



**Legislative Department
Seattle City Council
Memorandum**

Date: February 27, 2015

To: Planning, Land Use, and Sustainability (PLUS) Committee

From: Eric McConaghy, Council Central Staff

Subject: **Potential amendments to the proposed interim use permit for transitional encampment - Council Bill (CB) 118310**

Overview

The effect of CB 118310 would be to amend the Land Use Code, Title 23 of the Seattle Municipal Code (SMC), to provide a new interim use permit for transitional encampments and to add provisions regarding transitional encampments as accessory uses hosted by religious organizations.

On February 3, 2015, Executive staff briefed the PLUS Committee on Council Bill (CB) 118310. PLUS discussed the proposal following the briefing. On February 20, 2015, PLUS continued the discussion of issues regarding the bill. And, on February 26, 2015, PLUS held a public hearing on the bill.

The table that follows provides potential amendments originating from PLUS's previous discussion of CB 118310 bill for consideration and possible action during the PLUS meeting on March 3, 2015.

Next Steps

A PLUS recommendation to Full Council on CB 118310, with or without amendment, would allow Full Council to take action on the bill.

Issue area	Discussion	Options	Amendatory Language or Action
1. Policy HD 11.1 of the Comprehensive Plan. Should Council acknowledge in a recital, the amendment to the Comprehensive Plan in 2012 with regard to transitional encampments?	As part of the 2012 amendments to the Comp Plan, Council amended a policy of the Human Development Element dealing with transitional encampments. An addition to the recitals of CB 118310 noting this change to the Comp Plan would add context to the bill.	a. Approve the current proposal.	No change.
		b. Add the recital to CB 118310	<u>WHEREAS, in 2012, City Council adopted Ordinance 123854, amending the Human Development Element of the Comprehensive Plan to add Policy HD11.1: Guide the operation of safe and healthy transitional encampments to allow temporary shelter for those who are homeless;</u>
2. The 2015 One Night Count. Should Council update the information in a recital to provide the latest One Night Count of unsheltered homeless people in Seattle?	The Seattle/King County Coalition on Homeless organizes and conducts the yearly One Night Count. The One Night Count has two parts: <ul style="list-style-type: none"> • A survey of emergency shelter and transitional housing providers about who is staying in their programs or facilities on that night. • A street count of people who are homeless, without shelter and staying outside, in vehicles or in makeshift shelters. The proposed bill uses the estimate from the 2014 One Night Count. The amended recital uses the latest estimate from the 2015 Count.	a. Approve the current proposal.	No change.
		b. Edit the recital of CB 118310 regarding the One Night Count.	WHEREAS, since 2010, the number of people sleeping without shelter in Seattle have has increased nearly <u>42</u> 30 percent, to more than 2,300 <u>2,800</u> people counted in the <u>2015</u> One Night Count in 2014 ;
3. Major Institution Overlays and Educational Major Institution property. Should Council allow the proposed interim use permit for transitional	The zoning and property ownership restrictions of current proposal would not allow Seattle to issue an interim use permit for a transitional encampment on the property owned by an Educational Major Institution, within a Major Institutional Overly (MIO). In particular, this means that the City of Seattle could not issue one of the proposed new permits for an encampment on the University of Washington campus. Note that the City of Seattle could issue a	a. Approve the current proposal.	No change.
		b. Change the proposal to allow the City of Seattle to issue the new interim use permit for encampments on property of Educational	*** Section 2. A new Section 23.42.056 to the Seattle Municipal Code is adopted as follows: 23.42.056 Transitional encampment as an interim use A Type I Master Use Permit may be issued for a transitional encampment interim use according to the requirements of this Section 23.42.056. A. Location. The transitional encampment interim use shall be located on property meeting the following requirements:

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<p>encampments on the property of an Educational Major Institution?</p>	<p>temporary use permit for an encampment on property within an MIO and owned by an Educational Major Institution under Seattle’s existing regulations. Also, Seattle Pacific University is currently hosting a homeless encampment as an accessory use to a religious facility.</p> <p>Unique zoning rules are crafted for each major institution through the adoption of a Major Institution Master Plan that:</p> <p>1) identifies a boundary (MIO District) within which the revised rules apply; and</p> <p>2) identifies the specific rules that will apply to development within this boundary.</p> <p>The Seattle Municipal Code defines the term, <i>Educational Major Institution</i>, as “an accredited post-secondary level educational institution, operated by a public agency or nonprofit organization, granting associate, baccalaureate and/or graduate degrees. The institution may also carry out research and other activities related to its educational programs.”</p>	<p>Major Institutions.</p>	<p>1. The property is:</p> <p style="padding-left: 40px;">a. Zoned Industrial, Downtown, SM, NC2, NC3, C1, or C2; except if the property is in a residential zone as defined in Section 23.84A.048 or is in a special review district established by Chapter 23.66-; <u>or</u></p> <p style="padding-left: 40px;">b. <u>Within a Major Institution Overlay district.</u></p> <p>2. The property is at least 25 feet from any residentially-zoned lot.</p> <p>3. A property may be less than 25 feet from a residentially-zoned lot and used as an encampment site if:</p> <p style="padding-left: 40px;">a. All encampment facilities, improvements, activities, and uses are located at least 25 feet from any residentially-zoned lot. Access to the encampment site may be located within the 25-foot setback area.</p> <p style="padding-left: 40px;">b. Screening is installed and maintained along each encampment boundary, except boundaries fronting on an opened public street. The screening shall consist of existing or installed vegetation that is sufficiently dense to obscure viewing the encampment site, or a 6-foot high view-obscuring fence or wall.</p> <p>4. The property is owned by the City of Seattle, or a private party-, <u>or an Educational Major Institution.</u></p> <p style="text-align: center;">***</p>
<p>4. New environmental review and threshold determination. Should Council Request DPD to complete environmental review and make a threshold determination on a proposal not restricted by zone or property ownership?</p>	<p>DPD previously completed environmental review and made a threshold determination on essentially the same proposal as specified in CB 118310. Amending CB 118310 to remove the zoning and property restrictions would change the proposal such that Council could not act on the amended bill until a new environmental review and threshold determination was completed according to Chapter 25.05 of the Seattle Municipal Code (SMC).</p> <p>This amendment would state Council’s request that Department of Planning and Development (DPD) complete environmental review and make a threshold determination on a proposal that would allow the City of Seattle to issue</p>	<p>a. Approve the current proposal.</p> <p>b. Change the proposal to request that DPD to complete environmental review and make a threshold determination on a proposal not restricted by zone or</p>	<p>No change.</p> <p style="text-align: center;">***</p> <p style="text-align: center;"><u>Section 9. The City Council requests that the Department of Planning and Development (DPD) complete environmental review and make a threshold determination according to Chapter 25.05 SMC on a proposal to modify the new Section 23.42.056 of the Seattle Municipal Code as proposed in this ordinance that would allow the City of Seattle to issue Type I Master Use Permits for transitional encampments as an interim use without restriction by zone or property ownership. The Council requests that DPD complete the environmental review and make a threshold determination, and report back to the Planning, Land Use and Sustainability Committee no later than August 31, 2015.</u></p>

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	Type I Master Use Permits for transitional encampments as an interim use without restriction by zone or property ownership. Afterward, Council could consider legislation removing the zoning and property ownership restrictions.	property ownership	<p>Section 10. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.</p> <p style="text-align: center;">***</p>
<p>5. Encampment Operator Roster. Should Council amend the proposal to direct the Human Services Department (HSD) to adopt a rule that establishes a process to determine the qualifications of transitional encampment operators and create a roster of qualified encampment operators?</p>	<p>The current proposal provides that the operator shall “have prior experience managing and operating shelters, low income housing, or homeless encampments.”</p>	<p>a. Approve the current proposal.</p>	<p>No change.</p>
	<p>This amendment would direct HSD to adopt a rule regarding the qualifications of operators of encampments permitted with the new interim use permit and to create a roster of qualified operators.</p> <p>The rule could encompass a range of necessary qualifications for operators. This amendment does not specify the minimum qualifications to be included in the rule.</p>	<p>b. Change the proposal to direct HSD to adopt a rule for the process to qualify encampment operators and to create a roster of qualified operators.</p>	<p style="text-align: center;">***</p> <p>Section 2. A new Section 23.42.056 to the Seattle Municipal Code is adopted as follows:</p> <p>23.42.056 Transitional encampment as an interim use</p> <p>A Type I Master Use Permit may be issued for a transitional encampment interim use according to the requirements of this Section 23.42.056.</p> <p style="text-align: center;">***</p> <p>B. Operation. The transitional encampment interim use shall meet the following requirements:</p> <p>1. The encampment may be operated by a private party that shall prepare an Encampment Operations Plan that shall address: site management, site maintenance, provision of Human and Social Services, referrals to service providers that are able to provide services to individuals under the age of 18 who arrive at an encampment unaccompanied by a parent or legal guardian, and public health and safety standards. The operations plan shall be filed with the transitional encampment interim use permit application.</p> <p>2. The operator shall have prior experience managing and operating shelters, low income housing, or homeless encampments <u>be included in a the qualified encampment operator roster prepared by the Human Services Director</u>. The transitional encampment interim use permit applicant shall include documentation as part of the permit application demonstrating that the encampment operator meets this standard <u>is on the qualified encampment operator roster</u>.</p> <p style="text-align: center;">***</p> <p><u>Section 8. The Human Services Director shall adopt a rule according to subsection 23.88.010.A that establishes a process the Human Services Director shall use to: determine the qualifications transitional encampment interim use operators shall have to operate an encampment; and create a roster of qualified encampment operators.</u></p>

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			<p style="text-align: center;">Section 8 9. This ordinance shall be automatically repealed without subsequent Council action on March 31, 2020.</p> <p style="text-align: center;">***</p>
<p>6. Extension of the duration of the permit. Should Council amend the proposal to allow for the extension of the duration of the interim use permit for encampments?</p>	<p>The current proposal allows for non-renewable interim use permits for encampments of up to one year. The amendment would allow an extension of permits for up to one year, subject to certain conditions.</p> <p>This amendment also makes editorial changes: moving a portion of text of the current proposal essentially intact and specifying a form.</p>	<p>a. Approve the current proposal.</p> <p>b. Change the proposal to allow for extension of the interim use permit for transitional encampment for up to one year.</p>	<p style="text-align: center;">***</p> <p>Section 2. A new Section 23.42.056 to the Seattle Municipal Code is adopted as follows:</p> <p>23.42.056 Transitional encampment as an interim use</p> <p>A Type I Master Use Permit may be issued for a transitional encampment interim use according to the requirements of this Section 23.42.056.</p> <p><u>A. The Director, in consultation with the Human Services Director, shall adopt a rule according to subsection 23.88.010.A that includes but is not limited to establishing:</u></p> <p style="padding-left: 40px;"><u>1. Community outreach requirements that include:</u></p> <p style="padding-left: 80px;"><u>a. Community outreach standards that the encampment operator shall comply with before filing a transitional encampment interim use permit application, whether for a new transitional encampment or relocation of an existing transitional encampment. At a minimum, outreach standards shall contain a requirement that the encampment operator convene at least one public meeting in the neighborhood where the transitional encampment interim use is proposed to be established, at least 14 days prior to applying for a permit;</u></p> <p style="padding-left: 80px;"><u>b. A requirement that the proposed encampment operator establish a Community Advisory Committee that would provide advisory input on proposed encampment operations including identifying methods for handling community complaints or concerns as it relates to the facility or facility clients. The committee shall include one individual identified by each stakeholder group in the geographic area where the proposed encampment would be located as best suited to represent their interests. The committee shall consist of no more than seven members. Encampment operator representatives shall attend committee meetings to answer questions and shall provide regular reports to the committee concerning encampment operations. City staff may attend the meetings; and</u></p> <p style="padding-left: 40px;"><u>2. Operations standards that the encampment operator is required to implement while an encampment is operating.</u></p> <p><u>AB. Location. The transitional encampment interim use shall be located on property meeting the following requirements:</u></p>

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			<p style="text-align: center;">***</p> <p>BC. Operation. The transitional encampment interim use shall meet the following requirements:</p> <ol style="list-style-type: none"> 1. The encampment may be operated by a private party that shall prepare an Encampment Operations Plan that shall address: site management, site maintenance, provision of Human <u>and</u> ⁄Social Services, referrals to service providers that are able to provide services to individuals under the age of 18 who arrive at an encampment unaccompanied by a parent or legal guardian, and public health and safety standards. The operations plan shall be filed with the transitional encampment interim use permit application. 2. The operator shall have prior experience managing and operating shelters, low income housing, or homeless encampments. The transitional encampment interim use permit applicant shall include documentation as part of the permit application demonstrating that the encampment operator meets this standard. 3. The Director, in consultation with the Human Services Director, shall adopt a rule according to subsection 23.88.010.A that provides for: <ol style="list-style-type: none"> a. Community outreach standards that the encampment operator shall comply with before filing a transitional encampment interim use permit application, whether for a new transitional encampment or relocation of an existing transitional encampment. At a minimum, outreach standards shall contain a requirement that the encampment operator convene at least one public meeting in the neighborhood where the transitional encampment interim use is proposed to be established, at least 14 days prior to applying for a permit; b. A requirement that the proposed encampment operator establish a Community Advisory Committee that would provide advisory input on proposed encampment operations including identifying methods for handling community complaints or concerns as it relates to the facility or facility clients. The committee shall include one individual identified by each stakeholder group in the geographic area where the proposed encampment would be located as best suited to represent their interests. The committee shall consist of no more than seven members. Encampment operator representatives shall attend committee meetings to answer questions and shall provide regular reports to the committee concerning encampment operations. City staff may attend the meetings; and c. Operations standards that the encampment operator is required to implement while an encampment is operating.

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			<p data-bbox="1417 278 2775 308"><u>ED</u>. Additional requirements. The transitional encampment interim use shall meet the following requirements:</p> <ol data-bbox="1510 338 2853 429" style="list-style-type: none"> <li data-bbox="1510 338 2853 368">1. The requirements for transitional encampment accessory uses in subsections 23.42.054.B and 23.42.054.C. <li data-bbox="1510 399 2853 429">2. The operator of a transitional encampment interim use located on City-owned property shall obtain prior to permit issuance and maintain in full force and effect, at its own expense, liability insurance naming the City as an additional insured in an amount sufficient to protect the City as determined by the City Risk Manager from: <ol data-bbox="1603 570 2893 782" style="list-style-type: none"> <li data-bbox="1603 570 2893 631">a. All potential claims and risks of loss from perils in connection with any activity that may arise from or be related to the operator's activity upon or the use or occupation of the City property allowed by the permit; and <li data-bbox="1603 691 2893 782">b. All potential claims and risks in connection with activities performed by the operator by virtue of the permission granted by the permit. <li data-bbox="1510 812 2915 953">3. The operator of a transitional encampment interim use located on City-owned property shall <u>on a form approved by the Director</u>, agree to defend, indemnify, and hold harmless the City of Seattle, its officials, officers, employees, and agents from and against: <ol data-bbox="1603 983 2915 1366" style="list-style-type: none"> <li data-bbox="1603 983 2915 1195">a. Any liability, claims, actions, suits, loss, costs, expense judgments, attorneys' fees, or damages of every kind and description resulting directly or indirectly from any act or omission of the operator of a transitional encampment interim use located on City-owned property, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the operator's use or occupancy of the City property; and <li data-bbox="1603 1215 2915 1366">b. All loss by the failure of the operator of a transitional encampment interim use located on City-owned property to perform all requirements or obligations under the transitional encampment interim use permit, or federal, state, or City codes or rules. <li data-bbox="1510 1397 2893 1487">4. A transitional encampment interim use located on City-owned property shall <u>allow</u> service providers to access the site according to the approved operations plan required by subsection 23.42.056.B.1. <p data-bbox="1417 1518 2722 1548"><u>DE</u>. Duration and timing. The transitional encampment interim use shall meet the following requirements:</p> <ol data-bbox="1510 1578 2924 1719" style="list-style-type: none"> <li data-bbox="1510 1578 2924 1719">1. A permit for a transitional encampment interim use under this Section 23.42.056 may be authorized for up to one year from the date of permit issuance and may not be renewed. <u>A permit for a transitional encampment may be renewed for up to one year by the Director as a Type I decision subject to the following:</u> <ol data-bbox="1603 1749 2884 1780" style="list-style-type: none"> <li data-bbox="1603 1749 2884 1780">a. The operator shall provide notice of a request to extend the use in a manner determined by a Director's

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			<p><u>rule. The notice shall be given to the Citizen’s Advisory Committee and persons who provided the operator with an address for notice;</u></p> <p style="padding-left: 40px;"><u>b. The encampment is in compliance with the requirements of Section 23.42.056;</u></p> <p style="padding-left: 40px;"><u>c. The operator shall provide with the permit renewal application an Encampment Operations Plan that shall be in effect during the permit renewal period.</u></p> <p style="padding-left: 40px;">2. At least 12 months shall elapse before an encampment use may be located on any portion of a property where a transitional encampment interim use was previously located.</p> <p style="padding-left: 40px;">EF. Limit on the number of encampments. No more than three transitional encampment interim use encampments shall be permitted and operating at any one time, and each encampment shall not have more than 100 occupants. This limit shall not include transitional encampments accessory to a religious facility.</p> <p style="text-align: right;">***</p>