

**CITY OF MOUNTLAKE TERRACE**

**ORDINANCE NO. 2568**

**AN ORDINANCE OF THE CITY OF MOUNTLAKE TERRACE,  
WASHINGTON, ADDING A NEW CHAPTER ENTITLED TEMPORARY  
SHELTER ENCAMPMENTS TO TITLE 19 ZONING CODE TO  
ADDRESS HOMELESS ENCAMPMENTS**

**WHEREAS**, RCW 35.21.915 was enacted by the state legislature in 2010 requiring cities to allow temporary encampments for homeless persons subject to certain specified conditions; and

**WHEREAS**, the City Council desires to adopt regulations that provide for temporary shelter encampments while protecting public health and safety and meeting state laws; and

**WHEREAS**, after proper public notice, the Planning Commission and the City Council each held a public hearing on a proposal for regulations on the permitting of temporary encampments for homeless persons; and

**WHEREAS**, a SEPA checklist was prepared and a Determination of Non-Significance was issued and all relevant procedural requirements of the State Environmental Policy Act have been satisfied; and

**WHEREAS**, the proposal amends the text of the Zoning Code and such amendments may be adopted by the City Council only if the Council finds that said amendments conform to the criteria in MTMC 19.110.240.C; and

**WHEREAS**, after consideration of the record, the City Council finds that the proposal meets the requirements of the Growth Management Act and the criteria in MTMC 19.110.240.C because the proposed amendments establish a permit process and provide standards for public health and safety for temporary shelter encampments for homeless persons within the City, consistent with the criteria in MTMC 19.110.240.C, and, taken in its entirety, the proposal: (a) is in conformance with the goals and objectives of the Comprehensive Plan; (b) promotes the health, welfare, and safety of the general public; and (c) will not create excessive additional requirements at public cost for public facilities and services;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTLAKE TERRACE DOES ORDAIN ZONING CODE AMENDMENTS AS FOLLOWS:**

**Section 1.** The Recitals set forth above are hereby adopted and incorporated as Findings of Fact and/or Conclusion of Law of the City Council. The City Council bases its findings and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the Planning Commission and the City Council.

**Section 2.** A new Mountlake Terrace Municipal Code Section 19.111, Temporary Shelter Encampments, is hereby created to read as follows:

**Chapter 19.111 – Temporary Shelter Encampments**

Sections:

- 19.111.010 Purpose.
- 19.111.020 Definitions.
- 19.111.030 Process for allowing temporary shelter encampments.
- 19.111.040 Information required in permit application.
- 19.111.050 Criteria for permit decision.
- 19.111.060 Performance requirements.
- 19.111.070 Frequency and duration of use.
- 19.111.080 Removal of use.
- 19.111.090 Termination.
- 19.111.100 Revocation.

**19.111.010 Purpose.**

The purpose of this chapter is to provide a permitting process and standards for temporary shelter encampments for homeless persons, consistent with state laws, whether the cause of homelessness is related to social/economic issues or to a natural disaster.

**19.111.020 Definitions.**

“Temporary Shelter Encampment” means a site for a group of homeless persons temporarily residing on a site, either out of doors or in a suitable building.

“Managing Agency” means an organization that is responsible for organizing and managing a temporary shelter encampment. (Note: The managing agency may be the same entity as the sponsor.)

“Sponsor” means an entity that is hosting a temporary shelter encampment on property it owns or controls and that serves as a liaison with the surrounding community.

**19.111.030 Permitting process.**

A. Temporary shelter encampments, as authorized under RCW 35.21.915, may be permitted as a temporary use in any zone, provided that requirements of this chapter are met and the temporary shelter encampment site is not within a critical area or its buffer, as defined in Chapter 16.15 MTMC. The Director of the Community and Economic Development Department may issue a temporary shelter encampment permit subject to the criteria and requirements of this chapter.

B. A temporary shelter encampment permit is required prior to any temporary shelter encampment being located within the City, provided that the City Manager may declare an emergency due to a natural disaster or other catastrophe and direct the establishment of a temporary encampment, in which case the requirements of this chapter are waived.

C. An application for a temporary shelter encampment permit shall be submitted to the Department on a form prescribed by the Department at least sixty (60) days in advance of a planned encampment.

1. The application shall be on a form prescribed by the Department and containing

information pursuant to 19.111.040.

2. A notice of application shall be posted on-site and on the City's internet website and mailed to surrounding properties within 300 feet of the proposed encampment site at least thirty (30) calendar days in advance of a planned encampment. The notice must include a description of the proposal, the address of the planned encampment, the location, time and place of a public information meeting about the proposal, the name of the sponsor, and the City's location and electronic mail address to which comments may be submitted.

D. A public information meeting shall be held by the sponsor at a suitable location within the City at least 30 days prior to the planned encampment.

E. A decision by the Director shall be made within fourteen(14) calendar days of the public information meeting,

F. A notice of the Director's decision or summary thereof and the appeal procedure shall be distributed to the parties of record.

G. The Director's decision may be appealed to the Hearing Examiner pursuant to MTMC 19.110.100.A.

#### **19.111.040 Information required in permit application.**

The following information is required in the permit application:

- A. Address of proposed encampment;
- B. Name and address of property owner where encampment is proposed to locate;
- C. Name and signature of sponsor and managing agency, with contact information;
- D. Planned date to start encampment use (at least sixty (60) days from date of permit submittal) and to end encampment (no more than ninety (90) days from encampment's permitted start date);
- E. Number of residents to be accommodated on the site;
- F. Site plan, drawn to scale, to show the location of all on-site facilities, uses, and internal circulation and to show the relationship of the site with adjacent streets and abutting properties;
- G. Traffic plan unless otherwise determined by the City to not be needed;
- H. Plan for managing garbage and recycling;
- I. Code of conduct for encampment residents, pursuant to 19.111.060.K;
- J. Information related to decision criteria and performance requirements of this chapter;
- K. Photos of before-encampment conditions on the site;
- L. A certificate of liability insurance for at least one million dollars pertaining to the temporary shelter encampment and naming the City as insured, provided that a religious organization, as defined in RCW 35.21.915(1) shall not be required to provide such insurance; and
- M. Other information as required by the Department;

#### **19.111.050 Criteria for permit decision.**

The permit application may be approved, approved with conditions, or denied, based on the following criteria:

- A. The proposal meets all requirements of this chapter.
- B. The proposal provides for the health, welfare, and safety of the temporary shelter encampment residents.
- C. The proposal provides for the health, welfare, and safety of the surrounding neighborhood.

**19.111.060 Performance requirements.**

A. Residents of the encampment shall be allowed to occupy membrane structures (such as tents) on the site, provided that no cooking is done within such structures unless otherwise approved by the Fire Marshal.

B. Pursuant to the terms of the temporary shelter encampments permit and the latest version of Chapter 29 of the International Building Code, regarding minimum plumbing fixtures and sanitation facilities, as adopted by the State of Washington, the maximum number of occupants allowed at the facility shall not be exceeded.

C. Any part of the encampment that is outdoors shall be at least 20 feet from the property line of abutting properties that contain residential uses.

D. For any part of the encampment containing outdoor sanitation facilities, a sight-obscuring fencing is required to screen the facilities from the public right of way and any adjacent property unless the Director determines that the site has sufficient vegetation, topographic variation, or other conditions such that fencing would not be needed to protect public health or safety for all or part of the site.

E. Exterior lighting shall be directed downward and shall not spill onto other properties.

F. Tents over 300 square feet in size and canopies in excess of 400 square feet shall utilize flame retardant materials.

G. Any required traffic plan shall be implemented by the managing agency.

H. At least 3 parking spaces, excluding any parking spaces that are required by the zoning code for other uses on the site, shall be provided for vehicle parking and loading.

I. Anyone staying overnight at the encampment who is under the age of 18 years must be accompanied by a parent or legal guardian.

J. No animals, except for service animals, shall be allowed in the encampment.

K. A code of conduct is required to be enforced by the managing agency. A code of conduct shall contain the following as minimum requirements:

- a. No drugs or alcohol
- b. No weapons
- c. No violence
- d. No open flames
- e. Quiet hours (starting no later than 10 pm and ending no earlier than 7 am of each day)
- f. No garbage or debris left outside, except as disposed of in proper garbage or recycling containers

L. The managing agency shall expel any person(s) for disorderly conduct, noise violations, lewd conduct, violations of the code of conduct and any violations of law.

M. The managing agency shall ensure compliance with state statutes and city codes for drinking water connections, human waste, solid waste disposal, electrical systems, fire-resistant materials, and any other health or safety requirements. The sponsor and the managing agency shall permit inspections by state and local agencies and City departments to ensure such compliance and shall implement all directives resulting therefrom within the specified time period.

N. All applicable public health regulations shall be met. This requirement includes but is not limited to the provision of:

- a. Sanitary toilets
- b. Food preparation areas
- c. Hand-washing stations by toilets and food preparation areas

- d. Sleeping facilities
- e. Garbage and recycling receptacles

O. Public health guidelines on food donations and handling and storage of food shall be followed, consistent with the requirements of the Snohomish County health district.

P. The sponsor and managing agency shall designate points of contact for the City's police department. At least one designated point of contact shall be on duty at all times. The names of the on-duty points of contact shall be posted in a designated place on the site and their contact information shall be provided to the City's police department.

Q. The sponsor and managing agency shall take all reasonable and legal steps to obtain verifiable identification from prospective encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. All requirements by the Mountlake Terrace Police Department related to identified sex offenders or prospective residents with warrants shall be met.

R. The sponsor and managing agency shall keep a log of names and dates of all people who stay overnight in the temporary shelter encampment and shall maintain this record for at least six months from the termination of the encampment.

S. The sponsor and managing agency shall immediately contact the Police Department if someone is rejected or ejected from the encampment when the reason for rejection or ejection is an active warrant or a match on a sex offender check or if, in the opinion of the on-duty point of contact or on-duty security staff, the rejected/ejected person is a potential threat to the community.

T. The managing agency shall permit daily inspections by the City, Fire District, and/or county health district to check compliance with the standards for such encampments.

#### **19.111.070 Frequency and duration of use.**

The Director may grant a temporary use permit at the same site no more frequently than once in any 365-day period and for a period of no more than ninety (90) days.

#### **19.111.080 Removal of use.**

The Director shall designate, as part of the temporary shelter encampment permit, a time period following the expiration of the permit within which the temporary use must be terminated, all physical evidence of the use must be removed by the sponsor, and any required vegetation must be restored or replanted. If the temporary use and all physical evidence of the use are not removed with the time specified, the City may remove it under the authority provided in MTMC 8.15.100.C.

#### **19.111.090 Termination.**

If the managing agency fails to take action against a resident who violates the terms and conditions of this permit it may result in immediate termination of the permit.

#### **19.111.100 Revocation.**

If the performance requirements of this chapter or the conditions of the temporary shelter encampment permit are violated, notice of the violation by the City may be served on the temporary shelter encampment's managing agency and/or sponsor. Upon determination that there has been a third and subsequent violation, the Director may give written notice to the permit holder describing the alleged violations. Within fourteen (14) days of the mailing of

notice of the violations, the permit holder shall show cause why the permit should not be revoked. At the end of the fourteen (14) day period, the Director shall sustain or revoke the permit. When a temporary shelter 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. Appeal of the Director's decision to revoke a temporary shelter encampment permit shall be made to the Hearing Examiner pursuant to MTMC 19.110.100.A. Upon revocation of the temporary shelter encampment permit, the sponsor shall be required to remove all physical evidences of the use and to restore or replant any required vegetation within ten (10) days of the temporary shelter encampment's required termination.


**Section 3. Conflicts.** All ordinances or parts of ordinances of the City of Mountlake Terrace in conflict herewith, be and the same, are hereby repealed.

**Section 4. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any section, sentence, clause or phrase of this Ordinance.

**Section 5. Summary.** This Ordinance or a summary thereof consisting of the title, shall be published in the official newspaper of the City and shall take effect and be in full force five days after the date of publication.

PASSED by the City Council this 5<sup>th</sup> day of July, 2011 and signed in authentication of its passage this 5<sup>th</sup> day of July, 2011.

  
MAYOR JERRY SMITH

ATTEST:   
City Clerk

APPROVED AS TO FORM: Gregory G. Schrag, City Attorney