

**CITY OF MONROE
ORDINANCE NO. 014/2019(SUB)**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, ADOPTING INTERIM ZONING AMENDMENTS TO CHAPTER 22.90 MMC, TEMPORARY ENCAMPMENTS; UPDATING THE CITY'S PROVISIONS REGULATING TEMPORARY HOMELESS ENCAMPMENTS IN ORDER TO REFLECT CURRENT STATE LAW; SETTING FORTH PRELIMINARY SUPPORTIVE FINDINGS; REQUIRING A POST-ADOPTION PUBLIC HEARING; PROVIDING FOR SEVERABILITY; DECLARING A PUBLIC EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, like many communities, the City of Monroe has recently experienced a dramatic increase in the number of homeless persons residing in and near the City; and

WHEREAS, the City of Monroe regulates temporary homeless encampments through the provisions codified at Chapter 22.90 MMC; and

WHEREAS, the City has recently received inquiries regarding the potential establishment of temporary homeless encampments; and

WHEREAS, the City Council desires to immediately amend Chapter 22.90 MMC, in order to update and clarify the City's existing regulations prior to the submittal of any application for a temporary homeless encampment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Preliminary Findings. The City Council hereby adopts the above recitals as preliminary findings in support of this ordinance. The City Council also finds that adoption of this ordinance is necessary to ensure that the updated and clarified regulations set forth herein are in effect prior to the submittal and processing of any application to site and operate a temporary homeless encampment in the City. As such, a public emergency exists requiring that this ordinance take effect immediately upon passage.

Section 2. Amendment of Chapter 22.90 MMC. Monroe Municipal Code Chapter 22.90, Unified Development Regulations - Temporary Encampments, is hereby amended to provide as follows:

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 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))E.~~ 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 assure 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 t 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.))~~

Section 3. Public Hearing. The City Clerk is hereby authorized and directed to schedule a public hearing on the interim regulations set forth in this ordinance and to provide notice of said hearing in accordance with applicable standards and procedures. Said hearing shall be held no later than sixty days after the date of adoption hereof. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council may adopt additional legislative findings in support of this ordinance at the conclusion of said hearing.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 5. Declaration of Emergency; Effective Date; Sunset. Based upon the findings set forth above, the City Council hereby declares a public emergency requiring this ordinance to take effect immediately. This ordinance shall accordingly be in full force and effect immediately upon passage, and shall remain effective for a period of six months unless terminated earlier or subsequently extended by the City Council. PROVIDED, that the City Council may, in its sole discretion, renew the interim zoning regulations set forth herein for one or more six month periods in accordance with state law.

ADOPTED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 11th day of June, 2019.

First Reading: June 11, 2019
Adoption: June 11, 2019
Published: June 14, 2019
Effective: June 11, 2019

CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:



Elizabeth M. Adkisson, MMC, City Clerk

J. Zachary Lell, City Attorney