Comments on Homeless Encampments Code – Sammamish’s Proposed Ordinance as of 3/20/14

My name is Karen Studders. I am an attorney licensed in MN and NY, with extensive corporate, government and non-profit management experience, adept at resolving difficult regulatory and administrative legal challenges. I am currently staying at 410 Mt Jupiter Drive SW, Issaquah.

I want to thank you for your volunteer service as Planning Commission members. Your public service is appreciated. I was not able to attend your last public meeting held a few weeks ago, so forgive me if my comments are not timely; I read about the Sammamish City Council moratorium in the Seattle Times and heard about it from concerned congregations here on the eastside.

You asked me to provide my oral testimony in writing and to answer questions that Planning Commission members asked me. I am writing these comments and including the laws and documents I referred to in my oral testimony, for the record. I am volunteering, facilitating and advising underprivileged, homeless, homeless encampments and faith communities seeking to carry out their missions of serving the poor in Washington, and have spent much time since last Thursday night’s hearing trying to reach the affected faith communities.

I respectfully ask that Sammamish explicitly inform and communicate with all potentially impacted religious communities within its boundaries, and allow their comment into the public record BEFORE further advancing this ordinance, which directly affects religious institutions, to the City Council. I learned that Sammamish staff have communicated with five of the eleven affected institutions. However, the record does not indicate which religious institutions have been contacted nor what information was provided to them. Over the last several days I have worked with several people to compile a list of institutions and contacts and to do outreach, but we have not had time to meet with the institutions, nor do I know if any religious institutions have provided comments, other than Mary Queen of Peace who commented on March 20th.

At the hearing I read excerpts from several documents, including the King County 2005 Ordinance, paragraphs E-L, “The final report of the Citizen’s Advisory Commission on Homeless Encampments (CACHE) found that homeless encampments are not ideal but found that there is a need for the homeless encampments until more permanent housing is available across King County...Homeless encampments serve as an interim survival mechanism while King County continues its important work as a member of the regional Committee to End Homelessness in King County...The establishment of homeless encampments once generated concerns about the adequacy of notice to affected communities before their establishment. These concerns have been alleviated by following protocols that continue to advance... Homeless encampments therefore are often a last measure to assure safe haven for adult homeless persons.” (Emphasis added).

The Homeless statistics cited in Sammamish’s existing record are very outdated. In fact, from the 2014 One Night Count, a 14% increase in homelessness was found in King County. There are NO homeless shelters in Issaquah or Sammamish. We need tent cities to provide safety and community and support homeless people to get back on their feet.

Under the 2000 federal Religious Land Use and Institutionalized Persons Act (RLUIPA), the use
of religious land for purposes of ministry is protected:

(1) GENERAL RULE- No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution--
(A) is in furtherance of a compelling governmental interest; and
(B) is the least restrictive means of furthering that compelling governmental interest.

The federal law has a two parts. The important language is “a compelling government interest.” The burden is on the government, here Sammamish, to demonstrate how the terms in the proposed land use regulation advance a compelling government interest. In addition, once a compelling governmental interest is identified, the government is tasked with using the “least restrictive means” of furthering this interest.

In 2010, Washington state passed ESBH 1956 and added a new section to chapter 36.01 RCW, which adds clarity and reads as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.
(2) A county may not enact an ordinance or regulation or take any other action that:
(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;
(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or
(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.
(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.
(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

Upon review of Sammamish’s proposed ordinance, I count in excess of 25 instances of “shall”
and “must”, two instances of “shall not” and only three instances of the term “may”. While I understand the need to protect public safety, such as waste sanitation, clean water, noise, light and illegal activity, I request that the city identify the compelling government interest(s) that Sammamish seeks to protect by including over 27 directives on how religious institutions use their own land in serving the poor and homeless in Sammamish’s draft ordinance.

While Sammamish says it understands the federal law, it uses the language, “religious institutions enjoy,” which does not indicate an understanding of the rights of religious institutions under federal and Washington State law.

Neither the federal or state laws create a “standard” of a 90 day stay. AFTER the change in Washington law, Seattle passed its Faith Tent City Ordinance. While this ordinance includes health and safety guidelines, on faith owned/controlled property, as many tent cities can be operated for as long as they want to stay.

Some questions which need to be answered by Sammamish as it considers further refinements and revisions to this ordinance:

How many faith communities are located within a quarter mile bus stop?

Why does this ordinance prohibit private or government land from being used to house a homeless encampment?

Thank you,

Karen Studders

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The world we have created is a product of our thinking. We cannot solve problems by using the same kind of thinking we used when we created them.
--Albert Einstein

"You must be the change you want to see in the world."
"Your values become your destiny."
--Mahatma Gandhi

"Treat the earth well. It was not given to you by your parents. It was loaned to you by your children."
--Kenyan Proverb

"We are the ones we've been waiting for."
-- The Elders of the Hopi Nation