

ORDINANCE NO. 3815

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, ADOPTING A NEW CHAPTER 17.20 ECDC RELATING TO TEMPORARY HOMELESS ENCAMPMENT PERMITS AND FREQUENCY, DURATION, AND CONDITIONS THEREFORE, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City of Edmonds intends to protect the interests and needs of Edmonds neighborhoods, while continuing to partner with Snohomish County to address homelessness; and

WHEREAS, in the last several years, nearby jurisdictions were surprised by the arrival of homeless encampments on property owned by local churches and/or temples with little or no notice to the respective jurisdiction; and

WHEREAS, the absence of regulations that addressed homeless encampments in neighboring jurisdictions did nothing to deter homeless encampments from establishing themselves in the aforementioned neighboring jurisdictions, leaving these jurisdictions little time to prepare an ordinance, give notice and opportunity to comment by neighborhood residents and negotiate the terms of a permit; and

WHEREAS, there are constitutional and statutory constraints on the City's ability to prevent or regulate homeless encampments in Edmonds; and

WHEREAS, the Washington Constitution does not prohibit government from requiring religious institutions to go through the permit application process and allows government to impose reasonable conditions concerning public health, safety and welfare on the use of church/temple property; and

WHEREAS, the Edmonds Community Development Code does not currently have specific provisions addressing temporary homeless encampments; and

WHEREAS, the City Council has determined that there is a need for zoning regulations for the permitting of homeless encampments; and

WHEREAS, the City Council has determined that if the City plans for the possibility of homeless encampments in Edmonds, it will be better able to (a) avoid unnecessary litigation costs that might otherwise be incurred due to the absence of an established permitting process; (b) avoid complaints from neighborhood groups/residents that the homeless encampment was allowed to ignore due process when it moved in without a permit; and (c) avoid the danger that regulations adopted after the fact of a homeless encampment establishing itself may appear arbitrary and capricious; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Adopted. A new Chapter 17.20 ECDC entitled Temporary Homeless Encampment is hereby adopted to read as follows:

Chapter 17.20

TEMPORARY HOMELESS ENCAMPMENT

17.20.010 Definitions.

The following definitions shall apply to temporary homeless encampment permits and this ordinance:

- A. "Temporary Homeless Encampment" means a transient or interim gathering or community residing out of doors on a site with services provided and supervised by a sponsor or managing agency comprised of temporary enclosures (tents and other forms of portable shelter that are not permanently attached to the ground), which may include common areas designed to provide food, living and sanitary services to occupants of the encampment.
- B. "Managing Agency" means an organization that organizes and manages a homeless encampment. A managing agency may be the same entity as the sponsor.
- C. "Sponsor" means a local place of worship 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 temporary homeless encampment permit. A “sponsor” may be the same entity as the managing agency.

- D. “Tent” means a temporary structure, enclosure or shelter constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.

17.20.020 Temporary Homeless Encampments Permit.

Temporary homeless encampment permit, and regulations on processing the same, are hereby established. A temporary homeless encampment permit shall be required for temporary homeless encampment in the city. Temporary homeless encampments shall be permitted as a secondary use at all zoning districts where Churches or Local Public Facilities are permitted as primary uses. Public hearing shall be held and a decision on temporary homeless encampment permit shall be issued by the Hearing Examiner as if it were a Type III-A decision. Establishing such facilities contrary to the provisions of this ordinance is prohibited. If one is established in violation of this ordinance, or if after a temporary homeless encampment permit is issued, the Development Services Director determines that the permit holder has violated this ordinance or any condition of the permit, the encampment, its sponsor and managing agency may be subject to code enforcement pursuant applicable city codes.

17.20.030 Standards.

The following standards shall apply for processing applications for and approving temporary homeless encampment permits:

- A. No part of temporary homeless encampments shall encroach on setbacks between properties, or into a critical areas or critical area buffer. The perimeter of the temporary homeless encampment shall be located a minimum of 20 feet from any of the host location’s property line that abuts a neighboring property or right-of-way. Any tent, canopy or membrane structure, as defined in Chapter 24 of the International Fire Code, must be located a reasonably safe distance away from any building, parked vehicle, internal combustion engines or other tent, canopy or membrane structure.

- B. A 6-foot high sight-obscuring fence is required around the perimeter of the temporary homeless encampment unless the Hearing Examiner determines that there is sufficient vegetation, topographic variation, or other site condition such that fencing would not be needed.
- C. Exterior lighting must be directed downward and contained within the temporary homeless encampment.
- D. The maximum number of occupants within a temporary homeless encampment shall be determined by taking into consideration the size and conditions of the proposed site, however, it may not exceed 100 regardless of size or condition.
- E. Required minimum on-site parking for the host site's permanent/other uses shall not be either displaced by said encampment or used to meet said encampment's parking requirements, unless a shared parking agreement is executed with adjacent properties to compensate.
- F. A transportation and parking plan is required which shall include provisions for transit services and a minimum of 5 parking stalls dedicated exclusively for said encampment use.
- G. The temporary homeless encampment shall be located within 1/4 mile of transit service.
- H. The managing agency and sponsor shall not permit children under the age of 18 to stay overnight in the temporary homeless encampment, unless circumstances prevent a more suitable overnight accommodation for the child and parent or guardian. If a child under the age of 18, either alone or accompanied by a parent or guardian, attempts to stay overnight, the managing agency and sponsor shall endeavor to find alternative shelter for the child and any accompanying parent or guardian. No children under 18 that are not accompanied by a parent or guardian are allowed in the temporary homeless encampment.
- I. The managing agency and sponsor shall provide and enforce within said encampment a written code of conduct, which not only provides for the health, safety and welfare of the temporary homeless encampment residents, but also mitigates impacts to neighbors and the community.
- J. The managing agency, sponsor and temporary homeless encampment residents shall ensure compliance with applicable state statutes and regulations and local ordinances concerning,

but not limited to, drinking water connections, solid waste disposal, human waste, outdoor fire or burning, electrical systems, and fire resistant materials.

- K. The managing agency and sponsor shall provide at said encampment sanitary portable toilets in the number required to meet capacity guidelines by the manufacturer, self-contained hand washing stations by the portable toilets and by the areas where food is either dispensed or consumed communally, sufficient refuse receptacles, communal tents for food dispensing and consumption, adequate number of fire extinguishers with appropriate rating, security tent, and adequate source of water for both sanitation and drinking.
- L. The managing agency and sponsor shall appoint a member to serve as a point of contact for the Edmonds Police Department. At least one member must be on duty at all times at said encampment. The names of the on-duty members shall be posted daily.
- M. The managing agency and sponsor shall permit inspections of the temporary homeless encampment by the Snohomish Health District, and timely implement all directives of the Health District within the time period specified by the Health District. They shall immediately report to the Health District suspected food poisoning, unusual prevalence of fever, diarrhea, sore throat, vomiting, jaundice, productive cough, or when weight loss is a prominent symptom among occupants.
- N. The managing agency and sponsor shall take all reasonable and legal steps to obtain verifiable identification from prospective temporary homeless encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. All legal requirements with respect to prospective residents identified as sex offenders or having warrants shall be followed.
- O. The managing agency and sponsor shall immediately contact the Edmonds Police Department if someone is rejected or ejected from the temporary homeless encampment where the reason for rejection or ejection is an active warrant or a match on a sex offender check, or if, in the reasonable opinion of the on-duty member or on-duty security staff, the rejected/ejected person is a potential threat to the community.
- P. The managing agency and sponsor shall permit reasonable inspections of the temporary homeless encampment by the city's code enforcement officers, building officials,

Development Services Director, Fire Marshal or their designee. The managing agency and sponsor shall implement all directives resulting from such inspections within 48 hours of notice, unless otherwise noted.

- Q. The managing agency and sponsor may not allow in said encampment without first obtaining a building permit, any structure, other than tents, canopies or other membrane structures that is greater than 120 square feet or provide shelter for more than 9 persons.
- R. Said encampment shall not be materially detrimental to the public welfare or injurious to the property or improvements in its vicinity.
- S. Said encampment shall be in keeping with the goals and policies of the comprehensive plan.
- T. All reasonable measures have been taken to minimize the possible adverse impacts, which said encampment may have on the areas in which it is located.
- U. Because each temporary homeless encampment has unique characteristics, including but not limited to size, duration, uses, number of occupants and composition, the Hearing Examiner shall have the authority to impose conditions to the issuance of the permit for temporary homeless encampments to mitigate effects on the community upon finding that said effects are materially detrimental to the public welfare or injurious to the property or improvements in the vicinity. Conditions, if imposed, must relate to findings by the Hearing Examiner, and must be calculated to minimize nuisance generating features in matters of noise, waste, air quality, unsightliness, traffic, physical hazards and other similar matters that the temporary homeless encampment may have on the area in which it is located. In cases where the application for temporary homeless encampment does not meet the requirements and standards of this ordinance or adequate mitigation may not be feasible or possible, the Hearing Examiner shall deny issuance of a temporary homeless encampment permit.

17.20.040 Frequency and Duration.

The City shall not grant a temporary homeless encampment permit for the same location more frequently than once in every 365-day period. Temporary homeless encampments may be approved for a period not to exceed 90 days for every 365-day period. The site must be restored to its pre-encampment conditions within one week after the permit expires.

17.20.050 Procedural Requirements for Temporary Homeless Encampment Permit Applications.

Notwithstanding any other provision in the Edmonds Community Development Code, the following procedures shall apply in accepting, noticing, reviewing and otherwise processing temporary homeless encampment permit applications (minor procedural variations that do not cause substantial negative impact to the purpose, nature and intent of this ordinance shall not be the sole cause for denying a temporary homeless encampment permit application):

A. Application for Temporary Homeless Encampment Permit:

A minimum of forty-five (45) days prior to the anticipated start of the encampment, the sponsor and managing agency shall submit jointly an application for a temporary homeless encampment permit to the Development Services Department. The completed application shall contain at a minimum the following information:

1. The date that the temporary homeless encampment will commence.
2. The duration of said encampment.
3. The maximum number of residents proposed.
4. The host location.
5. The names of the managing agency and sponsor.
6. Detailed information on how the temporary homeless encampment will comply with the requirements of this Chapter and the International Fire Code.
7. Copy of proposed code of conduct.
8. Permit application fee, which shall not exceed the actual cost associated with the review and approval of said application.
9. Site Plan showing at least the following:
 - a) Method and Location of required screening.
 - b) Location of food and security tent.
 - c) Method and location of potable water.
 - d) Method and location of waste receptacles.
 - e) Location of required sanitary stations including toilets and hand washing facility.
 - f) Location of onsite parking and number of vehicles associated with the encampment.
 - g) General location or arrangement of tents.
 - h) Access routes for emergency vehicles.

B. If the temporary homeless encampment includes tents or membrane structures in excess of 200 square feet, or canopies in excess of 400 square feet, as defined by the International Fire

Code, permit and approval for the tent, canopy or membrane structure shall be obtained from the Fire Marshal.

- C. A notice of application and public hearing shall be provided within ten (10) days after the City determines that the application is complete. Due to the administrative and temporary nature of the permit, the comment period shall begin upon mailing of the notice of application and shall end after ten (10) days. The notice shall contain, at a minimum, the date of application, project location, proposed duration and operation of the temporary homeless encampment, number of residents for said encampment, summary of conditions that will likely be placed on the operation of said encampment and requirements of the written code of conduct, instructions on submitting comments, and date and location of public hearing.
- D. The form of the application shall be provided by the Planning Department upon request by the applicant. Within ten (10) days after the City determines that the application is complete, notice of application and comment period shall be published, mailed and posted as follows:
1. An abbreviated copy of the notice must be published in the official newspaper of the City.
 2. A copy of the notice must be mailed to (1) owners of all real property within 300 feet of any boundary of the proposed temporary homeless encampment site; and (2) any neighborhood organization in the vicinity of said site whose contact information is known to or made known to the City.
 3. Copies of the notice must be posted on the proposed temporary homeless encampment site in a manner reasonably calculated to be visible to and readable by persons traveling on the public right of way contiguous to said site.

E. Informational meeting and notice thereof:

The sponsor and/or managing agency shall participate in a community information meeting organized by the City. Notice of the community informational meeting shall be mailed at least ten (10) days before the meeting to those listed in subsection (D)(2) above. The purpose of the meeting is to provide the surrounding community with information regarding the proposed duration and operation of the temporary homeless encampment, conditions that

will likely be placed on the operation of said encampment, requirements of the written code of conduct, and to answer questions regarding the temporary homeless encampment. The community informational meeting is not intended to be part of the official record of the application.

F. Notices required in this section shall be provided by the City on behalf of the applicant.

17.20.060 Requesting Modification.

The Hearing Examiner may approve an application for temporary homeless encampment permits with proposed standards or procedures that differ from those in this Chapter (except for standards R, S, T, and U in ECDC 17.20.030 , which shall not be modified) only where, in addition to satisfying all other requirements of this Chapter, the applicant submits a description of the standard or procedure to be modified and demonstrates that the modifications results in a safe homeless encampment for its residents, mitigates impacts to neighbors and the community under the specific circumstances of the application, constitutes an accommodation of protected religious, humanitarian and or charitable exercise by the applicant and would otherwise substantially burden its decisions or actions, as a religious organization (as defined in RCW 35A.21.360), regarding the location of housing or shelter for homeless persons on property it owns.

17.20.070 Notice of Decision.

The Hearing Examiner shall issue a final decision on the permit application within seven (7) days of the hearing. If issued, the permit for the temporary homeless encampment shall be issued jointly to the Sponsor and Managing agency. A copy of the decision, along with information for appealing the decision, shall be mailed promptly to applicant and parties of record. Any appeal of the Hearing Examiner's final decision shall be made to Snohomish County Superior Court in accordance with Chapter 36.70C RCW.

17.20.080 Indemnification and Hold Harmless Requirements.

The Sponsor and/or Managing Agency shall provide a written indemnification and hold harmless agreement stating that the City is not responsible for the actions, inactions or omissions of the Sponsor, Managing Agency or of any resident of the temporary homeless encampment. The Sponsor and/or Managing Agency shall indemnify, defend and hold the City, its officials, officers, employees, agents and volunteers, past and present, harmless from any and all claims of liability of any nature whatsoever for the injury to or death of any person or damage to any property, real or personal, including attorney's fees, arising out of or occasioned in any manner by reason of the following: (a) the actions, inactions or omissions of the Sponsor and Managing Agency or any encampment resident; and (b) the City's lawful entry into the temporary homeless encampment to enforce this Ordinance. This section, however, shall not apply when the Sponsor of the temporary homeless encampment is a "religious organization" as defined in RCW 35A.21.360.

17.20.090 Enforcement.

Violations of this Ordinance are punishable under Chapter 20.110 ECDC, Chapter 5.50 ECC and as otherwise provided by law, and are subject to criminal prosecution, injunctive and other forms of relief which the City may seek.

17.20.100 Conflict.

In the event that there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this ordinance shall control.

17.20.110 No intent to create protected/benefited class.

This Chapter is intended to promote the health, safety and welfare of the general public. Nothing contained in this Chapter is intended to be nor shall be construed to create or otherwise establish any particular class or group of persons who will or should be especially protected or benefited by the provisions in this Chapter. This Chapter is not intended to be, nor shall be, construed to create any basis for liability on the part of the City, its officials, officers, employees or agents for any injury or damage that an individual, class or group may claim arises from any action or inaction on the part of the City, its officials, officers, employees or agents. Nothing contained in

this Chapter is intended to, nor shall be construed to, impose upon the City any duty that can become the basis of a legal action for injury or damage.

Section 2. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington Department of Community, Trade, and Economic Development as required by law.

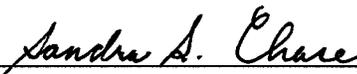
Section 4. Effective Date. The ordinance shall take effect and be in full force thirty days (30) days after publication of the attached Summary which is hereby approved.

APPROVED:



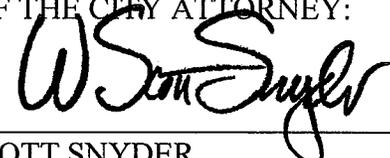
MAYOR MIKE COOPER

ATTEST/AUTHENTICATED:



CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

W. SCOTT SNYDER

FILED WITH THE CITY CLERK: 10/29/2010
PASSED BY THE CITY COUNCIL: 11/01/2010
PUBLISHED: 11/07/2010
EFFECTIVE DATE: 12/07/2010
ORDINANCE NO. 3815

SUMMARY OF ORDINANCE NO. 3815

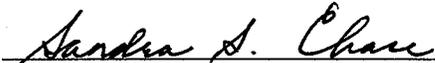
of the City of Edmonds, Washington

On the 1st day of November, 2010, the City Council of the City of Edmonds, passed Ordinance No. 3815. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, ADOPTING A NEW CHAPTER 17.20 ECDC RELATING TO TEMPORARY HOMELESS ENCAMPMENT PERMITS AND FREQUENCY, DURATION, AND CONDITIONS THEREFORE, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 2nd day of November, 2010.


CITY CLERK, SANDRA S. CHASE

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.



SUMMARY OF ORDINANCE NO. 3815
of the City of Edmonds, Washington

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DATED this 2nd day of November, 2010.

CITY CLERK, SANDRA S. CHASE

Published: November 7, 2010.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3815

Adopting a New Chapter 17.20

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

November 07, 2010

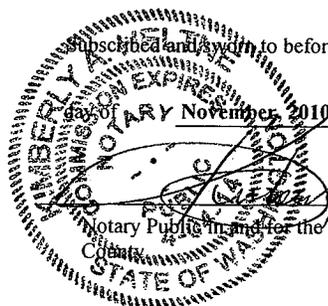
and that said newspaper was regularly distributed to its subscribers during all of said period.

Jody Enoll
Principal Clerk

Subscribed and sworn to before me this

8th

day of November, 2010



[Signature]
Notary Public in and for the State of Washington, residing at Everett, Snohomish

RECEIVED

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EDMONDS CITY CLERK