

ORDINANCE NO. 609

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE AMENDING TITLE 19 OF THE UNIVERSITY PLACE MUNICIPAL CODE "ZONING", TO ADD A NEW CHAPTER 19.36 TEMPORARY TENT ENCAMPMENTS.

WHEREAS, in accordance with the State Growth Management Act the University Place City Council adopted a Comprehensive Plan on July 6, 1998 which became effective July 13, 1998 with amendments on May 1, 2000 and August 4, 2003; and

WHEREAS, the Growth Management Act requires the City to adopt development regulations which are consistent with and implement the Comprehensive Plan and the Act; and

WHEREAS, in 2010, the Washington State legislature enacted RCW 35.21.915 authorizing religious organizations to host temporary encampments for homeless persons on property owned or controlled by a religious organizations; and

WHEREAS, RCW 35.21.915 prohibits local governments from enacting any ordinance or regulation that imposes conditions other than those necessary to protect the public health and safety and that do not substantially burden the decisions or actions of a religious organization with respect to the provision of homeless housing; and

WHEREAS, the City finds it is in the interest of public health, safety and welfare to enact regulation necessary to protect the public health and safety that do not substantially burden the decisions or actions of a religious organization with respect to the provision of homeless housing; and

WHEREAS, a 2009 audit of the City's Development Services Department by the Washington Cities Insurance Authority (WCIA) recommended the City enact regulations that address homeless tent encampments; and

WHEREAS, the Planning Commission held public meetings on June 16, 2010, July 7, 2010, and August 4, 2010 to review and discuss the proposed regulations for temporary tent encampments; and

WHEREAS, the Planning Commission held a public hearing on November 3, 2010 after which the Planning Commission voted unanimously to recommend that the City Council adopt the proposed regulations for Temporary Tent Encampments; and

WHEREAS, the City' Environmental Official issued a Determination of Non-Significance (DNS) on April 6, 2012 with a comment period ending on April 20, 2012; and

WHEREAS, the required State Agency 14-day expedited review period on the proposed amendment began on April 6, 2012 and concluded on April 17, 2012; and

WHEREAS, the University Place City Council held a meeting on May 14, 2012 to study and discuss the recommended temporary tent encampment provisions; and

WHEREAS, the University Place City Council finds the proposed provisions regarding Temporary Tent Encampments are consistent with the goals, objectives and policies of the Comprehensive Plan; the proposed amendment is in the best interest of the citizens and property owners of the City; and the proposed amendment enhances the public health, safety, comfort, convenience, or general welfare.

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

Section 1. Temporary Tent Encampments. University Place Municipal Code Title 19 Zoning is hereby amended by adding Chapter 19.36 Temporary Tent Encampments as set forth in Exhibit "A" attached.

Section 2. Copy to be Available. One copy of this Ordinance shall be available in the office of the City Clerk for use and examination by the public.

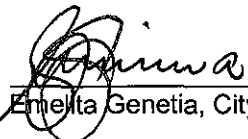
Section 3. Severability. If any section, sentence, clause, or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 4. Publication and Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect five days after publication.

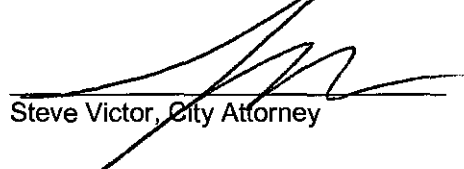
PASSED BY THE CITY COUNCIL ON JUNE 18, 2012.


Ken Grassi, Mayor

ATTEST:


Emelita Genetia, City Clerk

APPROVED AS TO FORM:


Steve Victor, City Attorney

Date of Publication: 06/20/12
Effective Date: 06/25/12

EXHIBIT A
Chapter 19.36
TEMPORARY TENT ENCAMPMENTS

Sections

- 19.36.010 Regulations established.
- 19.36.020 Definitions.
- 19.36.030 Requirements.
- 19.36.040 Frequency and duration of temporary use.
- 19.36.050 Permit required.
- 19.36.060 Application.
- 19.36.070 Decision and appeal.

19.36.010 Regulations established.

Regulations concerning the establishment and processing of applications for temporary tent encampments in the city are hereby established. Temporary tent encampments are only permitted to be located on property owned or controlled by a religious organization recognized by the Internal Revenue Service as exempt from federal income taxes subject to a temporary use permit. Establishing such facilities contrary to the provisions of this chapter is prohibited. With the exception of temporary use permits for tent encampment facilities that are in full compliance with this chapter, applications for temporary use permits, land use approvals, or any other permit or approval, in any way associated with temporary tent encampment facilities, shall not be accepted, processed, issued, granted, or approved. If a temporary tent encampment is established in violation of this chapter or if, after temporary use permit is issued for the same, the Director determines that the permit holder has violated this chapter or any condition of the permit, the temporary tent encampment, its sponsor and managing agency shall be subject to code enforcement in accordance with UPMC 1.20 and all activities associated with the temporary tent encampment shall cease, and the site shall be vacated and restored to its pre-encampment conditions.

19.36.020 Definitions.

The following definitions apply to temporary tent encampments:

A. "Temporary tent encampment" means a short-term (90 days or less) residence facility for a group of people that is composed of tents or other temporary structures on a site owned or controlled by a sponsor with services provided by a sponsor and supervised by a managing agency.

B. "Managing agency" means an organization identified as the manager of a temporary tent encampment that has the capacity to organize and manage a temporary tent encampment. A "managing agency" may be the same entity as the sponsor.

C. "Sponsor" means an organization that is recognized by the Internal Revenue Service as exempt from federal income taxes as a religious organization.

D. "Director" means the Director of Community Development, Planning and Development Services or similar.

19.36.030 Requirements.

The following requirements shall apply to all temporary tent encampments approved under this chapter, unless modified by the Director through approval of a temporary use permit:

A. The encampment shall be located a minimum of 20 feet from the property line of abutting properties containing commercial, industrial, professional office, and multifamily residential uses. The encampment shall be located a minimum of 40 feet from the property line of abutting properties containing single-family residential or public recreational uses, unless the Director finds that a reduced buffer width will provide adequate separation between the encampment and adjoining uses, due to changes in elevation, intervening buildings or other physical characteristics of the site of the encampment.

B. No encampment shall be located within a critical area or its buffer as defined by Chapter [17.05](#) UPMC.

C. A six-foot-tall sight-obscuring fencing is required around the perimeter of the encampment; provided, that the fencing does not create a sight obstruction at the street or street intersections or curbs as determined by the city engineer, unless the Director determines that there is sufficient vegetation, topographic variation, or other site condition such that fencing would not be needed.

D. Exterior lighting must be directed downward and glare contained within the temporary tent encampment.

E. The maximum number of residents at a temporary tent encampment site shall be determined by the Director taking into consideration site conditions, but in no case shall the number be greater than 100 people.

F. On-site parking of the sponsor shall not be displaced unless sufficient required off-street parking remains available for the host's use to compensate for the loss of on-site parking or unless a shared parking agreement is executed with adjacent properties.

F. A transportation plan must be developed which includes parking plan for encampment residents and transit services.

H. No children under 18 are allowed to stay overnight in the temporary tent encampment, unless accompanied by a parent or guardian. If a child under the age of 18 without a parent or guardian present attempts to stay at the encampment, the sponsor and the managing agency shall immediately contact Child Protective Services and shall actively endeavor to find alternative shelter for the child.

I. The sponsor or managing agency shall provide and enforce a written code of conduct, which not only provides for the health, safety and welfare of the temporary tent encampment resident, but also mitigates impacts to neighbors and the community. A copy of the code of conduct shall be submitted to the city at the time of application for the temporary use permit. Said code shall be incorporated into the conditions of approval.

J. The sponsor and the managing agency shall ensure compliance with Washington State laws and regulations, the City Municipal Code, and local health district concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems and storm water quality. The sponsor and the managing agency shall permit inspections by state and/or local agencies and/or departments to ensure such compliance and shall implement all directives resulting within the specified time period.

K. Building and/or Fire permits may be required depending on the type, size, location or use of existing buildings, tents or other temporary structures. ADA facilities may be required.

L. The sponsor and managing agency shall assure all applicable public health regulations, including but not limited to the following, will be met at/for:

1. Sanitary portable toilets, which shall be set back at least 40 feet from all property lines;
2. Hand-washing stations by the toilets and food preparation areas;
3. Food preparation or service tents; and
4. Refuse and recycling receptacles.

M. Public health guidelines on food donations and food handling and storage, including proper temperature control, shall be followed and homeless encampment residences involved in food donations and storages shall be made aware of these guidelines consistent with the local health district requirements.

N. The sponsor and the managing agency shall designate points of contact for the City 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 on-site daily and their contact information shall be provided to the City police department.

O. Facilities for dealing with trash shall be provided on-site throughout the encampment. A regular trash patrol in the immediate vicinity of the temporary tent encampment site shall be provided.

P. The sponsor and the managing agency shall take all reasonable and legal steps to obtain verifiable identification from current and prospective encampment residents and use the identification to obtain sex offender and warrant checks from appropriate agencies. The sponsor and the managing agency shall keep a log of names and dates of all people who stay overnight in the temporary tent encampment.

Q. The sponsor and the managing agency shall immediately contact the City 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.

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

S. The sponsor, the managing agency and temporary tent 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.

T. The sponsor and/or managing agency shall provide before-encampment photos of the host site with the application. Upon vacation of the temporary tent encampment, all temporary structures and debris shall be removed from the host site within one calendar week or obtain a written extension from the Director.

19.36.040 Frequency and duration of temporary use.

The Director shall not grant a permit for the same site more than once in any calendar year; provided, that Director is not authorized to issue a permit for the same site sooner than 180 days from the date the site is vacated as provided in (UPMC 19.36.030(T)). Temporary tent encampments may be approved for a period not to exceed 90 days. The permit shall specify a date by which the use shall be terminated and the site vacated and restored to its pre-encampment condition.

19.36.050 Permit required.

Establishment of a temporary tent encampment shall require approval of a temporary use permit, as described in this chapter, and compliance with all other applicable city regulations. The director shall have authority to grant, grant with conditions or deny an application for a temporary use permit under this chapter; provided that the Director shall have no authority to modify the limits established in UPMC 19.36.040.

19.36.060 Application.

Application for a temporary use permit shall be made on forms prescribed by the city, and shall be accompanied by a fee established in the city's current fee resolution and the following information; provided, that the Director may waive any of these items, pursuant to UPMC [22.05.050\(F\)](#) upon request by the applicant and finding that the item is not necessary to analyze the application. An application to establish a temporary tent encampment shall be signed by both the sponsor and the managing agency ("applicant").

A. A site plan of the property, drawn to scale, showing existing natural features, existing and proposed grades, existing and proposed utility improvements, existing rights-of-way and improvements, and existing and proposed structures, tents and other improvements (including landscaping and fencing at the perimeter of the proposed encampment and the property and off-street parking);

B. A vicinity map, showing the location of the site in relation to nearby streets and properties;

C. A written summary of the proposal, responding to the standards and requirements of this chapter;

D. The written code of conduct and a transportation plan as required by this chapter;

E. Statement of actions that the applicant will take to obtain verifiable identification from all encampment residents and to use the identification to obtain sex offender and warrant checks from appropriate agencies;

F. Project statistics, including site area, building coverage, number and location of tents and temporary structures, expected and maximum number of residents, and duration of the encampment;

G. A legal description of the subject property, including parcel number;

H. Photographs of the site;

I. A list of other permits that are or may be required for development of the property (issued by the city or by other government agencies), insofar as they are known to the applicant;

J. A list of any requirement under this chapter for which the applicant is asking to modify, as allowed under UPMC 19.36.070(D).

19.36.070 Decision and appeal.

A. **Applications** for temporary tent encampments shall be processed a Type I permit in accordance with UPMC Chapter 22.05.

B. **Decision.** The Director shall decide whether to grant, grant with conditions or deny a temporary use permit. Before any temporary use permit may be granted, the applicant shall show that:

1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed encampment;

2. The proposed use shall meet the performance standards that are required in the zoning district the encampment will occupy and the requirements of this chapter;

3. The proposed use shall be in keeping with the goals and policies of the comprehensive plan;

4. All measures have been taken to minimize the possible adverse impacts which the proposed encampment may have on the area in which it is located.

Notice of Decision: A notice of the 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 decision in accordance with UPMC22.05. If issued, the permit for the temporary tent encampment shall be issued jointly to the sponsor and managing agency and each shall be responsible for compliance with the terms and conditions of the permit and applicable city codes.

C. **Conditions.** Because each temporary tent encampment has unique characteristics, including, but not limited to, size, duration, uses, number of occupants and composition, the Director shall have the authority to impose conditions on the approval of a temporary use permit to ensure that the proposal meets the criteria for approval listed above. Conditions, if imposed, must be intended to minimize nuisance-generating features in matters of noise, waste, air quality, unsightliness, traffic, physical hazards and other similar matters that the temporary tent encampment may have on the area in which it is located. In cases where the application for temporary use permit does not meet the provisions of this chapter (except when allowed under subsection (D) of this section) or adequate mitigation may not be feasible or possible, the Director shall deny the application.

D. **Modification of Requirements.** The Director may approve a temporary use permit for a tent encampment that relaxes one or more of the standards in

this chapter only when, in addition to satisfying the decision criteria stated above, the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe encampment with minimal negative impacts to the host community under the specific circumstances of the application. In considering whether the modification should be granted, the Director shall first consider the effects on the health and safety of encampment residents and the neighboring communities. Modifications shall not be granted if their adverse impact on encampment residents and/or neighboring communities will be greater than those without modification. The burden of proof shall be on applicant.

E. **Appeal.** The Director's decision may be appealed to the hearing examiner in accordance with UPMC [22.05.120](#).