

**EMERGENCY ORDINANCE NO. 2019-08-026**

**AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, RELATING TO LAND USE AND ZONING; DECLARING AN EMERGENCY; ADOPTING INTERIM ZONING REGULATIONS FOR THE SITING, ESTABLISHMENT, AND OPERATION OF TEMPORARY BUILDING ENCAMPMENTS; AND SETTING TWELVE MONTHS AS THE EFFECTIVE PERIOD OF THE INTERIM ZONING REGULATIONS.**

**WHEREAS**, homelessness continues to be a local, regional and national challenge due to many social and economic factors; and

**WHEREAS**, tent and building encampments have become a temporary mechanism for providing shelter for homeless individuals and families; and

**WHEREAS**, the City Council adopted regulations for temporary encampments in October, 2018 (Ord. No. 2018-10-019); and

**WHEREAS**, those adopted regulations allow for temporary tents, tiny homes and safe parking areas in all zones, however temporary building encampments are only allowed in industrial zones, commercial and industrial areas in Urban Village zones, and Commercial zones where hotels and motels are allowed; and

**WHEREAS**, City staff had concerns regarding potential impacts to the availability of City parks for scheduled programs and the lack of suitable public buildings for temporary building encampments however, upon further review, staff has since identified suitable buildings that could be used on a temporary basis; and

**WHEREAS**, many city owned properties, including parks, are located in Public zones and could offer possible locations for temporary building encampments, especially during adverse weather conditions; and

**WHEREAS**, excluding City buildings from Public zones severely limits the City's ability to be nimble in providing temporary shelter to people experiencing homelessness; and

**WHEREAS**, Ordinance No. 2018-10-019 reduces the review period for temporary encampments, however that period does not allow the City to quickly react to short duration adverse weather emergencies; and

**WHEREAS**, adopting rules that exempt from review adverse weather shelters that are of very short duration (less than 14 successive days) will allow the establishment of encampments to occur immediately when needed; and

**WHEREAS**, an emergency exists necessitating adoption of interim encampment regulations and processing requirements to preserve and protect public health and safety and prevent danger to public or private property; and

**WHEREAS**, interim zoning controls enacted under RCW 36.70A.390 and/or RCW 35.63.200 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

**WHEREAS**, RCW 36.70A.390 and RCW 35.63.200 both authorize the enactment of an interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing as long as a public hearing is held within at least sixty days of its enactment; and

**WHEREAS**, RCW 36.70A.390 provides that, "A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal"; and

**WHEREAS**, pursuant to WAC 197-11-880, the adoption of this interim zoning ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act (SEPA) and future permanent zoning regulations will be reviewed in accordance with SEPA Rules; and

**WHEREAS**, interim zoning will provide the City with additional time to review and amend its public health, safety and welfare requirements and zoning and land use regulations related to the establishment and operation of temporary encampments; and

**WHEREAS**, the City Council concludes that it has the authority to establish an emergency interim zoning ordinance and that the City must adopt emergency interim zoning concerning the establishment and operation of temporary building encampments in Public zones and to exempt very short term (14 days or less) adverse weather shelters from the review process under Bellingham Municipal Code 20.15.070; and

**WHEREAS**, the City Council adopts the foregoing as its findings of facts justifying the adoption of this Ordinance; and

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**Section 1. Findings of Fact.** The City Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390 and RCW 35.63.200.

**Section 2.** BMC 20.15.030 B. is hereby amended as follows:

B. Temporary building encampments are not permitted in residential, or institutional ~~or public~~ general use type areas.

**Section 3.** BMC 20.15.060 – Permit Required. is hereby amended as follows:

A. Establishment of a temporary shelter requires approval of a temporary use permit, as described in this chapter, and compliance with all other applicable city regulations. Permits for temporary shelters will be processed by the city without charge. The director shall have authority to grant, grant with conditions or deny an application for a temporary use permit under this chapter.

B. During adverse weather conditions when other shelters for people experiencing homelessness are at, or anticipate being at full capacity, emergency temporary building encampments of a very limited duration (less than fourteen (14) consecutive calendars days of continuous operation) that are necessary to provide additional capacity are exempt from the requirements of this Chapter, provided that the building official, fire marshal and County health department find that the proposed emergency temporary location poses no threat to human life, health or safety. An "emergency" is an unanticipated and imminent threat to public health, safety or the environment that requires immediate action within a timeframe too short to allow strict compliance with the requirements of this chapter.

**Section 4. Duration of Interim Zoning.** This interim zoning shall be in effect for one (1) year, beginning on August 26, 2019 and ending on August 26, 2020, unless an ordinance is adopted amending the Bellingham Municipal Code and rescinding the interim zoning before August 26, 2020.

**Section 5. Work Plan.** During the interim zoning period, City staff will study the issues concerning the establishment and operation of temporary building encampments in Public zones and include that work with the ongoing legislative review process for interim housing regulations. Staff will prepare a draft ordinance with appropriate revisions to the City's land use regulations, perform SEPA review of the draft ordinance, and conduct the public review process, including public hearings before the City's Planning Commission and City Council, as required for amendments to the City's development regulations.

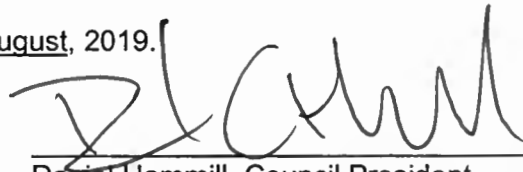
**Section 6. Declaration of Emergency.** The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately and that this interim zoning ordinance must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time.

**Section 7. Effective Date.** This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein, as long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.12.130 and City Charter Section 3.05.

**Section 8. Conflict with other BMC Provisions.** If the provisions of this Ordinance are found to be inconsistent with other provisions of the Bellingham Municipal Code, this Ordinance shall control.

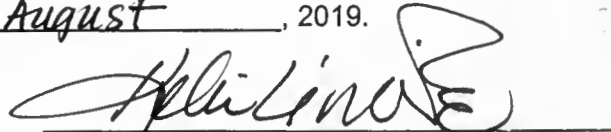
**Section 9. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**PASSED** by the Council this 26<sup>th</sup> day of August, 2019.



Daniel Hammill, Council President

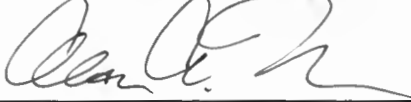
**APPROVED** by me this 30<sup>th</sup> day of August, 2019.



Kelli Linville, Mayor

**ATTEST:**   
Andy Asbjornsen, Finance Director

**APPROVED AS TO FORM:**



Office of the City Attorney

Published:

August 30, 2019