

EMERGENCY ORDINANCE 531-2016

ADOPTING INTERIM REGULATIONS FOR TRANSITORY ACCOMMODATIONS

WHEREAS people are considered homeless when they do not have accommodation that is safe, secure and appropriate. The "sheltered" homeless are those that are accommodated in emergency shelters, with family or friends, or in other transitory housing. The "unsheltered" homeless are those who have yet to be accommodated by such housing and are living on the streets, in vehicles or otherwise do not have shelter;

WHEREAS recent data presented by the Continuum of Care Coalition shows homelessness in Kitsap County is on the rise. The 2015 Kitsap Annual Point in Time census of people experiencing homelessness indicates that on a given day there are more than 100 people living unsheltered and in places not meant for human habitation, a 38% increase over 2014. Kitsap's Homeless Management Information System database shows that approximately 1,100 individuals were living without shelter in Kitsap County over the course of the first three quarters of 2015, an 18% increase over 2014.

WHEREAS homelessness occurs in a variety of ways. Some people may have become suddenly homeless and require crisis accommodation; others may be chronically homeless;

WHEREAS the current crisis of homelessness is impacted by a broad number of other societal challenges, including the growth of poverty and inequality, and the erosion of state and federal investments in our criminal justice, mental health, substance abuse, foster care and safety net systems, which have compounded in a crisis that requires the response of not just government, but by our entire community;

WHEREAS Kitsap County is dedicated to reducing homelessness and recognizes the government's role in protecting the health and safety of the community at-large, including both those with and without homes. The County also recognizes that the ultimate goal beyond providing both shelter and services to the homeless is to transition the homeless from transitory accommodations into permanent housing. Case management is the key factor to achieving this goal; however, the current capacity of our housing and homeless services continuum cannot meet the needs of all those who are homeless and, as an alternative, tent encampments can offer a sense of safety and community while seeking longer-term housing options;

WHEREAS the Kitsap County Board of Commissioners (Board) has determined that current county regulations do not clearly allow transitory accommodations or mitigate their impacts to the satisfaction and protection of both the homeless residents and the neighbors;

WHEREAS Kitsap County recognizes that families, faith-based and 501(c)(3) organizations, and social service agencies are better equipped to provide resources to the less fortunate;

WHEREAS in enacting RCW 36.01.290 in 2010, the state legislature similarly found that "religious institutions in our communities perform a valuable public service that, for many, offers a temporary stop-gap solution to the larger social problem of increasing numbers of homeless persons;"

WHEREAS in light of this finding, the legislature allowed religious organizations to host temporary encampments "within buildings located on the property or elsewhere on the property outside of buildings;"

WHEREAS the legislature prohibited counties from imposing conditions on such encampments other than those that are "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 for homeless persons on property owned by the religious organization;"

WHEREAS local governments may also not require the religious or 501(c)(3) organization to obtain insurance with respect to such encampments or impose approval fees "in excess of the actual costs associated with the review and approval of the required approval applications."

WHEREAS the Growth Management Act, ch. 36.70A RCW, provides that each jurisdiction's comprehensive land use plan and development regulations shall be subject to continuing review and evaluation.

WHEREAS the adoption of interim regulations is allowed under GMA pursuant to RCW 36.70A.390, as well as under RCW 36.70.795.

WHEREAS the Board wishes to enact interim regulations to protect public health and safety in ways that do not substantially burden the decisions of faith based or 501(c)(3) organization regarding the location of housing or shelter on property owned by the religious or 501 (c) 3 organization.

WHEREAS the Board acknowledges that these regulations do not apply to any complete application that has been submitted to the department of community development prior to the effective date of this Ordinance.

NOW THEREFORE BE IT ORDAINED:

Section 1. **Recitals Incorporated.** The recitals set forth above are hereby adopted as the Kitsap County Board of Commissioner's findings in support of the regulations imposed by this ordinance.

Section 2. **Definitions.**

A. All definitions of Chapters 17.110 and 21.02 KCC shall apply except as otherwise defined herein.

B. "Case management" means a process that includes a needs assessment of a homeless individual, provides knowledge of resources available to the homeless individual, assists the homeless individual in creating a housing plan to help the individual out of homelessness, and has oversight of a professional case manager. Volunteers who have completed a case management training course through the Kitsap Continuum of Care

Coalition or other qualified agency may be used to assist with case management.

- C. "Director" means the director of the Kitsap County department of community development or a duly authorized designee.
- D. "Department" means the Department of Community Development.
- E. "Developed Property" means land that has an existing building with utilities, including sewer or septic, water and electricity, provided to the site.
- F. "Host Agency" means a religious organization, a 501(c)(3) or a public entity that owns or controls the property on which a transitory accommodation is proposed to be located and that joins a Sponsoring Agency in an application for a Transitory Accommodation Approval for providing basic services and support to transitory accommodation residents. A "Host Agency" may be the same entity as the Sponsoring Agency.
- G. "Membrane shelter" means any tent or other fabric enclosure that is not constructed on-site, but is manufactured and approved according to manufacturer's specifications.
- H. "Religious organization" or "501(c)(3)" has the same meaning as defined in RCW 36.01.290.
- I. "Sponsoring Agency" means an organization that joins in an application with a Host Agency for a Transitory Accommodation Approval and assumes responsibility for providing basic services and support to transitory accommodation residents. A "Sponsoring Agency" may be the same entity as a Host Agency.
- J. "Transitory Accommodation" means membrane shelters, or other facilities identified herein, that are not permanently attached to the ground, may easily be erected and dismantled or moved, and are intended for temporary occupancy.
- K. "Undeveloped Property" means raw land or land not developed with a building or utilities. Nothing herein prohibits raw land from being developed under standard development regulations within Kitsap County Code.

Section 3. Transitory Accommodations. The department may approve the use of property for transitory accommodations in accordance with this Section. The specific approval shall be dependent upon the class of accommodation detailed below and shall be processed under chapter 21.04, with fees of the base application fee plus the hourly rate as set forth in the current DCD Fee Schedule. The Board of County Commissioners may reduce or waive application fees at their discretion through resolution based upon public benefit.

A. Approval Type, Duration, Extension and Termination.

- 1. Approvals for a Single-Family Transitory Accommodations shall be a Type I decision while Small Transitory Accommodations, Large Transitory Accommodations, Safe Parks and Indoor Transitory Accommodations shall be a Type II decision under KCC 21.04; all through temporary land use permits.

2. Approval is valid for 180-days from issuance. A single extension requested, at minimum, 30 days in advance, may be approved for an additional 180-days. Such renewal shall be a Type I decision. If submitted less than 30 days before or anytime after expiration, it shall be treated as a new approval application. Such extension may be granted consistent with the original conditions which may be expanded by the Director based on new circumstances or other factors.
3. A property may not have more than one Transitory Accommodation approval on the property(s) at one time.
4. If the Host Agency fails to take action against a resident who violates the terms and conditions of the approval or violates the Code of Conduct, the approval may be terminated. Such decision may be appealed as a Type I decision under chapter 21.04.
5. Upon expiration of the approval, the site shall be returned to the pre-transitory accommodation condition, including removal of all shelters and debris, within two weeks of the expiration.

B. Single Family Transitory Accommodation. Any person, Host Agency or other group may locate one (1) recreational vehicle, as defined in KCC 17.110.650, or up to two (2) membrane shelters on developed property that it owns or controls for the shelter of up to two (2) households. Such approval shall be dependent on the submission of an application and subject to conditions imposed by the department.

1. Application requirements and conditions of approval.
 - a. The application for the approval must include a site diagram suitable for review.
 - b. If a Sponsoring Agency is involved, the Sponsoring Agency must be a co-applicant with the person who owns or controls the property on which the recreational vehicle or membrane shelters will be located.
 - c. The application must be submitted at least 15 days before the proposed use of the recreational vehicle or membrane shelters. The director may waive this requirement in warranted circumstances.
 - d. All occupants of the property must have access to restroom, water and power accommodations.
 - e. The location of the recreational vehicle or membrane shelters must meet the setbacks of the zone.
 - f. No appliances, heaters, or electrical connections may be used in the recreational vehicle or attached between the recreational vehicle or membrane shelters and any other sources that are not installed or used according to manufacturer's instructions.
 - g. The recreational vehicle must be in operating condition and able to be moved.

- h. Applicant must attest that the hosted household(s) occupying either the recreation vehicle or membrane shelters are actively engaged with local social services and homeless housing providers, such as the Housing Solutions Center of Kitsap County (the homeless coordinated entry program).
- i. The director may impose additional public health and safety conditions as appropriate.

C. Small Transitory Accommodation. A Host Agency may locate up to ten (10) membrane shelters on developed or undeveloped property that it owns or controls for the shelter up to twenty-five (25) persons. Such approval shall be dependent on the submission of an application and subject to conditions imposed by the department.

1. Public Notice. In addition to the requirements of chapter 21.04, an applicant must provide the following public notice.
 - a. The site is posted with a sign at least five (5) days after application submittal. The sign may be posted by the applicant or the applicant may request the department post the sign at the hourly fee. The sign may be removed only after approval of the application.
 - b. A neighborhood meeting, described in KCC 21.04.130, must be held after posting of the sign and prior to approval. The responsibility of advertising and convening the meeting is that of the applicant.
2. Application.
 - a. Host Agency. The Host Agency must provide proof of ownership or control of the property to be used for the transitory accommodation.
 - b. Sponsoring Agency. If a Sponsoring Agency is involved, the Sponsoring Agency must be a co-applicant with the Host Agency. The written agreement between the Host Agency and the Sponsoring Agency must be included in the application materials.
 - c. The application must be submitted at least 30 days prior to the use of the accommodation(s). The director may waive this requirement in warranted circumstances. The application must include:
 - i. A written Operational Plan that contains:
 - (a) A Site diagram, which identifies all existing and/or proposed:
 - (i) Location of the site, including a vicinity map.
 - (ii) Location of all shelters.
 - (iii) Location of all portable toilets, showers, hand washing stations and trash containers.
 - (iv) Location of neighbors and any site barriers, vegetation buffers, fences, etc.
 - (v) Location of security lighting, which must be directed downward, away from neighbors.

- (vi) Location and number of off-street parking spots.
- (vii) Location of garbage facilities or dumpster pads.
- (viii) Location of access to the site.
- (b) The duration of the accommodation and the hours of operation.
- (c) The maximum number of residents proposed.
- (d) Security protocols, including background checks and emergency phone numbers for daytime and after hours.

ii. A written Management Plan that contains:

- (a) A general description of the daily operation, oversight, and enforcement of approval conditions.
- (b) A written plan that specifies how human service will be provided to residents.

iii. A Code of Conduct for residents that, at a minimum, prohibits weapons, fighting or abuse of any kind, littering or disturbing neighbors. The Code of Conduct shall be incorporated into the conditions of approval.

iv. A Severe Weather Plan.

v. A Waste/Recycle Schedule.

vi. Photos showing the site prior to the transitory accommodation.

3. Conditions.

- a. The site shall be of a sufficient size to support the activities of the transitory accommodation without overcrowding and without intruding into setbacks or critical areas.
- b. Only temporary membrane shelters meeting manufacturer's specifications are allowed.
- c. Portable toilets or other sanitation facilities shall be provided in a number required to meet capacity guidelines and must be located within 75 feet of all shelters.
- d. Hand washing stations with water or other approved sanitation methods shall be provided near the toilets and any food areas.
- e. Trash containers shall be provided in a number and size sufficient to accommodate the number of people residing on site.
- f. No cooking is allowed inside any shelter, unless the cooking appliance is "factory-installed" or designed specifically for that use and the shelter is "factory-designed" for the installation of the cooking appliance. No heaters are allowed inside any shelter, unless the heating appliance is "factory-installed" or designed specifically for that use.

- g. No open flames or campfires are allowed, unless approved by the local fire department.
- h. Adequate access for fire and emergency medical apparatus shall be provided as determined by the Fire Marshall.
- i. A minimum of two (2) -foot separation must be maintained between membrane shelters
- j. Electrical service shall be in accordance with recognized and accepted practices and approved by the Washington State Labor and Industries. Electrical cords are not to be strung together and any cords must be approved and rated for their interior or exterior use.
- k. The accommodation is located within ½ mile of a routed bus stop, or proof that carpools or shuttle service is available.
- l. The accommodation is adequately buffered or screened from surrounding properties and rights-of-way.
- m. The living space of all units is at least 3-inches off the ground, raised by a standard pallet or other means.
- n. On-site off street parking must be provided and must not result in inadequate parking being available for the original primary use of property.
- o. All toilets must be screened from neighboring properties.
- p. Failure to comply with the Code of Conduct shall result in expulsion from the accommodation by the offending resident.
- q. The director may impose additional public health and safety conditions as appropriate, including limiting the number of residents or increasing the buffer from sensitive land use activities such as daycares and schools.
- r. The property owner shall allow inspections by Kitsap County staff and the Kitsap Public Health District at reasonable times without prior notice for compliance with Kitsap County Code and the approval.

D. Large Transitory Accommodation. A Host Agency may locate eleven (11) to forty (40) membrane shelters on developed or undeveloped property that it owns or controls for the shelter of up to fifty (50) persons. Such approval shall be dependent on the submission of an application and subject to conditions imposed by the department.

1. All application requirements and condition for a Small Transitory Accommodation apply in addition to those described below. Where there are conflicts, the requirements of this subsection shall control.
2. Application. The application must include a written Security Plan that requires:

- a. Security to be provided 24 hours a day, 7 days a week.
- b. A separate security office or shelter.
- c. A security fence.

3. Additional Conditions.

- a. A communal tent, membrane shelter, or room in permanent building is provided for food preparation, gathering, or other common use. Cooking and heating appliances, including microwaves, may be allowed only in the communal area and only if approved by the Host Agency, Kitsap Public Health District, the Fire Marshal and the Department of Community Development.
- b. Showers or other bathing facilities shall be provided where warranted based on duration, number of residents, or other factors.
- c. The Sponsoring and Host agencies shall designate points of contact for the Kitsap County Sheriffs Department. At least one designated point of contact shall be available at all times.
- d. The director may impose additional public health and safety conditions as appropriate.

E. **Safe Park.** Safe Park is a program that allows safe and secure parking in established parking lots for people living in motor vehicles or recreational vehicles. Host Agencies may apply for a Safe Park for six (6) or fewer motor vehicles or recreational vehicles accommodating up to 25 persons.

- 1. Application requirements and conditions shall be those of the Small Transitory Accommodations.
- 2. All applications must include an agreement with an agency certified for case management services.

F. **Indoor Transitory Accommodation.** A Host Agency may locate up to seventy-five (75) people within an existing building provided they meet the following requirements:

- 1. The timing, public notice and application requirements of Small Transitory Accommodation are satisfied. Where there are conflicts, the requirements of this subsection shall control.
- 2. The existing building(s) complies with County building codes, unless a particular noncompliance as been exempted pursuant to RCW 19.27.042.
- 3. The building(s) proposed for use shall be of sufficient size to accommodate the residents and must have necessary on-site facilities, including but not limited to the following:

- a. Adequate water supply.
 - b. Sanitary toilets in the number required to meet capacity guidelines.
 - c. Hand washing facilities located near the toilets and food areas.
 - d. Refuse receptacles.
 - e. Kitchen facilities for food preparation, if prepared on site.
4. All applicable health standards for providing and using such facilities shall be satisfied as required by the Kitsap Public Health District.
 5. The director may impose additional public health and safety conditions as appropriate.
- G. Failure to Apply. If a transitory accommodation for which an approval would be required is established without an approval first having been obtained, the director shall require that all activities associated with the accommodation cease immediately and the site vacated and restored to its pre-accommodation condition unless and until such time as an approval has been obtained.

Section 4. Work Plan. This ordinance is being adopted as an interim program to allow housing for the unsheltered homeless during the winter of 2015-2016. The Departments of Community Development and Human Services are directed to continue developing a permanent ordinance for housing of the unsheltered homeless for adoption within six (6) months from the date hereof.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance.

Section 6. Clerical/Typographical Error. Should this Ordinance, upon being enacted by the Kitsap County Board of Commissioners during its deliberations on Feb 22, 2016 have anything inadvertently left out or in error upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

Section 7. Effective Date. This ordinance shall take effect immediately upon adoption.

Dated this 22nd day of Feb., 2016

**BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON**

ATTEST:



EDWARD E. WOLFE, Chair



CHARLOTTE GARRIDO, Commissioner

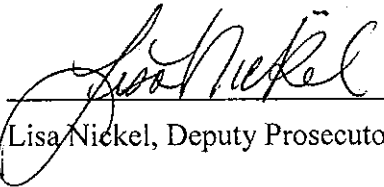


Dana Daniels, Clerk of the Board

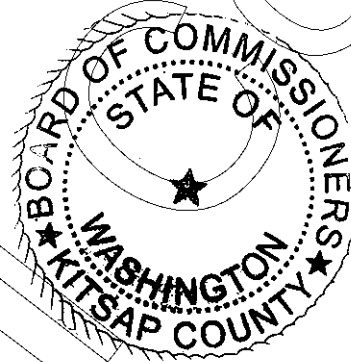


ROBERT GELDER, Commissioner

APPROVED TO FORM:



Lisa Nickel, Deputy Prosecutor



Unofficial