



Legislation Text

File #: CB 119656, Version: 3

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to land use and zoning; providing that transitional encampments for homeless individuals are allowed on any property owned or controlled by a religious organization without approval of a permit under the Seattle Land Use Code, to permit transitional encampments for homeless individuals as an interim use on all publicly owned or private property within the City of Seattle, and providing for renewal of temporary use permits for transitional encampments as a Type I decision of the Director of the Seattle Department of Construction and Inspections; amending Sections 23.40.002, 23.42.054, 23.42.056, 23.76.004, 23.76.006, 23.76.032, and 23.84A.038 of the Seattle Municipal Code; and amending Ordinance 124747.

WHEREAS, Seattle has been in a State of Civil Emergency on homelessness since 2015; and

WHEREAS, the 2019 Point in Time Count found there are 11,199 homeless people in King County including 5,228 sleeping unsheltered on the streets; and

WHEREAS, tiny house villages have proven to be an effective place for homeless individuals and families to find the safety, privacy, and human dignity necessary to get back on their feet and transition to affordable housing; and

WHEREAS, tiny houses provide the security of a sturdy wood structure, a place to store personal belongings, insulation, and electricity; and

WHEREAS, tiny house villages have operated with a self-management model where residents democratically run their communities; residents have reported this model has helped them overcome the isolation and alienation of homelessness, and residents have become more successful transitioning into permanent housing; and

WHEREAS, in 2018 residents of tiny house villages successfully transitioned to permanent housing at higher

rates than residents of shelters, with 56 percent obtaining permanent housing or transitional housing; and

WHEREAS, between 2016 and 2018, approximately 500 people transitioned to permanent housing from Seattle's tiny house villages; and

WHEREAS, through the 2020 Adopted Budget the Council appropriated approximately \$2,015,000 to fund operations and siting for two additional tiny house villages or enhanced shelter and approved Statement of Legislative Intent HOM-4-A-2, which requests cost estimate and siting information for tiny house villages; and

WHEREAS, the Council intends to consider in the future whether to increase or remove the limit on the maximum number of interim use transitional encampments based on changes in the population of unsheltered persons, available siting opportunities, funding availability, and the success of tiny house villages in exits to permanent housing; and

WHEREAS, Ordinance 124747, which established "Transitional Encampments as an interim use" in Seattle's land use code in 2015, created the legal framework for Seattle's tiny house villages, but allowed no more than three tiny house villages at any one time, and will sunset on March 31, 2020 if there is no further legislative action; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.40.002 of the Seattle Municipal Code, last amended by Ordinance 125272, is amended as follows:

23.40.002 Conformity with regulations required

A. The establishment or change of use of any structures, buildings or premises, or any part thereof, requires approval according to the procedures (~~(set forth)~~) in Chapter 23.76(~~(, Procedures for Master Use Permits and Council Land Use Decisions,)~~) except:

1. (~~(establishment)~~) Establishment of an urban farm or community garden that does not include

major marijuana activity as defined in Section 23.84A.025((;)) and that is permitted outright under the provisions of this Title 23 applicable to the lot;

2. ((as)) As permitted in subsections 23.47A.004.E and 23.47A.004.F;

3. ((keeping)) Keeping of animals as permitted under Section 23.42.052;

4. ((reinstatement)) Reinstatement of a use interrupted by a temporary use authorized pursuant to Section 23.42.040; ((and))

5. Establishment of a transitional encampment use on property owned or controlled by a religious organization; and

6. ((for uses)) Uses located entirely within public rights-of-way.

* * *

Section 2. Section 23.42.054 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

23.42.054 Transitional encampments ((accessory to religious facilities or to other principal uses)) located on property owned or controlled by a religious organization

A. Transitional encampment ((accessory)) use on property owned or controlled by a religious organization. A transitional encampment is allowed ((as an accessory use)) on a site in any zone, if the ((established principal use of the site is as a religious facility or the principal use is on)) property is owned or controlled by a religious organization, subject to the provisions of subsection 23.42.054.B. ((A religious facility)) If the site includes property developed with legally-established parking that is accessory to ((the)) a religious facility((. Parking accessory to a religious facility or located on property owned or controlled by a religious organization that is)) or other use established on the property, then any parking displaced by the encampment does not need to be replaced.

* * *

Section 3. Section 23.42.056 of the Seattle Municipal Code, enacted by Ordinance 124747, is amended

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. The Director, in consultation with the Human Services Director, shall adopt a rule according to Section 23.88.010 that includes but is not limited to establishing:

1. Community outreach requirements that include:

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 fewer than five and no more than ((seven)) ten 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

2. Operations standards that the encampment operator is required to implement while an encampment is operating.

B. Location. The transitional encampment interim use ((shall)) may be located on property within any

zone ~~((meeting))~~ subject to the following requirements:

1. ~~((The property is:~~

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;~~

~~or~~

b. ~~Within a Major Institution Overlay district.~~

2. ~~The property is at least 25 feet from any residentially-zoned lot.~~

3. ~~A property may be less than 25 feet from a residentially-zoned lot and used as an encampment site if:~~

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; and~~

b. ~~Screening is))~~ Screening shall be installed and maintained along each encampment boundary, ~~((except))~~ including 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.

2. Except for encampments established prior to February 18, 2020, all encampment facilities, improvements, activities, and uses shall be set back from abutting lot lines, as follows:

a. 10 feet from any side or rear lot line that abuts a lot in a single-family zone; and

b. 5 feet from any side or rear lot line that abuts a lot in any zone other than single family; except that no setback is required when an abutting lot, which is not in a single-family zone, does not have an established use.

~~((4))~~ 3. The property is owned or controlled by ~~((the City of Seattle,))~~ a private party, ~~((or))~~ an Educational Major Institution, The City of Seattle, or another public entity.

5)) 4. The property is within ½ mile of a transit stop. This distance shall be the walking distance

measured from the nearest transit stop to the lot line of the lot containing the encampment site.

~~((6. The property is, as measured by a straight line, at least 1 mile from any other legally-established transitional encampment interim use including encampments accessory to a religious facility or accessory to other principal uses on property owned or controlled by a religious organization. This subsection 23.42.056.A.6 shall not apply to encampments on sites owned or controlled by religious organizations, or to any legally-established transitional encampment interim use that provides shelter for fewer than ten persons.))~~

((7)) 5. The property is 5,000 square feet or larger and provides a minimum of 100 square feet of land area for each occupant that is permitted to occupy the encampment site.

((8)) 6. The property does not contain a wetland, wetland buffer, known and potential landslide designations, steep slope, steep slope buffer, or fish and wildlife habitat conservation area defined and regulated by Chapter 25.09(~~(, Regulations for Environmentally Critical Areas,))~~) unless all encampment facilities, improvements, activities, and uses are located outside any critical area and required buffer as provided for in Chapter 25.09.

((9)) 7. The encampment site is not used by an existing legally-permitted use for code or permit-required purposes including but not limited to parking or setbacks.

~~((10))~~ 8. The property is not an unopened public ~~((right of way))~~ right-of-way; or designated as a park, playground, viewpoint, or multi-use trail by the City or King County.

9. The property is, as measured by a straight line, at least 1 mile from any other legally-established transitional encampment interim use including encampments accessory to a religious facility or accessory to other principal uses on property owned or controlled by a religious organization. This subsection 23.42.056.B.9 shall not apply:

a. To encampments on sites owned or controlled by religious organizations, or

b. To any legally-established transitional encampment interim use that provides shelter

for fewer than ten persons, or

c. When at least one transitional encampment is established in each Council District.

* * *

D. Additional requirements. The transitional encampment interim use shall meet the following requirements:

1. The requirements for transitional encampment accessory uses in subsections 23.42.054.B and 23.42.054.C.

2. The operator of a transitional encampment interim use who receives funding from the City of Seattle shall provide case management and security as established in a management plan approved by the Director of the City of Seattle Human Services Department.

3. The operator of a transitional encampment interim use who receives funding from the City of Seattle Human Services Department or the King County Regional Homelessness Authority shall comply with performance standards in the contract or contracts administered by those agencies for the encampment.

~~((2))~~4. The operator of a transitional encampment interim use located on City-owned or - controlled 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:

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-owned or - controlled property allowed by the permit; and

b. All potential claims and risks in connection with activities performed by the operator by virtue of the permission granted by the permit.

~~((3))~~5. The operator of a transitional encampment interim use located on City-owned or - controlled property shall, on a form approved by the Director, agree to defend, indemnify, and hold harmless (~~the~~) The City of Seattle, its officials, officers, employees, and agents from and against:

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 or -controlled 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-owned or -controlled property; and

b. All loss by the failure of the operator of a transitional encampment interim use located on City-owned or -controlled property to perform all requirements or obligations under the transitional encampment interim use permit, or federal, state, or City codes or rules.

~~((4))~~6. A transitional encampment interim use located on City-owned or -controlled property shall allow service providers to access the site according to the approved operations plan required by subsection 23.42.056.B.1.

E. ~~((Duration))~~ Permit term and renewal ~~((timing))~~. ~~((The transitional encampment interim use shall meet the following requirements:~~

~~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. A permit for a transitional encampment may be renewed ~~((one time for up to one year))~~ for additional one-year terms by the Director as a Type I decision subject to the following:

~~((a))~~1. The operator shall provide notice of a request to extend the use in a manner determined by a Director's Rule. The notice shall be given to the Citizen's Advisory Committee and persons who provided the operator with an address for notice;

~~((b))~~2. The encampment is in compliance with the requirements of Section 23.42.056; and

~~((e))~~3. The operator shall provide with the permit renewal application an Encampment Operations Plan that shall be in effect during the permit renewal period and consistent with subsection 23.42.056.A.

~~((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.))~~

F. Limit on the number of encampments((-))

1. Maximum number of encampments. No more than ~~((three))~~ 40 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))~~ The limit of 40 transitional interim use encampments shall not include transitional encampments ~~((accessory to a religious facility))~~ located on property owned or controlled by a religious organization.

2. Existing encampments established by and operating under temporary use permits.

Encampments presently operating under temporary use permits issued pursuant to subsections 23.42.040.B and 23.42.040.C may apply for an interim use permit pursuant to this Section 23.42.056, subject to the limits established by subsection 23.42.056.F.1. The term for operating any encampments obtaining interim use permits in lieu of temporary use permits shall begin on the date the interim use permit is issued regardless of how long the encampment has been established by a prior temporary use permit.

Section 4. Section 23.76.004 of the Seattle Municipal Code, last amended by Ordinance 125603, is amended as follows:

23.76.004 Land use decision framework

A. Land use decisions are classified into five categories. Procedures for the five different categories are distinguished according to who makes the decision, the type and amount of public notice required, and whether appeal opportunities are provided. Land use decisions are generally categorized by type in Table A for 23.76.004.

B. Type I and II decisions are made by the Director and are consolidated in Master Use Permits. Type I decisions are decisions made by the Director that are not appealable to the Hearing Examiner. Type II decisions are discretionary decisions made by the Director that are subject to an administrative open record appeal

hearing to the Hearing Examiner; provided that Type II decisions enumerated in subsections 23.76.006.C.2.c, 23.76.006.C.2.d, 23.76.006.C.2.f, and 23.76.006.C.2.g, and SEPA decisions integrated with them as set forth in subsection 23.76.006.C.2.m, shall be made by the Council when associated with a Council land use decision and are not subject to administrative appeal. Type III decisions are made by the Hearing Examiner after conducting an open record hearing and not subject to administrative appeal. Type I, II, or III decisions may be subject to land use interpretation pursuant to Section 23.88.020.

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Table A
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Director's and Hearing Examiner's Decisions Requiring Master Use Permits
TYPE
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I
Director's Decision
(Administrative review through land use interpretation as allowed

by Sect ion 23.8 8.02 0 ²)	
*	Application of development standards for decisions
*	Uses permitted outright
*	Temporary uses, four weeks or less
*	Renewals of temporary uses, except for temporary use construction ((and transitional encampments))
*	Intermittent uses
*	Uses on vacant or underused lots pursuant to Section
*	Transitional encampment interim use
*	Certain street uses
*	Lot boundary adjustments
*	Modifications of features bonused under Title 24
*	Determinations of significance (EIS required) except on historic and cultural preservation
*	Temporary uses for relocation of police and fire station
*	Exemptions from right-of-way improvement requirements
*	Special accommodation
*	Reasonable accommodation
*	Minor amendment to a Major Phased Development plan
*	Determination of whether an amendment to a proper minor
*	Streamlined design review decisions pursuant to Section departures are requested, and design review decision if no development standard departures are requested
*	Shoreline special use approvals that are not part of a
*	Adjustments to major institution boundaries pursuant
*	Determination that a project is consistent with a plan
*	Decision to approve, condition, or deny, based on SI be consistent with a planned action ordinance
*	Decision to increase the maximum height for residential subsection 23.49.008.H
*	Decision to increase the maximum allowable FAR in 23.49.011.A.2.n
*	Minor revisions to an issued and unexpired MUP that
*	Building height increase for minor communication use

*	Other Type I decisions that are identified as such in
	* * *

Section 5. Section 23.76.006 of the Seattle Municipal Code, last amended by Ordinance 125603, is amended as follows:

23.76.006 Master Use Permits required

A. Type I, II, and III decisions are components of Master Use Permits. Master Use Permits are required for all projects requiring one or more of these decisions.

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards;

2. Establishment or change of use for uses permitted outright, uses allowed under Section 23.42.038, temporary relocation of police and fire stations for 24 months or less, transitional encampment interim use, temporary uses for four weeks or less not otherwise permitted in the zone, and renewals of temporary uses for up to six months, except temporary uses and facilities for light rail transit facility construction ((and transitional encampments));

3. The following street use approvals:

a. Curb cut for access to parking, whether associated with a development proposal or not;

b. Concept approval of street improvements associated with a development proposal, such as additional on-street parking, street landscaping, curbs and gutters, street drainage, sidewalks, and paving;

c. Structural building overhangs associated with a development proposal;

d. Areaways associated with a development proposal;

4. Lot boundary adjustments;

5. Modification of the following features bonused under Title 24:

- a. Plazas;
- b. Shopping plazas;
- c. Arcades;
- d. Shopping arcades; and
- e. Voluntary building setbacks;

6. Determinations of Significance (determination that an Environmental Impact Statement is required) for Master Use Permits and for building, demolition, grading, and other construction permits (supplemental procedures for environmental review are established in Chapter 25.05, Environmental Policies and Procedures), except for Determinations of Significance based solely on historic and cultural preservation;

7. Discretionary exceptions for certain business signs authorized by subsection 23.55.042.D;

8. Waiver or modification of required right-of-way improvements;

9. Special accommodation pursuant to Section 23.44.015;

10. Reasonable accommodation;

11. Minor amendment to Major Phased Development Permit;

12. Streamlined design review decisions pursuant to Section 23.41.018 if no development standard departures are requested pursuant to Section 23.41.012, and design review decisions in an MPC zone if no development standard departures are requested pursuant to Section 23.41.012;

13. Shoreline special use approvals that are not part of a shoreline substantial development permit;

14. Determination that a project is consistent with a planned action ordinance, except as provided in subsection 23.76.006.C;

15. Decision to approve, condition, or deny, based on SEPA policies, a permit for a project determined to be consistent with a planned action ordinance;

16. Determination of requirements according to subsections 23.58B.025.A.3.a,

23.58B.025.A.3.b, 23.58B.025.A.3.c, 23.58C.030.A.2.a, 23.58C.030.A.2.b, and 23.58C.030.A.2.c;

17. Decision to increase the maximum height of a structure in the DOC2 500/300-550 zone according to subsection 23.49.008.F;

18. Decision to increase the maximum FAR of a structure in the DOC2 500/300-550 zone according to subsection 23.49.011.A.2.n;

19. Minor revisions to an issued and unexpired MUP that was subject to design review, pursuant to subsection 23.41.008.G;

20. Building height departures for minor communication facilities in downtown zones, pursuant to Section 23.57.013; and

21. Other Type I decisions.

* * *

Section 6. Subsection 23.76.032.C of the Seattle Municipal Code, which section was last amended by Ordinance 125558, is amended as follows:

23.76.032 Expiration and renewal of Type I and II Master Use Permits

C. Master Use Permit (~~Renewal~~) renewal

1. Except for Major Phased Development permits, the Director shall renew issued Master Use Permits for projects that are in conformance with applicable regulations, including but not limited to land use and environmentally critical areas regulations and SEPA policies in effect at the time renewal is sought. Except as provided in subsections 23.76.032.C.2 and 23.76.032.C.3, Master Use Permit renewal is for a period of two years. A Master Use Permit shall not be renewed beyond a period of five years from the original date the permit is approved for issuance. The Director shall not renew issued Master Use Permits for projects that are not in conformance with applicable regulations in effect at the time renewal is sought.

2. If an application for a building permit is submitted before the end of the two year term of renewal, and is subsequently issued, the Master Use Permit shall be extended for the life of the building permit.

3. The Director may renew a Master Use Permit for the temporary relocation of police and fire stations issued pursuant to Section 23.42.040 for a period not to exceed 12 months.

4. The Director may renew a Master Use Permit for a transitional encampment interim use issued according to ~~((Section))~~ subsection 23.42.056.E ~~((one time for up to one year))~~ for additional one-year terms.

Section 7. Section 23.84A.038 of the Seattle Municipal Code, last amended by Ordinance 125854, is amended as follows:

23.84A.038 "T"

* * *

"Transitional ~~((E))~~encampment" means a use having tents, modular structures, or a similar shelter, including vehicles used for shelter, that provides temporary quarters for sleeping and shelter. The use may have common food preparation, shower, or other commonly-used facilities that are separate from the sleeping shelters.

* * *

Section 8. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 9. Section 8 of Ordinance 124747 is repealed:

~~((Section 8. This ordinance shall be automatically repealed without subsequent Council action on March 31, 2020.))~~

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.

Passed by the City Council the _____ day of _____, 2020, and signed by
me in open session in authentication of its passage this _____ day of _____, 2020.

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)