

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. 1532

**AN ORDINANCE OF THE CITY OF RUSTON,
WASHINGTON, REGARDING REGULATING
TEMPORARY ENCAMPMENTS, AMENDING SECTIONS
RMC 19.01.010 AND 19.01.011 TO ADD TEMPORARY
ENCAMPMENT PERMITS TO THE LIST OF
ADMINISTRATIVE PERMITS; AND ESTABLISHING AN
EFFECTIVE DATE.**

WHEREAS, the City Council under Ordinance No. 1529 has adopted regulations regarding temporary encampments in a new Chapter 25.11 RMC; and

WHEREAS, in order to implement new Chapter 25.11 RMC adopted under Ordinance No. 1529, the “temporary encampment permit” needs to be added to the permit processing chapter of the Ruston Municipal Code (Chapter 19.01 RMC); 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. Section 19.01.010 of the Ruston Municipal Code is hereby amended to read as follows:

19.01.010 - Applicability.

- (a) The following project permits are excluded from the procedures of this title:
- (1) Building and grading permits when exempt from State Environmental Policy Act (SEPA) review (WAC 197-11-800) or when covered by other environmental review.
 - (2) Legislative actions such as area-wide rezones, zoning text amendments, and comprehensive plan amendments.
 - (3) Street vacations.
 - (4) Street and public areas use permits.
 - (5) Sewer system connection permits.
 - (6) Boundary line adjustments.
 - (7) Landmark designations.
 - (8) Adoption of development regulations and amendments thereto.
 - (9) Administrative decisions listed in Section 19.01.011 which are listed as not subject to this Title 19, including sign permits, site plan approval, minor amendments to master

development plans, short plats, street excavation permits, right-of-way encroachment permits, temporary encampment permits, and hazards and obstructions.

- (b) This title shall apply to:
 - (1) Title 25 (Zoning) as follows:
 - (A) Conditional use permit;
 - (B) Unclassified use permit;
 - (C) Variance permit;
 - (D) Special use permit.
 - (E) Master development plan approvals and major amendments of MDPs.
 - (2) Chapter 15.01 (Shorelines).
 - (3) Title 29 (Subdivisions).
- (c) The Mayor is authorized, with the assistance of the City Clerk, the City’s Planning and Community Development Director, and other persons designated by the Mayor, to administer this title and to employ other persons to perform administrative functions related to the designated administrative actions, including the use of a Hearing Examiner.

Section 3. A new line is hereby added to the table under “Administrative Decisions” in Section 19.01.011 of the Ruston Municipal Code to read as follows:

Type of Permit/Approval	Subject to Title 19	Administration	Planning Commission	Hearing Examiner	City Council	RMC
Administrative Decisions Requiring Review for Compliance with Adopted Codes.						
Temporary Encampment Permit	No	Decision	No	Only for Appeal of Permit Revocation	No	Chapter 25.11

Section 4. 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 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. 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: 1532