

ORDINANCE NO. 1529

**AN ORDINANCE OF THE CITY OF RUSTON,
WASHINGTON, REGARDING REGULATING
TEMPORARY ENCAMPMENTS, ESTABLISHING A NEW
CHAPTER 25.11 IN THE RUSTON MUNICIPAL CODE
ENTITLED "TEMPORARY ENCAMPMENT PERMIT" FOR
THE PURPOSE OF REGULATING TEMPORARY
ENCAMPMENTS, CREATING PERMIT REQUIREMENTS,
INCLUDING APPLICATION REQUIREMENTS AND
CRITERIA AND CONDITIONS FOR ISSUANCE; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, both the First Amendment to the United States Constitution and Article 1, Section 11 of the Washington State Constitution protect the free exercise of religion; and

WHEREAS, The Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc, (RLUIPA) prohibits local government from imposing land use regulations that substantially burden religious exercise unless those regulations further a compelling governmental interest and are the least restrictive means for furthering that interest; and

WHEREAS, RCW 35A.21.360, as currently in effect, authorizes religious organizations to host temporary encampments for homeless persons on property they own or control and likewise permits cities to impose conditions that are necessary to protect public health and safety and do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on their property; and

WHEREAS, the City has determined that temporary accommodations must be safe, sanitary, and regulated consistent with state and local laws, regulations, and practices pertaining to health and safety; and

WHEREAS, the City finds that hosts, sponsors and managers of Temporary Encampments have a responsibility to assure the health and safety of Temporary Encampment residents, as well as the surrounding community; and

WHEREAS, the City has a compelling interest in protecting the health and safety of all of its residents, as well as the enforcement of its zoning laws in order to preserve public health and safety; and

WHEREAS, houses of worship that could potentially host temporary encampments for homeless persons on property they own or control are located in residential areas in the City; and

WHEREAS, during the 2020 Legislative Session, the State Legislature passed Engrossed Substitute House Bill 1754 which limited local regulation of temporary encampments and amended RCW 35A.21.360; and

WHEREAS, the effective date of ESHB 1754 is June 11, 2020; and

WHEREAS, ESHB 1754 does not prohibit the effectiveness of any local regulations that exist prior to the effective date of ESHB 1754 and do not categorically prohibit the hosting of the homeless by religious organizations, and have not been ruled by a Court to violate 42 U.S.C. § 2000cc; and

WHEREAS, the City would like to adopt regulations consistent with federal law ahead of the effective date of ESHB 1754 to ensure the health, safety and welfare of all residents or Ruston, including residents who may be temporarily hosted by a religious institution in accordance with the temporary encampment regulations; and

WHEREAS, the City's SEPA Responsible Official issued a Determination of Non-Significance (DNS) on April 24, 2020 with a comment deadline of May 8, 2020; and

WHEREAS, in accordance with RCW 36.70A.106, this amending ordinance has been sent to the State Department of Commerce with a request for expedited review on April 29, 2020; and

WHEREAS, the request for expedited review was granted and the required time has passed to allow adoption by the City Council on the date of adoption; and

WHEREAS, on May 5, 2020, this Ordinance was provided to the City Council and the public as it was printed in the Council's agenda materials; and

WHEREAS, on May 19, 2020, the Ruston City Council held a duly noticed public hearing on these proposed regulations which would modify the City's zoning code; and

WHEREAS, the public hearing date was also the date of the City Council's official first reading of this Ordinance; and

WHEREAS, on June 2, 2020, the City Council held second reading of this Ordinance; and

WHEREAS, after due consideration, the City adopted this Ordinance during its regular meeting at second reading; and

WHEREAS, the City Council has determined that the adoption of this Ordinance is necessary at this time due to the effective date of the new State Legislation; and

WHEREAS, the City Council deems that amending the City's codes is part of the routine work of governing a city; **NOW, THEREFORE**

THE CITY COUNCIL OF THE CITY OF RUSTON HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council of the City of Ruston hereby enters the following legislative findings:

- A. The adoption of this Ordinance is deemed necessary at this time due to the effective date of the new State Legislation; and

B. Amending the City's codes, including updating land use codes, is part of the routine work of governing a city.

Section 2. A new Chapter 25.11 is hereby added to the Ruston Municipal Code, entitled "Temporary Encampment Permit" to read as follows:

Chapter 25.11 – Temporary Encampment Permit

Section:

25.11.010	Scope
25.11.020	Applicability
25.11.030	Who may apply
25.11.040	Submittal requirements
25.11.050	Applicable procedures
25.11.060	Use requirements
25.11.070	Hardship exception
25.11.080	Decision criteria
25.11.090	Time limitation
25.11.100	Revocation of Temporary Encampment Permit

25.11.010 Scope.

This chapter establishes the exclusive procedure and criteria that the City will use in making a decision upon an application to permit a Temporary Encampment. A Temporary Encampment Permit is processed under the procedures contained in this Chapter.

25.11.020 Applicability.

This Chapter 25.11 RMC applies to each application for a Temporary Encampment Permit and each Temporary Encampment use within the City.

25.11.030 Who may apply.

Temporary Encampments shall not be permitted within the City except as an accommodation of religious exercise by an Encampment Host, Encampment Sponsor, or Encampment Manager. Each Encampment Host, Encampment Manager and Encampment Sponsor of a Temporary Encampment shall jointly apply for a permit under this Chapter 25.11 and shall jointly certify compliance with all applicable use requirements and conditions of this chapter in the application.

25.11.040 Submittal requirements.

A. Prior to or upon filing their application for a Temporary Encampment Permit, the Encampment Host, Encampment Sponsor and Encampment Manager shall prepare an Encampment Management Responsibility Plan, which shall be included with their permit application. An application that does not contain an Encampment Management Responsibility Plan shall not be considered complete. The Encampment Management Responsibility Plan shall include all of the following:

1. A description of the security measures that the Encampment Host, Encampment Sponsor and Encampment Manager intend to employ at the Encampment Site, including criteria for rejection as a resident, a code of conduct, neighborhood security patrols, if any, whether and how they will implement outstanding warrant or registered sex offender background checks, and whether and how any Temporary Encampment residents or prospective residents may be ejected from the Temporary Encampment based on the results of such checks.
2. A certificate of insurance identifying any applicable policies of insurance, including policy limits, held by the Encampment Host, Encampment Sponsor, or Encampment Manager. Full copies of any such policies shall be available for the City's inspection at the Encampment Host Site.
3. A description of any requested exemptions sought pursuant to RMC 25.11.060.A.8.a, 25.11.060.A.11.k, or 25.11.070, and a description of the manner in which the proposed exemptions satisfy the criteria of the exemption provision and this part.
4. A transportation plan demonstrating compliance with RMC 25.11.060.A.6.
5. A proposed Site plan.
6. A street address which, for the duration of the Temporary Encampment, shall be considered the permanent and fixed address of each individual while residing at the Temporary Encampment.

25.11.050 Applicable procedures.

A Temporary Encampment Permit is an Administrative decision to which the following procedures apply:

A. Public Meeting Required.

The Director shall hold an informational Public Meeting. Prior to the Public Meeting, the Encampment Host shall meet and confer with the Ruston Police Department regarding the proposed security measures. At the Public Meeting, a representative of the Encampment Host shall present in writing and describe the proposed Encampment Management Responsibility Plan, and any input or comment received on the plan, including any comment or input from the Ruston Police Department, or comment or input from Schools and/or Child Care Services under subsection B of this section. The Public Meeting shall be attended by all applicants of the proposed Temporary Encampment Permit.

B. Additional Mailed Notice.

The requirements for mailed notice of the application set forth in RMC 19.02.030 shall be expanded to include owners of real property within 600 feet of the project Site. Prior to the decision of the Director on a Temporary Encampment Permit, the Encampment Host, Encampment Sponsor, or Encampment Manager shall meet and confer with the administration

of any public or private elementary, middle, junior high or high school within 600 feet of the boundaries of the proposed Temporary Encampment Site, and shall meet and confer with the operators of any known Child Care Service within 600 feet of the boundaries of the proposed Temporary Encampment Site. The Encampment Host and the School administration and/or Child Care Service operator shall make a good faith effort to agree upon any additional conditions that may be appropriate or necessary to address School and/or child care concerns regarding the location of a Temporary Encampment within 600 feet of such a facility. Any such conditions agreed upon between the parties shall be submitted to the Director for consideration for inclusion within the Temporary Encampment Permit. In the event the parties fail to agree on any conditions, either party may provide the Director with a written summary of the parties' discussions, which the Director may consider in evaluating whether the criteria for the Temporary Encampment Permit are met, or the need for additional conditions upon the Temporary Encampment Permit based on the applicable decision criteria.

C. Signed Notice.

The applicant shall provide notice of the application by posting two Signs or placards on the Site or in a location immediately adjacent to the Site that provides visibility to motorists using adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the Signs or placards.

D. Post-Issuance Informational Public Meeting.

The Encampment Host, Encampment Sponsor and Encampment Manager shall confirm in writing, on at least a monthly basis during the duration of any Temporary Encampment, their continued compliance with the use requirements in RMC 25.11.060 and all applicable conditions of approval. Within a reasonable time of no longer than 14 days following a request from the Director, the Encampment Host shall address operational concerns raised about a permitted Temporary Encampment. The Director may require a post-issuance informational Public Meeting between the Encampment Host and members of the public if operational concerns related to health and safety are not timely resolved.

25.11.060 Use requirements.

A. The following requirements apply to each Temporary Encampment:

1. The Encampment Host, Encampment Sponsor, and Encampment Manager must demonstrate that the proposed use meets the definition of a Temporary Encampment, as set out in RMC 25.01.020.
2. The Encampment Host, Encampment Sponsor, and Encampment Manager shall ensure enforcement of a code of conduct at the Temporary Encampment Site. The code of conduct shall be in substantially the following form or address the following issues:
 - a. Possession or use of illegal drugs is not permitted.
 - b. No alcohol is permitted.
 - c. No weapons are permitted.

- d. All knives over three and one-half inches must be turned in to the Encampment Manager for safekeeping.
- e. No violence is permitted.
- f. No open flames are permitted.
- g. No trespassing into private property in the surrounding neighborhood is permitted.
- h. No loitering in the surrounding neighborhood is permitted.
- i. No littering on the Temporary Encampment Site or in the surrounding neighborhood is permitted.

Nothing within this section shall prohibit the Encampment Host, Encampment Sponsor or Encampment Manager from imposing and enforcing additional code of conduct conditions not otherwise inconsistent with this section.

3. 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 at any one time. Any proposed Site shall be of sufficient size to support the activities of the Temporary Encampment without the overcrowding of residents or any intrusion into required Setbacks. In determining the maximum occupancy of a Temporary Encampment, the Director shall consider the square footage of the Encampment Site; the number of proposed Temporary Enclosures; the number of required or proposed bathing, food handling, hand washing, laundry, and toilet facilities; required Setbacks; and the ongoing use of the Site by the Encampment Host. The City shall impose a condition on the Temporary Encampment Permit for the Encampment limiting the number of residents or occupants to the number determined pursuant to this subsection. Any increase in the number of residents or occupants beyond that applied for by the applicants and included in the Temporary Encampment Permit shall require a revision to the Temporary Encampment Permit, which shall be processed as a new application.

4. The duration of a Temporary Encampment at any specific location shall not exceed 90 days at any one time.

5. There shall be no more than one Temporary Encampment in the City at any time. No Temporary Encampment use shall be permitted within one-half mile of any Site where a Temporary Encampment use under Chapter 25.11 RMC has operated within the prior 180-day period. A Temporary Encampment may be located at the same Site no more than once every 18 months.

6. A Temporary Encampment shall be within one-half mile of a public transportation stop, or the Encampment Sponsor, Encampment Host or Encampment Manager shall

otherwise demonstrate the ability for Temporary Encampment occupants to obtain access to the nearest public transportation stop. During hours when public transportation is not available, the Encampment Sponsor, Encampment Host, or Encampment Manager shall also make transportation available to anyone who is rejected from or ordered to leave the Temporary Encampment. Bus schedules, phone numbers for emergency drivers and taxis and the location of the nearest 24-hour transit center to which rejected persons will be transported when buses are not available shall be posted in a prominent location for Encampment residents.

7. On-site Parking Spaces of the Encampment Host shall not be displaced unless the required minimum parking remains available for the Encampment Host's use, as set forth in RMC 25.01.090. The Host may provide shared parking or off-site parking pursuant to RMC 25.01.090 to satisfy minimum parking requirements.

8. The perimeter of a Temporary Encampment must be buffered from surrounding properties as follows:

a. The Temporary Encampment, as measured from the Temporary Encampment perimeter, shall meet the minimum Setback requirements applicable to the Encampment Host in the underlying zone; provided, that no Temporary Encampment Setback shall be less than 20 feet; and provided further, that the Encampment Host, Encampment Sponsor, or Encampment Manager may petition the Director for a reduction of Setback requirements applicable to the Encampment Host in the underlying Land Use district to no less than 20 feet. In considering whether a reduction should be granted, the Director may consider whether the minimum Setback requirements applicable to the Encampment Host in the underlying Land Use district, if applied to the Temporary Encampment, would substantially burden the siting or hosting of a Temporary Encampment at a particular location or by a particular Encampment Host, Encampment Sponsor, or Encampment Manager and may consider the effects on health and safety of residents and the community should the reduction be granted.

b. The Temporary Encampment shall be surrounded by a view-obscuring Fence or equivalent solid Structure, which in no event shall be less than six feet high. The perimeter surrounding the Temporary Encampment shall have a single designated point for ingress or egress, consistent with applicable fire and other safety regulations.

9. The Encampment Host, Encampment Sponsor and Encampment Manager shall not permit children under the age of 18 to stay overnight in a Temporary 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 Encampment Host, Encampment Sponsor or Encampment Manager shall endeavor to find alternative shelter for the child and any accompanying parent or guardian.

10. The Encampment Host, Encampment Sponsor or Encampment Manager shall take all reasonable and lawful steps to obtain verifiable identification, such as a valid driver's license, government-issued identification card, military identification card, or passport, from all prospective and current residents of a Temporary Encampment. The Encampment Host shall retain a log of all overnight residents of the Temporary Encampment, including names and dates.

11. The Encampment Host, Encampment Sponsor or Encampment Manager shall assure compliance with the following health and safety regulations. References to the application of local ordinances and regulations shall include the codes and regulations of Pierce County and the City of Ruston. All references are to regulations, ordinances and codes now or as hereafter amended:

a. Water Supply. The Encampment Host, Encampment Manager or Encampment Sponsor must:

i. Provide at least one hot water handwash sink as near to the food preparation facilities as the Site will reasonably allow. If the hot water sink is located further than 100 feet from the food preparation facilities or is not otherwise located on site, then a cold-water sink shall be located within 100 feet of the food preparation facilities.

ii. Prohibit the use of common drinking cups or containers from which water is dipped or poured, except for water and coffee containers and carafes that are filled with only potable water sources and washed once weekly with bleach and hot water.

iii. Ensure any containers used for non-potable water are labeled as such.

b. Sewage and Wastewater Disposal. The Encampment Host, Encampment Manager and Encampment Sponsor must provide for sewage and wastewater disposal in accordance with the codes and regulations of local health jurisdictions.

c. Electricity and Lighting. The Encampment Host, Encampment Manager or Encampment Sponsor must ensure that all electrical wiring, fixtures and electrical equipment must comply with the electrical standards of the Department of Labor and Industries regulations, Chapter 19.28 RCW, and local ordinances, and be maintained in a safe condition.

d. Hand Washing and Bathing. An Encampment Host, Encampment Manager or Encampment Sponsor must:

i. Provide one hand wash sink for every 25 persons. At least two hand wash sinks must be adjacent to toilets, and other hand wash sinks may be located throughout the Temporary Encampment Site for general use.

- ii. Provide one hot water shower on the Temporary Encampment Site; provided, however, that if the ratio of hot showers to residents is less than one for every 40 persons, the Director's Permit decision shall include designation of off-site shower facilities for use by Temporary Encampment residents within a reasonable proximity from the Temporary Encampment Site and the Encampment Host, Encampment Sponsor and/or Encampment Manager shall provide a means of transportation to the designated facilities.
 - iii. Provide cleanable, nonabsorbent waste containers.
 - iv. Maintain bathing and hand washing facilities in a clean and sanitary condition, cleaned at least daily.
- e. Toilets. The Encampment Host, Encampment Manager or Encampment Sponsor must:
 - i. Provide the following toilet facilities:
 - (1) One toilet, including portable toilets, for every 25 persons;
 - (2) Hand washing sinks adjacent to toilets, as provided in subsection A.11.d of this section; and
 - ii. Maintain toilets in a clean and sanitary condition.
- f. Cooking and Food Handling. In common food-handling areas, the Encampment Host, Encampment Manager or Encampment Sponsor must provide:
 - i. An enclosure, adequate in size, separate from any sleeping quarters;
 - ii. No direct openings to living or sleeping areas from the common food-handling area;
 - iii. Nonabsorbent, easily cleanable food preparation counters situated off the floor;
 - iv. When perishable food will be in place, mechanical refrigeration conveniently located and able to maintain a temperature of 45 degrees Fahrenheit or below shall be provided. If mechanical refrigeration is not reasonably available, then the use of ice chests complies with this requirement provided the ice chests are maintained at a temperature of 45 degrees or less, ice for ice chests is replenished when necessary to maintain temperature, ice chests are in working order and fitted with tight fitting lids, ice chests are cleaned at least weekly with a bleach solution and thoroughly rinsed prior to re-use, shared meals for the majority of residents are not prepared on-site, and the Encampment Host, Encampment Sponsor and/or Encampment Manager shall promptly comply with

any correction notice or direction by Tacoma-Pierce County Health Department or other agency with jurisdiction regarding food preparation and storage on site.

g. Maintenance of Bedding. The Encampment Host, Encampment Manager or Encampment Sponsor must maintain bedding, if provided by the Encampment Host, Encampment Manager or Encampment Sponsor, in a clean and sanitary condition.

h. Refuse Disposal. The Encampment Host, Encampment Manager or Encampment Sponsor must:

i. Comply with local sanitation codes for removing and disposing of refuse from housing areas.

ii. Store refuse in on-site trash cans with snap tight lids that are lined with trash bags that are removed and replaced daily.

iii. Keep refuse containers clean.

iv. Provide a refuse container adjacent to food preparation area and within 100 feet of each Dwelling Unit.

v. Empty refuse containers at least twice each week, and when full.

i. Insect and Rodent Control. The Encampment Host, Encampment Manager or Encampment Sponsor must take effective measures to prevent and control insect and rodent infestation.

j. Disease Prevention and Control. The Encampment Host, Encampment Manager or Encampment Sponsor must:

i. Report immediately to the Tacoma-Pierce County Health Department:

(1) Suspected food poisoning;

(2) Unusual prevalence of fever, diarrhea, sore throat, vomiting, or jaundice; or

(3) Productive cough, or when weight loss is a prominent symptom among occupants.

ii. Comply with reporting requirements applicable to Schools and child care facilities in WAC 246-101-415 and 246-101-420 as now or hereafter amended.

k. Substantial Compliance. An Encampment Host, Encampment Sponsor, or Encampment Manager may petition the Director for an exemption from particular provisions of this subsection A.11 upon a showing of substantial compliance or alternative means of compliance. Alternative means of compliance may include the following:

- i. Use of facilities already available on the Encampment Host Site or within the Encampment Host's facilities (such as preexisting indoor or outdoor hand washing, toilet, or shower facilities);
- ii. Use of facilities located sufficiently near the Encampment Host Site so as to adequately address the health and safety of Encampment residents (such as adjacent public toilet, shower or hand washing facilities);
- iii. Use of alternative means to assure the health and safety of both the Temporary Encampment residents and surrounding neighborhood residents, occupants and users.

In considering whether an exemption should be granted, the Director may consider whether the provision or provisions of this subsection A.11 at issue, if applied to the Temporary Encampment, would substantially burden the siting or hosting of a Temporary Encampment at a particular location or by a particular Encampment Host, Encampment Sponsor, or Encampment Manager.

12. Exterior lighting shall be shielded or recessed so that direct glare and reflections are contained within the Temporary Encampment and shall also be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting fixtures utilized at Temporary Encampments shall be appropriate in scale, intensity, and height to the use that they are serving.

25.11.070 Hardship exception.

An Encampment Host, Encampment Sponsor, or Encampment Manager may petition the Director for an exception from any of the Specific Use Requirements of RMC 25.11.060 upon grounds of hardship. In considering whether a hardship exception should be granted, the Director may consider whether the provision or provisions at issue substantially burden the siting or hosting of a Temporary Encampment at a particular location or by a particular Encampment Host, Encampment Sponsor, or Encampment Manager and the effects on health and safety of residents and the community should the exception be granted.

25.11.080 Decision criteria.

The Director may approve or approve with modifications an application for a Temporary Encampment Permit if:

- A. The Temporary Encampment complies with the Use Requirements set out in RMC 25.11.060 and other applicable requirements of this code; and
- B. The Temporary Encampment will not be materially detrimental to the public health, safety or welfare of the Temporary Encampment residents or the surrounding community; and

C. The imposition of a condition under which the City reserves the right to impose additional conditions or to reconsider the Temporary Encampment Permit within a certain timeframe from approval date, based on complaints filed with the City.

25.11.090 Time limitation.

A Temporary Encampment Permit is valid for up to 90 days beginning the first day of the Temporary Encampment.

25.11.100 Revocation of Temporary Encampment Permit.

Upon determination that there has been a violation of any decision criteria or condition of approval, the Director may give written notice to the permit holder describing the alleged violation. Within 14 days of the mailing of notice of violation, the permit holder shall show cause why the permit should not be revoked. At the end of the 14-day period, the Director shall sustain or revoke the permit. When a Temporary Encampment permit is revoked, the Director shall notify the permit holder by certified mail of the revocation and the findings upon which revocation is based. Appeals of decisions to revoke a Temporary Encampment Permit will be heard by the Ruston Hearing Examiner and be processed using the procedures contained in Chapter 19.04 RMC.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 5. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

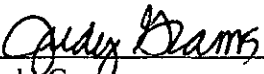
ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 2nd day of June, 2020.

APPROVED by the Mayor this 2nd day of June, 2020.




Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:



Judy Grams
City Clerk

APPROVED AS TO FORM:



Jennifer S. Robertson
City Attorney's Office

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: 1529