

**CITY OF SAMMAMISH  
WASHINGTON**

**ORDINANCE NO. 02014-372**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON, RELATING TO TEMPORARY  
HOMELESS ENCAMPMENT REGULATIONS AND  
SPECIFICALLY AMENDING EXHIBIT A TO SMC  
SECTION 20.05.020; AMENDING SMC CHAPTER 21A.15;  
AMENDING SMC SECTION 21A.70.010; ADOPTING A  
NEW SMC SECTION 21A.70.195; PROVIDING FOR  
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE  
DATE**

WHEREAS, both the First Amendment to the United States Constitution and Article 1 Section 11 of the Washington State Constitution protect the free exercise of religion; further, the Religious Land Use and Institutionalized Persons Act of 2000 prohibits governments from imposing land use regulations that unreasonably limit religious assemblies, institutions or structures; and

WHEREAS, RCW 35A.21.360 expressly authorizes religious organizations to host temporary encampments for homeless persons on property owned or controlled by religious organizations, and likewise authorizes cities to establish permit or other regulatory conditions necessary to protect public health and safety, provided, however, that they do not substantially burden the decisions or actions of religious organizations providing housing or shelter for homeless persons on property owned or controlled by religious organizations; and

WHEREAS, the City of Sammamish ("City") and its elected and appointed officials are committed to protecting the health, safety and well-being of its citizens; and

WHEREAS, in 2013 the City granted Tent City 4 a sixty (60) day temporary use permit, and a thirty (30) day extension of that temporary use permit to allow the homeless encampment to operate on church property within the City from October 19, 2013 to January 17, 2014; and

WHEREAS, the City gained valuable knowledge and experience from the 2013 Tent City 4 homeless encampment with regard to the needs of homeless encampments and the citizens of the City; and

WHEREAS on January 14, 2014, the City Council adopted Ordinance No. 02014-365, a six (6) month moratorium on the acceptance, processing, or approval of any application for a temporary use permit or any other approval for temporary homeless encampments; and

WHEREAS, pursuant to the City Council's directive in the moratorium, City staff diligently prepared draft changes to the City code to address safety, health and welfare issues related to temporary homeless encampments; and

WHEREAS, on March 6, 2014, the City of Sammamish Planning Commission was briefed on the temporary homeless encampment issues and began its review of the proposed code changes; and

WHEREAS, the City issued a SEPA Determination of Non-Significance for the proposed temporary homeless encampment regulations on April 29, 2014; and

WHEREAS, in accord with the requirement set forth in RCW 36.70A.106, the City provided the Washington State Department of Commerce notice of the City's intent to adopt the proposed temporary homeless encampment regulations on April 11, 2014; and

WHEREAS, the Planning Commission held a public hearing on the proposed changes on March 20, 2014, and made its final recommendations on proposed temporary encampment regulations to the City Council on May 13, 2014; and

WHEREAS, the City Council considered the Planning Commission's recommendations and held an open record public hearing on June 3, 2014, and held a second reading on July 1, 2014; and

WHEREAS, having considered the record before it, the City Council finds that no more than one homeless encampment shall be permitted in the City at any one time and no more than one homeless encampment shall be permitted in the City within a 365 day period due to the limitations on City resources and services that are necessary to support temporary homeless encampments; the City Council further finds that these limitations on resources and services would cause public health, safety and welfare impacts if more than one temporary homeless encampment was authorized at a time or within 365 consecutive days; and

WHEREAS, having considered the record before it, the City Council finds that a particular site may only host a temporary homeless encampment once every eighteen (18) months in order to lessen and disburse throughout the City the health, safety and welfare impacts to existing uses located adjacent to temporary homeless encampment sites; and

WHEREAS, having considered the record before it, the City Council finds that increasing the permit duration from sixty (60) days, as previously established in the Sammamish Municipal Code for temporary uses, to four consecutive calendar months for homeless encampments does not measurably increase the health, safety and welfare impacts to adjacent neighborhoods and City services, but does have the benefit of allowing homeless encampments greater flexibility and certainty; and

WHEREAS, having considered the record before it, the City Council finds that mandatory checks for criminal warrants and sex offender status prior to a temporary homeless

encampment occupying a site, and prior to any new resident moving into a temporary homeless encampment, will address health, safety and welfare impacts to adjacent neighborhoods;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. Exhibit A to SMC 20.05.020, Amended.** Exhibit A (Land Use Decision Type) to Sammamish Municipal Code Section 20.05.020 (Classifications of land use decision processes) is hereby amended to read as follows:

**Exhibit A**

**LAND USE DECISION TYPE**

<p><b>Type</b> <b>1</b></p>	<p>Decision by director, no administrative appeal</p>	<p>Building; clearing and grading; boundary line adjustment; temporary use; TDR sending site certification; right-of-way; road variance except those rendered in conjunction with a subdivision or short plat decision<sup>1</sup>; variance from the requirements of Chapter 9.04 KCC as adopted by Chapter 15.05 SMC; shoreline exemption; approval of a conversion harvest plan; <u>temporary homeless encampment use permit</u><sup>2</sup></p>
<p><b>Type</b> <b>2</b></p>	<p>Decision by director appealable to hearing examiner, no further administrative appeal</p>	<p>Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; shoreline substantial development permits (SSDPs); procedural and substantive SEPA decision; site development permit; approval of residential density incentives; reuse of public schools; reasonable use exceptions under SMC 21A.50.070(2); preliminary determinations under SMC 20.05.030(3); critical areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based on the requirements of Chapter 21A.50 SMC; binding site plan; unified zone development plan under Chapter 21B.95 SMC<sup>3</sup></p>
<p><b>Type</b> <b>3</b></p>	<p>Recommendation by director, hearing and decision by hearing examiner appealable to superior court</p>	<p>Preliminary plat; plat alterations; preliminary plat revisions; plat vacations; zone reclassifications<sup>24</sup>; urban planned development; special use</p>
<p><b>Type</b> <b>4</b></p>	<p>Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board</p>	<p>Shoreline variances; shoreline conditional use permits</p>

- <sup>1</sup> The road variance process is administered by the City engineer pursuant to the City's street standards as set forth in the public works standards.
- <sup>2</sup> ~~Subject to the notice requirements of SMC 21A.70.195(4). Approvals that are consistent with the interim comprehensive plan may be considered by the examiner at any time. Zone reclassifications that are not consistent with the interim comprehensive plan require a site-specific land use map amendment and the City council's hearing and consideration will be scheduled with the amendment to the interim comprehensive plan pursuant to SMC 24.25.040 and 24.25.050.~~
- <sup>3</sup> Subject also to the procedural requirements of SMC 20.05.037 and Chapter 21B.95 SMC.
- <sup>34</sup> ~~Subject also to the procedural requirements of SMC 20.05.037 and Chapter 21B.95 SMC. Approvals that are consistent with the interim comprehensive plan may be considered by the examiner at any time. Zone reclassifications that are not consistent with the interim comprehensive plan require a site-specific land use map amendment and the City Council's hearing and consideration will be scheduled with the amendment to the interim comprehensive plan pursuant to SMC 24.25.040 and 24.25.050.~~

**Section 2. SMC Chapter 21A.15, Amended.** Sammamish Municipal Code Chapter 21A.15 (Technical Terms and Land Use Definitions) is hereby amended to include the following new definitions. All other definitions set forth in SMC Chapter 21A.15 shall remain as currently enacted. The Code Reviser is authorized to re-number any sections of SMC Chapter 21A.15 necessary to keep all definitions in alphabetical order. The new definitions to be included shall read as follows:

Homeless encampment.

"Homeless Encampment" means a site for a group of homeless persons temporarily residing on a site, either out of doors or in a building.

Managing agency.

"Managing Agency" means an organization that is responsible for organizing and managing a Homeless Encampment. (Note: The Managing Agency may be the same entity as the Sponsor.)

Religious organization.

"Religious Organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

Sponsor.

"Sponsor" means an entity that is hosting a Homeless Encampment on property it owns or controls and that serves as a liaison with the surrounding community.

**Section 3. SMC 21A.70.010, Amended.** Sammamish Municipal Code Section 21A.70.010 (Purpose) is hereby amended to read as follows:

The purposes of this chapter are to:

- (1) Establish the legal status of a nonconformance by creating provisions through which a nonconformance may be maintained, altered, reconstructed, expanded or terminated;
- (2) Provide for the temporary establishment of uses that are not otherwise permitted in a zone and to regulate such uses by their scope and period of use; and
- (3) Provide a permitting process and standards for homeless encampments for homeless persons, consistent with state laws; and
- (4) Encourage the adaptive re-use of existing public facilities that will continue to serve the community, and to ensure public review of redevelopment plans by allowing:
  - (a) Temporary re-use of closed public school facilities retained in school district ownership, and the reconversion of a temporary re-use back to a school use;
  - (b) Permanent re-use of surplus nonresidential facilities (e.g., schools, fire stations, government facilities) not retained in school district ownership; or
  - (c) Permanent re-use of historic structures listed on the National Register or designated as county landmarks.

**Section 4. New SMC 21A.70.195 (Temporary Homeless Encampment Use Permit), Adopted.** A new section of Sammamish Municipal Code Chapter 21A.70 (Nonconformance, Temporary Uses, and Re-Use of Facilities) is hereby adopted to read as follows:

21A.70.195 Temporary homeless encampment use permit.

Homeless Encampments are allowed only pursuant to a Homeless Encampment Use Permit, which shall be a Type I permit issued by the Director in accordance with the following conditions:

(1) For the purposes of this section a Homeless Encampment may only be hosted by a Religious Organization, and must be located on real property owned or controlled by the Religious Organization.

(2) Duration and frequency.

(a) No Homeless Encampment shall operate within the City of Sammamish for more than four (4) consecutive calendar months.

except that the Director may allow up to five (5) additional days to accommodate moving onto or off a site.

(b) The Director shall not grant a Homeless Encampment Use Permit that is proposed to commence on a site that contained a Homeless Encampment within the last eighteen (18) calendar months. For the purposes of this subsection, the 18 months shall be calculated from the last day of the prior Homeless Encampment's occupancy.

(c) No more than one Homeless Encampment may be located in the City at any time.

(d) No more than one Homeless Encampment within the City limits shall be allowed in any period of 365 consecutive days.

(3) All Homeless Encampments shall obtain, prior to occupancy, all applicable City of Sammamish and other agency permits, licenses and approvals.

(4) Permit process requirements.

(a) Neighborhood meeting. The applicant shall conduct a neighborhood meeting to inform nearby residents and the public about the proposed Homeless Encampment prior to submittal of an application.

(i) The applicant shall provide notice of the neighborhood meeting by mail, first class and postage prepaid, to all owners of real property within 500 feet of the lot(s) containing the proposed Homeless Encampment, provided such area shall be expanded as necessary to send mailed notices to at least 20 different property owners. The notice of the neighborhood meeting shall be mailed at least fifteen (15) days prior to the neighborhood meeting.

(ii) Prior to the neighborhood meeting, a representative of the Sponsor and Managing Agency shall meet and confer with the following entities regarding the neighborhood meeting and any proposed security measures for the Homeless Encampment: the Sammamish police department; the administration of any public or private elementary, middle, junior high, or high school; and the operators of any properly licensed child care service, within 500 feet of the boundaries of the proposed site, and unaffiliated with the Sponsor.

(iii) At the neighborhood meeting, a representative of the Sponsor and Managing Agency shall present in writing and verbally the

proposed Homeless Encampment location, timing, site plan, code of conduct, encampment concerns, and a security management plan. The presentation shall also include copies of all previously submitted comments received on the proposed Homeless Encampment, including comments from the Sammamish police department, schools, and child care services. Copies of the agenda and the other specified comments and materials shall be provided by the applicant at the meeting. The meeting shall be conducted on the proposed Homeless Encampment site whenever feasible.

(b) Application. An applicant shall submit a complete application for a Homeless Encampment Use Permit at least thirty (30) days before the occupancy of a Homeless Encampment.

(c) Notice of Application. The City shall provide a notice of application per the mailed notice requirements of SMC 20.05.060(7).

(d) Warrant and sex offender checks. Managing Agencies shall obtain warrant and sex offender checks from the King County Sheriff's Office ("Warrant Check") for all Homeless Encampment residents. For Homeless Encampment residents initially moving onto the site with the Homeless Encampment, the Warrant Check must be completed at least seven (7) days prior to the Homeless Encampment moving onto the site. For residents moving into the Homeless Encampment during the permit period, the Warrant Check must be completed on or before the date that the new resident moves on site. If a Warrant Check reveals a Homeless Encampment resident or prospective resident is or is required to be a registered sex offender or has an active warrant, the Managing Agency or Sponsor shall immediately contact and so advise the City of Sammamish police department. The Sponsor shall be responsible for verifying that the Warrant Checks occurs.

(5) Parking, Transportation, and Security.

(a) Parking.

(i) Each lot occupied by a Homeless Encampment must provide or have available a parking and vehicular maneuvering area.

(ii) A Homeless Encampment and the parking of any vehicles associated with a Homeless Encampment shall not displace the Sponsor site's parking lot in such a way that the Sponsor site no longer meets the minimum or required parking of the principal use as required by code or previous approvals unless an alternative parking plan has first been approved by the Director.

(b) Transportation Plan.

- (i) The Sponsor or Managing Agency shall submit a plan with the permit application demonstrating the ability for residents to obtain access to methods of communication and services such as grocery, supplies, and medical care.
- (ii) The plan shall provide for a means of transportation to an appropriate public transportation stop and include any proposed alternative means of transportation such as private or volunteer shuttle service and/or reasonable bicycle/pedestrian paths.

(c) Security Management Plan.

- (i) The Sponsor or Managing Agency shall submit a plan with the permit application demonstrating security measures, site specific or otherwise, necessary to ensure the safety of the residents of the temporary encampment and the public.
- (ii) At a minimum, the plan shall specify the following:
  - (A) The person or entity responsible for providing security;
  - (B) The type of security to be used, e.g., private security firm, volunteers, or other means; and
  - (C) Recommendations and/or requirements provided by the police department.

(6) Maximum Occupancy. A Homeless Encampment shall be limited to a maximum occupancy not to exceed 100 persons, depending on the conditions of the proposed site (e.g., physical size, topography, site constraints, etc.). A Homeless Encampment Use Permit may be conditioned to establish occupancy of less than 100 persons, depending on the conditions of the proposed site. After a Homeless Encampment reaches its maximum capacity, any individual who arrives after sundown (and who meets all screening criteria) will be allowed to stay for one night, after which the individual shall not be permitted entry until a vacancy is available. Such occurrences shall be logged and reported to the Director on a weekly basis.

(7) Minor Residents. No children under the age of 18 shall be allowed to stay overnight in a Homeless Encampment unless accompanied by a parent or legal guardian. If any other child under the age of 18 attempts to stay overnight at a Homeless Encampment, the Managing Agency shall immediately contact the Washington State Department of Social and Health Services Child Protective Services, or its successor.

(8) Structures. Any permanent structures, as determined by the Director, shall meet the requirements of all SMC provisions and receive any necessary permits. All temporary structures for Homeless Encampments shall comply with the following requirements:

- (a) Homeless Encampment structures and facilities shall be located a minimum of 20 feet away from any property line, unless otherwise approved by the Director;
- (b) A six-foot-high sight-obscuring fence, vegetative screen or other visual buffering shall be provided between a Homeless Encampment and any abutting residential property. The Director shall consider existing vegetation, fencing, topographic variations and other site conditions in determining compliance with this requirement and may modify the fence requirement when the objective is substantially achieved by other means;
- (c) Exterior lighting must be directed downward, away from adjoining properties, and contained within the Homeless Encampment; and
- (d) If the Homeless Encampment includes tents or membrane structures in excess of 400 square feet, or canopies in excess of 400 square feet, as defined by the International Fire Code, then a permit and approval for the tent, canopy or membrane structure shall first be obtained from the fire marshal.

(9) Smoking Area. A designated smoking area shall be provided on site in the location which would result in the least impact on neighboring properties based on distance.

(10) Debris. Each site occupied by a Homeless Encampment shall be left free of debris, litter, or other evidence of the Homeless Encampment upon the Homeless Encampment moving from the site.

(11) Health Department Compliance. Homeless Encampments shall comply with all applicable standards of the Seattle-King County health department, or its successor.

(12) Code Compliance and Hours of Service. Homeless Encampments shall comply with all codes and regulations of the state of Washington, City, and other agencies with jurisdiction concerning, but not limited to, drinking water connections, human waste, solid waste disposal, electrical systems, cooking, food handling, and fire-resistant materials. Servicing of portable toilets and trash dumpsters is prohibited between the hours of 10:00 p.m. and 7:00 a.m. on Mondays through Fridays, and between the hours of 10:00 p.m. and 9:00 a.m. on Saturdays, Sundays, and legal holidays, except in the case of bona fide emergency or under the terms of a permit condition approved by the Director in the case of demonstrated necessity.

(13) Inspections. Homeless Encampments shall permit regular inspections by regulatory personnel, including but not limited to, City staff, police department, fire department, King County health department, and any other regulatory agencies with jurisdiction to check for permit and other code compliance by the Homeless Encampment.

(14) Required Services. Homeless Encampments shall have services such as food, water, and waste disposal supervised by the Sponsor or Managing Agency.

(15) Resident Log. The Managing Agency shall maintain a resident log of all people residing at the Homeless Encampment. Such log shall be kept on site at the Homeless Encampment. When signing the log, prospective encampment residents shall provide a state of Washington driver's license, state of Washington identification card, a driver's license or identification card issued by another state, or other similar document that confirms a person's identity. The Sponsor shall be responsible for verifying that the log is being properly kept and that the required identification is being provided.

(16) Code of Conduct. Sponsors and Managing Agencies shall ensure enforcement of a code of conduct at Homeless Encampment sites. The code of conduct shall substantially include the following:

- (a) Possession or use of illegal drugs and marijuana is not permitted;
- (b) No alcohol is permitted;
- (c) No weapons are permitted;
- (d) All knives over three and one-half inches must be turned in to the Managing Agency for safekeeping;
- (e) No violence is permitted;
- (f) No open flames are permitted;
- (g) No trespassing onto private property in the surrounding neighborhood is permitted;
- (h) No littering on the Homeless Encampment site or in the surrounding neighborhood is permitted; and
- (i) No convicted sex offender shall reside in the homeless encampment.

Nothing within this section shall prohibit a Sponsor or Managing Agency from imposing and enforcing additional code of conduct conditions not otherwise inconsistent with this section.

(17) Permit Violation Process. Upon a determination that there has been a violation of any condition of permit approval, the Director may give written notice to the Sponsor describing the alleged violation pursuant to SMC Title 23 and other applicable code authority, or may instead immediately pursue available judicial or other remedies. Any violation of a subsequently issued stop work order under SMC 23.70 is declared a nuisance and may be remedied by injunctive relief, revocation of the Homeless Encampment Use Permit and vacation of the site by the Homeless Encampment, or any other available remedy in law or equity.

(18) Health and Safety Permit Conditions. The Director may modify or establish any requirements necessary to mitigate impacts from Homeless Encampments on the public health and safety in accordance with the purpose of this chapter.

(19) Application. An applicant for a Homeless Encampment Use Permit shall submit all of the following, unless modified by the Director:

- (a) Application form for a Homeless Encampment Use Permit;
- (b) A site plan, which extends 50 feet beyond the proposed site's property boundaries, drawn to scale showing all of the following:
  - (i) All existing structures;
  - (ii) Existing parking stalls;
  - (iii) Parking stalls proposed to be unavailable for parking vehicles during the Homeless Encampment;
  - (iv) All proposed temporary structures;
  - (v) Proposed electrical and plumbing connections;
  - (vi) Location of trash receptacles, including trash dumpsters;
  - (vii) Location of toilets and other sanitary facilities;
  - (viii) Location and details of any proposed connection to wastewater, potable water, stormwater, electrical supply, or other public or private utility systems;
  - (ix) Proposed and existing ingress and egress;
  - (x) Any permanent alterations on the lot to the site or structures;
  - (xi) A designated smoking area; and
  - (xii) Access routes for emergency vehicles.

- (c) Proposed fencing or screening detail or a typical section of same;
- (d) Written authorization from the Sponsor on whose property the Homeless Encampment is to be located;
- (e) A copy of any agreements with other parties regarding use of parking, either on site or off site;
- (f) A copy of any agreement between the Sponsor, the Managing Agency, and any schools and/or child care services;
- (g) A copy of the code of conduct;
- (h) The applicant shall provide the following neighborhood meeting documentation:
  - (i) The date, time, and location of the meeting;
  - (ii) Contact information for all persons representing the Managing Agency and Sponsor at the meeting;
  - (iii) A summary of comments provided for the meeting attendees by the applicant, Managing Agency or Sponsor prior to or during the meeting;
  - (iv) A summary of comments received from meeting attendees or other persons prior to or during the meeting; and
  - (v) Copies of documents submitted or presented at the meeting.
- (i) The Transportation and Security Management Plans;
- (j) Any other information deemed necessary by the Director to protect public health and safety for the processing of a Homeless Encampment Use Permit; and
- (k) Application filing fees in an amount established by City resolution.

(20) Modification for Emergencies. The provisions herein shall not apply when for the preservation of public health and safety the situation necessitates a need for emergency management planning and the application of SMC 21A.05.040(5).

**Section 5. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 6. Effective Date.** This Ordinance shall be effective five days after passage and publication in the official newspaper of the City.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON JULY 1, 2014.**

CITY OF SAMMAMISH

  
\_\_\_\_\_  
Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Melonie Anderson, City Clerk

Approved as to form:

  
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Mike Kenyon, City Attorney

Filed with the City Clerk:	May 28, 2014
Public Hearing:	June 3, 2014
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