First Amendment
TEMPORARY SHELTER PERMIT
USE2019-0016 – 210 McKenzie Avenue

Project Description: On June 26, 2019, the City issued a Temporary Shelter Permit to HomesNOW’s approving its proposal to operate a temporary tiny house encampment for people experiencing homelessness, “Unity Village,” in the northwestern portion of the parking lot at 210 McKenzie Avenue from August 24, 2019, through April 30, 2020, provided the permit conditions were strictly followed. Unity Village provides up to 20 tiny houses for overnight shelter for up to 28 people (“guests”) and amenities such as bathrooms, showers, drinking water, an outdoor kitchen, garbage and recycling containers, and human and social services. HomesNOW applied for and has been operating its Unity Village under Bellingham Ordinance No. 2018-10-019, which includes regulations for temporary shelters, and the Temporary Shelter Permit issued by the City. In response to the COVID-19 outbreak, the City’s Mayor has declared a local public health emergency. To avoid moving HomesNOW’s temporary tiny house encampment to another site during the public health emergency, the City amends the Temporary Shelter Permit (First Amendment) to extend the end date from April 30, 2020 to 90 days after the end date of the local public health emergency. Additional health/safety measures and precautions are needed for continued operations at Unity Village. The Temporary Shelter Permit USE2019-0016 is hereby amended with Findings of Fact, Conclusions, and Decision Conditions incorporated by reference, modified, and added, as described herein. References to “guests” in this First Amendment mean guests of HomesNOW, an independent Washington state non-profit corporation. HomesNOW is the managing agency of the encampment.

Project Location: A portion of the parking lot at 210 McKenzie Avenue, Bellingham, WA; Fairhaven Neighborhood, Fairhaven Urban Village Zoning, Industrial Area 3

Applicant: Homes Now!, 432 W. Bakerview Road, Bellingham, WA 98226; contact Jim Peterson, 360-319-2150 HomesNOW, 1441 St. Paul Street, Bellingham, WA 98229; contact Doug Gustafson, 360-224-3727

Decision: Approved with conditions on June 26, 2019.

Date of Amendment: April 17, 2020

I. FINDINGS OF FACT

Findings of Fact 1-34 from the Temporary Shelter Permit, USE2019-0016, are incorporated by reference into this First Amendment, except Findings of Fact 12 and 31 P, which are modified as follows:
12. Unity Village will provide safe and stable shelter in up to 20 tiny houses for up to 28 people experiencing homelessness from August 24, 2019, through April 30, 2020, while they actively seek permanent housing. One additional tiny house will serve as the overnight shelter for the on-site supervisor. **The April 30, 2020, end date will be extended to 90 days after the end date of the local emergency. The end date of the local emergency shall be determined by the issuance of a subsequent written proclamation or order by the City of Bellingham Mayor. Any subsequent extensions will not be authorized beyond August 23, 2021 (total duration of two years).**

31. Comments and questions from 64 people (**Exhibit D**) were submitted by the public comment period deadline and have been thoroughly reviewed by City staff. Emails from two additional people were submitted after the public comment period deadline, which was June 14, 2019, at 5 pm. Issues raised in the public comments have been consolidated into key concerns and specific comments. Staff has responded to key concerns in A-C below and specific comments in D-P below.

**P. What happens when the permit expires? There is no guarantee the encampment will leave the site once the permit expires.**

The permit expires on April 20, 2020. The permit is not able to be extended at this location. **In response to the COVID-19 outbreak and associated emergency, the end date will be extended.** Per the requirements of this permit, guests are required to sign an acknowledgement that they are aware of the limited term of this approval and agree to leave the site on or before the date the permit **or any subsequent extension[s]** expires. Copies of each signed acknowledgement shall be provided to the City as soon as they are signed. The Unity Village proposal states that Homes Now! intends to find a new site to host its encampment after the Unity Village permit expires. In the event no property is identified, Lummi Nation has agreed to allow the tiny houses on their site. Homes Now! will also work with each guest to identify potential alternative housing options if another encampment site has not been secured by the Unity Village end date.

The following additional Findings of Facts are made:

35. **Bellingham Municipal Code (BMC) 20.15.040 outlines the duration limits for temporary encampments and allows for extensions to be granted. The Unity Village permit allows the encampment from August 24, 2019, to April 30, 2020, provided the conditions of approval are strictly followed. The permit states that “the temporary shelter permit approval will not be renewable or able to be extended at this location beyond April 30, 2020.”**

36. **On February 20, 2020, HomesNOW applied for a new temporary shelter permit to relocate Unity Village and operate a new temporary tiny house encampment (“Unity Village 2.0”) in a portion of the City-owned former Clean Green site at the intersection of Woburn Street and Lakeway Drive at 1399 Woburn Street. The requested operation timeline was for two years from May 1, 2020 – April 30, 2022.**

37. **On March 12, 2020, Mayor Fleetwood of the City of Bellingham signed a Proclamation of Local Emergency in response to the COVID-19 pandemic in Whatcom County.**
38. Relocation of the temporary tiny house encampment to the proposed “Unity Village 2.0” site at 1399 Woburn Street would require residents and volunteers to work in very close proximity to facilitate the dismantling, transport and assembly of the tiny houses, supporting structures, and other site fixtures. This proximity would be contrary to social distancing and group assembly pandemic safety recommendations issued by the U.S., State, and Whatcom County Department’s of Health.

39. After the emergency end date (date unknown) it will take time for the temporary shelter to either relocate or close. Providing a period of time after the end of the emergency will ensure the temporary shelter has adequate notice and transition time to relocate or cease operations after the end of the emergency.

40. The COVID-19 outbreak is a threat to public health, safety, and welfare. As such, additional related health/safety measures and precautions are needed to protect Unity Village guests, non-guest volunteers, board members, or other members of the public.

41. Guests and volunteers at Unity Village rely on shared facilities including wash stations, port-a-potties and an open-air kitchen. This environment by its very nature is more difficult to keep germ-free. Although the proponents have instituted a cleaning regime to avoid contamination and infection of common facilities, reducing variables - such as limiting access to the community and self-isolation - will be necessary to reduce risk to the guests, volunteers, and public.

42. HomesNOW has modified its operations due to COVID-19, by implementing a series of new protocols in response to U.S., State, and Whatcom County Department’s of Health recommendations. These protocols include but are not limited to appropriate measures for disseminating information, ensuring social distancing and hygiene, and responding to potential COVID-19 symptoms and sickness in the encampment.

43. Since USE2019-0016 permit issuance, the City has identified other new conditions to protect public health/safety and to ensure the successful operation of the encampment for the duration of the permit extension(s).

II. CONCLUSIONS

Conclusions of Law 1-7 from the Temporary Shelter Permit, USE2019-0016, are incorporated by reference into this First Amendment, and the following Conclusion of Law is made:

8. In response to the COVID-19 pandemic, it is in the public interest to extend the end date of USE2019-0016 for the duration of the proclaimed local public health emergency, with adequate notice and transition time for the temporary tiny house encampment after the end of the emergency.

III. DECISION
The Decision Conditions 1-50 from the Temporary Shelter Permit, USE2019-0016, are incorporated by reference into this First Amendment. Conditions 4, 9, 11, 15, and 40 are modified as follows:

4. The City has concluded that appropriate standards, requirements and conditions have been established to protect public health/safety and to ensure the successful operation of the encampment for the duration of the approved permit. Violations of any of the required provisions of Ordinance 2018-10-019 and/or the conditions of the permit will be assessed by the City on a case-by-case basis with the expressed intent of seeking timely compliance. However, certain actions and activities that significantly increase risk to both encampment guests and the general public shall warrant the closure of the encampment. The temporary encampment will be subject to immediate closure for cause and revocation of the permit should any of the following occur:
   a. Violation(s) of any conditions of approval (which cannot be immediately remedied by Homes Now!) that would present an adverse health and/or safety risk to Homes Now!’s guests, visitors, and/or the general public.
   b. The required on-site supervision of the temporary encampment by a Homes Now! board member or non-resident volunteer is found not to occur.
   c. The required on-site supervision is found to be inadequate to control behaviors occurring within the temporary encampment.
   d. Obstruction of City and county staff, including police officers, fire and emergency crews, and approved social service agency personnel (e.g. caseworkers, counselors, the Homeless Outreach Team (HOT), etc.), from having unrestricted access to the common areas of the site by Homes Now!’s board members, guests, or visitors.
   e. Refusal by Homes Now! to provide a list of guests and visitors upon the request of the BPD or other City department.
   f. Any series of events that the Chief of Police or Fire Chief deem to be a danger to the temporary encampment and/or surrounding community, including calls for service regarding assaults, disorderly behavior, or illegal substance use.
   g. Repeated violations of the code of conduct.
   h. Criminal conduct or multiple violations of the permit conditions by Homes Now!’s board members, guests and visitors.
   i. Demonstrated inability of Homes Now!’s board members and other site managers to operate the encampment consistent with Ordinance 2018-10-019, the temporary shelter application and the conditions of approval.
   j. An outbreak of COVID-19 amongst Unity Village guests that poses a significant threat, as determined by the City in consultation with the Whatcom County Health Department, to the safe and successful operation of the encampment.

9. The temporary shelter permit shall be issued for the dates August 24, 2019 – April 30, 2020, provided the conditions of approval are strictly followed. The temporary shelter permit approval will not be renewable or able to be extended at this location beyond April 30, 2020. The end date of permit USE2019-0016 will be extended to 90 days after the end date of the local public health emergency. The end date of the local public health emergency is unknown but shall be determined by issuance of a subsequent written proclamation or order by the City of Bellingham Mayor. Any subsequent extension(s) will not be authorized beyond August 23, 2021 (total duration of two years).
11. No visitors other than essential case workers, volunteers, and individuals in supporting roles shall be admitted to Unity Village. After the public health emergency has ended OR the Whatcom County Health Department lifts recommendations that limit group assembly, Homes NOW’s guests may invite visitors to enter the temporary encampment, but in no case shall more than one visitor of a guest be admitted at one time. Visitors shall stay with their guests for the duration of the visit. Visitors shall not be allowed to stay overnight. No large gatherings of visitors are permitted.

15. Guests shall be required to sign an acknowledgement that they are aware of the limited term of this approval and agree to leave the site on or before the date the permit or any subsequent extension(s) expires. Copies of each signed acknowledgement shall be provided to the City as soon as they are signed.

40. A Homes Now! board member shall meet no less than weekly with representatives of the BPD and/or PCDD to review issues associated with the operation of the temporary encampment. The meeting shall occur every Friday at 11 am at City Hall or at the encampment site, unless a mutually agreed upon time or location change is approved. For the duration of the local emergency, the meeting shall take place using a virtual meeting platform. The purpose of this meeting is to develop and implement (as needed) strategies to address identified issues. Additionally, the meeting will review necessary accommodations and protocols in response to COVID-19.

The following additional Decision Conditions are added:

51. All individuals and Unity Village operations shall adhere to up-to-date Whatcom County Health Department guidance and CDC guidance related to COVID-19, especially as it pertains to people experiencing unsheltered homelessness. Up-to-date guidance and information shall be posted in a visible location on site at all times.

52. HomesNOW shall immediately report to City staff any confirmed cases of COVID-19 amongst Unity Village guests.

53. To protect the guests, volunteers, and public from increased exposure to COVID-19, no new guests, new non-guest volunteers, new board members, or non-essential visitors shall be admitted to Unity Village until such time as the public health emergency has ended OR the Whatcom County Health Department lifts recommendations that limit group assembly. HomesNOW shall implement and adhere to protocols to minimize, as much as reasonably possible, in-person interactions on and off-site.

54. The Board of Directors of HomesNOW shall approve and individually sign an agreement with the City that acknowledges the end date of the extension and that there will be no extension of time at this location beyond 90 days after the end date of the local emergency, unless authorized by the City through a subsequent amendment.

55. HomesNOW shall prepare an individualized personal action plan for all guests. The plan shall identify goals for the guest and shall detail the agreed-upon steps that will assist the guest in finding permanent housing. These plans shall be prepared within 30 days of a
guest’s entry into Unity Village 2.0. A case manager shall be assigned to each guest. A roster that identifies the guest and the assigned case manager shall be provided to the city on a monthly basis.

56. Prior to issuance of the temporary shelter permit amendment, HomesNOW shall withdraw its permit application (USE2020-0010) to relocate Unity Village to a new location (Unity Village 2.0.)

57. Prior to issuance of the temporary shelter permit amendment, HomesNOW shall sign a revised, extended license agreement granting HomesNOW the legal right to continue using City property, and the license agreement shall be maintained in full force and effect for the duration of the temporary shelter permit extension(s). The license agreement will contain terms and conditions in addition to the conditions imposed as part of the permit.

Approved By:

[Signature]

Kurt Nabbefeld
Development Services Manager