

Subject: Ordinances #1529, 1530, 1531, 1532 – Regulating Temporary Encampments

Dept. Origin: Planning Dept.

Prepared by: Jennifer Robertson
 City Attorney's Office

For Agenda of: May 19, 2020

Exhibits: Ordinances #1529, 1530, 1531, & 1532

Proposed Council Action:

This is on for First Reading and a Public Hearing. Hold public hearing.

	Initial & Date
Concurred by Mayor:	_____
Approved/form by City Atty:	<u>JSR/5-12-2020</u>
Approved by City Engineer:	_____
Approved by Department Head:	_____

INFORMATION / BACKGROUND

Prior to the 2020 Legislative Session, RCW 35A.21.360 authorized 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. However, during the 2020 Legislative Session, the State Legislature passed Engrossed Substitute House Bill 1754 which limited local regulation of temporary encampments. The effective date of ESHB 1754 is June 11, 2020. The terms of ESHB 1754 do not prohibit the effectiveness of any local regulations that exist prior to the effective date of ESHB 1754 provided that the local regulations 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. A copy of ESHB 1754 is attached.

Thus, in order to have local regulations on temporary encampments that differ from ESHB 1754, the City needs to adopt those regulations by the end of May 2020. The adopted regulations need to be consistent with federal limitations. Ordinance #1529 is based on a recently adopted City of Bellevue ordinance regulating temporary encampments. The Bellevue ordinance was framed on a federal consent decree that followed a lawsuit on earlier encampment regulations approximately 15 years ago. Because that ordinance is expected to pass federal challenge, framing the Ruston ordinance on such standards is also likewise to withstand any federal challenge.

What does this Ordinance do?

This ordinance creates a new chapter 25.11 in the Ruston Municipal Code to establish regulations for temporary encampments. It also amends the definitions section and land use

matrix elsewhere in Title 25 Zoning of the RMC and the permit processing sections RMC 19.01.010 and 19.01.011 for consistency.

What is a Temporary Encampment?

Temporary encampments are encampments hosted by religious institutions on church property for the purpose of providing a temporary place to live for people experiencing homelessness. The use is an outright permitted use in all zones subject to the regulations contained in Ch. 25.11 RMC.

What is the Temporary Encampment Permit?

Any church desiring to host a temporary encampment must apply for and obtain a temporary encampment permit from the City of Ruston. This permit is administrative, which means it is processed by and issued by the City's Planning Director. The permit requires public notice and a public meeting. (see Section 25.11.050.)

The permit also requires adherence to certain performance standards, such as adequate sanitation (drinking water, hand washing, showers, toilets) and food handling facilities with no more than 100 adult residents allowed (no children allowed). The residents of the encampment and the hosts are required to meet certain conduct requirements, such as no alcohol or weapons, no open flames, not littering, etc. (See section 25.11.060(2).)

The permit will allow a temporary encampment to be in place for up to 90 days at a time, with no more than one permit in effect at any one time. (Section 25.11.060(4).) Furthermore, it requires screening from nearby neighbors. There are general health and sanitation standards, including control of waste, insects, and rodents, etc.

What can the City do if there are problems during an encampment?

If an applicant fails to comply with the permit conditions, then the City has the right to revoke the permit. Appeals of revocations are heard by the City's hearing examiner. (Section 25.11.100.)

RECOMMENDATION / MOTION

Tonight this set of four related ordinances is on for first reading and a public hearing. Hold the public hearing. Unless directed otherwise, these ordinances will return to Council for second reading and action on June 2, 2020.

MOTION 1: I move to open the public hearing.

[Take testimony. When there is no one left to testify, close the public hearing.]

MOTION 2: I move to close the public hearing.

ORDINANCE NO. 1530

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON, REGARDING REGULATING TEMPORARY ENCAMPMENTS, AMENDING SECTION 25.01.020 OF THE CITY'S ZONING CODE TO ADD A DEFINITIONS FOR "DIRECTOR", "TEMPORARY ENCAMPMENT" AND "TEMPORARY ENCLOSURES" FOR PURPOSES OF CONSISTENCY WITH NEW CHAPTER 25.11 OF THE RUSTON MUNICIPAL CODE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council under Ordinance No. 1529 has adopted regulations regarding temporary encampments; and

WHEREAS, some new definitions need to be added to the "Definitions" section of the Ruston Zoning Code in order to implement new Chapter 25.11 RMC adopted under Ordinance No. 1529; 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 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, following the public hearing the City Council deliberated on the new zoning code regulations; and

WHEREAS, after a full deliberation and consideration, the City adopted this Ordinance during its regular meeting; 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 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. Two new definitions are hereby added to RMC 25.01.020 to read as follows:

“Director” means the City of Ruston Planning and Community Development Director or designee.

“Temporary Encampment” means a transient or interim gathering or community comprised of Temporary Enclosures, which may include common areas designed to provide food, living, and sanitary services to occupants of the encampment; provided, that this definition shall not include recreational encampments of less than 10 days in duration.

“Temporary Enclosures” means tents and other forms of portable shelter that are not permanently attached to the ground, are intended to be erected and dismantled, and are intended for temporary outdoor occupancy. “Temporary Enclosures” shall provide protection from the elements, shall be comprised of flame-resistant material or treated with flame retardant in an approved manner, shall be elevated above and shall not allow direct contact with the bare ground, shall allow for means of unobstructed ingress and egress, shall protect against the entry of rodents and insects, and shall contain at least one window to allow for ventilation.

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 ____ day of _____, 2020.

APPROVED by the Mayor this ____ day of _____, 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: 1530