

## **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 and 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 permitting 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.

Proposed legislation that would have expanded the number of potential encampment sites to City-owned or private property in non-residential zones was previously considered by the Council in 2013 under Council Bill 117791, but the 2013 bill was not adopted. The current proposal, while similar to the 2013 bill, includes new recommendations for operation and management of encampments, provision of human services to the encampment occupants, and emphasis on transition from encampments to permanent housing, in accordance with the recommendations of the Emergency Task Force on Unsheltered Homelessness convened by the Mayor in a series of meetings in autumn 2014.

### **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 are currently not able to 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 2013, found 1,989 people living outside a suitable sleeping shelter within the Seattle city limits. A similar one night count in January 2014 found 2,303 people living outside a suitable sleeping shelter within the Seattle city limits, an increase of nearly 16 percent over the previous year.

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. The 2014 Emergency Task Force on Unsheltered Homelessness sent written recommendations to Mayor Murray in December 2014. Among a variety of proposals to address homelessness, was a recommendation for legislation to allow siting of encampments on public land or privately owned non-religious property.

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 review of potentially suitable sites 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, 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 current Code does not specifically allow transitional encampments except as accessory to a religious facility or use. Under the current Code, a transitional encampment could also be allowed by a temporary use permit but is limited to four weeks or six months. This is provided for in the Seattle Land Use Code under Section 23.42.040.C for a use that is not allowed by the zoning and 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. This existing temporary use process is a "Type II" Master Use Permit review, with public notice and comment, and opportunity for appeal.

## **Proposal**

These Land Use Code amendments are intended to further accommodate and broaden the potential opportunities for siting of encampment facilities in the city, on an interim basis. While an encampment should not become a substitute for safe, affordable permanent housing, an encampment is a viable interim shelter option that can provide community, safety, and dignity in people's lives, when compared with other options such as living on the streets. Thus, these provisions are proposed to sunset on March 31, 2020, approximately five years from adoption. For the next five years, the City, the community and surrounding jurisdictions will continue to work on more permanent solutions to provide housing for all.

To clarify the Code regarding regulation of temporary encampments, amendments are proposed to create a "transitional encampment interim use" on sites owned or operated by the City of Seattle or private property owners, and within the following zones: Industrial zones, Downtown zones, Seattle Mixed (SM) zones, Commercial 2 (C2), Commercial 1 (C1), Neighborhood Commercial 3 (NC3), and Neighborhood Commercial 2 (NC2) zones, except for any zones defined as residential or that are within a Special Review District.

The proposal includes the following:

- Provides a new transitional encampment interim use permit for a one-year 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 one-year interim use permit;
- Requires a minimum of 12 months after a transitional encampment interim use permit has expired before a new transitional encampment could be established at the same site;
- Requires locating an encampment on property owned by the City of Seattle or a private party subject to a management plan addressing provision of human services to encampment occupants, site management and maintenance, and security, including a process for referrals to service providers that are able to provide services to individuals under 18 who arrive at an encampment unaccompanied by a parent or legal guardian;
- Requires encampment operators to have past experience managing and operating shelters, low-income housing, or encampments serving low-income, homeless or indigent persons;
- Requires encampments to meet the same health, safety, and inspection requirements that have been established for encampments on sites owned or controlled by religious organizations as provided for in Seattle Municipal Code Section 23.42.054;
- Establishes parking requirements for any vehicles used for shelter and for staff members of encampments that are not located on sites owned or controlled by religious organizations;
- Provides rulemaking authority to: require community outreach to give neighbors advance notice of encampments and relocation of existing encampments; require formation of a Community Advisory Committee to provide advisory input on proposed encampment operations; and require specific operational standards to be implemented by encampment operators;
- Requires that the operator obtain and maintain liability insurance for use of City-owned property prior to issuance of a permit; and

- Requires that the operator allow service providers such as social workers to access the site when a City-owned property.

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

- Be located at least 25 feet from any residentially-zoned lot;
- May be located less than 25 feet from any residentially-zoned lot if the encampment boundary maintains a 25-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 5,000 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 mile from any other legally-established transitional encampment use, including encampments on property owned or controlled by a religious organization, except that encampments on property owned or controlled by a religious organization or any encampment of fewer than ten persons are not subject to the dispersion requirement;
- Be located outside of wetland, wetland buffer, known or potential landslide area, 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.

Encampments would also have to meet specific health, safety, and inspection requirements, including a limit of 100 encampment occupants and a proposed new requirement that individuals under 18 must be accompanied by a parent or legal guardian in order to reside in the encampment. These requirements, including the limit of 100 occupants, are currently established in or would be added to the Land Use Code, 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, encampment operators would be required to enter into a contractual arrangement with the hosting entity (private property owner, lessee, or the City) 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.

Transitional encampments would continue to be allowed to apply for a temporary use permit (up to six months) on other sites in the city through the existing provisions in the Land Use Code.

## **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 another option for 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 established 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. As described in detail in the Mayor's December 19, 2014 letter to the Members of the Emergency Task Force on Unsheltered Homelessness, the City is pursuing a broader strategy including expanding current shelters and options for new shelter sites including existing surplus City facilities. Although efforts continue to provide low-income housing and managed temporary spaces in churches and public buildings, such resources are currently inadequate to meet the needs of all homeless persons and are not likely to address the needs of all homeless persons in the near future. Temporary shelters are typically 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. These requirements have been shown to be effective for transitional encampments.

The proposal requires sites to be at least 5,000 square feet in area and at least 25 feet from residentially zoned lots or, if the property itself is closer than 25 feet, then the actual encampment area must be set back at least 25 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 help 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. This allows more flexibility

in terms of finding suitable locations for the encampments. 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.

#### Research Methodology for Potential Sites

Research using the City's Geocortex land use mapping system shows that there are approximately 135 City-owned sites and 475 privately-owned sites city-wide in the zones proposed for encampment use that could potentially serve as encampment locations. Assuming the legislation is approved, the following methodology will be used to determine which sites are most suitable for encampments. Geocortex allows identification of property owned by the City using both an address, if one is available, and the 10-digit King County property tax identification number for that parcel. A broad use classification is also identified, based on Assessor's records, that shows whether the land is vacant, unused (may contain a structure not in use) or in use as utility facility, fire station, office, library, parks/open space, trail, or green space, to name a few classifications. The mapping further identifies square footage for each parcel, the zone in which the property is located, and whether the parcel is at least 25 feet from residentially zoned land. The zoning and distance from residential land helps in the location of sites that meet the proposed standards.

Once the maps are reviewed, additional research is performed for a parcel to determine if it could meet other approval criteria and standards listed in the proposed legislation. Each site can then be reviewed using the King County Assessor property tax information to take a closer look at vacant or underused sites, including photographs from the air and ground, to determine if the property would meet the following criteria identified in the proposed legislation: Sufficient area to accommodate up to 100 persons; sufficient area to allow an encampment to set back at least 25 feet from residentially zoned property; sufficiently level to accommodate tents or other shelters and facilities; whether the property is within a half mile of a transit stop; whether the property has sufficient area that is not within an environmentally critical area (steep slope, wetland, or similar feature); and that the property is not designated as a park, playground, viewpoint or multi-use trail. DPD permit records may also be researched to determine if there are any active existing uses on the property.

In addition, research involves a determination of whether an encampment on each property could comply with the health and safety requirements of Seattle Municipal Code Section 23.42.054.B, including access to running water, access to garbage collection, suitable location for providing food and bathroom services, and potential to provide parking for vehicles used as shelter or for workers who might assist encampment residents.

For private sites, initial research for mapping purposes 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 40 City-owned sites and 192 private sites are closer than 25 feet to residentially-zoned lots but may have sufficient area for the encampment to set back 25 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. Half of the City-owned sites are more than 100 feet from residential zoning and 68 percent of the City-owned sites are 10,000 square feet or greater.

With respect to private sites, about 39 percent are 10,000 square feet or greater. About 42 percent of the sites are 100 feet or more from residential zoning. 290 sites, about 61 percent of the total, are 50 feet or more from residential zoning and of these, 185 are 10,000 square feet or larger. A majority of the largest sites, 124, are in the Industrial zones. Each site would be subject to further evaluation using the standards required by the proposed legislation and as described in the discussion of research methodology, 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.

Based on the existing history of encampments within the City of Seattle, the number of encampments likely to take advantage of the proposed legislation is expected to remain modest. Currently, one organized encampment, Tent City 3, has located on several sites owned or controlled by religious organizations within the city since the adoption of the regulations under Ordinance 123729. The length of stay at any one site has been less than six months. Additionally, the operators of the encampment currently located at 10<sup>th</sup> Avenue South and South Dearborn Street have occupied a variety of sites that have included public property, private property and sites owned or controlled by religious organizations in the last 5 years. Since September 2013, the encampment has been located on property controlled by a religious organization. Two new groups organized in 2014 are also operating sanctioned encampments on property controlled by religious organizations.

#### Site Selection Process for City-owned Property

Based on the research conducted as described above, there is a sound basis for selecting a list of City-owned properties that could serve as sites for rotation of one or more encampments. These sites will be selected for their conformity to the locational criteria in the proposed legislation. Among the criteria is the “dispersion” requirement stating that encampments on City-owned or private property must be at least one mile apart from each other and must also be at least one mile from any sites of encampments on property owned or controlled by religious organizations. While encampments on property owned or controlled by religious organizations are not required to disperse from the encampments on non-religious sites, this standard should ensure a reasonable distribution of encampment on sites throughout the city.

DPD will maintain records of encampments for dispersion analysis through its electronic project tracking system. For the non-religious sites, a permit will be issued and recorded in the tracking system. For encampments on property owned or controlled by religious organizations, the operators will file a site plan with DPD for informational purposes only that will allow DPD to

maintain an electronic record of these encampment locations as well. Encampments of any kind that have fewer than ten occupants are exempt from permitting or plan filing requirements. Using the permit tracking database and other property information available from its Geocortex land use mapping system and in its permit records, DPD staff will conduct site research in cooperation with the City agencies that manage property and report to Council with an initial list of suitable City-owned sites within three months following the effective date of the proposed legislation.

### **Recommendation**

As a follow-up to Ordinance 123729, this proposed legislation offers further reasonable and effective means to help address homelessness in the city on an interim basis, and furthers the recommendations of the Emergency Task Force on Unsheltered Homelessness. 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.

The provisions of this legislation are proposed to sunset March 31, 2020, approximately five years from adoption. The sunset provision reflects City policy that transitional encampments are intended to be an interim solution to homelessness, and the expectation is that the City, the community and surrounding jurisdictions will be working on permanent solutions to address housing needs.