

## STAFF MEMO

**TO:** Everett Planning Commission  
**FROM:** Rebecca McCrary, Long Range Planning Manager  
**DATE:** April 15, 2022  
**MEETING DATE:** April 19, 2022  
**SUBJECT:** Shelter and Housing for Homeless Individuals – Background and Overview

### INTRODUCTION

Homelessness is a complex, challenging, and impactful problem with a variety of causes and potential solutions. Consistent with mayoral directives and council priorities, the city continues to engage the issue through multiple programs and activities. At its April 19 meeting, the planning commission will receive an overview of the topic from the perspective of planning and development regulations in preparation for upcoming work on amendments to the city’s regulations required by recent changes to state law.

After hearing planning commission input, staff will continue working on specific language and will provide a briefing on those proposed code amendments at the Planning Commission’s May 17<sup>th</sup> meeting. A public hearing before the planning commission would then follow on June 21<sup>st</sup> before the ordinance would be forwarded to the city council with the commission’s recommendation.

### SCOPE OF THIS PROJECT

The primary catalyst for this update to city development regulations is the need to address several bills passed by the state legislature in recent years (see recent state legislation section below). Staff have also identified some updates to definitions and other regulations that will help clarify and streamline the city’s planning and approval process for new facilities.

This project will not address market rate or low-income housing, state licensed group housing, or density bonuses for residential development on property owned by a religious organization (2019’s [HB 1377](#)).

### POLICY GUIDANCE

While the state legislation requires local action to allow indoor housing options for people experiencing homelessness, the City’s Comprehensive Plan Policies foundationally supports the need to allow for the housing continuum for serving people experiencing homelessness or at risk of becoming homeless. Comprehensive Plan support policies include:

#### [Housing Element \(Chapter 4\)](#)

**Policy 4.8.8** – Support local and regional efforts to prevent homelessness, and provide a range of housing options and support efforts to move homeless persons and families to long term financial independence.

**Policy 4.8.12** – Ensure the zoning code provides opportunities for specific types of special needs housing such as, but not limited to, adult family homes, assisted living facilities, senior citizen housing,



supportive housing and temporary shelter housing. Continually monitor and update definitions of existing housing types and add new types of housing for the special needs population as necessary.

### **Implementing measures**

**Measure 13** – Identify zones within the city suitable for the placement of emergency shelter facilities.

### **Rethink Housing**

The recently adopted [Rethink Housing Action Plan](#) called for the city to develop a homeless housing program as a short term housing strategy 4.8.

**Strategy 4.8** – Develop a Homeless Housing Program with community partners that addresses current and future needs of unsheltered community members and includes prevention strategies.

The city has spent considerable time and resources responding to and addressing the homelessness issues in the community primarily related to unsheltered community members. The current situation has been exacerbated by the pandemic. It is necessary to build a sustainable program that will support those community members who become homeless transition to being housed in a timely manner. The program should identify the following components:

- Resource needs, special population needs (i.e. homeless students, chronically homeless individuals), and a realistic implementation plan.
- Evaluating permanent and temporary homeless housing solutions. Those solutions should be up-to-date and take advantage of opportunities, innovative solutions and best practices, for housing homeless individuals and households.
- Continue to work with non-profit housing and service providers to support new supportive housing projects for the chronically homeless population

### **Growth Management Act**

The requirements for planning under the growth management act include an analysis of housing needs including for individuals

## **RECENT CITY ORDINANCES**

A review of recent ordinances related to shelter and housing for homeless individuals is useful background for this code amendment project.

### **Ordinance 3500-16** Supportive housing

Also referred to as permanent supportive housing, this ordinance established provisions for supportive housing developments. Regulations for supportive housing include development standards and design guidelines for Multiple Family Development for the zone, except:

- Allowed density defined by dimensional standards, or building height based on compatibility with surrounding uses for single-family zones
- Access to transit must be available within 500'
- A use compliance inspection or report may be required periodically by the City as determined by the Planning Director.
- Modified parking standard
- If a permanent supportive housing project is discontinued or abandoned, future use of the property shall be in conformance with the use and development standards of the underlying zone or overlay zone.

- A written management plan required for city review and approval

**Ordinance 3686-19** Supportive housing moratorium

Suspended supportive housing in single-family zones in order to study additional impacts in the community.

**Ordinance 3724-20** Moratorium resolved, revised supportive housing regulations

Removed supportive housing from the use matrix resulting in supportive housing development regulated as housing.

**Ordinance 3774-20** Rethink zoning

Rethink zoning updated the definition from temporary shelter homes to Group housing, temporary shelter and amended the term to include a time limit and adding safe parking sites and tiny home communities as temporary housing/shelter to serve people experiencing homelessness. The ordinance also updated code to enact [RCW 35.21.915](#) related to religious organizations hosting homeless housing on site.

## RECENT STATE LEGISLATION

This project will address the following state legislation.

**SB 5235 (2021) Increasing housing unit inventory by removing arbitrary limits on housing options.**

SB 5235 prohibits cities from placing limits on the number of people living in a dwelling except to meet health and safety requirements. The legislation took effect July 25, 2021, and the city adjusted enforcement actions accordingly, but still hasn't changed city code to meet the state mandate. The section of the bill at issue is codified as [RCW 35.21.682](#):

**RCW 35.21.682 – City or town may not limit number of unrelated persons occupying a household or dwelling unit—Exceptions.**

Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in [RCW 64.37.010](#) and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or city ordinance, a city or town may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit.

**HB 1220 (2021) Supporting emergency shelters and housing through local planning and development regulations.**

The 2021 legislature passed [HB 1220](#) which includes new requirements for local jurisdictions to accommodate indoor emergency housing and indoor emergency shelter as well as transitional and permanent supportive housing serving people experiencing homelessness. The section of the bill at issue, which took effect on September 30, 2021, is codified as [RCW 35.21.683](#)

**RCW 35.21.683 – Transitional housing, permanent supportive housing, indoor emergency shelters, and indoor emergency housing.**

A city shall not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed. Effective September 30, 2021, a city shall not prohibit indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed, except in such cities that have adopted an ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit. Reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance on permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters to protect public health and safety. Any such requirements on occupancy, spacing, and intensity of use may not prevent the siting of a sufficient number of permanent supportive housing, transitional housing, indoor emergency housing, or indoor

emergency shelters necessary to accommodate each city's projected need for such housing and shelter under RCW 36.70A.070(2)(a)(ii).

**HB 1754 (2020) Concerning the hosting of the homeless by religious organizations.**

This bill strictly limits local actions that limit the ability of a religious organization hosting homeless on the property owned or controlled by the religious organization whether within buildings or elsewhere on the property outside the building. The section of the bill at issue, which took effect on September 30, 2021, is codified as RCW 35.21.915:

**RCW 35.21.915 – Hosting the homeless by religious organizations—When authorized—Requirements—Prohibitions on local actions.**

- (1) A religious organization may host the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.
- (2) Except as provided in subsection (7) of this section, a city or town may not enact an ordinance or regulation or take any other action that:
  - (a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter, such as an outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking, for homeless persons on property owned or controlled by the religious organization;
  - (b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability;
  - (c) Imposes permit fees in excess of the actual costs associated with the review and approval of permit applications. A city or town has discretion to reduce or waive permit fees for a religious organization that is hosting the homeless;
  - (d) Specifically limits a religious organization's availability to host an outdoor encampment on its property or property controlled by the religious organization to fewer than six months during any calendar year. However, a city or town may enact an ordinance or regulation that requires a separation of time of no more than three months between subsequent or established outdoor encampments at a particular site;
  - (e) Specifically limits a religious organization's outdoor encampment hosting term to fewer than four consecutive months;
  - (f) Limits the number of simultaneous religious organization outdoor encampment hostings within the same municipality during any given period of time. Simultaneous and adjacent hostings of outdoor encampments by religious organizations may be limited if located within one thousand feet of another outdoor encampment concurrently hosted by a religious organization;
  - (g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance or memorandum of understanding between the host religious organization and the jurisdiction:
    - (i) No less than one space may be devoted to safe parking per ten on-site parking spaces;
    - (ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities, with the provision for proper disposal of waste if recreational vehicles are hosted; and

(iii) Religious organizations providing spaces for safe parking must continue to abide by any existing on-site parking minimum requirement so that the provision of safe parking spaces does not reduce the total number of available parking spaces below the minimum number of spaces required by the city or town, but a city or town may enter into a memorandum of understanding with a religious organization that reduces the minimum number of on-site parking spaces required;

(h) Limits a religious organization's availability to host an indoor overnight shelter in spaces with at least two accessible exits due to lack of sprinklers or other fire-related concerns, except that:

(i) If a city or town fire official finds that fire-related concerns associated with an indoor overnight shelter pose an imminent danger to persons within the shelter, the city or town may take action to limit the religious organization's availability to host the indoor overnight shelter; and

(ii) A city or town may require a host religious organization to enter into a memorandum of understanding for fire safety that includes local fire district inspections, an outline for appropriate emergency procedures, a determination of the most viable means to evacuate occupants from inside the host site with appropriate illuminated exit signage, panic bar exit doors, and a completed fire watch agreement indicating:

(A) Posted safe means of egress;

(B) Operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers;

(C) A plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the local fire department; or

(i) Limits a religious organization's ability to host temporary small houses on land owned or controlled by the religious organization, except for recommendations that are in accord with the following criteria:

(i) A renewable one-year duration agreed to by the host religious organization and local jurisdiction via a memorandum of understanding;

(ii) Maintaining a maximum unit square footage of one hundred twenty square feet, with units set at least six feet apart;

(iii) Electricity and heat, if provided, must be inspected by the local jurisdiction;

(iv) Space heaters, if provided, must be approved by the local fire authority;

(v) Doors and windows must be included and be lockable, with a recommendation that the managing agency and host religious organization also possess keys;

(vi) Each unit must have a fire extinguisher;

(vii) Adequate restrooms must be provided, including restrooms solely for families if present, along with handwashing and potable running water to be available if not provided within the individual units, including accommodating black water;

(viii) A recommendation for the host religious organization to partner with regional homeless service providers to develop pathways to permanent housing.

(3)(a) A city or town may enact an ordinance or regulation or take any other action that requires a host religious organization and a distinct managing agency using the religious organization's property, owned or controlled by the religious organization, for hostings to include outdoor encampments, temporary small houses on-site, indoor overnight shelters, or vehicle resident safe parking to enter into a memorandum of understanding to protect the public health and safety of both the residents of the particular hosting and the residents of the city or town.

(b) At a minimum, the agreement must include information regarding: The right of a resident in an outdoor encampment, vehicle resident safe parking, temporary small house on-site, or indoor overnight shelter to seek public health and safety assistance, the resident's ability to access social services on-site, and the resident's ability to directly interact with the host religious organization, including the ability to express any concerns regarding the managing agency to the religious organization; a written code of conduct agreed to by the managing agency, if any, host religious organization, and all volunteers working with residents of the outdoor encampment, temporary small house on-site, indoor overnight shelter, or vehicle resident safe parking; and when a publicly funded managing agency exists, the ability for the host religious organization to interact with residents of the outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking using a release of information.

(4) If required to do so by a city or town, any host religious organization performing any hosting of an outdoor encampment, vehicle resident safe parking, or indoor overnight shelter, or the host religious organization's managing agency, must ensure that the city or town or local law enforcement agency has completed sex offender checks of all adult residents and guests. The host religious organization retains the authority to allow such offenders to remain on the property. A host religious organization or host religious organization's managing agency performing any hosting of vehicle resident safe parking must inform vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and provide a written code of conduct consistent with area standards.

(5) Any host religious organization performing any hosting of an outdoor encampment, vehicle resident safe parking, temporary small house on-site, or indoor overnight shelter, with a publicly funded managing agency, must work with the city or town to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180. When the religious organization does not partner with a managing agency, the religious organization is encouraged to partner with a local homeless services provider using the Washington homeless client managing information system. Any managing agency receiving any funding from local continuum of care programs must utilize the homeless client management information system. Temporary, overnight, extreme weather shelter provided in religious organization buildings does not need to meet this requirement.

(6) For the purposes of this section:

(a) "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and manage a homeless outdoor encampment, temporary small houses on-site, indoor overnight shelter, and a vehicle resident safe parking program.

(b) "Outdoor encampment" means any temporary tent or structure encampment, or both.

(c) "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(d) "Temporary" means not affixed to land permanently and not using underground utilities.

(7)(a) Subsection (2) of this section does not affect a city or town policy, ordinance, memorandum of understanding, or applicable consent decree that regulates religious organizations' hosting of the homeless if such policies, ordinances, memoranda of understanding, or consent decrees:

(i) Exist prior to June 11, 2020;

(ii) Do not categorically prohibit the hosting of the homeless by religious organizations; and

(iii) Have not been previously ruled by a court to violate the religious land use and institutionalized persons act, 42 U.S.C. Sec. 2000cc.

(b) If such policies, ordinances, memoranda of understanding, and consent decrees are amended after June 11, 2020, those amendments are not affected by subsection (2) of this section if those amendments satisfy (a)(ii) and (iii) of this subsection.

(8) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

(9) A religious organization hosting outdoor encampments, vehicle resident safe parking, or indoor overnight shelters for the homeless that receives funds from any government agency may not refuse to host any resident or prospective resident because of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, as these terms are defined in RCW 49.60.040.

(10)(a) Prior to the opening of an outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking, a religious organization hosting the homeless on property owned or controlled by the religious organization must host a meeting open to the public for the purpose of providing a forum for discussion of related neighborhood concerns, unless the use is in response to a declared emergency. The religious organization must provide written notice of the meeting to the city or town legislative authority at least one week if possible but no later than ninety-six hours prior to the meeting. The notice must specify the time, place, and purpose of the meeting.

(b) A city or town must provide community notice of the meeting described in (a) of this subsection by taking at least two of the following actions at any time prior to the time of the meeting:

(i) Delivering to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of special meetings;

(ii) Posting on the city or town's website. A city or town is not required to post a special meeting notice on its website if it: (A) Does not have a website; (B) employs fewer than ten full-time equivalent employees; or (C) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the website;

(iii) Prominently displaying, on signage at least two feet in height and two feet in width, one or more meeting notices that can be placed on or adjacent to the main arterials in proximity to the location of the meeting; or

(iv) Prominently displaying the notice at the meeting site.

## POTENTIAL CODE AMENDMENTS

Pending planning commission input and further staff analysis, the following topics have been identified for potential amendment:

### Definitions

New definitions and amendments to existing definitions are needed to meet the requirements specified in RCW [35.21.682](#) and RCW [35.21.683](#) and to reflect the latest terminology used by government and service providers. A list of existing definitions in city code are listed in Exhibit A.

### Emergency housing and emergency shelters

City code should address the nuances and differences of the emergency accommodation types and update development regulations to meet the requirements of [RCW 35.21.683](#). For example, some emergency shelters are used for hazardous weather conditions and provides sheltering on a nightly basis, while others may offer a commitment for a longer stay (e.g. 90 days). Hotel and motels are also being used as temporary housing and/or sheltering options and were especially important during the pandemic to maintain social distancing requirements. Indoor emergency housing and emergency shelter are not specifically listed in the city's use matrix [EMC 19.05.080 Table 5-1](#).

### **Outdoor shelter**

Development regulations regarding outdoor sheltering is currently addressed in three sections of the Everett Municipal Code. Staff will review these sections and suggest amendments for consistency and clarity. [EMC 19.05.068](#) (Exhibit B) Temporary uses, [EMC 19.08.200](#) Group housing, temporary shelters (Exhibit C), and [EMC 15.02.140](#) Temporary outdoor encampments, safe parking areas (Exhibit D).

### **Approval process**

The approval process for group housing, temporary shelters is specified in [EMC 15.02.140](#). A review of that section may result in potential code amendments.

### **Transitional and supportive housing in residential zones and zones where hotels/motels are allowed**

Hotels/motels are currently allowed in Business (B), Mixed Urban (MU), Light Industrial 1 (LI1), and Light Industrial 2 (LI2). Multifamily dwelling units are allowed in LI1 however, not in LI2 where hotels/motels are allowed. Potential amendments to meet provisions in [RCW 35.21.683](#). The residential use matrix table is found in [EMC 19.05.080](#).

### **Number of unrelated persons in a dwelling**

To meet bring the city's code into compliance with [RCW 35.21.682](#), a modification to the definition of family found in [EMC 19.04.020](#) (general definitions) is necessary. Changing this definition will also have implications for other sections of city code (e.g. for the definition of "rooming houses").

## **REQUEST OF THE PLANNING COMMISSION**

Review the information in this memo, prepare questions and points of discussion for the planning commission's meeting on April 19, and provide feedback on potential code amendments at the meeting.

## **EXHIBITS**

Exhibit A	Everett Municipal Code 19.04 definitions
Exhibit B.	Everett Municipal Code 19.05.068 Temporary uses
Exhibit C	Everett Municipal Code 19.08.200 Group housing, temporary shelters
Exhibit D	Everett Municipal Code 15.02.140 Temporary outdoor encampments, safe parking areas or tiny home communities



## EXHIBIT A – EMC 19.04 DEFINITIONS

**“Clinic”** means a building or portion of a building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors.

**“Community services”** means a use operated by a public agency, nonprofit, or other organizations of a charitable nature generally providing a service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Examples include drug and alcohol centers, social service facilities, soup kitchens, food banks, and surplus food distribution centers.

**“Dwelling”** means one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation, which meets the minimum requirements of the Everett Housing Code, and in which all habitable rooms are internally accessible from within the dwelling.

**“Family”** means any number of persons related by blood, marriage or legal adoption and including foster children and exchange students living together as a single housekeeping unit. “Family” also means the following when living together as a single, not-for-profit housekeeping unit:

1. A group of not more than four related and unrelated adults and their related minor children, but not to exceed a total of eight related and unrelated persons; or
2. Not more than eight disabled persons, whether adults or minors, living together in a consensual residential living arrangement, but not to exceed a total of eight persons; or
3. State licensed adult family homes as defined by [RCW 70.128.010](#); or
4. State licensed foster family homes and group care facilities as defined in [RCW 74.15.020](#).

**“Group housing, temporary shelter”** means a shelter providing temporary housing accommodations (ninety days or less) that includes a sponsor and managing agency, the primary purpose of which is to provide temporary shelter for people experiencing homelessness in general or for specific populations of the homeless, or temporary shelter for people experiencing domestic violence. In addition to shelters which provide shelter for up to ninety days, temporary shelters may also include temporary building encampments, temporary safe parking areas, temporary outdoor encampments or vehicle resident safe parking for the homeless, and temporary tiny house encampments.

**“Homeless”** means a person who lacks a fixed, regular, and adequate nighttime residence, and who has a primary nighttime residence that is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations; or
2. An institution that provides a temporary residence for mentally ill individuals intended to be institutionalized; or
3. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

**“Permanent supportive housing”** has the same meaning as [RCW 36.70A.030\(16\)](#): subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident’s health status, and connect the resident of the housing with

## EXHIBIT A – EMC 19.04 DEFINITIONS

community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter [59.18](#) RCW.

**“Supportive housing”** means a combination of housing, including low barrier housing, and services intended as a cost-effective way to help people live more stable and productive lives. The housing type is a multiple-family dwelling owned or sponsored by a qualified nonprofit provider or government entity, designed for occupancy by persons that are either (1) experiencing or at risk of experiencing homelessness; (2) are experiencing a disability that presents barriers to employment and housing stability; or (3) generally require structured supportive services such as case management and twenty-four-hour on-site facility management to be successful living in the community and is intended to provide long-term, rather than transitional, housing.

**“Social service facility”** means a facility housing a public or nonprofit agency that provides counseling, therapy or other social or human services to persons needing such services. This definition does not include schools, hospitals, clinics, day care, or residential uses.

## EXHIBIT B – EMC 19.05.068 TEMPORARY USES

### 19.05.068 Temporary uses.

A. *User Guide.* This section establishes a mechanism whereby the city may, on a short-term basis, permit a use to be conducted that would not otherwise be allowed in the zone in which it is located. This section is intended to permit certain inherently temporary uses, such as community festivals and fresh vegetable stands, that would not be allowed in the zone in which they are proposed, but which, if limited in time and strictly controlled, may be in the best interest of the Everett community.

B. *Process for Deciding Upon a Proposed Temporary Use.* The city will use the review process as described in Chapter 15.02 EMC, Local Project Review Procedures, to review and decide upon an application for a temporary use permit.

C. *Application Information.* The applicant shall provide the following information to the planning department:

1. A completed application on the form provided by the planning department, along with all information requested in that form;
2. An irrevocable, signed and notarized statement granting the city permission to summarily abate the temporary use and all physical evidence of that use if it is not removed by the applicant within the period specified as part of the permit, and agreeing to reimburse the city for any expenses incurred by the city in abating the temporary use; and
3. Written permission from the owner of the property upon which the temporary use is proposed to be located authorizing the proponent to use the subject property for the stated purposes and time period.

D. *Criteria for Granting a Temporary Use Permit.* The city may grant a temporary use permit only if it finds that:

1. The proposed temporary use will not be materially detrimental to the public welfare, or injurious to the property or improvements in the immediate vicinity; and
2. The proposed temporary use is compatible in terms of location, access, traffic, noise, nuisance, dust control and hours of operation with existing land uses in the immediate vicinity; and
3. The proposed temporary use is not otherwise allowable in the zone in which it is proposed.

E. *Dimensional Requirements and Development and Performance Standards.* The city shall establish dimensional requirements and development and performance standards as part of the approval of each temporary use permit. The city will use the nature of the proposed use and character of the surrounding area as guides in establishing these requirements and standards.

F. *Frequency and Duration of Temporary Use.* The city may not grant a temporary use permit to the same user for the same use more frequently than once in every three-hundred-sixty-five-day period. The city may only grant a temporary use permit for a specified period of time, not to exceed sixty days except as otherwise provided in this section. The temporary use permit shall specify a date by which the use shall be terminated.

G. *Removal of a Temporary Use.* The city shall designate, as part of the temporary use permit, a period following the expiration of the permit within which the temporary use must be terminated and all physical evidence of the use must be removed by the applicant. If the temporary use and all physical evidence of the use are not removed within the time specified, it will constitute a violation of this title.

## EXHIBIT B – EMC 19.05.068 TEMPORARY USES

Further, the city is authorized to abate the temporary use in accordance with subsection (C)(2) of this section.

### H. *Exception to Permit Requirement.*

1. *Garage Sales.* Garage sales shall be limited to two events per year with a maximum duration not to exceed four days per event.
2. *Commercial and Industrial Zones.* The following temporary uses, when located in commercial and industrial zones for not longer than the time periods specified below, are exempt from the permit requirements of this section:
  - a. Not to exceed forty-five days:
    - (1) Christmas tree lots;
  - b. Not to exceed ten consecutive days:
    - (1) Amusement rides;
    - (2) Carnivals and circuses;
    - (3) Parking lot sales which are ancillary to the indoor sale of the same goods and services.

I. *Prohibited on Public Right-of-Way.* See EMC 13.30.010 for permit requirements to use public right-of-way.

J. Temporary outdoor encampments, safe parking areas or tiny home communities.

1. See EMC 19.08.200 regarding standards for temporary outdoor encampments, safe parking areas or tiny home communities.
2. See EMC 15.02.140 regarding notice requirements, review process and appeal procedures for temporary outdoor encampments, safe parking areas or tiny home communities.

## EXHIBIT C – EMC 19.08.200 GROUP HOUSING, TEMPORARY SHELTERS

### EMC 19.08.200 Group housing, temporary shelters.

Group housing, temporary shelters shall be subject to the requirements of this section.

#### A. *Applicability.*

1. This section applies to the following group housing, temporary shelters:
  - a. Outdoor encampments, including any temporary tent or structure encampment, or both, and “temporary” meaning not affixed to land permanently and not using underground utilities;
  - b. Temporary safe parking areas; or
  - c. Temporary tiny home communities.
2. This section shall not apply to:
  - a. Emergency or disaster situations as defined by RCW 38.52.010(9); provided, however, that the inability of a sponsor or managing agency to locate a site shall not be deemed to constitute an emergency or disaster.
  - b. Placement of a tiny house or a tiny house with wheels used as a primary residence in a manufactured/mobile home community; provided, that each tiny house contains at least one internal toilet and at least one internal shower or the manufactured/mobile home community provides for the toilets and showers.

#### B. *Standards for Temporary Outdoor Encampments, Safe Parking Areas or Tiny Home Communities.*

1. *Applicability.* These standards apply to any temporary outdoor encampment, safe parking area or tiny home community, hereinafter referred to as “temporary encampments,” meeting the frequency and duration standard in subsection (B)(2) of this section.
2. *Frequency and Duration.* Temporary outdoor encampments may be approved for a period not to exceed four consecutive months or six months during any calendar year; provided however, that a separation of ninety days between subsequent or established outdoor encampments at a particular site is required. The temporary use permit shall specify a date by which the use shall be terminated.
3. *Encampment Management Responsibility Plan.* Prior to or upon filing their land use application, the managing agency and sponsor shall prepare an encampment management responsibility plan, which shall be included with their permit application.
4. *Safe Parking for Religious Organization.* Pursuant to RCW 35.21.915, a regional organization may host safe parking efforts at its on-site parking lot without limitations on any other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations as follows:
  - a. No less than one space may be devoted to safe parking per ten on-site parking spaces;
  - b. Restroom access must be provided either within the buildings on the property or through use of portable facilities, with the provision for proper disposal of waste if recreational vehicles are hosted; and

## EXHIBIT C – EMC 19.08.200 GROUP HOUSING, TEMPORARY SHELTERS

- c. Religious organizations providing spaces for safe parking must continue to abide by any existing on-site parking minimum requirement so that the provision of safe parking spaces does not reduce the total number of available parking spaces below the minimum number of spaces required by Chapter 19.34 EMC.
5. *Temporary Tiny Home Communities.* In addition to other provisions of this section, the following requirements must be met for a temporary tiny home community:
    - a. The review authority may impose a maximum unit square footage of one hundred twenty square feet, with units set at least six feet apart;
    - b. Electricity and heat, if provided, must be inspected and approved by the city’s building official;
    - c. Space heaters, if provided, must be approved by the city fire marshal;
    - d. Doors and windows must be included and be lockable;
    - e. Each unit must have a fire extinguisher;
    - f. Adequate restrooms must be provided, including restrooms solely for families if present, along with hand-washing and potable running water to be available if not provided within the individual units, including accommodating black water; and
    - g. The review authority may recommend that the organization partner with the regional homeless service providers to develop pathways to permanent housing.
  6. *Setbacks.*
    - a. The temporary encampment shall be located a minimum of forty feet from the property line of abutting properties containing residential uses; any tent, canopy or membrane structure, as defined in the International Fire Code, must be located at least twenty feet away from any building, parked vehicle, internal combustion engines or other tent, canopy or membrane structure.
    - b. The temporary encampment shall be located a minimum of forty feet from the property line of abutting properties in commercial or industrial zones, unless the planning director determines that there is sufficient vegetation, topographic variation, or other site conditions that would justify a lesser setback.
  7. *Fencing.* Sight-obscuring fencing is required around the perimeter of the temporary encampment unless the planning director determines that there is sufficient vegetation, topographic variation, or other site condition such that fencing would not be needed.
  8. *Lighting.* Exterior lighting must be directed downward and contained within the temporary encampment.
  9. *Residents.*
    - a. No children under eighteen are allowed in the temporary encampment. If a child under the age of eighteen attempts to stay at the temporary encampment, the managing agency shall immediately contact Child Protective Services.
    - b. The maximum number of residents within a temporary encampment is one hundred.

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- c. All temporary encampment residents must sign an agreement to abide by the code of conduct and acknowledge that failure to do so shall result in the noncompliant resident's immediate and permanent expulsion from the temporary encampment by the managing agency.
10. *Off-street Parking.* Parking for five vehicles shall be provided.
11. *Transit Services.*
  - a. A transportation plan is required which shall include provision for transit services.
  - b. The temporary encampment shall be located within one-half mile of transit service.
12. *Code of Conduct.* A code of conduct is required to be enforced by the managing agency. The code shall contain the following as a minimum:
  - a. No drugs or alcohol are permitted.
  - b. No weapons are permitted.
  - c. No violence is permitted.
  - d. No open flames are permitted.
  - e. No trespassing into private property in the host neighborhood is permitted.
  - f. No loitering in the host neighborhood is permitted.
  - g. Disturbing neighbors is not permitted.
  - h. No verbal abuse, intimidating remarks, yelling or degrading remarks against member(s) of the host or host neighborhood are permitted.
  - i. No verbal abuse, intimidating remarks, yelling or degrading remarks between members of the temporary encampment or managing agency are permitted.
  - j. No littering on the encampment site or in the host neighborhood is permitted; a weekly trash patrol in the host neighborhood shall be required.
  - k. Quiet hours shall be observed daily from nine p.m. to seven a.m.
13. *Inspections.*
  - a. The managing agency shall permit inspections of the temporary encampment by the Snohomish health district without prior notice and implement all directives of the health district within the time period specified by the health district.
  - b. The managing agency shall permit access, without prior notice, to the temporary encampment site at all times for the Everett police department and Snohomish County sheriff.
  - c. If the city fire marshal finds that fire-related concerns associated with an indoor overnight shelter pose an imminent danger to persons within the shelter, the city may take action to limit the availability to host indoor overnight shelter for religious organizations or any other entity. In addition, the city may require an organization to enter into a memorandum of understanding for fire safety that includes inspections, an outline for appropriate emergency procedures, a determination of the most viable means to evacuate occupants from inside a site with appropriate illuminated exit

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signage, panic bar exit doors, and a completed fire water agreement indicating: (1) posted safe means of egress; (2) operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers; (3) a plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the fire department.

### 14. *Managing Agency Responsibilities.*

- a. The managing agency and temporary encampment residents shall ensure compliance with Washington State statutes and the Everett Municipal Code concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems, and fire-resistant materials.
- b. The managing agency shall appoint a member to serve as a point of contact for the Everett police department. At least one member must be on duty at all times. The names of the on-duty members shall be posted daily.
- c. The 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. The managing agency will not be conducting the sex offender and warrant checks but will submit to the appropriate agency the verified identification information obtained through such steps. All of the Everett police department's requirements with respect to identified sex offenders or prospective residents with warrants shall be met.
- d. The managing agency shall immediately contact the Everett police department if someone is rejected or ejected from the temporary encampment where 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 member or on-duty security staff, the rejected/ejected person is a potential threat to the community.
- e. The managing agency shall permit inspections of the temporary encampment by the city's code compliance officers, building inspector, permit services manager, fire marshal or their designee without prior notice. The managing agency shall implement all directives resulting from such inspections within forty-eight hours of notice.
- f. Consistent with the Everett building code, the managing agency may not allow in the encampment, without first obtaining a building permit, any structure, other than tents, canopies or other membrane structures, that is greater than one hundred twenty square feet or provides shelter for more than nine persons.
- g. The managing agency and temporary encampment residents shall cooperate with other providers of shelters and services for homeless persons within the city and shall make inquiry with these providers regarding the availability of existing resources.

### 15. *Additional Requirements for Applications Requesting Modification of Standards.*

- a. The applicant may request in their application for standards that differ from those in this section only where the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe temporary encampment under the specific circumstances of the application.



## **EXHIBIT C – EMC 19.08.200 GROUP HOUSING, TEMPORARY SHELTERS**

- b. Requests shall be reviewed by the city’s hearing examiner at a public hearing. The hearing examiner shall make a decision regarding the issuance of a temporary use permit and modification of standards. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit. The public hearing procedures shall be as specified in EMC Title 15.
- c. In considering whether the modification should be granted, the city shall first consider the effects on the health and safety of residents and the community. The burden of proof shall be on applicant.

## **EXHIBIT D – EMC 15.02.140 TEMPORARY OUTDOOR ENCAMPMENTS, SAFE PARKING AREAS OR TINY HOME COMMUNITIES**

### **EMC 15.02.140 Temporary outdoor encampments, safe parking areas or tiny home communities.**

Temporary outdoor encampments, safe parking areas or tiny home communities are subject to the following notice requirements, review process and appeal procedures.

A. *Public Meeting.* A minimum of forty-five calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall submit an application for a temporary use permit to the planning department and shall participate in a public information meeting organized by the city. The city shall provide mailed notice of the public informational meeting at least ten calendar days before the meeting to the following: (1) owners of property within five hundred feet of the subject property; (2) office of neighborhoods; and (3) any neighborhood organization in the vicinity of the temporary outdoor encampment, safe parking areas or tiny home communities site whose contact information is known to or made known to the managing agency. The sponsor and/or managing agency shall provide to the city the names and addresses of all owners of property within five hundred feet of the subject property. The purpose of the meeting is to provide the surrounding community with information regarding the proposed duration and operation of the temporary outdoor encampment, safe parking areas or tiny home communities, conditions that will likely be placed on the operation of the temporary outdoor encampment, safe parking areas or tiny home communities, requirements of the written code of conduct, and to answer questions regarding the temporary outdoor encampment, safe parking areas or tiny home communities.

B. *Notice of Application for Temporary Outdoor Encampments, Safe Parking Areas or Tiny Home Communities.*

1. A notice of application and copy of the application for temporary outdoor encampment, safe parking areas or tiny home communities shall be provided prior to the decision regarding the issuance of the permit. The purpose of the notice is to inform the surrounding community of the application. Due to the administrative and temporary nature of the permit, there is no comment period. The notice shall contain, at a minimum, the date of application, project location, proposed duration and operation of the temporary outdoor encampment, safe parking areas or tiny home communities, number of residents for the encampment, conditions that will likely be placed on the operation of the temporary outdoor encampment, safe parking areas or tiny home communities, and requirements of the written code of conduct.
2. The completed application shall contain at a minimum contact information for the applicant and detailed information regarding how the applicant will meet the requirements of the temporary use permit and the requirements of the International Fire Code. The managing agency of any encampment that includes a tent or membrane structure in excess of two hundred square feet, and canopies in excess of four hundred square feet, as defined by the International Fire Code, shall also obtain a permit and approval for the tent, canopy or membrane structure from the fire marshal. The form of the notice and the application shall be provided by the planning department upon request by the sponsor and/or managing agency. The planning department shall distribute this notice as follows:
  - a. A copy of the notice and application, or summary thereof, will be published in the official newspaper of the city at least ten calendar days prior to the decision regarding the issuance of the permit.
  - b. A copy of the notice and application, or summary thereof, will be mailed to:

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- (1) Owners of all property within five hundred feet of any boundary of the subject property;
- (2) Office of neighborhoods; and
- (3) Any neighborhood organization in the vicinity of the temporary outdoor encampment, safe parking areas or tiny home communities site whose contact information is known to or made known to the managing agency, at least ten calendar days prior to the decision regarding the issuance of the permit.

*C. Review Process, Notice of Decision Regarding Issuance of Permit, and Appeal Procedure.* After review of the application for temporary outdoor encampment, safe parking areas or tiny home communities, the planning director shall make a decision regarding the issuance of a temporary use permit. A notice of such decision stating whether the permit is granted or denied, along with information regarding the procedure for appeal of the decision, shall be mailed as required for the notice of application within three business days after the decision. The information regarding the procedure for appeal shall state at a minimum as follows:

1. The deadline for filing a notice of appeal of the planning director's decision is fifteen calendar days from the date the decision is mailed; and
2. The notice of appeal of the planning director's decision shall be filed with the city clerk.
3. The planning director's decision may be appealed to the city's hearing examiner, who has jurisdiction to hear this matter and who will issue the final decision of the city after a public hearing. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit.
4. The public hearing procedures shall be as specified in Section 15.24.400. The hearing examiner shall issue findings within ten business days of the conclusion of the hearing. Within three business days of rendering the written decision, copies shall be mailed to the applicant and all who have requested notice by signing a register provided at the hearing. The hearing examiner's decision shall constitute the city's final decision. Any appeal of the city's final decision may only be made to Snohomish County superior court in accordance with Chapter 36.70 RCW. The burden of proof on appeal shall be on the appellant.

*D. Additional Requirements for Applications Requesting Modification of Standards for Temporary Outdoor Encampment, Safe Parking Areas or Tiny Home Communities.*

1. The applicant may apply for a temporary use permit that applies standards that differ from those in Section 19.08.200(B) only where, in addition to satisfying the requirements in Section 19.05.068, the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe temporary outdoor encampment, safe parking areas or tiny home communities under the specific circumstances of the application. Such requests shall be reviewed by the city's hearing examiner at a public hearing. The hearing examiner shall make a decision regarding the issuance of a temporary use permit and modification of standards. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice

**EXHIBIT D – EMC 15.02.140 TEMPORARY OUTDOOR ENCAMPMENTS,  
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or submitted substantial comments on the application for the permit. The public hearing procedures shall be as specified in Section 15.02.200.

2. The hearing examiner shall issue findings within ten business days of the conclusion of the hearing. Within three business days of rendering the written decision, copies shall be mailed to the applicant and all who have requested notice by signing a register provided at the hearing. The hearing examiner’s decision shall constitute the city’s final decision. Any appeal of the city’s final decision may only be made to Snohomish County superior court in accordance with Chapter 36.70 RCW.

3. In considering whether the modification should be granted, the city shall first consider the effects on the health and safety of residents and the community. The burden of proof shall be on applicant.

