



Legislation Text

File #: 2004-0519, **Version:** 2

AN ORDINANCE relating to zoning; creating a temporary use permit for homeless encampments; amending Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020, Ordinance 12196, Section 17, as amended, and K.C.C. 20.20.100 and Ordinance 10870, Section 549, as amended, and K.C.C. 21A.32.120, adding a new section to K.C.C. chapter 21A.32 and adding a new chapter to K.C.C. Title 21A.

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BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

- A. Homelessness is recognized as a significant problem in King County and elsewhere in the nation.
- B. Some estimates conclude that eight thousand King County residents are homeless on any given night.
- C. King County finds it unacceptable that people are dying on the streets of our communities because there are insufficient safe alternative locations for habitation by homeless persons.
- D. The citizens' advisory commission on homeless encampments ("CACHE") was established by the metropolitan King County council in June 2004 to study the issues of homeless encampments, including whether there is a need for homeless encampments, whether these homeless encampments shall be sited on public or private land, or both, and identifying procedural guidelines for siting and permitting future homeless encampments.
- E. The final report of the CACHE found that homeless encampments are not ideal but found that there

is a need for the homeless encampments until more permanent housing is available across King County.

F. Homeless encampments serve as an interim survival mechanism while King County continues its important work as a member of the regional Committee to End Homelessness in King County seeking permanent housing alternatives and supportive services through a final plan and recommendations due in early 2005.

G. The establishment of homeless encampments has generated concerns about the adequacy of notice to affected communities before their establishment. These concerns can be alleviated by requiring submittal of necessary permits at least thirty days in advance of the desired date to commence the use.

H. Managers, sponsors and hosts for homeless encampments are willing to assume responsibility for homeless encampment residents' compliance with written codes of conduct.

I. Managers, sponsors and hosts for homeless encampments have developed codes of conduct that prohibit the use of drugs and alcohol inside the homeless encampment, prohibit weapons, violence or open flames inside the homeless encampment and require homeless encampment residents to act respectfully toward each other and their neighborhood at all times.

J. Managers, sponsors and hosts for homeless encampments must abide by and incorporate all code and permit conditions and requirements with regard to community notification, maximum occupancy, environmental health and safety rules, buffers and boundaries, length of stay, resident identification, inspections by relevant public health, public safety and other appropriate regulatory agencies.

K. It is the intent of the county to encourage the managing agency to disperse homeless encampment sites geographically and to move the homeless encampment to other properties within ninety days, so that no one community or area of the county is unduly impacted.

L. Homeless juveniles and families with children are considered as the highest priority for placement within shelters or transitional housing. Homeless adult persons without children have the lowest priority for placement. Homeless encampments, therefore, are often a last measure to assure safe haven for adult homeless

persons.

M. Seattle Housing and Resource Effort ("SHARE") and the Women's Housing, Equality and Enhancement League ("WHEEL") are nonprofit organizations that advocate and provide services for homeless persons and that have established Tent City 4 in King County to provide a safe community for up to one hundred homeless persons every night.

N. SHARE/WHEEL has successfully worked with churches and nonprofit groups to provide support services and assistance to residents of Tent City 4, and the site moves every ninety days.

O. Tent City 4 is self-governing, complies with all health, fire and public safety regulations, and the residents live by a strict code of conduct providing a drug-free, alcohol-free and respectful environment.

P. The King County Code currently does not specifically authorize or prohibit the use of tents as shelter within a tent encampment for homeless persons on private property. The King County Zoning Code (K.C.C. Title 21A) prohibits uses not specifically permitted unless those uses qualify for a temporary land use permit

Q. Since need and crime impacts of encampments are of concern to the community, an annual report on occupancy rates and crime incidence rates should be provided to the council.

R. The provisions of this ordinance are generally based upon standards contained within the consent decree between the city of Seattle and SHARE/WHEEL and El Centro de la Raza and the CACHE recommendations.

S. Numerous discussions with representatives of various faith-based organizations have indicated a general consensus that the consent-decree and the CACHE recommendations provide a reasonable model on which to pattern provisions relating to homeless encampments.

T. The provisions represent generally applicable standards necessary to assure the creation in all cases of a safe homeless encampment with minimal impact to neighboring communities. In particular cases, it may be possible to fashion less restrictive conditions that would be adequate to assure the creation of a safe homeless encampment with minimal impacts to neighboring communities based on an individualized inquiry

into particular circumstances. Variations from the general applicable standards in this ordinance should be reviewed as a Type 2 land use decision to allow adequate opportunity for an individual inquiry to evaluate the impacts of any proposed variations from the general standards established in this ordinance.

U. The provisions of this ordinance establish land use permitting requirements for homeless encampments in unincorporated King County. Although these provisions apply to both public and private land, this ordinance is not intended to create any right to establish a homeless encampment on public land. The siting of homeless encampments on land owned by King County shall continue to be subject to the county's discretionary authority, as limited by applicable law.

V. This ordinance is not intended to be a permanent solution to homelessness.

W. A sunset date of December 31, 2014, for authority to establish homeless encampments would be consistent with the goal of the Ten Year Plan to End Homelessness developed by the Committee to End Homelessness in King County and will be incorporated into the enabling legislation.

SECTION 2. Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020 are each hereby amended to read as follows:

Classifications of land use decision processes.

A. Land use permit decisions are classified into four types, based on who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made and whether administrative appeals are provided. The types of land use decisions are listed in subsection E₂ of this section.

1. Type 1 decisions are made by the director, or his or her designee, ("director") of the department of development and environmental services ("department"). Type 1 decisions are non appealable administrative decisions.

2. Type 2 decisions are made by the director. Type 2 decisions are discretionary decisions that are subject to administrative appeal.

3. Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open

record hearing. Type 3 decisions may be appealed to the county council, based on the record established by the hearing examiner.

4. Type 4 decisions are quasi-judicial decisions made by the council based on the record established by the hearing examiner.

B. Except as provided in K.C.C. 20.44.120A.7 and 25.32.080 or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest-numbered land use decision type applicable to the project application.

C. Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

D. Land use permits that are categorically exempt from review under SEPA do not require a threshold determination (determination of nonsignificance ((~~§~~)[~~"DNS"~~(~~§~~)] or determination of significance ((~~§~~)[~~"DS"~~(~~§~~)))). For all other projects, the SEPA review procedures in K.C.C. chapter 20.44 are supplemental to the procedures in this chapter.

E. Land use decision types are classified as follow:

TYPE 1	(Decision by director, no administrative appeal)	<u>Temporary use permit for a homeless encampment under sections 6 through 14 of this ordinance; ((B)) building permit, site development permit, or clearing and grading permit that is not subject to SEPA, that is categorically exempt from SEPA as provided in K.C.C. 20.20.040, or for which the department has issued a determination of nonsignificance or mitigated determination of nonsignificance; boundary line adjustment; right of way; variance from K.C.C. chapter 9.04; shoreline exemption; approval of a conversion-option harvest plan; a binding site plan for a condominium that is based on a recorded final planned unit development, a building permit, an as-built site plan for developed sites, ((¶)) a site development permit for the entire site circumstances.</u>
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TYPE 2 ¹	(Decision by director appealable to hearing examiner, no further administrative appeal)	Short plat; short plat revision; short plat alteration; zoning variance; conditional use permit; temporary use permit under K.C.C. chapter 21A.32; temporary use permit for a homeless encampment under section 15 of this ordinance; shoreline substantial development permit ² ; building permit, site development permit or clearing and grading permit for which the department has issued a determination of significance; reuse of public schools; reasonable use exceptions under K.C.C. 21A.24.070.B; preliminary determinations under K.C.C. 20.20.030.B; sensitive areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based on K.C.C. chapter 21A.24; extractive operations under K.C.C. 21A.22.050; binding site plan; waivers from the moratorium provisions of K.C.C. 16.82.140 based upon a finding of special.
TYPE 3 ¹	(Recommendation by director, hearing and decision by hearing examiner, appealable to county council on the record)	Preliminary plat; plat alterations; preliminary plat revisions.
TYPE 4 ^{1,3}	(Recommendation by director, hearing and recommendation by hearing examiner decision by county council on the record)	Zone reclassifications; shoreline environment redesignation; urban planned development; special use; amendment or deletion of P suffix conditions; plat vacations; short plat vacations; deletion of special district overlay.

¹ See K.C.C. 20.44.120.C₂ for provisions governing procedural and substantive SEPA appeals and appeals of Type 3 and 4 decisions to the council.

² When an application for a shoreline permit is combined with other permits requiring Type 3 or 4 land use decisions under K.C.C. 25.32.080, the examiner, not the director, makes the decision. A shoreline permit, including a shoreline variance or conditional use, is appealable to the state Shorelines Hearings Board and not to the hearing examiner.

³ Approvals that are consistent with the Comprehensive Plan may be considered by the council at any time.

Zone reclassifications that are not consistent with the Comprehensive Plan require a site-specific land use map amendment and the council's hearing and consideration shall be scheduled with the amendment to the Comprehensive Plan under K.C.C. 20.18.040 and 20.18.060.

F. The definitions in section 7 of this ordinance apply to this section.

SECTION 3. Ordinance 12196, Section 17, as amended, and K.C.C. 20.20.100 are each hereby amended to read as follows:

Permit issuance.

A. The department shall issue its recommendation to the hearing examiner on a Type 3 or Type 4 land use decision within one hundred fifty days from the date the applicant is notified by the department pursuant to this chapter that the application is complete. The time periods for action by the hearing examiner on a Type 3 or Type 4 land use decision shall be governed by the hearing examiner's rules.

B.1. Except as otherwise provided in subsection B.2 of this section, the department shall issue its final decision on a Type 1 or Type 2 land use decision within one hundred twenty days from the date the applicant is notified by the department pursuant to this chapter that the application is complete.

2. The following shorter time periods apply to the type of land use permit indicated:

New residential building permits	90 days
Residential remodels	40 days
Residential appurtenances, such as decks and garages	15 days, or 40 days
	residential
	appurtenances that
	require substantial
	review.
Clearing and grading	90 days
Health Department review	40 days

(for projects pending a final department review or permit or review and permit).

Type 1 temporary use permit for a homeless encampment: 30 days.

Type 2 temporary use permit for a homeless encampment: 40 days

SECTION 4. Ordinance 10870, Section 549, as amended, and K.C.C. 21A.32.120 are each hereby amended to read as follows:

Temporary use permits - duration and frequency. Except as otherwise provided in this chapter or in K.C.C. chapter 21A.-- (created under section 5 of this ordinance), ((~~F~~))temporary use permits shall be limited in duration and frequency as follows:

A. The temporary use permit shall be effective for no more than one hundred eighty days from the date of the first event;

B. The temporary use shall not exceed a total of sixty days. ~~((, provided that))~~. ~~((~~t~~))~~This requirement applies only to the days that the event or events actually take place. For a winery in the A or RA zones, the temporary use shall not exceed a total of two events per month and all parking for the events must be accommodated on site;

C. The temporary use permit shall specify a date upon which the use shall be terminated and removed; and

D. A temporary use permit shall not be granted for the same temporary use on a property more than once per calendar year, though a temporary use permit may be granted for multiple events during the approval period.

SECTION 5. Sections 6 through 15 of this ordinance should constitute a new chapter in K.C.C. Title 21A entitled "Homeless Encampments."

NEW SECTION. SECTION 6. Purpose. It is the purpose of this chapter to ensure the maintenance of a safe environment within the homeless encampments and to address the potential impacts to neighborhoods by

establishment of such homeless encampments

NEW SECTION. SECTION 7. Definitions. The definitions in this section apply throughout this chapter and to K.C.C. 20.20.020 unless the context clearly requires otherwise.

A. "Homeless encampment" means a group of homeless persons temporarily residing out of doors on a site with a host and services provided by a sponsor and supervised by a managing agency.

B. "Host" means the owner of the site property that has an agreement with the managing agency to allow the use of property for a homeless encampment. A "host" may be the same entity as the sponsor or the managing agency.

C. "Managing agency" means an organization that has the capacity to organize and manage a homeless encampment. A "managing agency" may be the same entity as the host or the sponsor.

D. "Public health" means the Seattle-King County department of public health.

E. "Sponsor" means a local church or other local, community-based organization that has an agreement with the managing agency to provide basic services and support for the residents of a homeless encampment and liaison with the surrounding community and joins with the managing agency in an application for a county permit. A "sponsor" may be the same entity as the host or the managing agency.

NEW SECTION. SECTION 8. Approval required. A homeless encampment may be permitted as a temporary use in accordance with K.C.C. chapter 21A.32 only in compliance with this chapter.

NEW SECTION. SECTION 9. Use and sponsorship agreements. The following written agreements shall be provided by the applicant:

A. If the applicant is not the sponsor, an agreement to provide or coordinate basic services and support for the homeless encampment residents and to join with the applicant in all applications for relevant permits; and

B. If the applicant is not the host, an agreement granting permission to locate the homeless encampment at the proposed location and to join with the applicant in all applications for relevant permits.

NEW SECTION. SECTION 10. **Application submittal and content.**

A. An application for a homeless encampment shall be submitted to the department at least thirty days in advance of the desired date to commence the use for a type 1 permit or forty days in advance of the desired date to commence the use for a type 2 permit.

B. In addition to contents otherwise required for such applications, the application shall include:

1. A copy of a written code of conduct adopted by the host or entered into between the host and managing agency addressing the issues identified in the example code of conduct, Attachment A to this ordinance. The written code of conduct must require homeless encampment residents to abide by specific standards of conduct to promote health and safety within the homeless encampment and within the adjoining neighborhoods. Nothing in this subsection is intended to preclude the host and the managing agency from agreeing, in the written code of conduct, to additional terms or standards of conduct stricter than the example code of conduct;

2. The name of the managing agency and the sponsor; and

3. The host signature.

NEW SECTION. SECTION 11. **Homeless encampment standards.** A homeless encampment is subject to the following standards:

A. The maximum number of residents at a homeless encampment site shall be determined taking into consideration site conditions, but in no case shall be greater than one hundred at any one time;

B. The duration of a homeless encampment at any specific location shall not exceed ninety-two days at any one time, including setup and dismantling of the homeless encampment;

C. A homeless encampment may be located at the same site no more than once every twelve months;

D. The host and managing agency will assure all applicable public health regulations, including but not limited to the following, will be met:

1. Sanitary portable toilets;

2. Hand washing stations by the toilets;
3. Food preparation or service tents;
4. Security tents; and
5. Refuse receptacles;

E. The homeless encampment shall be within a half mile of a public transportation stop or the sponsor or host must demonstrate the ability for residents to obtain access to the nearest public transportation stop through sponsor or host provided van or car pools. During hours when public transportation is not available, the sponsor or host shall also make transportation available to anyone who is rejected from or ordered to leave the homeless encampment;

F. The homeless encampment site must be buffered from surrounding properties with:

1. A minimum twenty-foot setback in each direction from the boundary of the lot on which the homeless encampment is located, excluding access;
2. Established vegetation sufficiently dense to obscure view; or
3. A six foot high, view-obscuring fence;

G. No permanent structures shall be erected on the homeless encampment site;

H. A regular trash patrol in the immediate vicinity of the homeless encampment site shall be provided;

I. Public health guidelines on food donations and food handling and storage, including proper temperature control, shall be followed and homeless encampment residents involved in food donations and storage shall be made aware of these guidelines;

J. The managing agency shall not permit children under the age of eighteen to stay overnight in the homeless encampment except under exigent circumstances. If a child under the age of eighteen, either alone or accompanied by a parent or guardian, attempts to stay overnight, the managing agency will immediately contact child protective services and endeavor to find alternative shelter for the child and any accompanying parent or guardian;

K. The managing agency shall keep a log of all people who stay overnight in the homeless encampment, including names and dates;

L. The managing agency shall take all reasonable and legal steps to obtain verifiable identification, such as a driver's license, government-issued identification card, military identification or passport from prospective and homeless encampment residents;

M. The managing agency shall enforce the written code of conduct;

N. The site property is owned or leased by the sponsor or an affiliated entity; and

O. The host shall provide a transportation plan as part of the permit process.

NEW SECTION. SECTION 12. Parking impacts. On-site parking spaces of the host use shall not be displaced unless sufficient parking remains available for the host's use to compensate for the loss of on-site parking spaces.

NEW SECTION. SECTION 13. Community notice and informational meeting. The managing agency, in partnership with the sponsor, shall:

A. At least fourteen days before the anticipated start date of the homeless encampment, provide notification to all residences and businesses within five hundred feet of the boundary of the proposed homeless encampment site, but the area shall be expanded as necessary to provide notices to at least twenty different residences or businesses, as well as any unincorporated area council, if applicable, and any homeowner association representing residents receiving notice. The notice shall contain the following specific information:

1. Name of sponsor;
2. Name of host if different from the sponsor;
3. Date the homeless encampment will begin;
4. Length of stay;
5. Maximum number of residents allowed;
6. Planned location of the homeless encampment;

7. Dates, times and locations of community informational meetings about the homeless encampment;
8. Contact information including names and phone numbers for the managing agency and the sponsor;

and

9. A county contact person or agency; and

B. Conduct at least one community informational meeting held on the host site, or nearby, at least ten days before the anticipated start date of the homeless encampment. The purpose of the meeting is to provide those residences and businesses that are entitled to notice under this section with information regarding the proposed duration and operation of the homeless encampment, conditions that will be placed on the operation of the homeless encampment and requirements of the written code of conduct, and to answer questions regarding the homeless encampment.

NEW SECTION. SECTION 14. Compliance with permit conditions and written code of conduct.

A. In order to assess compliance with the terms of the permit, inspections may be conducted at reasonable times without prior notice by the fire district, public health or department staff. The managing agency shall implement all directives of the fire district within forty-eight hours. Public health and department directives shall be implemented within the time specified by the respective agencies.

B. Failure by the managing agency to take action against a resident who violates the terms of the written code of conduct may result in cancellation of the permit.

NEW SECTION. SECTION 15. Option to modify standards. An applicant for a homeless encampment may apply for a temporary use permit that applies standards that differ from those established by sections 9 through 14 of this ordinance. In addition to all other permit application requirements, the applicant shall submit a description of the requirements to be modified and shall demonstrate how the modification will result in a safe homeless encampment under the specific circumstances of the application. The department shall review the proposed modifications and shall either deny or approve the application, with conditions if necessary, to ensure a safe homeless encampment with minimal impacts to the host neighborhood. The hearing

examiner shall expedite the hearing on an appeal of the department's decision under this section.

SECTION 16. Sections 5 through 15 of this ordinance expire January 1, 2015.

SECTION 17. Section 18 of this ordinance takes effect January 1, 2015.

NEW SECTION. SECTION 18. There is hereby added to K.C.C. chapter 21A.32 a new section to read as follows:

Homeless encampments - prohibited. A homeless encampment is a prohibited use and shall not be approved through a temporary use permit. If the King County Ten Year Plan to End Homelessness has not been fully implemented and there is still a need for

homeless encampments, the county council may through legislative action extend sections 5 through 16 of this ordinance.