Bill Mills
DPD Transitional Encampment Amendment ORD
April 30, 2013
Version #7

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 117791

AN ORDINANCE relating to land use and zoning; amending Sections 23.54.015, 23.76.004, 23.76.006, and 23.76.032 of the Seattle Municipal Code; and adding new Section 23.42.056; to permit transitional encampments for homeless individuals as an interim use on City-owned or private property.

WHEREAS, there is a well-documented history of homelessness in Seattle and a demonstrated need for additional facilities to address the issue;

WHEREAS in 2012, the Council added a Comprehensive Plan goal to, "Guide the operation of safe and healthy transitional encampments to allow temporary shelter for those who are homeless;" and

WHEREAS, agreements are encouraged between transitional encampment operators and the owner of the property where an encampment is located to provide encampment rules that extend beyond zoning standards, including prohibiting alcohol, drugs, weapons, and sex offenders; or establishing rules for children in encampments; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Section 23.42.056 to the Seattle Municipal Code is adopted as follows:

23.42.056 Transitional Encampment 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. Operation. The transitional encampment interim use shall meet the following requirements:

1. The encampment shall be operated by the City of Seattle or a private party that has prepared an encampment operations plan addressing: site management, maintenance, and security.

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2. If the encampment is operated by a private party; the operator shall have prior experience managing and operating shelters, low-income housing, or homeless encampments. The permit applicant shall include documentation that the encampment operator meets this standard when applying for a transitional encampment interim use permit.

3. The Director shall adopt a rule according to subsection 23.88.010.A that provides for:

a. Community outreach standards that the encampment operator shall comply with before filing a transitional encampment interim use permit application; and

b. Encampment operations standards the encampment operator shall implement while an encampment is operating.

B. Location. The transitional encampment interim use shall be located on property meeting the following requirements:

1. The property is zoned Industrial, Downtown, SM, NC2, NC3, C1, or C2.

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 this 25-foot setback area.

b. Screening is installed and maintained along each encampment boundary, except boundaries fronting on a public street. The screening may consist of: vegetation, existing or installed that is sufficiently dense to obscure viewing the encampment site; or a 6-foot high view-obscuring fence or wall.

4. The property is owned by the City of Seattle or a private party.

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5. The property is within 1/2 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 transitional encampment interim use.

6. The property is, as measured by a straight line, at least 1/2 mile from any other legally-established transitional encampment interim use.

7. 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 transitional encampment site.

8. The property does not contain a wetland, wetland buffer, 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. 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. The property is not an unopened public street right of way or property designated as a park, playground, viewpoint, or multi-use trail by the City or King County.

C. Additional requirements. The transitional encampment interim use shall meet the requirements for transitional encampment accessory uses in subsections 23.42.054.B and 23.42.054.C.

D. Duration and timing. The transitional encampment interim use shall meet the following requirements:

1. A permit for a transitional encampment under this Section 23.42.056 may be authorized for up to one year and may not be renewed.

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2. At least 12 months shall elapse before an encampment use may be located on any portion of a property where an encampment was previously located.

Section 2. Table A for 23.54.015 of the Seattle Municipal Code, last amended by Ordinance 123963, is amended as follows:

23.54.015 Required parking

* * *

Table A for 23.54.015				
PARKING FOR NONRESIDENTIAL USES OTHER THAN INSTITUTIONS				
((~~**PARKING FOR NONRESIDENTIAL USES OTHER THAN INSTITUTIONS**~~))				
Use				Minimum parking required
I. General Nonresidential Uses (other than institutions)				
* * *				
G.	TRANSITIONAL ENCAMPMENT INTERIM USE			1 space for each 2 staff members on-site at peak staffing times
((~~G~~))H.	TRANSPORTATION FACILITIES			
	((~~G~~))H.1.	Cargo terminals		1 space for each 2,000 square feet
	((~~G~~))H.2.	Parking and moorage		
		((~~G~~))H.2.a.	Principal use parking	None
		((~~G~~))H.2.b.	Towing services	None
		((~~G~~))H.2.c.	Boat moorage	1 space for each 2 berths
		((~~G~~))H.2.d.	Dry storage of boats	1 space for each 2,000 square feet
	((~~G~~))H.3.	Passenger terminals		1 space for each 100 square feet of waiting area
	((~~G~~))H.4.	Rail transit facilities		None
	((~~G~~))H.5.	Transportation facilities, air		1 space for each 100 square feet of waiting area
	((~~G~~))H.6.	Vehicle storage and maintenance uses		1 space for each 2,000 square feet
((~~H~~))I.	UTILITIES			1 space for each 2,000 square feet

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Table A for 23.54.015 PARKING FOR NONRESIDENTIAL USES OTHER THAN INSTITUTIONS ((~~PARKING FOR NONRESIDENTIAL USES OTHER THAN INSTITUTIONS~~))		
Use		Minimum parking required
II. Nonresidential Use Requirements For Specific Areas		
((~~I~~))J.	Nonresidential uses, except hospitals, in urban centers or the Station Area Overlay District (3)	No minimum requirement
((~~J~~))K.	Nonresidential uses in urban villages that are not within an urban center or the Station Area Overlay District, if the nonresidential use is located within 1,320 feet of a street with frequent transit service, measured as the walking distance from the nearest transit stop to the lot line of the lot containing the nonresidential use. (3)	No minimum requirement
((~~K~~))L.	Nonresidential uses (other than institutions) permitted in MR and HR zones pursuant to Section 23.45.504.	No minimum requirement

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Section 3. Table A for 23.76.004 of the Seattle Municipal Code, last amended by Ordinance 123963, is amended as follows:

23.76.004 Land use decision framework

* * *

((~~Table A for 23.76.004~~

~~LAND USE DECISION FRAMEWORK[1]~~

~~DIRECTOR'S AND HEARING EXAMINER'S DECISIONS REQUIRING MASTER USE PERMITS~~))

Table A for 23.76.004 LAND USE DECISION FRAMEWORK[1] DIRECTOR'S AND HEARING EXAMINER'S DECISIONS REQUIRING MASTER USE PERMITS	
TYPE I Director's Decision (Administrative review through land use interpretation as allowed by Section 23.88.020[2])	
*	Compliance with development standards

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*	Uses permitted outright
*	Temporary uses, four weeks or less
*	Intermittent uses
*	Interim use parking authorized under subsection 23.42.040.G
*	Uses on vacant or underused lots per Section 23.42.038
*	Transitional encampment interim use
*	Certain street uses
*	Lot boundary adjustments
*	Modifications of features bonused under Title 24
*	Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation
*	Temporary uses for relocation of police and fire stations
*	Exemptions from right-of-way improvement requirements
*	Special accommodation
*	Reasonable accommodation
*	Minor amendment to a Major Phased Development Permit
*	Determination of public benefit for combined lot FAR
*	Determination of whether an amendment to a property use and development agreement is major or minor
*	Streamlined design review decisions pursuant to Section 23.41.018 if no development standard departures are requested, and design review decisions in an MPC zone pursuant to Section 23.41.020 if no development standard departures are requested
*	Shoreline special use approvals that are not part of a shoreline substantial development permit
*	Adjustments to major institution boundaries pursuant to subsection 23.69.023.B
*	Determination that a project is consistent with a planned action ordinance
*	Decision to approve, condition, or deny, based on SEPA policies, a permit for a project determined to be consistent with a planned action ordinance
*	Other Type I decisions that are identified as such in the Land Use Code
	TYPE II **Director's Decision** Appealable to Hearing Examiner or Shorelines Hearing Board[3]
*	Temporary uses, more than four weeks, except for temporary relocation of police and fire stations
*	Variances
*	Administrative conditional uses
*	Shoreline decisions, except shoreline special use approvals that are not part of a shoreline substantial development permit[3]
*	Short subdivisions
*	Special Exceptions
*	Design review decisions, except for streamlined design review pursuant to Section 23.41.018 if no development standard departures are requested, and except for design

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	review decisions in an MPC zone pursuant to Section 23.41.020 if no development standard departures are requested
*	Light rail transit facilities
*	The following environmental determinations:
	1. Determination of non-significance (EIS not required)
	2. Determination of final EIS adequacy
	3. Determinations of significance based solely on historic and cultural preservation
	4. A decision to approve, condition or deny a permit for a project based on SEPA policies, except for a project determined to be consistent with a planned action ordinance
*	Major Phased Developments
*	Downtown Planned Community Developments
	TYPE III **Hearing Examiner's Decision** (No Administrative Appeal)
*	Subdivisions (preliminary plats)
	COUNCIL LAND USE DECISIONS **TYPE IV** (Quasi-Judicial) **Council Land Use Decisions**
*	Amendments to the Official Land Use Map (rezones), except area-wide amendments and correction of errors
*	Public projects that require Council approval
*	Major Institution master plans, including major amendments, renewal of a master plan's development plan component, and master plans prepared pursuant to subsection 23.69.023.C after an acquisition, merger, or consolidation of major institutions
*	Major amendments to property use and development agreements
*	Council conditional uses
	TYPE V **(Legislative)** Council Land Use Decisions
*	Land Use Code text amendments
*	Area-wide amendments to the Official Land Use Map
*	Corrections of errors on the Official Land Use Map due to cartographic and clerical mistakes
*	Concept approvals for the location or expansion of City facilities requiring Council land use approval
*	Major Institution designations and revocations of Major Institution designations
*	Waivers or modifications of development standards for City facilities
*	Adoption of or amendments to Planned Action Ordinances
Footnotes for Table A for 23.76.004:	

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(1) Sections 23.76.006 and 23.76.036 establish the types of land use decisions in each category. This table is intended to provide only a general description of land use decision types.
(2) Type I decisions are subject to administrative review through a land use interpretation pursuant to Section 23.88.020 if the decision is one that is subject to interpretation.
(3) Shoreline decisions, except shoreline special use approvals that are not part of the shoreline substantial development permit, are appealable to the Shorelines Hearings Board along with all related environmental appeals.

Section 4. Section 23.76.006 of the Seattle Municipal Code, last amended by Ordinance 124105, 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, interim use parking under subsection 23.42.040.G, uses allowed under Section 23.42.038, temporary relocation of police and fire stations for 24 months or less, <u>transitional encampment interim use,</u> and 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;

* * *

C. The following are Type II decisions:

* * *

2. The following decisions are subject to appeal to the Hearing Examiner (except shoreline decisions and related environmental determinations that are appealable to the Shorelines Hearings Board):

* * *

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l. Establishment of temporary uses for transitional encampments, except transitional encampment interim uses provided for in subsection 23.76.006.B.2; and

* * *

Section 5. Section 23.76.032. A of the Seattle Municipal Code, last amended by Ordinance 123913, is amended as follows:

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

A. Type I and Type II Master Use Permit ((~~Expiration.~~)) expiration

1. An issued Type I or II Master Use Permit expires three years from the date a permit is approved for issuance as described in Section 23.76.028, except as follows:

a. A Master Use Permit with a shoreline component expires pursuant to WAC 173-27-090.

b. A variance component of a Master Use Permit expires as follows:

1) Variances for access, yards, setback, open space, or lot area minimums granted as part of a short plat or lot boundary adjustment run with the land in perpetuity as recorded with the King County Recorder.

2) Variances granted as separate Master Use Permits pursuant to subsection 23.76.004.G expire three years from the date the permit is approved for issuance as described in Section 23.76.028 or on the effective date of any text amendment making more stringent the development standard from which the variance was granted, whichever is sooner. If a Master Use Permit to establish the use is issued prior to the earlier of the dates specified in the preceding sentence, the variance expires on the expiration date of the Master Use Permit.

c. The time during which pending litigation related to the Master Use Permit or the property subject to the permit made it reasonable not to submit an application for a building permit, or to establish a use if a building permit is not required, is not included in determining the expiration date of the Master Use Permit.

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d. Master Use Permits with a Major Phased Development or Planned Community Development component under Sections 23.47A.007, 23.49.036, or 23.50.015 expire as follows:

1) For the first phase, the expiration date shall be three years from the date the permit is approved for issuance;

2) For subsequent phases, the expiration date shall be determined at the time of permit issuance for each phase, and the date shall be stated in the permit.

e. Permits for uses allowed under Section 23.42.038, ((~~and~~)) temporary, interim, or intermittent use permits issued pursuant to Section 23.42.040, <u>and transitional encampment interim use permits issued under Section 23.42.056,</u> expire on the date stated in the permit.

* * *

Section 6. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, sub-division, section or portion of this ordinance, or the invalidity of the application thereof 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.

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Section 7. 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 _____, 2013, and signed by me in open session in authentication of its passage this _____ day of _____, 2013.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2013.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

_____

Monica Martinez Simmons, City Clerk

(Seal)

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Form revised: December 12, 2012

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Planning and Development	Bill Mills/4-8738	Melissa Lawrie/4-5805

Legislation Title: An Ordinance relating to land use and zoning; amending Sections 23.54.015, 23.76.004, 23.76.006, and 23.76.032 of the Seattle Municipal Code; and adding new Section 23.42.056; to permit transitional encampments for homeless individuals as an interim use on City-owned or private property.

Summary of the Legislation: The proposal would 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, which limit sites to those owned or controlled by religious organizations. The proposal would create a "transitional encampment interim use" as a Type I permit and allow the use to locate for a period of up to one year on sites owned or operated by the City of Seattle or private owners, and within the following zones: Industrial zones, Downtown zones, except for Downtown zones defined as residential, Seattle Mixed (SM), Neighborhood Commercial 2 (NC2), Neighborhood Commercial 3 (NC3), Commercial 1 (C1), and Commercial 2 (C2) zones.

Encampments would be required to operate according to a management plan addressing site management, maintenance and security. Encampment operators would be required to have demonstrated experience managing and operating shelters, low-income housing, or encampments serving low-income, homeless or indigent persons. Standards for locating encampments include a minimum 25-foot setback from residentially zoned lots, minimum lot size of 5,000 square feet in area and a minimum of 100 square feet of land per occupant, and requirements for location near transit stops and separation of at least one-half mile from any other legally-established transitional encampment use. Unopened public street right-of-way or sites designated as a park, playground, viewpoint, or multi-use trail are excluded from the eligible sites. Parking for any encampment staff would be required.

Background: Temporary encampments are presently defined in the Code 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.

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The proposed legislation is similar to the existing process of permitting transitional encampments under the current Code provisions for temporary use permits. A temporary use permit for up to six months is allowed under subsection 23.42.040.C for any use that 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 Code. The current temporary use permit is a "Type II" Master Use Permit review, with public comment and appeal opportunities, while the proposed legislation would establish the transitional encampment interim use as a "Type I" process that is non-appealable.

Please check one of the following:

__X__ This legislation does not have any financial implications.

____ This legislation has financial implications.

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
No.

b) **What is the financial cost of not implementing the legislation?**
None.

c) **Does this legislation affect any departments besides the originating department?**
No.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
No alternatives have been identified.

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e) **Is a public hearing required for this legislation?**
Yes. The City Council must hold a public hearing, to be scheduled before the Housing, Human Services, Health and Culture Committee.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
Yes. Publication of notice of the Council public hearing will be made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin. Environmental review under the State Environmental Policy Act (SEPA) is also required for this legislation, and publication of notice of the environmental determination was made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin on May 3, 2012, when similar legislation was first proposed.

g) **Does this legislation affect a piece of property?**
No specific piece of property is identified. Sites owned or operated by the City of Seattle or private owners that are suitable for interim use transitional encampments are found throughout the City of Seattle within the non-residential zones in which the use is proposed to be allowed.

h) **Other Issues:** None.

List attachments to the fiscal note below: None.

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