

**CITY OF FIFE
ORDINANCE NO. 1914**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY WASHINGTON, AMENDING FIFE MUNICIPAL CODE CHAPTER 19.06 BY ADDING FOUR NEW DEFINITIONS AND ADDING A NEW FIFE MUNICIPAL CODE SECTION 19.68.150 ENTITLED "TEMPORARY HOMELESS ENCAMPMENTS" TO REGULATE THE PLACEMENT AND IMPACTS OF TEMPORARY HOMELESS ENCAMPMENTS IN THE CITY.

WHEREAS, in 2010, the Washington Legislature passed Ch. 175 (ESHB 1956), codified as RCW 35A.21.360, which authorized religious organizations to host temporary encampments for homeless persons on property owned or controlled by a religious organization, and

WHEREAS, RCW 35A.21.360 grants broad authority to religious organizations to provide shelter or housing to homeless persons on property owned or controlled by such organizations and prohibits local governments from enacting an ordinance or regulation that imposes conditions other than those necessary to protect the public health and safety and that do not substantially burden the decisions or actions of a religious organization with respect to the provision of homeless housing, and

WHEREAS, the City of Fife does not currently have provisions to regulate the siting of temporary homeless encampments, and

WHEREAS, the Fife City Council finds that the regulation of temporary encampments for homeless persons on property owned or controlled by a religious organization to protect public health and safety is appropriate; and ,

WHEREAS, the Planning Commission met on June 1, 2015 to accept public comment on an ordinance amending the City of Fife zoning code related to temporary homeless encampments, and made a formal recommendation to the City Council; and

WHEREAS, a SEPA Determination of Nonsignificance was issued for the amendments on April 22, 2015 (Case File No. SEP15-0006) with no comments received and no appeal having been filed; and

WHEREAS, in accordance with RCW 36.70A.106 the proposed Temporary Homeless Encampments' development regulation amendments were sent to and received by State agencies for review and comment; and

WHEREAS, in accordance with RCW 36.70A.106 (3)(b), the City of Fife requested 14-day expedited review from State agencies with said expedited review having been granted and no comments from State agencies were received; and

WHEREAS, on July 14, 2015, the Fife City Council held a public hearing on the proposed ordinance as recommended by the City of Fife Planning Commission; and

WHEREAS, the City Council finds that the proposed amendments will promote the public health and safety are a proper exercise of the City's police powers, and is consistent with the goals and policies of the Comprehensive Plan; now therefore,

THE CITY COUNCIL OF THE CITY OF FIFE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Fife Municipal Code Chapter 19.06 entitled "Definitions" is hereby amended to add new sections to read as follows:

19.06.362 Temporary Homeless Encampment

"Temporary Homeless Encampment" means a temporary use of property either owned by or controlled by a religious organization, regardless of whether or not there are buildings on the property, , for the purpose of providing temporary housing to homeless persons on the property, for a period of time not to exceed 90 days in any 365 consecutive day period.

19.06.367 Host Agency

"Host Agency" means the religious organization that owns or controls the property that is the subject of an application for a City Temporary Homeless Encampment Permit for providing shelter, and basic services and support to homeless encampment residents, such as hot meals and coordination of other needed donations and services.

19.06.757 Sponsoring Agency

"Sponsoring Agency" means an organization that assists the Host Agency and joins in an application with a Host Agency for a City Temporary Homeless Encampment Permit and assumes responsibility for providing basic services and support to temporary homeless encampment residents, such as hot meals and coordination of other needed donations and services. A Sponsoring Agency may be the same organization as the Host Agency.

Section 2. Fife Municipal Code Chapter 19.68 is hereby amended by adding a new section 19.68.150 entitled Temporary Homeless Encampments to read as follows:

19.68.150 Temporary Homeless Encampments

A. Purpose. To provide within the Fife Municipal Code an equitable permitting process, that includes reasonable conditions in order to meet the need for temporary shelter for homeless persons while also protecting the public health and safety within the limits allowed by state and federal law.

B. Where Permitted. Temporary Homeless Encampments shall only be allowed in such locations as meet the requirements of this Chapter.. No Temporary Homeless Encampment shall be established or continue to operate without a valid Temporary Homeless Encampment Permit.

C. Applicable procedures. A Temporary Homeless Encampment shall be subject to the following procedures.

1. Notice and Informational Meeting Required. The Host Agency and/or Sponsoring Agency shall conduct at least one (1) informational meeting within twenty (20) days after submittal of the application for a temporary homeless encampment permit to the City. The meeting location shall be approved by the Community Development Director. The time and location of the meeting shall be transmitted to all property owners within 1000 feet of the proposed temporary homeless encampment by mail ten (10) business days in advance of the meeting by the Host Agency and/or Sponsoring Agency. Proof of mailing shall be provided to the Community Development Director at time of application submittal. In lieu of notice by mail, an alternative means of notice may be provided that is reasonably calculated to notify the neighboring property owners within 1000 feet of the proposed temporary homeless encampment, with prior approval of the Community Development Director.

2. Signs Required. The applicant shall also provide notice of the meeting within the same timeframe identified above by posting signs on each street frontage on the site or in a location immediately adjacent to the site that provides readability of the signs to motorists using adjacent streets.

3. Newspaper Notice. The applicant shall also provide advance notice of the meeting in at least one paper of general circulation within the City.

4. Submittal Required. The Host Agency and Sponsoring Agency shall submit an application for a Temporary Homeless Encampment Permit no less than forty five (45) days in advance of the proposed date for commencing the use of the property for a Temporary Homeless Encampment. The Temporary Homeless Encampment Permit application shall be on a form provided by the City and shall contain at least the following information:

- a. The date the temporary homeless encampment will commence;
- b. The length of encampment;
- c. The maximum number of residents proposed;
- d. The host location;
- e. The names of the Host and Sponsoring Agencies;
- f. A narrative description of how the proposed Temporary Homeless Encampment will comply with the requirements of this Chapter;
- g. Site Plan showing, but not limited to the following:
 - i. Method and Location of required screening;
 - ii. Location of food and security tent;
 - iii. Method and location of potable water;
 - iv. Method and location of waste receptacles;
 - v. Location of required sanitary stations including toilets and hand washing facility;
 - vi. Location of onsite parking and number of vehicles associated with the temporary homeless encampment
 - vii. general location or arrangement of tents
 - viii. access routes for emergency vehicles.
- h. Proposed security plan;
- i. Proposed Code of conduct; and
- j. If portable toilets are being used, an executed contract between the Sponsoring agency and the portable toilet company that will provide the necessary number of portable toilets, and provide for their delivery, maintenance and removal for the entire length of the proposed Temporary Homeless Encampment.

D. Standards and Review Criteria. In reviewing the Temporary Homeless Encampment Permit, the Community Development Director shall take into consideration the following:

1. Site Criteria.

a. If the Sponsoring Agency is not the Host Agency of the site, the Sponsoring Agency shall submit a written agreement from the Host Agency allowing the temporary homeless encampment and clarifying the obligations of the Sponsoring Agency.

b. The property must be of sufficient size to accommodate the tents and necessary on-site facilities, including, but not limited to the following:

i. Sanitary portable toilets in the number required to meet capacity guidelines by the manufacturer;

ii. Self-contained hand washing stations by the toilets and by the food areas;

iii. Refuse receptacles; and

iv. Food tent and security tent.

c. The Host and Sponsoring Agencies shall provide a water source to the temporary homeless encampment.

d. No temporary homeless encampment shall be located within a Sensitive/Critical Area or its buffer as defined under Chapter 17.05.015 of the Fife Municipal Code.

e. No permanent structures will be constructed for the Temporary Homeless Encampment unless in compliance with the applicable building codes of the City and subject to a duly issued building permit issued by the City prior to the commencement of any construction

f. No more than 40 residents shall be allowed at any one Temporary Homeless Encampment. The City may further reduce the number of residents as site conditions dictate. The Director shall have the authority to increase the number of residents by 15% as site conditions dictate.

g. Adequate on-site parking, at least 5 parking spaces, shall be provided for the Temporary Homeless Encampment. The number of estimated vehicles used by residents of the temporary homeless encampment shall be provided in the permit application. If the homeless encampment is located on a site that has another preexisting use, it shall be shown that the Temporary Homeless Encampment parking will not create a shortage of required on-site parking for the other use(s) on the property.

h. The Temporary Homeless Encampment shall be located within a quarter (1/4) mile of a bus stop with six (6) days per week service, whenever possible. If not located within a quarter mile of a bus stop, the Host or Sponsoring Agency must demonstrate the ability for residents to obtain access to the nearest public transportation stop (such as carpools or shuttle buses).

i. The Temporary Homeless Encampment and sanitary portable toilets shall be screened from adjacent right-of-way and residential properties. Screening shall be sight-obscuring and a minimum height of six (6) feet and may include, but is not limited to, a combination of fencing, landscaping, or the placement of the temporary homeless encampment behind buildings.

j. The Temporary Homeless Encampment shall be located a minimum of 20 feet from the property line of abutting properties containing commercial or industrial uses. The temporary homeless encampment shall be located a minimum of 30 feet from the property line of abutting properties containing residential uses, unless Director finds that a reduced buffer width will provide adequate separation between the temporary homeless encampment and adjoining uses, due to changes in elevation, intervening building or other physical characteristics of the site of the temporary homeless encampment.

k. All tents or temporary facilities shall be centrally located, as well as screened and buffered from any public right of way and adjacent parcel. .

2. Security.

a. An operations and security plan for the Temporary Homeless Encampment shall be submitted to the City at the time of application.

b. The Host Agency shall provide to all residents of the Temporary Homeless Encampment a Code of Conduct for living at the temporary homeless encampment. A copy of the Code of Conduct shall be submitted to the City at the time of application.

The Code of Conduct shall provide for the health, safety and welfare of the temporary homeless encampment residents and mitigation of impacts to neighbors and the community.

c. The Host, Sponsoring agency and Temporary Homeless Encampment residents shall ensure compliance with applicable state statutes and regulations and local ordinances concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems, and fire resistant materials.

d. The Host or Sponsoring Agency shall keep a log of all people who stay overnight in the Temporary Homeless Encampment, including names and birth dates, and dates of stay. Logs shall be kept a minimum of six (6) months.

e. The Host or Sponsoring Agency shall take all reasonable and legal steps to obtain verifiable ID, such as a driver's license, government-issued identification card, military identification, or passport from prospective and existing Temporary Homeless Encampment residents.

f. The Host or Sponsoring Agency will use identification and take all reasonable and legal steps to obtain sex offender and warrant checks from the Washington State Patrol, the County Sheriff's Office, or other law enforcement agency of competent jurisdiction.

i. If said warrant and sex offender checks reveal either (1) an existing or outstanding warrant from any jurisdiction in the United States for the arrest of the individual who is the subject of the check; or (2) the subject of the check is a sex offender, required to register with the County Sheriff or their county of residence pursuant to RCW 9A.44.130, then the Host or Sponsoring Agency shall respond according to and comply with requirements of the law.

ii. The Host or Sponsoring Agency shall immediately contact the Fife Police Department if someone is rejected or ejected from the temporary homeless encampment where the reason for rejection or ejection is an active warrant or a match on a registered sex offender check, or if, in the opinion of the Host, Sponsoring Agency or "on duty" temporary

homeless encampment manager, the rejected/ejected person is a potential threat to the community.

g. The Host or Sponsoring Agency shall self-police and self-manage its residents of the Temporary Homeless Encampment, and prohibit alcohol, drugs, weapons, fighting, and abuse of any kind, littering or disturbing neighbors while located on the property.

h. The Host or Sponsoring Agency will appoint a designated representative to serve "on-duty" as a Temporary Homeless Encampment Manager at all times to serve as a point of contact for the Police Department and will orient the Police as to how the security tent operates. The names of the on-duty designated representative will be posted daily in the security tent. The City shall provide contact numbers of non-emergency personnel which shall be posted at the security tent.

i. No children under 18 shall be allowed to stay overnight in the encampment unless accompanied by a parent or guardian or unless the sponsoring or managing agency has proof of the minor's legal emancipation. If an unemancipated child under the age of 18 without a parent or guardian present attempts to stay at the encampment, the sponsoring or managing agency or encampment manager shall immediately contact child protective services and shall actively endeavor to find alternative shelter for the child.

3. Timing.

a. The duration of the Temporary Homeless Encampment shall not exceed ninety (90) days, to start on the first day of occupation of the temporary homeless encampment.

b. No additional temporary homeless encampments may be allowed by the host agency at the same location, regardless of parcel boundaries, in any 12-month period beginning on the date the temporary homeless encampment locates on a parcel of property.

c. No more than one (1) temporary homeless encampment may be located in the City at any time.

4. Health and Safety.

a. Given the density and abundance of flammable materials at temporary homeless encampments, temporary homeless encampments shall conform to the following fire requirements:

i. There shall be no open fires for cooking without pre-approval by the Building Official/ Fire Marshal and no open fires for heating;

ii. No heating appliances within the individual tents are allowed without pre-approval by the Building Official/Fire Marshal;

iii. No cooking appliances are allowed in individual tents;

iv. An adequate number, with appropriate rating, of fire extinguishers shall be provided as approved by the Building Official/Fire Marshal;

v. Adequate access for fire and emergency medical apparatus shall be provided, and remain clear for the duration of the temporary homeless encampment. This shall be determined by the Building Official/Fire Marshal;

vi. Adequate separation between tents and other structures shall be maintained as determined by the Building Official/Fire Marshal, Fire Department; and

vii. Electrical service shall be in accordance with recognized and accepted practice. Electrical cords must be approved for exterior use by the Building Official/Fire Marshal.

ix. Applicable requirements of the state building code.

Approval and determination by the Building Official/Fire Marshal for the above requirements shall be consistent with the goals, purpose and intent of the state building code.

b. The Host Agency and Sponsoring Agency shall permit reasonable inspections by City staff, the County Health Department and any local, state or federal agency having

jurisdiction to determine compliance with the conditions of the Temporary Homeless Encampment Permit. The Host Agency and Sponsoring Agency shall implement all directives resulting from such inspections within 48 hours, unless otherwise noted.

5. Director's Decision.

a. Purpose. The Director shall review the proposal to ensure compliance with the provisions of this chapter and all other applicable law, to ensure that the health, safety and welfare of the citizens of the City is preserved, and to provide an expedient and reasonable land use review process for decisions and interpretations of this chapter.

b. Director Authority. The Director may modify the submittal requirements as deemed appropriate to achieve the purpose stated above. In addition, because each temporary homeless encampment has unique characteristics, including but not limited to size, duration, uses, number of occupants and composition, the Director shall have the authority to impose conditions to the issuance of the permit for temporary homeless encampments 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 Director, 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 homeless encampment may have on the area in which it is located.

The Director may also approve an application for Temporary Homeless Encampment permits with proposed standards and conditions that differ slightly from those in this ordinance only where the applicant submits a description of the standard or condition to be modified and demonstrates how the modification would result in a safe temporary homeless encampment for its residents, and mitigate impacts to neighbors and the community under the specific circumstances of the application.

In all other cases where the application for Temporary Homeless Encampment does not meet the requirements and standards of this ordinance or adequate mitigation may not

be feasible or possible, the Director shall deny issuance of a temporary homeless encampment permit.

c. Notice of Decision. The Community Development Director shall notify the Sponsoring and Host Agencies of his or her decision to approve, modify or deny the application within a timely manner. The Community Development Director's decision is an administrative action and is appealable to the Hearings Examiner.

6. Revocation.

A. Upon determination that there has been a violation of any approval criteria or condition of the application, or that false information was provide in the application, the Director or the Director's designee shall give written notice to the permit holder describing the alleged violation, and the proposed remedy and giving the permit holder 7 days to remedy the violation. If the permit holder does not believe there is a violation, or that a different remedy would be appropriate, then, within said 7 day period the permit holder may request a meeting with the Director to discuss the violation. If, after the meeting, the Director does not modify the decision as requested by the permit holder, then the permit holder shall have 10 days from the Director's decision from the meeting to appeal the decision to the City's Hearings Examiner. The Director's decision shall be final at the end of the initial 7 day period, if no meeting with the Director is requested, or if a meeting is requested, then upon issuance of the Director's decision after the requested meeting. **B.** Where the violation creates a serious and immediate threat to the public health or safety, then notwithstanding the provisions of the preceding section, the Director may immediately require the Temporary Homeless Encampment to be vacated. Such decision may only be appealed to the Pierce County Superior Court, and shall remain in effect unless the Court enjoins its enforceability, or the Director determines that the immediate threat to the public health or safety has been eliminated and withdraws his order to vacate. The remedy provided in this subsection B shall be in addition to the remedy of revoking or modifying the Temporary Homeless Encampment Permit in accordance with the provisions of the previous subsection.

Section 3. Each and every provision of this Ordinance shall be deemed severable. If any provision of this ordinance should be deemed to be unconstitutional or otherwise contrary to law by court of competent jurisdiction, then it shall not affect the validity of the remaining sections so long as the intent of the Ordinance can be fulfilled without the illegal section.

Section 4. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

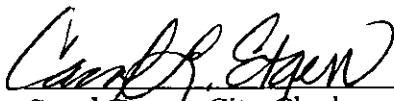
Introduced the 28th day of July, 2015.

Passed by the City Council on the 11th day of Aug., 2015.



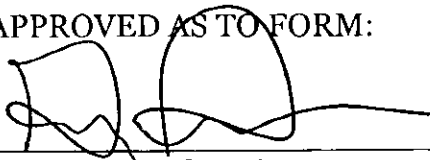
Subir Mukerjee, City Manager

ATTEST:



Carol Etgen, City Clerk

APPROVED AS TO FORM:



Loren D. Combs, City Attorney
Assistant City Attorney

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