



Memorandum

Date: April 26, 2018
To: Lake Stevens City Council
From: Joshua Machen, *Senior Planner* / Russ Wright, *Community Development Director*
Subject: LUA2018-0035- City initiated code amendment regarding Temporary Encampments

What is a Temporary Encampment?

“Temporary encampment” means a short-term residence facility for a group of people that is composed of tents or other temporary structures on a site provided or arranged for by a sponsor with services provided by a sponsor and supervised by a managing agency. These encampments are most often sponsored by a church or religious organization.

Purpose of Code Amendment

The City of Lake Stevens insurance provider, WCIA, performs regular audits of our municipal codes, among other things, to limit the City’s potential liability. As part of their last audit, they pointed out that the City needed to develop “temporary encampment” regulations as preemptive measures, providing protection to the City. During a recent City Council meeting discussing the 2018 Long Range Planning Work Program, the Council requested that work on regulations for temporary encampments begin as soon as possible.

Framework for Proposed Regulations

Attached to this memorandum is a matrix of regulations from cities in the region that have temporary encampment regulations. The regulations typically contain the following regulatory features:

- Limitation on Allowed Locations, Duration and Frequency
- Requirements for Public Notice/Meetings
- Setbacks
- Limitations on the Number of Residents
- Screening Requirements
- Requirements for a Code of Conduct
- No Unaccompanied Minors
- Distance to Transit
- Sanitation Accommodations
- Trash Collection
- Fire Safety/Extinguishers
- Designated Smoking Areas
- Open to Inspections
- Site Restoration Requirements

Based on these regulatory features, staff has drafted new regulations, those regulations are attached (Attachment B).

Attachments

- A Temporary Encampment Code Comparison Table
- B. Revised Draft Code

Attachment A

Temporary Encampments Code Comparison

<u>Code Provisions:</u>	<u>Seattle</u>	<u>Bothell</u>	<u>Lynnwood</u>	<u>Kirkland</u>	<u>Shoreline</u>	<u>Lake Stevens- Proposed)</u>
Permit Type	Type I Master Permit	Type II Transitory Permit	Temporary Use Permit	Temporary Use Permit	Temporary Use Permit	Type II Permit
Permit Fee	\$3240.00 Min (Hourly)	\$2,707.00	\$ 0.00 -no charge	\$231.00	\$ 0.00 -no charge	\$200.00 -Temporary Structures
Allowed locations	Church, Private, Public Property	Any Host Property	Church/religious organization	Church or Community Based organization	Non-profit Church or community organization	Non-profit Church or community organization
Public Notice/ Meeting	Yes, public meeting a min 14 days prior to application	Yes, only with schools and Child Care Facilities (600')	Notice only on Decision	Yes, Public notice and meeting 14 days prior to decision	Yes, Public notice and meeting 14 days prior to decision	Yes, Public notice and meeting 14 days prior to decision
Setbacks	25'-residential property	20'- unless waiver by adjacent property	20' commercial/ Multi family or 40' Single-family unless reduced by director	20' to residential development	10' min to adjacent property 5' min to ROW	20' to adjacent property, unless reduced by director based on topography or screening.
Number of Residents	100	No limit, based on available space	100	100	100	100
Site Size	5,000 sq ft 100 sq ft per occupant	No minimum-adequate	No minimum	No minimum	7,500 useable site area -50 residents then 150 sq ft per addition resident	7,500 useable site area -50 residents then 100 sq ft per addition resident
Screening	6' fence or vegetation	6' fence or vegetation	6' fence or vegetation	Fence or sufficient existing vegetation	Fence /structure or sufficient existing vegetation	6 ' fence or sufficient existing vegetation
Allowed Duration	1-year/ 1 year extension	90 days	90 days	92 days	90 days/90 days extention	90 days

Frequency	At least 12 months	Once every 365 days	Not within 180 days of expiration or once per calendar year	Once every 365 days	Not within 180 days of expiration	Once every 365 days
Lighting	No regulation	No regulation	Yes, downward and contained	Yes, downward and contained	No regulation	Yes, downward and contained
Code of Conduct	No regulation	Yes	Yes	Yes	Yes	Yes
No Unaccompanied Minors	Yes	No regulation	Yes	Yes	No regulation	Yes
Distance to Transit	1/2 mile	1/2 mile	No minimum	1/2 mile	No regulation	No regulation, limited transit routes within Lake Stevens
Toilet and running water	Yes, outdoor or access to indoor	Yes	Yes	Refers to State or City Code	Sanitation only	Yes, provision for outdoor or access to indoor
Trash Collection	Yes	Yes	Yes	Refers to State or City Code	Sanitation provision	Yes, includes receptical and patrol language
Animal prohibition	No	No	No	Yes	No	No
Require fire retardant tents / extinguishers	Yes	No	No	Refers to State or City Code for fire-resistant materials	Yes	Yes
Designated Smoking Areas	Yes	No	No	No	Yes	Yes
Open to Inspections	Yes	Yes	Yes	Yes	Yes	Yes
Restoration of Site	No	Yes	Yes	No	No	Yes

Attachment B

Proposed Changes to the Lake Stevens Municipal Code to regulate Temporary Encampments

The following definitions and code sections shall be added to the municipal code:

LSMC 14.08 Definitions

“Temporary tent encampment” means a short-term residence facility for a group of people that is composed of tents or other temporary structures on a site provided or arranged for by a sponsor with services provided by a sponsor and supervised by a managing agency.

“Managing agency” means an organization identified as the manager of a temporary tent encampment that has the capacity to organize and manage a temporary tent encampment. A “managing agency” may be the same entity as the sponsor.

“Sponsor” means an organization (1) that is recognized by the Internal Revenue Service as exempt from federal income taxes as a religious organization, and (2) that expresses its religious mission, in part, by organizing living accommodations for the homeless.

All other definitions in LSMC 14.08 shall remain in full force and effect, unchanged.

14.16C.110 Temporary Use.

(a) This section provides for certain temporary uses incidental to the principal long-term use of property. Temporary uses are to be permitted only under the conditions as set forth herein, and where it is found to be safe and compatible with the general vicinity and adjacent uses.

(b) Procedure. Applications for a temporary use permit shall follow the procedures for a Type I review pursuant to Chapter [14.16B](#).

(c) Permitted Temporary Uses. The following temporary uses and structures shall be allowed:

(1) A temporary dwelling for use as a residence by the owners of a lot during construction of a permanent residential structure on the lot. The temporary building need not comply with the requirements of the International Building Code but shall meet minimum health and safety standards prescribed by the Building Official. It shall be removed from the lot upon completion of the permanent residential structure.

(2) A temporary structure for use by a contractor as a construction shed or office while building or remodeling a permanent structure on the same lot. The temporary structure shall not be open to the public. The temporary building need not comply with the requirements of the International Building Code but shall meet minimum health and safety standards prescribed by the Building Official. It shall be removed from the lot upon completion of the permanent structure.

(3) A temporary real estate sales office located in a model or display home, subject to the following conditions:

- (i) If situated in a residential zone, the office may only be used for sale activities related to the plat in which it is located.
- (ii) If situated in a commercial zone, the office may only be used for sales related to the model or display home itself.
- (iii) Within a period of one year, the use of the building for a temporary real estate sales office shall terminate, and the building shall be used exclusively thereafter for uses permitted within that zone and shall meet all building and fire codes applicable thereto, or shall be immediately removed.

(4.) Temporary Encampments are to be reviewed as a Type II application pursuant to supplemental regulations contained in LSMC 14.44.038.

(d) Recreational Vehicles as Temporary Dwelling Units. No recreational vehicle shall be occupied for residential or commercial purposes anywhere in the City of Lake Stevens except:

- (1) In the case of temporary uses per subsection (c) of this section; or
- (2) Recreational vehicles may be occupied by visitors within residential zones for a period not to exceed 30 days where a Planning Director approval has been granted for such use, provided:
 - (i) Temporary occupancy shall not exceed 30 days in a calendar year per visitor;
 - (ii) Under no circumstances shall a recreational vehicle be occupied while parked overnight ~~on~~ within a public ~~street~~ right-of-way or within a public park;
 - (iii) No recreational vehicle shall be serviced by a temporary or permanent sewer hook-up emptying into the City's system or a private septic system; and
 - (iv) Space shall not be provided for an occupied recreational vehicle for monetary or other compensation.
- (3) Recreational vehicles and recreational park trailers may be occupied inside manufactured/mobile home parks pursuant to Section [14.44.070](#) as a temporary use.

(e) Decision Criteria. A temporary use permit may be granted by the Planning Director, only if the applicant demonstrates:

- (1) The proposed temporary use will not be materially detrimental to the public welfare;
- (2) The proposed temporary use is compatible with existing land use in the immediate vicinity in terms of noise and hours of operation;
- (3) Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner; and
- (4) The proposed temporary use is not otherwise permitted in the zone in which it is proposed.

(f) Duration and Frequency. Unless specified elsewhere in this section, temporary use permits shall be limited in duration and frequency as follows:

- (1) When sudden, unforeseen damage occurs to a residence making it uninhabitable, thus necessitating occupancy in a temporary residence, occupancy may occur immediately provided an application for the temporary use permit is made within seven days from the first day of occupancy in the temporary residence;
- (2) The temporary use permit shall be effective for no more than 180 days from the date of the first occurrence;
- (3) The temporary use permit shall specify a date upon which the use shall be terminated and removed; and
- (4) A temporary use permit shall not be granted for the same temporary use on a property more than once per calendar year, except that for temporary residences the Planning Director may renew such permit for one additional period not to exceed three months if it is determined such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

(g) Temporary Public Structures. Public agencies may erect and use temporary structures (e.g., portable school classrooms, civic uses, emergency command centers, health and social services centers, etc.) upon demonstrating that such a use is for the public benefit and that the use is temporary in nature. Permits for temporary public structures shall expire one year after issuance, but may be renewed annually by the Planning Director upon demonstration of demonstrated public benefit. (Ord. 991, Sec. 4, 2017; Ord. 811, Sec. 4 (Exh. 3), 2010)

LSMC 14.40.090 "More Specific Use Controls" (Table 14.40-I: Table of Permissible Uses by Zones) is hereby amended to add use "1.460 Temporary Encampments" as shown below, **all other uses shall remain in full force and effect, unchanged:**

TABLE 14.40-I: TABLE OF PERMISSIBLE USES BY ZONES¹⁶

A blank box indicates a use is not allowed in a specific zone. Note: Reference numbers within matrix indicate special conditions apply.

P - Permitted Use; A - Administrative Conditional Use; C - Conditional Use (See Section [14.40.020](#) for explanation of combinations)

USE DESCRIPTIONS	SR	WR	UR	HUR	MFR	NC ⁴	LB	CBD	MU ¹	PBD ⁵	SRC	LI	GI	P/SP
1.460 Temporary Encampments	P	P	P	P	P		P	P	P	P	P			

LSMC 14.44.038 Temporary Encampments

(a) Regulations established.

Regulations concerning the establishment and processing of applications for temporary tent encampments in the city are hereby established. Establishing such facilities contrary to the provisions of this chapter is prohibited. Temporary use permits shall be required for temporary tent encampments in the city. If a temporary tent encampment is established in violation of this chapter or if, after temporary use permit is issued for the same, the director of community development determines that the permit holder has violated this chapter or any condition of the permit, the temporary tent encampment, its sponsor and managing agency shall be subject to code enforcement and all activities associated with the temporary tent encampment shall cease, and the site shall be vacated and restored to its pre-encampment conditions.

(b) Criteria for Temporary Encampment.

(1) The site must be owned or leased by either a host or managing agency, which managing agency is a non-profit church or community organization.

(2) A temporary encampment shall be processed as a type II application and submitted with the appropriate fee as set forth in the City of Lake Stevens fee schedule.

(3) A public meeting shall be held in accordance with the procedures of LSMC section 14.16B.325.

(4) The applicant shall have a code of conduct that articulates the rules and regulation of the encampment. These rules shall include, at a minimum the following prohibitions:

- (i) No alcohol and/or drug use
- (ii) No weapons
- (iii) No violence
- (iv) No loitering in the surrounding neighborhood
- (vi) Quiet hours

The applicant shall keep a cumulative list of all residents who stay overnight in the encampment, including names and dates. The list shall be kept on site for the duration of the encampment.

The applicant shall provide an affidavit of assurance with the permit submittal package that this procedure is being met and will continue to be updated during the duration of the encampment.

(5) The maximum number of residents at a temporary encampment site shall be determined taking into consideration site conditions, but shall in no case be greater than 100 residents at any one time. Any proposed site shall meet the site requirements in subsection (b)(7) of this section and be of sufficient size to support the activities of the temporary encampment without overcrowding of residents.

(6) Site Requirements.

(i) The minimum useable site area for a temporary encampment shall be: 7,500 square feet for the first 50 residents, plus 100 square feet for each additional resident, up to the maximum allowable of 100 residents. The useable site area may be a combination of contiguous parcels in the same ownership of the host or managing agency.

(ii). Tents and supporting facilities within an encampment must meet 20-foot setbacks from neighboring property lines or rights-of-way except for properties under the same ownership as the host agency. Setbacks to neighboring property lines may be reduced by the Director to a minimum of five feet if it can be determined that the reduction will result in no adverse impact on the neighboring properties, considering site conditions that extend along the entire encampment area, including but not limited to:

- (a) Topography changes from adjoining property;
- (b) Visually solid, minimum six-foot height, intervening structures;
- (c) Distance from nearest structure on neighboring property;
- (d) Vegetation that creates a visual screen.

(iii) 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 14.88, 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 14.88.

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

(v) Screening of Activities. Where deemed necessary by the community development director, activities of the transitory accommodation shall be obscured from view from adjacent properties, by a constructed minimum six-foot-high solid fence, an existing fence,

existing dense vegetation, an existing topographic difference, distance from exterior property lines, or other means, to the maximum extent feasible.

(vi) Exterior lighting must be directed downward and glare contained within the temporary tent encampment.

(vii) On-site parking of the sponsor shall not be displaced unless sufficient required off-street parking remains available for the host's use to compensate for the loss of on-site parking or unless a shared parking agreement is executed with adjacent properties

(viii) A fire permit is required for all tents over 400 square feet. Fire permit fees are waived.

(ix) All tents must be made of fire resistant materials and labeled as such.

(x) Provide adequate number of 2A-10BC rated fire extinguishers so that they are not more than 75 feet travel distance from any portion of the complex. Recommend additional extinguishers in cooking area and approved smoking area.

(xi) Emergency vehicle access to the site must be maintained at all times.

(xii) Members of the temporary encampment shall monitor entry points at all times. A working telephone shall be available to ensure the safety and security of the temporary encampment at all times.

(7) Health Requirements.

The sponsor and managing agency shall assure all applicable public health regulations, including but not limited to the following, will be met at/for:

(i) Sanitary portable toilets, which shall be set back at least 40 feet from all property lines, or access to indoor facilities;

(ii) Hand-washing stations by the toilets and food preparation areas, or access to indoor facilities;

(iii) Food preparation areas or service tents., or access to indoor facilities; and

(iv) Refuse receptacles-facilities for dealing with trash shall be provided on-site throughout the encampment. A regular trash patrol in the immediate vicinity of the temporary tent encampment site shall be provided.

- (v) Public health guidelines on food donations and food handling and storage, including proper temperature control, shall be followed and homeless encampment residences involved in food donations and storages shall be made aware of these guidelines consistent with the Snohomish health district requirements.
- (vi) Smoking in designated areas only; these areas must be a minimum of 25 feet from any neighboring residential property. Provide ashtrays in areas approved for smoking
- (8) The encampment shall permit inspections by City, Snohomish County Health Department, and Fire Department inspectors at reasonable times during the permit period without prior notice to ensure compliance with the conditions of the permit.
- (9) The encampment shall allow for an inspection by the Lake Stevens Fire Department during the initial week of the encampment's occupancy.
- (10) No children under 18 are allowed in the homeless encampment. If a child under the age of 18 attempts to stay at the homeless encampment, the managing agency shall immediately contact Child Protective Services.
- (10) Encampments may be allowed to stay under the temporary use permit for up to 90 days.
- (11) Host or managing agencies may only host a temporary encampment on the same site once every 365 days.
- (12) The sponsor and/or managing agency shall provide before-encampment photos of the host site with the application. Upon vacation of the temporary tent encampment, all temporary structures and debris shall be removed from the host site within one calendar week. At expiration of the permit, the host or managing agency shall restore the property to the same or similar condition as at permit issuance.
- (13) Limit on the number of encampments. No more than one temporary use encampments shall be permitted and operating at any one time within the City.