



# MONROE PLANNING COMMISSION

<b>SUBJECT:</b>	<b>DISCUSSION - Proposed Code Amendments Regarding Temporary Homeless Encampments</b>
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<b>DATE:</b>	<b>DEPT:</b>	<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
03/09/2020	Community Development	Shana Restall	Shana Restall	<b>Old Business # 2</b>

**Discussion:** 08/12/2019 and 03/09/2020  
**Public Hearing:**

**Attachments:** 1. DRAFT Temporary Encampments Code 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 November 12, 2019, the City adopted Ordinance No. 023/2019(SUB), which continued 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 subsection (H) of this section. 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 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.

#### **22.90.020 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 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 five hundred 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.

## 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.]