



Legislation Details (With Text)

File #: 2021-0199 **Version:** 2

Type: Ordinance **Status:** Passed

File created: 5/18/2021 **In control:** Metropolitan King County Council

On agenda: **Final action:** 5/25/2021

Enactment date: **Enactment #:** 19291

Title: AN ORDINANCE declaring a one-year interim zoning ordinance regulating temporary small house sites; establishing a work plan and directing the executive to prepare a study to address the elements in the work plan necessitating the interim zoning ordinance; amending Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020, adding a new chapter to K.C.C. Title 21A; and declaring an emergency.

Sponsors: Girmay Zahilay

Indexes: Housing, Zoning

Code sections: 20.20.020 -

Attachments: 1. Ordinance 19291, 2. 2021-0199 Amendment 1, 3. 2021-0199 Amendment 2, 4. 19291 Invoice & Affidavit - June 30, 2021 Invoice #8082.pdf

Date	Ver.	Action By	Action	Result
7/20/2021	2	Metropolitan King County Council	Hearing Held	
5/25/2021	1	Metropolitan King County Council	Passed as Amended	Pass
5/18/2021	1	Metropolitan King County Council	Deferred	

AN ORDINANCE declaring a one-year interim zoning ordinance regulating temporary small house sites; establishing a work plan and directing the executive to prepare a study to address the elements in the work plan necessitating the interim zoning ordinance; amending Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020, adding a new chapter to K.C.C. Title 21A; and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. King County has the authority, under to constitutional police powers, home rule authority, and the Washington state Growth Management Act, including chapter 36.70A RCW, to establish an interim zoning ordinance while the county studies related land use issues.

B. The lack of affordable housing and the crisis of homelessness are being felt in every community in the county. The 2020 point-in-time count, locally called Count Us In, estimated 11,751 individuals experiencing homelessness in King County, representing a five percent increase compared to 2019.

C. The county executive signed a local proclamation of emergency due to homelessness affecting King County in 2015.

D. The county and its regional partners have made numerous efforts to make homelessness rare, brief and one-time, including work through the King County consortium, All Home, the homelessness regional governance efforts and allocation of state and federal funding and through work of the growth management planning council.

E. Despite the regional and local efforts to address housing and homelessness, the county faces a homelessness challenge that requires a more expansive approach to providing safe housing for those experiencing homelessness on temporary, interim and permanent bases.

F. Ordinance 15170 created a temporary use permit for homeless encampments, of which those provisions would have expired January 1, 2015, but Ordinance 17950 extended those provisions through January 1, 2025.

G. King County finds that there continues to be a need for creative and multifaceted solutions to housing those experiencing homelessness to support a transition of these individuals into permanent housing.

H. King County finds that the provisions outlined in this ordinance represents the standards necessary to assure the creation of safe and dignified housing for those experiencing homelessness on an interim basis with minimal impact to neighboring communities.

I. This ordinance will establish a land use category and standards for the review and approval of temporary small house sites in King County.

J. The Washington state Legislature passed Engrossed Substitute House Bill 1754, which became Chapter 223, Laws of Washington 2020, on March 7, 2020, relating to the hosting of the homeless by religious

organizations, including temporary small houses on-site.

K. It is in the public interest to establish an interim control for temporary small house sites in order to house those experiencing homelessness.

L. Under RCW 36.70A.390, King County is authorized to adopt an interim zoning control to implement the Growth Management Act.

M. It is necessary that this ordinance go into effect immediately in order to address the homelessness crisis.

SECTION 2. A. A one-year interim zoning control commencing the effective date of this ordinance is declared for the siting of temporary small house sites in unincorporated King County.

B. Within sixty days of the effective date of this ordinance, the council shall hold a public hearing on the interim zoning ordinance.

C. During the time the interim zoning ordinance is in effect, the executive shall complete a temporary small house site work plan. The work plan shall, at a minimum:

1. Evaluate temporary small house on-site use as a permanent land use in unincorporated King County, including evaluating size, intensity, duration and impacts of the use on the surrounding community;

2. Identify which subarea geographies or zoning districts the use should be permitted in and any development conditions to limit or prescribe size, intensity and duration, and to mitigate negative impacts on the surrounding community;

3. Identify a permit review process to facilitate the siting and permitting of temporary small house sites with coordination between the department of local services, the department of community and housing services and public health - Seattle & King County;

4. Complete public engagement and gather input from community organizations, homelessness service providers or housing providers on the feasibility of allowing temporary small house sites as a measure to move individuals experiencing homelessness into permanent housing;

5. Evaluate literature and best practices of similar temporary small house site efforts by other similarly situated local governments to place individuals into permanent housing; and

6. Propose any necessary changes to the development regulations, permitting processes and environmental procedures;

D. The executive shall electronically transmit a proposed ordinance with any recommended development code changes to the council within nine months of the effective date of this ordinance with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff, the chief policy officer and the lead staff for the local services committee, or its successor. If Comprehensive Plan policy changes are necessary, the changes shall be transmitted as part of the 2024 update to the Comprehensive Plan.

SECTION 3. Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020 are hereby amended to read as follows:

A. Land use permit decisions are classified into four types, based on who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made and whether administrative appeals are provided. The types of land use decisions are listed in subsection E. of this section.

1. Type 1 decisions are made by the permitting division manager or designee ("the director") of the department of local services ("the department"). Type 1 decisions are nonappealable administrative decisions.

2. Type 2 decisions are made by the director. Type 2 decisions are discretionary decisions that are subject to administrative appeal.

3. Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to the county council, based on the record established by the hearing examiner.

4. Type 4 decisions are quasi-judicial decisions made by the council based on the record established by the hearing examiner.

B. Except as provided in K.C.C. 20.44.120A.7. and 25.32.080 or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest-numbered land use decision type applicable to the project application.

C. Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

D. Land use permits that are categorically exempt from review under SEPA do not require a threshold determination (determination of nonsignificance ["DNS"] or determination of significance ["DS"]). For all other projects, the SEPA review procedures in K.C.C. chapter 20.44 are supplemental to the procedures in this chapter.

E. Land use decision types are classified as follow:

TYPE 1	(Decision by director, no administrative appeal)	Temporary use permit for a homeless encampment under K.C.C. 21A.45.010, 21A.45.020, 21A.45.030, 21A.45.040, 24A.45.050, 21A.45.060, 21A.45.070, 21A.45.080 and 21A.45.090; building permit, site development permit, or clearing and grading permit that is not subject to SEPA, that is categorically exempt from SEPA as provided in K.C.C. 20.20.040, or for which the department has issued a determination of nonsignificance or mitigated determination of nonsignificance; boundary line adjustment; right of way; variance from K.C.C. chapter 9.04; shoreline exemption; decisions to require studies or to approve, condition or deny a development proposal based on K.C.C. chapter 21A.24, except for decisions to approve, condition or deny alteration exceptions; decisions to approve, condition or deny nonresidential elevation and dry floodproofing variances for agricultural buildings that do not equal or exceed a maximum assessed value of sixty-five thousand dollars under K.C.C. chapter 21A.24; approval of a conversion-option harvest plan; a binding site plan for a condominium that is based on a recorded final planned unit development, a building permit, an as-built site plan for developed sites, a site development permit for the entire site; approvals for agricultural activities and agricultural support services authorized under K.C.C. 21A.42.300; final short plat; final plat.
--------	--	--

TYPE 2 ^{1,2}	(Decision by director appealable to hearing examiner, no further administrative appeal)	Short plat; short plat revision; short plat alteration; zoning variance; conditional use permit; temporary use permit under K.C.C. chapter 21A.32; temporary use permit for a homeless encampment under K.C.C. 21A.45.100; shoreline substantial development permit ³ ; building permit, site development permit or clearing and grading permit for which the department has issued a determination of significance; reuse of public schools; reasonable use exceptions under K.C.C. 21A.24.070.B; preliminary determinations under K.C.C. 20.20.030.B; decisions to approve, condition or deny alteration exceptions or variances to floodplain development regulations under K.C.C. chapter 21A.24; extractive operations under K.C.C. 21A.22.050; binding site plan; waivers from the moratorium provisions of K.C.C. 16.82.140 based upon a finding of special circumstances; sea level rise risk area variance adopted in K.C.C. chapter 21A.23; <u>temporary small house sites under section 4 of this ordinance.</u>
TYPE 3 ¹	(Recommendation by director, hearing and decision by hearing examiner, appealable to county council on the record)	Preliminary plat; plat alterations; preliminary plat revisions.
TYPE 4 ^{1,4}	(Recommendation by director, hearing and recommendation by hearing examiner decision by county council on the record)	Zone reclassifications; shoreline environment redesignation; urban planned development; special use; amendment or deletion of P suffix conditions; plat vacations; short plat vacations; deletion of special district overlay.

¹ See K.C.C. 20.44.120.C. for provisions governing procedural and substantive SEPA appeals and appeals of Type 3 and 4 decisions to the council.

² When an application for a Type 2 decision is combined with other permits requiring Type 3 or 4 land use decisions under this chapter, the examiner, not the director, makes the decision.

³ A shoreline permit, including a shoreline variance or conditional use, is appealable to the state Shorelines Hearings Board and not to the hearing examiner.

⁴ Approvals that are consistent with the Comprehensive Plan may be considered by the council at any time.

Zone reclassifications that are not consistent with the Comprehensive Plan require a site-specific land use map amendment and the council's hearing and consideration shall be scheduled with the amendment to the Comprehensive Plan under K.C.C. 20.18.040 and 20.18.060.

F. The definitions in K.C.C. 21A.45.020 and section 5 of this ordinance apply to this section.

SECTION 4. Sections 5 through 9 of this ordinance should constitute a new chapter in K.C.C. Title 21A.

NEW SECTION. SECTION 5. The definitions in RCW 36.01.290(6) and in this section apply throughout this chapter and to K.C.C. 20.20.020 unless the context clearly requires otherwise. The definitions in this section shall apply if there is a conflict with the definitions in RCW 36.01.290(6).

A. "Temporary small house" means a housing unit that is one hundred and twenty square feet or less in size and is constructed or prefabricated of wood, metal or other durable materials but is not permanently affixed in the ground and does not use underground utilities except for electricity. A "temporary small house" does not include an area for the preparation or storage of food. A "temporary small house" is not considered a building under the building codes in K.C.C. Title 16 and fire codes in K.C.C. Title 17.

B. "Temporary small house site" means a site containing temporary small houses for a limited duration for individuals experiencing homelessness; the purpose of which is to help individuals make the transition from homelessness to placement in permanent housing. "Temporary small house site" may include the following accessory facilities:

1. Shared kitchen facilities;
2. Shared sanitation facilities;
3. Shared laundry facilities;
4. Shared communal or meeting facilities; and
5. Office or administration facilities.

NEW SECTION. SECTION 6. A. The director may approve a temporary small house site as a Type 2

decision and may authorize the use for up to three years from the date of permit issuance. A temporary small house site may be located at the same site no more than once every five years.

B. In addition to the application requirements for a Type 2 decision, the application shall include:

1. A site plan that shows the layout and arrangement of the temporary small house site, including, but not limited, to the location of:

- a. temporary small houses, including the number of units;
- b. common or shared facilities and all existing structures on site, if any;
- c. entry and exit points;
- d. fencing;
- e. ground surface materials, including indication the type of materials;
- f. significant vegetation;
- g. garbage storage and collection areas;
- h. exterior lighting;
- i. parking, if any;
- j. connections to electrical utilities;
- k. potable water connections;
- l. graywater disposal locations; and
- m. sewer or on-site sewage system connections.

2. Operating standards for the temporary small house site for the management, maintenance, operations and security of the site to ensure the safety and welfare of occupants, staff and volunteers, consistent with section 8 of this ordinance;

3. A copy of a written code of conduct for occupants to abide by specific standards of conduct to ensure health and safety within the site and in the adjoining neighborhood, consistent with section 8 of this ordinance;

4. The name of the managing agency including the name and telephone number of the contact person available to immediately respond to an on-site problem and whose telephone number is posted at the entrance and visible from one hundred feet outside the site;

5. The plan for disposal of garbage and debris during operation of the temporary small house site and prior to vacating the site at the end of the permit period;

6. A rodent prevention plan, including pest control services to be provided;

7. A hygiene facility maintenance plan, including contracts for repair, cleaning and routine servicing;
and

8. A wastewater disposal plan that includes, but is not limited to, wastewater disposal for kitchen, hygiene and laundry facilities if not directly plumbed into sewer or on-site sewage system.

NEW SECTION. SECTION 7.

A. A temporary small house site is allowed on a property owned or controlled by a religious organization in any zone in the Skyway-West Hill community service area subarea geography.

B. A temporary small house site is subject to the following standards:

1. The maximum number of occupants at a temporary small house site shall be determined taking into consideration site conditions, but shall not be greater than one hundred occupants at any one time;

2. The managing agency shall comply with applicable fire safety regulations as determined by the King County fire marshal and public health regulations, including, but not limited to, the following:

a. spacing and maintaining fire extinguishers as required by the fire marshal;

b. providing and maintaining a first-aid kit capable of serving one-hundred-persons;

c. providing and maintaining safe collection and disposal of sharps waste;

d. establishing and maintaining access aisles between temporary small houses or facilities that are free of obstructions as required by the fire marshal;

e. ensuring that electricity and heat, including portable heaters, is provided and maintained in a safe

manner;

f. designating and maintaining a smoking area to be located at least twenty-five feet away from any interior lot line, and posting no smoking signage in areas where flammables are stored;

g. maintaining refuse receptacles and emptying them at least once per week, keeping the site free of litter and garbage and preventing junk accumulation;

h. observing all requirements and standards from public health - Seattle & King County, including applicable permit and inspection requirements for plumbing and gas piping and in substantial conformance with the Sanitation and Hygiene Guide for Homeless Service Providers;

i. posting and distributing copies of health or safety information provided by King County, public health - Seattle & King County or any other public agency with authority over the site to all occupants;

j. prohibiting any open flames except outdoor heat sources approved by the fire marshal;

k. providing access to an adequate number of toilets maintained in good working condition and in an indoor location or providing and maintaining chemical toilets as recommended by a portable toilet service provider and meeting the following standards:

(1) one toilet per twenty persons;

(2) one handwashing sink per fifteen persons; and

(3) one shower or bathing unit per fifteen persons;

l. providing adequate potable running water for handwashing and showers in an indoor location or continuously maintaining outdoor running water and discharging the water to a location approved by the county;

m. providing kitchen or food preparation facilities, which may be located indoors or outdoors, with access to a sink of sufficient size for dishwashing and a means to safely store food to prevent spoilage and to prevent access by rodents and insects;

n. providing contracted rodent control services adequate for the size of the site and serviced at least

quarterly to prevent rodent infestation;

o. using low volatile organic compound paint and other materials that are resistant to or inhibits the growth of mold and mildew; and

p. incorporating a passive ventilation system in each temporary small house that is no less than six square inches and no more than twelve square inches of vented surface to allow for continuous cross-ventilation;

3. The temporary small house site shall be located within one-half mile of a public transportation stop or the managing agency shall provide access to the nearest public transportation stop through managing-agency-provided transportation. During hours when public transportation is not available, the managing agency shall also make transportation available to anyone who is ordered to leave the site;

4. All improvements and temporary small houses shall maintain a minimum ten-foot setback from any interior lot line that abuts the R-1 through R-48 zones and a five-foot setback from all other zones;

5. All improvements and temporary small houses shall be located outside of any critical area and required buffer. Use of reductions to buffers or buffer averaging as allowed elsewhere in this title is prohibited;

6. The siting of the temporary small house site shall not create a nonconformance, except that legally established on-site parking displaced by the temporary small house site does not need to be replaced for the duration of the temporary small house site;

7. The portion of the property used for the temporary small house site shall be screened from surrounding properties with a visual barrier of either established vegetation sufficiently dense to obscure view or a six-foot-high view-obscuring fence; and

8. Structures shall not be permanent nor affixed to or constructed in the ground without a building permit.

C. The managing agency shall allow officials of public health - Seattle & King County, the fire department or district serving the area and the department of local services to inspect areas of the temporary

small house site that are located outdoors and plainly visible without prior notice to determine compliance with the standards in subsection B. of this section.

NEW SECTION. SECTION 8.

A. The managing agency shall establish operating standards for the management, maintenance, operation and security of the site to ensure the safety and welfare of occupants, staff and volunteers. The operating standards shall include the following:

1. A description of the governance model the temporary small house site will operate;
2. A plan or program for ongoing community engagement and outreach to the surrounding areas;
3. Provisions for security, enforcement, evacuation, accessibility, fire prevention and other standards appropriate for the health, safety and welfare of occupants, visitors, staff and volunteers;
4. Provisions for the routine maintenance, care and cleaning of the site; and
5. Provisions stating that individuals under eighteen years old that are not accompanied by a parent or legal guardian shall not be permitted into the site.

B. The managing agency shall establish and enforce an occupant code of conduct, which shall be distributed to occupants, with the following information at a minimum:

1. Expectations of occupant conduct within the temporary small house site and in the surrounding neighborhood;
2. Information on occupant rights;
3. Information on connecting occupants with community resources;
4. Program services, referral services and accommodations for occupants during their stay; and
5. A community grievance policy.

C.1. The managing agency shall provide or partner with social service agencies to refer occupants to support services.

2. Services and resources available on-site and off-site shall:

a. provide assistance in helping occupants create a personal stability and transitional plan to develop the skills necessary to obtain and maintain stable housing; and

b. establish and build on partnerships with local homeless and housing providers to further ensure that services and resources are available on-site to respond to the comprehensive needs of occupants and support occupants in realizing success and overcoming obstacles to personal empowerment and housing stability.

3. The services and resources may include permanent housing, personal hygiene or day center facilities, benefit assistance, healthcare services, crisis intervention services, chemical dependency treatment, literacy training, job training or employment.

NEW SECTION. SECTION 9.

A. The managing agency shall conduct at least one community meeting in the neighborhood where the temporary small house site is proposed to be established at least thirty days before establishment of the temporary small house site. The purpose of the meeting or meetings is to provide a forum for discussion of related neighborhood concerns. The managing agency shall provide information regarding the planned duration and operation of the temporary small house site, management and maintenance policies, the grievance policy and contact information. The meeting or meetings shall provide time for questions and feedback from the community.

B. The managing agency shall provide written notice of a meeting at least fourteen days before the meeting to all residences and businesses within five-hundred feet of the proposed site, which shall be expanded as necessary to provide notices to at least twenty different residences or businesses, as well as to parties of record for the site permit and any known homeowner association representing residents receiving the notice. The managing agency shall also post the notice at the temporary small house site and provide notice to the county at least one week before a meeting. The notice shall contain the following information:

1. The name and contact information of the managing agency and the religious organization;

2. The location, date, time and purpose of the meeting;

3. A description of the temporary small house site, its location, date that the site will be established, planned length of stay, the maximum number of occupants and the facilities and services provided; and

4. The responsibilities of the managing agency and the occupants in the surrounding neighborhood.

C. The department of local services shall provide notice of a meeting by posting the notice in subsection B. of this section on the county website.

D. The managing agency shall establish a community advisory committee that would provide advisory input on proposed temporary small house site operations, including identifying methods for handling community complaints or concerns as it relates to the site or occupants. The committee shall include individuals identified by stakeholder groups in the subarea geography where the proposed temporary small house site would be located as best suited to represent their interests. The committee shall consist of at least five and at most ten members. Managing agency representatives are not part of the committee but shall attend committee meetings to answer questions and shall provide regular reports to the committee regarding site operations. County staff may attend committee meetings. The committee meetings shall be open to the public. The location, date and time of committee meetings shall be posted at the temporary small house site at least twenty-one days in advance of the meeting.

SECTION 10. This ordinance expires one year after the effective date of this ordinance.

SECTION 11. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

SECTION 12. A. The county council finds as a fact and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of public peace, health or safety or for the support of county government and its existing public institutions.

B. Enactment of this interim zoning control as an emergency under Section 230.30 of the King County

Charter waives certain procedural requirements, including

SEPA review under chapter 43.21C RCW and K.C.C. chapter 20.44, notice to the state under RCW 36.70A.106 and published notice under K.C.C. 20.18.110.