrossed House Bill 1956 also prohibits the imposition of permit fees in excess of the actual costs associated with the review and approval of the required permit applications for temporary homeless encampments. The provisions of Engrossed House Bill 1956 that are applicable to code cities are codified in RCW 35A.21.360.

DESCRIPTION/BACKGROUND

Over the last decade, temporary homeless encampments, sometimes called tent cities, have become an often-used mechanism for providing shelter for homeless individuals. These encampments usually rotate between various host properties, which are generally owned by religious organizations. On March 6, 2007, the Monroe City Council adopted Ordinance No. 003/2007, which added a chapter to the zoning code to regulate temporary homeless encampments within the City. However, in 2010, the state adopted legislation that limited a local government’s purview over these encampments. RCW 35A.21.360 authorizes religious organizations to host temporary homeless encampments and states that cities may not:

- a. Impose conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

- b. Require a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise require the religious organization to indemnify the municipality against such liability.

The City's code was not updated at the time the state law was adopted. The proposed amendments are intended to bring the code into compliance with state law.

FISCAL IMPACT

N/A

TIME CONSTRAINTS

On June 11, 2019, the City adopted Ordinance No. 014/2019, which established interim provisions to regulate temporary encampments. The interim ordinance is in effect for no longer than six months per RCW 35A.63.220, Moratoria, Interim Zoning Controls—Public Hearing—Limitation on Length.

**CHAPTER 22.90
TEMPORARY ENCAMPMENTS**

Sections:

- 22.90.010 General provisions.
- 22.90.020 Application and review process.

22.90.010 General provisions.

The following standards shall apply to all temporary homeless encampments within the City of Monroe:

A. A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings. An application for a temporary homeless encampment must include a local religious institution or other community-based organization as a sponsor or managing agency.

B. The temporary homeless encampment shall be located a minimum of twenty feet from the property line of abutting properties.

C. Any exterior lighting must be directed downward and contained within the temporary tent encampment.

D. The maximum density of temporary homeless encampments is one occupant per four hundred square feet of parcel area; provided, that the maximum number of occupants within a temporary homeless encampment does not exceed one hundred regardless of the size of the parcel.

E. Off-street parking for a minimum of five vehicles shall be provided on-site.

F. A transportation plan is required, which shall include provisions for transit services.

G. The managing agency shall ensure compliance with all applicable State laws and regulations, the Monroe Municipal Code, Fire District 7 directives, and Snohomish Health District standards concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems, and fire resistant materials.

H. The managing agency shall ensure the temporary homeless encampment's compliance with all applicable public health regulations, including but not limited to the following:

1. Sanitary portable toilets, which shall be set back at least forty feet from all property lines;
2. Hand washing stations provided near the toilets and food preparation areas;
3. Food preparation or service tents; and
4. Refuse receptacles.

I. The sponsor and the managing agency shall enforce a city-approved code of conduct for the encampment, and shall implement all directives from the city and other applicable public agencies within the specified time period.

J. The sponsor and/or the managing agency shall appoint a member to serve as a point of contact for the temporary homeless encampment. At least one representative of the sponsor, managing agency and/or an occupant of the encampment shall be on duty at all times. The names of the on-duty members and their contact information shall be posted daily at the temporary encampment.

K. Solid waste receptacles shall be provided on-site throughout the temporary homeless encampment. A regular trash patrol in the immediate vicinity of the encampment site shall be provided.

L. The managing agency shall take all reasonable and legal steps to obtain verifiable identification from prospective encampment occupants and use the identification to obtain sex offender and warrant checks from the appropriate agency. The sponsor and the managing agency

shall keep a log of names and dates of all people who stay overnight in the temporary homeless encampment.

M. An adequate supply of potable water shall be available on-site at the temporary homeless encampment at all times. Adequate toilet facilities shall be provided on-site, as provided by MMC 22.90.010(H). All applicable city, county, health department, and state regulations pertaining to drinking water connections and solid waste disposal shall be met.

N. Periodic inspections of the temporary homeless encampment by public officials from agencies with applicable regulatory jurisdiction, including without limitation the fire marshal, may be conducted at reasonable times.

O. Open flames are prohibited in a temporary homeless encampment.

P. Temporary homeless encampments shall not cause or permit the intrusion of noise exceeding the thresholds set forth in WAC 173-60-040.

Q. The temporary homeless encampment shall ensure a minimum separation of six feet between structures, including tents.

R. An adequate power supply to the temporary homeless encampment is required; provided, that a properly permitted and installed construction site type electrical boxes may be approved by the zoning administrator.

S. If temporary structures other than tents are used for habitation within the encampment, each such structure shall have a door, at least one egress window, and shall be equipped with a functional smoke detector.

T. Only wired electrical heating is allowed within tents and other temporary structures used for habitation.

U. All tents exceeding 300 square feet, and all canopies exceeding 400 square feet, shall be comprised of flame retardant materials.

V. Reasonable additional conditions of approval may be established as deemed necessary by the zoning administrator in order to protect the health, safety and welfare of the public and the occupants of the temporary homeless encampment, as well as ensuring land use compatibility and minimizing potential impacts to neighboring properties.

W. The city may not grant a permit for a temporary tent encampment at the same location more frequently than once in every three-hundred-sixty-five-day period.

X. For temporary encampments located on property that is owned or controlled by a religious organization, as defined in RCW 35A.21.360, conditions of approval shall comply with RCW 35A.21.360 and applicable state and federal law concerning religious exercise.

Y. Temporary tent encampments may be approved for a period not to exceed ninety days for every three-hundred-sixty-five-day period. The said permit shall specify a date by which the use shall be terminated and the site vacated and restored to its pre-encampment condition.

22.90.020 Application and Review Process.

A. Application. The completed application for a temporary homeless encampment, which shall be signed by the managing agency or sponsor ("applicant"), shall contain at a minimum contact information for the applicant, and detailed information regarding the following:

1. How the proposed encampment will meet the requirements set forth in this chapter;
2. Potential adverse effects that the proposed encampment will likely have on neighboring properties and the community;
3. Measures to mitigate such adverse effects;
4. A proposed written code of conduct for the encampment;
5. Measures to meet the applicable requirements of the International Fire Code; and
6. Certification that the applicant has taken and will take all reasonable and legal steps to obtain verifiable identification from current and prospective encampment residents and used the identification to obtain sex offender and warrant checks from appropriate agencies. The form of the notice and the application shall be provided by the zoning administrator upon request by the applicant.

B. Public notice.

1. A notice of application for a temporary homeless encampment shall be provided prior to the issuance of the zoning administrator's decision approving, approving with conditions, or denying the application. The purpose of the notice is to inform the surrounding community of the application. Due to the administrative and temporary nature of the permit, there is no comment period. The notice shall contain, at a minimum:

- a. The date the application was submitted;
- b. The project location;
- c. The proposed duration and operation of the encampment;
- d. The conditions that will likely be placed on the operation of the encampment;
- e. The requirements of the written code of conduct, if applicable;
- f. The name and contact information of the applicant; and
- g. Directions regarding how to obtain more information regarding the encampment and the applicant.

2. The community development department shall distribute the notice of application as follows:

- a. The notice of application, or a summary thereof, will be published in the official newspaper of the city at least seven calendar days prior to the zoning administrator's decision approving, approving with conditions, or denying the application.
- b. The notice of application, or a summary thereof, will be distributed to owners of all property within five hundred feet of any boundary of the subject property and residents and tenants adjacent to the subject property at least fourteen calendar days prior to the zoning administrator's decision approving, approving with conditions, or denying the application.

C. Community Meeting. A minimum of seven days prior to the issuance of the decision approving, approving with conditions or denying the application and 14 calendar days prior to the anticipated start of a temporary homeless encampment, the applicant shall conduct a public informational meeting by providing mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the community meeting is to provide the surrounding community with information regarding the proposed duration and operation of the encampment, conditions that will likely be placed on the operation of the encampment, requirements of the written code of conduct, and to answer questions regarding the encampment.

D. Application review. The zoning administrator shall issue a decision approving, approving with conditions, or denying the application on a temporary homeless encampment application within fourteen days of the date that the application was submitted.

E. Decision. A notice of decision for the temporary encampment, or summary thereof, shall contain the decision of the zoning administrator approving, approving with conditions, or denying the application, and the appeal procedure, and be distributed as required for notice of application within four business days after the decision.

F. Appeal. The zoning administrator's decision approving, approving with conditions, or denying the application is appealable in the same manner as a Type I permit per MMC 22.84.080.

CHAPTER 22.90
TEMPORARY ENCAMPMENTS

Sections:

~~22.90.010~~ ~~((Regulations Established))~~ General provisions.

~~22.90.020~~ ~~((Standards for Homeless Encampments.))~~

~~((22.90.030—Frequency and Duration of Temporary Use.))~~

~~((22.90.040))~~ Application and review process.

~~((22.90.050—No Intent to Create Protected/Benefited Class.))~~

22.90.010 ~~((Regulations Established.~~

~~Regulations concerning the establishment and processing of applications for temporary homeless encampments in the city are hereby established. Establishing such facilities contrary to the provisions of this chapter is prohibited. Temporary use permits pursuant to Chapter 22.60 MMC, Temporary Uses, shall be required for homeless encampments in the city. With the exception of temporary tent encampment permits for homeless encampment facilities that are in full compliance with this chapter, applications for temporary tent encampment permits, land use approvals, or any other permit or approval, in any way associated with such facilities shall not be accepted, processed, issued, granted, or approved. If a homeless encampment is established in violation of this chapter or if after temporary tent encampment permit is issued for the same, the zoning administrator determines that the permit holder has violated this chapter or any condition of the permit, the temporary tent encampment, its sponsor and managing agency shall be subject to code enforcement under MMC Chapter 1.04 MMC. All activities associated with the temporary encampment shall cease, and the site shall be vacated and restored to its pre-encampment conditions.~~

~~22.90.020~~ ~~Standards for Homeless Encampments))~~ General provisions.

~~The following standards shall apply to all temporary homeless encampments within the City of Monroe((for the purposes of application and approval of a temporary use permit)):~~

~~A. A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings. An application for a temporary homeless encampment must include a local religious institution or other community-based organization as a sponsor or managing agency.~~

~~((A))B. The temporary homeless encampment shall be located a minimum of twenty feet from the property line of abutting properties((containing commercial, industrial, office, and multifamily residential uses. The encampment shall be located a minimum of forty feet from the property line of abutting properties containing single-family residential uses.~~

~~B. No encampment shall be located within a critical area or its buffer as defined by MMC Chapter 22.80, Critical Areas.~~

~~C. A six-foot tall sight-obscuring fencing is required around the perimeter of the encampment, provided they do not create a sight obstruction at the street or street intersections or curbs as determined by the city engineer, unless the hearing examiner~~

determines that there is sufficient vegetation, topographic variation, or other site condition such that fencing would not be needed.)

~~((D))~~C. Any ~~E~~ exterior lighting must be directed downward and contained within the temporary tent encampment.

~~((E))~~D. ~~((The maximum number of residents at a temporary tent encampment site shall be determined by the hearing examiner taking into consideration site conditions, but in no case shall the number be greater than one hundred people.))~~The maximum density of temporary homeless encampments is one occupant per four hundred square feet of parcel area; provided, that the maximum number of occupants within a temporary homeless encampment does not exceed one hundred regardless of the size of the parcel.

~~((F))~~E. ~~((On-site parking of the sponsor shall not be displaced unless sufficient parking remains available for the host's use to compensate for the loss of on-site parking or a shared parking agreement is executed with adjacent properties pursuant to the criteria of MMC Chapter 22.44, Parking Standards and Design.))~~Off-street parking for a minimum of five vehicles shall be provided on-site.

~~((G))~~F. A transportation plan is required, which shall include provisions for transit services.

~~((H. ————— No children under eighteen are allowed to stay overnight in the temporary tent encampment, unless circumstances prevent a more suitable overnight accommodation for the child and parent or guardian. If a child under the age of eighteen attempts to stay at the encampment, the sponsor and the managing agency shall immediately contact Child Protective Services and shall actively endeavor to find alternative shelter for the child and any accompanying parent or guardian.~~

~~I. The sponsor or managing agency shall provide and enforce a written code of conduct, which not only provides for the health, safety and welfare of the temporary tent encampment resident, but also mitigates impacts to neighbors and the community. Said code shall be incorporated into the conditions of approval.))~~

~~((J))~~G. The ~~((sponsor and the))~~ managing agency shall ensure compliance with all applicable Washington State laws and regulations, the Monroe Municipal Code, Fire District 37 directives, and Snohomish Health District standards concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems, and fire resistant materials. ~~((The sponsor and the managing agency shall permit inspections by state and/or local agencies and/or departments to ensure the same, and implement all directives resulting therefrom within the specified time period.~~

~~K))~~H. The ~~((sponsor and))~~ managing agency shall ensure the temporary homeless encampment's compliance with all applicable public health regulations, including but not limited to the following, ~~will be met:~~

1. Sanitary portable toilets, which shall be set back at least forty feet from all property lines;
2. Hand washing stations by provided near the toilets and food preparation areas;
3. Food preparation or service tents; and
4. Refuse receptacles.

I. The sponsor and the managing agency shall enforce a city-approved code of conduct for the encampment, and shall implement all directives from the city and other applicable public agencies within the specified time period.

~~((L. Public health guidelines on food donations and food handling and storage, including proper temperature control, shall be followed and encampment residences involved in food donations and storage shall be made aware of these guidelines consistent with the Snohomish Health District requirements.))~~

~~((M))~~J. The sponsor and/or the managing agency shall appoint a member to serve as a point of contact for the temporary homeless encampment. ~~((for the Monroe police department)).~~ At least one representative of the sponsor, managing agency and/or an occupant of the encampment~~appointed resident~~ shall be on duty at all times. The names of the on-duty members and their contact information shall be posted daily at the temporary encampment.

~~((N))~~K. Solid waste receptacles ~~Facilities for dealing with trash~~ shall be provided on-site throughout the temporary homeless encampment. A regular trash patrol in the immediate vicinity of the ~~temporary tent~~ encampment site shall be provided.

~~((O))~~L. The ~~((sponsor and the))~~ managing agency shall take all reasonable and legal steps to obtain verifiable identification from ~~((current and))~~ prospective encampment occupants residents and use the identification to obtain sex offender and warrant checks from the appropriate agency.~~((All requirements by the Monroe Police Department related to identified sex offenders or prospective residents with warrants shall be met.))~~ The sponsor and the managing agency shall keep a log of names and dates of all people who stay overnight in the temporary homeless tent encampment.

~~((P. The sponsor and the managing agency shall immediately contact the Monroe police department if someone is rejected or ejected from the encampment when the reason for rejection or ejection is an active warrant or a match on a sex offender check, or if, in the opinion of the on-duty member or on-duty security staff, the rejected/ejected person is a potential threat to the community.~~

~~Q. Temporary structures that cover an area in excess of one hundred twenty square feet (11.16 square meters), including connecting areas or spaces with a common means of egress or entrance which are used or intended to be used for the gathering together of ten or more persons, shall not be erected, operated or maintained for any purpose without obtaining a permit from the building official pursuant to Section 3103 of the International Building Code as adopted by the city of Monroe.~~

~~R. The sponsor, the managing agency and temporary tent encampment residents shall cooperate with other providers of shelters and services for homeless persons within the city and shall make inquiry with these providers regarding the availability of existing resources.~~

~~S. Where deemed necessary by the hearing examiner, the sponsor and/or the managing agency shall procure and maintain in full force, through the duration of the temporary tent encampment, comprehensive general liability insurance with a minimum coverage of one million dollars per occurrence/aggregate for personal injury and property damage.~~

~~T. Where deemed necessary, the hearing examiner shall have the authority to impose conditions to the issuance of the permit for a temporary tent encampment to mitigate effects on the community upon finding that said effects are materially detrimental to the public welfare or injurious to the property or improvements in the vicinity.~~

~~U. The sponsor and/or managing agency shall provide before encampment photos of the host site with the application. Upon vacation of the temporary tent encampment, all temporary structures and debris shall be removed from the host site within one calendar week.)~~

M. An adequate supply of potable water shall be available on-site at the temporary homeless encampment at all times. Adequate toilet facilities shall be provided on-site, as provided by MMC 22.90.010(H). All applicable city, county, health department, and state regulations pertaining to drinking water connections and solid waste disposal shall be met.

- N. Periodic inspections of the temporary homeless encampment by public officials from agencies with applicable regulatory jurisdiction, including without limitation the fire marshal, may be conducted at reasonable times.
- O. Open flames are prohibited in a temporary homeless encampment.
- P. Temporary homeless encampments shall not cause or permit the intrusion of noise exceeding the thresholds set forth in WAC 173-60-040.
- Q. The temporary homeless encampment shall ensure a minimum separation of six feet between structures, including tents.
- R. An adequate power supply to the temporary homeless encampment is required; provided, that a properly permitted and installed construction site type electrical boxes may be approved by the zoning administrator.
- S. If temporary structures other than tents are used for habitation within the encampment, each such structure shall have a door, at least one egress window, and shall be equipped with a functional smoke detector.
- T. Only wired electrical heating is allowed within tents and other temporary structures used for habitation.
- U. All tents exceeding three hundred square feet, and all canopies exceeding four hundred square feet, shall be comprised of flame retardant materials.
- V. Reasonable additional conditions of approval may be established as deemed necessary by the zoning administrator in order to protect the health, safety and welfare of the public and the occupants of the temporary homeless encampment, as well as ensuring land use compatibility and minimizing potential impacts to neighboring properties.
- W. The city may not grant a permit for a temporary tent encampment at the same location more frequently than once in every three-hundred-sixty-five-day period.
- X. For temporary encampments located on property that is owned or controlled by a religious organization, as defined in RCW 35A.21.360, conditions of approval shall comply with RCW 35A.21.360 and applicable state and federal law concerning religious exercise.
- Y. Temporary tent encampments may be approved for a period not to exceed ninety days for every three-hundred-sixty-five-day period. The said permit shall specify a date by which the use shall be terminated and the site vacated and restored to its pre-encampment condition.

~~((22.90.030— Frequency and Duration of Temporary Use.~~

~~The city may not grant a permit for a temporary tent encampment at the same location more frequently than once in every three-hundred-sixty-five-day period. Temporary tent encampments may be approved for a period not to exceed ninety days for every three-hundred-sixty-five-day period. The said permit shall specify a date by which the use shall be terminated and the site vacated and restored to its pre-encampment condition.))~~

~~((22.90.040))~~**22.90.020 Application and review process.**

~~A. ((Notice Requirements for Temporary Tent Encampments))~~Application. The completed application for a temporary homeless encampment, which shall be signed by ~~((both the sponsor and))~~the managing agency or sponsor (“applicant”), shall contain at a minimum contact information for the applicant, and detailed information regarding the following:~~((1) how the applicant will meet the requirements of the permit for a temporary tent encampment as set forth in this chapter; (2) potential adverse effects that the proposed encampment will likely have on neighboring properties and community; (3) measures to mitigate these adverse effects; (4) the written code of~~

~~conduct adopted by the applicant for the temporary tent encampment; (5) provisions by applicant to meet requirements of the International Fire Code; and (6) certification that the applicant has taken all reasonable and legal steps to obtain verifiable identification from current and prospective encampment residents and used the identification to obtain sex offender and warrant checks from appropriate agencies. The form of the notice and the application shall be provided by the community development department upon request by the sponsor and/or the managing agency.))~~

1. How the proposed encampment will meet the requirements set forth in this chapter;

2. Potential adverse effects that the proposed encampment will likely have on neighboring properties and the community;

3. Measures to mitigate such adverse effects;

4. A proposed written code of conduct for the encampment;

5. Measures to meet the applicable requirements of the International Fire Code; and

6. Certification that the applicant has taken and will take all reasonable and legal steps to obtain verifiable identification from current and prospective encampment residents and used the identification to obtain sex offender and warrant checks from appropriate agencies. The form of the notice and the application shall be provided by the zoning administrator upon request by the applicant.

B. Public notice.

1. A notice of application for a temporary homeless encampment shall be provided prior to the issuance of the zoning administrator's decision approving, approving with conditions, or denying the application. The purpose of the notice is to inform the surrounding community of the application. Due to the administrative and temporary nature of the permit, there is no comment period. The notice shall contain, at a minimum:

a. The date the application was submitted;

b. The project location;

c. The proposed duration and operation of the encampment;

d. The conditions that will likely be placed on the operation of the encampment;

e. The requirements of the written code of conduct, if applicable;

f. The name and contact information of the applicant; and

g. Directions regarding how to obtain more information regarding the encampment and the applicant.

2. The community development department shall distribute the notice of application as follows:

a. The notice of application, or a summary thereof, will be published in the official newspaper of the city at least seven calendar days prior to the zoning administrator's decision approving, approving with conditions, or denying the application.

b. The notice of application, or a summary thereof, will be distributed to owners of all property within five hundred feet of any boundary of the subject property and residents and tenants adjacent to the subject property at least fourteen calendar days prior to the zoning administrator's decision approving, approving with conditions, or denying the application.

C. Community Meeting. A minimum of seven days prior to the issuance of the decision approving, approving with conditions or denying the application and fourteen calendar days prior to the anticipated start of a temporary homeless encampment, the applicant shall conduct a public informational meeting by providing mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to

the subject property. The purpose of the community meeting is to provide the surrounding community with information regarding the proposed duration and operation of the encampment, conditions that will likely be placed on the operation of the encampment, requirements of the written code of conduct, and to answer questions regarding the encampment.

D. Application review. The zoning administrator shall issue a decision approving, approving with conditions, or denying the application on a temporary homeless encampment application within fourteen days of the date that the application was submitted.

E. Decision. A notice of decision for the temporary encampment, or summary thereof, shall contain the decision of the zoning administrator approving, approving with conditions, or denying the application, and the appeal procedure, and be distributed as required for notice of application within four business days after the decision.

F. Appeal. The zoning administrator's decision approving, approving with conditions, or denying the application is appealable in the same manner as a Type I permit per MMC 22.84.080.

~~((A notice of application and copy of the application for a temporary tent encampment shall be provided at least fifteen days prior to the decision regarding the issuance of the permit. The purpose of the notice is to inform the surrounding community of the application. The notice shall contain, at a minimum, the date of application, project location, proposed duration and operation of the temporary encampment, number of residents for the encampment, conditions that will likely be placed on the operation of the encampment, and requirements of the written code of conduct. The applicant shall distribute said notice as follows:~~

- ~~1. A copy of the notice and application, or summary thereof, will be published in the official newspaper of the city.~~
- ~~2. A copy of the notice and application, or summary thereof, shall be (a) posted at two publicly visible locations on the site upon which the proposed temporary encampment will be located, and (b) mailed to owners of all property within five hundred feet of any boundary of the subject property, and any neighborhood organization in the vicinity of the encampment site whose contact information is known to or made known to the managing agency.~~

~~B. Review Process, Notice of Decision Regarding Issuance of Permit, and Appeal Procedure. After review of the application for a temporary encampment and an open record hearing pursuant to MMC Chapter 22.84, Permit Processing, the hearing examiner shall make a decision regarding the issuance of a temporary tent encampment permit. Before any temporary tent encampment permit may be granted, it shall be shown that:~~

- ~~1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed encampment;~~
- ~~2. The proposed use shall meet the performance standards that are required in the zoning district the encampment will occupy and the requirements of this chapter;~~
- ~~3. The proposed use shall be in keeping with the goals and policies of the comprehensive plan;~~
- ~~4. All measures have been taken to minimize the possible adverse impacts, which the proposed encampment may have on the area in which it is located.~~

~~Because each temporary tent encampment has unique characteristics, including, but not limited to, size, duration, uses, number of occupants and composition, the hearing examiner shall have the authority to impose conditions to the issuance of the permit for temporary encampment to mitigate effects on the community upon finding that said effects are materially detrimental to the public welfare or injurious to the property or~~

~~improvements in the vicinity. Conditions, if imposed, must relate to findings by the hearing examiner, and must be calculated to minimize nuisance-generating features in matters of noise, waste, air quality, unsightliness, traffic, physical hazards and other similar matters that the temporary tent encampment may have on the area in which it is located. In cases where the application for temporary tent encampment does not meet the requirements or standards of this chapter or adequate mitigation may not be feasible or possible, the hearing examiner shall deny issuance of a temporary tent encampment permit.~~

~~If issued, the permit for the temporary tent encampment shall be issued jointly to the sponsor and managing agency. A notice of such decision stating whether the permit is granted or denied, along with information regarding the procedure for appeal of the decision, shall be mailed as required for the notice of application within three business days after the decision.~~

~~The hearing examiner's decision will be the city's final decision. Any appeal of the city's final decision may only be made to Snohomish County Superior Court in accordance with MMC 22.84.080 and Chapter 36.70C RCW. The burden of proof on appeal shall be on appellant.~~

~~C. Additional Requirements for Applications Requesting Modification of Standards for Temporary Encampments. For a temporary tent encampment, the applicant may apply for a temporary use permit that applies standards that differ from those in MMC 22.90.020 only where, in addition to satisfying the requirements in subsection (A) of this section, the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe encampment with minimal negative impacts to the host community under the specific circumstances of the application. In considering whether the modification should be granted, the decision authority shall first consider the effects on the health and safety of encampment residents and the neighboring communities. Modifications should not be granted if their adverse impact on encampment residents and/or neighboring communities will be greater than those without modification. The burden of proof shall be on applicant.))~~

~~((22.90.050—No Intent to Create Protected/Benefited Class.~~

~~Provisions in this chapter are intended to promote the health, safety and welfare of the general public. Nothing contained herein is intended to be nor shall be construed to create or otherwise establish any particular class or group of persons who will or should be especially protected or benefited by the provisions in this chapter. The provisions in this chapter are not intended to be, nor shall be, construed to create any basis for liability on the part of the city, its officers, employees or agents for any injury or damage that an individual, class or group may claim arises from any action or inaction on the part of the city. Likewise, they are not intended to, nor shall be construed to, impose upon the city any duty that can become the basis of a legal action for injury or damage.))~~

Temporary Homeless Encampments...you can't just say no

By Lisa Knapton

With the number of homeless persons increasing, religious organizations are playing an important role in providing needed services to the homeless population. Temporary homeless encampments, also known as tent cities, are one way of providing shelter for homeless individuals. Washington law allows for the hosting of temporary encampments for the homeless on property owned or controlled by religious organizations. [RCW 35.21.915](#) provides the authority for religious organizations to host encampments but also provides guidance and limitations to cities and counties in developing and applying regulations for temporary homeless encampments within their communities.

The law allows cities and counties the discretion to apply regulations for the sole purpose of protecting the health and safety of the citizens of the community, without substantially placing burdens on the actions of the religious organizations hosting the encampments. Many jurisdictions have enacted ordinances, consistent with [RCW 36.70A.106](#), which provide additional rules and regulations specific to temporary homeless encampments. In accordance with [RCW 36.70A.106](#), any changes to a city or county's regulation of land must be submitted to the Department of Commerce. Permit applications for the siting of new encampments should undergo a public hearing process to allow for public comment.

WCIA Members may provide for the siting of temporary encampments for the homeless by use of a conditional use or temporary use permitting application process. Elements of an ordinance and application/permit process should include but not be limited to establishment of:

- Siting locations
- Zoning setbacks in relationship to abutting property lines containing residential uses
- Maximum number of residents allowed
- Whether or not to allow minors and/or pets
- Establishment of a code of conduct for residents and method for enforcement of the code
- Parking of resident vehicles and public transportations needs
- Prohibition of alcohol, other intoxicants and weapons in the encampment
- Requirement that the managing agency ensure compliance with Washington State and local government codes concerning but not limited to potable water connections, handling of human waste, refuse disposal, electricity and use of fire retardant materials
- Requirement that the managing agency take all reasonable steps to obtain verifiable identification of encampment residents and use of identification to obtain sex offender and warrant checks from the appropriate agency
- Establishment of the duration of the encampment

Information regarding Temporary Homeless Encampments can be found in ADM.39, Temporary Homeless Encampments, and a sample ordinance can be found in ADM 39.01 of the Liability Resource Manual. The Liability Resource Manual is available through the Member Resources page on the WCIA website: <http://www.wciapool.org/member-resources>

For assistance, please contact your assigned Risk Management Representative. For further information, visit the Municipal Research and Services Center (MRSC) at [MRSC](#).

RCW 36.01.290

Temporary encampments for the homeless—Hosting by religious organizations authorized—Prohibitions on local actions.

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A county may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

[2010 c 175 § 2.]

NOTES:

Findings—2010 c 175: "The legislature finds that there are many homeless persons in our state that are in need of shelter and other services that are not being provided by the state and local governments. The legislature also finds that in many communities, religious organizations play an important role in providing needed services to the homeless, including the provision of shelter upon property owned by the religious organization. By providing such shelter, the religious institutions in our communities perform a valuable public service that, for many, offers a temporary, stop-gap solution to the larger social problem of increasing numbers of homeless persons.

This act provides guidance to cities and counties in regulating homeless encampments within the community, but still leaves those entities with broad discretion to protect the health and safety of its citizens. It is the hope of this legislature that local governments and religious organizations can work together and utilize dispute resolution processes without the need for litigation." [2010 c 175 § 1.]

Intent—Construction—2010 c 175: "Nothing in this act is intended to change applicable law or be interpreted to prohibit a county, city, town, or code city from applying zoning and land use regulations allowable under established law to real property owned by a religious organization, regardless of whether the property owned by the religious organization is used to provide shelter or housing to homeless persons." [2010 c 175 § 5.]

Prior consent decrees and negotiated settlements for temporary encampments for the homeless not superseded—2010 c 175: "Nothing in this act supersedes a court ordered consent decree or other negotiated settlement between a public agency and religious organization entered into prior to July 1, 2010, for the purposes of establishing a temporary encampment for the homeless as provided in this act." [2010 c 175 § 6.]