



MONROE PLANNING COMMISSION

SUBJECT:	<i>DISCUSSION - Proposed Code Amendments Regarding Temporary Homeless Encampments</i>
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DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
09/23/2019	Community Development	Shana Restall	Shana Restall	Old Business # 1

Discussion: 08/12/2019, 09/23/2019

Public Hearing:

Attachments: N/A

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.

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.]

	Bellevue (2005)	Duvall (2007)
Siting locations	Religious institutions	Religious institutions
Setbacks	Same as underlying zoning; provided, not less than 20 feet	Not specified
Maximum number of residents	100	100
Allow minors?	Children cannot stay overnight	Not specified
Allow pets?	Not specified	Not specified
Parking	No additional parking; sponsor must maintain minimum per code	No additional parking; sponsor must maintain minimum per code
Public transportation	Within one-half mile of a public transportation stop	Not specified
Maximum duration	60 days at any one time; No more than once every 18 months at the same site	47 or 92 days, whichever is approved

	Kirkland (2015)	Lake Stevens (2018)
Siting locations	Religious institutions	Religious institutions
Setbacks	20 feet from properties containing residential uses	20 feet
Maximum number of residents	100	50
Allow minors?	No children allowed	Allowed with a parent or legal guardian
Allow pets?	Only service animals	Not specified
Parking	Five additional (5) stalls	No additional parking; sponsor must maintain minimum per code
Public transportation	Within one-half mile of a public transportation stop	Provide a means of transportation to public transportation stop
Maximum duration	92 days at any one time; No more than once every 365 days at the same site	95 days at any one time (no extensions); No more than once every 275 days at the same site