

## Director's Report Transitional Encampment Interim Use Amendments

### Introduction

The Department of Planning and Development is proposing to amend the Land Use Code to allow, as an interim use, transitional encampments for homeless persons to locate on a greater variety of sites than allowed by current regulations. On October 3, 2011, the Council passed Ordinance 123729, effective November 12, 2011. Ordinance 123729 added a new definition of “transitional encampment” to the Code, as well as standards for locating encampments as an accessory use to religious facilities or to other principal uses on property owned or controlled by a religious organization. No use permit is required for one of these accessory encampments to operate.

While the new regulations adopted by Ordinance 123729 are an important step in clarifying the use of encampments for temporary shelter, the numbers of persons in need of shelter and the types of suitable locations for encampments require more options than are provided by regulations limited to encampments on property owned or controlled by religious organizations. The City of Seattle and various private organizations own additional property that is currently either unused or under-used. City-owned or private property located in non-residential zones that is sufficiently sized and appropriately located may serve on a short-term basis as additional encampment locations.

### Background

As in many American cities, homelessness is well-documented in the city of Seattle. The City and nonprofit organizations have provided numerous facilities, services, and programs to serve persons who lack shelter or are at risk for becoming homeless. Available facilities and services cannot, however, accommodate all persons in need of shelter. According to information supplied by the City of Seattle Human Services Department, a count of people without shelter conducted on one night in January 2011, found 1,753 people living outside a suitable sleeping shelter.

In the fall of 2010, a Citizen Review Panel on Housing and Services for Seattle's Unsheltered Homeless Population recommended that the City establish a transitional encampment to help meet the immediate survival and safety needs of individuals without access to safe shelter. The Council responded in part to this recommendation by adopting Ordinance 123729. These proposed additional Code amendments are intended to further accommodate and broaden the potential opportunities for siting of encampment facilities in the city. While an encampment should not become a substitute for safe, affordable permanent housing, an encampment is a viable interim housing option that can provide community, safety, and dignity in people's lives.

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Over the years homeless persons have organized to seek suitable properties on which to reside in temporary encampments, usually a cluster of tents and other impermanent structures. These encampments have been subject to: the willingness of property owners, frequently churches, to invite them to use their property; and the support from surrounding communities. Generally, these encampments have provided a necessary service to the homeless, have established rules, and provide some on-site services.

Temporary encampments are now defined in the City's land use regulations and are allowed as an accessory use on sites owned or controlled by religious organizations. The concept is to allow an organized transitional encampment, including temporary shelters, with on-site services including showers, cooking or meal service facilities, and portable bathrooms. At a time when there are so many homeless individuals on the streets, temporary encampments provide a means for meeting the immediate needs of individuals who have no access to permanent shelter. Existing encampments in Seattle have demonstrated that they can provide 24-hour access, accommodate couples and pets, and offer various other benefits of self-governance including safety and a sense of privacy and community.

Experience with existing encampments and a survey of the availability of suitable sites with a reasonable centralized location indicates that additional locations on sites other than those owned or controlled by a religious organization, may provide reasonable options. Access to transportation and to other important services like hygiene facilities, trash removal, electricity, running water, and sewage facilities will be necessary for the success of this interim use. It is acknowledged that encampments are not a substitute for permanent housing. Therefore, it is reasonable to regulate encampments as a type of interim use, with the option to relocate to a different site once the interim period has expired.

The proposed legislation is similar to the existing process of permitting transitional encampments under the current Land Use Code regulations through issuing temporary use permits. A temporary use permit for up to six months is allowed in the Seattle Land Use Code under Section 23.42.040.C for any use that does not involve the erection of a permanent structure and meets certain broad criteria for review, including that the use is not materially detrimental to the public welfare, does not result in substantial injury to property in the vicinity, and is consistent with the spirit and purpose of the Land Use Code. The current temporary use permit is a "Type II" Master Use Permit review, with public comment and appeal opportunities, while the proposed legislation would establish the transitional encampment interim use as a "Type I" process that is non-appealable.

### Proposal

To clarify the Code regarding regulation of temporary encampments, amendments are proposed to create a "transitional encampment interim use" and to allow the use to locate for a period of up to six months on sites owned or operated by the City of Seattle or private owners, and within the following zones: Industrial zones, Downtown zones, except for Downtown zones defined as residential, Seattle Mixed zones, Commercial 2 (C2), Commercial 1 (C1), Neighborhood

Commercial 3 (NC3) and Neighborhood Commercial 2 (NC2) zones. The proposal includes the following:

- Provides a new transitional encampment interim use permit for a six-month term. The permit, a Type I process, would not be renewable but the process would allow an existing encampment to relocate to another site under a new six-month interim use permit;
- Requires a minimum of 12 months after a transitional encampment interim use permit has expired before a new permit on the same site could be issued;
- Requires locating an encampment on property owned by the City of Seattle or a private party subject to a management plan addressing site management, maintenance and security;
- Requires encampment operators to have two years experience managing and operating shelters, low-income housing, or encampments serving 50 or more low-income, homeless or indigent persons;
- Requires encampments meet the same health, safety, and inspection requirements that have been established for encampments on sites owned or controlled by religious organizations as set forth in Seattle Municipal Code Section 23.42.054;
- Establishes parking requirements for encampments that are not located on sites owned or controlled by religious organizations; and
- Clarifies the existing definition of “transitional encampment” to include using vehicles as shelters.
- Provides rulemaking authority to require community outreach to give neighbors advance notice of encampments and to require specific operations standards to be implemented by encampment operators.

A transitional encampment site shall, under the proposal, meet the following requirements:

- Be located at least 50 feet from any residentially-zoned lot;
- Be located less than 50 feet from any residentially-zoned lot if the encampment boundary maintains a 50-foot setback and is screened by vegetation or fencing;
- Be owned by the City or a private party;
- Be located on a site that is at least 7,500 square feet in area or larger and provides a minimum of 100 square feet of land per occupant;
- Be located within one-half mile of a transit stop;
- Be located at least one-half mile from any other legally-established transitional encampment use;
- Be located outside of wetland, wetland buffer, steep slope, steep slope buffer, and fish and wildlife habitat conservation areas (which includes areas within 100 feet of the shoreline) regulated by the City's regulations for Environmentally Critical Areas;
- Not be used by an existing legally-permitted use for any Land Use Code or permit-required purposes including but not limited to parking or setbacks; and
- Not be an unopened public street right-of-way or designated as a park, playground, viewpoint, or multi-use trail.

Transitional encampments would continue to be allowed on other sites in the City through the process of applying for a temporary use permit according to existing provisions in the Land Use Code, instead of the interim use permit process in the proposed legislation.

Encampments would also have to meet the health, safety, and inspection requirements, including the limit of 100 encampment occupants, established in Sections 23.42.054.B and .C for encampments accessory to uses on property owned or controlled by religious organizations.

In addition to the standards in the Code, encampments would be required to enter into a contractual arrangement with the hosting entity similar to the hosting agreements that have been used between religious facilities and encampment operators that will address encampment rules for the purpose of promoting good neighbor relations. These agreements between the religious facilities and encampment operators have been successful in the past and include prohibitions on alcohol, drugs, and possession of weapons; rules for children within the encampment; and prohibiting sex offenders within the encampment.

### Analysis

According to information obtained from the City Human Services Department (HSD), shelters are operating at maximum capacity and cannot accommodate all of the needs of homeless people in Seattle. Encampments, which have been located in the city for a number of years, provide shelter and basic services to individuals in need. At these facilities, people reside in temporary shelters like tents, and specific rules for operation and security are accepted and observed. Without the option of an organized encampment, individuals may be forced to seek shelter in alleys, doorways, vacant buildings, greenbelts, or other locations not designed or intended for safe and sanitary habitation. The City continues to pursue other options including building additional shelters, low-income housing, or managed temporary spaces in churches and public buildings. But such resources are currently inadequate to meet the needs of all homeless persons and are not likely to be provided in adequate amounts in the near future. Typically these temporary shelters are available only during the worst environmental conditions including snowstorms and freezing weather.

In contrast, a managed transitional encampment is a lower-cost alternative to more permanent and costly housing options. Transitional encampments have been provided in the past by religious facilities and through the temporary use permit process, but have been required to move frequently, usually at three-month intervals, when agreements with churches or other property owners expire. The challenges of establishing and operating encampments require that a variety of options be available. Transitional encampments have met with resistance in some residential neighborhoods where they are believed to be incompatible with neighborhoods and families, particularly if anticipated for a length of time. While this may be the perception, information from HSD, Police, and Fire Departments indicate that encampments have generally operated safely and have caused few problems to surrounding neighbors.

The proposal would expand on the existing Code that establishes transitional encampments as an allowed use accessory to a site owned or controlled by a religious organization. Health and

safety criteria for encampment locations were determined based on the need for an encampment to provide facilities including shelter, food service, showers, and lavatories, for up to 100 persons. These standards are expected to limit the number of sites that would likely be used as encampments, while allowing for the needs of the homeless in the city to be accommodated.

The proposal limits sites of proposed encampments to property at least 7,500 square feet in area and at least 50 feet from residentially zoned lots or, if the property itself is closer than 50 feet, then the encampment boundary must be set back at least 50 feet from residentially zoned lots and screened by vegetation or fencing. At least 100 square feet of land area per encampment occupant is required. These setback and occupancy standards ensure that sites will be of sufficient size and appropriate location to accommodate encampments. Rather than a single setback requirement, the proposal allows some large sites with lot lines close to residential zoning to qualify if the encampment itself is set back and screened from view. Property used as an encampment site must not be in use for any Code or permit required purposes, such as required parking or setbacks. Further, the proposal excludes property designated as a park, playground, viewpoint, or multi-use trail by the City or King County. Unopened City rights-of-way are also excluded. By applying the proposed standards for health, safety, and location, it is expected that the total number of eligible sites is relatively limited.

Research using the City's Arcview land use mapping system shows that there are approximately 99 City-owned sites and 258 privately owned sites city-wide in the zones proposed for encampment use that could potentially serve as encampment locations. For private sites, the research focused on lots that are determined to be vacant according to King County Assessor's records. It is assumed that private sites in active commercial use will not devote productive space to encampment activities. There are also 28 sites of institutions or places of public assembly (post-secondary schools, private community centers, and similar uses) in these zones with sufficient area to host an encampment. Approximately 26 City-owned sites and 80 private sites are closer than 50 feet to residentially-zoned lots but have sufficient area for the encampment to set back 50 feet or more with screening. The majority of these sites are located in the Industrial and Commercial zones, with less than 10 percent of the sites located in Downtown and SM zones. Two-thirds of the City-owned sites are more than 100 feet from residential zoning and 93 percent of the City-owned sites are 10,000 square feet or greater.

With respect to private sites, 72 percent are 10,000 square feet or greater and the remaining 28 percent are between 7,500 and 10,000 square feet. About 78 percent of the sites are 100 feet or more from residential zoning. 185 sites, about 72 percent of the total, are both 10,000 square feet and 50 feet or more from residential zoning. A majority of these sites (124 or 67 percent) are in the Industrial zones, and these 124 sites also represent nearly half of all the private sites. Each site would be subject to further evaluation using the standards required by the proposed legislation, as part of the proposed permit process for transitional encampment interim use permits. Since these standards would eliminate some sites due to presence of critical areas or lack of proximity to transit, the total number of useable sites will be somewhat fewer than the raw totals.

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Recommendation

As a follow-up to Ordinance 123729, this proposed legislation offers another reasonable and effective means to help address homelessness in the city. Specific provisions are provided for both location and operation of encampments so that they can be operated with minimal impacts to surrounding properties and uses. DPD recommends the City Council adopt the proposed legislation to expand the opportunities for siting transitional encampments on an interim basis.