



City Council Agenda Bill

22665

Bill Number

Subject: **Consideration of an Ordinance Creating a Shelter Protection Area for Base Camp Located at 1530 Cornwall Avenue**

Summary Statement: The City issued a permit to the Lighthouse Mission Ministries (LMM) for the operation of a temporary shelter at 1530 Cornwall Ave. ("Base Camp"). Base Camp provides daily services and overnight shelter for up to 200 people, along with amenities including bathrooms, showers, laundry, meals and human and social services. On September 14, 2020 staff provided City Council an update on Base Camp including neighborhood impacts. Staff proposed the creation of a Shelter Protection Area to address concerns raised by LMM and adjacent business owners. The City Council directed staff to return with an ordinance. The protection area would place certain limitations on how the public may use the rights-of-way adjacent to Base Camp.

Previous Council Action: **Passed Ordinance 2018-10-019, establishing regulations regarding temporary homeless shelters. Provided direction to staff on 9/14/20 to draft Shelter Protection Area Ordinance**

Fiscal Impact: **N/A**

Funding Source: **N/A**

Attachments: 1. STAFF MEMO
2. ORDINANCE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	9/28/2020	Pass Ordinance	Tara Sundin, PCDD and Peter Ruffatto, Legal	10 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Tara Sundin, Planning and Community Development, 360-778-8300

Council Action:

Reviewed By	Department	Date
<i>Rick M. Sepler</i>	Planning & Community Development	9/22/2020
<i>Peter M. Ruffatto</i>	Legal	9/22/2020
<i>Peter M. Ruffatto</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



MEMORANDUM

TO: BELLINGHAM CITY COUNCIL

FROM: TARA SUNDIN, COMMUNITY & ECONOMIC DEVELOPMENT MANAGER

CC: MAYOR SETH FLEETWOOD
RICK SEPLER, PCDD
PETER RUFFATTO, LEGAL

SUBJECT: ORDINANCE TO CREATE A SHELTER PROTECTION AREA FOR BASE CAMP

DATE: SEPTEMBER 17, 2020

The City issued a permit on August 7, 2020 to the Lighthouse Mission Ministries (LMM) for the operation of a temporary building encampment at 1530 Cornwall Ave. ("Base Camp"). Base Camp provides daily services and overnight shelter for up to 200 people, along with amenities including bathrooms, showers, laundry, drinking water, food, garbage and recycling containers, and human and social services.

LMM and businesses operating in the immediate vicinity have requested assistance to address observed and documented adverse behaviors occurring within the public right-of-way (ROW) adjacent to the shelter. The following behaviors and impacts have been observed in the vicinity of temporary building encampments, including Base Camp and a previous permitted temporary building encampment: debris, human waste, animal waste, unauthorized encampments, disorderly conduct, property damage, fires, public urination, pedestrian and vehicular obstruction, and public intoxication.

On September 14, 2020 staff provided City Council an update on Base Camp including neighborhood impacts. Staff proposed the creation of a Shelter Protection Area to address concerns of LMM and adjacent property and business owners and the City Council directed staff to return with an ordinance.

The creation of a narrowly tailored shelter protection area should minimize inappropriate behaviors near Base Camp, significantly reduce the opportunity for adverse behaviors and impacts in the area and encourage such behavior to be dispersed rather than concentrated. There are alternative places to parking, congregate and site for public, both housed and unsheltered in downtown. This tool will help ensure the success of Base Camp for the duration of the permit.

ORDINANCE NO. _____

ORDINANCE ESTABLISHING A CERTAIN DESCRIBED AREA THAT IS LOCATED IMMEDIATELY ADJACENT TO AN APPROVED TEMPORARY BUILDING ENCAMPMENT TO PROHIBIT CERTAIN ACTIVITIES IN PERMIT PARKING AREAS AND OTHER PUBLIC SPACES THAT ADVERSELY AFFECT THE OPERATIONS OF THE ENCAMPMENT, RESIDENTS OF THE ENCAMPMENT, AND THE ADJACENT AREA.

WHEREAS, the City of Bellingham passed Ordinance 2018-10-019 on October 22, 2018, establishing regulations regarding temporary homeless shelters; and

WHEREAS, the City of Bellingham issued a permit (Permit No. USE2020-0029) on August 7, 2020 to the Lighthouse Mission Ministries for the operation of a temporary building encampment at 1522/1530 Cornwall Ave. (“Base Camp”) within the City; and

WHEREAS, the Base Camp operation provides daily services and overnight shelter for up to 200 people, along with amenities including bathrooms, showers, laundry, drinking water, food, garbage and recycling containers, and human and social services; and

WHEREAS, the operators of Base Camp and businesses operating in the immediate vicinity have requested assistance to address observed and documented adverse behaviors occurring within the public right-of-way (ROW) adjacent to the approved use; and

WHEREAS, the following behaviors and impacts have been observed in the vicinity of temporary building encampments, including Base Camp and a previous permitted temporary building encampment: debris, human waste, animal waste, unauthorized encampments, disorderly conduct, property damage, fires, public urination, pedestrian and vehicular obstruction, and public intoxication, with a substantial portion of the problematic behavior occurring during the hours of darkness; and

WHEREAS, the City has determined that the safety of those who are residing within temporary building encampments, the operation of such encampments, and the general public are at risk and due to these adverse behaviors, in particular when the activity occurs in a focused area adjacent to the encampment and those engaging in the behavior are not part of the encampment; and

WHEREAS, the establishment of a narrowly tailored shelter protection area would minimize inappropriate behaviors in proximity to Base Camp, significantly reduce the opportunity for adverse behaviors and impacts in the area, and encourage such behavior to be dispersed rather than concentrated; and

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WHEREAS, the City finds that the establishment of a protection area would not adversely affect the ability of the public, both housed and unsheltered, to use the City's right-of-way generally or find alternative places to park, congregate, or sit; and

WHEREAS, it is the intent of the City to address these issues with empathy, compassion, and recognition of the rights of all those persons who experience homelessness by utilizing education, social outreach, referral to social service and mental health providers, incremental enforcement, and the least intrusive means of enforcement available to achieve compliance, while providing City staff with narrowly tailored tools to ensure the success of Base Camp for the duration of the permit; and

WHEREAS, it is the intent of the City to implement this ordinance with ample notification of the establishment of the shelter protection area through outreach over a period of time to provide education, and ample use of warnings, all prior to taking enforcement action; and

WHEREAS, the Bellingham City Council possesses authority under RCW 35.22.280 and the Constitution of the State of Washington, Art. 11 § 11, to adopt ordinances regulating the use of public rights of way, streets, and other public places; and

WHEREAS, the Bellingham City Council possesses authority under RCW 46.61.570 to adopt ordinances placing restrictions on parking within the city; and

WHEREAS, the City's traffic engineer, under the supervision of the public works director, is authorized under BMC 11.33.060 to establish permit parking areas within the public right-of-way and to impose restrictions for parking in such areas including such restrictions and conditions as time and duration of parking, application processes, limitations on the number of vehicles registered to a permit, speed limits within the parking area, and periods of closure; and

WHEREAS, the City Council has considered this matter during a regularly scheduled public meeting, has given this matter careful review and consideration and finds that establishing regulations to protect Base Camp, adjacent property owners and businesses, and the community from adverse behaviors is in the public interest.

NOW THEREFORE, the City of Bellingham does ordain as follows:

Section 1: The City Council hereby adopts the whereas clauses set forth above as findings of the Council. Based on such findings, the City hereby designates the area around 1530 Cornwall Avenue and within the outer edges of York Street, Cornwall Avenue, Champion Street and Railroad Avenue and depicted in Exhibit A to this ordinance as a shelter protection area for the purpose of identifying the location for restrictions and prohibitions set forth in this ordinance. A site-specific plan shall be prepared that illustrates the exact location and extent of the shelter protection area and shall be posted conspicuously on the protection area

boundary. The shelter protection area designation shall terminate at the expiration of the temporary building encampment permit referenced above.

Section 2: BMC 11.33.060 is hereby amended by adding a new subsection, subsection 11.33.060(A)(40), as follows:

11.33.060 Stopping, standing or parking prohibited in specific places – Reserving portion of highway prohibited.

A. Except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or official traffic control device, no person shall stop, stand, or park a vehicle:

1. In any alley, provided, when lawful under the provisions of this title, it is unlawful to stop, stand, or park a vehicle in such a manner as to leave available less than eight feet of width of roadway in the alley, or adjacent thereto, for the free movement of vehicular traffic and in any event it shall be unlawful to park in that portion of the alley marked as a fire lane;
2. No person shall stand or park a passenger vehicle in any alley at any time except momentarily to pick up or discharge a passenger or passengers or to load or unload property and then only for a period not to exceed five minutes;
3. No person shall stand or park a commercial vehicle in any alley for any purpose or length of time other than the expeditious loading and unloading of goods and then in no case shall the stop for loading or unloading of materials exceed 30 minutes; provided, that any such vehicle is properly licensed as a commercial vehicle by the State of Washington Department of Motor Vehicles;
4. Upon or along any street or highway when traffic will be unreasonably obstructed;
5. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
6. Within 50 feet of the nearest rail of a railroad crossing;
7. Within six feet of the nearest rail or railroad tracks except as provided herein, in the case of a railroad crossing;
8. Upon any street, except when loading or unloading property if the vehicle is over 80 inches in width; provided, that such stopping, standing, or parking is permitted in areas zoned by this code as a manufacturing or industrial use district;

9. On or within 20 feet of a crosswalk;
10. On the roadway side of any vehicle stopped or parking at the edge or curb of a street;
11. In front of a public or private driveway or within five feet of the end of the curb leading thereto. A vehicle in violation of this provision may be impounded immediately in the manner provided by this title for unauthorized vehicles if such vehicle obstructs ingress or egress to or from the driveway;
12. Alongside or opposite any city street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
13. Within 200 feet of fire apparatus stopped in answer to a fire alarm;
14. Within any space signed or marked as a fire exit; also within that portion of any city street contiguous to and opposite any corridor, passage, fire escape, exit or entrance door, or any other place adjacent to, or any door opening in an outer wall of any building or other structure containing, in whole or in part, any theater, public auditorium, church, dance hall, or other place of public assembly through which the public must pass to leave such building;
15. Within 15 feet of a fire hydrant, unless otherwise designated;
16. In such a manner that motor fuel leaks from the tank thereof;
17. Within an intersection;
18. By reparking the vehicle in the same block to avoid a time limit regulation specified in this title;
19. In any garage, parking area, or other property owned and operated by the city where signs prohibit such parking without lawful authority or permission where the vehicle shall be parked for a consecutive period of time longer than that period lawfully permitted. Such violating vehicle may be summarily abated by impounding in the manner provided by this title for unlawfully parked vehicles. The impounding of such vehicle shall not prevent or preclude the institution and prosecution of charges in the municipal court or elsewhere for violation of this title;
20. In any park, except in areas designated by the director of the city parks department;
21. On a planting strip, provided, it is permissible to stop, stand, park, or angle park a vehicle in such strip on: (a) a city street serving only a commercial,

manufacturing or industrial area and when such strip is not planted, or (b) where the planting strip is paved or otherwise improved for parking purposes. The paved area, when constructed at sidewalk grade, shall be served by regulation concrete driveways and shall be separated from the sidewalk and from the curb by a planted area not less than four feet in width. The paved area, when constructed at roadway grade, shall be subject to the posted parking prohibitions applying to the adjacent roadway;

22. On a sidewalk or sidewalk area;

23. Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway, except in parking management zone;

24. Upon any city street, if the vehicle is a trailer, unless the trailer is attached to a vehicle by which it may be propelled or drawn; provided, that in case of accident such trailer may be moved to the side of the street, and, if a good and sufficient red signal be displayed at both ends thereof during the hours of darkness, such trailer may be permitted or allowed to remain for a period not exceeding 24 hours pending removal; except that such trailer shall not remain upon any portion of a city street where standing or parking is limited or prohibited for a period longer than is necessary to effect its removal;

25. In one place upon the city street for a consecutive period in excess of the maximum time limit designated on an official posted sign controlling such parking space; or, for parking spaces not controlled by an official posted sign, for a consecutive period of time in excess of 72 hours;

26. On that portion of any street lawfully set aside for the movement of traffic in the direction opposite to that which the parked vehicle faces;

27. Between safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless official signs or markings indicate a different no-parking area opposite the ends of a safety zone;

28. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;

29. Upon any city street, if the vehicle has been left in the care of the owner or operator of any parking lot or garage, or his agent;

30. At any place or time where official signs or markings prohibit stopping, standing, or parking;
31. For purposes of unloading the vehicle in such a manner as to cause damage to the surface of the street;
32. For purposes of loading or transporting any materials in such a manner as to cause loud noises to the disturbance of the peace;
33. Within 10 feet of a United States mailbox, except temporarily for the purpose and while engaged in the delivery or pickup of postal items;
34. Upon any street or alley when such vehicle does not display current and proper vehicle license plates for the state in which it is purported to be registered;
35. Within any parking space or area signed or marked with insignia approved by the city engineer as a disabled parking space, including spaces provided on private property without charge, except as permitted by RCW [46.19.050](#) or other provision of law;
36. Registered to a vehicle rental company or car dealership, or their affiliates, or otherwise within the vehicle rental company's or car dealership's custody or control, upon any street when parked thereon by the owner, operator or agent of a vehicle rental company or car dealership, or with the knowledge of the owner, operator or agent that said vehicle is parked on the street, for the purpose of storing such vehicle. There shall be a rebuttable presumption that the vehicle has been parked upon the street by or with the knowledge of the owner, operator or agent of the rental car company or car dealership for storage purposes if the vehicle is parked upon the street within two square blocks of the place of business of the rental company or car dealership. Each vehicle parked in violation of this subsection shall constitute a separate offense;
37. Upon any designated bicycle lane;
38. Upon any designated fire lane on public or private property;
39. Within any access aisle located next to a space reserved for persons with physical disabilities.
40. Within any parking space or area signed as a City of Bellingham permit parking area, unless the person possesses a valid parking permit and the vehicle is registered under the permit. A violating vehicle may be summarily impounded in the manner provided by this title for unlawfully parked vehicles.

The impounding of such vehicle shall not prevent or preclude other enforcement in the municipal court or elsewhere for violation of this title. The restrictions that apply to any permit parking area within a shelter protection area established by ordinance shall include the following:

(a) No person shall enter or remain in parking stalls for any purpose other than to park or retrieve a motor vehicle or to place or retrieve an item of personal property in the motor vehicle; and

(b) No person shall use the parking area or vehicle for the purpose of housing or camping, including but not limited to, dwelling, sleeping, bathing, cooking, or use as a restroom.

The restrictions set forth in BMC 11.33.060(A)(40)(a) and (b), shall not apply to any permit parking area in the public right-of-way other than those that are within an area established by ordinance.

Violation of any permit condition or restriction imposed by ordinance or the city's traffic engineer may result in revocation of the permit. Following revocation, the violator and vehicle registered with the city shall be subject to a three month restriction from obtaining a permit for the lot where the violation occurred. Any such revocation shall be determined by the director of the department of public works who shall send a written notice to the permit holder, which notice shall contain the following information: that the permit will be revoked not sooner than 7 days from the date of the letter; that unless a written notice of appeal is filed with the department of public works, the permit will be deemed revoked; that if a written notice of appeal is filed within the required time, a hearing will be set; and the reasons for the revocation. Revocation appeals shall be heard and determined by the director of the department of public works. There shall be no refund based on time remaining on the permit following revocation.

B. Parking or standing shall be permitted in the manner provided by law at all other places except a time limit or other parking restriction may be imposed at other places by the city's traffic engineer under the supervision of the public works director. Official signs, including temporary signs, that establish time-limited parking or prohibit parking at certain times or entirely shall be enforceable according to their terms 24 hours after posting, including in areas where parking is otherwise permitted up to 72 hours.

C. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

D. It shall be unlawful for any person to reserve or attempt to reserve any portion of a highway for the purpose of stopping, standing, or parking to the exclusion of any other like person, nor shall any person be granted such right, except as provided in BMC [11.33.190](#).

E. It shall be unlawful for any person to remove or erase chalk marks placed on a vehicle's tire by a police officer or parking control official without first removing the vehicle beyond the block where the vehicle was located when the chalk marks were placed on the tire. [Ord. 2014-11-060 § 1; Ord. 2011-07-038; Ord. 2002-04-035 § 3; Ord. 2001-02-010; Ord. 2000-10-066; Ord. 1999-04-020].

Section 3: BMC 10.24.070 is hereby amended as follows:

10.24.070 Sitting or lying on public sidewalks prohibited.

A. Prohibition. No person shall sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, bollard, planter, fountain, railing or any other object placed upon a public sidewalk, during the hours between 7:00 a.m. and 9:00 p.m. in the following zones:

1. Central Business District ("CBD"). The central business district, for the purposes of this section, is the area bounded by the streets hereafter named, including said streets and their abutting sidewalks: on the east bounded by State Street from Whatcom Creek to Maple Street, on the south Maple Street from State Street to Cornwall Street to the intersection of Chestnut and Bay Street, on the west from the intersection of Chestnut and Bay Street to Champion Street, on the southwest from Champion Street to the intersection of Cornwall and York Street, on the north from the intersection of Cornwall and York Street to Railroad and up to Whatcom Creek between Railroad and State Street.
2. The Fairhaven Business District ("FBD"). The Fairhaven business district, for the purposes of this section, shall be defined by the area bounded by the streets hereafter named, including said streets and their abutting sidewalks: the area bounded by Mill Avenue on the north from 10th Street to 13th Street to Larrabee Avenue on the east, Larrabee Avenue on the south from 13th Street to 10th Street from Larrabee to Mill Avenue on the west. In addition the prohibited area in the Fairhaven business district shall include 12th Street from Larrabee to Cowgill and Harris Avenue from 10th Street to 4th Street.

B. Prohibition – Shelter Protection Area. No person shall sit or lie down upon a public sidewalk, street, curb, parking lot, parking stall, planting strip, street median, landscaping bed, parking lot median, parkway, trail or right-of-way or upon a blanket,

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chair, stool, bollard, planter, fountain, railing or any other object placed upon a public sidewalk, street, curb, parking lot, parking stall, planting strip, street median, landscaping bed, parking lot median, parkway, trail or right-of-way within a shelter protection area established by ordinance.

CB. Exceptions. The prohibitions in subsections (A) and (B) of this section shall not apply to any person:

1. Sitting or lying down ~~on a sidewalk~~ due to a medical emergency.
2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public ~~right-of-way sidewalk~~.
3. Operating or patronizing a commercial establishment conducted on the public ~~right -of-way sidewalk~~ pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public ~~right-of-waysidewalk~~ pursuant to a street use or other applicable permit;
4. Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;
5. Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by BMC 10.24.010 (Disorderly conduct) or BMC 10.24.040 (Pedestrian interference).

DC. No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

ED. A violation of this section shall be a civil infraction and shall subject the violator to a fine of up to \$250.00, plus statutory assessment. If the person is unable to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty. The default amount shall be \$100.00.

FE. Notwithstanding and in lieu of the penalties provided under subsection (ED) of this section, a person violating this section shall, upon conviction for a third or subsequent offense, be guilty of having committed a criminal misdemeanor and shall be punished by a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or by both such fine and imprisonment.

Section 4: The City Attorney and the codifiers of this ordinance are authorized to make necessary clerical corrections including, but not limited to, the correction of scriveners/clerical errors, references, ordinance numbering, section/subsection numbers and any reference thereto.

Section 5: If any section, sentence, clause, or phrase (i.e., provision) of this ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision and the remainder of this ordinance, or the application of such provisions to other persons or circumstances, shall not be affected.

PASSED by the Council this _ day of _____, 2020.

Council President

APPROVED by me this _ day of _____, 2020.

Mayor

ATTEST: _____

Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published:

