

Exhibit A

NOTE: The proposal is to insert an entirely new chapter in the Whatcom County Zoning Code (Title 20). Underlining and strikethroughs below are solely to show differences between the proposal and County Ordinance 2020-053 (and/or, as applicable, Bellingham Municipal Code provisions).

Chapter 20.17

Temporary Homeless Facilities

Sections:

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20.17.010 Purpose.

The purpose of this chapter is to allow and establish a review process for the location, siting, and operation of temporary shelters for people experiencing homelessness (known as temporary homeless facilities). These regulations are intended to protect public health and safety by requiring safe operations of the shelters for both the shelter guests and the broader community. Temporary homeless facilitiesshelters include temporary building encampments, temporary tent encampments, temporary safe parking areas, and temporary tiny house encampments. ~~This chapter does not include regulations for interim housing.~~

Rationale: The Purpose statement above is from Bellingham Municipal Code 20.15.010 relating to “Temporary Shelters for People Experiencing Homelessness” with changes shown with underlining and strike-throughs. Bellingham Municipal Code 20.15A and 20.08.020 have specific provisions relating to longer duration “Interim Housing” that the Whatcom County Code does not contain.

20.17.020 Requirements for Temporary Homeless Facilities.

The following requirements shall apply to all temporary homeless facilities approved under this ~~chapter ordinance~~, unless modified by the director through ~~approval of~~ an administrative approval use permit.

- (1) The ~~temporary homeless facility encampment~~ shall be located a minimum of 20 feet from the property line of abutting properties containing commercial, industrial, and multifamily residential uses. The ~~temporary homeless facility 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 These buffers may be reduced if~~ the director finds that a reduced buffer width will provide adequate separation between the ~~temporary homeless facility encampment~~ and adjoining uses, due to changes in elevation, intervening buildings or other physical characteristics of the site ~~of the encampment~~.

Rationale: The definition of “temporary homeless facility” encompasses all four types of temporary homeless facilities (including encampments).

- (2) No temporary homeless facility shall be located within a critical area or its buffer as defined by Whatcom County Code (WCC) 16.16 or 23.
- (3) A temporary homeless facility shall comply with the applicable ~~regulations development standards~~ of Whatcom County Code Title 20 Zoning, except that temporary homeless facilities shall not be considered structures for the purposes of calculating parcel’s total lot coverage, as defined by WCC 20.97.217.
- (4) A six-foot-tall fence is required around the perimeter of the ~~temporary homeless facility encampment~~ to limit access to the site for safety and security reasons; provided, that the fencing does not create a sight obstruction at the street or street intersections or curbs as determined by the county engineer, ~~unless t~~ The director may waive the fence requirement if determines that there is sufficient vegetation, topographic variation, or other site conditions such that fencing would not be needed.
- (5) Exterior lighting must be directed downward and glare contained within the temporary ~~homeless facility encampment~~.
- (6) The maximum number of residents at a temporary ~~homeless facility encampment~~ site shall be determined by the director taking into consideration site conditions, but in no case shall the number be greater than fifty (50) people.
- (7) 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.
- (8) A transportation plan, including provisions for transit, and pedestrian and bicycle ingress and egress to the ~~temporary homeless facility site encampment~~, shall be submitted for review and approval.
- (9) No children under the age of 18 are allowed to stay overnight in the temporary ~~homeless facility 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 temporary homeless facility encampment, the sponsor and the managing agency shall actively endeavor to find alternative shelter for the child through community partners such as Northwest Youth Services, Opportunity Council, Lighthouse Mission, Interfaith Coalition and other appropriate homeless youth services organizations. Children under the age of 18 without a parent or guardian present shall be allowed to remain in a temporary homeless facility encampment while alternative shelter is being sought.

- (10) 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 homeless facility encampment residents, but also mitigates impacts to neighbors and the community. A copy of the code of conduct shall be submitted to the County at the time of application for the administrative approval use permit. ~~Said~~The code of conduct shall be incorporated into the conditions of approval. The managing agency shall post the County approved written code of conduct on site.
- (11) An operations plan must be provided that addresses site management, site maintenance, and provision of human and social services. The managing agency shall demonstrate that:~~Individuals or organizations shall~~
- A. Individuals in the agency have ~~either a~~ demonstrated experience providing similar services to homeless residents; ~~and/or~~
 - B. Individuals in the agency have certification or academic credentials in an applicable human service field; ~~and/or~~
 - C. Individuals in the agency have applicable experience in a related program with a homeless population; ~~or-~~
 - D. ~~Should an individual or organization not have any of the preceding qualifications,~~ Additional prescriptive measures will be implemented~~may be required~~ to minimize risk to both residents of the temporary homeless facility and the community in general.
- (12) The sponsor and the managing agency shall ensure the temporary homeless facility complies~~compliance~~ with Washington State laws and regulations and the Whatcom County Health Department's regulations concerning, but not limited to, drinking water connections, solid waste disposal, and human waste. The sponsor and the managing agency shall permit inspections by local agencies and/or departments to ensure such compliance and shall implement all directives resulting therefrom within the specified time period.

<p>Rationale: The change above would clarify that the sponsor and managing agency are responsible to ensure the homeless facility complies with State and County laws, but that an individual's compliance with certain laws is enforced by the Sheriff's Office.</p>

- (13) The sponsor and managing agency shall assure all applicable public health regulations, including but not limited to the following, will be met for:
- (a) Potable water, which shall be available at all times at the site;
 - (b) Sanitary portable toilets, which shall be set back from all property lines as determined by the director;
 - (c) Hand-washing stations by the toilets and food preparation areas;

- (d) Food preparation or service tents; and
 - (e) Refuse receptacles.
- (14) Public health regulations (WAC 246.215 and WCC 24.03) on food donations and food handling and storage, including proper temperature control, shall be followed and temporary homeless facility encampment residents involved in food donations and storages shall be made aware of these Whatcom County Health Department requirements.
- (15) The sponsor and the managing agency shall designate points of contact and provide contact information (24 hour accessible phone contact) to the chief criminal deputy of the Whatcom County Sheriff or his/her designee. 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 Whatcom County Sheriff's Office as described above.
- (16) Facilities for dealing with trash shall be provided on-site throughout the temporary homeless facility encampment. A regular trash patrol in the immediate vicinity of the temporary encampment site shall be provided.
- (17) The sponsor and the managing agency shall take reasonable and legal steps to obtain verifiable identification information (recognizing this may not be possible if a homeless individual's identification documents have been lost or stolen), to include full name and date of birth, from current and prospective temporary homeless facility 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 current log of names and dates of all people who stay overnight in the temporary homeless facility encampment. This log shall be available upon request to law enforcement agencies and prospective encampment residents shall be so advised by the sponsor and managing agency. Persons who have active warrants, or who are required to register as sex offenders, are not allowed in a temporary homeless facility prohibited from the encampment's location.
- (18) The sponsor and the managing agency shall immediately contact the Whatcom County Sheriff's Office if someone is rejected or ejected from the temporary homeless facility 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.
- (19) All permanent or temporary structures shall have fully operational smoke detectors installed and can be battery operated. Fire extinguishers shall be provided for each site. The number and type of fire extinguishers shall be determined by the director in consultation with the managing agency. Tents over 300 square feet in size and canopies in excess of 400 square feet shall utilize flame retardant materials.
- Rationale: The added language above was recommended by the Whatcom County Building Services Division Manager/Deputy Fire Marshal.
- (20) The sponsor, the managing agency and temporary homeless facility encampment residents shall cooperate with other providers of shelters and services for homeless persons within the County and shall make inquiry with these providers regarding the availability of existing resources.

- (21) The sponsor and/or managing agency shall provide before-~~setupencampment~~ photos of the host site with the application. Upon vacation of the temporary ~~homeless facilityencampment~~, all temporary structures and debris shall be removed from the host site within one calendar week.
- (22) Upon cessation of the temporary ~~homeless facilityencampment~~, the site shall be restored, as near as possible, to its original condition. Where deemed necessary by the director, the sponsor and/or managing agency shall re-plant areas in which vegetation had been removed or destroyed.
- (23) Temporary homeless facilities are only allowed in urban growth areas. This locational requirement does not apply to temporary homeless facilities on property owned or controlled by religious organizations under RCW 36.01.290.

Rationale: Subsections 1 - 22 above are from Whatcom County Ordinance 2020-053 relating to Interim Zoning Regulations for Temporary Homeless Facilities (Section 4), with proposed changes shown with underlining and strike-throughs.

Subsection 23 is not in Ordinance 2020-053. Under this provision temporary homeless facilities would be allowed only within urban growth areas, where more intensive land uses are permitted, services typically exist nearby, and transportation options are more readily available. However, this provision cannot be applied to facilities on property owned or operated by religious organizations under RCW 36.01.290.

20.17.030 Additional Requirements for Temporary Building Encampments.

In addition to the requirements of WCC 20.17.020, the following requirements apply to temporary building encampments, unless modified by the director during the administrative approval use permit approval process:

- (1) Temporary building encampments hosted in existing structures that do not meet building codes at the time of application may be provisionally approved consistent with the requirements of RCW 19.27.042.
- (2) No more than one bed (or bunkbed for a parent/guardian and a child under the age of 18) per 35 square feet of floor area is permitted.
- (3) The number of toilets required for each encampment will be determined by the Whatcom County Health Department after a review of factors such as the potential number of guests.

Rationale: The requirements above are drawn from requirements from Bellingham Municipal Code 20.15.030.

20.17.040 Permit Required.

Establishment of a temporary homeless facility shall require ~~approval of~~ an administrative approval use permit, ~~as described in this ordinance,~~ and compliance with all other applicable County regulations. The director shall have authority to grant, grant with conditions or deny an application for an administrative approval use permit ~~for a temporary homeless facility under this ordinance.~~

Rationale: The requirements above are from Whatcom County Ordinance 2020-053 relating to Interim Zoning Regulations for Temporary Homeless Facilities (Section 6), with proposed changes shown with underlining and strike-throughs.

20.17.050 Capacity ~~Duration~~ of Temporary Homeless Facilities.

- (1) ~~No more than a~~ A maximum of 100 people may be housed in temporary homeless facilities (~~encampments~~) located in the unincorporated County at any time. Multiple temporary homeless facility ~~encampment~~ locations may be permitted provided that the aggregate total of people in all temporary homeless facilities ~~tent and/or tiny house encampments~~ shall not exceed 100.

Rationale: The requirements above are from Whatcom County Ordinance 2020-053 relating to Interim Zoning Regulations for Temporary Homeless Facilities (Section 5), with proposed changes shown with underlining and strike-throughs.

20.17.060 Duration of Temporary Homeless Facilities.

- (1) The director shall not grant a permit for the same site more than once in any calendar year nor; ~~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 for in Section 4 of this ordinance.~~
- (2) Temporary tent encampments and temporary safe parking areas may be approved for a period not to exceed 190 days. The director may grant one 190-day extension, provided all conditions have been complied with and circumstances associated with the use have not changed. ~~This extension shall be subject to a Type II review process and may be appealed to the hearing examiner as provided in WCC 22.05.020(1).~~ The permit shall specify a date by which the use shall be terminated and the site vacated and restored to its preexisting ~~pre-encampment~~ condition.
- (3) Temporary tiny house encampments may be approved for a period of between six months and up to one year, provided the sponsor and managing agency comply with all permit conditions. The director may grant one or more extension(s) not to exceed one additional year, ~~provided enabling legislation allows so. Extensions are subject to a Type II review process and may be appealed to the hearing examiner as provided in WCC 22.05.020(1).~~ The permit shall specify a date by which the use shall be terminated and the site vacated and restored to its preexisting ~~pre-encampment~~ condition.

Rationale: The requirements above (subsections 1-3) are from Whatcom County Ordinance 2020-053 relating to Interim Zoning Regulations for Temporary Homeless Facilities (Section 5), with proposed changes shown with underlining and strike-throughs. All decisions by the Director are subject to appeal under WCC 22.05.160. See also proposed WCC 20.17.080(5) below.

- (4) Temporary building encampments may be approved for a period of up to five years, provided the sponsor and managing agency comply with all permit conditions. Should the original permit be granted for a period of less than five years, the director may grant one or more extensions up to a total of five years. ~~Extensions are subject to a Type I review process under BMC 21.10.100 and may be appealed to the hearing examiner as provided in BMC 21.10.250.~~ The permit shall specify a date by which the use shall be terminated and the site vacated and, where applicable, restored to its preexisting condition.

Rationale: The requirements above (subsection 4) are a modified version of requirements from Bellingham Municipal Code 20.15.060, with proposed changes shown with underlining and strike-throughs. All decisions by the Director are subject to appeal under WCC 22.05.160. See also proposed WCC 20.17.080(5) below.

20.17.070 Application.

Application for an administrative approval use permit shall be made on forms provided by the County, and shall be accompanied by the following information; provided, that the director may waive any of these items, upon request by the applicant and finding that the item is not necessary to analyze the application. An application to establish a temporary homeless facility shall be signed by both the sponsor and the managing agency ("applicant") and contain the following:

- (1) 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 facility encampment and the property and off-street parking);
- (2) A vicinity map, showing the location of the site in relation to nearby streets and properties;
- (3) A written summary of the proposal, responding to the standards and requirements of WCC 20.17~~this ordinance~~;
- (4) The written code of conduct, operations plan and a transportation plan as required by WCC 20.17.020~~this ordinance~~;
- (5) Statement of actions that the applicant will take reasonable steps to obtain verifiable identification from encampment temporary homeless facility residents and to use the identification to obtain sex offender and warrant checks from appropriate agencies;
- (6) 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 temporary homeless facility encampment;
- (7) Address and parcel number of the subject property;
- (8) Photographs of the site;

- (9) A list of other permits that are or may be required for development of the property (issued by the County or by other government agencies), insofar as they are known to the applicant;
- (10) Permit fees for temporary homeless facilities shall be in accordance with WCC 22.25 and the Unified Fee Schedule; and
- (11) A list of any requirements under WCC 20.17 ~~that this ordinance for which~~ the applicant is asking to modify.

Rationale: The requirements above are from Whatcom County Ordinance 2020-053 relating to Interim Zoning Regulations for Temporary Homeless Facilities (Section 7), with proposed changes shown with underlining and strike-throughs.

20.17.080 Permit Procedures.

- (1) Notice. All temporary homeless facility applications shall be reviewed under a Type II process under WCC 22.05, except that the final decision must be rendered within 60 days of a determination of completeness. Additionally, the notice of application shall contain proposed duration and operation of the temporary homeless facility, number of residents for the facility encampment, and contain a County website link to the proposed written code of conduct, operations plan and transportation plan for the facility.
- (2) Decision and Notice of Decision. Final action on permit applications made under this section shall be in accordance with WCC 22.05. Before any such permit may be granted, the applicant shall demonstrate and the director shall find consistency WCC ~~22.05.02820.84.220~~ and the following:
 - 1. The proposed use meets the requirements of WCC 20.17 ~~this ordinance~~; and
 - 2. Measures, including the requirements herein and as identified by the director, have been taken to minimize the possible adverse impacts ~~that~~ which the proposed temporary homeless facility encampment may have on the area in which it is located. It is acknowledged that not all impacts can be eliminated, however the risk of significant impacts can be reduced to a temporary and acceptable level as the duration of the temporary homeless facility encampment will be limited.

A notice of the decision shall be provided in accordance with WCC 22.05.

- (3) Conditions. Because each temporary homeless facility 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 an administrative approval use permit to ensure that the proposal meets the criteria for approval listed above. Conditions, if imposed, must be intended to protect public health, life and safety and minimize nuisance-generating features such as noise, waste, air quality,

- unsightliness , traffic, physical hazards and other similar impacts that the temporary ~~homeless facility encampment~~ may have on the area in which it is located. In cases where the application for an administrative approval use permit does not meet the provisions of WCC 20.17~~this ordinance~~ (except when allowed under WCC 20.17.080(4)~~subsection (D) of this section~~) or adequate mitigation may not be feasible or possible, the director shall deny the application.
- (4) Modification of Requirements. The director may approve an administrative approval use permit for a temporary ~~homeless facility encampment~~ that relaxes one or more of the standards in this ordinance 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 facility 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 temporary homeless facility encampment residents and the neighboring communities. Modifications shall not be granted if their adverse impacts on temporary homeless facility encampment residents and/or neighboring communities will be greater than those without modification. The burden of proof shall be on the applicant.
- (5) Appeal. The director's decision, including permit extensions, may be appealed to the hearing examiner as provided in WCC 22.05.020(1) and 22.05.160.
- (6) Revocation. The director shall also have the authority to revoke an approved administrative approval use permit, pursuant to WCC 22.05.150 at any time a sponsor or managing agency has failed to comply with the applicable provisions of WCC 20.17~~this ordinance~~ or the permit.

Rationale: The requirements above are from Whatcom County Ordinance 2020-053 relating to Interim Zoning Regulations for Temporary Homeless Facilities (Section 8), with proposed changes shown with underlining and strike-throughs.

Chapter 20.97 DEFINITIONS

NOTE: The proposal is to insert entirely new definitions in the Whatcom County Zoning Code (Title 20) as shown below. Underlining and strikethroughs below are solely to show differences between the proposal and County Ordinance 2020-053. Code Publishing would provide proper codification numbers for these new definitions.

"Temporary homeless facility" means a facility providing temporary housing accommodations 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. Temporary homeless facilities ~~include but are not limited to~~ are temporary building encampments, temporary safe parking areas, temporary tent encampments and temporary tiny house encampments.

"Temporary building encampment" means a temporary homeless shelter in a building or other permanent structure with overnight sleeping accommodations for the homeless, as approved by the director, on a site provided or arranged for by a sponsor with services provided by a sponsor and supervised by a managing agency. This definition includes low-barrier shelters and other similar uses.

"Temporary safe parking area" means a temporary homeless shelter for a group of people living in their vehicles, as approved by the director, on a site provided or arranged for by a sponsor with services provided by a sponsor and supervised by a managing agency. This definition does not include recreational vehicles.

"Temporary tent encampment" means a short-term living facility for a group of homeless people that is composed of tents or other temporary structures, as approved by the director, on a site provided or arranged for by a sponsor with services provided by a sponsor and supervised by a managing agency.

"Temporary tiny house encampment" means a temporary homeless facility for a group of people living in purpose-built tiny houses for people experiencing homelessness, as approved by the director, on a site provided or arranged for by a sponsor with services provided by a sponsor and supervised by a managing agency. Temporary tiny houses for the homeless are ~~between 100 and 300~~ typically less than 200 square feet and easily constructed and moved to various locations. ~~For the purposes of this ordinance, t~~Temporary tiny ~~houses~~ homes are not dwelling units and, as such, are not required to meet building codes.

"Managing agency" means an organization identified as the manager of a temporary homeless facility that has the capacity to organize and manage a temporary homeless facility on a 24 hour basis. Managing agencies are limited to religious organizations and non-profit agencies. A group of homeless residents is not considered a managing agency. A "managing agency" may be the same entity as the sponsor.

"Sponsor" means an organization that :

- A. Invites a temporary homeless facility to reside on land they own or lease; and
- B. Is a State of Washington registered not-for-profit corporation and federally recognized tax exempt 501(c)(3) organization; or
- C. Is recognized by the Internal Revenue Service as exempt from federal income taxes as a religious organization, which expresses its religious mission, in part, by organizing living accommodations for the homeless.

Rationale: The definitions above are from Whatcom County Ordinance 2020-053 relating to Interim Zoning Regulations for Temporary Homeless Facilities (Section 3), with the following modifications and additions:

- The definition of "Temporary homeless facility" in Ordinance 2020-053 indicates that these facilities "include but are not limited to" temporary tent encampments and temporary tiny house encampments. The City of Bellingham's definition of "Temporary homeless shelter" includes four types of shelters: Temporary building encampments, temporary safe parking areas, temporary tent encampments, and temporary tiny house encampments (Bellingham Municipal Code 20.08.020). The above definition has been modified to include all four types of temporary homeless facilities and delete the phrase "include but are not limited to" in order to increase clarity.
- A definition of "Temporary building encampment" was added that is consistent with Bellingham Municipal Code 20.08.020.
- A definition of "Temporary safe parking area" was added that is consistent with Bellingham Municipal Code 20.08.020.
- In the definition of "Temporary tiny house encampment," the size of tiny houses was modified from "typically less than 200 square feet" to "between 100 and 300 square feet." This provides consistency with the definition in the Bellingham Municipal Code 20.08.020. It also provides clarity for the public, managing agencies, sponsors, and staff relating to the allowed size of temporary tiny houses.
- The definition of "Managing agency" has been modified by inserting a clause that management is "on a 24 hour basis" (recommended by the Whatcom County Building Services Division Manager/Deputy Fire Marshal). Additionally, a phrase included in the definition of "Managing Agency" in Bellingham Municipal Code 20.08.020 has been added ("A group of homeless residents is not considered a managing agency").