

ORDINANCE NO. 1927 (2004)

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, RELATING TO TRANSITORY ACCOMMODATIONS, ADOPTING A MORATORIUM ON ESTABLISHING SUCH USES; ON THE ACCEPTANCE AND/OR PROCESSING OF APPLICATIONS RELATED THERETO; ADOPTING FINDINGS OF FACT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on May 17, 2004, St. Brendan Catholic Church entered into an agreement with Seattle Housing and Resource Effort and the Women's Housing, Equality and Enhancement League (SHARE/WHEEL) to allow a temporary (90 days) homeless tent encampment on property owned by the church in Bothell; and

WHEREAS, on May 17, 2004, SHARE/WHEEL established a temporary tent encampment on the Parish's property; and

WHEREAS, a permit to allow the church property to be used as a tent encampment was neither obtained or applied for from the City of Bothell prior to SHARE/WHEEL beginning using the church property as an encampment; and

WHEREAS, the Bothell Municipal Code does not currently have a specific provision addressing the use of property as a temporary encampment or for transitory accommodations. As used in this ordinance, the term "transitory accommodations" shall mean the use of property for housing persons on a temporary basis, whether the encampment uses tents or other transitory structures; and

WHEREAS, the use of the St. Brendan Catholic Church property as a temporary tent encampment necessitated increased police presence in the area to protect the public health, safety and welfare, at a cost of over \$90,000 in police overtime to the City of Bothell; and

WHEREAS, the use of the St. Brendan Catholic Church property as a temporary tent encampment caused there to be over 130 contacts with Bothell Police Officers assigned to security, including contact with registered sex offenders, contact with violent offenders, arrests for domestic violence offenses, arrests for drug and alcohol offenses, and arrests of individuals with outstanding felony and misdemeanor warrants; and

WHEREAS, the use of the St. Brendan Catholic Church property as a temporary tent encampment disrupted and endangered the peace, comfort and repose of the immediate neighborhood; and

WHEREAS, the Bothell City Council, following extensive public testimony, issued a Special Conditional Use Permit placing a number of conditions on the continued use of the St. Brendan Catholic Church property as a temporary tent encampment; and

WHEREAS, the Special Conditional Use Permit process was an extraordinary measure used to address unforeseen circumstances not anticipated by the City and is not the preferred method of reviewing applications for land use permits; and

WHEREAS, to the City's knowledge, there are no other jurisdictions in the State of Washington that have formally adopted regulations that specifically address the use of temporary facilities for the temporary housing of persons; and

WHEREAS, to avoid or minimize the negative impacts any future use of property in the City of Bothell for temporary housing, it will be necessary for there to be regulations in place to (1) properly review and assess the impacts a particular proposed transitory accommodation may have on the City and the immediate neighborhood; and (2) determine the reasonable and appropriate measures to be taken to mitigate those identified negative impacts; and

WHEREAS, Washington State law, RCW 35A.63.220 and RCW 36.70A.390, authorizes Washington cities to adopt moratoria; and

WHEREAS, according to Washington State law, a public hearing was held on September 7, 2004 on this moratorium ordinance prior to its adoption; and

WHEREAS, the City Council does conclude:

1. The City does have the authority to establish a moratorium; and
2. The City must adopt a moratorium concerning the establishment, operation, and processing of applications for transitory accommodations, to act as a stop-gap measure: (a) to provide the City an opportunity to study the issues concerning the siting of such transitory accommodations and prepare appropriate revisions to the City's regulations; (b) to protect the health, safety and welfare of the citizens of Bothell by avoiding negative impacts of transitory accommodations; and (c) to avoid applicants possibly establishing vested rights

contrary to and inconsistent with any revisions the City may make to its regulatory scheme as a result of the City's study of this matter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BOTHELL, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the above recitals as its Findings of Fact in support of the moratorium imposed by this ordinance. These "WHEREAS" provisions are incorporated by reference as if fully set forth herein.

Section 2. Moratorium Imposed. The City Council hereby imposes a moratorium on the initiation or operation of transitory accommodations as a principal land use or an accessory use to any existing use. Establishing such uses is prohibited during the moratorium. No new applications for permits or land use applications, or any other permits or approvals associated with such uses shall be accepted during the effective period of this moratorium, no pending applications shall be processed further during the effective period of this moratorium, and no permits shall be issued or approvals granted during the effective period of this moratorium.

Section 3. Term. The moratorium established by this Ordinance shall terminate six (6) months after the effective date of this Ordinance unless earlier repealed or renewed according to law.

Section 4. Enforcement. Violations of this Ordinance are punishable under Bothell Municipal Code Chapter 11.20, Enforcement, and as otherwise provided by law, and are subject to injunctive and other forms of civil relief which the City may seek. Further, violations of this Ordinance are declared to be public nuisances, and are punishable and subject to injunctive and other forms of civil relief as authorized by the Bothell Municipal Code and/or Washington state law.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid 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 6. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

Section 7. SAVINGS. The enactments of this ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

APPROVED:




PATRICK D. EWING
MAYOR

ATTEST/AUTHENTICATED:



JOANNE TRUDEL
CITY CLERK

APPROVED AS TO FORM:



MICHAEL WEIGHT
CITY ATTORNEY

FILED WITH THE CITY CLERK: September 3, 2004
PASSED BY THE CITY COUNCIL: September 7, 2004
PUBLISHED: September 11, 2004
EFFECTIVE DATE: September 16, 2004
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