



**Legislative Department
Seattle City Council
Memorandum**

Date: June 25, 2013

To: Nick Licata, Chair
Sally Bagshaw, Vice Chair
Bruce Harrell, Member
Tom Rasmussen, Alternate
Housing Human Services Health and Culture Committee

From: Ketil Freeman, Council Central Staff

Subject: Substitute Council Bill 117791 (Interim Use Encampments)

Substitute Council Bill 117791

This memorandum describes changes in a proposed substitute Council Bill 117791. The proposed substitute is attached with changes tracked in red. Proposed changes reflect issues discussed by the Housing, Human Services, Health and Culture Committee on June 12th. Changes include:

1. A recital reiterating public health requirements for transitional encampments (p.1);
2. Direction to the Director of the Department of Planning and Development (DPD) for outreach requirements to be promulgated by rule including (p.2):
 - a. A requirement that DPD and the encampment operator convene at least one public meeting in the neighborhood where an encampment is proposed to be located prior to issuance of a permit and
 - b. A requirement that City and the encampment operator establish a community advisory committee as a venue for reviewing encampment operations and addressing complaints and issues raised by near-neighbors;
3. Expanded dispersion requirements from one half mile to two miles (p.3);
4. A requirement that encampment operators obtain liability insurance for encampments located on City-owned property (p.4); and
5. A limit on the number of interim use encampments operating at any one time to no more than three encampments or encampments providing shelter to three hundred persons, whichever is greater (p.5).

CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

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;"

WHEREAS, temporary encampments hosted by qualified organizations as authorized by C.B. 117791 and religious-facilities as authorized by Ordinance 123729, must provide, at a minimum, running water and toilets for people in the encampments; 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 1. The encampment shall be operated by the City of Seattle or a private party that
2 has prepared an encampment operations plan addressing: site management, maintenance, and
3 security.

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

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

10 a. Community outreach standards that the encampment operator shall
11 comply with before filing a transitional encampment interim use permit application; at a
12 minimum outreach standards shall contain a requirement that the Department and encampment
13 operator convene at least one public meeting in the neighborhood where the transitional
14 encampment is proposed to be established prior to issuance of a permit;

15 b. A requirement that the City and encampment operator establish a
16 Community Advisory Committee to provide input on the operation of the proposed transitional
17 encampment including identifying methods for handling community complaints or concerns as it
18 relates to the facility and clients of the facility; the Community Advisory Committee will include
19 those individuals identified by major stakeholder groups in the area as best suited to represent
20 their interests; City staff and encampment operator representatives will attend Advisory
21 Committee meetings to answer questions and will provide regular reports to the Advisory
22 Committee concerning the operation of the facility; and

23 bc. Encampment operations standards the encampment operator shall
24 implement while an encampment is operating.

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

- 3 1. The property is zoned Industrial, Downtown, SM, NC2, NC3, C1, or C2.
4 2. The property is at least 25 feet from any residentially-zoned lot.
5 3. A property may be less than 25 feet from a residentially-zoned lot and used as
6 an encampment site if:

7 a. All encampment facilities, improvements, activities, and uses are
8 located at least 25 feet from any residentially-zoned lot. Access to the encampment site may be
9 located within this 25-foot setback area.

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

- 14 4. The property is owned by the City of Seattle or a private party.
15 5. The property is within 1/2 mile of a transit stop. This distance shall be the
16 walking distance measured from the nearest transit stop to the lot line of the lot containing the
17 transitional encampment interim use.

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

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

23 8. The property does not contain a wetland, wetland buffer, steep slope, steep
24 slope buffer, or fish and wildlife habitat conservation area defined and regulated by Chapter
25 25.09, Regulations for Environmentally Critical Areas, unless all encampment facilities,

1 improvements, activities, and uses are located outside any critical area and required buffer as
2 provided for in Chapter 25.09.

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

5 10. The property is not an unopened public street right of way or property
6 designated as a park, playground, viewpoint, or multi-use trail by the City or King County.

7 C. Additional requirements. The transitional encampment interim use shall meet the
8 following requirements:

9 1. The transitional encampment interim use shall meet the requirements for
10 transitional encampment accessory uses in subsections 23.42.054.B and 23.42.054.C; and

11 2. The operator of a transitional use encampment located on City-owned property
12 shall obtain and maintain in full force and effect, at its own expense, liability insurance in and
13 amount sufficient to protect the City from:

14 a. All potential claims and risks of loss from perils in connection with any
15 activity that may arise from or be related to the operator's activity upon or the use or occupation
16 of the public place allowed by the permit and
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18 b. Claims and risks in connection with activities performed by the operator
19 by virtue of the permission granted by the permit.
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21 D. Duration and timing. The transitional encampment interim use shall meet the
22 following requirements:
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24 1. A permit for a transitional encampment under this Section 23.42.056 may be
25 authorized for up to one year and may not be renewed.
26

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.

E. Limit on the number of encampments. The Director shall not permit more than three interim use encampments or interim use encampments providing shelter for more than three hundred persons, whichever is greater, at any one time.

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

Table A for 23.54.015

PARKING FOR NONRESIDENTIAL USES OTHER THAN INSTITUTIONS

~~((PARKING FOR NONRESIDENTIAL USES OTHER THAN INSTITUTIONS))~~

Use		Minimum parking required
		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

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

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~~((Table A for 23.76.004~~

~~LAND USE DECISION FRAMEWORK¹~~

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

Table A for 23.76.004

LAND USE DECISION FRAMEWORK¹

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
*	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
*	<u>Transitional encampment interim use</u>
*	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

1	*	Shoreline decisions, except shoreline special use approvals that are not part of a shoreline substantial development permit ³
2	*	Short subdivisions
3	*	Special Exceptions
4	*	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 review decisions in an MPC zone pursuant to Section 23.41.020 if no development standard departures are requested
5	*	Light rail transit facilities
6	*	The following environmental determinations:
7		1. Determination of non-significance (EIS not required)
8		2. Determination of final EIS adequacy
9		3. Determinations of significance based solely on historic and cultural preservation
10		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
11	*	Major Phased Developments
12	*	Downtown Planned Community Developments
13	TYPE III Hearing Examiner's Decision (No Administrative Appeal)	
14	*	Subdivisions (preliminary plats)
15	COUNCIL LAND USE DECISIONS TYPE IV (Quasi-Judicial) Council Land Use Decisions	
16	*	Amendments to the Official Land Use Map (rezones), except area-wide amendments and correction of errors
17	*	Public projects that require Council approval
18	*	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
19	*	Major amendments to property use and development agreements
20	*	Council conditional uses
21	TYPE V (Legislative) Council Land Use Decisions	
22	*	Land Use Code text amendments
23	*	Area-wide amendments to the Official Land Use Map
24	*	Corrections of errors on the Official Land Use Map due to cartographic and clerical mistakes
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*	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:
 (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, transitional encampment interim use, 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:

* * *

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

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

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

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

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

16 * * *

17 Section 6. Severability. The provisions of this ordinance are declared to be separate and
18 severable. The invalidity of any clause, sentence, paragraph, sub-division, section or portion of
19 this ordinance, or the invalidity of the application thereof to any person or circumstance shall not
20 affect the validity of the remainder of this ordinance, or the validity of its application to other
21 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)