

ORDINANCE NO. 3721

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, DECLARING AN EMERGENCY, ADOPTING AND RENEWING INTERIM REGULATIONS AND A WORKPLAN TO ESTABLISH PERMANENT REGULATIONS TO ADDRESS TEMPORARY HOMELESS ENCAMPMENTS AFTER STUDY AND PUBLIC PROCESS.

WHEREAS, on January 25, 2017 the Mount Vernon City Council (Council) adopted Ordinance 3707 declaring an emergency and adopting interim control regulations for temporary homeless encampments; and

WHEREAS, consistent with RCW 35A.63.220 Council held a public hearing on March 27, 2017 and adopted Ordinance 3710 that ratified, renewed, confirmed, and continued the interim land use regulations adopted through Ordinance 3707; and

WHEREAS, due to the complexities involved with drafting regulations involving temporary homeless encampments, and to ensure a thorough and robust public process the Development Services Department has created a work plan and is requesting Council adopt this work plan; and

WHEREAS, a public hearing and notice was published in the Skagit Valley Herald on July 24, 2017 providing notice of a public hearing on temporary homeless encampments to be held at a regularly scheduled meeting of the City Council on July 26, 2017; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390, as well as interpretative judicial decisions, authorize adoption of interim zoning controls and regulations with certain limitations, including the requirement to hold a public hearing on the adopted interim zoning controls/regulations at the time of adoption or within 60 days of its adoption and adopt findings of facts justifying its action and, if appropriate, a work plan; and

WHEREAS, On July 26th, 2017, the City held a public hearing regarding the interim controls proposed herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION ONE. Recitals Incorporated. That the City Council adopts the recitals set forth above as findings justifying adoption of this Ordinance and incorporates those recitals as if set forth fully herein.

SECTION TWO. Findings. That the City Council adopts the following as additional findings of fact justifying adoption of this Ordinance enacting the interim and official controls herein. The Council may adopt additional findings in the event that additional public hearings are held or evidence presented to the City Council.

1. RCW 35A.63.220 and RCW 36.70A.390 authorize cities to adopt interim zoning and interim official controls to preserve the public safety, health, welfare, economic vitality and continued economic growth of the City while new plans and regulations are considered and prepared and to hold a public hearing at the time of adoption or within 60 days of the commencement of the interim zoning and interim official controls. The City adopted such an emergency ordinance on January 25th, 2017 by adoption of Ordinance 3707 and has held a public hearing on its continuance within 60 days on March 22nd, 2017 at a regularly scheduled hearing. The City has not completed its study of the issue and needs more time to consider and prepare new plans and regulations regarding homeless encampments; and

2. After hearing all public testimony, reviewing staff reports, the City's Comprehensive Plan and the legislative record in its entirety the City Council ratifies and re-adopts all findings of fact previously adopted within Ordinance 3707 in their entirety (including recitals therein) justifying that: i) an emergency exists and ii) the continuance of interim controls regulating temporary homeless encampments is justified until the City can fully study the issue and that permanent development regulations be adopted through the City's normal process; and
3. That without the continuance of interim controls set forth herein, there is great potential that unregulated temporary homeless encampments and uses could be sited or allowed to operate in an unregulated manner resulting in well recognized adverse direct and secondary impacts including but not limited to negative impacts to: noise, light pollution, sanitation; traffic, crime, violence, transportation levels of service, litter, risk of fire, risk to vulnerable classes of persons such as children under the age of 18, and parking, and
4. As set forth in its findings adopted in Ordinance 3707 which are hereby incorporated in this Ordinance, the City Council affirms that, pending completion of permanent development regulations pertaining to temporary homeless encampments and the adoption of permanent zoning and permitting regulations, that temporary homeless encampments without regulation tailored to public safety, health, and welfare issues has and will continue to cause direct, secondary, and cumulative negative impacts in the community. Specifically, staff has reported to Council and Council finds unregulated homeless encampments have resulted in unregulated discharges of sewerage (including human waste) into critical habitat such as streams or there associated buffers, trespass onto public and private property, large volumes of litter, the prevalence of discarded drug paraphernalia, the construction and erection of unsafe structures, risk of fire, and expenditure of substantial public resources in cleaning, monitoring, and/or removing such encampments; and
5. That full public participation and thorough study of the temporary homeless encampments impacts in the community have not been completed and are ongoing; and
6. That the City continues to compile data regarding or related to temporary homeless encampments including but not limited to GIS data on locations of encampments, public safety, health, welfare, and environmental impacts, clean-up costs, and homelessness in the City in general; and
7. That in the absence of adoption of this ordinance current city regulations do not address transitory accommodations such as tent encampments or mitigate their health and safety impacts to the satisfaction and protection of both the homeless residents and the surrounding neighborhoods; and
8. That an emergency exists within the City, and that adoption of the proposed interim regulations herein is necessary for the immediate preservation of the public peace, health, safety, welfare, economic vitality and continued economic growth of the City until additional review has been completed and any necessary code revisions have been adopted by the City Council and is a legitimate exercise of the City's police power.

SECTION THREE. Work Program. The City Council hereby directs that the Development Services Department continue their study of the issue of temporary homeless encampments within the City and including drafting proposed permanent regulations to be considered through the City's public participation process including allowing for public input and providing for public hearings at both the Planning Commission and City Council. Additionally, the City Council adopts the work program accompanying this Ordinance identified as Exhibit A and hereby incorporates this work program as if set forth fully herein.

SECTION FOUR. Interim Regulations Adopted. That the City Council adopts the following interim land use regulations.

1. A new Chapter 17.210, Temporary Homeless Encampments, is added to the Mount Vernon Municipal Code as follows:

Temporary Homeless Encampments

Sections:

- 17.210.010 Purpose.
- 17.210.015 Definitions
- 17.210.020 Application for temporary homeless encampment permit.
- 17.210.030 Requirements for approval and operation.
- 17.210.040 Hardship exception
- 17.210.050 Decision criteria
- 17.210.060 Revocation of permit.

17.210.010 Purpose.

The purpose of this chapter is to regulate homeless encampments within the city of Mount Vernon in compliance with the requirements of RCW 35.21.915. The standards and requirements in this chapter are the minimum necessary to protect the public health and safety and do not substantially burden the decisions or actions of religious organizations regarding the location of housing or shelter for homeless persons on property owned by such religious organizations.

17.210.015 Definitions. The following words used in this Chapter are defined as follows:

A. **Director.** The Director of the City of Mount Vernon’s Community and Economic Development Department or Designee.

B. **Encampment Host.** A religious organization (including but not limited to an owner, tenant, or lessee) that has the legal right to occupy the site of a Temporary Homeless Encampment. An “Encampment Host” may be the same individual, group, organization, or entity as the Encampment Sponsor or the Encampment Manager of a Temporary Homeless Encampment.

C. **Encampment Manager.** An individual, group, organization, or entity that organizes, manages or operates a Temporary Homeless Encampment. An “Encampment Manager” may be the same individual, group, organization, or entity as the Encampment Host or the Encampment Sponsor of a Temporary Homeless Encampment.

D. **Encampment Sponsor.** An individual, group, organization, or entity which, in conjunction or by agreement with the Encampment Host or Encampment Manager, provides services or support on an ongoing basis for the residents of a Temporary Homeless Encampment. An “Encampment Sponsor” may be the same individual, group, organization, or entity as the Encampment Host or the Encampment Manager of a Temporary Homeless Encampment.

E. **Temporary Homeless Encampment.** Means a temporary encampment for homeless persons on property owned or controlled by a religious organization, whether within buildings located on the property or elsewhere on the property outside of buildings.

17.110.020 Application for temporary homeless encampment permit.

A. A temporary homeless encampment is an allowed use only on property owned or controlled by a religious organization that is acting as either the Encampment Host or the Encampment Sponsor, or both, for the temporary homeless encampment.

B. Temporary Homeless Encampments shall not be permitted within the City except as an accommodation of religious exercise by an Encampment Host or Encampment Sponsor. Each Encampment Host, Encampment Manager and Encampment Sponsor of a Temporary Homeless Encampment shall jointly apply for a permit under this Chapter, and shall jointly certify compliance with all applicable use requirements and conditions of this part in the application.

C. An application for a Temporary Homeless Encampment permit shall be submitted to the Director or designee on a form approved by the Director. The application shall contain an Encampment Management Responsibility Plan. An application that does not contain an Encampment Management Responsibility Plan shall not be considered complete. The Encampment Management Responsibility Plan shall contain, at a minimum, all of the following information:

1. The name, address, and telephone number of the encampment host, and the telephone number and e-mail address for a designated representative of the encampment host; and
2. The name, address, and telephone number of the encampment sponsor and encampment manager, and the telephone number and e-mail address for a designated representative of the encampment sponsor and encampment manager; and
3. The proposed location of the temporary homeless encampment and information as to whether the temporary homeless encampment will be located inside a building or outside a building on property owned or controlled by the encampment host; and
4. The date on which temporary homeless encampment is proposed to move onto the proposed location and the date on which the temporary homeless encampment is proposed to vacate the proposed location; and
5. The maximum number of residents proposed; and
6. A site plan showing the proposed location of the facilities required by MVMC 17.210.030; and
7. A statement demonstrating how the temporary homeless encampment will meet the requirements of MVMC 17.210.030.
8. A description of the security measures that the Encampment Host, Encampment Sponsor and Encampment Manager intend to employ at the proposed location, including criteria for rejection as a resident, a code of conduct, neighborhood security patrols, if any, whether and how they will implement outstanding warrant or registered sex offender background checks, and whether and how any Temporary Homeless Encampment residents or prospective residents may be ejected from the Temporary Homeless Encampment based on the results of such checks.
9. A transportation plan demonstrating compliance with MVMC 17.210.030

D. The application for a temporary homeless encampment permit must be accompanied by an application fee of \$525.00.

E. An application for a temporary homeless encampment permit must be filed at least 30 days before the date on which the temporary homeless encampment is proposed to move onto the proposed location; provided, that the Director may agree to a shorter period in the case of an emergency beyond the control of the encampment host and encampment sponsor.

F. An application for a temporary homeless encampment permit shall be processed as a Type II “Temporary Homeless Encampment Permit” under Chapter 14.05 MVMC subject to administrative appeal and final administrative decision by the City Hearings Examiner.

G. In addition to the requirements for a Type II permit under Chapter MVMC 14.05, the following additional procedures apply:

1. **Public Meeting Required.** The Director shall hold an informational public meeting. The public meeting shall be held as early in the review process as possible for the application. Notice of the public meeting shall be provided in the same manner as required for notice of the application. The public meeting notice will be combined with the notice of application whenever possible. Prior to the public meeting, the Encampment Host shall meet and confer with the Mount Vernon Police Department regarding the proposed security measures. At the public meeting, a representative of the Encampment Host shall present in writing and describe the proposed Encampment Management Responsibility Plan, and any input or comment received on the plan, including any comment or input from the Mount Vernon Police Department, or comment or input from schools and/or child care services under subsection 2 of this section. The public meeting shall be attended by all applicants of the proposed Temporary Homeless Encampment Permit.
2. **Additional Mailed Notice.** The requirements for mailed notice of the application set forth for Type II Permits under Chapter 14.05 shall be expanded to include owners of real property within 600 feet of the project site. Prior to the decision of the Director on a Temporary Homeless Encampment Permit, the Encampment Host, Encampment Sponsor, or Encampment Manager shall meet and confer with the administration of any public or private elementary, middle, junior high or high school within 600 feet of the boundaries of the proposed Temporary Homeless Encampment site, and shall meet and confer with the operators of any known child care service within 600 feet of the boundaries of the proposed Temporary Homeless Encampment site. The Encampment Host and the school administration and/or child care service operator shall make a good faith effort to agree upon any additional conditions that may be appropriate or necessary to address school and/or child care concerns regarding the location of a Temporary Homeless Encampment within 600 feet of such a facility. Any such conditions agreed upon between the parties shall be submitted to the Director for consideration for inclusion within the Temporary Homeless Encampment Permit. In the event the parties fail to agree on any conditions, either party may provide the Director with a written summary of the parties’ discussions, which the Director may consider in evaluating whether the criteria for the Temporary Homeless Encampment Permit are met, or the need for additional conditions upon the Temporary Homeless Encampment Permit based on the applicable decision criteria.
3. The applicant shall provide notice of the application by posting two Land Use Change signs on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish standards for timing of installation and removal of the signs.

H. The Director shall coordinate review of the temporary homeless encampment permit with appropriate city staff and with other appropriate public agencies, including, but not limited to, Skagit County Public Health Department and the Mount Vernon Fire Department. The Director may issue the temporary homeless encampment permit if the application demonstrates that:

1. All of the requirements of MVMC 17.210.030 are met; and
2. The temporary homeless encampment will not be materially injurious to the public health, safety, and welfare or materially injurious to the property or improvements in the immediate vicinity.

I. Decisions of the Director granting, granting with conditions, or denying a temporary homeless encampment permit shall be subject to one open record administrative appeal to the Hearing Examiner who shall render a final administrative determination. The Hearing Examiner's decision shall be subject to appeal to the Skagit County Superior Court as provided in Chapter 36.70 RCW. In the event of any conflict with any other provisions of the Mount Vernon Municipal Code, this provision shall control notwithstanding MVMC 14.05.020.

17.110.030 Requirements for approval and operation.

A. A Temporary Homeless Encampment must meet all of the following requirements in addition to any other requirements imposed by this chapter:

1. The property or building must be of sufficient size to accommodate the proposed number of tents and residents and the on-site facilities required by this section.
2. Adequate provision must be made for the provision of drinking water, disposal of human waste, disposal of garbage and other solid waste, and the provision of other services, including, but not limited to, the following facilities:
 - a. Sanitary portable toilets or other restroom facilities in the number required to meet health regulations for the residents and staff of the temporary homeless encampment; and
 - b. Hand washing stations by the toilets or restrooms and by food service areas; and
 - c. Refuse receptacles meeting the requirements of the city's solid waste division; and
 - d. A food service tent or other food service building or facility meeting health department requirements; and
 - e. A management tent or other management office or facility providing administrative and security services and readily identifiable to residents and visitors.
3. The temporary homeless encampment shall meet all setbacks for the zoning district in which the property is located; provided, that where the temporary homeless encampment abuts property containing residential uses, the temporary homeless encampment shall be set back 20 feet from the property line or the minimum setback provided in the Mount Vernon Municipal Code, whichever is greater.
4. A six-foot-tall sight obscuring fence shall be provided around the perimeter of the temporary homeless encampment unless the Director determines that there is sufficient vegetation, topographic variation, or other site conditions to provide equivalent screening of the use from adjacent properties.
5. Any and all exterior lighting for the temporary homeless encampment shall be directed downward and away from adjacent properties to minimize light impacts.
6. The maximum number of residents within a temporary homeless encampment shall not exceed 100.
7. Parking for at a minimum five vehicles shall be provided and otherwise comply with Chapter 17.84 of the MVMC.
8. No children under the age of 18 shall be allowed in the temporary homeless encampment. If a child under the age of 18 attempts to reside at the temporary homeless encampment, the Encampment Sponsor, the Encampment Host, or the Encampment Manager shall immediately contact Child Protective Services.
9. No animals shall be permitted in the temporary homeless encampment, except for service animals.

11. The Encampment Sponsor and/or the Encampment Host shall submit a code of conduct for the temporary homeless encampment and a statement describing how the code of conduct will be enforced. The code of conduct shall, at a minimum, contain the following:
 - a. A prohibition on the possession or use of illegal drugs or alcohol.
 - b. A prohibition on the possession of guns, knives with blades in excess of three inches, and weapons of all kinds.
 - c. A prohibition on violence.
 - d. A prohibition on open flames.
 - e. A prohibition on trespassing into private property in the surrounding neighborhood.
 - f. Hours during which quiet is to be observed.
12. A transportation plan must be submitted providing for access to transit. All temporary homeless encampments must be located within one-half mile of transit service. This measurement shall be taken in a straight line from the closest property line where the temporary homeless encampment is proposed to the existing transit service provided by Skagit Transit. During hours when public transportation is not available, the Encampment Sponsor, Encampment Host, or Encampment Manager shall also make transportation available to anyone who is rejected from or ordered to leave the Temporary Homeless Encampment.
13. The Temporary Homeless Encampment must comply with all regulations of Washington State, the City of Mount Vernon, and the Skagit County Public Health Department. The Temporary Homeless Encampment shall comply with the requirements of the International Fire Code and Washington Cities Electrical Code as adopted by the city of Mount Vernon. The Encampment Sponsor and Encampment Host shall permit inspections at all reasonable times by appropriate public officials from the agencies enforcing these codes for code compliance.
14. The Encampment Sponsor shall take all reasonable and legal steps to obtain verifiable identification from prospective residents of the temporary homeless encampments and use the identification to obtain sex offender and warrant checks from the appropriate agency. If the warrant and sex offender check reveals that a prospective resident or existing resident is a sex offender who is required to register with police or that the prospective resident has an outstanding warrant, the Encampment Sponsor shall reject the prospective resident or evict the existing resident.
15. Adequate access for fire and emergency medical apparatus shall be provided.
16. Adequate separation between tents and other structures shall be to limit fire exposure and provide for emergency exiting by residents.
17. Temporary homeless encampment permits may be approved for a time period not to exceed 90 days on any single property regardless of whether or not an Encampment Manager or Sponsor is different. No temporary homeless encampment shall be permitted on any single property for more than 90 days in any calendar year. In addition, minimum of 120 days must lapse before an encampment can be allowed to locate on a site previously occupied by a temporary homeless encampment.

17.210.040 Hardship exception

An Encampment Host, Encampment Sponsor, or Encampment Manager may petition the Director for an exception from any of the Specific Use Requirements of MVMC 17.210.030 or other condition imposed by the Director upon grounds of hardship. In considering whether a hardship exception should be granted, the Director may consider whether the provision or provisions at issue substantially burden the siting or hosting of a Temporary Homeless Encampment at a particular location or by a particular Encampment Host, Encampment Sponsor, or Encampment Manager, the effects on health and safety of residents and the community should the exception be granted, and whether a less restrictive, alternative means to achieve the health and safety objectives is proposed and/or is reasonably available.

17.210.050 Decision criteria.

The Director may approve or approve with modifications an application for a Temporary Encampment Permit if:

- A. The Temporary Homeless Encampment complies with the Use Requirements set out in MVMC 17.210.030 and other applicable requirements of this Chapter; and
- B. The Temporary Homeless Encampment will not be materially detrimental to the public health, safety or welfare of the Temporary Homeless Encampment residents or the surrounding community; and
- C. The imposition of a condition under which the City reserves the right to impose additional conditions or to reconsider the Temporary Homeless Encampment Permit within a certain timeframe from approval date, based on substantiated complaints filed with the City.

17.210.060 Revocation of permit.

The Director may revoke a temporary homeless encampment permit for violation of any of the requirements of this Chapter. A decision of the Director to revoke a temporary homeless encampment permit is a Type II decision processed in the same manner as a Type II "Temporary Homeless Encampment Permit" decision that may be appealed to the Hearing Examiner for final determination provided in Chapter 14.05 MVMC. The decision of the Director to revoke a temporary homeless encampment permit shall be stayed during any appeal to the Hearing Examiner, but the stay will be lifted if the Hearing Examiner upholds the revocation. Decisions of the Hearing Examiner on a temporary homeless encampment permit revocation may be appealed to the Skagit County Superior Court as provided in Chapter 36.70 RCW.

2. Amendment. That Section 14.05.050, Permit Types, of the Mount Vernon Municipal Code is hereby amended to read as follows:

14.05.050 Permit types.

A. Permits Classified by Type. Applications for development permits shall be categorized and processed as one or more of the six permit types described in subsection B of this section. Where applications are categorized as more than one type, the code that pertains to the application needs to be evaluated as more than one procedural process is available depending on specific circumstances particular to that application. Applications shall be classified in accordance with the table in MVMC 14.05.060; provided, that shoreline permits under the shoreline management master program shall be processed as described in that program; and that annexations shall be processed according to Chapter 35A.14 RCW. Annexations shall also be subject to additional city specific submittal and procedural requirements as outlined within this chapter.

B. Permit Types.

1. Type I – Administrative Review without Notice. Type I applications are those applications where a final decision is made by the director or the director’s designee without public notice or a public hearing. That decision may be appealed in an open record appeal hearing to the hearing examiner. The hearing examiner decision may be appealed in a closed record appeal to the city council. An applicant can file an appeal to the building code board of appeals following the director’s decision for matters concerning the suitability of alternative building materials, the suitability of alternative methods of construction, or interpretation of building regulations.
2. Type II – Administrative Review with Notice. Type II applications are those applications where a final decision is made by the director or the director’s designee after public notice, but without a public hearing. That decision may be appealed in an open record appeal hearing to the hearing examiner. The hearing examiner decision may be appealed in a closed record appeal to the city council; for all type II Permits except permits authorizing Temporary Homeless Encampments which shall be subject to appeal to the Skagit County Superior Court as provided in Chapter 36.70 RCW.
3. Type III – Hearing Examiner Review with Public Hearing. Type III applications are those applications that require an open record hearing before the hearing examiner and for which the hearing examiner makes the final decision. For all applications except variances, the hearing examiner decision may be appealed in a closed record appeal to the city council. Appeals for variances go to superior court, except appeals of hearing examiner shoreline variance decisions go to the city council.
4. Type IV – Council Review with Public Hearing. Type IV applications are those applications that require an open record predecision hearing before the hearing examiner or planning commission, and for which the hearing examiner or planning commission action is only a recommendation to the city council. The city council shall make the final decision after a closed record hearing on Type IV actions.
5. Type V – Council Review without Hearing. Type V applications are those applications that do not require a public hearing and for which a final decision is made by the city council.
6. Type VI – Legislative. Type VI applications are those applications that require legislative action by the city council at an open record hearing after one or more open record public hearing(s) and a recommendation from the planning commission, with the exception of street vacations which shall only have one open record public hearing before the city council.

C. Permits Not Classified by This Chapter. If this chapter does not expressly provide for review using one of the six types of procedures and a specific procedure is not specified by law, or if there are conflicting procedural requirements, the director shall classify the application as one of the six procedural types and it will be processed accordingly. Questions about what procedure is appropriate shall be resolved in favor of the type providing the greatest public notice and opportunity to participate.

3. Amendment. That Section 14.05.060, Permit Classification Table, of the Mount Vernon Municipal Code is hereby amended to read as follows:

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Administrative Determination	X					
Binding Site Plan		X				
Boundary Line Adjustment	X					
Building Permit SEPA Exempt	X					
Code Interpretation	X					
Comprehensive Plan Map (and Rezone) or Text Amendments						X
Administrative Conditional Use Permit		X				
Conditional Use Permit			X			
Conditional Use Permit for EPFs				X		
Critical Area Ordinance Reasonable Use Exception, Variances and Appeals per MVMC 15.40.130			X			
Design Review with Building Permit	X					
Design Review with Hearing Examiner Land Use Permit			X			
Design Review Waiver per Chapter 17.70 MVMC	X		X			
Development Regulation Text Amendments to Chapter 3.40 MVMC and MVMC Titles 15, 16 and 17						X
Development Regulation Text Amendments to Chapters Except Chapter 3.40 MVMC and MVMC Titles 15, 16 and 17					X	
Environmental Review		X				
Fence or Wall Permit	X					
Fill and Grade Permit I	X					
Fill and Grade Permit II		X				
Floodplain District Development Permit				X		
Historic Structure – Designation				X		
Historic Structure – Exterior Alteration		X				
Home Occupation – Type I or Exemption	X					
Home Occupation – Type II		X				
Land Clearing Permits and Management Plans		X				
Land Clearing Moratorium Removal			X			
Land Clearing Single-Family Residential Moratorium Exception		X				
Landscape Modifications per MVMC 17.93.080	X					

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Lot Certification	X					
Major Modification	X	X	X	X		
Master Plan Approval per MVMC 17.30.090				X		
Minor Modifications	X					
Model Home Permit	X					
Nonconforming Use – Ordinary Maintenance or Repair	X					
Nonconforming Use – Certificate of Use or Occupancy	X					
Nonconforming Use – Special Permission to Enlarge, Expand, or Reconstruct				X		
Plat, Preliminary				X		
Plat, Final					X	
Planned Unit Development				X		
Rezoning Consistent with Comprehensive Plan				X		
Shoreline Conditional Use Permit			X			
Shoreline Exemption	X					
Shoreline Substantial Development Permit		X				
Shoreline Variance			X			
Short Plat		X				
Site Plan Approval	X					
Site Plan Approval per MVMC 17.39.150				X		
Special Use Permit			X			
Special Use Permit for ADUs		X				
Street Vacations Subject to Procedural Requirements Outlined in Chapter 35.79 RCW						X
Street Design Modifications per Chapter 16.16 MVMC	X					
<u>Temporary Homeless Encampment</u>		X				
Temporary Use Permit Per Chapter 17.92 MVMC	X					
Transfer of Development Rights – Certificate of Available Rights	X					
Transfer of Development Rights – Approval to Utilize	X					
Transportation Concurrency when > 75 PM Peak Hour Trips Are Generated				X		
Variances			X			
Waivers per MVMC 14.10.110, Chapter 16.20 MVMC, and MVMC 17.84.130				X		

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Zoning Boundary Determination per MVMC 17.09.040			X			
Zoning Variances Not Exceeding 20 Percent of Lot Width, Setbacks, Lot Coverage, Building Height, Parking, and Landscape Buffers		X				

4. Amendment. That Section 14.05.070, Summary of Permit Processes, of the Mount Vernon Municipal Code is hereby amended to read as follows:

	Type I	Type II	Type III	Type IV	Type V	Type VI	Shoreline Permits and Annexations
Pre-Application Meeting	No	Required for short plats, building permits with street improvements, and all other non-single-family residential actions	Required, unless waived by director	Required, unless waived by director	Required, unless waived by director	Required, unless waived by director	Required, unless waived by director
Letter of Completeness	Required	Required	Required	Required	Required	Required	Required
Notice of Application	No	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	See Chapter 35A.14 RCW, Annexation by code cities, or the shoreline master program (SMP)
Notice of Hearing	Not Applicable	Not Applicable	Required	Required	Required	Required	See Chapter 35A.14 RCW or the SMP
Open Record Pre-Decision Public Hearing	No	No	Yes, before hearing examiner to render final decision	Yes, before hearing examiner or planning commission, as noted in MVMC 14.05.080 to make recommendation to city council for final decision at a closed record hearing	No	Yes, before planning commission to make recommendation to city council for final decision at a closed record hearing except for street vacations which shall be heard only before the city council	See Chapter 35A.14 RCW or the SMP

	Type I	Type II	Type III	Type IV	Type V	Type VI	Shoreline Permits and Annexations
Administrative Appeal	Yes, open record appeal hearing before the hearing examiner or the building code board of appeals	Yes, open record appeal hearing before the hearing examiner	Yes, closed record appeal hearing before city council except for variances	No	No	No	See Chapter 35A.14 RCW or the SMP
Notice of Decision	Required, pursuant to MVMC 14.05.150	Required, pursuant to MVMC 14.05.150	Required, pursuant to MVMC 14.05.150	Required, pursuant to MVMC 14.05.150	Required, pursuant to MVMC 14.05.150	Required, pursuant to MVMC 14.05.150	See Chapter 35A.14 RCW or the SMP
Recommendation Made By	Not Applicable	Not Applicable	Not Applicable	Review authority noted in MVMC	Review authority	Planning commission	See Chapter 35A.14 RCW

	Type I	Type II	Type III	Type IV	Type V	Type VI	Shoreline Permits and Annexations
				<u>14.05.080</u>	noted in MVMC <u>14.05.080</u>	except for street vacations	or the SMP
Final Decision Made By	Community and economic development director subject to administrative appeal	Community and economic development director subject to administrative appeal	Hearing examiner subject to administrative appeal except for variances	City council	City council	City council	See Chapter <u>35A.14 RCW</u> or the SMP
Judicial Appeal	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See Chapter <u>35A.14 RCW</u> or the SMP

5. Amendment. That Section 14.05.180, Appeals to Council, of the Mount Vernon Municipal Code is hereby repealed and reenacted, with the new section to read as follows:

A. Decision Subject to Appeal. Type II and III decisions listed within MVMC 14.05.060 (except variances and permits for Temporary Homeless Encampments) may be appealed to the city council, in writing and must contain the information outlined in MVMC 14.05.160(C)(3). However, Type II decisions may only be appealed to the city council after they have been appealed to the hearing examiner; and the appellant is appealing the hearing examiner decision to the city council.

B. Time for Appeal. Any such appeal must be filed by a party of record aggrieved by the decision and shall submit the appeal to the CEDD, within 14 days from the date of the report decision. The appeal must contain the information outlined in MVMC 14.05.160(C).

C. Transmittal of Record to Council. The CEDD shall forward to the members of the city council all of the pertinent documents, including the written decision, findings and conclusions of the examiner, the notice of appeal, and additional letters submitted by the parties of record.

D. Council Review Procedures. No open record public hearing shall be held by the city council. All meetings of the Mount Vernon city council shall be in accordance with Chapter 42.30 RCW, and all persons shall be permitted to attend any meeting of the city council except as otherwise provided in Chapter 42.30 RCW.

E. Council Evaluation Criteria. The consideration by the city council shall be based solely upon the record, the hearing examiner report, the appeal and additional submissions by parties.

F. Closed Record Hearing – Additional Evidence. No or limited new evidence or information will be allowed to be submitted and only appeal argument allowed. New or additional evidence or testimony shall be accepted by the city council only upon a showing by the party offering the evidence that the evidence could not reasonably have been available at the time of the hearing before the examiner; or that relevant information that, in the opinion of the council, was improperly excluded by the examiner. Appellants who believe that information was improperly excluded, or that they have new evidence that could not reasonably have been available at the time of the hearing below, must specifically request, in writing, prior to the closed record appeal hearing, that the information be made part of the record. The request shall describe the information excluded, its relevance to the issues appealed, the reason(s) that the information was excluded by the hearing body/officer, why the hearing body/officer erred in excluding the information, or why it could not reasonably have been available at the time of the hearing below. No reference to excluded information shall be made in any presentation to the city council on the merits, written or oral, until the city council has determined that the information should be admitted. If the council determines that additional evidence is required, the council shall remand the matter to the examiner for reconsideration and receipt of additional evidence. The cost of transcription of the hearing record shall be borne by the appellant. In the absence of an order by the city council authorizing new or additional evidence or testimony, and a remand to the hearing examiner for receipt of such evidence or testimony, it shall be presumed that no new or additional evidence or testimony has been accepted by the city council, and that the record before the city council is identical to the hearing record before the hearing examiner.

G. Council Action. If, after examination of the project record for an appeal of a decision of the hearing examiner, the council determines that a substantial error in fact or law exists in the record the council may remand the application to examiner for reconsideration, modify the decision, or reverse the decision.

H. Decision Documentation. The decision of the city council shall be in writing and shall specify any modified or amended findings and conclusions other than those set forth in the report of the hearing examiner. Each material finding shall be supported by substantial evidence in the record. The burden of proof shall rest with the appellant.

I. Council Action Final. The action of the council approving, modifying or rejecting a decision or recommendation of the examiner shall be final and conclusive unless appealed within the time frames established under MVMC 14.05.190.

SECTION FIVE. 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 or constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION SIX. Savings Clause. All previous ordinances which may be repealed in part or their entirety by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION SEVEN. Effective Date and Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not subject to a referendum. Without an immediate interim regulation on the City's acceptance of business licenses, building applications, permits or other types of land use/development permits/approvals, such applications could become vested under regulations subject to change by the City in this comprehensive review and regulation amendment/adoption process. This Ordinance will not affect any existing rights, or any vested applications previously submitted to the City. This Ordinance, including but not limited to the interim controls, zoning, and regulations contained within and all attachments shall be effective for a six month period of time (unless renewed or extended subsequent to an additional public hearing and findings as required by law) or when the City's comprehensive review and possible amendment/adoption of regulations have been completed repealing the interim regulations and controls, whichever is sooner. The City Council shall make this decision to terminate the interim controls and regulations by ordinance, and termination shall not otherwise be presumed to have occurred. The City shall hold all necessary public hearings and adopt new findings as required under RCW 35A.63.220 and RCW 36.70A.390 if necessary and justified to continue the imposition of the interim regulations until the City's review has been completed.

SECTION EIGHT. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, this Interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

PASSED AND ADOPTED this 26th day of July, 2017.

SIGNED AND APPROVED this ____ day of _____, 2017.

Doug Volesky, Finance Director

Jill Boudreau, Mayor

Approved as to form:

Kevin Rogerson, City Attorney

Published _____

**EXHIBIT A
WORK PROGRAM**

MILESTONES	DESCRIPTION	APPROXIMATE TIMING
Impact Analysis	Assessment of consequences correlated with temporary homeless encampments	July-August 2017
Regulatory Options	Study of regulation schemes implemented by others to determine how effectively others have implemented different types of regulations	August-September 2017
Interviews with Stakeholders	Identify, collect data and interview stakeholders including, but not limited to: agencies, companies, and individuals that provide services, interact, and/or could be potentially impacted by homeless encampments	September 2017
Regulatory Analysis	Determine if regulation options previously outlined provide adequate options to present to City Council for their review and guidance	September-October 2017
Public Involvement	Craft an on-going public outreach and communication process for the review of recommended regulations.	September 2017
City Council Guidance	Present to Council the results of the impact analysis, regulation options, and interviews. Request Council guidance with regard to refining regulatory options and goals.	October 2017
Planning Commission Guidance	Present to the Commission results of the impact analysis, regulation options, and interviews. Request Council guidance with regard to refining regulatory options and goals.	October 2017
SEPA Analysis	Development Services staff to compile the data necessary and then complete a SEPA checklist for a non-project action.	October 2017
SEPA Process	Development Services staff to complete the process necessary to comply with the SEPA process.	November 2017
Commerce Review	Draft regulations remitted to the WA State Department of Commerce to commence their required review.	November 2017
Public Noticing	Public hearing notices distributed, published, and placed on the City's website	November 2017
Planning Commission Updates and Involvement	Throughout the process the Planning Commission will receive updates and will be asked to provide recommendations.	Throughout
City Council Updates and Involvement	Throughout the process the City Council will receive updates and will be asked to provide recommendations.	Throughout
Public Hearing(s) before Planning Commission	Open record public hearing(s) before the Planning Commission for them to make recommendation(s) to the City Council.	December 2017- January 2018
Public Hearing(s) before City Council	Open record public hearing(s) before the City Council for them to make final decision(s) on the new development regulations.	January 2018