

AGENDA

City Council Special Meeting

6:30 PM - Monday, May 11, 2020

City Hall Council Chambers, Sammamish, WA

Page

Estimated
Time

MEETING ACCESSIBILITY

Pursuant to the Governor's emergency Proclamation 20-25, the City is unable to provide an in-person location for the public to listen to the virtual City Council meeting this evening. Meetings are still accessible to the public and public comment is able to be submitted.

To View Live:

- **City Website:** www.sammamish.us/news-events/tv-21/
- **City Facebook:** www.facebook.com/CityofSammamishWA/
- **Comcast Channel 21** (within Sammamish only)

To View Later: Meeting videos are available the day after the meeting:

- **City Website:** www.sammamish.us/news-events/tv-21/
- **YouTube:**
www.youtube.com/channel/UCouPqQz1MSudhAdgiriLC8A
- **Comcast Channel 21** (within Sammamish only)

CALL TO ORDER

6:30 pm

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

EXECUTIVE SESSION – IF NECESSARY

PUBLIC COMMENT

6:35 pm

Pursuant to the Governor’s emergency Proclamation 20-25, the City is unable to provide an in-person location for the public to listen to the virtual City Council meeting this evening. Meetings are still accessible to the public and public comment is able to be submitted.

Written Comment:

Written public comment will be accepted until 5:00 pm on the day of the meeting. Submit your written comments by email to the City Clerk at manderson@sammamish.us and citycouncil@sammamish.us.

Verbal Comment:

Up to 3 minutes of verbal public comment may be provided per person live during the meeting. Call the following number and input the access code when prompted by 6:30 pm the day of the meeting:

- Phone Number: **+1 (571) 317-3122**
- Access Code: **929-348-197**

Once you have joined, you will be placed on mute. The meeting operator will unmute you when it is your turn to comment.

You will hear an automated voice say “unmuted” when that occurs, and the operator will ask you to begin your comment.

CONSENT CALENDAR

PRESENTATIONS / PROCLAMATIONS

PUBLIC HEARINGS

UNFINISHED BUSINESS

7:05 pm

4 - 11

1. **Ordinance:**Amending Section 2 Of Ordinance O2020-501 Imposing A Six Month Moratorium On The Acceptance Of Certain Applications For Land Use, Development, And Building Permits Or Approvals Within The City Of Sammamish, To Prohibit New Applications For Concurrency Certificates Under SMC Chapter 14A.10, And Adding An Exception For Education Services Uses Classified Under SMC 21A.20.050(A); Providing For Severability; Declaring An Emergency; And Establishing An Immediate Effective Date

[View Agenda Item](#)

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2. **Ordinance:** Amending Sammamish Municipal Code Subsection 20.05.040.1(l) To Correct Code Sections And To Correct Terminology Citations; Providing For Severability; Declaring An Emergency; And Establishing An Immediate Effective Date

[View Agenda Item](#)

NEW BUSINESS

COUNCIL REPORTS/ CITY MANAGER REPORT

EXECUTIVE SESSION – IF NECESSARY

ADJOURNMENT

10:00 pm

City Council meetings are wheelchair accessible. American Sign Language (ASL) interpretation is available upon request. Please phone (425) 295-0500 at least 48 hours in advance. Assisted Listening Devices are also available upon request.

Agenda Bill
 City Council Special Meeting
 May 11, 2020



SUBJECT:	Ordinance: Amending Section 2 of Ordinance O2020-501 imposing a six-month moratorium on the acceptance of certain applications for land use, development, and building permits or approvals within the City of Sammamish, to prohibit new applications for concurrency certificates under SMC Chapter 14A.10, and adding an exception for Education Services Uses classified under SMC 21A.20.050(A); providing for severability; declaring an Emergency; and establishing an immediate effective date.	
DATE SUBMITTED:	May 07, 2020	
DEPARTMENT:	Community Development	
NEEDED FROM COUNCIL:	<input checked="" type="checkbox"/> Action <input type="checkbox"/> Direction <input type="checkbox"/> Informational	
RECOMMENDATION:	Consider amending the Development Moratorium passed on April 21, 2020 (Ordinance No. O2020-501) in accordance with direction given at the City Council Regular Meeting on May 5, 2020 to focus on prohibiting new applications for concurrency certificate.	
EXHIBITS:	1. Exhibit 1 - Option A - Draft Amendment to O2020-501 - Schools Exception 2. Exhibit 2 - Option B - Draft Amendment to O2020-501 - Parks, Schools, Government Facilities Exception	
BUDGET:		
Total dollar amount	N/A	<input type="checkbox"/> Approved in budget
Fund(s)	N/A	<input type="checkbox"/> Budget reallocation required
		<input checked="" type="checkbox"/> No budgetary impact
WORK PLAN FOCUS AREAS:		
<input type="checkbox"/> Transportation	<input type="checkbox"/> Community Safety	
<input type="checkbox"/> Communication & Engagement	<input type="checkbox"/> Community Livability	
<input type="checkbox"/> High Performing Government	<input type="checkbox"/> Culture & Recreation	
<input type="checkbox"/> Environmental Health & Protection	<input type="checkbox"/> Financial Sustainability	

NEEDED FROM COUNCIL:

Should the Council approve amendments to Ordinance O2020-501 in accordance with direction given at the City Council Regular Meeting on May 5, 2020 to focus on prohibiting new applications for concurrency certificate?

KEY FACTS AND INFORMATION SUMMARY:

On April 20, 2020 the Growth Management Hearings Board (GMHB) reached a decision in the case of Don Gerend v. City of Sammamish regarding the City's prior amendments to its transportation concurrency and level of service standards. The decision identified questions that need to be resolved by the City regarding growth and development. To give the City the necessary time to evaluate these questions, at the April 21, 2020 City Council Regular Meeting, the City Council adopted Ordinance O2020-501, implementing a 6-month moratorium on all land use, development, and building permit applications, which went into effect immediately.

The City Council revisited this topic during their Regular Meeting on May 5, 2020 to consider refining the types of activities covered by the moratorium and directed staff to develop a new ordinance revising the moratorium to focus on restricting new applications for concurrency certificate.

Staff has drafted an Ordinance implementing the Council's direction, which is included as **Exhibit 1 ("Option A")**. This Ordinance focuses the restrictions on development activity under the moratorium to new applications for concurrency certificate. Included in this draft ordinance is an exception for Education Services, which would allow schools to apply for a concurrency certificate and subsequently, if a certificate is issued, a permit for development.

Following the May 5, 2020 meeting, staff also identified the need to add two other similar exceptions for parks, utilities, and government facilities as there are several pending projects related to City facilities that will require permits. To accommodate these projects, an alternative draft Ordinance that expands on the school exception has been included as **Exhibit 2 ("Option B")** for Council consideration. The only difference between Options A and B are the exceptions for parks, utilities, and government facilities.

Option A – Exception for School Uses

**CITY OF SAMMAMISH
WASHINGTON
ORDINANCE NO. O2020-_____**

AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, AMENDING SECTION 2 OF ORDINANCE O2020-501 IMPOSING A SIX-MONTH MORATORIUM ON THE ACCEPTANCE OF CERTAIN APPLICATIONS FOR LAND USE, DEVELOPMENT, AND BUILDING PERMITS OR APPROVALS WITHIN THE CITY OF SAMMAMISH, TO PROHIBIT NEW APPLICATIONS FOR CONCURRENCY CERTIFICATES UNDER SMC CHAPTER 14A.10, AND ADDING AN EXCEPTION FOR EDUCATION SERVICES USES CLASSIFIED UNDER SMC 21A.20.050(A); PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, on April 21, 2020, the City Council adopted emergency Ordinance No. O2020-501, which established a six-month moratorium on the acceptance of applications for land use, development, and building activities under the following titles and chapters of the Sammamish Municipal Code (“SMC”): Title 19A, Land Division; Title 21A, Development Code; Title 21B, Town Center Development Code; Title 25, Shoreline Management; Title 16, Building and Construction; Chapter 15.10, Flood Damage Prevention; Chapter 14A.10, Concurrency; and Chapter 13.20, Surface Water Runoff Regulations; and

WHEREAS, the City Council considered amendments to the focus of the moratorium at the regular Council meeting on May 5, 2020; and

WHEREAS, on May 5, 2020, the City Council directed Staff to prepare revisions to Section 2 of Ordinance No. O2020-501 to focus restrictions on new applications for Concurrency Certificates; and

WHEREAS, on May 5, 2020, the City Council further directed Staff to include exceptions for Education Services Uses classified under SMC 21A.20.050(A) and as defined in SMC 21A.15.1030, SMC 21A.15.1035, and SMC 21A.15.1040; and

WHEREAS, on May 11, 2020, the City Council called a special meeting to review and formalize proposed changes to the moratorium established by adoption of Ordinance No. O2020-501;

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

Section 1. Section 2 of Ordinance No. O2020-501, Amended. Section 2 (Moratorium Imposed) of Ordinance No. O2020-501 is hereby amended to read as follows:

Option A – Exception for School Uses

Section 2. Moratorium Imposed. As authorized by the Growth Management Act, RCW 35A.63.220, a moratorium is hereby enacted on the acceptance of applications for Concurrency Certificates. Excepted from this moratorium are Concurrency Certificate applications necessary for permits associated with Education Services Uses classified in SMC 21A.20.050(A) and as defined in SMC 21A.15.1030, SMC 21A.15.1035, and SMC 21A.15.1040.

Section 2. 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 3. Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the “WHEREAS” clauses, above, all of which are adopted by reference as findings of fact as if fully set forth herein.

ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 11TH DAY OF MAY, 2020.

CITY OF SAMMAMISH

Mayor Karen Moran

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

Approved as to form:

Michael R. Kenyon, City Attorney

Option A – Exception for School Uses

Filed with the City Clerk:
First Reading:
Public Hearing:
Passed by the City Council:
Date of Publication:
Effective Date:

Option B – Exception for Public Projects (Parks, Schools, Utilities, Government Facilities)

**CITY OF SAMMAMISH
WASHINGTON
ORDINANCE NO. O2020-_____**

AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, AMENDING SECTION 2 OF ORDINANCE O2020-501 IMPOSING A SIX-MONTH MORATORIUM ON THE ACCEPTANCE OF CERTAIN APPLICATIONS FOR LAND USE, DEVELOPMENT, AND BUILDING PERMITS OR APPROVALS WITHIN THE CITY OF SAMMAMISH, TO PROHIBIT NEW APPLICATIONS FOR CONCURRENCY CERTIFICATES UNDER SMC CHAPTER 14A.10 AND ADDING EXCEPTIONS FOR PARKS USES CLASSIFIED UNDER SMC 21A.20.040(A), FOR EDUCATION SERVICES USES CLASSIFIED UNDER SMC 21A.20.050(A), AND FOR GOVERNMENT SERVICES USES CLASSIFIED UNDER SMC 21A.20.060(A); PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, on April 21, 2020, the City Council adopted emergency Ordinance No. O2020-501, which established a six-month moratorium on the acceptance of applications for land use, development, and building activities under the following titles and chapters of the Sammamish Municipal Code (“SMC”): Title 19A, Land Division; Title 21A, Development Code; Title 21B, Town Center Development Code; Title 25, Shoreline Management; Title 16, Building and Construction; Chapter 15.10, Flood Damage Prevention; Chapter 14A.10, Concurrency; and Chapter 13.20, Surface Water Runoff Regulations; and

WHEREAS, the City Council considered amendments to the focus of the moratorium at the regular Council meeting on May 5, 2020; and

WHEREAS, on May 5, 2020, the City Council directed Staff to prepare revisions to Section 2 of Ordinance No. O2020-501 to focus restrictions on new applications for Concurrency Certificates; and

WHEREAS, on May 5, 2020, the City Council further directed Staff to include exceptions for Education Services Uses classified under SMC 21A.20.050(A) and as defined in SMC 21A.15.1030, SMC 21A.15.1035, and SMC 21A.15.1040; and

WHEREAS, on May 11, 2020, the City Council called a special meeting to review and formalize proposed changes to the moratorium; and

WHEREAS, on May 11, 2020, the City Council identified the need to allow essential public projects to proceed; and

Option B – Exception for Public Projects (Parks, Schools, Utilities, Government Facilities)

WHEREAS, on May 11, 2020, the City Council considered the addition of exemptions to the moratorium for Park and Trail facilities established within Parks Uses classified under SMC 21A.20.040(A) and as defined in SMC 21A.15.835 and SMC 21A.15.1285; and

WHEREAS, on May 11, 2020, the City Council also considered the addition of exemptions to the moratorium for Public Agency or Utility Yard, Satellite Public Agency or Utility Yard, Public Agency or Utility Office, Police Facility, Fire Facility, Utility Facility, and Farmers' Market uses established within Government Services Uses classified under SMC 21A.20.060(A) and as defined under SMC 21A.15.452, SMC 21A.15.915, SMC 21A.15.930, SMC 21A.15.935, SMC 21A.15.936, and SMC 21A.15.1350;

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

Section 1. Section 2 of Ordinance No. O2020-501, Amended. Section 2 (Moratorium Imposed) of Ordinance No. O2020-501 is hereby amended to read as follows:

Section 2. Moratorium Imposed. As authorized by the Growth Management Act, RCW 35A.63.220, a moratorium is hereby enacted on the acceptance of applications for Concurrency Certificates. Excepted from this moratorium are Concurrency Certificate applications necessary for essential public project permits associated with the following uses:

- 1) Park and Trail facilities established within Parks Uses classified under SMC 21A.20.040(A) and as defined in SMC 21A.15.835 and SMC 21A.15.1285; and
- 2) Education Service Uses classified in SMC 21A.20.050(A) and as defined in SMC 21A.15.1030, SMC 21A.15.1035, and SMC 21A.15.1040; and
- 3) Public Agency or Utility Yard, Satellite Public Agency or Utility Yard, Public Agency or Utility Office, Police Facility, Fire Facility, Utility Facility, and Farmers' Market uses established within Government Services Uses classified under SMC 21A.20.060(A) and as defined under SMC 21A.15.452, SMC 21A.15.915, SMC 21A.15.930, SMC 21A.15.935, SMC 21A.15.936, and SMC 21A.15.1350.

Section 2. 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.

Option B – Exception for Public Projects (Parks, Schools, Utilities, Government Facilities)

Section 3. Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the “WHEREAS” clauses, above, all of which are adopted by reference as findings of fact as if fully set forth herein.

ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 11TH DAY OF MAY, 2020.

CITY OF SAMMAMISH

Mayor Karen Moran

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

Approved as to form:

Michael R. Kenyon, City Attorney

Filed with the City Clerk:
First Reading:
Public Hearing:
Passed by the City Council:
Date of Publication:
Effective Date:

Agenda Bill
 City Council Special Meeting
 May 11, 2020



SUBJECT:	Ordinance: Amending Sammamish Municipal Code Subsection 20.05.040(1)(l) to correct Code sections and to correct terminology citations; providing for severability; declaring an Emergency; and establishing an immediate effective date.	
DATE SUBMITTED:	May 07, 2020	
DEPARTMENT:	Community Development	
NEEDED FROM COUNCIL:	<input checked="" type="checkbox"/> Action <input type="checkbox"/> Direction <input type="checkbox"/> Informational	
RECOMMENDATION:	Consider approval of the draft Ordinance (Exhibit 1).	
EXHIBITS:	1. Exhibit 1 - Draft Ordinance Amending SMC 20.05.040(1)(l) 2. Exhibit 2 - SMC Title 14 From Municipal Code Version 1 (Original Code) - October, 2003 3. Exhibit 3 - Chapter 20.05 SMC From Municipal Code Version 1 (Original Code) - October, 2003 4. Exhibit 4 - SMC Title 14 From Municipal Code Version 2 - March, 2004 5. Exhibit 5 - SMC Title 14A From Municipal Code Version 2 - March, 2004 6. Exhibit 6 - Chapter 20.05 SMC From Municipal Code Version 2 - March, 2004 7. Exhibit 7 - SMC Title 14 From Municipal Code Version 21 - July, 2018 8. Exhibit 8 - SMC Title 14A From Municipal Code Version 21 - July, 2018 9. Exhibit 9 - Chapter 20.05 SMC From Municipal Code Version 21 - July, 2018 10. Exhibit 10 - SMC Title 14 (Repealed) From Municipal Code Version 22 - June, 2019 11. Exhibit 11 - SMC Title 14A From Municipal Code Version 22 - June, 2019 12. Exhibit 12 - Chapter 20.05 SMC From Municipal Code Version 22 - June, 2019	
BUDGET:		
Total dollar amount	N/A	<input type="checkbox"/> Approved in budget
Fund(s)	N/A	<input type="checkbox"/> Budget reallocation required
		<input checked="" type="checkbox"/> No budgetary impact
WORK PLAN FOCUS AREAS:		

<input type="checkbox"/>	 Transportation	<input type="checkbox"/>	 Community Safety
<input type="checkbox"/>	 Communication & Engagement	<input type="checkbox"/>	 Community Livability
<input type="checkbox"/>	 High Performing Government	<input type="checkbox"/>	 Culture & Recreation
<input type="checkbox"/>	 Environmental Health & Protection	<input type="checkbox"/>	 Financial Sustainability

NEEDED FROM COUNCIL:

Should the Council approve corrective amendments to code references and terminology in SMC 20.05.040(1)(I) related to concurrency certificate requirements for complete applications for development?

KEY FACTS AND INFORMATION SUMMARY:

Upon incorporation in 1999, the City adopted Sammamish Municipal Code (SMC) Titles 14 and 20 through passage of Ordinance [O99-29](#). Title 14 SMC as adopted under Ordinance O99-29 included SMC Chapter 14.15, Transportation Concurrency Management (**Exhibit 2**). SMC Title 20, as adopted under Ordinance O99-29, included SMC Chapter 20.05, Procedures for Land Use Permit Applications, Public notices, Hearings, and Appeals (**Exhibit 3**).

Historically and since its initial adoption, SMC 20.05.040(1)(I) (see **Exhibit 3**) has required submittal of an approved traffic impact analysis from the director or designee, if required by Chapter 14.15 SMC (see **Exhibit 2**). Similarly, historical SMC 14.15.020(1) required application for traffic impact analysis prior to application for development approval (see **Exhibit 2**). Within the same chapter, SMC 14.15.050(1) (see **Exhibit 2**) historically established that a traffic impact analysis approved by the director or designee created a rebuttable presumption that the development proposal satisfies concurrency requirements and that the determination of concurrency shall be final at the time of development approval. SMC 14.15.060(1) also established that after September 1, 1999 an approved traffic impact analysis was required with an application for development as opposed to a concurrency certificate, which was to be issued with the permit approval (see **Exhibit 2**). Under this generation of code (see **Exhibit 2** and **Exhibit 3**), to have a complete application for development permit, an approved traffic impact analysis (TIA) was required. At the same time, a traffic impact analysis was inherently the same as a concurrency certificate due to the rebuttable presumption stated in SMC 14.15.050(1). During this time SMC Title 14A had not yet been created. To have a complete application under this generation of rules required an approved traffic impact analysis if required by SMC Chapter 14.15.

In 2004 the City passed several ordinances related to concurrency and traffic management that created SMC Title 14A (see Ordinance [O2004-138](#), Ordinance [O2004-139](#), and Ordinance [O2004-140](#)). **At the same time SMC Title 14 was not modified and was not repealed. Further, SMC 20.05.040(1)(I) was also not updated to correctly reference complete application submittal requirements associated with traffic impact analysis or concurrency certificate. Because SMC Title 14 was not repealed or modified with the creation of SMC Title 14A a disconnect within the code affecting application of SMC 20.05.040(1)(I). See Exhibit 4 , Exhibit 5, and Exhibit 6. The addition of new SMC Title 14A in 2004 (see Exhibit 5) without the concurrent deletion/repeal of old SMC Title 14 [SMC Title 14 remained**

unchanged in 2004 when SMC Title 14A was created - see [Exhibit 4](#)], and without concurrent update to SMC 20.05.040(1)(l) [SMC 20.05.040(1)(l) remained unchanged in 2004 with the addition of SMC Title 14A - see [Exhibit 6](#)], created the code inconsistency due to incorrect terminology and incorrect code reference that is now under evaluation by the City Council (see [Exhibit 1](#), proposed draft Ordinance).

To have a complete application under this generation of rules still required an approved traffic impact analysis if required by SMC Chapter 14.15 and it was unclear based on the code changes in 2004 (where SMC Title 14A was added) if this intended to replace this requirement with the newer requirement that an applicant obtain an approved concurrency certificate (see SMC 14A.10.020). This presented two sets of rules attempting to regulate the same topic.

Several years went by following the addition of SMC Title 14A in 2004 where SMC Title 14 remained in the code (see [Exhibit 7](#) and [Exhibit 8](#)). Further, the reference to approved traffic impact analysis, as opposed to approved concurrency certificate, and to SMC 14.15 as opposed to the newer SMC 14A.10, which are complete application requirements in SMC 20.05.040(1)(l) remained (see [Exhibit 9](#)). Then, in September of 2018 as part of the Public Works Department work on overhauling traffic management systems, Title 14 SMC was repealed with the passage of Ordinance [O2018-465](#). At the same time SMC 20.05.040(1)(l) was amended (see [Exhibit 12](#)) with the passage of Ordinance [O2018-466](#), which changed the code citation listed in SMC 20.05.040(1)(l) from SMC 14.15 to SMC 14A.15 (see [Exhibit 12](#)). With this code drafting effort, the letter "A" was simply added to SMC 20.05.040(1)(l) in error under Ordinance [O2018-466](#). The change made to SMC 20.05.040(1)(l) with Ordinance O2018-466 was incorrect and did not achieve the intent of the change – **this was a code drafting error that needs to be corrected - see Exhibit 1 - draft ordinance.** The reference that was mistakenly used, current SMC 14A.15, governs the processing of Street Impact Fees and does not include reference to a traffic impact analysis or related procedure for approval of such (see [Exhibit 11](#)). The reference to “traffic impact analysis” found in SMC 20.05.040(1)(l) was rendered obsolete upon the repeal of SMC Title 14 (see [Exhibit 10](#)) and upon revision to SMC Title 14A under Ordinance [O2018-465](#).

The change made to SMC 20.05.040(1)(l) under Ordinance [O2018-466](#) created a cross reference error by directing the code reader to SMC 14A.15; the correct amended code section implemented with Ordinance [O2018-466](#) cited in SMC 20.05.040.1(l) should have been SMC 14A.10 not SMC 14A.15.

At the same time, changes made to SMC Title 14A under Ordinance [O2018-465](#) modified the terminology used as related to concurrency analysis. With the repeal of SMC Title 14 under Ordinance [O2018-465](#), the term “traffic impact analysis” and the associated rebuttable presumption procedure was made obsolete. For consistency with repeal of SMC Title 14 and changes made to SMC Title 14A made under Ordinance O2018-465, amendment to SMC 20.05.040(1)(l) made under Ordinance [O2018-466](#) should have also repealed and replaced the term “traffic impact analysis” with “certificate of concurrency” as the clear intent of SMC 20.05.040(1)(l), original SMC 14.15, and current SMC 14A.10 is to require traffic impact analysis or concurrency analysis and approval prior to submittal of development permit application for applicable projects.

Recognizing this code drafting error, staff proposes to amend SMC 20.05.040(1)(l) to replace the terminology used from “traffic impact analysis” to “certificate of concurrency” and amend SMC 20.05.040(1)(l) to replace the code citation used from “Chapter 14A.15 SMC” to “Chapter 14A.10 SMC”. A draft ordinance amending SMC 20.05.040(1)(l) is attached as [Exhibit 1](#) for Council consideration.

While this long standing code drafting error (since 2004 with creation of SMC Title 14A - see **Exhibit 4**, **Exhibit 5**, and **Exhibit 6**) wherein SMC 20.05.040(1)(l) has contained incorrect code citation and incorrect terminology does present opportunity for applicants to attempt application without approved traffic concurrency certificate, we have not (at least since November, 2015) had an applicant present a case that they should be able to submit application and be vested as complete for projects without an approved traffic concurrency certificate. Based on the language currently found in SMC 20.05.040(1)(l) (see **Exhibit 12**) an applicant could have attempted submittal without approved concurrency certificate and could have presented legal argument that an approved concurrency certificate is not required for a complete application and therefore vesting.

Our system is oriented at requiring an approved concurrency certificate and we view that as a requirement. This is reflected in our process and in the submittal requirements for applications where application for concurrency review and receipt of approved concurrency certificate is required before submittal of development application (for example, see [submittal requirements for a preliminary subdivision](#) application). We have discussed this with legal counsel and have been informed that due to the structure of the code, the changes that were made in 2018, and the error in reference and terminology that when considering the intent of the code, liberal construct and RCW 35A.21.010, the City has a strong case that an approved concurrency certificate is a required submittal item in lieu of an approved traffic impact analysis and we have a legal basis to determine an application incomplete for lack of approved concurrency certificate thereby precluding vesting without an approved concurrency certificate. The rule of statutory construction would apply to the current language of SMC 20.05.040(1)(l) (see **Exhibit 12**) to interpret it in such a way to avoid absurd results. It would produce an absurd result to ask an applicant to obtain a “traffic impact analysis” by directing the applicant to the chapter on impact fees. If presented with an argument by an applicant stating that traffic concurrency certificate is not required because of the current language in SMC 20.05.040(1)(l) we would have interpreted the current version of SMC 20.05.040(1)(1) as a requirement to obtain a concurrency certificate if required by SMC 14A.10, which is the most current and relevant section of code (see **Exhibit 11**).

A draft ordinance amending SMC 20.05.040(1)(l) is attached as **Exhibit 1** for Council consideration.

**CITY OF SAMMAMISH
WASHINGTON
ORDINANCE NO. O2020-_____**

**AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON,
AMENDING SAMMAMISH MUNICIPAL CODE SUBSECTION
20.05.040.1(I) TO CORRECT CODE SECTIONS AND TO CORRECT
TERMINOLOGY CITATIONS; PROVIDING FOR SEVERABILITY;
DECLARING AN EMERGENCY; AND ESTABLISHING AN
IMMEDIATE EFFECTIVE DATE**

WHEREAS, the City of Sammamish incorporated in August of 1999; and

WHEREAS, upon incorporation, the City adopted Sammamish Municipal Code (SMC) Titles 14 and 20 through adoption of Ordinance No. O99-29; and

WHEREAS, Title 14 SMC (Public Works and Transportation) as adopted in Ordinance No. O99-29 included SMC Chapter 14.15, Transportation Concurrency Management; and

WHEREAS, Title 20 SMC (Administrative Procedures/Environmental Policy) as adopted in Ordinance No. O99-29 included SMC Chapter 20.05, Procedures for Land Use Permit Applications, Public Notice, Hearings, and Appeals; and

WHEREAS, SMC 20.05.040.1(I), as adopted in in Ordinance No. O99-29, required submittal of an approved traffic impact analysis from the director or designee, if required by Chapter 14.15 SMC; and

WHEREAS, SMC 14.15.020(1), as adopted in Ordinance No. O99-29, required application for traffic impact analysis prior to application for development approval; and

WHEREAS, SMC 14.15.050(1) established that a traffic impact analysis approved by the director or designee creates a rebuttable presumption that the development proposal satisfies concurrency requirements and that the determination of concurrency shall be final at the time of development approval; and

WHEREAS, SMC 14.15.060(1) established that after September 1, 1999, submittal of an approved traffic impact analysis was required with an application for development; and

WHEREAS, Title 14 SMC was repealed in September of 2018 with the adoption of Ordinance No. O2018-465; and

WHEREAS, SMC 20.05.040.1(I) was amended in September of 2018 with the adoption of Ordinance No. O2018-466 which changed the code citation from SMC Chapter 14.15 to SMC Chapter 14A.15; and

WHEREAS, the change made to SMC 20.05.0401(l) with Ordinance No. O2018-466 was incorrect and did not achieve the intent of the change; and

WHEREAS, SMC Chapter 14A.15 governs the processing of Street Impact Fees and does not include reference to a traffic impact analysis or related procedure for approval of such; and

WHEREAS, the reference to “traffic impact analysis” found in SMC 20.05.040.1(l) was rendered obsolete upon the repeal of SMC Title 14 and upon revision to SMC Title 14A under Ordinance No. O2018-465; and

WHEREAS, the change made to SMC 20.05.040.1(l) under Ordinance No. O2018-466 created a cross reference error by directing the code reader to SMC Chapter 14A.15; and

WHEREAS, the SMC chapter adopted in Ordinance No. O2018-466 and cited in SMC 20.05.040.1(l) should have been cited as SMC Chapter 14A.10, not SMC Chapter 14A.15; and

WHEREAS, amendments to SMC Title 14 adopted in Ordinance No. O2018-465 modified the terminology used as related to concurrency analysis; and

WHEREAS, with the repeal of SMC Title 14 under Ordinance No. O2018-465, the term “traffic impact analysis” and the associated rebuttable presumption procedure were made obsolete; and

WHEREAS, for consistency with repeal of SMC Title 14 and amendments to SMC Title 14A adopted in Ordinance No. O2018-465, the amendment to SMC 20.05.040.1(l) adopted in Ordinance No. O2018-466 should have repealed and replaced the term “traffic impact analysis” with “certificate of concurrency”; and

WHEREAS, the clear intent of SMC 20.05.040.1(l), SMC Chapter 14.15, and now in effect SMC Chapter 14A.10 is to require concurrency analysis and approval prior to submittal of development permit applications for applicable projects; and

WHEREAS, the City Council recognizes this code drafting error; and

WHEREAS, the City Council wishes to amend SMC 20.05.040.1(l) to replace the terminology used from “traffic impact analysis” to “certificate of concurrency”; and

WHEREAS, the City Council wishes to amend SMC 20.05.040.1(l) to replace the code citation used from “Chapter 14A.15 SMC” to “Chapter 14A.10 SMC”;

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

Section 1. Findings of Fact. The recitals set forth above are hereby incorporated by this reference as if fully set forth herein.

Section 2. SMC Subsection 20.05.040.1(l), Amended. Sammamish Municipal Code Subsection 20.05.040.1(l) is hereby amended to read as follows:

(l) Approved certificate of concurrency from the director or designee, if required by Chapter 14A.10 SMC;

Section 3. 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 4. Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the “WHEREAS” clauses, above, all of which are adopted by reference as findings of fact as if fully set forth herein.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ___ DAY OF _____, 2020.

CITY OF SAMMAMISH

Mayor Karen Moran

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

Approved as to form:

Michael R. Kenyon, City Attorney

Filed with the City Clerk:
First Reading:
Public Hearing:
Passed by the City Council:
Date of Publication:
Effective Date:

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12.05.100 Violation of court ordered probation.

The following provisions of the King County Code as presently constituted or hereinafter amended are adopted by reference:

KCC

12.150.010 Definitions.

12.150.020 Arrest without warrant.

(Ord. O2000-52 § 58)

**Title 13
UTILITIES(Reserved)**

**Title 14
PUBLIC WORKS AND TRANSPORTATION**

Chapters:

- 14.01 Public Works Standards Adopted**
- 14.05 Definitions**
- 14.10 Integrated Transportation Program**
- 14.15 Transportation Concurrency Management**
- 14.20 Mitigation Payment System**
- 14.25 Intersection Standards**

**Chapter 14.01
PUBLIC WORKS STANDARDS ADOPTED**

Sections:

14.01.010 Public works standards adopted.

14.01.020 Resolution of conflicts.

14.01.030 Appeals.

14.01.010 Public works standards adopted.

(1) The City hereby adopts by reference the design standards and specifications set forth in the document entitled "City of Sammamish Interim Public Works Standards" dated April 19, 2000, as now or hereafter amended as the development standards for the City, which includes but is not limited to transportation standards and street standards.

(2) The director of public works is hereby authorized to administratively amend the standards to better implement the standards or allow for changes in street design and construction technology and methods.

14.01.020 Resolution of conflicts.

In case of inconsistency or conflict between the Sammamish Municipal Code and the City of Sammamish public works standards, the most restrictive provision shall apply.

14.01.030 Appeals.

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Any person or agency aggrieved by an act or decision of the City pursuant to the public works standards may appeal said act or decision to the City of Sammamish pursuant to the appeal provisions for the underlying development permit application as contained in Chapter 20.05 SMC.

**Chapter 14.05
DEFINITIONS**

Sections:

14.05.010 Definitions.

14.05.010 Definitions.

The following definitions shall apply to all portions of this title, except as specifically superseded by definitions set forth elsewhere in this title:

- (1) "Capital improvement program (CIP)" means the expenditures programmed by the City of Sammamish for capital purposes over the next-six-year period in the CIP most recently adopted by the City council.
- (2) "Certificate of concurrency" means the document issued by King County prior to September 1, 1999, indicating:
 - (a) The location or other description of the property on which the development is proposed;
 - (b) The number of development units and specific uses, densities, and intensities that were tested for concurrency and approved;
 - (c) The type of development approval for which the certificate of concurrency is issued;
 - (d) An effective date; and
 - (e) An expiration date.

(f) Certificates may be conditional, unconditional, or extended, according to department administrative practices described in the public rules for the program.
- (3) "City" means the City of Sammamish, Washington.
- (4) "Committed network for the transportation adequacy measure" means the system of transportation facilities used to calculate the transportation adequacy measure to determine the level of service to transportation for a zone. The network includes transportation facilities that are needed to provide the level of service standard, including existing facilities and proposed facilities that are fully funded for construction in the most currently adopted six-year transportation CIP or for which voluntary financial commitments have been secured. Projects to be provided by the state, cities, or other jurisdictions may become part of the committed network upon decision of the director.
- (5) "Concurrency" means transportation improvements or strategies are in place at the time of development or that a financial commitment is in place to complete the improvements or strategies within six years needed to maintain the City's level of service standards, according to RCW 36.70A.070(6).
- (6) "Concurrency test" means the determination of an applicant's impact on transportation facilities by the comparison of the level of service of the concurrency zone that includes the proposed development to the level of service standard for that zone. A concurrency test must be passed in order to obtain an approved transportation impact analysis.
- (7) "Concurrency zone" means one of the zones depicted in the City's mitigation payment and concurrency zone map that is adopted as the MPS zone map. The director may change the boundaries of such zones by including such changes in the administrative rules for this title, filing such changes with the

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City clerk, and giving public notice of such changes.

(8) "Corridor" means the street or set of streets within the City in which vehicle trips to or from a development will take place. Vehicles have flexibility as to an exact route within a corridor but little choice as to whether to use the corridor.

(9) "Department" means the City of Sammamish department of community development or department of public works, as the context requires, unless specified otherwise.

(10) "Development" means specified improvements or changes in use designed or intended to permit a use of land that will contain more dwelling units or buildings than the existing use of the land, or to otherwise change the use of the land or buildings/improvements on the land in a manner that increases the amount of vehicle traffic generated by the existing use of the land, and that requires a development permit from the City of Sammamish. The rezoning of land is not development.

(11) "Development approval" means any order, permit or other official action of the City granting, or granting with conditions, an application for development. Approval of the rezoning of land is not a development approval.

(12) "Development improvements" means site improvements and facilities that are planned and designed to provide service for a particular development and that are necessary for the use and convenience of the occupants or users of the development and are not system improvements. No transportation improvement or facility that is considered a development improvement shall be included in the MPS project list.

(13) "Director" means the director of public works or designee or the director of community development or designee, as the context required, unless specified otherwise.

(14) "Equivalent residential unit (ERU)" means the proposed quantity of development measured by dwelling units for residential development and square feet for nonresidential development, upon which are based the calculations of TAM for the determination of concurrency.

(15) "Financial commitment" consists of the following:

(a) Revenue designated in the most currently adopted CIP for transportation facilities or strategies needed in the committed network for the transportation adequacy measure to test for concurrency. The financial plan underlying the adopted CIP identifies all applicable and available revenue sources and forecasts these revenues through the six-year period with reasonable assurance that such funds will be timely put to such ends. Projects to be used in defining the committed network shall represent those projects that are fully funded for construction in the six years of the CIP. This commitment is reviewed annually through the budget process;

(b) Unanticipated revenue from federal or state grants for which the City has received notice of approval; or

(c) Revenue that is assured by an applicant in a form approved by the City in a voluntary agreement.

(16) "IS" means intersection standards.

(17) "ITP" means integrated transportation program.

(18) "MPS" means mitigation payment system.

(19) "MPS project" means a growth-related street improvement, which is a system improvement, that is selected by the Sammamish City council for joint private and public funding pursuant to this chapter and that is located:

(a) On a City street; or

(b) On a county road in unincorporated King County, or on the street of another city when the city has an ordinance implementing the Growth Management Act of 1990, Chapter 82.02 RCW, and when the City of Sammamish has an appropriate interlocal agreement with the county and/or the city; or

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(c) On a state road in proximity to the City once the Washington State Department of Transportation (WSDOT) has adopted procedures that will enable it to plan for and fund growth-related improvements to state roads in a manner that satisfies the requirements of the Growth Management Act of 1990, Chapter 82.02 RCW, and once the City of Sammamish has an appropriate interlocal agreement with WSDOT.

(20) "Peak period" means the one-hour weekday period during which the greatest volume of traffic uses the road system identified separately for each roadway section. For concurrency purposes, this period shall be in the afternoon of a typical weekday.

(21) "Preapplication meeting" means a meeting between the applicant for a transportation concurrency certificate or its extension and the staff of the department, according to that department's rules and administrative procedures held for the purpose of determining the requirements to file a development permit application.

(22) "Project cost" means the estimated cost of constructing an MPS project, including the costs of design and right-of-way acquisition.

(23) "PWS" means the City of Sammamish public works standards.

(24) "Service district" means the geographic area defined by the City, or by intergovernmental agreement, in which a defined set of transportation facilities provide service to development within the district. Service districts shall be designated on the basis of sound planning or engineering principles. Development in a service district may, and will likely be found to, impact roadways and intersections both inside and outside the service district, and the MPS fee will reflect a charge for all such impacts. The MPS service districts shall be the MPS zones.

(25) "Reservation" and "reserve" means development units are set aside in the City's concurrency records in a manner that assigns the units to the applicant and prevents the same units being assigned to any other applicant.

(26) "TAM" means transportation adequacy measure.

(27) "TCM" means transportation concurrency management.

(28) "TIA" means transportation impact analysis as described in the public works standards.

(29) "Traffic impacts" means the diminishment of capacity of a roadway or intersection by the addition of new vehicle trips. Effects of new vehicle trips that are not quantifiable or to the extent that the effects cannot be mitigated fully by the addition of new capacity, such as safety hazards and inadequate signalization, are not traffic impacts for MPS purposes.

(30) "Transportation facilities" means one of the following classifications of facilities: principal, minor and collector arterial roads, streets, state highways, freeways, intersections, transit and high occupancy vehicle facilities, and nonmotorized facilities (i.e., for bicycles or pedestrians). Transportation facilities include any such facility owned, operated or administered by the state of Washington and its political subdivisions, including the county and cities.

(31) "Transportation strategies" means transportation demand management strategies and other techniques or programs that reduce single-occupant vehicle commute travel and that are approved by the department. Strategies may include but are not limited to vanpooling, carpooling, shuttle transportation, nonmotorized transportation, and public transit. (Ord. O99-29 § 1)

**Chapter 14.10
INTEGRATED TRANSPORTATION PROGRAM**

Sections:

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-
- 14.10.010 Components of the integrated transportation program.
 - 14.10.020 Relationships among three components of the integrated transportation program.
 - 14.10.030 Applicability – Concurrency, MPS.
 - 14.10.040 Administrative rules.
 - 14.10.050 Filing appeals – Concurrency, MPS, IS.
 - 14.10.060 Grounds for appeal – Concurrency, MPS, IS.
 - 14.10.070 Administrative reconsideration – Concurrency, MPS, IS.

14.10.010 Components of the integrated transportation program.

There are three components of the integrated transportation program (ITP). These components are as follows:

- (1) Transportation concurrency management (TCM), by which the City of Sammamish will regulate new development based on adequate transportation improvements needed to maintain level of service standards, in accordance with RCW 36.70A.070(6) and the interim City comprehensive plan.
- (2) Mitigation payment system (MPS), by which the City of Sammamish will apply transportation impact fees to new development for collecting a fair and equitable share of transportation improvement costs that are needed in accordance with Chapter 82.02 RCW and the interim City comprehensive plan.
- (3) Intersection standards (IS) by which the City of Sammamish will evaluate intersections affected by new development to assure safe and efficient operation and that improvements to mitigate the adverse impacts of such developments are completed in accordance with the State Environmental Policy Act (SEPA), SMC 20.15.090, and the Sammamish interim comprehensive plan. (Ord. O99-29 § 1)

14.10.020 Relationships among three components of the integrated transportation program.

- (1) Permit Processes.
 - (a) Traffic Impact Analysis. Prior to submission of a development application, traffic impact analysis (TIA) shall be initiated by a submittal to the department of community development in the prescribed form and containing information describing the location, uses, intensities, trip generation characteristics, and pertinent information for the intended development. The TIA is a prerequisite for a complete development application. The department shall use the submitted information to determine the net trips to be generated, taking into account commute trip reduction strategies, internal travel for mixed use development, and pass-by trips from existing traffic flows, and shall determine whether the development passes the concurrency test prescribed in Chapter 14.15 SMC.
 - (b) Development Application. Following the submission of a development application, the director shall determine the transportation impact fee to be paid under Chapter 14.20 SMC and shall determine the traffic impacts of the proposed development on street intersections that will be adversely impacted and that must be mitigated using Chapter 14.25 SMC.
- (2) Calculation of Trips Generated by a Development.
 - (a) The vehicular trips expected to be generated by a proposed development shall be calculated as of the time of application for a TIA, using standard generation rates published by the Institute of Transportation Engineers, other standard references, or from other documented information and surveys approved by the director.
 - (b) The director may approve a reduction in generated vehicle trips calculated pursuant to the preceding subsection based on the types of land uses that are to be developed, on the expected amount of travel internal to the development, on the expected pass-by trips from existing traffic, or on the expected reduction of vehicle traffic volumes. Such reduction shall be used when calculating TAM, MPS, and IS,

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including any impact and mitigation fees and costs for which the development shall be liable.

The calculation of vehicular trip reductions as described in this section shall be based in all cases upon sound and recognized technical information and analytical process that represent current engineering practice. In all cases, the director shall have final approval of all such data, information, and technical procedures used to calculate trip reductions.

(3) Calculations.

(a) TAM Calculations. The City of Sammamish shall determine the transportation adequacy measure (TAM) for any zone as a two-part analysis, involving the average weighted volume to capacity (v/c) ratio of arterials and highways serving the zone (TAM value) and the existence of roadways critical to the zone's access not funded for improvement in the committed network (unfunded critical links). If an unfunded critical link exists, then any proposed development that sends at least 30 percent of its trips to that critical link shall be deemed to fail the concurrency test until the critical link is improved.

Administrative rules issued under the authority of this chapter shall contain a detailed technical description of the calculation of TAM and the list of potential unfunded critical links to be monitored.

(b) IS Calculations. Intersection level of service shall be calculated according to the most recent highway capacity manual or an alternative method approved by the director.

(4) Standards.

(a) The standard for the TAM value of a zone shall be those maximum average v/c zonal scores displayed in SMC 14.15.030.

(b) The unfunded critical link standard shall apply to the links identified by administrative rule, which have a volume to capacity ratio of 1.1 or more, and which would carry more than 30 percent of the zone traffic from a residential development or more than 30 percent of the traffic from a commercial development.

(c) The intersection standard for all intersections shall be "E" as required by Chapter 14.25 SMC and calculated according to the most recent highway capacity manual or approved alternative method.

(5) Application of Standards. The standards set forth above shall be used in the ITP as follows:

(a) In Chapter 14.15 SMC, zone evaluation of concurrency shall be calculated using the TAM value, the TAM standard for the zone, and unfunded critical links analysis.

(b) In the identification of improvement needs for the transportation needs report (TNR), the TAM and critical link standards will be used to determine needed improvements, together with safety, operational, multimodal, traffic congestion, and other criteria. These improvement needs shall be the source of projects included in the TNR, capital improvement program (CIP), and MPS list.

(c) For the determination of traffic impacts for the SEPA evaluation of a proposed development, the intersection standard will be used, as well as other criteria for bicycle/pedestrian, traffic congestion, safety, and road design.

(6) Administrative Fees. Fees for the ITP shall be imposed as follows:

(a) An original administrative fee of \$108.00 per hour of staff review time shall be charged to the applicant for the TAM determination of concurrency and issuance of an approved TIA of a proposed development. An additional administrative fee of \$108.00 per hour of staff review time shall be charged for the one-time extension of a certificate as stated in SMC 14.15.050(4). The method and time of collection of administrative fees for the concurrency test shall be stated in the administrative rules for this title.

(b) All developments subject to the MPS fees shall pay an administrative fee as established by SMC 14.20.070 and 14.20.080 at the time of application for an MPS determination. Payment for impact mitigation fees under MPS shall be paid at the time a development permit is issued; provided, that

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residential developments may defer payment until building permits are issued.

(c) No administrative fees shall be charged for IS review; however, the owner of a proposed development is responsible for the costs of any traffic impact analysis as required in the City of Sammamish Public Works Standards 15.020 needed to determine traffic impacts and mitigation measures at intersections, as determined by the director.

(7) Relationship to SEPA. The need for the environmental assessment of a proposed development must be determined by the department of community development, following the filing of a completed permit application. Impacts on the arterial street systems will be mitigated through MPS fees. Impacts on intersections will be mitigated through the provisions of Chapter 14.25 SMC.

Nothing in this chapter shall cause a developer to pay mitigation and impact fees more than once for the same impact. Improvements and mitigation measures shall be coordinated by the director with other such improvements and measures attributable to other proposed developments and with the City street improvement program so that the City street system is improved efficiently and effectively, with minimum costs to be incurred by public and private entities. The provisions of this title do not supersede or replace the provisions of the City's SEPA authority as enacted in Chapter 20.15 SMC. (Ord. O99-29 § 1)

14.10.030 Applicability – Concurrency, MPS.

(1)(a) The following development applications shall be subject to a review for concurrency and MPS fees:

All development and land use proposals, including but not limited to those land uses identified as Type 1 or 2 in SMC 20.05.020, that generate any of the following:

- (i) New structure.
- (ii) New use of facility or site.
- (iii) Change in use at existing structure.
- (iv) Building permit of any type.

(b) Development permits for development that creates no measurable additional impacts on any transportation facility are exempt from the requirements of this chapter. The department shall be responsible for determining whether other types of development meet this “no impact” standard so as to be included under this exemption.

(c) Exempt Permits. The following development permits are exempt from the requirements of this chapter:

- (i) Boundary line adjustment or lot combination.
- (ii) Final plat (if a concurrency test was conducted for the corresponding preliminary plat approval).
- (iii) Temporary use permit.
- (iv) Variance or administrative use permit.
- (v) Clearing, filling and grading permit.
- (vi) Shoreline variance.
- (vii) Rezone or comprehensive plan amendments.
- (viii) Sign permit.
- (ix) Forestry permit.
- (x) Mechanical, electrical, structural reviews.
- (xi) Right-of-way permit.
- (xii) Special use permit to use a City stormwater site.

(2) Application Filed Before Effective Date of the Ordinance Codified in This Chapter. Complete long

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subdivision, short plat, and building permit applications that have been submitted before the effective date of the ordinance codified in this chapter are exempt from the requirements of this chapter.

(3) Single-Family Homes. Building permits for single-family dwellings and duplexes are exempt from the requirements of this chapter. This exemption does not apply to the plat within which the dwellings units are being constructed.

(4) Accessory Dwelling Units. All accessory dwelling units, as defined in this code, are exempt from the requirements of this chapter.

(5) Accounting for Capacity. The capacity for development permits exempted under subsections (2), (3), and (4) of this section shall be subtracted from available capacity.

14.10.040 Administrative rules.

The director is hereby instructed and authorized to adopt such administrative rules and procedures as are necessary to implement the provisions of this chapter. (Ord. O99-29 § 1)

14.10.050 Filing appeals – Concurrency, MPS, IS.

Any appeal of the decision of the City regarding concurrency, MPS, or IS shall follow the process for the appeal of the underlying development permit as set forth in Chapter 20.05 SMC, Procedures for Land Use Permit Applications, Public Notice, Hearings and Appeals, and Chapter 20.10 SMC, Hearing Examiner. (Ord. O99-29 § 1)

14.10.060 Grounds for appeal – Concurrency, MPS, IS.

- (1) For appeals of denial or conditional approval of an approved TIA, the appellant must show that:
- (a) The department committed a technical error;
 - (b) Alternative data or a traffic mitigation plan, which may include transportation strategies such as demand management or vanpools, submitted to the department was inadequately considered;
 - (c) The action of the department would substantially deprive the owner of all reasonable use of the property;
 - (d) Conditions required by the department for concurrency are not related to the concurrency requirement; or
 - (e) The action of the department was arbitrary and capricious.
- (2) For appeals of the MPS fee, the appellant must show that the department:
- (a) Committed an error in:
 - (i) Calculating the development's proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule; or
 - (ii) Granting credit for benefit factors; or
 - (b) Based the final decision upon incorrect data; or
 - (c) Gave inadequate consideration to alternative data or mitigations submitted to the department.
- (3) For appeals of IS improvements, the appellant must show that:
- (a) The department committed a technical error;
 - (b) Alternative data or a traffic mitigation plan submitted to the department was inadequately considered; or
 - (c) Conditions required by the department are not related to improvements needed to serve the proposed development. (Ord. O99-29 § 1)

14.10.070 Administrative reconsideration – Concurrency, MPS, IS.

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Decisions on the denial or conditional approval of an approved TIA, MPS fees, or IS improvements may be reconsidered administratively by the director, not a designee, under the following situations:

(1) For reconsideration of the denial or conditional approval of an approved TIA, the requester must show that:

- (a) The department committed a technical error; or
- (b) Alternative data or a traffic mitigation plan, which may include transportation strategies such as demand management or vanpools, submitted to the department was inadequately considered.

(2) For reconsideration of the MPS fee, the requester must show that the department:

- (a) Committed an error in:
 - (i) Calculating the development's proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule; or
 - (ii) Granting credit for benefit factors; or
- (b) Based the final decision upon incorrect data.

(3) For reconsideration of IS improvements, the requester must show that:

- (a) The department committed a technical error;
- (b) Alternative data or a traffic mitigation plan submitted to the department was inadequately considered.

(4) Requesting reconsideration of a denial or conditional approval of an approved TIA or IS improvements shall not be a procedural prerequisite for filing an appeal of the decision. As set forth in SMC 14.20.150, a request for reconsideration of MPS impact fees is a necessary prerequisite to an appeal of the decision.

Chapter 14.15
TRANSPORTATION CONCURRENCY MANAGEMENT

Sections:

- 14.15.010 Authority and purpose.
- 14.15.020 Concurrency test.
- 14.15.030 TAM standards.
- 14.15.040 Update of TAM.
- 14.15.050 Approved TIA.
- 14.15.060 Certificate of concurrency.
- 14.15.070 Fees.
- 14.15.080 Applicability.
- 14.15.090 Provision of needed transportation facilities.
- 14.15.100 Intergovernmental coordination.
- 14.15.110 Relationship to SEPA.

14.15.010 Authority and purpose.

(1) This chapter is enacted pursuant to the City of Sammamish's powers as an optional municipal code city, and the Growth Management Act, RCW 36.70A.070.

(2) It is the purpose of this chapter to:

- (a) Provide adequate levels of service on transportation facilities for existing use as well as new development in the City of Sammamish;

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(b) Provide adequate transportation facilities that achieve and maintain City standards for levels of service as provided in the comprehensive plan, as amended; and

(c) Ensure that City level of service standards are achieved “concurrently” with development (as required by the Growth Management Act) by denying approval of development that would cause the level of service on transportation facilities to decline below City standards. Applicants for development may propose mitigation measures that will achieve and maintain the City’s standard for level of service. (Ord. O99-29 § 1)

14.15.020 Concurrency test.

(1) Applications for an approved TIA, and the resulting concurrency test, shall be completed prior to application for development approval.

(2) Applications for an approved TIA shall be submitted to the department of community development in the form prescribed by the department.

(3) The department shall perform a concurrency test for each application for an approved TIA.

(4) The department shall conduct the concurrency test first for the earliest completed application received. Subsequent applicants will be tested in the same order as the department receives completed applications.

(5) The department shall not issue an approved TIA unless there are adequate transportation facilities to meet the level of service standards for existing and approved uses and the impacts of the proposed development.

(6) In conducting the concurrency test, the department shall use standard trip generation rates, such as those reported by the Institute of Transportation Engineers. An applicant may submit as a part of the application for an approved TIA a calculation of alternative trip generation rates for the proposed development. The director shall review the alternate calculations and make a written determination within 10 business days of submittal as to whether such calculation will be used in lieu of the standard trip generation rates. The director shall adjust the trip generation forecast of proposed development to account for allowances determined pursuant to the mitigation payment system’s procedures for transportation strategies, including transportation demand management reductions.

(7) If the level of service is equal to or better than the adopted standards, the concurrency test is passed, and the applicant shall receive an approved TIA.

(8) If the level of service is worse than the adopted standards, the concurrency test is not passed, and the applicant shall select one of the following options:

(a) Accept a 90-day reservation of transportation facilities that are available, and within the same 90-day period amend the application to reduce the need for transportation facilities to the units that are available, or voluntarily arrange for the transportation facilities or strategies needed to achieve concurrency. The 90-day period shall begin no later than 14 days after receipt of the notification of denial. Reduction of the need for transportation facilities may be achieved through one or a combination of the following: reducing the size of the development (so long as minimum density requirements continue to be met); reducing trip generation by the original proposed development; phasing of the development to match future transportation facility construction; providing transportation strategies, when the department determines that such strategies will be reasonably sufficient as to reduce traffic to a level that meets the concurrency standard or threshold; or

(b) Accept the denial of an application for an approved TIA; or

(c) Seek reconsideration of the denial of the application for an approved TIA, pursuant to the

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provisions of Chapter 14.10 SMC.

(d) Appeal the denial of the application for an approved TIA, pursuant to the provisions of Chapter 14.10 SMC. The City shall reserve any available development units during the appeal. Acceptance of the 90-day period shall not impair the applicant's future right to a formal appeal at a later time.

(9) The concurrency test shall be performed only for the specific property, uses, densities and intensities based on information provided by the applicant and included in an approved TIA. Changes to the uses, densities, and intensities that create additional impacts on transportation facilities shall be subject to an additional concurrency test. (Ord. O99-29 § 1)

14.15.030 TAM standards.

(1) The following are the transportation adequacy measure (TAM) standards for the City of Sammamish, as adopted in the City's Interim Comprehensive Plan Policy T-305, provided there are no unfunded critical links affecting the concurrency zone:

Transportation Service Area	Maximum Averaged V/C Zonal Score	Average TAM Standard
Transportation Service Area 4 (service planning area)	0.79	C

The standard in each concurrency zone or part thereof shall be the same as for the transportation service area in which the zone or part is located. In the event that a concurrency zone is affected by one or more unfunded critical links, the concurrency zone shall be considered to fail the standard for the zone.

(2) An approved TIA shall not be issued to any proposed development if the standards in this section are not achieved and maintained for the development as a whole, or the portion of the development inside the City of Sammamish. (Ord. O99-29 § 1)

14.15.040 Update of TAM.

Levels of service shall be monitored and the traffic model for the transportation adequacy measure shall be updated at least once per year. The monitoring and update process shall include traffic volumes, approval of additional development, completion of previously approved development, improvements to transportation facilities, and the effect of transportation strategies. (Ord. O99-29 § 1)

14.15.050 Approved TIA.

(1) An approved TIA shall be issued by the director. Issuance of an approved TIA creates a rebuttable presumption that the proposed development satisfies the concurrency requirements of this chapter. The determination of concurrency shall be final at the time of development approval. The issue of concurrency may be raised as part of the review process for the development application for which the certificate of concurrency was issued.

(2) Upon issuance of an approved TIA, the City shall reserve development units on behalf of the applicant, and indicate the reservation on the approved TIA.

(3) An approved TIA shall be valid for the development permit application period and subsequently for the same period of time as the development approval that is issued pursuant to the approved TIA. If the development approval does not have an expiration date, the approved TIA shall be valid for five years from the date of issuance.

(4) An approved TIA shall be valid for an initial 180-day period and may be extended one time for an

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additional 180 days by the director; provided, that the holder of the original approved TIA, or the holder's agent, has, before the time of expiration of the original approved TIA, scheduled a preapplication meeting with the department of community development, has requested such extension in writing to the director and has paid the extension fee. A further 90-day extension of approved TIA by the director shall be made only under extraordinary circumstances, and shall require the receipt of a current certificate of water availability, if required by SMC 20.05.040, Application requirements, and a written request by the applicant to the director.

(5) An approved TIA can be extended to remain in effect for the life of each subsequent development approval for the same parcel, as long as the applicant obtains the subsequent development approval prior to the expiration of the earlier development approval. No development shall be required to hold more than one valid approved TIA, unless the applicant or subsequent owner proposes changes or modifications to the property location, density, intensity or land use that creates additional impacts on transportation facilities.

(6) An approved TIA runs with the land and is valid only for subsequent development approvals for the same parcel, and to new owners of the original parcel for which it was issued. An approved TIA cannot be transferred to a different parcel and shall be limited to uses and intensities for which it was originally issued.

(7) Upon subdivision of a parcel that has obtained an approved TIA, the City may replace the approved TIA by issuing a separate approved TIA to each subdivided parcel, assigning to each a pro rata portion of the development units of the original approved TIA. The director may modify such assignment upon petition of the owner.

(8) An approved TIA shall expire if the underlying development approval expires or is revoked or denied by the City.

(9) All development approvals that voluntarily provide funding for one or more transportation facilities by the development or entities other than the City shall be conditioned to require that prior to the issuance of any final development approval the availability of such transportation facilities or financial arrangements has been confirmed. (Ord. O99-29 § 1)

14.15.060 Certificate of concurrency.

(1) Requirements. Each applicant for a development approval if vested in King County prior to September 1, 1999, shall present a certificate of concurrency. After September 1, 1999, an approved TIA is required instead a certificate of concurrency.

(2) Expiration. A certificate of concurrency shall expire if the development permit for which the concurrency is reserved is not applied for within 180 days of issuance or extension of the certificate of concurrency. A certificate of concurrency shall be required in an application that vested under King County prior to September 1, 1999, for either a formal subdivision plat or short plat under SMC Title 19, and for a commercial building permit. (Ord. O99-29 § 1)

14.15.070 Fees.

(1) The City shall charge an administrative fee for conducting the concurrency test in accordance with SMC 14.10.020(6) and an additional fee for the one-time extension of a valid approved TIA. The concurrency test fee shall not be refundable.

(2) Development by municipal, county, state, and federal governments, and by special districts (as that term is defined by state law) is exempt from the concurrency test fee. (Ord. O99-29 § 1)

14.15.080 Applicability.

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Except as set forth in SMC 14.15.070, the provisions and fees of this chapter shall apply to every application for an approved TIA and to every request for the extension of a valid approved TIA. (Ord. O99-29 § 1)

14.15.090 Provision of needed transportation facilities.

(1) The City shall determine that transportation facilities are available to support development at adopted TAM standards within six years of the impacts of such development. The City shall require at the time the approved TIA is issued that:

- (a) The necessary facilities and services are in place at the time a development approval is issued; or
- (b) The necessary facilities will be complete within six years of development approval;
- (i) The necessary facilities are under construction at the time a development approval is issued, and financial commitment is in place to complete the necessary facilities within six years of issuance of development approval; or
- (ii) The necessary facilities are the subject of a binding executed contract of development agreement that provides for the actual construction or financial commitment of the required facilities, guarantees that the necessary facilities will be in place within six years of issuance of development approval, and provides that the capital project is included in, or will be added to, the committed network for the transportation adequacy measure, the transportation needs report, and the six-year capital improvements program; or
- (iii) The City has in place financial commitments to complete the necessary public facilities or strategies within six years of issuance of development approval; or
- (c) Development approvals are issued subject to a binding executed contract or other binding condition that provides that any facilities and strategies necessary to meet concurrency requirements after issuance of development approval will be in place within six years of occupancy and use of the development.

(2) The approved TIA shall be binding on the City at such time as the applicant provides assurances, acceptable to the City in form and amount, to guarantee the applicant's pro rata share of the cost of capital improvements needed for concurrency as determined by the mitigation payment system, Chapter 14.20 SMC.

(3) The director may make adjustments to the committed network for TAM for corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications that are consistent with the adopted comprehensive plan; or the date of construction (so long as it is completed within the six-year period) of any facility enumerated in the capital improvements program.

(4) The City shall identify projects in the adopted six-year CIP required for the committed network for the transportation adequacy measure and any capital improvements for which a binding agreement has been executed with another party. (Ord. O99-29 § 1)

14.15.100 Intergovernmental coordination.

The City may enter into agreements with other local governments and the state of Washington to coordinate the imposition of TAM standards, impact fees, and other mitigation for transportation concurrency.

(1) The City may apply transportation standards, fees, and mitigations to development in the City that impacts other local governments and the state of Washington. Development approvals by the City may include conditions and mitigations that will be imposed on behalf of, and implemented by, other local governments and the state of Washington.

(2) The City may receive impact fees or other mitigations based on or as a result of development

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proposed in other jurisdictions that impacts the City. The City may agree to accept and implement conditions and mitigations that are imposed by other jurisdictions on development in its jurisdiction.

(3) No fees or mitigations for transportation facilities of other agencies will be required by the City unless an agreement has been executed between the City and the affected agency. The agreement shall specify the fee schedule and level of service standards to be used by the City and the affected agency, which standards shall be consistent with the City's interim comprehensive plan and, if different than the standards adopted pursuant to this title, shall be adopted by ordinance. (Ord. O99-29 § 1)

14.15.110 Relationship to SEPA.

A determination of concurrency shall be an administrative action of the City of Sammamish that is categorically exempt from the State Environmental Policy Act. (Ord. O99-29 § 1)

Chapter 14.20
MITIGATION PAYMENT SYSTEM

Sections:

- 14.20.010 Authority and purpose.
- 14.20.020 Scope and use of MPS impact fees.
- 14.20.030 Fee schedules and establishment of service districts (MPS zones).
- 14.20.040 MPS zone map.
- 14.20.050 Calculation of MPS fees.
- 14.20.060 Payment of fees.
- 14.20.070 Administrative fees.
- 14.20.080 Administrative fee for preliminary fee calculation.
- 14.20.090 Project list.
- 14.20.100 Funding of projects.
- 14.20.110 Refunds.
- 14.20.120 Fees paid under protest.
- 14.20.130 Exemptions for schools.
- 14.20.140 Exemption or reduction for low and moderate income housing.
- 14.20.150 Request for final decision needed to appeal.
- 14.20.160 Necessity of compliance.

14.20.010 Authority and purpose.

(1) The department is authorized to impose transportation impact fees on new development pursuant to the City of Sammamish's powers as an optional municipal code city; and the Growth Management Act, Laws of 1990, 1st Extraordinary Session, Chapter 17, Chapter 82.02 RCW.

(2) The purposes of this chapter are to:

- (a) Ensure that financial commitments are in place so that adequate transportation facilities are available to serve new growth and development;
- (b) Promote orderly growth and development by establishing standards requiring that new growth and development pay a proportionate share of the cost of new transportation facilities needed to serve new growth and development;
- (c) Ensure that transportation impact fees are imposed through established procedures and criteria so

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that specific developments do not pay arbitrary fees or duplicative fees for the same impact;

(d) Implement the transportation policies of the transportation element of the interim comprehensive plan; and

(e) Provide additional funding for growth-related transportation improvements identified by the interim comprehensive plan as reasonable and necessary to meet the future growth needs of the City. (Ord. O99-29 § 1)

14.20.020 Scope and use of MPS impact fees.

MPS impact fees:

(1) Shall only be imposed for transportation improvements that are reasonably related to the traffic impacts of the new development;

(2) Shall not exceed a proportionate share of the costs of transportation improvements that are reasonably related to the new development;

(3) Shall be used for transportation improvements that will reasonably benefit the new development;

(4) Shall not be used to correct existing deficiencies; and

(5) Shall not be imposed to mitigate the same off-site traffic impacts that are being mitigated pursuant to any other law. (Ord. O99-29 § 1)

14.20.030 Fee schedules and establishment of service districts (MPS zones).

(1) Fee schedules stating the amount of the MPS fee that single-family residential, multifamily residential, and nonresidential development shall pay for development subject to MPS fees are set forth in subsection (4) of this section. Subsequent fee schedules shall be established pursuant to SMC 14.20.050. All other development shall pay an MPS fee individually calculated by the department, as set forth in SMC 14.20.050. The MPS administrative fee that all developers shall pay is set forth in SMC 14.20.070 and 14.20.080.

(2) For purposes of this chapter, the City is divided into service districts also called MPS zones, set forth in SMC 14.20.040, MPS zone map. In each service district, similar types of development shall pay the same MPS fee, unless the amount of the fee is altered because:

(a) Unusual circumstances exist and the department adjusts the amount of the fee as provided in subsection (3) of this section; or

(b) The developer submits studies or data showing that the fee as set forth in the applicable schedule or as calculated by the department is in error, as provided in SMC 14.20.150(1) for appeal and SMC 14.20.150(2) for reconsideration.

(3) The department may adjust the standard impact fee as set forth in the fee schedules at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that MPS fees are imposed fairly. The department shall set forth its reasons for adjusting the standard MPS fee in written findings.

(4) MPS Impact Fee Schedule.

MPS Zone Service District	Fee for Single-Family Residential Development per Dwelling Unit	Fee for Multifamily Residential Development per Dwelling Unit	Fee for Nonresidential Development per PM Peak Hour Trip
402	\$1,996.00	\$1,197.60	\$1,996.00
403	\$2,575.00	\$1,545.00	\$2,575.00
405	\$6,247.00	\$3,748.20	\$6,247.00
406	\$2,226.00	\$1,335.60	\$2,226.00

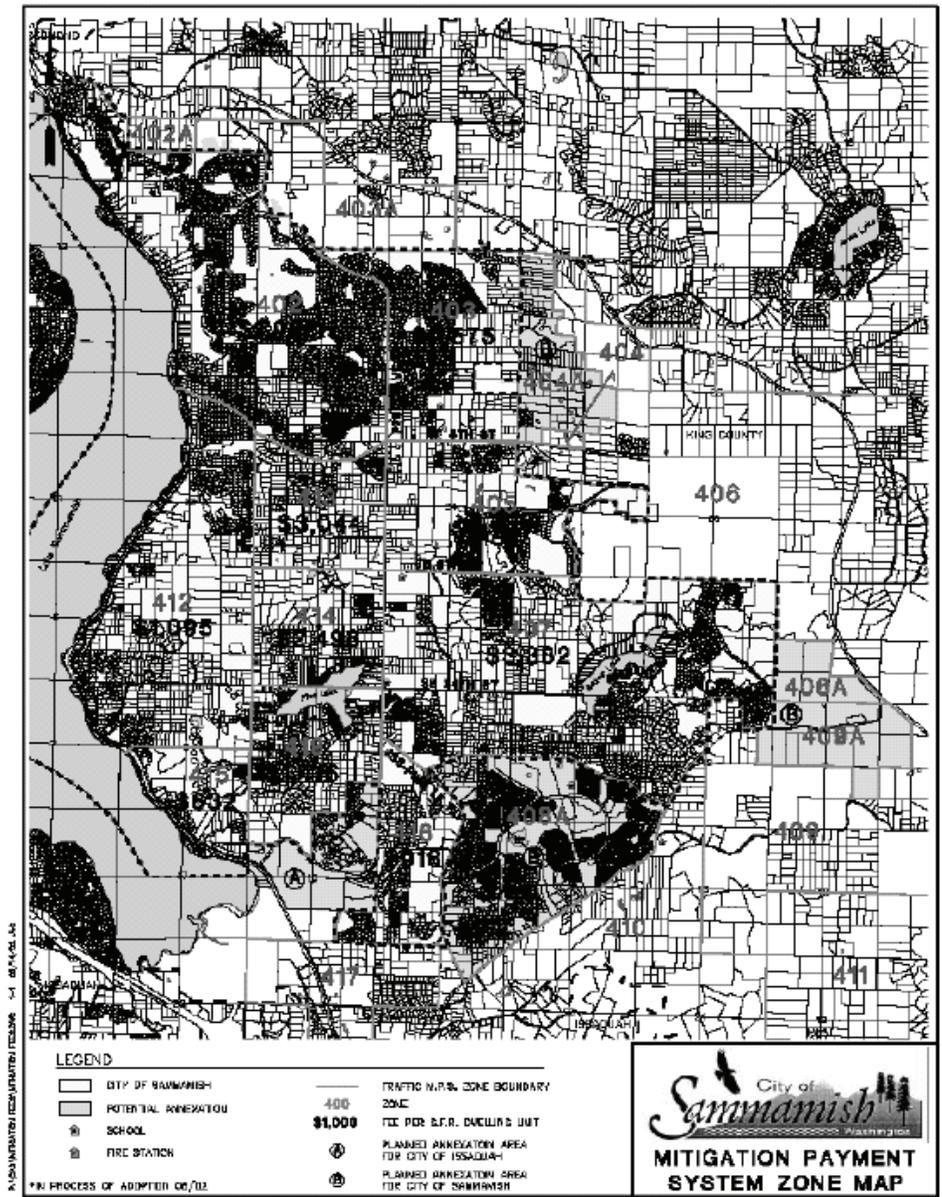
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407	\$3,382.00	\$2,029.20	\$3,382.00
412	\$1,095.00	\$657.00	\$1,095.00
413	\$3,044.00	\$1,826.40	\$3,044.00
414	\$2,498.00	\$1,498.80	\$2,498.00
415	\$632.00	\$379.20	\$632.00
416	\$918.00	\$550.80	\$918.00
419	\$1,416.00	\$849.60	\$1,416.00
		The fee for multifamily residential development shall be 60% of the fee for single-family development.	Fees for nonresidential development shall be based on single-family equivalent residential units where one nonresidential PM peak trip equals the single-family unit.

(Ord. O99-29 § 1)

14.20.040 MPS zone map.

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14.20.050 Calculation of MPS fees.

(1) The department shall calculate the MPS fees set forth in the fee schedules, SMC 14.20.030(1), by

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means of a computer modeling system that:

- (a) Incorporates the service districts adopted in SMC 14.20.030(2);
 - (b) Within each service district of the City, determines the standard fee for similar types of residential development, which shall be reasonably related to each development's proportionate share of the cost of the transportation improvement projects being funded by this chapter and shall reasonably reflect the average fee for similar development in the same service district; and
 - (c) Reduces the proportionate share by applying the benefit factors set forth in this chapter.
- (2) Only when a development's MPS impact fee is not determined by the fee schedules adopted in SMC 14.20.030(1), the department may, at its option and at the applicant's expense, calculate the MPS fee by means of a computerized modeling system, which is the same system used to determine the fee schedules, and which:
- (a) Determines the development's proportionate share of the cost of the transportation improvement projects being funded by this chapter; and
 - (b) Reduces the proportionate share by applying the benefit factors set forth in this chapter.
- (3) The computer model used shall calculate proportionate share for use in both fee schedules and individual calculations by:
- (a) Determining the number of peak hour vehicle trips generated by development that will benefit from the vehicle capacity added, or to be added, by the street improvements on the MPS project list;
 - (b) Determining the unit cost of added capacity for each MPS project by dividing the estimated cost of each project by the amount of capacity added; and
 - (c) Multiplying the number of peak hour trips added to each MPS project by the unit cost of added capacity for those projects.
- (4) In calculating proportionate share, the modeling system used shall:
- (a) Recognize that a development's traffic will use a corridor rather than a particular street;
 - (b) Use trip generation rates published by the Institute of Transportation Engineers (ITE) unless:
 - (i) Actual measurements of the rate of trip generation by similar developments in the City are available, and the director determines that these local measurements are more accurate; or
 - (ii) ITE trip generation rates for the proposed development are not available, in which case the director:
 - (A) May use published rates from another source; or
 - (B) May calculate the rate from data about the population of the proposed development; or
 - (C) May require the developer to obtain actual measurements of trip generation rates by similar developments in the City;
 - (c) Reduce the trip generation rate to reflect reductions in traffic that will occur because of transportation strategies, as described in the administrative rules for this title;
 - (d) Identify all streets and intersections that will be impacted by traffic from each development for as far from the development as the model can measure;
 - (e) Identify when the capacity of an MPS project has been fully utilized;
 - (f) Update the data in the model as often as practical, at least every five years;
 - (g) Estimate the cost of constructing the projects on the MPS project list as of the time they are placed on the list, and then update the cost estimates periodically, considering the:
 - (i) Availability of other means of funding transportation facility improvements;

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(ii) Cost of existing transportation facility improvements; and
 (iii) Methods by which transportation facility improvements were financed;
 (h) Update the fee collected against a project that has already been completed, through an advancement of City funds, at a rate, determined periodically, which is equivalent to the City's return on its investments; and

(i) Charge a development for the total traffic entering and exiting the development during the peak hour.

(5) The modeling system used shall reduce the calculated proportionate share by giving credit for the following benefit factors:

(a) A 15 percent credit in recognition that some of the trips from a development paying an MPS fee may begin or end within another development that is or has been subject to MPS requirements;

(b) Past or future payments made or reasonably anticipated to be made by a development to pay for particular transportation improvements in the form of user fees, debt service payments, taxes or other payments earmarked for or proratable to the same projects being funded by such development's MPS fee; and

(c) The value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to transportation facilities that are identified in the MPS project list and that are required by the City as a condition of approving the development activity; provided, that when an MPS project is constructed on both on-site and off-site land, the department shall determine, in light of all the circumstances, what proportion of the developer's costs should fairly and reasonably be attributed to the work done on off-site land.

(6) The department shall review the 15 percent credit factor periodically and propose revisions to the factor when appropriate to reflect the actual number of trips generated by new development that also begin or end in other developments that have previously been subject to a fee for the same impact.

(7) If the credit determined pursuant to subsection (5)(c) of this section exceeds the amount of the developer's MPS fee, the department shall reimburse the developer from MPS fees collected from other developers for the same MPS project.

(8) The amount of credit determined pursuant to subsection (5)(c) of this section shall be credited proportionately among all the lots in the development, and the MPS fee for each lot for which a building permit is applied shall be reduced accordingly.

(9) The department shall use the information from the computerized modeling system to prepare recommended fee schedules. The City council shall, as often as is necessary but at least every five years, by ordinance establish the fee schedule applicable to each service area in the City by adopting, with or without modification, the department's recommended fee schedules.

(10) The department shall present to the City council in administrative rules the proposed changes in the service district boundaries, set forth in SMC 14.20.030(2), as often as is necessary to ensure that the service district boundaries conform to sound planning or engineering principles.

(11) To the extent practical, and in accordance with sound planning or engineering principles, the department shall develop and propose to the City council for adoption precalculated fee schedules applicable to types of development in addition to residential development. (Ord. O99-29 § 1)

14.20.060 Payment of fees.

(1) All developers shall pay an MPS fee in accordance with the provisions of this chapter at the time that the applicable development permit is ready for issuance. The fee paid shall be the amount in effect as of the

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date of permit application if paid at the time of final plat approval or the current rate if paid at the time of the building permit.

(2) All developers shall pay an MPS administrative fee at the time of application for a development permit as set forth in SMC 14.20.070 and 14.20.080.

(3) An individually determined MPS fee shall be calculated at the time of application for a development permit.

(4) The fee as initially calculated after application for a development permit may be recalculated at the time of payment if the development is modified or conditioned in such a way as to alter the trip generation rate for the development or the development's total peak hour trips.

(5) No development permit shall be issued until the MPS fee is paid, except that developers of residential subdivisions, short subdivisions, or planned unit development may defer payment until building permits are issued for the lots within the subdivision, short subdivision or planned unit development, at current rates.

(6) A developer may obtain a preliminary determination of the MPS fee before application for a development permit, by paying a processing fee pursuant to SMC 14.20.070 and providing the department with the information needed for processing.

(7) MPS fees may be paid under protest in order to obtain a permit or other approval of development activity following the provisions of SMC 14.20.120, Fees paid under protest. (Ord. O99-29 § 1)

14.20.070 Administrative fees.

(1) All development permits subject to the MPS fees pursuant to SMC 14.20.060 shall pay an administrative fee of \$60.00.

(2) All development permits that require an individually determined MPS fee pursuant to SMC 14.20.060(3) shall pay an administrative processing fee of \$432.00. (Ord. O99-29 § 1)

14.20.080 Administrative fee for preliminary fee calculation.

Requests to the department for a preliminary determination of an MPS fee prepared pursuant to SMC 14.20.060(6) shall be charged the administrative processing fee set forth in SMC 14.20.070. (Ord. O99-29 § 1)

14.20.090 Project list.

(1) In conjunction with the department's periodic review and update of the transportation needs report (TNR) element of the interim comprehensive plan the department shall do the following:

(a) Identify each capital improvement project in the TNR that is growth-related and the proportion of each such project that is growth-related;

(b) Forecast the total monies available from taxes and other public sources for road improvements over the multi-year program;

(c) Calculate the amount of MPS fees already paid; and

(d) Identify those MPS projects that have been or are being built but whose performance capacity has not been fully utilized.

(2) The department shall use this information to periodically prepare a recommended MPS project list, which shall comprise:

(a) The projects on the TNR, in order of priority, that are growth-related and that are capable of being funded with the forecast public monies and the MPS fees already paid; and

(b) The MPS projects already built or funded pursuant to this chapter whose performance capacity has not been fully utilized.

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(3) The City council, at the same time that it adopts the periodic budget and appropriates funds for capital improvement projects, shall establish the MPS project list by adopting, with or without modification, the department's recommended list.

(4) Once a project is placed on the MPS project list, a fee shall be imposed on every development that impacts the project until the project is removed from the list by one of the following means:

(a) The City council by ordinance removes the project from the MPS project list, in which case the fees already collected will be refunded if necessary to ensure that the MPS fee remains reasonably related to the traffic impacts of development that have paid an MPS fee; provided, that a refund shall not be necessary if the council transfers the fees to the budget of another project that the City council determines will mitigate essentially the same traffic impacts; or

(b) The capacity created by the project has been fully utilized, in which case the department shall administratively remove the project from the MPS project list. (Ord. O99-29 § 1)

14.20.100 Funding of projects.

(1) An MPS trust fund 601 is hereby created. The director of finance shall be the fund manager. MPS fees shall be placed in appropriate deposit accounts within the MPS fund.

(2) The MPS fees paid to the City shall be held and disbursed as follows:

(a) The fees collected for each MPS project shall be placed in a deposit account within the MPS fund;

(b) The fund manager is authorized to transfer the project fees held in the MPS fund to the transportation CIP fund no less than once a year in the year following receipt of the fees;

(c) The non-MPS fee monies appropriated for the MPS project shall comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in MPS fees;

(d) The first money spent by the department on an MPS project after a City council appropriation shall be deemed to be the fees from the MPS fund;

(e) Fees collected after a project has been fully funded by means of one or more City council appropriations shall constitute reimbursement to the City of the public monies advanced for the private share of the project. The public monies made available by such reimbursement shall be used to pay the public share of other MPS projects or to pay for smaller scale, growth-related projects that are not placed on the MPS project list; and

(f) All interest earned on the MPS fees paid by developers shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed.

(3) MPS fees for transportation facility improvements shall be expended only in conformance with the transportation element of the comprehensive plan.

(4) MPS projects shall be funded by a balance between MPS fees and other sources of public funds, and shall not be funded solely by MPS fees.

(5) MPS fees shall be expended or encumbered for a permissible use within six years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than six years. The director may recommend to the City council that the city hold fees beyond six years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the City council.

(6) The City council may, on recommendation from the director, pool the MPS fees already collected from a development whenever appropriate to help finance a project with high priority among the projects impacted by the development.

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(7) The City council, on recommendation from the director, may pool MPS fees whenever necessary to ensure that the fees are expended or encumbered for a permissible use within six years of receipt. Pooling for such purpose shall be accomplished as follows:

(a) The director shall determine which project has the highest priority among the projects for which MPS fees were collected for each such development, and the director may recommend, and the City council may approve, transfer of the MPS fees paid by the development to the budget of the project with the highest priority.

(b) The department shall indicate in the TNR which projects have funds in their budget that have been pooled to ensure that they are expended or encumbered in a timely manner.

(8) The finance department shall prepare an annual report on each MPS fee account showing the source and amount of all monies collected, earned or received and transportation improvements that were financed in whole or in part by MPS fees. (Ord. O99-29 § 1)

14.20.110 Refunds.

(1) A developer may request and shall receive a refund when the developer does not proceed with the development activity for which MPS fees were paid, and the developer shows that no impact has resulted. However, the MPS administrative fee shall not be refunded.

(2) If a property owner appears to be entitled to a refund of MPS impact fees, the department shall notify the property owner by first class mail deposited with the United States Postal Service at the property owner's last known address. The property owner must submit a written request for a refund to the City council in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any MPS impact fees that are not expended or encumbered within the time limitations established by SMC 14.20.100(5) and for which no application for a refund has been made within this one-year period, shall be retained and expended on the projects for which it was collected.

(3) In the event that MPS impact fees must be refunded for any reason, they shall be refunded with interest earned to the property owners as they appear of record with the King County assessor at the time of the refund.

(4) When the City seeks to terminate any or all impact fee requirements under this title, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City clerk shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of claimants. Claimants shall request refunds as in subsection (2) of this section. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City in fund 601, but must be expended for the indicated road facilities. This notice of requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated. (Ord. O99-29 § 1)

14.20.120 Fees paid under protest.

(1) A statement that fees are being paid under protest must be filed with the City clerk within 14 days of the payment of fees.

(2) Fees paid under protest will be held by the City until there is a standing decision or the six-year time limit has been reached.

14.20.130 Exemptions for schools.

(1) Public school districts shall be exempted from payment of mitigation payment system fees.

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(2) The amount of the MPS fees not collected from school districts shall be paid from public funds other than impact fee accounts. (Ord. O99-29 § 1)

14.20.140 Exemption or reduction for low and moderate income housing.

(1) Public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs may apply to the department of community development for exemptions from MPS fee requirements. The department shall review proposed developments of low income or moderate housing by such public or nonprofit developers pursuant to criteria and procedures adopted by administrative rule. If the department determines that a proposed development of low or moderate income housing satisfies the adopted criteria, such development shall be exempted from the requirement to pay an MPS fee.

(2) Private developers who dedicate residential units for occupancy by low or moderate income households may apply to the department of community development for reductions in MPS fees. The department shall review such proposed developments pursuant to criteria and procedures adopted by administrative rule. If the department determines that a proposed development satisfies the adopted criteria the department shall reduce the calculated MPS fee for the development by an amount that is proportionate to the number of units in the development that satisfy the adopted criteria.

(3) Developers of individual low or moderate income households who are building, contracting to build, or siting a house may apply to the department of community development for an exemption from MPS fees. The department shall review such proposed exemptions pursuant to criteria that include household income and assets, the cost of the site, site improvements, and the housing. The procedures and criteria used to evaluate an exception shall be adopted by administrative rule. If the department determines that a household qualifies for exemption per the adopted criteria, such individual projects shall be exempted from the requirement to pay the MPS fee.

(4) The amount of the MPS fees not collected from low or moderate income household development shall be paid from public funds other than impact fee accounts, if authorized.

(5) The department of community development is hereby instructed and authorized to adopt, pursuant to Chapter 2.55 SMC, administrative rules to implement this section. Such rules shall provide for the administration of this program and shall:

(a) Encourage the construction of housing for low or moderate income households by public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs;

(b) Encourage the construction in private developments of housing units for low or moderate income households that are in addition to units required by another housing program or development condition;

(c) Ensure that housing that qualifies as low or moderate cost meets appropriate standards regarding household income, rent levels or sale prices, location, number of units, and development size; and

(d) Ensure that developers who obtain an exemption from or reduction of MPS fees pursuant to subsections (1) and (2) of this section will in fact build the proposed low and moderate cost housing and make it available to low income households for a minimum of 15 years. (Ord. O99-29 § 1)

14.20.150 Request for final decision needed to appeal.

In order to obtain an appealable final decision the developer must:

(1) Request in writing a review of the MPS impact fee amount by department staff. The department staff shall consider any studies and data submitted by the developer seeking to adjust the amount of the fee; and

(2) Request in writing under SMC 14.10.060 for reconsideration by the director of public works, not a

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designee, of an adverse decision by staff. Such request for reconsideration shall state in detail the grounds for the request. The public works director, not a designee, shall issue a final, appealable decision after reviewing the request.

The process for filing appeals is set forth in SMC 14.10.050, Filing appeals – Concurrency, MPS, IS. (Ord. O99-29 § 1)

14.20.160 Necessity of compliance.

A development permit issued after the effective date of the MPS provisions of this chapter shall be null and void if issued without substantial compliance with this chapter by the department of community development and the developer. (Ord. O99-29 § 1)

**Chapter 14.25
INTERSECTION STANDARDS**

Sections:

- 14.25.010 Authority and purpose.
- 14.25.020 Definitions.
- 14.25.030 Significant adverse impacts.
- 14.25.040 Mitigation and payment of costs.
- 14.25.050 Interjurisdictional agreements.
- 14.25.060 Relation to other permit authority.

14.25.010 Authority and purpose.

(1) This chapter is enacted pursuant to the State Environmental Policy Act, Chapter 20.15 SMC, and Chapter 58.17 RCW.

(2) The purpose of this chapter is to:

- (a) Assure adequate levels of service, safety, and operating efficiency on the City of Sammamish street system, at intersections serving and directly impacted by proposed new development;
- (b) Establish standards for intersection operation and define the relationship between new developments and street intersection function;
- (c) Identify development conditions to assure intersection capacity, safety, and operational efficiency; and
- (d) Require that owners of new developments pay the proportionate costs of required intersection improvements. (Ord. O99-29 § 1)

14.25.020 Definitions.

(1) “Highway capacity manual” means Special Report 209 of the Transportation Research Board of the National Research Council, as currently or hereafter amended.

(2) “Street standards” means the City of Sammamish interim street standards, as set forth in the City of Sammamish public works standards. Terms used in the street standards in the public works standards shall have the same meaning when used in this chapter. References and authorities cited in the street standards in the public works standards shall also apply to this chapter. (Ord. O99-29 § 1)

14.25.030 Significant adverse impacts.

For the purposes of SEPA and this chapter, a significant adverse impact is defined as any traffic

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condition directly caused by proposed development that would reasonably result in one or more of the following conditions at the time any part of the development is completed and able to generate traffic:

(1) A street intersection that provides access to a proposed development, and that will function at a level of service worse than “E” as set forth in the highway capacity manual, and that will carry 30 or more added vehicles in any one-hour period as a direct impact of the proposed development, and that will be impacted by at least 20 percent of the new traffic generated from the proposed development in that same one-hour period; or

(2) A street intersection or approach lane where the director determines that a hazard to safety could reasonably result. (Ord. O99-29 § 1)

14.25.040 Mitigation and payment of costs.

(1) Based on the identification of intersection level of service standard “E” as set forth in the highway capacity manual being exceeded using analytical techniques and information acceptable to the director, the owner of a proposed development shall be required to provide improvements that bring the intersection into compliance with intersection level of service standard “E” as set forth in the highway capacity manual, or that return it to its pre-project condition, as may be required by the director. Approval to construct the proposed development shall not be granted until the owner has agreed to build or pay fair and equitable costs to build the improvements required by the director within the time schedule set by the director.

(2) At the discretion of the director, and based on technical information regarding traffic conditions and expected traffic impacts, the City may require that the owner of a proposed development pay the full costs of required intersection improvements required under this title. (Ord. O99-29 § 1)

14.25.050 Interjurisdictional agreements.

Nothing in this section shall prevent the City from entering into agreements with the WSDOT or other local jurisdictions for the collection of fees and the mitigation of traffic on state highways or City arterials or county roads that may be caused by developments proposed in the City of Sammamish. (Ord. O99-29 § 1)

14.25.060 Relation to other permit authority.

The procedures set forth in this chapter do not limit the authority of the City of Sammamish to deny or to approve with conditions the following:

- (1) Any zone reclassification request, based on its expected traffic impacts;
- (2) Any proposed development or zone reclassification if the City determines that a hazard to safety would result from its direct traffic impacts without street or intersection improvements, regardless of level of service standards; or
- (3) Any proposed development reviewed under the authority of the Washington State Environmental Policy Act. (Ord. O99-29 § 1)

**Title 15
ENVIRONMENT**

Chapters:

- 15.05 Surface Water Management**
- 15.10 Flood Damage Prevention**

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19.70.020 Enforcement.

The director of the department of community development is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of SMC Title 23. (Ord. O99-29 § 1)

Title 20

ADMINISTRATIVE PROCEDURES/ENVIRONMENTAL POLICY

Chapters:

- 20.05 Procedures for Land Use Permit Applications, Public Notice, Hearings and Appeals
- 20.10 Hearing Examiner
- 20.15 State Environmental Policy Act Procedures
- 20.20 Land Use Mediation Program

Chapter 20.05

PROCEDURES FOR LAND USE PERMIT APPLICATIONS, PUBLIC NOTICE, HEARINGS AND APPEALS

Sections:

- 20.05.010 Chapter purpose.
- 20.05.020 Classifications of land use decision processes.
- 20.05.030 Preapplication conferences.
- 20.05.040 Application requirements.
- 20.05.050 Notice of complete application to applicant.
- 20.05.060 Notice of application.
- 20.05.070 Vesting.
- 20.05.080 Applications – Modifications to proposal.
- 20.05.090 Notice of decision or recommendation – Appeals.
- 20.05.100 Permit issuance.
- 20.05.110 Semi-annual report.
- 20.05.120 Citizen's guide.

20.05.010 Chapter purpose.

The purpose of this chapter is to establish standard procedures for land use permit applications, public notice, hearings, and appeals in the City of Sammamish. These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, permit review, hearing and appeal processes; provide for uniformity in public notice procedures; minimize delay and expense; and result in development approvals that implement the policies of the interim comprehensive plan. These procedures also provide for an integrated and consolidated land use permit and environmental review process consistent with Chapter 347, Laws of 1995. (Ord. O99-29 § 1)

20.05.020 Classifications of land use decision processes.

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(1) Land use permit decisions are classified into four types, based on the amount of discretion associated with each decision. Procedures for the four different types are distinguished according to who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made, and whether administrative appeals are provided. The types of land use decisions are listed in Exhibit A of this section.

(a) Type 1 decisions are made by the director (director) of the department of community development (department). Type 1 decisions are non-appealable administrative decisions that require the exercise of little or no administrative discretion, except for Type 1 decisions for which the department has issued a State Environmental Policy Act (SEPA) threshold determination. Type 1 decisions for which the department has issued a SEPA threshold determination are appealable at the time of issuance of the SEPA threshold determination to the hearing examiner as a Type 2 decision; provided, that the appeal is limited to the SEPA threshold determination and issues relating to development code (SMC Title 21A) compliance excluding compliance with permitted use provisions. However, the decision on the Type 1 permit, exclusive of SEPA threshold determinations issued by the department and issues relating to development code (SMC Title 21A) compliance excluding compliance with permitted use provisions, is not appealable to the hearing examiner; rather it is appealable to superior court. For the purposes of appealing a Type 1 decision to superior court, the Type 1 decision shall not be considered final until any permitted appeal to the hearing examiner is decided. Public notice is not required for Type 1 decisions, except for Type 1 decisions for which the department has issued a SEPA threshold determination, which are treated like Type 2 decisions for the purposes of public notice.

(b) Type 2 decisions are made by the director, or his or her designee. Type 2 decisions are discretionary decisions that are subject to administrative appeal in accordance with applicable provisions of law or ordinance.

(c) Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to superior court.

(d) Type 4 decisions are quasi-judicial decisions made by the hearing examiner. Type 4 decisions may be appealed to the State Shoreline Hearings Board.

(2) Except as provided in SMC 20.15.130(1)(f) and 25.35.060 or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application.

(3) Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

(4) Land use permits that are categorically exempt from review under the State Environmental Policy Act (SEPA) will not require a threshold determination (determination of nonsignificance (DNS) or determination of significance (DS)). For all other projects, the SEPA review procedures codified in Chapter 20.15 SMC are supplemental to the procedures set forth in this chapter.

Exhibit A

LAND USE DECISION TYPE

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Type 1	Decision by director, no administrative appeal	Building; clearing and grading; boundary line adjustment; right-of-way; road variance except those rendered in conjunction with a short plat decision ¹ ; variance from the requirements of Chapter 9.04 KCC as adopted by Chapter 15.05 SMC; shoreline exemption; approval of a conversion harvest plan
Type 2	Decision by director appealable to hearing examiner, no further administrative appeal	Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; temporary use; Type 1 decision for which the department has issued a SEPA threshold determination ³ ; procedural and substantive SEPA decision; site development permit; approval of residential density incentives or transfer of development credits; reuse of public schools; reasonable use exceptions under SMC 21A.50.070(2); preliminary determinations under SMC 20.05.030(2); sensitive 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
Type 3	Recommendation by director, hearing and decision by hearing examiner appealable to superior court	Preliminary plat; plat alterations; preliminary plat revisions; plat vacations; zone reclassifications ² ; urban planned development; special use
Type 4	Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board	Shoreline substantial development permits; shoreline variances; shoreline conditional use permits

¹ 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.

² 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.

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3 Only the SEPA threshold determination and issues relating to development code compliance, excluding compliance with permitted use provisions, may be appealed, upon issuance of the threshold determination; other issues, including those relating to building code compliance, are not appealable.

(Ord. O2000-63 §§ 1, 2, 3; Ord. O99-29 § 1)

20.05.030 Preapplication conferences.

(1) Prior to filing a permit application for a Type 1 decision, the applicant shall contact the department to schedule a preapplication conference that shall be held prior to filing the application if the property will have 5,000 square feet or greater of development site or right-of-way improvements, the property is in a critical drainage basin, or the property has a wetland, steep slope, landslide hazard, or erosion hazard. Exempt from this requirement are:

(a) A single-family residence and its accessory buildings;

(b) Other structures where all work is in an existing building and no parking is required or added.

(2) Prior to filing a permit application requiring a Type 2, 3 or 4 decision, the applicant shall contact the department to schedule a preapplication conference that shall be held prior to filing the application, except as provided herein. The purpose of the preapplication conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The preapplication conference shall be scheduled by the department, at the request of an applicant, and shall be held in a timely manner, within 30 days from the date of the applicant's request. The director may waive the requirement for a preapplication conference if it is determined to be unnecessary for review of an application. Nothing in this section shall be interpreted to require more than one preapplication conference or to prohibit the applicant from filing an application if the department is unable to schedule a preapplication conference within 30 days following the applicant's request.

Information presented at or required as a result of the preapplication conference shall be valid for a period of 180 days following the preapplication conference. An applicant wishing to submit a permit application more than 180 days following a preapplication for the same permit application shall be required to schedule another preapplication conference.

(3) At or subsequent to a preapplication conference, the department may issue a preliminary determination that a proposed development is not permissible under applicable City policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the hearing examiner in the manner provided for a Type 2 permit, as an alternative to proceeding with a complete application. Mailed and published notice of the appeal shall be provided for as in SMC 20.05.060(7) and (8). (Ord. O99-29 § 1)

20.05.040 Application requirements.

(1) The department shall not commence review of any application set forth in this chapter until the applicant has submitted the materials and fees specified for complete applications. Applications for land use permits requiring Type 1, 2, 3, or 4 decisions shall be considered complete as of the date of submittal upon determination by the department that the materials submitted meet the requirements of this section. Except as provided in subsection (2) of this section, all land use permit applications described in SMC 20.05.020, Exhibit A, shall include the following:

(a) An application form provided by the department and completed by the applicant that allows the applicant to file a single application form for all land use permits requested by the applicant for the development proposal at the time the application is filed;

(b) Designation of who the applicant is, except that this designation shall not be required as part of a

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complete application for purposes of this section when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right-of-way and the following three requirements are met:

- (i) The name of the agency or private or public utility is shown on the application as the applicant;
- (ii) The agency or private or public utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and
- (iii) The form designating who the applicant is is submitted to the department prior to permit approval;
- (c) A certificate of sewer availability from the Sammamish Plateau Sewer and Water District or site percolation data with preliminary approval by the Seattle-King County department of public health;
- (d) A current certificate of water availability, as required by Chapter 21A.60 SMC;
- (e) Review by Sammamish fire services;
- (f) A site plan, prepared in a form prescribed by the director;
- (g) Proof that the lot or lots are recognized as separate lots pursuant to the provisions of Chapter 19.15 SMC, if required by SMC 21A.50.100;
- (h) A sensitive areas affidavit if required by Chapter 21A.50 SMC;
- (i) A completed environmental checklist, if required by Chapter 20.15 SMC, State Environmental Policy Act Procedures;
- (j) Payment of any development permit review fees, excluding impact fees, as set forth by resolution;
- (k) A list of any permits or decisions applicable to the development proposal that have been obtained prior to filing the application or that are pending before the City or any other governmental entity;
- (l) Approved traffic impact analysis from the director or designee, if required by Chapter 14.15 SMC;
- (m) Certificate of future connection from the appropriate purveyor for lots located within the City that are proposed to be served by on-site or community sewage system and/or group B water systems or private well;
- (n) A determination if drainage review applies to the project pursuant to Chapter 9.04 KCC as adopted by Chapter 15.05 SMC, and, if applicable, all drainage plans and documentation required by the King County surface water design manual adopted pursuant to Chapter 9.04 KCC as adopted by Chapter 15.05 SMC;
- (o) Current assessor's maps and a list of tax parcels to which public notice must be given as provided in this chapter, for land use permits requiring a Type 2, 3 or 4 decision;
- (p) Legal description of the site;
- (q) Variances obtained or required under SMC Title 21A to the extent known at the date of application; and
- (r) For commercial site development permits only, a phasing plan and a time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years.

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the department and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the department from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

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(2) Additional complete application requirements for the following land use permits are set forth in the following sections of the SMC:

- (a) Clearing and grading permit, SMC 16.15.070.
- (b) Construction permits.
- (c) Mobile home permits.

(3) The director may specify the requirements of the site plan required to be submitted for various permits and may waive any of the specific submittal requirements listed herein that are determined to be unnecessary for review of an application.

(4) The applicant shall attest by written oath to the accuracy of all information submitted for an application.

(5) Applications shall be accompanied by the payment of the applicable filing fees, if any, as set forth by resolution. (Ord. O99-29 § 1)

20.05.050 Notice of complete application to applicant.

(1) Within 28 days following receipt of a land use permit application, the department shall mail or provide written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete. To the extent known by the department, the notice shall identify other agencies of local, state, regional, or federal governments that may have jurisdiction over some aspects of the development proposal.

(2) An application shall be deemed complete under this section if the department does not provide written notice to the applicant that the application is incomplete within the 28-day period as provided herein.

(3) If the application is incomplete and the applicant submits the additional information requested by the department, the department shall notify the applicant in writing within 14 days whether the application is complete or what additional information specified by the department as provided in subsection (1) of this section is necessary to make the application complete. An application shall be deemed complete if the department fails to provide written notice to the applicant within the 14-day period that the application is incomplete.

(4) The date an application is deemed complete is the date of receipt by the department of all of the information necessary to make the application complete as provided in this chapter. The department's issuance of a notice of complete application as provided in subsections (1) or (3) of this section, or the failure of the department to provide such a notice as provided in subsections (2) or (3) of this section, shall cause an application to be conclusively deemed to be complete and vested as provided in this chapter.

(5) The department may cancel an incomplete application if the applicant fails to submit the additional information required by this chapter within 90 days following notification from the department that the application is incomplete. (Ord. O99-29 § 1)

20.05.060 Notice of application.

(1) A notice of application shall be provided to the public for all land use permit applications requiring Type 2, 3 or 4 decisions or Type 1 decisions subject to SEPA pursuant to this section.

(2) Notice of the application shall be provided by the department within 14 days following the department's determination that the application is complete. A public comment period of at least 21 days shall be provided, except as otherwise provided in Chapter 90.58 RCW.

(3) If the director has made a determination of significance (DS) under Chapter 43.21 RCW prior to the issuance of the notice of application, the notice of the DS shall be combined with the notice of application

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and the scoping notice.

- (4) All required notices of application shall contain the following information:
- (a) The file number;
 - (b) The name of the applicant;
 - (c) The date of application, the date of the notice of completeness and the date of the notice of application;
 - (d) A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;
 - (e) A site plan on eight and one-half by 14-inch paper, if applicable;
 - (f) The procedures and deadline for filing comments, requesting notice of any required hearings, and any appeal procedure;
 - (g) The date, time, place, and type of hearing, if applicable and scheduled at the time of notice;
 - (h) The identification of other permits not included in the application to the extent known;
 - (i) The identification of existing environmental documents that evaluate the proposed project;
 - (j) A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and of consistency with applicable City plans and regulations.
- (5) Notice shall be provided in the following manner:
- (a) Posted at the project site as provided in subsections (6) and (9) of this section;
 - (b) Mailed by first class mail as provided in subsection (7) of this section; and
 - (c) Published as provided in subsection (8) of this section.
- (6) Posted notice for a proposal shall consist of one or more notice boards posted by the applicant within 14 days following the department's determination of completeness as follows:
- (a) A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing and shall be placed by the applicant:
 - (i) At the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility;
 - (ii) Five feet inside the street property line except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street property without approval of the department;
 - (iii) So that the top of the notice board is between seven to nine feet above grade; and
 - (iv) Where it is completely visible to pedestrians.
 - (b) Additional notice boards may be required when:
 - (i) The site does not abut a public road;
 - (ii) A large site abuts more than one public road; or
 - (iii) The department determines that additional notice boards are necessary to provide adequate public notice.
 - (c) Notice boards shall be:
 - (i) Maintained in good condition by the applicant during the notice period through the time of the final City decision on the proposal, including the expiration of any applicable appeal periods, and for decisions that are appealed, through the time of the final resolution of any appeal;
 - (ii) In place at least 28 days prior to the date of any required hearing for a Type 3 or 4 decision, or at least 14 days following the department's determination of completeness for any Type 2 decision; and
 - (iii) Removed within 14 days after the end of the notice period.

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(d) Removal of the notice board prior to the end of the notice period may be cause for discontinuance of City review until the notice board is replaced and remains in place for the specified time period.

(e) An affidavit of posting shall be submitted to the department by the applicant within 14 days following the department's determination of completeness to allow continued processing of the application by the department.

(f) Notice boards shall be constructed and installed in accordance with this subsection, and any additional specifications promulgated by the department pursuant to Chapter 2.55 SMC, Rules of City Departments.

(7) Mailed notice for a proposal shall be sent by the department within 14 days after the department's determination of completeness:

(a) By first class mail to owners of record of property in an area within 500 feet of the site, provided such area shall be expanded as necessary to send mailed notices to at least 20 different property owners;

(b) To any utility that is intended to serve the site;

(c) To the State Department of Transportation, if the site adjoins a state highway;

(d) To the affected tribes;

(e) To any agency or community group that the department may identify as having an interest in the proposal;

(f) Be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice; and

(g) For preliminary plats only, to all cities within one mile of the proposed preliminary plat.

(8) Notice of a proposed action shall be published by the department within 14 days after the department's determination of completeness in the official City newspaper.

(9) Posted notice for approved formal subdivision engineering plan, clearing or grading permits subject to SEPA, or building permits subject to SEPA. Posted notice for approved formal subdivision engineering plans, clearing or grading permits subject to SEPA, or building permits subject to SEPA shall be a condition of the plan or permit approval and shall consist of a single notice board posted by the applicant at the project site, prior to construction as follows:

(a) Notice boards shall comport with the size and placement provisions identified for construction signs in SMC 21A.45.120(2);

(b) Notice boards shall include the following information:

(i) Permit number and description of the project;

(ii) Projected completion date of the project;

(iii) A contact name and phone number for both the department and the applicant; and

(iv) Hours of construction, if limited as a condition of the permit;

(c) Notice boards shall be maintained in the same manner as identified in subsection (6) of this section;

(d) Notice boards shall remain in place until final construction approval is granted. Early removal of the notice board may preclude authorization of final construction approval. (Ord. O99-29 § 1)

20.05.070 Vesting.

(1) Applications for Type 1, 2, and 3 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all of the requirements of this chapter. The department's issuance of a notice of complete application as

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provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

(2) Supplemental information required after vesting of a complete application shall not affect the validity of the vesting for such application.

(3) Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals. (Ord. O99-29 § 1)

20.05.080 Applications – Modifications to proposal.

(1) Modifications required by the City to a pending application shall not be deemed a new application.

(2) An applicant-requested modification occurring either before or after issuance of the permit shall be deemed a new application when such modification would result in a substantial change in a project's review requirements, as determined by the department. (Ord. O99-29 § 1)

20.05.090 Notice of decision or recommendation – Appeals.

(1) The department shall provide notice in a timely manner of its final decision or recommendation on permits requiring Type 2, 3 and 4 land use decisions and Type 1 decisions subject to SEPA, including the threshold determination, if any, the dates for any public hearings, and the procedures for administrative appeals, if any. Notice shall be provided to the applicant, to the Department of Ecology, and to agencies with jurisdiction if required by Chapter 20.15 SMC, to the Department of Ecology and Attorney General as provided in Chapter 90.58 RCW, and to any person who, prior to the decision or recommendation, had requested notice of the decision or recommendation or submitted comments. The notice shall also be provided to the public as provided in SMC 20.05.060.

(2) Except for shoreline permits that are appealable to the State Shorelines Hearings Board, all notices of appeal to the hearing examiner of Type 2 land use decisions made by the director shall be filed within 21 calendar days from the date of issuance of the notice of decision as provided in SMC 20.10.080. (Ord. O99-29 § 1)

20.05.100 Permit issuance.

(1) Final decisions by the City on all permits and approvals subject to the procedures of this chapter shall be issued within 120 days from the date the applicant is notified by the department pursuant to this chapter that the application is complete; provided, that the following shorter time periods should apply for the type of land use permit indicated:

New residential building permits	90 days
Residential remodels	40 days
Residential appurtenances, such as decks and garages	
Residential appurtenances that require substantial site review	
15 days	
40 days	
SEPA exempt clearing and grading	45 days
SEPA clearing and grading	90 days
Health department review (for projects pending a final department review and/or permit)	40 days

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The following periods shall be excluded from this 120-day period:

(a) Any period of time during which the applicant has been requested by the department, hearing examiner or council to correct plans, perform required studies or provide additional information, including road variances and variances required under Chapter 9.04 KCC as adopted by Chapter 15.05 SMC. The period shall be calculated from the date of notice to the applicant of the need for additional information until either the City advises the applicant that the additional information satisfies the City's request or 14 days after the date the information has been provided, whichever is the earlier date. If the City determines that the correction, study, or other information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures of this section shall apply as if a new request for information had been made.

(i) The department shall set a reasonable deadline for the submittal of corrections, studies, or other information when requested, and shall provide written notification to the applicant. An extension of such deadline may be granted upon submittal by an applicant of a written request providing satisfactory justification of an extension.

(ii) Failure by the applicant to meet such deadline shall be cause for the department to cancel/deny the application.

(iii) When granting a request for a deadline extension, the department shall give consideration to the number of days between receipt by the department of a written request for a deadline extension and the mailing to the applicant of the department's decision regarding that request.

(b) The period of time, as set forth in SMC 20.15.060, during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW.

(c) A period of no more than 90 days for an open record appeal hearing by the hearing examiner on a Type 2 land use decision, and no more than 60 days for a closed record appeal by the county council on a Type 3 land use decision appealable to the county council, except when the parties to an appeal agree to extend these time periods.

(d) Any period of time during which an applicant fails to post the property, if required by this chapter, following the date notice is required until an affidavit of posting is provided to the department by the applicant.

(e) Any time extension mutually agreed upon by the applicant and the department.

(2) The time limits established in this section shall not apply if a proposed development:

(a) Requires an amendment to the comprehensive plan or a development regulation, or modification or waiver of a development regulation as part of a demonstration project;

(b) Requires approval of a new fully contained community as provided in RCW 36.70A.350, master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided for RCW 36.70A.200; or

(c) Is substantially revised by the applicant, when such revisions will result in a substantial change in a project's review requirements, as determined by the department, in which case the time period shall start from the date at which the revised project application is determined to be complete.

(3) If the department is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision. (Ord. O99-29 § 1)

Chapter 20.05 SMC From Municipal Code Version 1 (Original Code) - October, 2003**20.05.110 Semi-annual report.**

Beginning January 1, 2000, and continuing semi-annually thereafter, the director shall prepare a report to the City council detailing the length of time required to process applications for Type 1, 2, 3, and 4 land use decisions in the previous period, categorized both on average and by type of permit. The report shall provide commentary on department operations and identify any need for clarification of City policy or development regulations or process. (Ord. O99-29 § 1)

20.05.120 Citizen's guide.

The director shall issue a citizen's guide to permit processing including making an appeal or participating in a hearing. (Ord. O99-29 § 1)

**Chapter 20.10
HEARING EXAMINER**

Sections:

- 20.10.010 Chapter purpose.
- 20.10.020 Office created.
- 20.10.030 Appointment and terms.
- 20.10.040 Removal.
- 20.10.050 Qualifications.
- 20.10.060 Pro tem examiners.
- 20.10.070 Jurisdiction of the hearing examiner.
- 20.10.080 Appeal to examiner – Filing.
- 20.10.090 Dismissal of untimely appeals.
- 20.10.100 Expeditious processing.
- 20.10.110 Time limits.
- 20.10.120 Condition, modification and restriction examples.
- 20.10.130 Quasi-judicial powers.
- 20.10.140 Freedom from improper influence.
- 20.10.150 Public hearing.
- 20.10.160 Consolidation of hearings.
- 20.10.170 Prehearing conference.
- 20.10.180 Notice.
- 20.10.190 Rules and conduct of hearings.
- 20.10.200 Examiner findings.
- 20.10.210 Additional examiner findings – Reclassifications.
- 20.10.220 Additional examiner findings – Preliminary plats.
- 20.10.230 Additional examiner findings and recommendations – School capacities.
- 20.10.240 Written recommendation or decision.
- 20.10.250 Judicial review of final decisions of the hearing examiner.
- 20.10.260 Reconsideration of final action.
- 20.10.270 Citizen's guide.
- 20.10.280 Semi-annual report.

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**Title 14
PUBLIC WORKS AND TRANSPORTATION**

Chapters:

- 14.01 Public Works Standards Adopted**
- 14.05 Definitions**
- 14.10 Integrated Transportation Program**
- 14.15 Transportation Concurrency Management**
- 14.20 Mitigation Payment System**
- 14.25 Intersection Standards**

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**Chapter 14.01
PUBLIC WORKS STANDARDS ADOPTED****Sections:**

- 14.01.010 Public works standards adopted.
14.01.020 Resolution of conflicts.
14.01.030 Appeals.

14.01.010 Public works standards adopted.

(1) The City hereby adopts by reference the design standards and specifications set forth in the document entitled "City of Sammamish Interim Public Works Standards" dated April 19, 2000, as now or hereafter amended as the development standards for the City, which includes but is not limited to transportation standards and street standards.

(2) The director of public works is hereby authorized to administratively amend the standards to better implement the standards or allow for changes in street design and construction technology and methods.

14.01.020 Resolution of conflicts.

In case of inconsistency or conflict between the Sammamish Municipal Code and the City of Sammamish public works standards, the most restrictive provision shall apply.

14.01.030 Appeals.

Any person or agency aggrieved by an act or decision of the City pursuant to the public works standards may appeal said act or decision to the City of Sammamish pursuant to the appeal provisions for the underlying development permit application as contained in Chapter 20.05 SMC.

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Chapter 14.05 DEFINITIONS

Sections:

14.05.010 Definitions.

14.05.010 Definitions.

The following definitions shall apply to all portions of this title, except as specifically superseded by definitions set forth elsewhere in this title:

(1) "Capital improvement program (CIP)" means the expenditures programmed by the City of Sammamish for capital purposes over the next-six-year period in the CIP most recently adopted by the City council.

(2) "Certificate of concurrency" means the document issued by King County prior to September 1, 1999, indicating:

- (a) The location or other description of the property on which the development is proposed;
- (b) The number of development units and specific uses, densities, and intensities that were tested for concurrency and approved;
- (c) The type of development approval for which the certificate of concurrency is issued;
- (d) An effective date; and
- (e) An expiration date.

(f) Certificates may be conditional, unconditional, or extended, according to department administrative practices described in the public rules for the program.

(3) "City" means the City of Sammamish, Washington.

(4) "Committed network for the transportation adequacy measure" means the system of transportation facilities used to calculate the transportation adequacy measure to determine the level of service to transportation for a zone. The network includes transportation facilities that are needed to provide the level of service standard, including existing facilities and proposed facilities that are fully funded for construction in the most currently adopted six-year transportation CIP or for which voluntary financial commitments have been secured. Projects to be provided by the state, cities, or other jurisdictions may become part of the committed network upon decision of the director.

(5) "Concurrency" means transportation improvements or strategies are in place at the time of development or that a financial commitment is in place to complete the improvements or strategies within six years needed to maintain the City's level of service standards, according to RCW 36.70A.070(6).

(6) "Concurrency test" means the determination of an applicant's impact on transportation facilities by the comparison of the level of service of the concurrency zone that includes the proposed development to the level of service standard for that zone. A concurrency test must be passed in order to obtain an approved transportation impact analysis.

(7) "Concurrency zone" means one of the zones depicted in the City's mitigation payment and concurrency zone map that is adopted as the MPS zone map. The director may change the boundaries of such zones by including such changes in the administrative rules for this title, filing such changes with the City clerk, and giving public notice of such changes.

(8) "Corridor" means the street or set of streets within the City in which vehicle trips to or from a

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development will take place. Vehicles have flexibility as to an exact route within a corridor but little choice as to whether to use the corridor.

(9) "Department" means the City of Sammamish department of community development or department of public works, as the context requires, unless specified otherwise.

(10) "Development" means specified improvements or changes in use designed or intended to permit a use of land that will contain more dwelling units or buildings than the existing use of the land, or to otherwise change the use of the land or buildings/improvements on the land in a manner that increases the amount of vehicle traffic generated by the existing use of the land, and that requires a development permit from the City of Sammamish. The rezoning of land is not development.

(11) "Development approval" means any order, permit or other official action of the City granting, or granting with conditions, an application for development. Approval of the rezoning of land is not a development approval.

(12) "Development improvements" means site improvements and facilities that are planned and designed to provide service for a particular development and that are necessary for the use and convenience of the occupants or users of the development and are not system improvements. No transportation improvement or facility that is considered a development improvement shall be included in the MPS project list.

(13) "Director" means the director of public works or designee or the director of community development or designee, as the context required, unless specified otherwise.

(14) "Equivalent residential unit (ERU)" means the proposed quantity of development measured by dwelling units for residential development and square feet for nonresidential development, upon which are based the calculations of TAM for the determination of concurrency.

(15) "Financial commitment" consists of the following:

(a) Revenue designated in the most currently adopted CIP for transportation facilities or strategies needed in the committed network for the transportation adequacy measure to test for concurrency. The financial plan underlying the adopted CIP identifies all applicable and available revenue sources and forecasts these revenues through the six-year period with reasonable assurance that such funds will be timely put to such ends. Projects to be used in defining the committed network shall represent those projects that are fully funded for construction in the six years of the CIP. This commitment is reviewed annually through the budget process;

(b) Unanticipated revenue from federal or state grants for which the City has received notice of approval; or

(c) Revenue that is assured by an applicant in a form approved by the City in a voluntary agreement.

(16) "IS" means intersection standards.

(17) "ITP" means integrated transportation program.

(18) "MPS" means mitigation payment system.

(19) "MPS project" means a growth-related street improvement, which is a system improvement, that is selected by the Sammamish City council for joint private and public funding pursuant to this chapter and that is located:

(a) On a City street; or

(b) On a county road in unincorporated King County, or on the street of another city when the city has an ordinance implementing the Growth Management Act of 1990, Chapter 82.02 RCW, and when the City of Sammamish has an appropriate interlocal agreement with the county and/or the city; or

(c) On a state road in proximity to the City once the Washington State Department of Transportation

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(WSDOT) has adopted procedures that will enable it to plan for and fund growth-related improvements to state roads in a manner that satisfies the requirements of the Growth Management Act of 1990, Chapter 82.02 RCW, and once the City of Sammamish has an appropriate interlocal agreement with WSDOT.

(20) "Peak period" means the one-hour weekday period during which the greatest volume of traffic uses the road system identified separately for each roadway section. For concurrency purposes, this period shall be in the afternoon of a typical weekday.

(21) "Preapplication meeting" means a meeting between the applicant for a transportation concurrency certificate or its extension and the staff of the department, according to that department's rules and administrative procedures held for the purpose of determining the requirements to file a development permit application.

(22) "Project cost" means the estimated cost of constructing an MPS project, including the costs of design and right-of-way acquisition.

(23) "PWS" means the City of Sammamish public works standards.

(24) "Service district" means the geographic area defined by the City, or by intergovernmental agreement, in which a defined set of transportation facilities provide service to development within the district. Service districts shall be designated on the basis of sound planning or engineering principles. Development in a service district may, and will likely be found to, impact roadways and intersections both inside and outside the service district, and the MPS fee will reflect a charge for all such impacts. The MPS service districts shall be the MPS zones.

(25) "Reservation" and "reserve" means development units are set aside in the City's concurrency records in a manner that assigns the units to the applicant and prevents the same units being assigned to any other applicant.

(26) "TAM" means transportation adequacy measure.

(27) "TCM" means transportation concurrency management.

(28) "TIA" means transportation impact analysis as described in the public works standards.

(29) "Traffic impacts" means the diminishment of capacity of a roadway or intersection by the addition of new vehicle trips. Effects of new vehicle trips that are not quantifiable or to the extent that the effects cannot be mitigated fully by the addition of new capacity, such as safety hazards and inadequate signalization, are not traffic impacts for MPS purposes.

(30) "Transportation facilities" means one of the following classifications of facilities: principal, minor and collector arterial roads, streets, state highways, freeways, intersections, transit and high occupancy vehicle facilities, and nonmotorized facilities (i.e., for bicycles or pedestrians). Transportation facilities include any such facility owned, operated or administered by the state of Washington and its political subdivisions, including the county and cities.

(31) "Transportation strategies" means transportation demand management strategies and other techniques or programs that reduce single-occupant vehicle commute travel and that are approved by the department. Strategies may include but are not limited to vanpooling, carpooling, shuttle transportation, nonmotorized transportation, and public transit. (Ord. O99-29 § 1)

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**Chapter 14.10
INTEGRATED TRANSPORTATION PROGRAM**

Sections:

- 14.10.010 Components of the integrated transportation program.
- 14.10.020 Relationships among three components of the integrated transportation program.
- 14.10.030 Applicability – Concurrency, MPS.
- 14.10.040 Administrative rules.
- 14.10.050 Filing appeals – Concurrency, MPS, IS.
- 14.10.060 Grounds for appeal – Concurrency, MPS, IS.
- 14.10.070 Administrative reconsideration – Concurrency, MPS, IS.

14.10.010 Components of the integrated transportation program.

There are three components of the integrated transportation program (ITP). These components are as follows:

- (1) Transportation concurrency management (TCM), by which the City of Sammamish will regulate new development based on adequate transportation improvements needed to maintain level of service standards, in accordance with RCW 36.70A.070(6) and the interim City comprehensive plan.
- (2) Mitigation payment system (MPS), by which the City of Sammamish will apply transportation impact fees to new development for collecting a fair and equitable share of transportation improvement costs that are needed in accordance with Chapter 82.02 RCW and the interim City comprehensive plan.
- (3) Intersection standards (IS) by which the City of Sammamish will evaluate intersections affected by new development to assure safe and efficient operation and that improvements to mitigate the adverse impacts of such developments are completed in accordance with the State Environmental Policy Act (SEPA), SMC 20.15.090, and the Sammamish interim comprehensive plan. (Ord. 099-29 § 1)

14.10.020 Relationships among three components of the integrated transportation program.

- (1) Permit Processes.
 - (a) Traffic Impact Analysis. Prior to submission of a development application, traffic impact analysis (TIA) shall be initiated by a submittal to the department of community development in the prescribed form and containing information describing the location, uses, intensities, trip generation characteristics, and pertinent information for the intended development. The TIA is a prerequisite for a complete development application. The department shall use the submitted information to determine the net trips to be generated, taking into account commute trip reduction strategies, internal travel for mixed use development, and pass-by trips from existing traffic flows, and shall determine whether the development passes the concurrency test prescribed in Chapter 14.15 SMC.
 - (b) Development Application. Following the submission of a development application, the director shall determine the transportation impact fee to be paid under Chapter 14.20 SMC and shall determine the traffic impacts of the proposed development on street intersections that will be adversely impacted and that must be mitigated using Chapter 14.25 SMC.
- (2) Calculation of Trips Generated by a Development.
 - (a) The vehicular trips expected to be generated by a proposed development shall be calculated as of the time of application for a TIA, using standard generation rates published by the Institute of

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Transportation Engineers, other standard references, or from other documented information and surveys approved by the director.

(b) The director may approve a reduction in generated vehicle trips calculated pursuant to the preceding subsection based on the types of land uses that are to be developed, on the expected amount of travel internal to the development, on the expected pass-by trips from existing traffic, or on the expected reduction of vehicle traffic volumes. Such reduction shall be used when calculating TAM, MPS, and IS, including any impact and mitigation fees and costs for which the development shall be liable.

The calculation of vehicular trip reductions as described in this section shall be based in all cases upon sound and recognized technical information and analytical process that represent current engineering practice. In all cases, the director shall have final approval of all such data, information, and technical procedures used to calculate trip reductions.

(3) Calculations.

(a) TAM Calculations. The City of Sammamish shall determine the transportation adequacy measure (TAM) for any zone as a two-part analysis, involving the average weighted volume to capacity (v/c) ratio of arterials and highways serving the zone (TAM value) and the existence of roadways critical to the zone's access not funded for improvement in the committed network (unfunded critical links). If an unfunded critical link exists, then any proposed development that sends at least 30 percent of its trips to that critical link shall be deemed to fail the concurrency test until the critical link is improved.

Administrative rules issued under the authority of this chapter shall contain a detailed technical description of the calculation of TAM and the list of potential unfunded critical links to be monitored.

(b) IS Calculations. Intersection level of service shall be calculated according to the most recent highway capacity manual or an alternative method approved by the director.

(4) Standards.

(a) The standard for the TAM value of a zone shall be those maximum average v/c zonal scores displayed in SMC 14.15.030.

(b) The unfunded critical link standard shall apply to the links identified by administrative rule, which have a volume to capacity ratio of 1.1 or more, and which would carry more than 30 percent of the zone traffic from a residential development or more than 30 percent of the traffic from a commercial development.

(c) The intersection standard for all intersections shall be "E" as required by Chapter 14.25 SMC and calculated according to the most recent highway capacity manual or approved alternative method.

(5) Application of Standards. The standards set forth above shall be used in the ITP as follows:

(a) In Chapter 14.15 SMC, zone evaluation of concurrency shall be calculated using the TAM value, the TAM standard for the zone, and unfunded critical links analysis.

(b) In the identification of improvement needs for the transportation needs report (TNR), the TAM and critical link standards will be used to determine needed improvements, together with safety, operational, multimodal, traffic congestion, and other criteria. These improvement needs shall be the source of projects included in the TNR, capital improvement program (CIP), and MPS list.

(c) For the determination of traffic impacts for the SEPA evaluation of a proposed development, the intersection standard will be used, as well as other criteria for bicycle/pedestrian, traffic congestion, safety, and road design.

(6) Administrative Fees. Fees for the ITP shall be imposed as follows:

(a) An original administrative fee of \$108.00 per hour of staff review time shall be charged to the

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applicant for the TAM determination of concurrency and issuance of an approved TIA of a proposed development. An additional administrative fee of \$108.00 per hour of staff review time shall be charged for the one-time extension of a certificate as stated in SMC 14.15.050(4). The method and time of collection of administrative fees for the concurrency test shall be stated in the administrative rules for this title.

(b) All developments subject to the MPS fees shall pay an administrative fee as established by SMC 14.20.070 and 14.20.080 at the time of application for an MPS determination. Payment for impact mitigation fees under MPS shall be paid at the time a development permit is issued; provided, that residential developments may defer payment until building permits are issued.

(c) No administrative fees shall be charged for IS review; however, the owner of a proposed development is responsible for the costs of any traffic impact analysis as required in the City of Sammamish Public Works Standards 15.020 needed to determine traffic impacts and mitigation measures at intersections, as determined by the director.

(7) Relationship to SEPA. The need for the environmental assessment of a proposed development must be determined by the department of community development, following the filing of a completed permit application. Impacts on the arterial street systems will be mitigated through MPS fees. Impacts on intersections will be mitigated through the provisions of Chapter 14.25 SMC.

Nothing in this chapter shall cause a developer to pay mitigation and impact fees more than once for the same impact. Improvements and mitigation measures shall be coordinated by the director with other such improvements and measures attributable to other proposed developments and with the City street improvement program so that the City street system is improved efficiently and effectively, with minimum costs to be incurred by public and private entities. The provisions of this title do not supersede or replace the provisions of the City's SEPA authority as enacted in Chapter 20.15 SMC. (Ord. 099-29 § 1)

14.10.030 Applicability – Concurrency, MPS.

(1)(a) The following development applications shall be subject to a review for concurrency and MPS fees:

All development and land use proposals, including but not limited to those land uses identified as Type 1 or 2 in SMC 20.05.020, that generate any of the following:

- (i) New structure.
- (ii) New use of facility or site.
- (iii) Change in use at existing structure.
- (iv) Building permit of any type.

(b) Development permits for development that creates no measurable additional impacts on any transportation facility are exempt from the requirements of this chapter. The department shall be responsible for determining whether other types of development meet this "no impact" standard so as to be included under this exemption.

(c) Exempt Permits. The following development permits are exempt from the requirements of this chapter:

- (i) Boundary line adjustment or lot combination.
- (ii) Final plat (if a concurrency test was conducted for the corresponding preliminary plat approval).
- (iii) Temporary use permit.
- (iv) Variance or administrative use permit.
- (v) Clearing, filling and grading permit.

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- (vi) Shoreline variance.
 - (vii) Rezone or comprehensive plan amendments.
 - (viii) Sign permit.
 - (ix) Forestry permit.
 - (x) Mechanical, electrical, structural reviews.
 - (xi) Right-of-way permit.
 - (xii) Special use permit to use a City stormwater site.

(2) Application Filed Before Effective Date of the Ordinance Codified in This Chapter. Complete long subdivision, short plat, and building permit applications that have been submitted before the effective date of the ordinance codified in this chapter are exempt from the requirements of this chapter.

(3) Single-Family Homes. Building permits for single-family dwellings and duplexes are exempt from the requirements of this chapter. This exemption does not apply to the plat within which the dwellings units are being constructed.

(4) Accessory Dwelling Units. All accessory dwelling units, as defined in this code, are exempt from the requirements of this chapter.

(5) Accounting for Capacity. The capacity for development permits exempted under subsections (2), (3), and (4) of this section shall be subtracted from available capacity.

14.10.040 Administrative rules.

The director is hereby instructed and authorized to adopt such administrative rules and procedures as are necessary to implement the provisions of this chapter. (Ord. O99-29 § 1)

14.10.050 Filing appeals – Concurrency, MPS, IS.

Any appeal of the decision of the City regarding concurrency, MPS, or IS shall follow the process for the appeal of the underlying development permit as set forth in Chapter 20.05 SMC, Procedures for Land Use Permit Applications, Public Notice, Hearings and Appeals, and Chapter 20.10 SMC, Hearing Examiner. (Ord. O99-29 § 1)

14.10.060 Grounds for appeal – Concurrency, MPS, IS.

- (1) For appeals of denial or conditional approval of an approved TIA, the appellant must show that:
 - (a) The department committed a technical error;
 - (b) Alternative data or a traffic mitigation plan, which may include transportation strategies such as demand management or vanpools, submitted to the department was inadequately considered;
 - (c) The action of the department would substantially deprive the owner of all reasonable use of the property;
 - (d) Conditions required by the department for concurrency are not related to the concurrency requirement; or
 - (e) The action of the department was arbitrary and capricious.
- (2) For appeals of the MPS fee, the appellant must show that the department:
 - (a) Committed an error in:
 - (i) Calculating the development's proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule; or
 - (ii) Granting credit for benefit factors; or
 - (b) Based the final decision upon incorrect data; or

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- (c) Gave inadequate consideration to alternative data or mitigations submitted to the department.
 - (3) For appeals of IS improvements, the appellant must show that:
 - (a) The department committed a technical error;
 - (b) Alternative data or a traffic mitigation plan submitted to the department was inadequately considered; or
 - (c) Conditions required by the department are not related to improvements needed to serve the proposed development. (Ord. O99-29 § 1)

14.10.070 Administrative reconsideration – Concurrency, MPS, IS.

Decisions on the denial or conditional approval of an approved TIA, MPS fees, or IS improvements may be reconsidered administratively by the director, not a designee, under the following situations:

- (1) For reconsideration of the denial or conditional approval of an approved TIA, the requester must show that:
 - (a) The department committed a technical error; or
 - (b) Alternative data or a traffic mitigation plan, which may include transportation strategies such as demand management or vanpools, submitted to the department was inadequately considered.
- (2) For reconsideration of the MPS fee, the requester must show that the department:
 - (a) Committed an error in:
 - (i) Calculating the development's proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule; or
 - (ii) Granting credit for benefit factors; or
 - (b) Based the final decision upon incorrect data.
- (3) For reconsideration of IS improvements, the requester must show that:
 - (a) The department committed a technical error;
 - (b) Alternative data or a traffic mitigation plan submitted to the department was inadequately considered.
- (4) Requesting reconsideration of a denial or conditional approval of an approved TIA or IS improvements shall not be a procedural prerequisite for filing an appeal of the decision. As set forth in SMC 14.20.150, a request for reconsideration of MPS impact fees is a necessary prerequisite to an appeal of the decision.

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**Chapter 14.15
TRANSPORTATION CONCURRENCY MANAGEMENT**

Sections:

- 14.15.010 Authority and purpose.
- 14.15.020 Concurrency test.
- 14.15.030 TAM standards.
- 14.15.040 Update of TAM.
- 14.15.050 Approved TIA.
- 14.15.060 Certificate of concurrency.
- 14.15.070 Fees.
- 14.15.080 Applicability.
- 14.15.090 Provision of needed transportation facilities.
- 14.15.100 Intergovernmental coordination.
- 14.15.110 Relationship to SEPA.

14.15.010 Authority and purpose.

(1) This chapter is enacted pursuant to the City of Sammamish's powers as an optional municipal code city, and the Growth Management Act, RCW 36.70A.070.

(2) It is the purpose of this chapter to:

- (a) Provide adequate levels of service on transportation facilities for existing use as well as new development in the City of Sammamish;
- (b) Provide adequate transportation facilities that achieve and maintain City standards for levels of service as provided in the comprehensive plan, as amended; and
- (c) Ensure that City level of service standards are achieved "concurrently" with development (as required by the Growth Management Act) by denying approval of development that would cause the level of service on transportation facilities to decline below City standards. Applicants for development may propose mitigation measures that will achieve and maintain the City's standard for level of service. (Ord. O99-29 § 1)

14.15.020 Concurrency test.

- (1) Applications for an approved TIA, and the resulting concurrency test, shall be completed prior to application for development approval.
- (2) Applications for an approved TIA shall be submitted to the department of community development in the form prescribed by the department.
- (3) The department shall perform a concurrency test for each application for an approved TIA.
- (4) The department shall conduct the concurrency test first for the earliest completed application received. Subsequent applicants will be tested in the same order as the department receives completed applications.
- (5) The department shall not issue an approved TIA unless there are adequate transportation facilities to meet the level of service standards for existing and approved uses and the impacts of the proposed development.
- (6) In conducting the concurrency test, the department shall use standard trip generation rates, such as

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those reported by the Institute of Transportation Engineers. An applicant may submit as a part of the application for an approved TIA a calculation of alternative trip generation rates for the proposed development. The director shall review the alternate calculations and make a written determination within 10 business days of submittal as to whether such calculation will be used in lieu of the standard trip generation rates. The director shall adjust the trip generation forecast of proposed development to account for allowances determined pursuant to the mitigation payment system's procedures for transportation strategies, including transportation demand management reductions.

(7) If the level of service is equal to or better than the adopted standards, the concurrency test is passed, and the applicant shall receive an approved TIA.

(8) If the level of service is worse than the adopted standards, the concurrency test is not passed, and the applicant shall select one of the following options:

(a) Accept a 90-day reservation of transportation facilities that are available, and within the same 90-day period amend the application to reduce the need for transportation facilities to the units that are available, or voluntarily arrange for the transportation facilities or strategies needed to achieve concurrency. The 90-day period shall begin no later than 14 days after receipt of the notification of denial. Reduction of the need for transportation facilities may be achieved through one or a combination of the following: reducing the size of the development (so long as minimum density requirements continue to be met); reducing trip generation by the original proposed development; phasing of the development to match future transportation facility construction; providing transportation strategies, when the department determines that such strategies will be reasonably sufficient as to reduce traffic to a level that meets the concurrency standard or threshold; or

(b) Accept the denial of an application for an approved TIA; or

(c) Seek reconsideration of the denial of the application for an approved TIA, pursuant to the provisions of Chapter 14.10 SMC.

(d) Appeal the denial of the application for an approved TIA, pursuant to the provisions of Chapter 14.10 SMC. The City shall reserve any available development units during the appeal. Acceptance of the 90-day period shall not impair the applicant's future right to a formal appeal at a later time.

(9) The concurrency test shall be performed only for the specific property, uses, densities and intensities based on information provided by the applicant and included in an approved TIA. Changes to the uses, densities, and intensities that create additional impacts on transportation facilities shall be subject to an additional concurrency test. (Ord. O99-29 § 1)

14.15.030 TAM standards.

(1) The following are the transportation adequacy measure (TAM) standards for the City of Sammamish, as adopted in the City's Interim Comprehensive Plan Policy T-305, provided there are no unfunded critical links affecting the concurrency zone:

Transportation Service Area	Maximum Averaged V/C Zonal Score	Average TAM Standard
Transportation Service Area 4 (service planning area)	0.79	C

The standard in each concurrency zone or part thereof shall be the same as for the transportation service area in which the zone or part is located. In the event that a concurrency zone is affected by one or more

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unfunded critical links, the concurrency zone shall be considered to fail the standard for the zone.

(2) An approved TIA shall not be issued to any proposed development if the standards in this section are not achieved and maintained for the development as a whole, or the portion of the development inside the City of Sammamish. (Ord. O99-29 § 1)

14.15.040 Update of TAM.

Levels of service shall be monitored and the traffic model for the transportation adequacy measure shall be updated at least once per year. The monitoring and update process shall include traffic volumes, approval of additional development, completion of previously approved development, improvements to transportation facilities, and the effect of transportation strategies. (Ord. O99-29 § 1)

14.15.050 Approved TIA.

(1) An approved TIA shall be issued by the director. Issuance of an approved TIA creates a rebuttable presumption that the proposed development satisfies the concurrency requirements of this chapter. The determination of concurrency shall be final at the time of development approval. The issue of concurrency may be raised as part of the review process for the development application for which the certificate of concurrency was issued.

(2) Upon issuance of an approved TIA, the City shall reserve development units on behalf of the applicant, and indicate the reservation on the approved TIA.

(3) An approved TIA shall be valid for the development permit application period and subsequently for the same period of time as the development approval that is issued pursuant to the approved TIA. If the development approval does not have an expiration date, the approved TIA shall be valid for five years from the date of issuance.

(4) An approved TIA shall be valid for an initial 180-day period and may be extended one time for an additional 180 days by the director; provided, that the holder of the original approved TIA, or the holder's agent, has, before the time of expiration of the original approved TIA, scheduled a preapplication meeting with the department of community development, has requested such extension in writing to the director and has paid the extension fee. A further 90-day extension of approved TIA by the director shall be made only under extraordinary circumstances, and shall require the receipt of a current certificate of water availability, if required by SMC 20.05.040, Application requirements, and a written request by the applicant to the director.

(5) An approved TIA can be extended to remain in effect for the life of each subsequent development approval for the same parcel, as long as the applicant obtains the subsequent development approval prior to the expiration of the earlier development approval. No development shall be required to hold more than one valid approved TIA, unless the applicant or subsequent owner proposes changes or modifications to the property location, density, intensity or land use that creates additional impacts on transportation facilities.

(6) An approved TIA runs with the land and is valid only for subsequent development approvals for the same parcel, and to new owners of the original parcel for which it was issued. An approved TIA cannot be transferred to a different parcel and shall be limited to uses and intensities for which it was originally issued.

(7) Upon subdivision of a parcel that has obtained an approved TIA, the City may replace the approved TIA by issuing a separate approved TIA to each subdivided parcel, assigning to each a pro rata portion of the development units of the original approved TIA. The director may modify such assignment upon petition of the owner.

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(8) An approved TIA shall expire if the underlying development approval expires or is revoked or denied by the City.

(9) All development approvals that voluntarily provide funding for one or more transportation facilities by the development or entities other than the City shall be conditioned to require that prior to the issuance of any final development approval the availability of such transportation facilities or financial arrangements has been confirmed. (Ord. O99-29 § 1)

14.15.060 Certificate of concurrency.

(1) Requirements. Each applicant for a development approval if vested in King County prior to September 1, 1999, shall present a certificate of concurrency. After September 1, 1999, an approved TIA is required instead a certificate of concurrency.

(2) Expiration. A certificate of concurrency shall expire if the development permit for which the concurrency is reserved is not applied for within 180 days of issuance or extension of the certificate of concurrency. A certificate of concurrency shall be required in an application that vested under King County prior to September 1, 1999, for either a formal subdivision plat or short plat under SMC Title 19, and for a commercial building permit. (Ord. O99-29 § 1)

14.15.070 Fees.

(1) The City shall charge an administrative fee for conducting the concurrency test in accordance with SMC 14.10.020(6) and an additional fee for the one-time extension of a valid approved TIA. The concurrency test fee shall not be refundable.

(2) Development by municipal, county, state, and federal governments, and by special districts (as that term is defined by state law) is exempt from the concurrency test fee. (Ord. O99-29 § 1)

14.15.080 Applicability.

Except as set forth in SMC 14.15.070, the provisions and fees of this chapter shall apply to every application for an approved TIA and to every request for the extension of a valid approved TIA. (Ord. O99-29 § 1)

14.15.090 Provision of needed transportation facilities.

(1) The City shall determine that transportation facilities are available to support development at adopted TAM standards within six years of the impacts of such development. The City shall require at the time the approved TIA is issued that:

- (a) The necessary facilities and services are in place at the time a development approval is issued; or
- (b) The necessary facilities will be complete within six years of development approval:
 - (i) The necessary facilities are under construction at the time a development approval is issued, and financial commitment is in place to complete the necessary facilities within six years of issuance of development approval; or
 - (ii) The necessary facilities are the subject of a binding executed contract of development agreement that provides for the actual construction or financial commitment of the required facilities, guarantees that the necessary facilities will be in place within six years of issuance of development approval, and provides that the capital project is included in, or will be added to, the committed network for the transportation adequacy measure, the transportation needs report, and the six-year capital improvements program; or
 - (iii) The City has in place financial commitments to complete the necessary public facilities or

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strategies within six years of issuance of development approval; or

(c) Development approvals are issued subject to a binding executed contract or other binding condition that provides that any facilities and strategies necessary to meet concurrency requirements after issuance of development approval will be in place within six years of occupancy and use of the development.

(2) The approved TIA shall be binding on the City at such time as the applicant provides assurances, acceptable to the City in form and amount, to guarantee the applicant's pro rata share of the cost of capital improvements needed for concurrency as determined by the mitigation payment system, Chapter 14.20 SMC.

(3) The director may make adjustments to the committed network for TAM for corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications that are consistent with the adopted comprehensive plan; or the date of construction (so long as it is completed within the six-year period) of any facility enumerated in the capital improvements program.

(4) The City shall identify projects in the adopted six-year CIP required for the committed network for the transportation adequacy measure and any capital improvements for which a binding agreement has been executed with another party. (Ord. O99-29 § 1)

14.15.100 Intergovernmental coordination.

The City may enter into agreements with other local governments and the state of Washington to coordinate the imposition of TAM standards, impact fees, and other mitigation for transportation concurrency.

(1) The City may apply transportation standards, fees, and mitigations to development in the City that impacts other local governments and the state of Washington. Development approvals by the City may include conditions and mitigations that will be imposed on behalf of, and implemented by, other local governments and the state of Washington.

(2) The City may receive impact fees or other mitigations based on or as a result of development proposed in other jurisdictions that impacts the City. The City may agree to accept and implement conditions and mitigations that are imposed by other jurisdictions on development in its jurisdiction.

(3) No fees or mitigations for transportation facilities of other agencies will be required by the City unless an agreement has been executed between the City and the affected agency. The agreement shall specify the fee schedule and level of service standards to be used by the City and the affected agency, which standards shall be consistent with the City's interim comprehensive plan and, if different than the standards adopted pursuant to this title, shall be adopted by ordinance. (Ord. O99-29 § 1)

14.15.110 Relationship to SEPA.

A determination of concurrency shall be an administrative action of the City of Sammamish that is categorically exempt from the State Environmental Policy Act. (Ord. O99-29 § 1)

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**Chapter 14.20
MITIGATION PAYMENT SYSTEM**

Sections:

- 14.20.010 Authority and purpose.
- 14.20.020 Scope and use of MPS impact fees.
- 14.20.030 Fee schedules and establishment of service districts (MPS zones).
- 14.20.040 MPS zone map.
- 14.20.050 Calculation of MPS fees.
- 14.20.060 Payment of fees.
- 14.20.070 Administrative fees.
- 14.20.080 Administrative fee for preliminary fee calculation.
- 14.20.090 Project list.
- 14.20.100 Funding of projects.
- 14.20.110 Refunds.
- 14.20.120 Fees paid under protest.
- 14.20.130 Exemptions for schools.
- 14.20.140 Exemption or reduction for low and moderate income housing.
- 14.20.150 Request for final decision needed to appeal.
- 14.20.160 Necessity of compliance.

14.20.010 Authority and purpose.

(1) The department is authorized to impose transportation impact fees on new development pursuant to the City of Sammamish's powers as an optional municipal code city; and the Growth Management Act, Laws of 1990, 1st Extraordinary Session, Chapter 17, Chapter 82.02 RCW.

(2) The purposes of this chapter are to:

- (a) Ensure that financial commitments are in place so that adequate transportation facilities are available to serve new growth and development;
- (b) Promote orderly growth and development by establishing standards requiring that new growth and development pay a proportionate share of the cost of new transportation facilities needed to serve new growth and development;
- (c) Ensure that transportation impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact;
- (d) Implement the transportation policies of the transportation element of the interim comprehensive plan; and
- (e) Provide additional funding for growth-related transportation improvements identified by the interim comprehensive plan as reasonable and necessary to meet the future growth needs of the City. (Ord. 099-29 § 1)

14.20.020 Scope and use of MPS impact fees.

MPS impact fees:

- (1) Shall only be imposed for transportation improvements that are reasonably related to the traffic impacts of the new development;

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- (2) Shall not exceed a proportionate share of the costs of transportation improvements that are reasonably related to the new development;
- (3) Shall be used for transportation improvements that will reasonably benefit the new development;
- (4) Shall not be used to correct existing deficiencies; and
- (5) Shall not be imposed to mitigate the same off-site traffic impacts that are being mitigated pursuant to any other law. (Ord. O99-29 § 1)

14.20.030 Fee schedules and establishment of service districts (MPS zones).

(1) Fee schedules stating the amount of the MPS fee that single-family residential, multifamily residential, and nonresidential development shall pay for development subject to MPS fees are set forth in subsection (4) of this section. Subsequent fee schedules shall be established pursuant to SMC 14.20.050. All other development shall pay an MPS fee individually calculated by the department, as set forth in SMC 14.20.050. The MPS administrative fee that all developers shall pay is set forth in SMC 14.20.070 and 14.20.080.

(2) For purposes of this chapter, the City is divided into service districts also called MPS zones, set forth in SMC 14.20.040, MPS zone map. In each service district, similar types of development shall pay the same MPS fee, unless the amount of the fee is altered because:

(a) Unusual circumstances exist and the department adjusts the amount of the fee as provided in subsection (3) of this section; or

(b) The developer submits studies or data showing that the fee as set forth in the applicable schedule or as calculated by the department is in error, as provided in SMC 14.20.150(1) for appeal and SMC 14.20.150(2) for reconsideration.

(3) The department may adjust the standard impact fee as set forth in the fee schedules at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that MPS fees are imposed fairly. The department shall set forth its reasons for adjusting the standard MPS fee in written findings.

(4) MPS Impact Fee Schedule.

MPS Zone Service District	Fee for Single-Family Residential Development per Dwelling Unit	Fee for Multifamily Residential Development per Dwelling Unit	Fee for Nonresidential Development per PM Peak Hour Trip
402	\$1,996.00	\$1,197.60	\$1,996.00
403	\$2,575.00	\$1,545.00	\$2,575.00
405	\$6,247.00	\$3,748.20	\$6,247.00
406	\$2,226.00	\$1,335.60	\$2,226.00
407	\$3,382.00	\$2,029.20	\$3,382.00
412	\$1,095.00	\$657.00	\$1,095.00
413	\$3,044.00	\$1,826.40	\$3,044.00
414	\$2,498.00	\$1,498.80	\$2,498.00
415	\$632.00	\$379.20	\$632.00
416	\$918.00	\$550.80	\$918.00
419	\$1,416.00	\$849.60	\$1,416.00

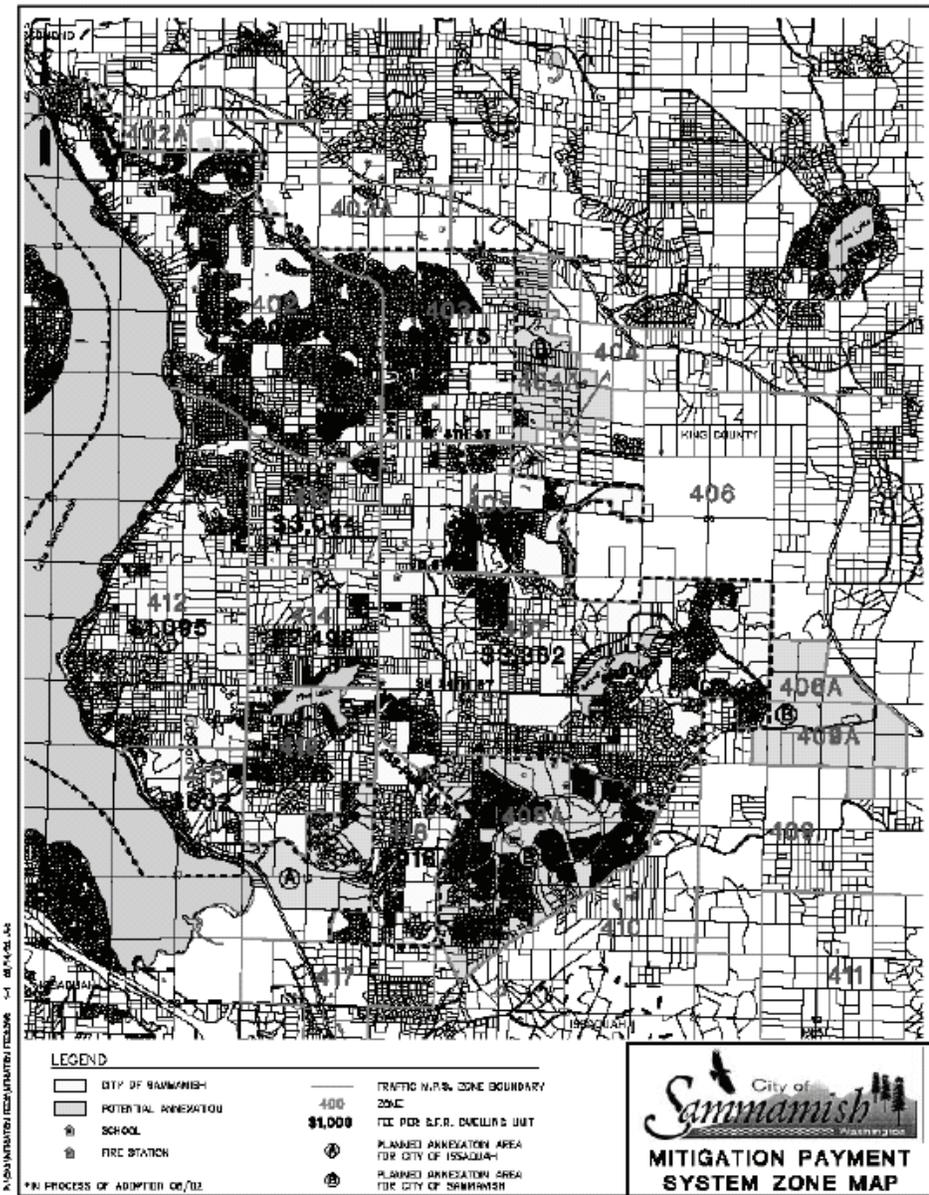
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		<p>The fee for multifamily residential development shall be 60% of the fee for single-family development.</p>	<p>Fees for nonresidential development shall be based on single-family equivalent residential units where one nonresidential PM peak trip equals the single-family unit.</p>
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(Ord. O99-29 § 1)

14.20.040 MPS zone map.

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14.20.050 Calculation of MPS fees.

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- (1) The department shall calculate the MPS fees set forth in the fee schedules, SMC 14.20.030(1), by means of a computer modeling system that:
- (a) Incorporates the service districts adopted in SMC 14.20.030(2);
 - (b) Within each service district of the City, determines the standard fee for similar types of residential development, which shall be reasonably related to each development's proportionate share of the cost of the transportation improvement projects being funded by this chapter and shall reasonably reflect the average fee for similar development in the same service district; and
 - (c) Reduces the proportionate share by applying the benefit factors set forth in this chapter.
- (2) Only when a development's MPS impact fee is not determined by the fee schedules adopted in SMC 14.20.030(1), the department may, at its option and at the applicant's expense, calculate the MPS fee by means of a computerized modeling system, which is the same system used to determine the fee schedules, and which:
- (a) Determines the development's proportionate share of the cost of the transportation improvement projects being funded by this chapter; and
 - (b) Reduces the proportionate share by applying the benefit factors set forth in this chapter.
- (3) The computer model used shall calculate proportionate share for use in both fee schedules and individual calculations by:
- (a) Determining the number of peak hour vehicle trips generated by development that will benefit from the vehicle capacity added, or to be added, by the street improvements on the MPS project list;
 - (b) Determining the unit cost of added capacity for each MPS project by dividing the estimated cost of each project by the amount of capacity added; and
 - (c) Multiplying the number of peak hour trips added to each MPS project by the unit cost of added capacity for those projects.
- (4) In calculating proportionate share, the modeling system used shall:
- (a) Recognize that a development's traffic will use a corridor rather than a particular street;
 - (b) Use trip generation rates published by the Institute of Transportation Engineers (ITE) unless:
 - (i) Actual measurements of the rate of trip generation by similar developments in the City are available, and the director determines that these local measurements are more accurate; or
 - (ii) ITE trip generation rates for the proposed development are not available, in which case the director:
 - (A) May use published rates from another source; or
 - (B) May calculate the rate from data about the population of the proposed development; or
 - (C) May require the developer to obtain actual measurements of trip generation rates by similar developments in the City;
 - (c) Reduce the trip generation rate to reflect reductions in traffic that will occur because of transportation strategies, as described in the administrative rules for this title;
 - (d) Identify all streets and intersections that will be impacted by traffic from each development for as far from the development as the model can measure;
 - (e) Identify when the capacity of an MPS project has been fully utilized;
 - (f) Update the data in the model as often as practical, at least every five years;
 - (g) Estimate the cost of constructing the projects on the MPS project list as of the time they are placed on the list, and then update the cost estimates periodically, considering the:

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(i) Availability of other means of funding transportation facility improvements;
(ii) Cost of existing transportation facility improvements; and
(iii) Methods by which transportation facility improvements were financed;
(h) Update the fee collected against a project that has already been completed, through an advancement of City funds, at a rate, determined periodically, which is equivalent to the City's return on its investments; and

(i) Charge a development for the total traffic entering and exiting the development during the peak hour.

(5) The modeling system used shall reduce the calculated proportionate share by giving credit for the following benefit factors:

(a) A 15 percent credit in recognition that some of the trips from a development paying an MPS fee may begin or end within another development that is or has been subject to MPS requirements;

(b) Past or future payments made or reasonably anticipated to be made by a development to pay for particular transportation improvements in the form of user fees, debt service payments, taxes or other payments earmarked for or prorable to the same projects being funded by such development's MPS fee; and

(c) The value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to transportation facilities that are identified in the MPS project list and that are required by the City as a condition of approving the development activity; provided, that when an MPS project is constructed on both on-site and off-site land, the department shall determine, in light of all the circumstances, what proportion of the developer's costs should fairly and reasonably be attributed to the work done on off-site land.

(6) The department shall review the 15 percent credit factor periodically and propose revisions to the factor when appropriate to reflect the actual number of trips generated by new development that also begin or end in other developments that have previously been subject to a fee for the same impact.

(7) If the credit determined pursuant to subsection (5)(c) of this section exceeds the amount of the developer's MPS fee, the department shall reimburse the developer from MPS fees collected from other developers for the same MPS project.

(8) The amount of credit determined pursuant to subsection (5)(c) of this section shall be credited proportionately among all the lots in the development, and the MPS fee for each lot for which a building permit is applied shall be reduced accordingly.

(9) The department shall use the information from the computerized modeling system to prepare recommended fee schedules. The City council shall, as often as is necessary but at least every five years, by ordinance establish the fee schedule applicable to each service area in the City by adopting, with or without modification, the department's recommended fee schedules.

(10) The department shall present to the City council in administrative rules the proposed changes in the service district boundaries, set forth in SMC 14.20.030(2), as often as is necessary to ensure that the service district boundaries conform to sound planning or engineering principles.

(11) To the extent practical, and in accordance with sound planning or engineering principles, the department shall develop and propose to the City council for adoption precalculated fee schedules applicable to types of development in addition to residential development. (Ord. O99-29 § 1)

14.20.060 Payment of fees.

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(1) All developers shall pay an MPS fee in accordance with the provisions of this chapter at the time that the applicable development permit is ready for issuance. The fee paid shall be the amount in effect as of the date of permit application if paid at the time of final plat approval or the current rate if paid at the time of the building permit.

(2) All developers shall pay an MPS administrative fee at the time of application for a development permit as set forth in SMC 14.20.070 and 14.20.080.

(3) An individually determined MPS fee shall be calculated at the time of application for a development permit.

(4) The fee as initially calculated after application for a development permit may be recalculated at the time of payment if the development is modified or conditioned in such a way as to alter the trip generation rate for the development or the development's total peak hour trips.

(5) No development permit shall be issued until the MPS fee is paid, except that developers of residential subdivisions, short subdivisions, or planned unit development may defer payment until building permits are issued for the lots within the subdivision, short subdivision or planned unit development, at current rates.

(6) A developer may obtain a preliminary determination of the MPS fee before application for a development permit, by paying a processing fee pursuant to SMC 14.20.070 and providing the department with the information needed for processing.

(7) MPS fees may be paid under protest in order to obtain a permit or other approval of development activity following the provisions of SMC 14.20.120, Fees paid under protest. (Ord. O99-29 § 1)

14.20.070 Administrative fees.

(1) All development permits subject to the MPS fees pursuant to SMC 14.20.060 shall pay an administrative fee of \$60.00.

(2) All development permits that require an individually determined MPS fee pursuant to SMC 14.20.060(3) shall pay an administrative processing fee of \$432.00. (Ord. O99-29 § 1)

14.20.080 Administrative fee for preliminary fee calculation.

Requests to the department for a preliminary determination of an MPS fee prepared pursuant to SMC 14.20.060(6) shall be charged the administrative processing fee set forth in SMC 14.20.070. (Ord. O99-29 § 1)

14.20.090 Project list.

(1) In conjunction with the department's periodic review and update of the transportation needs report (TNR) element of the interim comprehensive plan the department shall do the following:

(a) Identify each capital improvement project in the TNR that is growth-related and the proportion of each such project that is growth-related;

(b) Forecast the total monies available from taxes and other public sources for road improvements over the multi-year program;

(c) Calculate the amount of MPS fees already paid; and

(d) Identify those MPS projects that have been or are being built but whose performance capacity has not been fully utilized.

(2) The department shall use this information to periodically prepare a recommended MPS project list, which shall comprise:

(a) The projects on the TNR, in order of priority, that are growth-related and that are capable of

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being funded with the forecast public monies and the MPS fees already paid; and

(b) The MPS projects already built or funded pursuant to this chapter whose performance capacity has not been fully utilized.

(3) The City council, at the same time that it adopts the periodic budget and appropriates funds for capital improvement projects, shall establish the MPS project list by adopting, with or without modification, the department's recommended list.

(4) Once a project is placed on the MPS project list, a fee shall be imposed on every development that impacts the project until the project is removed from the list by one of the following means:

(a) The City council by ordinance removes the project from the MPS project list, in which case the fees already collected will be refunded if necessary to ensure that the MPS fee remains reasonably related to the traffic impacts of development that have paid an MPS fee; provided, that a refund shall not be necessary if the council transfers the fees to the budget of another project that the City council determines will mitigate essentially the same traffic impacts; or

(b) The capacity created by the project has been fully utilized, in which case the department shall administratively remove the project from the MPS project list. (Ord. O99-29 § 1)

14.20.100 Funding of projects.

(1) An MPS trust fund 601 is hereby created. The director of finance shall be the fund manager. MPS fees shall be placed in appropriate deposit accounts within the MPS fund.

(2) The MPS fees paid to the City shall be held and disbursed as follows:

(a) The fees collected for each MPS project shall be placed in a deposit account within the MPS fund;

(b) The fund manager is authorized to transfer the project fees held in the MPS fund to the transportation CIP fund no less than once a year in the year following receipt of the fees;

(c) The non-MPS fee monies appropriated for the MPS project shall comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in MPS fees;

(d) The first money spent by the department on an MPS project after a City council appropriation shall be deemed to be the fees from the MPS fund;

(e) Fees collected after a project has been fully funded by means of one or more City council appropriations shall constitute reimbursement to the City of the public monies advanced for the private share of the project. The public monies made available by such reimbursement shall be used to pay the public share of other MPS projects or to pay for smaller scale, growth-related projects that are not placed on the MPS project list; and

(f) All interest earned on the MPS fees paid by developers shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed.

(3) MPS fees for transportation facility improvements shall be expended only in conformance with the transportation element of the comprehensive plan.

(4) MPS projects shall be funded by a balance between MPS fees and other sources of public funds, and shall not be funded solely by MPS fees.

(5) MPS fees shall be expended or encumbered for a permissible use within six years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than six years. The director may recommend to the City council that the city hold fees beyond six years in cases where extraordinary or

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compelling reasons exist. Such reasons shall be identified in written findings by the City council.

(6) The City council may, on recommendation from the director, pool the MPS fees already collected from a development whenever appropriate to help finance a project with high priority among the projects impacted by the development.

(7) The City council, on recommendation from the director, may pool MPS fees whenever necessary to ensure that the fees are expended or encumbered for a permissible use within six years of receipt. Pooling for such purpose shall be accomplished as follows:

(a) The director shall determine which project has the highest priority among the projects for which MPS fees were collected for each such development, and the director may recommend, and the City council may approve, transfer of the MPS fees paid by the development to the budget of the project with the highest priority.

(b) The department shall indicate in the TNR which projects have funds in their budget that have been pooled to ensure that they are expended or encumbered in a timely manner.

(8) The finance department shall prepare an annual report on each MPS fee account showing the source and amount of all monies collected, earned or received and transportation improvements that were financed in whole or in part by MPS fees. (Ord. O99-29 § 1)

14.20.110 Refunds.

(1) A developer may request and shall receive a refund when the developer does not proceed with the development activity for which MPS fees were paid, and the developer shows that no impact has resulted. However, the MPS administrative fee shall not be refunded.

(2) If a property owner appears to be entitled to a refund of MPS impact fees, the department shall notify the property owner by first class mail deposited with the United States Postal Service at the property owner's last known address. The property owner must submit a written request for a refund to the City council in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any MPS impact fees that are not expended or encumbered within the time limitations established by SMC 14.20.100(5) and for which no application for a refund has been made within this one-year period, shall be retained and expended on the projects for which it was collected.

(3) In the event that MPS impact fees must be refunded for any reason, they shall be refunded with interest earned to the property owners as they appear of record with the King County assessor at the time of the refund.

(4) When the City seeks to terminate any or all impact fee requirements under this title, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City clerk shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of claimants. Claimants shall request refunds as in subsection (2) of this section. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City in fund 601, but must be expended for the indicated road facilities. This notice of requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated. (Ord. O99-29 § 1)

14.20.120 Fees paid under protest.

(1) A statement that fees are being paid under protest must be filed with the City clerk within 14 days of the payment of fees.

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(2) Fees paid under protest will be held by the City until there is a standing decision or the six-year time limit has been reached.

14.20.130 Exemptions for schools.

- (1) Public school districts shall be exempted from payment of mitigation payment system fees.
- (2) The amount of the MPS fees not collected from school districts shall be paid from public funds other than impact fee accounts. (Ord. O99-29 § 1)

14.20.140 Exemption or reduction for low and moderate income housing.

(1) Public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs may apply to the department of community development for exemptions from MPS fee requirements. The department shall review proposed developments of low income or moderate housing by such public or nonprofit developers pursuant to criteria and procedures adopted by administrative rule. If the department determines that a proposed development of low or moderate income housing satisfies the adopted criteria, such development shall be exempted from the requirement to pay an MPS fee.

(2) Private developers who dedicate residential units for occupancy by low or moderate income households may apply to the department of community development for reductions in MPS fees. The department shall review such proposed developments pursuant to criteria and procedures adopted by administrative rule. If the department determines that a proposed development satisfies the adopted criteria the department shall reduce the calculated MPS fee for the development by an amount that is proportionate to the number of units in the development that satisfy the adopted criteria.

(3) Developers of individual low or moderate income households who are building, contracting to build, or siting a house may apply to the department of community development for an exemption from MPS fees. The department shall review such proposed exemptions pursuant to criteria that include household income and assets, the cost of the site, site improvements, and the housing. The procedures and criteria used to evaluate an exception shall be adopted by administrative rule. If the department determines that a household qualifies for exemption per the adopted criteria, such individual projects shall be exempted from the requirement to pay the MPS fee.

(4) The amount of the MPS fees not collected from low or moderate income household development shall be paid from public funds other than impact fee accounts, if authorized.

(5) The department of community development is hereby instructed and authorized to adopt, pursuant to Chapter 2.55 SMC, administrative rules to implement this section. Such rules shall provide for the administration of this program and shall:

(a) Encourage the construction of housing for low or moderate income households by public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs;

(b) Encourage the construction in private developments of housing units for low or moderate income households that are in addition to units required by another housing program or development condition;

(c) Ensure that housing that qualifies as low or moderate cost meets appropriate standards regarding household income, rent levels or sale prices, location, number of units, and development size; and

(d) Ensure that developers who obtain an exemption from or reduction of MPS fees pursuant to subsections (1) and (2) of this section will in fact build the proposed low and moderate cost housing and make it available to low income households for a minimum of 15 years. (Ord. O99-29 § 1)

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14.20.150 Request for final decision needed to appeal.

In order to obtain an appealable final decision the developer must:

(1) Request in writing a review of the MPS impact fee amount by department staff. The department staff shall consider any studies and data submitted by the developer seeking to adjust the amount of the fee; and

(2) Request in writing under SMC 14.10.060 for reconsideration by the director of public works, not a designee, of an adverse decision by staff. Such request for reconsideration shall state in detail the grounds for the request. The public works director, not a designee, shall issue a final, appealable decision after reviewing the request.

The process for filing appeals is set forth in SMC 14.10.050, Filing appeals – Concurrency, MPS, IS. (Ord. O99-29 § 1)

14.20.160 Necessity of compliance.

A development permit issued after the effective date of the MPS provisions of this chapter shall be null and void if issued without substantial compliance with this chapter by the department of community development and the developer. (Ord. O99-29 § 1)

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**Chapter 14.25
INTERSECTION STANDARDS**

Sections:

- 14.25.010 Authority and purpose.
- 14.25.020 Definitions.
- 14.25.030 Significant adverse impacts.
- 14.25.040 Mitigation and payment of costs.
- 14.25.050 Interjurisdictional agreements.
- 14.25.060 Relation to other permit authority.

14.25.010 Authority and purpose.

(1) This chapter is enacted pursuant to the State Environmental Policy Act, Chapter 20.15 SMC, and Chapter 58.17 RCW.

(2) The purpose of this chapter is to:

- (a) Assure adequate levels of service, safety, and operating efficiency on the City of Sammamish street system, at intersections serving and directly impacted by proposed new development;
 - (b) Establish standards for intersection operation and define the relationship between new developments and street intersection function;
 - (c) Identify development conditions to assure intersection capacity, safety, and operational efficiency;
- and
- (d) Require that owners of new developments pay the proportionate costs of required intersection improvements. (Ord. O99-29 § 1)

14.25.020 Definitions.

(1) "Highway capacity manual" means Special Report 209 of the Transportation Research Board of the National Research Council, as currently or hereafter amended.

(2) "Street standards" means the City of Sammamish interim street standards, as set forth in the City of Sammamish public works standards. Terms used in the street standards in the public works standards shall have the same meaning when used in this chapter. References and authorities cited in the street standards in the public works standards shall also apply to this chapter. (Ord. O99-29 § 1)

14.25.030 Significant adverse impacts.

For the purposes of SEPA and this chapter, a significant adverse impact is defined as any traffic condition directly caused by proposed development that would reasonably result in one or more of the following conditions at the time any part of the development is completed and able to generate traffic:

- (1) A street intersection that provides access to a proposed development, and that will function at a level of service worse than "E" as set forth in the highway capacity manual, and that will carry 30 or more added vehicles in any one-hour period as a direct impact of the proposed development, and that will be impacted by at least 20 percent of the new traffic generated from the proposed development in that same one-hour period; or
- (2) A street intersection or approach lane where the director determines that a hazard to safety could reasonably result. (Ord. O99-29 § 1)

SMC Title 14 From Municipal Code Version 2 - March, 2004**14.25.040 Mitigation and payment of costs.**

(1) Based on the identification of intersection level of service standard "E" as set forth in the highway capacity manual being exceeded using analytical techniques and information acceptable to the director, the owner of a proposed development shall be required to provide improvements that bring the intersection into compliance with intersection level of service standard "E" as set forth in the highway capacity manual, or that return it to its pre-project condition, as may be required by the director. Approval to construct the proposed development shall not be granted until the owner has agreed to build or pay fair and equitable costs to build the improvements required by the director within the time schedule set by the director.

(2) At the discretion of the director, and based on technical information regarding traffic conditions and expected traffic impacts, the City may require that the owner of a proposed development pay the full costs of required intersection improvements required under this title. (Ord. O99-29 § 1)

14.25.050 Interjurisdictional agreements.

Nothing in this section shall prevent the City from entering into agreements with the WSDOT or other local jurisdictions for the collection of fees and the mitigation of traffic on state highways or City arterials or county roads that may be caused by developments proposed in the City of Sammamish. (Ord. O99-29 § 1)

14.25.060 Relation to other permit authority.

The procedures set forth in this chapter do not limit the authority of the City of Sammamish to deny or to approve with conditions the following:

- (1) Any zone reclassification request, based on its expected traffic impacts;
- (2) Any proposed development or zone reclassification if the City determines that a hazard to safety would result from its direct traffic impacts without street or intersection improvements, regardless of level of service standards; or
- (3) Any proposed development reviewed under the authority of the Washington State Environmental Policy Act. (Ord. O99-29 § 1)

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**Title 14A
PUBLIC FACILITIES**

Chapters:

- 14A.05 Definitions**
- 14A.10 Concurrency**
- 14A.15 Impact Fees**

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**Chapter 14A.05
DEFINITIONS**

Sections:

14A.05.010 Definitions.

14A.05.010 Definitions.

The following words and terms shall have the following meanings for the purposes of this title, unless the context clearly requires otherwise. The following words, terms and definitions shall apply to all portions of this title, except as specifically superseded by definitions set forth elsewhere in this title. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

“Accessory dwelling unit” means a dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling, located on the same lot, for use as a complete independent living unit with provisions for cooking, eating, sanitation, and sleeping.

“Applicant” means a person who applies to the City for a development permit.

“Building permit” means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

“Capital facilities plan” means the capital facilities plan element of a comprehensive plan adopted by the City of Sammamish pursuant to Chapter 36.70A RCW, and such plan as amended.

“Certificate of concurrency” means the document issued by the City indicating the location or other description of the property on which the development is proposed, the type of development permit for which the certificate is issued, the number and type of units, square footage, and/or maximum trip generation approved, the public facilities that are available and reserved for the property described in the certificate, any conditions attached to the approval, and the date of issuance.

“City” means the City of Sammamish.

“Concurrency” means adequate public facilities that meet the level of service standard are, or will be, available no later than the impact of development.

“Concurrency test” means a comparison of an applicant’s impact on public facilities to the capacity of public facilities that are, or will be, available no later than the impacts of development.

“Concurrency test deferral affidavit” means a document signed by an applicant which defers the application for a certificate of concurrency, and the concurrency test, acknowledges that future rights to develop the property are subject to the deferred concurrency test, and acknowledges that no vested rights concerning concurrency have been granted by the City or acquired by the applicant without such a test.

“Council” means the City council of the City of Sammamish.

“Department” means the department of public works.

“Development” means improvements or changes in use designed or intended to permit a use of land which will contain more dwelling units or buildings than the existing use of the land, or to otherwise change the use of the land, buildings or improvements on the land in a manner that increases the impact on public facilities, and that requires a development permit from the City. Development includes redevelopment, remodeling, or refurbishment that increases the impact on public facilities.

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“Development permit” means any order, permit or other official action of the City granting, or granting with conditions an application for development, including specifically:

- (a) Comprehensive plan amendment proposing a change of property designation;
- (b) Zone reclassifications;
- (c) Planned action, as that term is defined in RCW 43.21C.031(2);
- (d) Subdivision, including preliminary plat, short plat, or binding site plan and revisions or alterations which increase the number of dwelling units or trip generation;
- (e) Mobile home park;
- (f) Master site plan, including urban planned developments;
- (g) Conditional use permit;
- (h) Site development permit;
- (i) Building permit;
- (j) Certificate of occupancy for a change in use.

“Director” means the director of the department of public works or the director’s designee.

“Dwelling unit” means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.

“Encumbered” means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

“Feepayer” means a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit. “Feepayer” includes an applicant for an impact fee credit.

“Gross floor area” means the total square footage of any building, structure, or use, including accessory uses.

“Hearing examiner” means the examiner who acts on behalf of the City in considering and applying land use regulatory codes as provided under the Sammamish Municipal Code. Where appropriate, “hearing examiner” also refers to the office of the hearing examiner.

“Impact fee” means a payment of money imposed by the City of Sammamish on development activity pursuant to RCW 82.02.050 et seq., and this title as a condition of granting development approval in order to pay for a portion or all of the capital cost of the public facilities needed to serve new growth and development. “Impact fee” does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling impact fees, or the cost of reviewing independent fee calculations.

“Impact fee account” or “account” means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to SMC 14A.15.070 and 14A.15.080, and comply with the requirements of RCW 82.02.070.

“Independent fee calculation” means the road impact calculation and/or economic documentation prepared by a feepayer, to support the assessment of an impact fee other than by the use of the rates listed in SMC 14A.15.110, or the calculations prepared by the director where none of the fee categories or fee amounts in SMC 14A.15.110 accurately describe or capture the impacts of the new development on public facilities.

“Interest” means the average interest rate earned in the last fiscal year by the City of Sammamish.

“ITE land use code” means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the 6th Edition of Trip Generation.

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“Level of service standard” means the number of units of capacity per unit of demand, or similar objective measure of the extent or degree of service provided by a public facility.

“Occupancy permit” means the permit issued by the City of Sammamish where a development activity results in a change in use of the pre-existing structure, or the creation of a new use where none previously existed.

“Owner” means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

“Peak hour” means the single hour with the greatest traffic volume between 4:00 p.m. and 6:00 p.m. for the p.m. peak hour

“Planned action” means a project action as that term is defined in RCW 43.21C.031(2).

“Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the council shall be considered a project improvement.

“Public facilities” means the public streets and roads classified as arterial or collector, including intersections of such streets or roads.

“Reserve” means to note in the City’s concurrency records in a manner that assigns the capacity or other measure of public facilities to the applicant and prevents the same capacity or other measure being assigned to any other applicant.

“Residential” or “residential development” means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, townhouse and other multifamily development.

“Road” means a right-of-way, paving and associated improvements which enables motor vehicles, transit vehicles, bicycles and pedestrians to travel between destinations, and affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley.

“Road study” means the “Rate Study for Impact Fees for Roads,” City of Sammamish, dated November 17, 2003.

“Significant past tax payment” means taxes exceeding five percent of the amount of the impact fee, and which were paid prior to the date the impact fee is assessed and were earmarked or proratable to the same system improvements for which the impact fee is assessed.

“Square footage” means the square footage of the gross floor area of the development.

“State” means the state of Washington.

“System improvements” means public facilities that are included in the City of Sammamish’s Capital Facilities Plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

“Vested” means having the right to develop or continue development notwithstanding the concurrency test because of vested rights to obtain a building permit pursuant to RCW 19.27.095. (Ord. O2004-138 § 1)

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**Chapter 14A.10
CONCURRENCY**

Sections:

14A.10.010	Concurrency requirement.
14A.10.020	Application for certificate of concurrency.
14A.10.030	Exemptions from concurrency test.
14A.10.040	Concurrency test.
14A.10.050	Level of service standards.
14A.10.060	Certificate of concurrency.
14A.10.070	Fees.
14A.10.080	Appeals.

14A.10.010 Concurrency requirement.

- (1) The City shall not issue a development permit until:
- (a) A concurrency test has been conducted and a certificate of concurrency has been issued, or
 - (b) The applicant has executed a concurrency test deferral affidavit where specifically allowed, or
 - (c) The applicant has been determined to be exempt from the concurrency test as provided in SMC 14A.10.030(1). (Ord. O2004-139 § 1)

14A.10.020 Application for certificate of concurrency.

- (1) Each applicant for a comprehensive plan amendment requesting property redesignation or zone reclassification, except as provided in SMC 14A.10.030(1), shall elect one of the following options:
- (a) Apply for a certificate of concurrency, or
 - (b) Execute a concurrency test deferral affidavit.
- (2) Each applicant for a planned action, subdivision (including a preliminary plat, short plat, or binding site plan and revisions or alterations which increase the number of dwelling units or trip generation), mobile home park, a master site plan, urban planned development, conditional use permit, or site development permit, shall apply for a certificate of concurrency, unless a certificate has been issued for the same parcel in conjunction with a comprehensive plan amendment or zone reclassification, or except as provided in SMC 14A.10.030(1).
- (3) Each applicant for a building permit or certificate of occupancy for a change in use shall apply for a certificate of concurrency, unless a certificate has been issued for the same parcel in conjunction with subsections (1) or (2) above, or except as provided in SMC 14A.10.030(1).
- (4) Applicants for a certificate of concurrency may designate the density and intensity of development to be tested for concurrency, provided such density and intensity shall not exceed the maximum allowed for the parcel. If the applicant designates the density and intensity of development, the concurrency test will be based on, and applicable to only the applicant's designated density and intensity. If the applicant does not designate density and intensity, the concurrency test will be based on the maximum allowable density and intensity. (Ord. O2004-139 § 1)

14A.10.030 Exemptions from concurrency test.

- (1) The following developments are exempt from this chapter, and applicants may submit applications,

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obtain development permits and commence development without a certificate of concurrency:

(a) Any development permit for the following development because it creates insignificant and/or temporary additional impacts on any public facility:

- (i) Right-of-way use;
- (ii) Street improvements, including new streets constructed by the City of Sammamish; or
- (iii) Street use permits;
- (iv) Utility facilities, which do not impact public facilities, such as, pump stations, transmission or collection systems, and reservoirs.

(b) Any development by the City of Sammamish.

(c) Public schools.

(2) Exemptions from the concurrency test on the capacity of public facilities shall be entered in the city's records in the same manner as though a concurrency test had been performed for the exempt development permits. (Ord. O2004-139 § 1)

14A.10.040 Concurrency test.

(1) The City shall perform a concurrency test for each application for a certificate of concurrency, except as provided in SMC 14A.10.030. The public works director, or his/her designee, shall use the following methods to conduct the concurrency test for each type of public facility:

(a) For single-family residential development, annual certification that the capacity of public facilities is sufficient to maintain the City's level of service standard for single-family residential development that is estimated to occur during the following year; or

(b) For all other development, review of each application compared to the capacity of the public facilities in accordance with the provisions of this chapter.

(2) The City may enter into an agreement with each public or private entity that provides public facilities in the City to establish the responsibilities of the City and the provider of public facilities in providing data for or conducting a concurrency test.

(3) If the capacity of available public facilities is equal to or greater than the capacity required to maintain the level of service standard for the impact of the development, the concurrency test is passed, and the applicant shall receive a certificate of concurrency.

(4) If the capacity of available public facilities is less than the capacity required to maintain the level of service standard for the impact of the development, or the impact of the development will cause the level of service to decline below the standard set forth in SMC 14A.10.050, the concurrency test is not passed, and the applicant may select one of the following options:

(a) Accept a 90-day reservation of public facilities that are available, and within the same 90-day period amend the application to reduce the need for public facilities to not exceed the capacity that is available, or arrange to provide for public facilities that are not otherwise available; or

(b) Appeal the denial of the application for a certificate of concurrency, pursuant to the provisions of SMC 14A.10.080.

(5) The City shall conduct the concurrency test first in the order that completed applications are received by the City.

(6) A concurrency test, and any resulting certificate of concurrency, shall be administrative actions of the City that are categorically exempt from the State Environmental Policy Act. (Ord. O2004-139 § 1)

14A.10.050 Level of service standards.

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(1) In conducting the concurrency test, the level of service standards for road and street segments are based on allowable average weekday daily traffic (AWDT) volumes, as a function of each roadway's characteristics described and listed in the transportation element of the adopted comprehensive plan. For intersections, the City standard is LOS D for intersections that include principal arterials and LOS C for intersections that include minor arterial or collector roadways. The intersection standards shall be applied to the p.m. peak hour.

(2) In conducting the concurrency test, the City shall apply the level of service standards for roads, streets, and intersections citywide. If no road, street or intersection operates below the level of service standard, development may occur anywhere within the City. If any road, street or intersection operates below the level of service standard, development may not be approved anywhere within the City until the level of service is achieved, or transportation improvements or strategies to accommodate the impacts of development will be completed within six years.

(3) In conducting the concurrency test, the City shall find that the impact of development occurs, and therefore the level of service standards for roads, streets and intersections shall be achieved and maintained, no later than six years from the date of occupancy of the development, or each phase of a development.

(4) In the event that the applicant is required to provide a public facility, the development cannot be occupied until the public facility is completed, or the applicant provides the City with a performance bond that is acceptable to the City.

(5) In conducting the concurrency test, the City shall determine that additional public facilities that are needed to achieve the level of service standards are included in the capital facilities plan element of the City's comprehensive plan. Such additional public facilities shall be underwritten by one or more of the following financial commitment specific to the additional public facility needed to achieve the level of service standard:

- (a) Grants from federal, state or private sources if the grant has been awarded for specific projects.
- (b) Appropriations in state biennial budget for specific projects.
- (c) Revenues that can be imposed or expended at the discretion of the City of Sammamish, including, but not limited to, impact fees, SEPA mitigation payments, property taxes, real estate excise taxes, user fees, charges, intergovernmental entitlements, and bonds.
- (d) Revenue from special assessment districts created by the City.
- (e) Irrevocable commitments from developers in a form acceptable to the City including:
 - (i) Performance or surety bonds from Washington financial institutions;
 - (ii) Letters of credit from Washington financial institutions; or
 - (iii) Assignments of assets in Washington (i.e., interests in real property, savings certificates, bank accounts, or negotiable securities).
- (f) Payments by special districts if such payments are similar in character and reliability to those listed in subsections (5)(a) through (e) of this section.
- (g) All development permits that require one or more public facilities provided by entities other than the City shall condition the issuance of the development permit for the same parcel on the availability of such public facilities. The City may enter into an agreement with each public or private entity that provides public facilities in the City to establish the responsibilities of the City and the provider of public facilities in providing data for, or conducting a concurrency test. (Ord. O2004-139 § 1)

14A.10.060 Certificate of concurrency.

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(1) A certificate of concurrency shall be issued by the public works director, or his/her designee after the concurrency test is passed.

(2) Upon issuance of a certificate of concurrency, the City shall reserve capacity on behalf of the applicant, and indicate the reservation on the certificate of concurrency.

(3) A certificate of concurrency shall expire if the development permit for which the concurrency is reserved is not applied for within 180 days of issuance of the certificate of concurrency.

(4) A certificate of concurrency shall be valid for the development permit application period and subsequently for the same period of time as the development permit for which it was issued expires.

(5) A certificate of concurrency may be extended according to the same terms and conditions as the underlying development permit. If a development permit is granted an extension, the certificate of concurrency, if any, shall also be extended. Certificates of concurrency shall not be extended beyond the expiration of the underlying development permit, or any extensions thereof.

(6) A certificate of concurrency is valid only for the uses and intensities authorized for the development permit with which it is issued. Any change in use or intensity that increases the impact of development on public facilities is subject to an additional concurrency test of the incremental increase in impact on public facilities. Any change in use or intensity that decreases the impact of development on public facilities is not subject to an additional concurrency test and any capacity that is not required as a result of the decrease in impact shall be available for other applications.

(7) A certificate of concurrency is valid only for the development permit with which it is issued, and for subsequent development permits for the same parcel, as long as the applicant obtains the subsequent development permit prior to the expiration of the earlier development permit. A certificate of concurrency transfers automatically to subsequent development permits for the parcel for which the certificate was issued provided that the use or intensity has not changed, and the previous development permit has not expired. The transfer of validity of a certificate of concurrency from one development permit to a subsequent development permit shall not extend or otherwise change the expiration of the certificate of concurrency.

(8) A certificate of concurrency runs with the land, and cannot be transferred to a different parcel. A certificate of concurrency transfers automatically with ownership of the parcel for which the certificate was issued. Upon final subdivision of a parcel that has obtained a certificate of concurrency, the City shall replace the certificate of concurrency by issuing a separate certificate of concurrency to each subdivided parcel, assigning to each a pro rata portion of the public facility capacity or other measure that was reserved for the original certificate. The issuance of pro rata certificates of concurrency to subdivided parcels shall not extend or otherwise change the expiration of the certificates of concurrency. (Ord. O2004-139 § 1)

14A.10.070 Fees.

(1) The City shall charge each applicant a concurrency test fee in an amount to be established by resolution by the City council. The concurrency test fee shall not be refundable.

(2) The City shall charge a processing fee to any individual that requests an informal analysis of capacity if the requested analysis requires substantially the same research as a concurrency test. The processing fee shall be nonrefundable and nonassignable to concurrency tests. The amount of the processing fee shall be the same as the concurrency test fee authorized by subsection (1) of this section.

(3) When a certificate of concurrency is issued, the City shall charge a deposit towards future impact

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fees and SEPA mitigation payments that will be due upon issuance of the building permit. The deposits shall be paid according to the following schedule in an amount equal to the percentages listed below of the amount of impact fees and SEPA mitigation payments for the capacity being reserved, using the rates in effect at the time the deposit is paid.

(a) At the time the certificate of concurrency is issued, the deposit amount shall equal 10 percent of the rates in effect at that time for impact fees and SEPA mitigation payments.

(b) At the time a preliminary plat is approved, the deposit amount shall equal 50 percent of the rates in effect at that time for impact fees and SEPA mitigation payments, less a credit for any deposit paid pursuant to subsection (3)(a) of this section.

(c) At the time the engineering plan is approved, the deposit amount shall equal 75 percent of the rates in effect at that time for impact fees and SEPA mitigation payments, less a credit for any deposits paid pursuant to subsections (3)(a) and (b) of this section.

(d) At the time a final plat, site development permit, conditional use permit, building permit or certificate of occupancy is approved, a final payment shall be made equal to 100 percent of the rates in effect at that time for impact fees and SEPA mitigation payments, less a credit for any deposits paid pursuant to subsections (3)(a), (b) and (c) of this section.

The City council may waive payment of deposits by planned actions, and require instead that the planned action shall pay the impact fees and SEPA mitigation payments that are in effect at the time each building permit is issued.

(4) If the City has not expended a deposit, it is refundable without interest, less the cost of processing the refund. If the City has expended a deposit in good faith in order to provide public facilities anticipated to be needed by a proposed development, the deposit is not refundable, but it can be credited against impact fees and SEPA mitigation payments at the time it becomes due, and it runs with the land and is transferred automatically to new owners of the same parcel. The City may, at its sole discretion, collect impact fees or SEPA mitigation payments from another party for the capacity of public facilities that was subject to a deposit. The City may use the proceeds to refund the original deposit. The applicant's payment of a deposit towards impact fees in exchange for the certificate of concurrency from the City constitutes a waiver by the applicant of the right to obtain a refund of an impact fee in the event the development does not proceed. (Ord. O2004-139 § 1)

14A.10.080 Appeals.

(1) An applicant may appeal a denial of a certificate of concurrency on the following grounds:

- (a) A technical or mathematical error;
- (b) The applicant provided alternative data that was rejected by the City; or
- (c) Unwarranted delay in review of the application that allowed capacity to be given to another applicant.

(2) Appeal of denial of a certificate of concurrency shall be to the hearing examiner in accordance with procedures in SMC Title 20. (Ord. O2004-139 § 1)

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Chapter 14A.15 IMPACT FEES

Sections:

14A.15.010	Findings and authority.
14A.15.020	Assessment of impact fees.
14A.15.030	Exemptions.
14A.15.040	Credits.
14A.15.050	Tax adjustments.
14A.15.060	Appeals.
14A.15.070	Establishment of impact fee accounts.
14A.15.080	Refunds.
14A.15.090	Use of funds.
14A.15.100	Review.
14A.15.110	Road impact fee.
14A.15.120	Independent fee calculations.
14A.15.130	Administrative fees.

14A.15.010 Findings and authority.

The City council of the City of Sammamish (the “council”) hereby finds and determines that new growth and development, including but not limited to new residential, commercial, retail, and office development in the City of Sammamish will create additional demand and need for public facilities in the City of Sammamish, and the council finds that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development. The City of Sammamish has conducted extensive studies documenting the procedures for measuring the impact of new development on public facilities, has prepared the roads study, and hereby incorporates this study into this title by reference. Therefore, pursuant to Chapter 82.02 RCW, the council adopts this title to assess impact fees for roads. The provisions of this title shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.020 Assessment of impact fees.

(1) The City shall collect impact fees, based on the rates in SMC 14A.15.110, from any applicant seeking a development permit from the City for any development within the City, where such development requires the issuance of a building permit. This shall include, but is not limited to, the development of residential, commercial, retail, and office, land, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in existing use that creates a demand for additional public facilities.

(2) For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

(3) For mixed use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the impact fee rates set forth in SMC 14A.15.110.

(4) Applicants seeking an occupancy permit for a change in use shall be required to pay a road impact

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fee if the change in use increases the existing trip generation by the lesser of five percent or 10 peak hour trips.

(5) Impact fees shall be assessed at the time the complete application for a building permit or occupancy permit is submitted for each unit in the development, using the impact fee rates then in effect. Impact fees shall be paid at the time the building permit is issued by the City.

(6) Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 14A.15.040, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 14A.15.040 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued for each unit in the development.

(7) Where the impact fees imposed are determined by the square footage of the development, a deposit shall be due from the feepayer at the same time that a complete application for a building permit is submitted. The deposit shall be based on an estimate, submitted by the feepayer, of the size and type of structure which will be constructed on the property. In the absence of an estimate provided by the feepayer, the department shall calculate a deposit amount based on the maximum allowable density/intensity permissible on the property. If the final square footage of the development is in excess of the initial estimate, any difference will be due prior to the issuance of a certificate of occupancy or an occupancy permit, using the rate in effect at that time. The feepayer shall pay any such difference plus interest, calculated at the interest rate which the City of Sammamish then earns. If the final square footage is less than the initial estimate, the department shall give a credit for the difference, plus interest at the interest rate which the City of Sammamish then earns.

(8) The department shall not issue the required building permit or occupancy permit unless and until the impact fees set forth in SMC 14A.15.110 have been paid in the amount that the fees exceed exemptions or credits provided pursuant to SMC 14A.15.030 or 14A.15.040.

(9) The service area for impact fees shall be a single citywide service area. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.030 Exemptions.

(1) Except as provided for below, the following shall be exempted from the payment of all impact fees:

(a) Alteration of an existing nonresidential structure that does not expand the usable space or add any residential units;

(b) Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs;

(c) Demolition or moving of a structure;

(d) Expansion of an existing structure that results in the addition of 100 square feet or less of gross floor area;

(e) Replacement of a residential structure with a new residential structure at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure;

(f) Replacement of a nonresidential structure with a new nonresidential structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a nonresidential structure with a new nonresidential structure of the same size shall be interpreted to include any structure for which the gross square footage of the building

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will not be increased by more than 100 square feet;

(g) Any building permit application that has been submitted to the City before 5:00 p.m. the business day before the effective date of this chapter and subsequently determined to be a complete application, based on the information on file as of the effective date of this chapter; or

(h) Any development by the City of Sammamish; or

(i) Any building permit application for development for which a mitigation payment pursuant to King County or City of Sammamish requirements existing prior to the effective date of the ordinance codified in this chapter has been paid in full prior to the effective date of the ordinance codified in this chapter; or

(j) Expansion of a residential structure provided the expansion does not result in the creation of an additional dwelling unit or accessory dwelling unit;

(k) Public schools.

(2) The director shall be authorized to determine whether a particular development falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in SMC 14A.15.060. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.040 Credits.

(1) A feepayer can request that a credit or credits for impact fees be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:

(a) For one or more of the system improvements from the capital facilities plan that are included in the roads study as the basis of the impact fee; and

(b) At suitable sites and constructed at acceptable quality as determined by the City.

(2) The director shall determine if requests for credits meet the criteria in subsection (1), above.

(3) The value of a credit for structures, facilities or other improvements shall be established by original receipts provided by the applicant for one or more of the same system improvements for which the impact fee is being charged.

(4) The value of a credit for land, including right of way and easements, shall be established on a case-by-case basis by an appraiser selected by, or acceptable to the director. The appraiser must be licensed in good standing by the state of Washington for the category of the property appraised. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised. The appraisal shall be in accord with the most recent version of the Uniform Standards of Professional Appraisal Practice and shall be subject to review and acceptance by the director.

(5) The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the director may be providing to the feepayer, in the event that a credit is awarded.

(6) After receiving the appraisal the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the

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director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

(7) No credit shall be given for project improvements.

(8) A feepayer can request that a credit or credits for impact fees be awarded to him/her for significant past tax payments for road impact fees. For each request for a credit or credits for significant past tax payments for road impact fees, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or prorable to the particular system improvement. The director shall determine the amount of credits, if any, for significant past tax payments for road public facilities.

(9) Any claim for credit must be made no later than 60 calendar days after the submission of an application for a building permit. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

(10) A feepayer shall receive a credit for all impact deposits paid pursuant to SMC 14A.10.070(3). Payments pursuant to SMC 14A.10.070(3)(d) constitute full payment of all impact fees required by this chapter.

(11) Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in SMC 14A.15.060. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.050 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the roads study provides adjustments for future taxes to be paid by the new development which are earmarked or prorable to the same new public facilities which will serve the new development. The impact fee rates in SMC 14A.15.110 have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund public improvements. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.060 Appeals.

(1) Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit. No appeal shall be permitted until the impact fees at issue have been paid.

(2) Appeals regarding the impact fees imposed on any development may only be filed by the feepayer of the property where such development will occur.

(3) The feepayer must first file a request for review regarding impact fees with the director, as provided herein:

(a) The request shall be in writing on the form provided by the City;

(b) The request for review by the director shall be filed within 21 calendar days of the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;

(c) No administrative fee will be imposed for the request for review by the director; and

(d) The director shall issue his/her determination in writing.

(4) Determinations of the director with respect to the applicability of the impact fees to a given development, the availability or value of a credit, or the director's decision concerning the independent fee calculation which is authorized in SMC 14A.15.110, or the fees imposed by the director pursuant to SMC 14A.15.110, or any other determination which the director is authorized to make pursuant to this title, can be appealed to the hearing examiner.

(5) Appeals shall be taken within 21 calendar days of the director's issuance of a written determination by filing with the department a notice of appeal specifying the grounds thereof, and depositing the

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necessary fee, which is set forth in the existing fee schedules for appeals of such decisions. The director shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including where appropriate, the independent fee calculation.

(6) The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in the Sammamish Municipal Code. At the hearing, any party may appear in person or by agent or attorney.

(7) The hearing examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the hearing examiner shall be final, except as provided in this section.

(8) The hearing examiner may, so long as such action is in conformance with the provisions of this title, reverse or affirm, in whole or in part, or may modify the determinations of the director with respect to the amount of the impact fees imposed or the credit awarded. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.070 Establishment of impact fee accounts.

(1) Impact fee receipts shall be earmarked specifically and deposited in a trust fund maintained by the City.

(2) There is hereby established the roads impact fee account for the fees collected pursuant to this title. Funds withdrawn from these accounts must be used in accordance with the provisions of SMC 14A.15.090 and applicable state law. interest earned on the fees shall be allocated to the account and expended for the purposes for which the impact fees were collected.

(3) On an annual basis, the finance director shall provide a report to the council on the impact fee account showing the source and amount of all moneys collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees.

(4) Impact fees shall be expended or encumbered within six years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the City to hold the fees beyond the six-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.080 Refunds.

(1) If the City fails to expend or encumber the impact fees within six years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to SMC 14A.15.070, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.

(2) The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property.

(3) Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

(4) Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the City and expended on the appropriate public facilities.

(5) Refunds of impact fees under this section shall include any interest earned on the impact fees by the

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City.

(6) When the City seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City, but must be expended for the appropriate public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

(7) The City shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development for which the impact fees were imposed did not occur; provided, that if the City has expended or encumbered the impact fees in good faith prior to the application for a refund, the director can decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development, the owner can petition the director for an offset. The petitioner must provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. The director shall determine in writing whether to grant an offset, and the determinations of the director may be appealed pursuant to the procedures in SMC 14A.15.060. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.090 Use of funds.

(1) Pursuant to this title, impact fees:

- (a) Shall be used for public improvements that will reasonably benefit the new development; and
- (b) Shall not be imposed to make up for deficiencies in public facilities serving existing developments; and
- (c) Shall not be used for maintenance or operation.

(2) Road impact fees may be spent for public improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and any other expenses which can be capitalized.

(3) Impact fees may also be used to recoup public improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

(4) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.100 Review.

The fee rates set forth in SMC 14A.15.110 may be reviewed and adjusted by the council as it deems necessary and appropriate. The fee rates shall be adjusted 12 months after the effective date of this chapter, or 12 months after the most recent review by the council. The council may determine the amount of the

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adjustment and revise the fee rates set forth in SMC 14A.15.110. If the council does not determine the amount of the adjustment, the adjustment shall be by the same amount that the Consumer Price Index changed for the most recent 12-month period prior to the date of the adjustment. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.110 Road impact fee.

The road impact fee rates in this section are generated from the formula for calculating impact fees set forth in the roads study, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in SMC 14A.15.020, exemptions in SMC 14A.15.030, and credits in SMC 14A.15.040, all new developments in the City will be charged the road impact fee applicable to the type of development:

ITE Code	ITE Land Use Category	Impact Fee @ \$6,937.03 per Trip
110	Light industrial	\$ 10.81 per square foot
140	Manufacturing	8.16 per square foot
151	Mini-warehouse	2.87 per square foot
210	Single-family house	7,636.98 per dwelling unit
220	Apartment	4,946.10 per dwelling unit
230	Condominium	4,307.90 per dwelling unit
240	Mobile home	4,234.36 per dwelling unit
250	Retirement community	1,629.51 per dwelling unit
310	Hotel	5,289.49 per room
320	Motel	4,075.51 per room
420	Marina	1,278.50 per boat berth
430	Golf course	2,081.11 per acre
444	Movie theater	18.98 per square foot
492	Racquet club	12.31 per square foot
530	High school	4.39 per square foot
560	Church	5.27 per square foot
610	Hospital	9.96 per square foot
620	Nursing home	1,207.04 per bed
710	General office	16.43 per square foot
720	Medical office	38.08 per square foot
820	Shopping center	8.41 per square foot
832	Restaurant: sit-down	44.72 per square foot
833	Fast food, no drive-up	58.48 per square foot
834	Fast food, w/ drive-up	73.44 per square foot
844	Gas station	32,119.02 per pump
845	Gas station w/convenience	23,120.84 per pump

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850	Supermarket	28.54	per square foot
851	Convenience market, 24-hr.	58.15	per square foot
912	Drive-in bank	91.07	per square foot

If an applicant proposes a land use that is not identified above, the impact fee shall be an amount equal to \$6,937.03 for each p.m. peak hour trip generated, adjusted for trip length using methods and data comparable to those in the roads study (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.120 Independent fee calculations.

(1) If in the judgment of the director, none of the fee categories or fee amounts set forth in SMC 14A.15.110 accurately describe or capture the impacts of a new development on roads, the department may conduct independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

(2) If a feepayer opts not to have the impact fees determined according to SMC 14A.15.110, then the feepayer shall prepare and submit to the director an independent fee calculation for the development for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

(3) Any feepayer submitting an independent fee calculation will be required to pay the City of Sammamish a fee to cover the cost of reviewing the independent fee calculation. The amount of the fee required by the City for conducting the review of the independent fee calculation shall be established by resolution by the City council and shall be paid by the feepayer prior to initiation of review.

(4) While there is a presumption that the calculations set forth in the roads study are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

(5) Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner as set forth in SMC 14A.15.060. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.130 Administrative fees.

All development permits subject to the road impact fees pursuant to SMC 14A.15.110 shall pay an administrative processing fee as adopted by the Sammamish City council.

(1) All development permits that require an independently determined road impact fee pursuant to SMC 14A.15.120 shall pay an administrative processing fee as adopted by the Sammamish City council. (Ord. O2004-140 § 1; Ord. O2004-136 § 1)

**Title 15
ENVIRONMENT**

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Chapter 20.05 PROCEDURES FOR LAND USE PERMIT APPLICATIONS, PUBLIC NOTICE, HEARINGS AND APPEALS

Sections:

- 20.05.010 Chapter purpose.
- 20.05.020 Classifications of land use decision processes.
- 20.05.030 Preapplication conferences.
- 20.05.040 Application requirements.
- 20.05.050 Notice of complete application to applicant.
- 20.05.060 Notice of application.
- 20.05.070 Vesting.
- 20.05.080 Applications – Modifications to proposal.
- 20.05.090 Notice of decision or recommendation – Appeals.
- 20.05.100 Permit issuance.
- 20.05.110 Semi-annual report.
- 20.05.120 Citizen’s guide.

20.05.010 Chapter purpose.

The purpose of this chapter is to establish standard procedures for land use permit applications, public notice, hearings, and appeals in the City of Sammamish. These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, permit review, hearing and appeal processes; provide for uniformity in public notice procedures; minimize delay and expense; and result in development approvals that implement the policies of the interim comprehensive plan. These procedures also provide for an integrated and consolidated land use permit and environmental review process consistent with Chapter 347, Laws of 1995. (Ord. O99-29 § 1)

20.05.020 Classifications of land use decision processes.

(1) Land use permit decisions are classified into four types, based on the amount of discretion associated with each decision. Procedures for the four different types are distinguished according to who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made, and whether administrative appeals are provided. The types of land use decisions are listed in Exhibit A of this section.

(a) Type 1 decisions are made by the director (director) of the department of community development (department). Type 1 decisions are non-appealable administrative decisions that require the exercise of little or no administrative discretion, except for Type 1 decisions for which the department has issued a State Environmental Policy Act (SEPA) threshold determination. Type 1 decisions for which the department has issued a SEPA threshold determination are appealable at the time of issuance of the SEPA threshold determination to the hearing examiner as a Type 2 decision; provided, that the appeal is limited to the SEPA threshold determination and issues relating to development code (SMC Title 21A) compliance excluding compliance with permitted use provisions. However, the decision on the Type 1 permit, exclusive of SEPA threshold determinations issued by the department and issues relating to development code (SMC

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Title 21A) compliance excluding compliance with permitted use provisions, is not appealable to the hearing examiner; rather it is appealable to superior court. For the purposes of appealing a Type 1 decision to superior court, the Type 1 decision shall not be considered final until any permitted appeal to the hearing examiner is decided. Public notice is not required for Type 1 decisions, except for Type 1 decisions for which the department has issued a SEPA threshold determination, which are treated like Type 2 decisions for the purposes of public notice.

(b) Type 2 decisions are made by the director, or his or her designee. Type 2 decisions are discretionary decisions that are subject to administrative appeal in accordance with applicable provisions of law or ordinance.

(c) Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to superior court.

(d) Type 4 decisions are quasi-judicial decisions made by the hearing examiner. Type 4 decisions may be appealed to the State Shoreline Hearings Board.

(2) Except as provided in SMC 20.15.130(1)(f) and 25.35.060 or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application.

(3) Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

(4) Land use permits that are categorically exempt from review under the State Environmental Policy Act (SEPA) will not require a threshold determination (determination of nonsignificance (DNS) or determination of significance (DS)). For all other projects, the SEPA review procedures codified in Chapter 20.15 SMC are supplemental to the procedures set forth in this chapter.

Exhibit A

LAND USE DECISION TYPE

Type 1	Decision by director, no administrative appeal	Building; clearing and grading; boundary line adjustment; right-of-way; road variance except those rendered in conjunction with a short plat decision ¹ ; variance from the requirements of Chapter 9.04 KCC as adopted by Chapter 15.05 SMC; shoreline exemption; approval of a conversion harvest plan
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Type 2	Decision by director appealable to hearing examiner, no further administrative appeal	Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; temporary use; Type 1 decision for which the department has issued a SEPA threshold determination ³ ; procedural and substantive SEPA decision; site development permit; approval of residential density incentives or transfer of development credits; reuse of public schools; reasonable use exceptions under SMC 21A.50.070(2); preliminary determinations under SMC 20.05.030(2); sensitive 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
Type 3	Recommendation by director, hearing and decision by hearing examiner appealable to superior court	Preliminary plat; plat alterations; preliminary plat revisions; plat vacations; zone reclassifications ² ; urban planned development; special use
Type 4	Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board	Shoreline substantial development permits; shoreline variances; shoreline conditional use permits

1 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.

2 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.

3 Only the SEPA threshold determination and issues relating to development code compliance, excluding compliance with permitted use provisions, may be appealed, upon issuance of the threshold determination; other issues, including those relating to building code compliance, are not appealable.

(Ord. O2000-63 §§ 1, 2, 3; Ord. O99-29 § 1)

20.05.030 Preapplication conferences.

(1) Prior to filing a permit application for a Type 1 decision, the applicant shall contact the department to schedule a preapplication conference that shall be held prior to filing the application if the property will

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have 5,000 square feet or greater of development site or right-of-way improvements, the property is in a critical drainage basin, or the property has a wetland, steep slope, landslide hazard, or erosion hazard. Exempt from this requirement are:

- (a) A single-family residence and its accessory buildings;
- (b) Other structures where all work is in an existing building and no parking is required or added.

(2) Prior to filing a permit application requiring a Type 2, 3 or 4 decision, the applicant shall contact the department to schedule a preapplication conference that shall be held prior to filing the application, except as provided herein. The purpose of the preapplication conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The preapplication conference shall be scheduled by the department, at the request of an applicant, and shall be held in a timely manner, within 30 days from the date of the applicant's request. The director may waive the requirement for a preapplication conference if it is determined to be unnecessary for review of an application. Nothing in this section shall be interpreted to require more than one preapplication conference or to prohibit the applicant from filing an application if the department is unable to schedule a preapplication conference within 30 days following the applicant's request.

Information presented at or required as a result of the preapplication conference shall be valid for a period of 180 days following the preapplication conference. An applicant wishing to submit a permit application more than 180 days following a preapplication for the same permit application shall be required to schedule another preapplication conference.

(3) At or subsequent to a preapplication conference, the department may issue a preliminary determination that a proposed development is not permissible under applicable City policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the hearing examiner in the manner provided for a Type 2 permit, as an alternative to proceeding with a complete application. Mailed and published notice of the appeal shall be provided for as in SMC 20.05.060(7) and (8). (Ord. O99-29 § 1)

20.05.040 Application requirements.

(1) The department shall not commence review of any application set forth in this chapter until the applicant has submitted the materials and fees specified for complete applications. Applications for land use permits requiring Type 1, 2, 3, or 4 decisions shall be considered complete as of the date of submittal upon determination by the department that the materials submitted meet the requirements of this section. Except as provided in subsection (2) of this section, all land use permit applications described in SMC 20.05.020, Exhibit A, shall include the following:

(a) An application form provided by the department and completed by the applicant that allows the applicant to file a single application form for all land use permits requested by the applicant for the development proposal at the time the application is filed;

(b) Designation of who the applicant is, except that this designation shall not be required as part of a complete application for purposes of this section when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right-of-way and the following three requirements are met:

- (i) The name of the agency or private or public utility is shown on the application as the applicant;
- (ii) The agency or private or public utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application

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applies, on a form provided by the department; and

- (iii) The form designating who the applicant is is submitted to the department prior to permit approval;
 - (c) A certificate of sewer availability from the Sammamish Plateau Sewer and Water District or site percolation data with preliminary approval by the Seattle-King County department of public health;
 - (d) A current certificate of water availability, as required by Chapter 21A.60 SMC;
 - (e) Review by Sammamish fire services;
 - (f) A site plan, prepared in a form prescribed by the director;
 - (g) Proof that the lot or lots are recognized as separate lots pursuant to the provisions of Chapter 19.15 SMC, if required by SMC 21A.50.100;
 - (h) A sensitive areas affidavit if required by Chapter 21A.50 SMC;
 - (i) A completed environmental checklist, if required by Chapter 20.15 SMC, State Environmental Policy Act Procedures;
 - (j) Payment of any development permit review fees, excluding impact fees, as set forth by resolution;
 - (k) A list of any permits or decisions applicable to the development proposal that have been obtained prior to filing the application or that are pending before the City or any other governmental entity;
 - (l) Approved traffic impact analysis from the director or designee, if required by Chapter 14.15 SMC;
 - (m) Certificate of future connection from the appropriate purveyor for lots located within the City that are proposed to be served by on-site or community sewage system and/or group B water systems or private well;
 - (n) A determination if drainage review applies to the project pursuant to Chapter 9.04 KCC as adopted by Chapter 15.05 SMC, and, if applicable, all drainage plans and documentation required by the King County surface water design manual adopted pursuant to Chapter 9.04 KCC as adopted by Chapter 15.05 SMC;
 - (o) Current assessor's maps and a list of tax parcels to which public notice must be given as provided in this chapter, for land use permits requiring a Type 2, 3 or 4 decision;
 - (p) Legal description of the site;
 - (q) Variances obtained or required under SMC Title 21A to the extent known at the date of application; and
 - (r) For commercial site development permits only, a phasing plan and a time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years.

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the department and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the department from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

(2) Additional complete application requirements for the following land use permits are set forth in the following sections of the SMC:

- (a) Clearing and grading permit, SMC 16.15.070.
- (b) Construction permits.
- (c) Mobile home permits.

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(3) The director may specify the requirements of the site plan required to be submitted for various permits and may waive any of the specific submittal requirements listed herein that are determined to be unnecessary for review of an application.

(4) The applicant shall attest by written oath to the accuracy of all information submitted for an application.

(5) Applications shall be accompanied by the payment of the applicable filing fees, if any, as set forth by resolution. (Ord. O99-29 § 1)

20.05.050 Notice of complete application to applicant.

(1) Within 28 days following receipt of a land use permit application, the department shall mail or provide written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete. To the extent known by the department, the notice shall identify other agencies of local, state, regional, or federal governments that may have jurisdiction over some aspects of the development proposal.

(2) An application shall be deemed complete under this section if the department does not provide written notice to the applicant that the application is incomplete within the 28-day period as provided herein.

(3) If the application is incomplete and the applicant submits the additional information requested by the department, the department shall notify the applicant in writing within 14 days whether the application is complete or what additional information specified by the department as provided in subsection (1) of this section is necessary to make the application complete. An application shall be deemed complete if the department fails to provide written notice to the applicant within the 14-day period that the application is incomplete.

(4) The date an application is deemed complete is the date of receipt by the department of all of the information necessary to make the application complete as provided in this chapter. The department's issuance of a notice of complete application as provided in subsections (1) or (3) of this section, or the failure of the department to provide such a notice as provided in subsections (2) or (3) of this section, shall cause an application to be conclusively deemed to be complete and vested as provided in this chapter.

(5) The department may cancel an incomplete application if the applicant fails to submit the additional information required by this chapter within 90 days following notification from the department that the application is incomplete. (Ord. O99-29 § 1)

20.05.060 Notice of application.

(1) A notice of application shall be provided to the public for all land use permit applications requiring Type 2, 3 or 4 decisions or Type 1 decisions subject to SEPA pursuant to this section.

(2) Notice of the application shall be provided by the department within 14 days following the department's determination that the application is complete. A public comment period of at least 21 days shall be provided, except as otherwise provided in Chapter 90.58 RCW.

(3) If the director has made a determination of significance (DS) under Chapter 43.21 RCW prior to the issuance of the notice of application, the notice of the DS shall be combined with the notice of application and the scoping notice.

(4) All required notices of application shall contain the following information:

- (a) The file number;
- (b) The name of the applicant;

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- (c) The date of application, the date of the notice of completeness and the date of the notice of application;
 - (d) A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;
 - (e) A site plan on eight and one-half by 14-inch paper, if applicable;
 - (f) The procedures and deadline for filing comments, requesting notice of any required hearings, and any appeal procedure;
 - (g) The date, time, place, and type of hearing, if applicable and scheduled at the time of notice;
 - (h) The identification of other permits not included in the application to the extent known;
 - (i) The identification of existing environmental documents that evaluate the proposed project;
 - (j) A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and of consistency with applicable City plans and regulations.
- (5) Notice shall be provided in the following manner:
- (a) Posted at the project site as provided in subsections (6) and (9) of this section;
 - (b) Mailed by first class mail as provided in subsection (7) of this section; and
 - (c) Published as provided in subsection (8) of this section.
- (6) Posted notice for a proposal shall consist of one or more notice boards posted by the applicant within 14 days following the department's determination of completeness as follows:
- (a) A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing and shall be placed by the applicant:
 - (i) At the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility;
 - (ii) Five feet inside the street property line except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street property without approval of the department;
 - (iii) So that the top of the notice board is between seven to nine feet above grade; and
 - (iv) Where it is completely visible to pedestrians.
 - (b) Additional notice boards may be required when:
 - (i) The site does not abut a public road;
 - (ii) A large site abuts more than one public road; or
 - (iii) The department determines that additional notice boards are necessary to provide adequate public notice.
 - (c) Notice boards shall be:
 - (i) Maintained in good condition by the applicant during the notice period through the time of the final City decision on the proposal, including the expiration of any applicable appeal periods, and for decisions that are appealed, through the time of the final resolution of any appeal;
 - (ii) In place at least 28 days prior to the date of any required hearing for a Type 3 or 4 decision, or at least 14 days following the department's determination of completeness for any Type 2 decision; and
 - (iii) Removed within 14 days after the end of the notice period.
 - (d) Removal of the notice board prior to the end of the notice period may be cause for discontinuance of City review until the notice board is replaced and remains in place for the specified time period.
 - (e) An affidavit of posting shall be submitted to the department by the applicant within 14 days

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following the department's determination of completeness to allow continued processing of the application by the department.

(f) Notice boards shall be constructed and installed in accordance with this subsection, and any additional specifications promulgated by the department pursuant to Chapter 2.55 SMC, Rules of City Departments.

(7) Mailed notice for a proposal shall be sent by the department within 14 days after the department's determination of completeness:

(a) By first class mail to owners of record of property in an area within 500 feet of the site, provided such area shall be expanded as necessary to send mailed notices to at least 20 different property owners;

(b) To any utility that is intended to serve the site;

(c) To the State Department of Transportation, if the site adjoins a state highway;

(d) To the affected tribes;

(e) To any agency or community group that the department may identify as having an interest in the proposal;

(f) Be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice; and

(g) For preliminary plats only, to all cities within one mile of the proposed preliminary plat.

(8) Notice of a proposed action shall be published by the department within 14 days after the department's determination of completeness in the official City newspaper.

(9) Posted notice for approved formal subdivision engineering plan, clearing or grading permits subject to SEPA, or building permits subject to SEPA. Posted notice for approved formal subdivision engineering plans, clearing or grading permits subject to SEPA, or building permits subject to SEPA shall be a condition of the plan or permit approval and shall consist of a single notice board posted by the applicant at the project site, prior to construction as follows:

(a) Notice boards shall comport with the size and placement provisions identified for construction signs in SMC 21A.45.120(2);

(b) Notice boards shall include the following information:

(i) Permit number and description of the project;

(ii) Projected completion date of the project;

(iii) A contact name and phone number for both the department and the applicant; and

(iv) Hours of construction, if limited as a condition of the permit;

(c) Notice boards shall be maintained in the same manner as identified in subsection (6) of this section;

(d) Notice boards shall remain in place until final construction approval is granted. Early removal of the notice board may preclude authorization of final construction approval. (Ord. O99-29 § 1)

20.05.070 Vesting.

(1) Applications for Type 1, 2, and 3 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all of the requirements of this chapter. The department's issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

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(2) Supplemental information required after vesting of a complete application shall not affect the validity of the vesting for such application.

(3) Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals. (Ord. O99-29 § 1)

20.05.080 Applications – Modifications to proposal.

(1) Modifications required by the City to a pending application shall not be deemed a new application.

(2) An applicant-requested modification occurring either before or after issuance of the permit shall be deemed a new application when such modification would result in a substantial change in a project's review requirements, as determined by the department. (Ord. O99-29 § 1)

20.05.090 Notice of decision or recommendation – Appeals.

(1) The department shall provide notice in a timely manner of its final decision or recommendation on permits requiring Type 2, 3 and 4 land use decisions and Type 1 decisions subject to SEPA, including the threshold determination, if any, the dates for any public hearings, and the procedures for administrative appeals, if any. Notice shall be provided to the applicant, to the Department of Ecology, and to agencies with jurisdiction if required by Chapter 20.15 SMC, to the Department of Ecology and Attorney General as provided in Chapter 90.58 RCW, and to any person who, prior to the decision or recommendation, had requested notice of the decision or recommendation or submitted comments. The notice shall also be provided to the public as provided in SMC 20.05.060.

(2) Except for shoreline permits that are appealable to the State Shorelines Hearings Board, all notices of appeal to the hearing examiner of Type 2 land use decisions made by the director shall be filed within 21 calendar days from the date of issuance of the notice of decision as provided in SMC 20.10.080. (Ord. O99-29 § 1)

20.05.100 Permit issuance.

(1) Final decisions by the City on all permits and approvals subject to the procedures of this chapter shall be issued within 120 days from the date the applicant is notified by the department pursuant to this chapter that the application is complete; provided, that the following shorter time periods should apply for the type of land use permit indicated:

New residential building permits	90 days
Residential remodels	40 days
Residential appurtenances, such as decks and garages	
Residential appurtenances that require substantial site review	
15 days	
40 days	
SEPA exempt clearing and grading	45 days
SEPA clearing and grading	90 days
Health department review (for projects pending a final department review and/or permit)	40 days

The following periods shall be excluded from this 120-day period:

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(a) Any period of time during which the applicant has been requested by the department, hearing examiner or council to correct plans, perform required studies or provide additional information, including road variances and variances required under Chapter 9.04 KCC as adopted by Chapter 15.05 SMC. The period shall be calculated from the date of notice to the applicant of the need for additional information until either the City advises the applicant that the additional information satisfies the City's request or 14 days after the date the information has been provided, whichever is the earlier date. If the City determines that the correction, study, or other information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures of this section shall apply as if a new request for information had been made.

(i) The department shall set a reasonable deadline for the submittal of corrections, studies, or other information when requested, and shall provide written notification to the applicant. An extension of such deadline may be granted upon submittal by an applicant of a written request providing satisfactory justification of an extension.

(ii) Failure by the applicant to meet such deadline shall be cause for the department to cancel/deny the application.

(iii) When granting a request for a deadline extension, the department shall give consideration to the number of days between receipt by the department of a written request for a deadline extension and the mailing to the applicant of the department's decision regarding that request.

(b) The period of time, as set forth in SMC 20.15.060, during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW.

(c) A period of no more than 90 days for an open record appeal hearing by the hearing examiner on a Type 2 land use decision, and no more than 60 days for a closed record appeal by the county council on a Type 3 land use decision appealable to the county council, except when the parties to an appeal agree to extend these time periods.

(d) Any period of time during which an applicant fails to post the property, if required by this chapter, following the date notice is required until an affidavit of posting is provided to the department by the applicant.

(e) Any time extension mutually agreed upon by the applicant and the department.

(2) The time limits established in this section shall not apply if a proposed development:

(a) Requires an amendment to the comprehensive plan or a development regulation, or modification or waiver of a development regulation as part of a demonstration project;

(b) Requires approval of a new fully contained community as provided in RCW 36.70A.350, master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided for RCW 36.70A.200; or

(c) Is substantially revised by the applicant, when such revisions will result in a substantial change in a project's review requirements, as determined by the department, in which case the time period shall start from the date at which the revised project application is determined to be complete.

(3) If the department is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision. (Ord. O99-29 § 1)

20.05.110 Semi-annual report.

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Beginning January 1, 2000, and continuing semi-annually thereafter, the director shall prepare a report to the City council detailing the length of time required to process applications for Type 1, 2, 3, and 4 land use decisions in the previous period, categorized both on average and by type of permit. The report shall provide commentary on department operations and identify any need for clarification of City policy or development regulations or process. (Ord. O99-29 § 1)

20.05.120 Citizen's guide.

The director shall issue a citizen's guide to permit processing including making an appeal or participating in a hearing. (Ord. O99-29 § 1)

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Title 14

PUBLIC WORKS AND TRANSPORTATION

Chapters:

- 14.01 Public Works Standards Adopted**
- 14.05 Definitions**
- 14.10 Integrated Transportation Program**
- 14.15 Transportation Concurrency Management**
- 14.20 Mitigation Payment System**
- 14.25 Intersection Standards**
- 14.30 Right-of-Way Use Permits**

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Chapter 14.01**PUBLIC WORKS STANDARDS ADOPTED**

Sections:

- 14.01.010 Public works standards adopted.
 14.01.020 Resolution of conflicts.
 14.01.030 Appeals.

14.01.010 Public works standards adopted.

(1) The City hereby adopts by reference the design standards and specifications set forth in the document entitled "City of Sammamish 2016 Public Works Standards" as now or hereafter amended as the Public Works Standards for the City, which includes but is not limited to transportation standards and street standards. Pursuant to RCW 35A.13.180, a copy of the City of Sammamish Public Works Standards is available from the office of the City clerk.

(2) The public works director is hereby authorized to administratively interpret and apply the standards in a manner consistent with their terms in order to better implement the standards or allow for changes in street design and construction technology and methods. (Ord. O2016-425 § 1 (Att. A))

14.01.020 Resolution of conflicts.

In case of inconsistency or conflict between other provisions of the Sammamish Municipal Code and the City of Sammamish Public Works Standards adopted in this chapter, the most restrictive provision shall apply. (Ord. O2016-425 § 1 (Att. A))

14.01.030 Appeals.

Any person or agency aggrieved by an act or decision of the City pursuant to the Public Works Standards may appeal said act or decision to the City of Sammamish pursuant to the appeal provisions for the underlying development permit application as contained in Chapter 20.05 SMC. (Ord. O2016-425 § 1 (Att. A))

Chapter 14.05**DEFINITIONS**

Sections:

- 14.05.010 Definitions.

14.05.010 Definitions.

The following definitions shall apply to all portions of this title, except as specifically superseded by definitions set forth elsewhere in this title:

(1) "Capital improvement program (CIP)" means the expenditures programmed by the City of Sammamish for capital purposes over the next-six-year period in the CIP most recently adopted by the City council.

(2) "Certificate of concurrency" means the document issued by King County prior to September 1, 1999, indicating:

- (a) The location or other description of the property on which the development is proposed;
- (b) The number of development units and specific uses, densities, and intensities that were tested for concurrency and approved;
- (c) The type of development approval for which the certificate of concurrency is issued;
- (d) An effective date; and
- (e) An expiration date.

(f) Certificates may be conditional, unconditional, or extended, according to department administrative practices described in the public rules for the program.

(3) "City" means the City of Sammamish, Washington.

(4) "Committed network for the transportation adequacy measure" means the system of transportation facilities used to calculate the transportation adequacy measure to determine the level of service to transportation for a zone. The network includes transportation facilities that are needed to provide the level of service standard, including existing facilities and proposed facilities that are fully funded for construction in the most currently adopted six-year transportation CIP or for which voluntary financial commitments have been secured. Projects to be provided by the state, cities, or other jurisdictions may become part of the committed network upon decision of the director.

(5) "Concurrency" means transportation improvements or strategies are in place at the time of development or that a financial commitment is in place to complete the improvements or strategies within six years needed to maintain the City's level

of service standards, according to RCW 36.70A.070(6).

(6) “Concurrency test” means the determination of an applicant’s impact on transportation facilities by the comparison of the level of service of the concurrency zone that includes the proposed development to the level of service standard for that zone. A concurrency test must be passed in order to obtain an approved transportation impact analysis.

(7) “Concurrency zone” means one of the zones depicted in the City’s mitigation payment and concurrency zone map that is adopted as the MPS zone map. The director may change the boundaries of such zones by including such changes in the administrative rules for this title, filing such changes with the City clerk, and giving public notice of such changes.

(8) “Corridor” means the street or set of streets within the City in which vehicle trips to or from a development will take place. Vehicles have flexibility as to an exact route within a corridor but little choice as to whether to use the corridor.

(9) “Department” means the City of Sammamish department of community development or department of public works, as the context requires, unless specified otherwise.

(10) “Development” means specified improvements or changes in use designed or intended to permit a use of land that will contain more dwelling units or buildings than the existing use of the land, or to otherwise change the use of the land or buildings/improvements on the land in a manner that increases the amount of vehicle traffic generated by the existing use of the land, and that requires a development permit from the City of Sammamish. The rezoning of land is not development.

(11) “Development approval” means any order, permit or other official action of the City granting, or granting with conditions, an application for development. Approval of the rezoning of land is not a development approval.

(12) “Development improvements” means site improvements and facilities that are planned and designed to provide service for a particular development and that are necessary for the use and convenience of the occupants or users of the development and are not system improvements. No transportation improvement or facility that is considered a development improvement shall be included in the MPS project list.

(13) “Director” means the director of public works or designee or the director of community

development or designee, as the context required, unless specified otherwise.

(14) “Equivalent residential unit (ERU)” means the proposed quantity of development measured by dwelling units for residential development and square feet for nonresidential development, upon which are based the calculations of TAM for the determination of concurrency.

(15) “Financial commitment” consists of the following:

(a) Revenue designated in the most currently adopted CIP for transportation facilities or strategies needed in the committed network for the transportation adequacy measure to test for concurrency. The financial plan underlying the adopted CIP identifies all applicable and available revenue sources and forecasts these revenues through the six-year period with reasonable assurance that such funds will be timely put to such ends. Projects to be used in defining the committed network shall represent those projects that are fully funded for construction in the six years of the CIP. This commitment is reviewed annually through the budget process;

(b) Unanticipated revenue from federal or state grants for which the City has received notice of approval; or

(c) Revenue that is assured by an applicant in a form approved by the City in a voluntary agreement.

(16) “IS” means intersection standards.

(17) “ITP” means integrated transportation program.

(18) “MPS” means mitigation payment system.

(19) “MPS project” means a growth-related street improvement, which is a system improvement, that is selected by the Sammamish City council for joint private and public funding pursuant to this chapter and that is located:

(a) On a City street; or

(b) On a county road in unincorporated King County, or on the street of another city when the city has an ordinance implementing the Growth Management Act of 1990, Chapter 82.02 RCW, and when the City of Sammamish has an appropriate interlocal agreement with the county and/or the city; or

(c) On a state road in proximity to the City once the Washington State Department of Transportation (WSDOT) has adopted procedures that will enable it to plan for and fund growth-related improvements to state roads in a manner that satisfies the requirements of the Growth Management

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Act of 1990, Chapter 82.02 RCW, and once the City of Sammamish has an appropriate interlocal agreement with WSDOT.

(20) "Peak period" means the one-hour week-day period during which the greatest volume of traffic uses the road system identified separately for each roadway section. For concurrency purposes, this period shall be in the afternoon of a typical weekday.

(21) "Preapplication meeting" means a meeting between the applicant for a transportation concurrency certificate or its extension and the staff of the department, according to that department's rules and administrative procedures held for the purpose of determining the requirements to file a development permit application.

(22) "Project cost" means the estimated cost of constructing an MPS project, including the costs of design and right-of-way acquisition.

(23) "PWS" means the City of Sammamish public works standards.

(24) "Service district" means the geographic area defined by the City, or by intergovernmental agreement, in which a defined set of transportation facilities provide service to development within the district. Service districts shall be designated on the basis of sound planning or engineering principles. Development in a service district may, and will likely be found to, impact roadways and intersections both inside and outside the service district, and the MPS fee will reflect a charge for all such impacts. The MPS service districts shall be the MPS zones.

(25) "Reservation" and "reserve" means development units are set aside in the City's concurrency records in a manner that assigns the units to the applicant and prevents the same units being assigned to any other applicant.

(26) "TAM" means transportation adequacy measure.

(27) "TCM" means transportation concurrency management.

(28) "TIA" means transportation impact analysis as described in the public works standards.

(29) "Traffic impacts" means the diminishment of capacity of a roadway or intersection by the addition of new vehicle trips. Effects of new vehicle trips that are not quantifiable or to the extent that the effects cannot be mitigated fully by the addition of new capacity, such as safety hazards and inadequate signalization, are not traffic impacts for MPS purposes.

(30) "Transportation facilities" means one of the following classifications of facilities: principal, minor and collector arterial roads, streets, state highways, freeways, intersections, transit and high occupancy vehicle facilities, and nonmotorized facilities (i.e., for bicycles or pedestrians). Transportation facilities include any such facility owned, operated or administered by the state of Washington and its political subdivisions, including the county and cities.

(31) "Transportation strategies" means transportation demand management strategies and other techniques or programs that reduce single-occupant vehicle commute travel and that are approved by the department. Strategies may include but are not limited to vanpooling, carpooling, shuttle transportation, nonmotorized transportation, and public transit. (Ord. O99-29 § 1)

Chapter 14.10

**INTEGRATED TRANSPORTATION
PROGRAM**

Sections:

- 14.10.010 Components of the integrated transportation program.
- 14.10.020 Relationships among three components of the integrated transportation program.
- 14.10.030 Applicability – Concurrency, MPS.
- 14.10.040 Administrative rules.
- 14.10.050 Filing appeals – Concurrency, MPS, IS.
- 14.10.060 Grounds for appeal – Concurrency, MPS, IS.
- 14.10.070 Administrative reconsideration – Concurrency, MPS, IS.

14.10.010 Components of the integrated transportation program.

There are three components of the integrated transportation program (ITP). These components are as follows:

(1) Transportation concurrency management (TCM), by which the City of Sammamish will regulate new development based on adequate transportation improvements needed to maintain level of service standards, in accordance with RCW 36.70A.070(6) and the interim City comprehensive plan.

(2) Mitigation payment system (MPS), by which the City of Sammamish will apply transportation impact fees to new development for collecting a fair and equitable share of transportation improvement costs that are needed in accordance with Chapter 82.02 RCW and the interim City comprehensive plan.

(3) Intersection standards (IS) by which the City of Sammamish will evaluate intersections affected by new development to assure safe and efficient operation and that improvements to mitigate the adverse impacts of such developments are completed in accordance with the State Environmental Policy Act (SEPA), SMC 20.15.090, and the Sammamish interim comprehensive plan. (Ord. O99-29 § 1)

14.10.020 Relationships among three components of the integrated transportation program.

(1) Permit Processes.

(a) Traffic Impact Analysis. Prior to submission of a development application, traffic impact analysis (TIA) shall be initiated by a submittal to the department of community development in the prescribed form and containing information describing the location, uses, intensities, trip generation characteristics, and pertinent information for the intended development. The TIA is a prerequisite for a complete development application. The department shall use the submitted information to determine the net trips to be generated, taking into account commute trip reduction strategies, internal travel for mixed use development, and pass-by trips from existing traffic flows, and shall determine whether the development passes the concurrency test prescribed in Chapter 14.15 SMC.

(b) Development Application. Following the submission of a development application, the director shall determine the transportation impact fee to be paid under Chapter 14.20 SMC and shall determine the traffic impacts of the proposed development on street intersections that will be adversely impacted and that must be mitigated using Chapter 14.25 SMC.

(2) Calculation of Trips Generated by a Development.

(a) The vehicular trips expected to be generated by a proposed development shall be calculated as of the time of application for a TIA, using standard generation rates published by the Institute of Transportation Engineers, other standard references, or from other documented information and surveys approved by the director.

(b) The director may approve a reduction in generated vehicle trips calculated pursuant to the preceding subsection based on the types of land uses that are to be developed, on the expected amount of travel internal to the development, on the expected pass-by trips from existing traffic, or on the expected reduction of vehicle traffic volumes. Such reduction shall be used when calculating TAM, MPS, and IS, including any impact and mitigation fees and costs for which the development shall be liable.

The calculation of vehicular trip reductions as described in this section shall be based in all cases upon sound and recognized technical information and analytical process that represent current engineering practice. In all cases, the director shall have final approval of all such data, information, and technical procedures used to calculate trip reductions.

(3) Calculations.

(a) TAM Calculations. The City of Sammamish shall determine the transportation adequacy measure (TAM) for any zone as a two-part analysis, involving the average weighted volume to capacity (v/c) ratio of arterials and highways serving the zone (TAM value) and the existence of roadways critical to the zone's access not funded for improvement in the committed network (unfunded critical links). If an unfunded critical link exists, then any proposed development that sends at least 30 percent of its trips to that critical link shall be deemed to fail the concurrency test until the critical link is improved.

Administrative rules issued under the authority of this chapter shall contain a detailed technical description of the calculation of TAM and the list of potential unfunded critical links to be monitored.

(b) IS Calculations. Intersection level of service shall be calculated according to the most recent highway capacity manual or an alternative method approved by the director.

(4) Standards.

(a) The standard for the TAM value of a zone shall be those maximum average v/c zonal scores displayed in SMC 14.15.030.

(b) The unfunded critical link standard shall apply to the links identified by administrative rule, which have a volume to capacity ratio of 1.1 or more, and which would carry more than 30 percent of the zone traffic from a residential development or more than 30 percent of the traffic from a commercial development.

(c) The intersection standard for all intersections shall be "E" as required by Chapter 14.25 SMC and calculated according to the most recent highway capacity manual or approved alternative method.

(5) Application of Standards. The standards set forth above shall be used in the ITP as follows:

(a) In Chapter 14.15 SMC, zone evaluation of concurrency shall be calculated using the TAM value, the TAM standard for the zone, and unfunded critical links analysis.

(b) In the identification of improvement needs for the transportation needs report (TNR), the TAM and critical link standards will be used to determine needed improvements, together with safety, operational, multimodal, traffic congestion, and other criteria. These improvement needs shall be the source of projects included in the TNR, capital improvement program (CIP), and MPS list.

(c) For the determination of traffic impacts for the SEPA evaluation of a proposed development, the intersection standard will be used, as well as other criteria for bicycle/pedestrian, traffic congestion, safety, and road design.

(6) Administrative Fees. Fees for the ITP shall be imposed as follows:

(a) An original administrative fee of \$108.00 per hour of staff review time shall be charged to the applicant for the TAM determination of concurrency and issuance of an approved TIA of a proposed development. An additional administrative fee of \$108.00 per hour of staff review time shall be charged for the one-time extension of a certificate as stated in SMC 14.15.050(4). The method and time of collection of administrative fees for the concurrency test shall be stated in the administrative rules for this title.

(b) All developments subject to the MPS fees shall pay an administrative fee as established by SMC 14.20.070 and 14.20.080 at the time of application for an MPS determination. Payment for impact mitigation fees under MPS shall be paid at the time a development permit is issued; provided, that residential developments may defer payment until building permits are issued.

(c) No administrative fees shall be charged for IS review; however, the owner of a proposed development is responsible for the costs of any traffic impact analysis as required in the City of Sammamish Public Works Standards 15.020 needed to determine traffic impacts and mitigation measures at intersections, as determined by the director.

(7) Relationship to SEPA. The need for the environmental assessment of a proposed development must be determined by the department of community development, following the filing of a completed permit application. Impacts on the arte-

rial street systems will be mitigated through MPS fees. Impacts on intersections will be mitigated through the provisions of Chapter 14.25 SMC.

Nothing in this chapter shall cause a developer to pay mitigation and impact fees more than once for the same impact. Improvements and mitigation measures shall be coordinated by the director with other such improvements and measures attributable to other proposed developments and with the City street improvement program so that the City street system is improved efficiently and effectively, with minimum costs to be incurred by public and private entities. The provisions of this title do not supersede or replace the provisions of the City's SEPA authority as enacted in Chapter 20.15 SMC. (Ord. O99-29 § 1)

14.10.030 Applicability – Concurrency, MPS.

(1)(a) The following development applications shall be subject to a review for concurrency and MPS fees:

All development and land use proposals, including but not limited to those land uses identified as Type 1 or 2 in SMC 20.05.020, that generate any of the following:

- (i) New structure.
- (ii) New use of facility or site.
- (iii) Change in use at existing structure.
- (iv) Building permit of any type.

(b) Development permits for development that creates no measurable additional impacts on any transportation facility are exempt from the requirements of this chapter. The department shall be responsible for determining whether other types of development meet this “no impact” standard so as to be included under this exemption.

(c) Exempt Permits. The following development permits are exempt from the requirements of this chapter:

- (i) Boundary line adjustment or lot combination.
- (ii) Final plat (if a concurrency test was conducted for the corresponding preliminary plat approval).
- (iii) Temporary use permit.
- (iv) Variance or administrative use permit.
- (v) Clearing, filling and grading permit.
- (vi) Shoreline variance.
- (vii) Rezone or comprehensive plan amendments.
- (viii) Sign permit.
- (ix) Forestry permit.

(x) Mechanical, electrical, structural reviews.

(xi) Right-of-way permit.

(xii) Special use permit to use a City stormwater site.

(2) Application Filed Before Effective Date of the Ordinance Codified in This Chapter. Complete long subdivision, short plat, and building permit applications that have been submitted before the effective date of the ordinance codified in this chapter are exempt from the requirements of this chapter.

(3) Single-Family Homes. Building permits for single-family dwellings and duplexes are exempt from the requirements of this chapter. This exemption does not apply to the plat within which the dwellings units are being constructed.

(4) Accessory Dwelling Units. All accessory dwelling units, as defined in this code, are exempt from the requirements of this chapter.

(5) Accounting for Capacity. The capacity for development permits exempted under subsections (2), (3), and (4) of this section shall be subtracted from available capacity.

14.10.040 Administrative rules.

The director is hereby instructed and authorized to adopt such administrative rules and procedures as are necessary to implement the provisions of this chapter. (Ord. O99-29 § 1)

14.10.050 Filing appeals – Concurrency, MPS, IS.

Any appeal of the decision of the City regarding concurrency, MPS, or IS shall follow the process for the appeal of the underlying development permit as set forth in Chapter 20.05 SMC, Procedures for Land Use Permit Applications, Public Notice, Hearings and Appeals, and Chapter 20.10 SMC, Hearing Examiner. (Ord. O99-29 § 1)

14.10.060 Grounds for appeal – Concurrency, MPS, IS.

(1) For appeals of denial or conditional approval of an approved TIA, the appellant must show that:

(a) The department committed a technical error;

(b) Alternative data or a traffic mitigation plan, which may include transportation strategies such as demand management or vanpools, submitted to the department was inadequately considered;

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(c) The action of the department would substantially deprive the owner of all reasonable use of the property;

(d) Conditions required by the department for concurrency are not related to the concurrency requirement; or

(e) The action of the department was arbitrary and capricious.

(2) For appeals of the MPS fee, the appellant must show that the department:

(a) Committed an error in:

(i) Calculating the development's proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule; or

(ii) Granting credit for benefit factors; or

(b) Based the final decision upon incorrect data; or

(c) Gave inadequate consideration to alternative data or mitigations submitted to the department.

(3) For appeals of IS improvements, the appellant must show that:

(a) The department committed a technical error;

(b) Alternative data or a traffic mitigation plan submitted to the department was inadequately considered; or

(c) Conditions required by the department are not related to improvements needed to serve the proposed development. (Ord. O99-29 § 1)

14.10.070 Administrative reconsideration – Concurrency, MPS, IS.

Decisions on the denial or conditional approval of an approved TIA, MPS fees, or IS improvements may be reconsidered administratively by the director, not a designee, under the following situations:

(1) For reconsideration of the denial or conditional approval of an approved TIA, the requester must show that:

(a) The department committed a technical error; or

(b) Alternative data or a traffic mitigation plan, which may include transportation strategies such as demand management or vanpools, submitted to the department was inadequately considered.

(2) For reconsideration of the MPS fee, the requester must show that the department:

(a) Committed an error in:

(i) Calculating the development's proportionate share, as determined by an individual

fee calculation or, if relevant, as set forth in the fee schedule; or

(ii) Granting credit for benefit factors; or

(b) Based the final decision upon incorrect data.

(3) For reconsideration of IS improvements, the requester must show that:

(a) The department committed a technical error;

(b) Alternative data or a traffic mitigation plan submitted to the department was inadequately considered.

(4) Requesting reconsideration of a denial or conditional approval of an approved TIA or IS improvements shall not be a procedural prerequisite for filing an appeal of the decision. As set forth in SMC 14.20.150, a request for reconsideration of MPS impact fees is a necessary prerequisite to an appeal of the decision.

Chapter 14.15**TRANSPORTATION CONCURRENCY
MANAGEMENT**

Sections:

- 14.15.010 Authority and purpose.
- 14.15.020 Concurrency test.
- 14.15.030 TAM standards.
- 14.15.040 Update of TAM.
- 14.15.050 Approved TIA.
- 14.15.060 Certificate of concurrency.
- 14.15.070 Fees.
- 14.15.080 Applicability.
- 14.15.090 Provision of needed transportation facilities.
- 14.15.100 Intergovernmental coordination.
- 14.15.110 Relationship to SEPA.

14.15.010 Authority and purpose.

(1) This chapter is enacted pursuant to the City of Sammamish's powers as an optional municipal code city, and the Growth Management Act, RCW 36.70A.070.

(2) It is the purpose of this chapter to:

(a) Provide adequate levels of service on transportation facilities for existing use as well as new development in the City of Sammamish;

(b) Provide adequate transportation facilities that achieve and maintain City standards for levels of service as provided in the comprehensive plan, as amended; and

(c) Ensure that City level of service standards are achieved "concurrently" with development (as required by the Growth Management Act) by denying approval of development that would cause the level of service on transportation facilities to decline below City standards. Applicants for development may propose mitigation measures that will achieve and maintain the City's standard for level of service. (Ord. O99-29 § 1)

14.15.020 Concurrency test.

(1) Applications for an approved TIA, and the resulting concurrency test, shall be completed prior to application for development approval.

(2) Applications for an approved TIA shall be submitted to the department of community development in the form prescribed by the department.

(3) The department shall perform a concurrency test for each application for an approved TIA.

(4) The department shall conduct the concurrency test first for the earliest completed application received. Subsequent applicants will be tested in the same order as the department receives completed applications.

(5) The department shall not issue an approved TIA unless there are adequate transportation facilities to meet the level of service standards for existing and approved uses and the impacts of the proposed development.

(6) In conducting the concurrency test, the department shall use standard trip generation rates, such as those reported by the Institute of Transportation Engineers. An applicant may submit as a part of the application for an approved TIA a calculation of alternative trip generation rates for the proposed development. The director shall review the alternate calculations and make a written determination within 10 business days of submittal as to whether such calculation will be used in lieu of the standard trip generation rates. The director shall adjust the trip generation forecast of proposed development to account for allowances determined pursuant to the mitigation payment system's procedures for transportation strategies, including transportation demand management reductions.

(7) If the level of service is equal to or better than the adopted standards, the concurrency test is passed, and the applicant shall receive an approved TIA.

(8) If the level of service is worse than the adopted standards, the concurrency test is not passed, and the applicant shall select one of the following options:

(a) Accept a 90-day reservation of transportation facilities that are available, and within the same 90-day period amend the application to reduce the need for transportation facilities to the units that are available, or voluntarily arrange for the transportation facilities or strategies needed to achieve concurrency. The 90-day period shall begin no later than 14 days after receipt of the notification of denial. Reduction of the need for transportation facilities may be achieved through one or a combination of the following: reducing the size of the development (so long as minimum density requirements continue to be met); reducing trip generation by the original proposed development; phasing of the development to match future transportation facility construction; providing transportation strategies, when the department determines that such strategies will be reasonably sufficient as

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to reduce traffic to a level that meets the concurrency standard or threshold; or

(b) Accept the denial of an application for an approved TIA; or

(c) Seek reconsideration of the denial of the application for an approved TIA, pursuant to the provisions of Chapter 14.10 SMC.

(d) Appeal the denial of the application for an approved TIA, pursuant to the provisions of Chapter 14.10 SMC. The City shall reserve any available development units during the appeal. Acceptance of the 90-day period shall not impair the applicant's future right to a formal appeal at a later time.

(9) The concurrency test shall be performed only for the specific property, uses, densities and intensities based on information provided by the applicant and included in an approved TIA. Changes to the uses, densities, and intensities that create additional impacts on transportation facilities shall be subject to an additional concurrency test. (Ord. O99-29 § 1)

14.15.030 TAM standards.

(1) The following are the transportation adequacy measure (TAM) standards for the City of Sammamish, as adopted in the City's Interim Comprehensive Plan Policy T-305, provided there are no unfunded critical links affecting the concurrency zone:

Transportation Service Area	Maximum Averaged V/C Zonal Score	Average TAM Standard
Transportation Service Area 4 (service planning area)	0.79	C

The standard in each concurrency zone or part thereof shall be the same as for the transportation service area in which the zone or part is located. In the event that a concurrency zone is affected by one or more unfunded critical links, the concurrency zone shall be considered to fail the standard for the zone.

(2) An approved TIA shall not be issued to any proposed development if the standards in this section are not achieved and maintained for the development as a whole, or the portion of the development inside the City of Sammamish. (Ord. O99-29 § 1)

14.15.040 Update of TAM.

Levels of service shall be monitored and the traffic model for the transportation adequacy measure shall be updated at least once per year. The monitoring and update process shall include traffic volumes, approval of additional development, completion of previously approved development, improvements to transportation facilities, and the effect of transportation strategies. (Ord. O99-29 § 1)

14.15.050 Approved TIA.

(1) An approved TIA shall be issued by the director. Issuance of an approved TIA creates a rebuttable presumption that the proposed development satisfies the concurrency requirements of this chapter. The determination of concurrency shall be final at the time of development approval. The issue of concurrency may be raised as part of the review process for the development application for which the certificate of concurrency was issued.

(2) Upon issuance of an approved TIA, the City shall reserve development units on behalf of the applicant, and indicate the reservation on the approved TIA.

(3) An approved TIA shall be valid for the development permit application period and subsequently for the same period of time as the development approval that is issued pursuant to the approved TIA. If the development approval does not have an expiration date, the approved TIA shall be valid for five years from the date of issuance.

(4) An approved TIA shall be valid for an initial 180-day period and may be extended one time for an additional 180 days by the director; provided, that the holder of the original approved TIA, or the holder's agent, has, before the time of expiration of the original approved TIA, scheduled a preapplication meeting with the department of community development, has requested such extension in writing to the director and has paid the extension fee. A further 90-day extension of approved TIA by the director shall be made only under extraordinary circumstances, and shall require the receipt of a current certificate of water availability, if required by SMC 20.05.040, Application requirements, and a written request by the applicant to the director.

(5) An approved TIA can be extended to remain in effect for the life of each subsequent development approval for the same parcel, as long as the applicant obtains the subsequent development approval prior to the expiration of the earlier development approval. No development shall be

required to hold more than one valid approved TIA, unless the applicant or subsequent owner proposes changes or modifications to the property location, density, intensity or land use that creates additional impacts on transportation facilities.

(6) An approved TIA runs with the land and is valid only for subsequent development approvals for the same parcel, and to new owners of the original parcel for which it was issued. An approved TIA cannot be transferred to a different parcel and shall be limited to uses and intensities for which it was originally issued.

(7) Upon subdivision of a parcel that has obtained an approved TIA, the City may replace the approved TIA by issuing a separate approved TIA to each subdivided parcel, assigning to each a pro rata portion of the development units of the original approved TIA. The director may modify such assignment upon petition of the owner.

(8) An approved TIA shall expire if the underlying development approval expires or is revoked or denied by the City.

(9) All development approvals that voluntarily provide funding for one or more transportation facilities by the development or entities other than the City shall be conditioned to require that prior to the issuance of any final development approval the availability of such transportation facilities or financial arrangements has been confirmed. (Ord. O99-29 § 1)

14.15.060 Certificate of concurrency.

(1) Requirements. Each applicant for a development approval if vested in King County prior to September 1, 1999, shall present a certificate of concurrency. After September 1, 1999, an approved TIA is required instead a certificate of concurrency.

(2) Expiration. A certificate of concurrency shall expire if the development permit for which the concurrency is reserved is not applied for within 180 days of issuance or extension of the certificate of concurrency. A certificate of concurrency shall be required in an application that vested under King County prior to September 1, 1999, for either a formal subdivision plat or short plat under SMC Title 19, and for a commercial building permit. (Ord. O99-29 § 1)

14.15.070 Fees.

(1) The City shall charge an administrative fee for conducting the concurrency test in accordance with SMC 14.10.020(6) and an additional fee for

the one-time extension of a valid approved TIA. The concurrency test fee shall not be refundable.

(2) Development by municipal, county, state, and federal governments, and by special districts (as that term is defined by state law) is exempt from the concurrency test fee. (Ord. O99-29 § 1)

14.15.080 Applicability.

Except as set forth in SMC 14.15.070, the provisions and fees of this chapter shall apply to every application for an approved TIA and to every request for the extension of a valid approved TIA. (Ord. O99-29 § 1)

14.15.090 Provision of needed transportation facilities.

(1) The City shall determine that transportation facilities are available to support development at adopted TAM standards within six years of the impacts of such development. The City shall require at the time the approved TIA is issued that:

(a) The necessary facilities and services are in place at the time a development approval is issued; or

(b) The necessary facilities will be complete within six years of development approval:

(i) The necessary facilities are under construction at the time a development approval is issued, and financial commitment is in place to complete the necessary facilities within six years of issuance of development approval; or

(ii) The necessary facilities are the subject of a binding executed contract of development agreement that provides for the actual construction or financial commitment of the required facilities, guarantees that the necessary facilities will be in place within six years of issuance of development approval, and provides that the capital project is included in, or will be added to, the committed network for the transportation adequacy measure, the transportation needs report, and the six-year capital improvements program; or

(iii) The City has in place financial commitments to complete the necessary public facilities or strategies within six years of issuance of development approval; or

(c) Development approvals are issued subject to a binding executed contract or other binding condition that provides that any facilities and strategies necessary to meet concurrency requirements after issuance of development approval will be in place within six years of occupancy and use of the development.

(2) The approved TIA shall be binding on the City at such time as the applicant provides assurances, acceptable to the City in form and amount, to guarantee the applicant's pro rata share of the cost of capital improvements needed for concurrency as determined by the mitigation payment system, Chapter 14.20 SMC.

(3) The director may make adjustments to the committed network for TAM for corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications that are consistent with the adopted comprehensive plan; or the date of construction (so long as it is completed within the six-year period) of any facility enumerated in the capital improvements program.

(4) The City shall identify projects in the adopted six-year CIP required for the committed network for the transportation adequacy measure and any capital improvements for which a binding agreement has been executed with another party. (Ord. O99-29 § 1)

14.15.100 Intergovernmental coordination.

The City may enter into agreements with other local governments and the state of Washington to coordinate the imposition of TAM standards, impact fees, and other mitigation for transportation concurrency.

(1) The City may apply transportation standards, fees, and mitigations to development in the City that impacts other local governments and the state of Washington. Development approvals by the City may include conditions and mitigations that will be imposed on behalf of, and implemented by, other local governments and the state of Washington.

(2) The City may receive impact fees or other mitigations based on or as a result of development proposed in other jurisdictions that impacts the City. The City may agree to accept and implement conditions and mitigations that are imposed by other jurisdictions on development in its jurisdiction.

(3) No fees or mitigations for transportation facilities of other agencies will be required by the City unless an agreement has been executed between the City and the affected agency. The agreement shall specify the fee schedule and level of service standards to be used by the City and the affected agency, which standards shall be consistent with the City's interim comprehensive plan and, if different than the standards adopted pursu-

ant to this title, shall be adopted by ordinance. (Ord. O99-29 § 1)

14.15.110 Relationship to SEPA.

A determination of concurrency shall be an administrative action of the City of Sammamish that is categorically exempt from the State Environmental Policy Act. (Ord. O99-29 § 1)

Chapter 14.20

MITIGATION PAYMENT SYSTEM

Sections:

- 14.20.010 Authority and purpose.
- 14.20.020 Scope and use of MPS impact fees.
- 14.20.030 Fee schedules and establishment of service districts (MPS zones).
- 14.20.040 MPS zone map.
- 14.20.050 Calculation of MPS fees.
- 14.20.060 Payment of fees.
- 14.20.070 Administrative fees.
- 14.20.080 Administrative fee for preliminary fee calculation.
- 14.20.090 Project list.
- 14.20.100 Funding of projects.
- 14.20.110 Refunds.
- 14.20.120 Fees paid under protest.
- 14.20.130 Exemptions for schools.
- 14.20.140 Exemption or reduction for low and moderate income housing.
- 14.20.150 Request for final decision needed to appeal.
- 14.20.160 Necessity of compliance.

14.20.010 Authority and purpose.

(1) The department is authorized to impose transportation impact fees on new development pursuant to the City of Sammamish's powers as an optional municipal code city; and the Growth Management Act, Laws of 1990, 1st Extraordinary Session, Chapter 17, Chapter 82.02 RCW.

(2) The purposes of this chapter are to:

(a) Ensure that financial commitments are in place so that adequate transportation facilities are available to serve new growth and development;

(b) Promote orderly growth and development by establishing standards requiring that new growth and development pay a proportionate share of the cost of new transportation facilities needed to serve new growth and development;

(c) Ensure that transportation impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact;

(d) Implement the transportation policies of the transportation element of the interim comprehensive plan; and

(e) Provide additional funding for growth-related transportation improvements identified by the interim comprehensive plan as reasonable and

necessary to meet the future growth needs of the City. (Ord. O99-29 § 1)

14.20.020 Scope and use of MPS impact fees.

MPS impact fees:

(1) Shall only be imposed for transportation improvements that are reasonably related to the traffic impacts of the new development;

(2) Shall not exceed a proportionate share of the costs of transportation improvements that are reasonably related to the new development;

(3) Shall be used for transportation improvements that will reasonably benefit the new development;

(4) Shall not be used to correct existing deficiencies; and

(5) Shall not be imposed to mitigate the same off-site traffic impacts that are being mitigated pursuant to any other law. (Ord. O99-29 § 1)

14.20.030 Fee schedules and establishment of service districts (MPS zones).

(1) Fee schedules stating the amount of the MPS fee that single-family residential, multifamily residential, and nonresidential development shall pay for development subject to MPS fees are set forth in subsection (4) of this section. Subsequent fee schedules shall be established pursuant to SMC 14.20.050. All other development shall pay an MPS fee individually calculated by the department, as set forth in SMC 14.20.050. The MPS administrative fee that all developers shall pay is set forth in SMC 14.20.070 and 14.20.080.

(2) For purposes of this chapter, the City is divided into service districts also called MPS zones, set forth in SMC 14.20.040, MPS zone map. In each service district, similar types of development shall pay the same MPS fee, unless the amount of the fee is altered because:

(a) Unusual circumstances exist and the department adjusts the amount of the fee as provided in subsection (3) of this section; or

(b) The developer submits studies or data showing that the fee as set forth in the applicable schedule or as calculated by the department is in error, as provided in SMC 14.20.150(1) for appeal and SMC 14.20.150(2) for reconsideration.

(3) The department may adjust the standard impact fee as set forth in the fee schedules at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that MPS fees are imposed fairly. The department shall set forth its reasons for adjusting the standard MPS fee in written findings.

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(4) MPS Impact Fee Schedule.

MPS Zone Service District	Fee for Single-Family Residential Development per Dwelling Unit	Fee for Multifamily Residential Development per Dwelling Unit	Fee for Nonresidential Development per PM Peak Hour Trip
402	\$1,996.00	\$1,197.60	\$1,996.00
403	\$2,575.00	\$1,545.00	\$2,575.00
405	\$6,247.00	\$3,748.20	\$6,247.00
406	\$2,226.00	\$1,335.60	\$2,226.00
407	\$3,382.00	\$2,029.20	\$3,382.00
412	\$1,095.00	\$657.00	\$1,095.00
413	\$3,044.00	\$1,826.40	\$3,044.00
414	\$2,498.00	\$1,498.80	\$2,498.00
415	\$632.00	\$379.20	\$632.00
416	\$918.00	\$550.80	\$918.00
419	\$1,416.00	\$849.60	\$1,416.00
		The fee for multifamily residential development shall be 60% of the fee for single-family development.	Fees for nonresidential development shall be based on single-family equivalent residential units where one nonresidential PM peak trip equals the single-family unit.

(Ord. O99-29 § 1)

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14.20.050 Calculation of MPS fees.

(1) The department shall calculate the MPS fees set forth in the fee schedules, SMC 14.20.030(1), by means of a computer modeling system that:

(a) Incorporates the service districts adopted in SMC 14.20.030(2);

(b) Within each service district of the City, determines the standard fee for similar types of residential development, which shall be reasonably related to each development's proportionate share of the cost of the transportation improvement projects being funded by this chapter and shall reasonably reflect the average fee for similar development in the same service district; and

(c) Reduces the proportionate share by applying the benefit factors set forth in this chapter.

(2) Only when a development's MPS impact fee is not determined by the fee schedules adopted in SMC 14.20.030(1), the department may, at its option and at the applicant's expense, calculate the MPS fee by means of a computerized modeling system, which is the same system used to determine the fee schedules, and which:

(a) Determines the development's proportionate share of the cost of the transportation improvement projects being funded by this chapter; and

(b) Reduces the proportionate share by applying the benefit factors set forth in this chapter.

(3) The computer model used shall calculate proportionate share for use in both fee schedules and individual calculations by:

(a) Determining the number of peak hour vehicle trips generated by development that will benefit from the vehicle capacity added, or to be added, by the street improvements on the MPS project list;

(b) Determining the unit cost of added capacity for each MPS project by dividing the estimated cost of each project by the amount of capacity added; and

(c) Multiplying the number of peak hour trips added to each MPS project by the unit cost of added capacity for those projects.

(4) In calculating proportionate share, the modeling system used shall:

(a) Recognize that a development's traffic will use a corridor rather than a particular street;

(b) Use trip generation rates published by the Institute of Transportation Engineers (ITE) unless:

(i) Actual measurements of the rate of trip generation by similar developments in the City are available, and the director determines that these local measurements are more accurate; or

(ii) ITE trip generation rates for the proposed development are not available, in which case the director:

(A) May use published rates from another source; or

(B) May calculate the rate from data about the population of the proposed development; or

(C) May require the developer to obtain actual measurements of trip generation rates by similar developments in the City;

(c) Reduce the trip generation rate to reflect reductions in traffic that will occur because of transportation strategies, as described in the administrative rules for this title;

(d) Identify all streets and intersections that will be impacted by traffic from each development for as far from the development as the model can measure;

(e) Identify when the capacity of an MPS project has been fully utilized;

(f) Update the data in the model as often as practical, at least every five years;

(g) Estimate the cost of constructing the projects on the MPS project list as of the time they are placed on the list, and then update the cost estimates periodically, considering the:

(i) Availability of other means of funding transportation facility improvements;

(ii) Cost of existing transportation facility improvements; and

(iii) Methods by which transportation facility improvements were financed;

(h) Update the fee collected against a project that has already been completed, through an advancement of City funds, at a rate, determined periodically, which is equivalent to the City's return on its investments; and

(i) Charge a development for the total traffic entering and exiting the development during the peak hour.

(5) The modeling system used shall reduce the calculated proportionate share by giving credit for the following benefit factors:

(a) A 15 percent credit in recognition that some of the trips from a development paying an MPS fee may begin or end within another development that is or has been subject to MPS requirements;

(b) Past or future payments made or reasonably anticipated to be made by a development to pay for particular transportation improvements in the form of user fees, debt service payments, taxes or other payments earmarked for or proratable to the same projects being funded by such development's MPS fee; and

(c) The value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to transportation facilities that are identified in the MPS project list and that are required by the City as a condition of approving the development activity; provided, that when an MPS project is constructed on both on-site and off-site land, the department shall determine, in light of all the circumstances, what proportion of the developer's costs should fairly and reasonably be attributed to the work done on off-site land.

(6) The department shall review the 15 percent credit factor periodically and propose revisions to the factor when appropriate to reflect the actual number of trips generated by new development that also begin or end in other developments that have previously been subject to a fee for the same impact.

(7) If the credit determined pursuant to subsection (5)(c) of this section exceeds the amount of the developer's MPS fee, the department shall reimburse the developer from MPS fees collected from other developers for the same MPS project.

(8) The amount of credit determined pursuant to subsection (5)(c) of this section shall be credited proportionately among all the lots in the development, and the MPS fee for each lot for which a building permit is applied shall be reduced accordingly.

(9) The department shall use the information from the computerized modeling system to prepare recommended fee schedules. The City council shall, as often as is necessary but at least every five years, by ordinance establish the fee schedule applicable to each service area in the City by adopting, with or without modification, the department's recommended fee schedules.

(10) The department shall present to the City council in administrative rules the proposed changes in the service district boundaries, set forth in SMC 14.20.030(2), as often as is necessary to ensure that the service district boundaries conform to sound planning or engineering principles.

(11) To the extent practical, and in accordance with sound planning or engineering principles, the

department shall develop and propose to the City council for adoption precalculated fee schedules applicable to types of development in addition to residential development. (Ord. O99-29 § 1)

14.20.060 Payment of fees.

(1) All developers shall pay an MPS fee in accordance with the provisions of this chapter at the time that the applicable development permit is ready for issuance. The fee paid shall be the amount in effect as of the date of permit application if paid at the time of final plat approval or the current rate if paid at the time of the building permit.

(2) All developers shall pay an MPS administrative fee at the time of application for a development permit as set forth in SMC 14.20.070 and 14.20.080.

(3) An individually determined MPS fee shall be calculated at the time of application for a development permit.

(4) The fee as initially calculated after application for a development permit may be recalculated at the time of payment if the development is modified or conditioned in such a way as to alter the trip generation rate for the development or the development's total peak hour trips.

(5) No development permit shall be issued until the MPS fee is paid, except that developers of residential subdivisions, short subdivisions, or planned unit development may defer payment until building permits are issued for the lots within the subdivision, short subdivision or planned unit development, at current rates.

(6) A developer may obtain a preliminary determination of the MPS fee before application for a development permit, by paying a processing fee pursuant to SMC 14.20.070 and providing the department with the information needed for processing.

(7) MPS fees may be paid under protest in order to obtain a permit or other approval of development activity following the provisions of SMC 14.20.120, Fees paid under protest. (Ord. O99-29 § 1)

14.20.070 Administrative fees.

(1) All development permits subject to the MPS fees pursuant to SMC 14.20.060 shall pay an administrative fee of \$60.00.

(2) All development permits that require an individually determined MPS fee pursuant to SMC 14.20.060(3) shall pay an administrative processing fee of \$432.00. (Ord. O99-29 § 1)

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14.20.080 Administrative fee for preliminary fee calculation.

Requests to the department for a preliminary determination of an MPS fee prepared pursuant to SMC 14.20.060(6) shall be charged the administrative processing fee set forth in SMC 14.20.070. (Ord. O99-29 § 1)

14.20.090 Project list.

(1) In conjunction with the department's periodic review and update of the transportation needs report (TNR) element of the interim comprehensive plan the department shall do the following:

(a) Identify each capital improvement project in the TNR that is growth-related and the proportion of each such project that is growth-related;

(b) Forecast the total monies available from taxes and other public sources for road improvements over the multi-year program;

(c) Calculate the amount of MPS fees already paid; and

(d) Identify those MPS projects that have been or are being built but whose performance capacity has not been fully utilized.

(2) The department shall use this information to periodically prepare a recommended MPS project list, which shall comprise:

(a) The projects on the TNR, in order of priority, that are growth-related and that are capable of being funded with the forecast public monies and the MPS fees already paid; and

(b) The MPS projects already built or funded pursuant to this chapter whose performance capacity has not been fully utilized.

(3) The City council, at the same time that it adopts the periodic budget and appropriates funds for capital improvement projects, shall establish the MPS project list by adopting, with or without modification, the department's recommended list.

(4) Once a project is placed on the MPS project list, a fee shall be imposed on every development that impacts the project until the project is removed from the list by one of the following means:

(a) The City council by ordinance removes the project from the MPS project list, in which case the fees already collected will be refunded if necessary to ensure that the MPS fee remains reasonably related to the traffic impacts of development that have paid an MPS fee; provided, that a refund shall not be necessary if the council transfers the fees to the budget of another project that the City council

determines will mitigate essentially the same traffic impacts; or

(b) The capacity created by the project has been fully utilized, in which case the department shall administratively remove the project from the MPS project list. (Ord. O99-29 § 1)

14.20.100 Funding of projects.

(1) An MPS trust fund 601 is hereby created. The director of finance shall be the fund manager. MPS fees shall be placed in appropriate deposit accounts within the MPS fund.

(2) The MPS fees paid to the City shall be held and disbursed as follows:

(a) The fees collected for each MPS project shall be placed in a deposit account within the MPS fund;

(b) The fund manager is authorized to transfer the project fees held in the MPS fund to the transportation CIP fund no less than once a year in the year following receipt of the fees;

(c) The non-MPS fee monies appropriated for the MPS project shall comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in MPS fees;

(d) The first money spent by the department on an MPS project after a City council appropriation shall be deemed to be the fees from the MPS fund;

(e) Fees collected after a project has been fully funded by means of one or more City council appropriations shall constitute reimbursement to the City of the public monies advanced for the private share of the project. The public monies made available by such reimbursement shall be used to pay the public share of other MPS projects or to pay for smaller scale, growth-related projects that are not placed on the MPS project list; and

(f) All interest earned on the MPS fees paid by developers shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed.

(3) MPS fees for transportation facility improvements shall be expended only in conformance with the transportation element of the comprehensive plan.

(4) MPS projects shall be funded by a balance between MPS fees and other sources of public funds, and shall not be funded solely by MPS fees.

(5) MPS fees shall be expended or encumbered for a permissible use within six years of receipt, unless there exists an extraordinary or compelling

reason for fees to be held longer than six years. The director may recommend to the City council that the city hold fees beyond six years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the City council.

(6) The City council may, on recommendation from the director, pool the MPS fees already collected from a development whenever appropriate to help finance a project with high priority among the projects impacted by the development.

(7) The City council, on recommendation from the director, may pool MPS fees whenever necessary to ensure that the fees are expended or encumbered for a permissible use within six years of receipt. Pooling for such purpose shall be accomplished as follows:

(a) The director shall determine which project has the highest priority among the projects for which MPS fees were collected for each such development, and the director may recommend, and the City council may approve, transfer of the MPS fees paid by the development to the budget of the project with the highest priority.

(b) The department shall indicate in the TNR which projects have funds in their budget that have been pooled to ensure that they are expended or encumbered in a timely manner.

(8) The finance department shall prepare an annual report on each MPS fee account showing the source and amount of all monies collected, earned or received and transportation improvements that were financed in whole or in part by MPS fees. (Ord. O99-29 § 1)

14.20.110 Refunds.

(1) A developer may request and shall receive a refund when the developer does not proceed with the development activity for which MPS fees were paid, and the developer shows that no impact has resulted. However, the MPS administrative fee shall not be refunded.

(2) If a property owner appears to be entitled to a refund of MPS impact fees, the department shall notify the property owner by first class mail deposited with the United States Postal Service at the property owner's last known address. The property owner must submit a written request for a refund to the City council in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any MPS impact fees that are not expended or encumbered within the time limitations established by SMC

14.20.100(5) and for which no application for a refund has been made within this one-year period, shall be retained and expended on the projects for which it was collected.

(3) In the event that MPS impact fees must be refunded for any reason, they shall be refunded with interest earned to the property owners as they appear of record with the King County assessor at the time of the refund.

(4) When the City seeks to terminate any or all impact fee requirements under this title, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City clerk shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of claimants. Claimants shall request refunds as in subsection (2) of this section. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City in fund 601, but must be expended for the indicated road facilities. This notice of requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated. (Ord. O99-29 § 1)

14.20.120 Fees paid under protest.

(1) A statement that fees are being paid under protest must be filed with the City clerk within 14 days of the payment of fees.

(2) Fees paid under protest will be held by the City until there is a standing decision or the six-year time limit has been reached.

14.20.130 Exemptions for schools.

(1) Public school districts shall be exempted from payment of mitigation payment system fees.

(2) The amount of the MPS fees not collected from school districts shall be paid from public funds other than impact fee accounts. (Ord. O99-29 § 1)

14.20.140 Exemption or reduction for low and moderate income housing.

(1) Public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs may apply to the department of community development for exemptions from MPS fee requirements. The department shall review proposed developments of

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low income or moderate housing by such public or nonprofit developers pursuant to criteria and procedures adopted by administrative rule. If the department determines that a proposed development of low or moderate income housing satisfies the adopted criteria, such development shall be exempted from the requirement to pay an MPS fee.

(2) Private developers who dedicate residential units for occupancy by low or moderate income households may apply to the department of community development for reductions in MPS fees. The department shall review such proposed developments pursuant to criteria and procedures adopted by administrative rule. If the department determines that a proposed development satisfies the adopted criteria the department shall reduce the calculated MPS fee for the development by an amount that is proportionate to the number of units in the development that satisfy the adopted criteria.

(3) Developers of individual low or moderate income households who are building, contracting to build, or siting a house may apply to the department of community development for an exemption from MPS fees. The department shall review such proposed exemptions pursuant to criteria that include household income and assets, the cost of the site, site improvements, and the housing. The procedures and criteria used to evaluate an exception shall be adopted by administrative rule. If the department determines that a household qualifies for exemption per the adopted criteria, such individual projects shall be exempted from the requirement to pay the MPS fee.

(4) The amount of the MPS fees not collected from low or moderate income household development shall be paid from public funds other than impact fee accounts, if authorized.

(5) The department of community development is hereby instructed and authorized to adopt, pursuant to Chapter 2.55 SMC, administrative rules to implement this section. Such rules shall provide for the administration of this program and shall:

(a) Encourage the construction of housing for low or moderate income households by public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs;

(b) Encourage the construction in private developments of housing units for low or moderate income households that are in addition to units required by another housing program or development condition;

(c) Ensure that housing that qualifies as low or moderate cost meets appropriate standards regarding household income, rent levels or sale prices, location, number of units, and development size; and

(d) Ensure that developers who obtain an exemption from or reduction of MPS fees pursuant to subsections (1) and (2) of this section will in fact build the proposed low and moderate cost housing and make it available to low income households for a minimum of 15 years. (Ord. O99-29 § 1)

14.20.150 Request for final decision needed to appeal.

In order to obtain an appealable final decision the developer must:

(1) Request in writing a review of the MPS impact fee amount by department staff. The department staff shall consider any studies and data submitted by the developer seeking to adjust the amount of the fee; and

(2) Request in writing under SMC 14.10.060 for reconsideration by the director of public works, not a designee, of an adverse decision by staff. Such request for reconsideration shall state in detail the grounds for the request. The public works director, not a designee, shall issue a final, appealable decision after reviewing the request.

The process for filing appeals is set forth in SMC 14.10.050, Filing appeals – Concurrency, MPS, IS. (Ord. O99-29 § 1)

14.20.160 Necessity of compliance.

A development permit issued after the effective date of the MPS provisions of this chapter shall be null and void if issued without substantial compliance with this chapter by the department of community development and the developer. (Ord. O99-29 § 1)

Chapter 14.25**INTERSECTION STANDARDS**

Sections:

- 14.25.010 Authority and purpose.
- 14.25.020 Definitions.
- 14.25.030 Significant adverse impacts.
- 14.25.040 Mitigation and payment of costs.
- 14.25.050 Interjurisdictional agreements.
- 14.25.060 Relation to other permit authority.

14.25.010 Authority and purpose.

(1) This chapter is enacted pursuant to the State Environmental Policy Act, Chapter 20.15 SMC, and Chapter 58.17 RCW.

(2) The purpose of this chapter is to:

(a) Assure adequate levels of service, safety, and operating efficiency on the City of Sammamish street system, at intersections serving and directly impacted by proposed new development;

(b) Establish standards for intersection operation and define the relationship between new developments and street intersection function;

(c) Identify development conditions to assure intersection capacity, safety, and operational efficiency; and

(d) Require that owners of new developments pay the proportionate costs of required intersection improvements. (Ord. O99-29 § 1)

14.25.020 Definitions.

(1) "Highway capacity manual" means Special Report 209 of the Transportation Research Board of the National Research Council, as currently or hereafter amended.

(2) "Street standards" means the City of Sammamish interim street standards, as set forth in the City of Sammamish public works standards. Terms used in the street standards in the public works standards shall have the same meaning when used in this chapter. References and authorities cited in the street standards in the public works standards shall also apply to this chapter. (Ord. O99-29 § 1)

14.25.030 Significant adverse impacts.

For the purposes of SEPA and this chapter, a significant adverse impact is defined as any traffic condition directly caused by proposed development that would reasonably result in one or more of the following conditions at the time any part of the

development is completed and able to generate traffic:

(1) A street intersection that provides access to a proposed development, and that will function at a level of service worse than "E" as set forth in the highway capacity manual, and that will carry 30 or more added vehicles in any one-hour period as a direct impact of the proposed development, and that will be impacted by at least 20 percent of the new traffic generated from the proposed development in that same one-hour period; or

(2) A street intersection or approach lane where the director determines that a hazard to safety could reasonably result. (Ord. O99-29 § 1)

14.25.040 Mitigation and payment of costs.

(1) Based on the identification of intersection level of service standard "E" as set forth in the highway capacity manual being exceeded using analytical techniques and information acceptable to the director, the owner of a proposed development shall be required to provide improvements that bring the intersection into compliance with intersection level of service standard "E" as set forth in the highway capacity manual, or that return it to its pre-project condition, as may be required by the director. Approval to construct the proposed development shall not be granted until the owner has agreed to build or pay fair and equitable costs to build the improvements required by the director within the time schedule set by the director.

(2) At the discretion of the director, and based on technical information regarding traffic conditions and expected traffic impacts, the City may require that the owner of a proposed development pay the full costs of required intersection improvements required under this title. (Ord. O99-29 § 1)

14.25.050 Interjurisdictional agreements.

Nothing in this section shall prevent the City from entering into agreements with the WSDOT or other local jurisdictions for the collection of fees and the mitigation of traffic on state highways or City arterials or county roads that may be caused by developments proposed in the City of Sammamish. (Ord. O99-29 § 1)

14.25.060 Relation to other permit authority.

The procedures set forth in this chapter do not limit the authority of the City of Sammamish to deny or to approve with conditions the following:

(1) Any zone reclassification request, based on its expected traffic impacts;

(2) Any proposed development or zone reclassification if the City determines that a hazard to safety would result from its direct traffic impacts without street or intersection improvements, regardless of level of service standards; or

(3) Any proposed development reviewed under the authority of the Washington State Environmental Policy Act. (Ord. O99-29 § 1)

Chapter 14.30

RIGHT-OF-WAY USE PERMITS

Sections:

- 14.30.010 Purpose – Permit required.
- 14.30.015 Definitions.
- 14.30.020 Right-of-way use permit application process and fee.
- 14.30.025 Right-of-way use permit types.
- 14.30.030 Type A right-of-way special use permit.
- 14.30.040 Type B right-of-way construction permit.
- 14.30.050 Type C right-of-way utility permit.
- 14.30.060 Type D right-of-way lease permit.
- 14.30.070 Revocation or suspension of permit.
- 14.30.080 Enforcement.

14.30.010 Purpose – Permit required.

The purpose of this chapter is to establish minimum rules and regulations for controlling and enforcing right-of-way uses to assure that proposed uses are consistent with the public health, safety, and welfare of the community, and that harm or nuisance which may result from a proposed right-of-way use is prevented.

It shall be unlawful for anyone to make private use of any public right-of-way without a right-of-way use permit issued by the City, or to use any public right-of-way without complying with all provisions of a permit issued by the City. (Ord. O2010-285 § 1 (Att. A))

14.30.015 Definitions.

The following words and phrases, wherever used in this chapter, shall have the meanings ascribed to them in this section except where otherwise defined or unless the context shall clearly indicate to the contrary.

(1) “Abutting property” means and includes property bordering upon and contiguous to a public right-of-way as defined herein.

(2) “Applicant” means any person, company, corporation, enterprise, or entity applying for the issuance or renewal of a right-of-way use permit or any person, company, corporation, enterprise, or entity that has been issued a right-of-way use permit.

(3) “Application” means, for the purposes of this chapter, the collection of papers or electronic data necessary to initiate a right-of-way use permit request, and shall include an application in the

form approved by the City, and other submittals consistent with the purposes of this chapter.

(4) "Private use" means use of the public right-of-way for the benefit of a person, partnership, group, organization, company, corporation, entity or outside jurisdiction other than as a public thoroughfare for any type of vehicle, pedestrian, bicycle or equestrian travel.

(5) "Right-of-way" or "ROW" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, landscape (parking) strips, squares, triangles, easements and other rights-of-way open to the use of the public, including the space above or beneath the surface of same. This definition specifically does not include streets, alleys, ways, landscape strips, sidewalks, easements, etc., which have not been deeded, dedicated, or otherwise permanently appropriated to the City for public use.

(6) "Special event" means an event which will generate or invite public participation, and/or spectators, for a particular and limited purpose and time including, but not limited to, fun runs/walks, roadway foot races, fundraising walks, bike-a-thons, parades, block parties, carnivals, shows, exhibitions and fairs. (Ord. O2010-285 § 1 (Att. A))

14.30.020 Right-of-way use permit application process and fee.

(1) The City engineer or designee, herein referred to as "the City," shall establish policies and procedures to administer the permit program.

(2) Applicants may be required to submit, in addition to the application form, any documents the City deems necessary for the City to perform an accurate evaluation of the right-of-way use permit application.

(3) Decisions regarding issuance, renewal, denial, or termination of any such permits shall be subject to insurance requirements, bond requirements, indemnification and hold harmless agreements, the capacity of the rights-of-way to accommodate the applicant's proposed facilities or use, evaluation of competing public interests, and any other administrative requirements applicable to the permit.

(4) As part of a complete right-of-way use permit application, the applicant shall submit to the City, at the time of application, right-of-way use permit fees, including a nonrefundable application fee, as set forth in the most current City of Sammamish fee schedule.

(5) If insurance is required, the insurance guidelines in City policy shall apply unless otherwise established by the City.

(6) Conditions of approval will be identified during the City's review of the application and may include a certificate of insurance, indemnification and hold harmless agreement, traffic control plan, performance bond, time and use restrictions, video data, status reports, restoration of disturbed right-of-way features, or any other requirements the City deems necessary to protect the right-of-way and public health, safety, and welfare. (Ord. O2010-285 § 1 (Att. A))

14.30.025 Right-of-way use permit types.

(1) Type A, ROW special use permit, is a short-term permit and allows the use of the right-of-way for nonconstruction activities as described in SMC 14.30.030.

(2) Type B, ROW construction permit, is a permit that allows the use of the right-of-way for construction activities as described in SMC 14.30.040.

(3) Type C, ROW utility permit, is a permit that allows for the use of the right-of-way to construct or maintain utilities as described in SMC 14.30.050.

(4) Type D, ROW lease permit, is a permit that allows long-term usage of public right-of-way for nonconstruction activities as described in SMC 14.30.060. (Ord. O2010-285 § 1 (Att. A))

14.30.030 Type A right-of-way special use permit.

(1) Type A ROW special use permit is required for any special event that is held within the public right-of-way or creates significant traffic impacts within the public right-of-way.

(2) Type A ROW special use permit may be required for uses that are nonconstruction uses but not defined as a special event by this chapter.

(3) Proof of insurance may be required with the City listed as an additional insured to protect the public and the City against liability for injury to persons or property. (Ord. O2010-285 § 1 (Att. A))

14.30.040 Type B right-of-way construction permit.

(1) Type B ROW construction permits are required before any person, firm, corporation, company, enterprise or entity shall commence or permit any other person, firm, corporation, company, enterprise or entity to commence any work within the public right-of-way. Types of activities

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that would fall under a Type B ROW construction permit include but are not limited to driveways, curbs, stormwater infrastructure, sidewalks, retaining walls, cutting or maintaining trees and haul routes. Construction work associated with a franchised utility provider or a telecommunication provider shall obtain a Type C ROW utility permit as described in SMC 14.30.050.

(2) Proof of insurance shall be required, with the City listed as an additional insured, on all work within the right-of-way to address liability for injury to persons or property. Insurance amounts shall be those identified in Section 1-07.18 (Public Liability and Property Damage Insurance) of the Standard Specifications for Road, Bridge and Municipal Construction (current version) published by the Washington State Department of Transportation, and City amendments thereto. These insurance requirements may be modified at the discretion of the City.

(3) A current City business license is required for any person performing work in the city right-of-way.

(4) It is unlawful for any person to perform any work in City right-of-way unless operating under a valid state of Washington general contractor's license, or a valid state of Washington specialty contractor's license applicable to the type of work being performed.

(5) Contractors are responsible for traffic control, work area protection/security and street maintenance to protect the life, health and safety of the public during any permitted work within the right-of-way, and all methods and equipment used will be subject to the approval of the City.

(6) All streets, sidewalks, alleys, parkways, and other public rights-of-way disturbed in the course of work performed under any permit shall be restored in accordance with the City of Sammamish public works standards or as required and approved by the City engineer.

(7) All work within City right-of-way must be pursued to completion with due diligence, and if work is not completed within a reasonable length of time, as determined by the City engineer, the City shall cause the work to be completed at the applicant's expense.

(8) Any costs incurred by the City for right-of-way restoration will be charged to the property owner and/or developer employing the contractor. (Ord. O2010-285 § 1 (Att. A))

14.30.050 Type C right-of-way utility permit.

(1) Type C ROW utility permits are required before any person, firm, corporation, company, enterprise or entity shall commence or permit any other person, firm, or corporation to commence any work within the public right-of-way associated with providing or maintaining franchised utilities or telecommunication facilities within the City right-of-way.

(2) Proof of insurance shall be required, with the City listed as an additional insured, on all work within the right-of-way to address liability for injury to persons or property. Insurance amounts shall be those identified in Section 1-07.18 (Public Liability and Property Damage Insurance) of the Standard Specifications for Road, Bridge and Municipal Construction (current version) published by the Washington State Department of Transportation, and City amendments thereto. These insurance requirements may be modified at the discretion of the City.

(3) A current City business license is required for any person performing work in the City right-of-way.

(4) It is unlawful for any person to perform any work in City right-of-way unless operating under a valid state of Washington general contractor's license, or a valid state of Washington specialty contractor's license applicable to the type of work being performed.

(5) Contractors are responsible for traffic control, work area protection/security and street maintenance to protect the life, health and safety of the public during any permitted work within the right-of-way, and all methods and equipment used will be subject to the approval of the City.

(6) All streets, sidewalks, alleys, parkways, and other public rights-of-way disturbed in the course of work performed under any permit shall be restored in accordance with the City of Sammamish public works standards or as required and approved by the City engineer.

(7) All work within City right-of-way must be pursued to completion with due diligence, and if work is not completed within a reasonable length of time, as determined by the City engineer, the City shall cause the work to be completed at the applicant's expense.

(8) Any costs incurred by the City for right-of-way restoration will be charged to the property owner and/or developer employing the contractor. (Ord. O2010-285 § 1 (Att. A))

14.30.060 Type D right-of-way lease permit.

(1) Type D ROW lease permits are required before any person, firm, corporation, company, enterprise or entity shall commence or permit any other person, firm, or corporation to commence any work within the ROW or utilize the unopened or unused public ROW for long-term private benefit or use. Types of activities that fall under a Type D ROW lease permit include, but are not limited to, construction of fences, landscaping, private irrigation, sheds, private nonfranchised utilities, and garages. Infrastructure associated with a franchised utility provider or a telecommunication provider shall obtain a Type C ROW utility permit as described in SMC 14.30.050.

(2) Proof of insurance may be required with the City listed as an additional insured to protect the public and the City against liability for injury to persons or property.

(3) At any time the City deems the area being leased is necessary for public benefit, the ROW lease permit may be terminated and the applicant will be required, at their expense, to move their facilities from the public ROW. (Ord. O2010-285 § 1 (Att. A))

14.30.070 Revocation or suspension of permit.

All permits issued pursuant to this chapter shall be temporary, shall vest no permanent rights in the applicant, and may be revoked by the City as follows:

(1) The permit may be immediately revoked by the City in the event of a violation of any of the terms or conditions of the permit; or

(2) The permit may be immediately revoked by the City in the event the permitted special event or street use shall become dangerous to persons or property, or if any structure, site condition or obstruction permitted becomes insecure or unsafe; or

(3) The permit may be revoked by the City upon 30 days' notice if the permit was not for a specified period of time and is not covered by either of the preceding subsections.

(4) If any event, use or occupancy for which the permit has been revoked is not immediately discontinued, the City may remove any structure, site condition or obstruction, or cause to be made such repairs upon the structure, site condition or obstruction as may be necessary to render the same secure and safe, or to adjourn any special event. The cost and expense of such removal, repair or adjournment shall be assessed against the permit-

tee, including all fees and costs associated with enforcement of the collection of same, including attorney's fees. (Ord. O2010-285 § 1 (Att. A))

14.30.080 Enforcement.

The City engineer is authorized to enforce or seek enforcement of the provisions of this chapter, and ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of SMC Title 23. (Ord. O2010-285 § 1 (Att. A))

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Title 14A

PUBLIC FACILITIES

Chapters:

14A.05 Definitions

14A.10 Concurrency

14A.15 Street Impact Fees

14A.20 Impact Fees for Parks and Recreational Facilities

14A.25 Impact Fee Deferral

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Chapter 14A.05

DEFINITIONS

Sections:

14A.05.010 Definitions.

14A.05.010 Definitions.

The following words and terms are defined pursuant to RCW 82.02.090 and shall have the following meanings for the purposes of this title, unless the context clearly requires otherwise. The following words, terms, and definitions shall apply to all portions of this title, except as specifically superseded by definitions set forth elsewhere in this title.

“Development activity” means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land, that creates additional demand and need for public facilities.

“Development approval” means any written authorization from the City which authorizes the commencement of development activity.

“Impact fee” means a payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. “Impact fee” does not include a reasonable permit or application fee.

“Owner” means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

“Project improvements” mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan approved by the City council shall be considered a project improvement.

“Proportionate share” means that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.

“Public facilities” means the following capital facilities owned or operated by government entities: (a) public streets and roads; (b) publicly owned parks, open space, and recreation facilities; (c) school facilities; and (d) fire protection facilities in jurisdictions that are not part of a fire district.

“Service area” means a geographic area defined by a county, city, town, or intergovernmental agreement in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles.

“System improvements” mean public facilities that are included in the capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

The following words and terms shall have the following meanings for the purposes of this title, unless the context clearly requires otherwise. The following words, terms, and definitions shall apply to all portions of this title, except as specifically superseded by definitions set forth elsewhere in this title. Terms otherwise not defined herein shall be given their usual and customary meaning.

“Accessory dwelling unit” is defined for the purposes of this title the same as the term “Dwelling unit, accessory” in SMC 21A.15.350.

“Affordable housing” or “low-income housing” means residential housing that is rented or owned by a person or household whose monthly housing expenses, including utilities other than telephone, do not exceed 30 percent of the applicable median family income listed below and adjusted for household size. Based on the King County Income and Affordability Guidelines, housing affordability levels include:

(a) “Low income” means a family earning between zero and 50 percent of the King County median household income.

(b) “Moderate income” means a family earning between 51 and 80 percent of the King County median household income.

(c) “King County median household income” means the median income of the Seattle Metropolitan Statistical Area (“SMSA”), adjusted for household size, as determined by the United States Department of Housing and Urban Development (“HUD”). In the event that HUD no longer publishes median income figures for King County, the City may determine such other method as it

may choose to determine the King County median household income, adjusted for household size.

“Applicant” means a property owner or a public agency or public or private utility that owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

“Building permit” means an official document or certification which is issued by the City and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

“Capital facilities plan” means the capital facilities plan element of a comprehensive plan adopted by the City of Sammamish pursuant to Chapter 36.70A RCW, and such plan as amended.

“Certificate of concurrency” means the document issued by the City indicating the location or other description of the property on which the development is proposed, the type of development permit for which the certificate is issued, the number and type of units, square footage, and/or maximum trip generation approved, the public facilities that are available and reserved for the property described in the certificate, any conditions attached to the approval, and the date of issuance.

“City” means the City of Sammamish.

“Concurrency” means adequate public facilities that meet the level of service standard are, or will be, available no later than the impact of development.

“Concurrency test” means a comparison of an applicant’s impact on public facilities to the capacity of public facilities that are, or will be, available no later than the impacts of development.

“Concurrency test deferral affidavit” means a document signed by an applicant which defers the application for a certificate of concurrency and the concurrency test, acknowledges that future rights to develop the property are subject to the deferred concurrency test, and acknowledges that no vested rights concerning concurrency have been granted by the City or acquired by the applicant without such a test.

“Council” means the City council of the City of Sammamish.

“Department,” when referenced in Chapter 14A.15 SMC, means the department of public works, or when referenced in Chapter 14A.20

SMC, means the department of parks and recreation.

“Development permit” means any order, permit or other official action of the City granting, or granting with conditions, an application for development, including specifically:

- (a) Comprehensive plan amendment proposing a change of property designation;
- (b) Zone reclassifications;
- (c) Planned action, as that term is defined in RCW 43.21C.031(2);
- (d) Subdivision, including preliminary plat, short plat, or binding site plan and revisions or alterations which increase the number of dwelling units or trip generation;
- (e) Mobile home park;
- (f) Master site plan, including urban planned developments;
- (g) Conditional use permit;
- (h) Site development permit;
- (i) Building permit;
- (j) Certificate of occupancy for a change in use.

“Director,” when referenced in this title, means the director of the department of public works or the director’s designee, or the director of the department of parks and recreation or the director’s designee, or the director of the department of community development or the director’s designee, as appropriate.

“Dwelling unit” means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.

“Encumbered” means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

“Feepayer” means a person, corporation, partnership, incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit. “Feepayer” includes an applicant for an impact fee credit.

“Gross floor area” means the total square footage of any building, structure, or use, including accessory uses.

“Hearing examiner” means the examiner who acts on behalf of the City in considering and apply-

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ing land use regulatory codes as provided under the Sammamish Municipal Code. Where appropriate, “hearing examiner” also refers to the office of the hearing examiner.

“Impact fee account” or “account” means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to SMC 14A.15.070, 14A.15.080, 14A.20.070 and 14A.20.080, and comply with the requirements of RCW 82.02.070.

“Independent fee calculation” means the street impact calculation or park and recreational impact fee and/or economic documentation prepared by a feepayer to support the assessment of an impact fee calculation other than by the use of the rates listed in SMC 14A.15.110 or 14A.20.110, or the calculations prepared by the director where none of the fee categories or fee amounts in SMC 14A.15.110 or 14A.20.110 accurately describe or capture the impacts of the new development on public facilities.

“ITE land use code” means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the current edition of Trip Generation.

“Level of service standard” means the number of units of capacity per unit of demand, or similar objective measure of the extent or degree of service provided by a public facility.

“Peak hour” means the single hour with the greatest traffic volume between 4:00 p.m. and 6:00 p.m. for the p.m. peak hour and between 7:00 a.m. and 9:00 a.m. for the a.m. peak hour.

“Planned action” means a project action as that term is defined in RCW 43.21C.031(2).

“Rate Study for Impact Fees for Parks and Recreational Facilities” means the rate study completed by Henderson, Young and Company, dated November 2, 2006, for the City of Sammamish.

“Reserve” means to document in the City’s concurrency records in a manner that assigns the capacity or other measure of public facilities to the applicant and prevents the same capacity or other measure being assigned to any other applicant.

“Residential” or “residential development” means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, townhouse and other multifamily development.

“Significant past tax payment” means taxes exceeding five percent of the amount of the impact fee, and which were paid prior to the date the

impact fee is assessed and were earmarked or prorateable to the same system improvements for which the impact fee is assessed.

“Square footage” means the square footage of the gross floor area of the development.

“State” means the state of Washington.

“Street” means an urban right-of-way, paving and associated improvements which enables motor vehicles, transit vehicles, bicycles and pedestrians to travel between destinations, and affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley.

“Street Impact Fee Rate Study” means the “Rate Study for Impact Fees for Streets,” City of Sammamish, dated September 27, 2006. (Ord. O2014-366 § 1 (Att. A); Ord. O2006-206 § 1; Ord. O2004-138 § 1)

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Chapter 14A.10**CONCURRENCY**

Sections:

- 14A.10.010 Concurrency requirement.
- 14A.10.020 Application for certificate of concurrency.
- 14A.10.030 Exemptions from concurrency test.
- 14A.10.040 Concurrency test.
- 14A.10.050 Level of service standards.
- 14A.10.060 Certificate of concurrency.
- 14A.10.070 Fees.
- 14A.10.080 Appeals.

14A.10.010 Concurrency requirement.

(1) In accordance with RCW 36.70A.070(6)(b), the City must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the City's comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of the City's concurrency requirement, "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(2) The City shall not issue a development permit until:

- (a) A concurrency test has been conducted and a certificate of concurrency has been issued; or
- (b) The applicant has executed a concurrency test deferral affidavit where specifically allowed; or
- (c) The applicant has been determined to be exempt from the concurrency test as provided in SMC 14A.10.030(1). (Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.020 Application for certificate of concurrency.

(1) Each applicant for a comprehensive plan amendment requesting property redesignation or zone reclassification, except as provided in SMC

14A.10.030(1), shall elect one of the following options:

- (a) Apply for a certificate of concurrency; or
- (b) Execute a concurrency test deferral affidavit.

(2) Each applicant for a planned action, subdivision (including a preliminary plat, short plat, or binding site plan and revisions or alterations which increase the number of dwelling units or trip generation), mobile home park, a master site plan, urban planned development, conditional use permit, or site development permit shall apply for a certificate of concurrency, unless a certificate has been issued for the same parcel in conjunction with a comprehensive plan amendment or zone reclassification, or except as provided in SMC 14A.10.030(1).

(3) Each applicant for a building permit or certificate of occupancy for a change in use shall apply for a certificate of concurrency, unless a certificate has been issued for the same parcel in conjunction with subsections (1) or (2) of this section, or except as provided in SMC 14A.10.030(1).

(4) Applicants for a certificate of concurrency may designate the density and intensity of development to be tested for concurrency, provided such density and intensity shall not exceed the maximum allowed for the parcel. If the applicant designates the density and intensity of development, the concurrency test will be based on and applicable to only the applicant's designated density and intensity. If the applicant does not designate density and intensity, the concurrency test will be based on the maximum allowable density and intensity. (Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.030 Exemptions from concurrency test.

(1) The following developments are exempt from this chapter, and applicants may submit applications, obtain development permits and commence development without a certificate of concurrency:

(a) Any development permit for the following development because it creates insignificant and/or temporary additional impacts on any public facility:

- (i) Right-of-way use;
- (ii) Street improvements, including new streets constructed by the City of Sammamish;
- (iii) Street use permits;

(iv) Utility facilities which do not impact public facilities, such as pump stations, transmission or collection systems, and reservoirs;

(v) Expansion of an existing nonresidential structure that results in the addition of 100 square feet or less of gross floor area and does not add residential units or accessory dwelling units as defined in SMC 21A.15.345 to 21A.15.370;

(vi) Expansion of a residential structure provided the expansion does not result in the creation of an additional dwelling unit or accessory dwelling unit as defined in SMC 21A.15.345 to 21A.15.370;

(vii) Miscellaneous non-traffic generating improvements, including, but not limited to, fences, walls, swimming pools, sheds, and signs; or

(viii) Demolition or moving of a structure.

(b) Any development by the City of Sammamish.

(c) Public schools.

(2) Exemptions from the concurrency test on the capacity of public facilities shall be entered in the City's records in the same manner as though a concurrency test had been performed for the exempt development permits. (Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.040 Concurrency test.

(1) The City shall perform a concurrency test for each application for a certificate of concurrency, except as provided in SMC 14A.10.030. The public works director, or his/her designee, shall use the following methods to conduct the concurrency test for each type of public facility:

(a) For individual single-family residential building permits on existing lots, annual certification that the capacity of public facilities may be sufficient to maintain the City's level of service standard for single-family residential development totaling less than 50 units that is estimated to occur during the following year; or

(b) For all other development, review of each application compared to the capacity of the public facilities in accordance with the provisions of this chapter.

(2) The City may enter into an agreement with each public or private entity that provides public facilities in the City to establish the responsibilities of the City and the provider of public facilities in providing data for or conducting a concurrency test.

(3) If the capacity of available public facilities is equal to or greater than the capacity required to maintain the level of service standard for the impact of the development, the concurrency test is passed, and the applicant shall receive a certificate of concurrency.

(4) If the capacity of available public facilities is less than the capacity required to maintain the level of service standard for the impact of the development, or the impact of the development will cause the level of service to decline below the standard set forth in SMC 14A.10.050, the concurrency test is not passed, and the applicant may select one of the following options:

(a) Accept a 90-day reservation of public facilities that are available, and within the same 90-day period amend the application to reduce the need for public facilities to not exceed the capacity that is available, or arrange to provide for public facilities that are not otherwise available; or

(b) Appeal the denial of the application for a certificate of concurrency, pursuant to the provisions of SMC 14A.10.080.

(5) The City shall conduct the concurrency test in the order that completed applications are received by the City.

(6) A concurrency test, and any resulting certificate of concurrency, shall be administrative actions of the City that are categorically exempt from the State Environmental Policy Act. (Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.050 Level of service standards.

(1) In conducting the concurrency test, the level of service standards for road and street segments are based on allowable average weekday daily traffic (AWDT) volumes by corridor, as a function of each roadway's characteristics described and listed in the transportation element of the adopted comprehensive plan as amended. Level of service ("LOS") will be based upon performance of key corridors. Corridor LOS will be determined by averaging the incremental corridor segment volume over capacity (v/c) ratios within each adopted corridor. This methodology has the effect of tolerating some congestion in a segment or more within a corridor while resulting in the ultimate completion of the corridor improvements. The average v/c of the segments comprising a corridor must be 1.00 or less for the corridor to be considered adequate. All corridors must pass the corridor LOS standard for the transportation system to be considered adequate. Corridors comprised of one concurrency

segment must have a v/c of 1.00 or less to be considered adequate. The following corridors comprised of the concurrency segments shown on Figure V-6 of the transportation element will be monitored:

East Lake Sammamish Parkway North

Concurrency segments 1, 2 and 3

East Lake Sammamish Parkway Central

Concurrency segments 5 and 6

East Lake Sammamish Parkway South

Concurrency segments 7 and 8

Sahalee Way – 228th Avenue North

Concurrency segments 21, 22 and 23

228th Avenue Central

Concurrency segments 24 and 25

228th Avenue South

Concurrency segments 26 and 27

Issaquah-Pine Lake Road

Concurrency segments 32, 33 and 34

244th Avenue Corridor North

Concurrency segments 35, 36 and 37

244th Avenue Corridor South

Concurrency segment 39

Louis Thompson Road – 212th Corridor

Concurrency segments 11, 12, 13 and 14

The intersection LOS standards adopted in this transportation element are LOS D for intersections that include principal arterials and LOS C for intersections that include minor arterial or collector roadways. The LOS for intersections with principal arterials may be reduced to E for intersections that require more than three approach lanes in any direction. The intersection standards shall be applied to the peak hour.

(2) In conducting the concurrency test, the City shall apply the level of service standards for roads, streets, and intersections Citywide. If no road, street or intersection operates below the level of service standard, development may occur anywhere within the City. If any road, street or intersection operates below the level of service standard, development may not be approved anywhere within the City until the level of service is achieved, or transportation improvements or strat-

egies to accommodate the impacts of development will be completed within six years.

(3) In conducting the concurrency test, the City shall find that the impact of development occurs, and therefore the level of service standards for roads, streets and intersections shall be achieved and maintained, no later than six years from the date of occupancy of the development, or of each phase of a development.

(4) In the event that the applicant is required to provide a public facility, the development cannot be occupied until the public facility is completed, or the applicant provides the City with a performance bond that is acceptable to the City.

(5) In conducting the concurrency test, the City shall determine that additional public facilities that are needed to achieve the level of service standards are included in the capital facilities plan element of the City's comprehensive plan. Such additional public facilities shall be underwritten by one or more of the following financial commitments specific to the additional public facility needed to achieve the level of service standard:

(a) Grants from federal, state or private sources if the grant has been awarded for specific projects.

(b) Appropriations in state biennial budget for specific projects.

(c) Revenues that can be imposed or expended at the discretion of the City, including, but not limited to, impact fees, SEPA mitigation payments, property taxes, real estate excise taxes, user fees, charges, intergovernmental entitlements, and bonds.

(d) Revenue from special assessment districts created by the City.

(e) Irrevocable commitments from developers in a form acceptable to the City including:

(i) Performance or surety bonds from Washington State financial institutions;

(ii) Letters of credit from Washington State financial institutions; or

(iii) Assignments of assets in Washington State (i.e., interests in real property, savings certificates, bank accounts, or negotiable securities).

(f) Payments by special districts if such payments are similar in character and reliability to those listed in subsections (5)(a) through (e) of this section.

(g) All development permits that require one or more public facilities provided by entities other than the City shall condition the issuance of

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the development permit for the same parcel on the availability of such public facilities. The City may enter into an agreement with each public or private entity that provides public facilities in the City to establish the responsibilities of the City and the provider of public facilities in providing data for or conducting a concurrency test. (Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.060 Certificate of concurrency.

(1) A certificate of concurrency shall be issued by the public works director or his/her designee after the concurrency test is passed and the applicant has paid the associated impact fee deposit set forth in SMC 14A.15.020.

(2) Upon issuance of a certificate of concurrency, the City shall reserve capacity on behalf of the applicant, and indicate the reservation on the certificate of concurrency.

(3) A certificate of concurrency shall expire if the development permit for which the concurrency is reserved is not applied for within 180 days of issuance of the certificate of concurrency.

(4) A certificate of concurrency shall be valid for the development permit application period and subsequently for the same period of time as the development permit for which it was issued.

(5) A certificate of concurrency may be extended according to the same terms and conditions as the underlying development permit. If a development permit is granted an extension, the certificate of concurrency, if any, shall also be extended. Certificates of concurrency shall not be extended beyond the expiration of the underlying development permit, or any extensions thereof.

(6) A certificate of concurrency is valid only for the uses and intensities authorized for the development permit for which it is issued. Any change in use or intensity that increases the impact of development on public facilities is subject to an additional concurrency test of the incremental increase in impact on public facilities. Any change in use or intensity that decreases the impact of development on public facilities is not subject to an additional concurrency test and any capacity that is not required as a result of the decrease in impact shall be available for other applications.

(7) A certificate of concurrency is valid only for the development permit with which it is issued, and for subsequent development permits for the same parcel, as long as the applicant obtains the subsequent development permit prior to the expiration of the earlier development permit. A certificate of

concurrency transfers automatically to subsequent development permits for the parcel for which the certificate was issued; provided, that the use or intensity has not changed, and the previous development permit has not expired. The transfer of validity of a certificate of concurrency from one development permit to a subsequent development permit shall not extend or otherwise change the expiration of the certificate of concurrency.

(8) A certificate of concurrency runs with the land, and cannot be transferred to a different parcel. A certificate of concurrency transfers automatically with ownership of the parcel for which the certificate was issued. Upon final subdivision approval of a parcel that has obtained a certificate of concurrency, the City shall replace the certificate of concurrency by issuing a separate certificate of concurrency to each subdivided parcel, assigning to each a pro rata portion of the public facility capacity or other measure that was reserved for the original certificate. The issuance of pro rata certificates of concurrency to subdivided parcels shall not extend or otherwise change the expiration of the certificates of concurrency. (Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.070 Fees.

(1) The City shall charge each applicant an administrative fee and a concurrency test fee in an amount to be established by resolution by the City council. The concurrency test fee shall not be refundable after the concurrency test has been performed.

(2) The City shall charge a processing fee to any individual who requests an informal analysis of capacity if the requested analysis requires substantially the same research as a concurrency test. The processing fee shall be nonrefundable and nonassignable to a concurrency test. The amount of the processing fee shall be the same as the concurrency test fee authorized by subsection (1) of this section.

(3) When a concurrency test approval notification letter is prepared, the City shall charge an associated impact fee deposit set forth in SMC 14A.15.020. If the deposit is not received within 45 calendar days from the date of the approval notification, the application for a certificate of concurrency shall expire. (Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.080 Appeals.

(1) An applicant may appeal a denial of a certificate of concurrency on the following grounds:

- (a) A technical or mathematical error;
- (b) The applicant provided alternative data that was rejected by the City; or
- (c) Unwarranted delay in review of the application that allowed capacity to be given to another applicant.

(2) Appeal of denial of a certificate of concurrency shall be to the hearing examiner in accordance with procedures in SMC Title 20. (Ord. O2006-208 § 1; Ord. O2004-139 § 1)

Chapter 14A.15**STREET IMPACT FEES**

Sections:

- 14A.15.010 Findings and authority.
- 14A.15.020 Assessment of impact fees.
- 14A.15.030 Exemptions.
- 14A.15.040 Credits.
- 14A.15.050 Tax adjustments.
- 14A.15.060 Appeals.
- 14A.15.070 Establishment of impact fee accounts.
- 14A.15.080 Refunds.
- 14A.15.090 Use of funds.
- 14A.15.100 Review.
- 14A.15.110 Street impact fee rates.
- 14A.15.120 Independent fee calculations.
- 14A.15.130 Administrative fees.
- 14A.15.140 Mitigation of adverse environmental impacts.

14A.15.010 Findings and authority.

The council hereby finds and determines that new growth and development, including but not limited to new residential, commercial, retail, and office development in the City, will create additional demand and need for public facilities in the City, and the council finds that new growth and development should pay a proportionate share of the cost of system improvements reasonably related to and that will reasonably benefit the new growth and development. The City has conducted extensive studies documenting the procedures for measuring the impact of new development on public facilities, has prepared the street impact fee analysis, and hereby incorporates this study into this title by reference. Therefore, pursuant to RCW 82.02.050 through 82.02.090, the council adopts this chapter to assess impact fees for streets ("impact fee"). The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.020 Assessment of impact fees.

(1) The City shall collect impact fees, based on the rates in SMC 14A.15.110, from any applicant seeking development approval from the City for any development within the City, where such development requires the issuance of a building permit. This shall include, but is not limited to, the

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development of residential, commercial, retail, and office uses, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in existing use that creates a demand for additional public facilities.

(2) An impact fee shall not be assessed for the following types of development activity because the activity either does not create additional demand as provided in RCW 82.02.050 and/or is a project improvement (as opposed to a system improvement) under RCW 82.02.090:

(a) Miscellaneous non-traffic generating improvements, including, but not limited to, fences, walls, swimming pools, sheds, and signs;

(b) Demolition or moving of a structure;

(c) Expansion of an existing nonresidential structure that results in the addition of 100 square feet or less of gross floor area;

(d) Expansion of a residential structure provided the expansion does not result in the creation of any additional dwelling units as defined in SMC 21A.15.345 through 21A.15.370;

(e) Replacement of a residential structure with a new residential structure at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. For the terms of this requirement, "replacement" is satisfied by submitting a complete building permit application;

(f) Replacement of a nonresidential structure with a new nonresidential structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a nonresidential structure with a new nonresidential structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet. For the terms of this requirement, "replacement" is satisfied by submitting a complete building permit application.

(3) For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use; provided, that the applicant has previously paid the required impact fee for the original use.

(4) For mixed use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the impact fee rates set forth in SMC 14A.15.110.

(5) Applicants seeking a building permit for a change in use shall be required to pay an impact fee if the change in use increases the existing trip generation by the lesser of five percent or 10 peak hour trips.

(6) Except as provided in SMC 14A.25.030, impact fees shall be assessed and collected, at the option of the applicant, either:

(a) At the time of final plat (for platted development) or building permit application (for nonplatted development); or

(b) At the time of building permit issuance; which option shall be declared at the time of final plat (for platted development) or building permit application (for nonplatted development) in writing on a form or forms provided by the City.

(7) Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 14A.15.040 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 14A.15.040 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the fee payer at the time the building permit is issued by the City for each unit in the development.

(8) Where the impact fees imposed are determined by the square footage of the development, a deposit shall be due from the fee payer pursuant to subsection (6) of this section. Deposit and installment percentages shall be based on an estimate, submitted by the fee payer, of the size and type of structure proposed to be constructed on the property. In the absence of an estimate provided by the fee payer, the department shall calculate percentages based on the maximum allowable density/intensity permissible on the property. If the final square footage of the development is in excess of the initial estimate, any difference in the amount of the impact fee will be due prior to the issuance of a building permit, using the same impact fee rate previously assessed. The fee payer shall pay any such difference plus interest, calculated at the statutory rate. If the final square footage

is less than the initial estimate, the department shall give a credit for the difference, plus interest at the statutory rate.

(9) The department shall not issue the required building permit unless and until the impact fees required by this chapter, less any permitted exemptions or credits provided pursuant to SMC 14A.15.030 or 14A.15.040, have been paid, unless a deferral has been granted pursuant to Chapter 14A.25 SMC.

(10) The service area for impact fees shall be a single City-wide service area.

(11) In accordance with RCW 82.02.050, the City shall collect and spend impact fees only for the public facilities defined in this title and RCW 82.02.090 which are addressed by the capital facilities plan element of the City's Comprehensive Plan. The City shall base continued authorization to collect and expend impact fees on revising its Comprehensive Plan in compliance with RCW 36.70A.070 and on the capital facilities plan identifying: (a) deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) additional demands placed on existing public facilities by new development; and (c) additional public facility improvements required to serve new development.

(12) In accordance with RCW 82.02.050, if the City's capital facilities plan is complete other than for the inclusion of those elements which are the responsibility of a special district, the City may impose impact fees to address those public facility needs for which the City is responsible.

(13) Applicants for single-family attached or single-family detached residential construction may request deferral of all impact fees due under this chapter in accordance with the provisions of Chapter 14A.25 SMC. (Ord. 2016-412 § 2 (Att. B); Ord. O2012-339 § 1 (Att. A); Ord. O2010-294 § 1 (Att. A); Ord. O2009-263 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.030 Exemptions.

(1) Pursuant to RCW 82.02.060, the City may provide exemptions for low-income housing and other development activities with broad public purposes; provided, that the impact fees from such development activity shall be paid from public funds other than impact fee accounts if the waiver is greater than 80 percent of the impact fee. The director shall be authorized to determine whether a

particular development falls within an exemption identified in this chapter. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in SMC 14A.15.060.

(2) Except as provided in subsection (3) of this section, the following development activities are exempt from the requirements of this chapter. An impact fee shall not be assessed for:

- (a) Any development activity undertaken by the City of Sammamish;
- (b) Public schools;
- (c) Accessory dwelling units approved by the City.

(3) Except as provided above, the provision of affordable housing as defined in SMC 14A.05.010 may be exempted from some or all of the required impact fees as shown in Table 1:

Table 1: Impact Fee Reductions for Affordable Housing Units

Affordable Housing	Impact Fee Reduction*	Maximum Number of Affordable Housing Units per Development
Low-Income	Up to 100%	4 units
	50% to 80%	5 units or more (including the first 4) subject to recommendation by the community development director in consultation with the public works director
Moderate-Income	Up to 80%	4 units
	0% to 50%	5 units or more (including the first 4) subject to recommendation by the community development director in consultation with the public works director

*The % fee reduction is expressed as a maximum amount per unit.

(a) As a condition of receiving an exemption or percentage fee reduction under this subsection, prior to any development approval, the owner shall execute and record in the King County real property title records a City-prepared lien, covenant, or other contractual provision against the property that provides that the proposed housing unit or development will continue to be used for low- or moderate-income housing and remain affordable to those families/households for a period of not less than 30 years. The lien, covenant, or other contractual provision shall run with the land and apply to subsequent owners and assigns. In the event that the housing unit(s) no longer meets the definition of affordable housing set forth in Table 1 during the term of the life of the lien, covenant or contractual provision, then the owner(s) shall pay to the City the amount of impact fees from which the housing unit(s) was exempted into the City's account for impact fees plus 12 percent interest per year.

(b) In determining the impact fee reductions for development(s) containing five or more affordable housing units, the community development director in consultation with the public works director should consider the following:

(i) The proposed housing units meet the provisions set forth by the City's housing strategy plan adopted by the City council.

(ii) The proposed housing units will assist the City in meeting Sammamish's affordable housing targets.

(iii) The location of the units meets the City's comprehensive plan policies for the proposed housing type and density.

(iv) Approval of the proposed housing units and the associated impact fee reduction does

not exempt the proposed housing units from meeting the City's concurrency requirements and public works standards.

(c) The impact fee amounts waived in excess of 80 percent shall be paid from public funds from sources other than impact fees or interest on impact fees, and budgeted for this purpose.

(d) Determinations of the community development director in consultation with the public works director regarding the reduction of impact fees shall be in writing and shall be subject to the appeals procedures set forth in SMC 14A.15.060. (Ord. O2014-366 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.040 Credits.

(1) A feepayer can request that a credit or credits for impact fees be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:

(a) For one or more of the system improvements identified in the capital facilities plan, which are included in the street impact fee analysis as the basis of the impact fee, and that are required by the City as a condition of approving the development activity; and

(b) At suitable sites and constructed at acceptable quality as determined by the City.

(2) The director shall determine if requests for credits meet the criteria in subsection (1) of this section.

(3) The value of a credit for structures, facilities or other improvements shall be established by original receipts provided by the applicant for one or

more of the same system improvements for which the impact fee is being charged.

(4) The value of a credit for land, including right-of-way and easements, shall be established on a case-by-case basis by an appraiser selected by or acceptable to the director. The appraiser must be licensed in good standing by the state of Washington for the category of the property appraised. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised. The appraisal shall be in accord with the most recent version of the Uniform Standards of Professional Appraisal Practice and shall be subject to review and acceptance by the director.

(5) The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the City may be providing to the feepayer, in the event that a credit is awarded.

(6) If a credit is due, after receiving the appraisal the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

(7) No credit shall be given for project improvements as defined in SMC 14A.05.010.

(8) A feepayer can request that a credit or credits for impact fees be awarded to him/her for significant past tax payments as defined in SMC 14A.05.010. For each request for a credit or credits for significant past tax payments, the feepayer shall submit receipts and a calculation of significant past tax payments earmarked for or proratable to the particular system improvement. The director shall determine the amount of credits, if any, for significant past tax payments.

(9) Any claim for credit must be made prior to or at the time of submission of an application for a

building permit. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

(10) A feepayer shall receive a credit for all impact fee deposits paid pursuant to SMC 14A.15.020.

(11) Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in SMC 14A.15.060. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.050 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the street impact fee analysis provides adjustments for past and future taxes and other sources of revenue to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development. The impact fee rates in SMC 14A.15.110 have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund these system improvements. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.060 Appeals.

(1) Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit or occupancy permit. No appeal shall be permitted until the impact fees at issue have been paid.

(2) Appeals regarding the impact fees imposed on any development may only be filed by the feepayer of the property where such development will occur.

(3) The feepayer must first file a request for review regarding impact fees with the director, as provided herein:

(a) The request shall be in writing on the form provided by the City;

(b) The request for review by the director shall be filed within 21 calendar days after the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;

(c) No administrative fee will be imposed for the request for review by the director; and

(d) The director shall issue his/her determination in writing.

(4) The following decisions may be appealed to the hearing examiner: determinations of the director with respect to the applicability of the impact

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fees to a given development; the director's determination regarding the availability or value of a credit; the director's decision concerning the independent fee calculation which is authorized in SMC 14A.15.120; fees imposed by the director pursuant to SMC 14A.15.110; or any other determination which the director is authorized to make pursuant to this title.

(5) Appeals to the hearing examiner shall be taken within 21 calendar days of the director's issuance of a written determination by filing with the department a notice of appeal specifying the grounds thereof, and depositing the necessary administrative fee, which is set forth in the existing fee schedules for appeals of such decisions. The director shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including, where appropriate, the independent fee calculation.

(6) The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in the Sammamish Municipal Code. At the hearing, any party may appear in person or by agent or attorney.

(7) The hearing examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the hearing examiner shall be final, except as provided in this section.

(8) The hearing examiner may, so long as such action is in conformance with the provisions of this title, reverse or affirm, in whole or in part, or may modify the determinations of the director with respect to the amount of the impact fees imposed or the credit awarded. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.070 Establishment of impact fee accounts.

(1) Impact fee receipts shall be earmarked specifically and deposited in a special interest-bearing impact fee account maintained by the City.

(2) There is hereby established the street impact fee account for the fees collected pursuant to this title. Funds withdrawn from this account must be used in accordance with the provisions of SMC 14A.15.090 and applicable state law. Interest earned on the fees shall be retained in the account and expended for the purposes for which the impact fees were collected.

(3) On an annual basis, the finance department shall provide a report to the City council on the street impact fee account showing the source and amount of all moneys collected, earned, or received, and the system improvements that were financed in whole or in part by impact fees.

(4) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan element of the City's Comprehensive Plan.

(5) Impact fees shall be expended or encumbered within 10 years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the City to hold the fees beyond the 10-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. (Ord. O2013-341 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.080 Refunds.

(1) If the City fails to expend or encumber the impact fees within 10 years of when the fees were paid, or where extraordinary or compelling reasons exist and the council has established other time periods pursuant to SMC 14A.15.070, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

(2) The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property for which the impact fee was paid.

(3) Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

(4) Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the City and expended on the appropriate public capital facilities.

(5) Refunds of impact fees under this section shall include any interest paid at the statutory rate.

(6) When the City seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any termi-

nated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City, but must be expended for the appropriate public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

(7) The City shall refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees pursuant to RCW 82.02.080(3), if the development for which the impact fees were imposed did not occur; provided, that if the City has expended or encumbered the impact fees in good faith prior to the application for a refund, the director shall determine whether an impact has resulted and whether all or a portion of the impact fees paid shall be refunded. (Ord. O2013-341 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.090 Use of funds.

(1) Pursuant to this title, impact fees:

(a) Shall be used for system improvements that will reasonably benefit the new growth and development; and

(b) Shall not be imposed to make up for any system improvement deficiencies serving existing developments; and

(c) Shall not be used for maintenance or operation.

(2) Impact fees may be spent for public improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, administrative expenses, mitigation costs, and any other expenses which can be capitalized pertaining to transportation improvements.

(3) Impact fees may also be used to recoup public improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

(4) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.100 Review.

(1) The fee rates set forth in SMC 14A.15.110 may be reviewed and adjusted by the council as it deems necessary and appropriate to meet City needs, including but not limited to addressing the impact of inflation on labor, materials, and real property costs. The fee rates may be adjusted 12 months after the effective date of the ordinance codified in this chapter, or 12 months after the most recent review by the council. The council may determine the amount of the adjustment and revise the fee rates set forth in SMC 14A.15.110. If the council does not determine the amount of the adjustment, the adjustment shall be administratively adjusted by the same amount that the five-year average Washington State Department of Transportation Construction Cost Index changed for the most recent 12-month period prior to the date of the adjustment.

(2) In the last quarter of each calendar year, the community development director, together with the public works director, shall prepare a report to the planning commission for the year to date, including the following:

(a) The number of requests for impact fee exemptions pursuant to SMC 14A.15.030;

(b) The total number of residential units and dollar amounts of the exemptions approved by the community development director in consultation with the public works director;

(c) A copy of the hearing examiner decision, if any of the decisions of the community development director, in consultation with the public works director, were appealed to the hearing examiner.

Based on this annual review, the planning commission shall recommend to the City council any revision to SMC 14A.15.030 deemed appropriate. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

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14A.15.110 Street impact fee rates.

In accordance with RCW 82.02.060, the street impact fees are based upon a schedule of impact fees which is adopted for each type of development activity that is subject to impact fees and which specifies the amount of the impact fee to be imposed for each type of system improvement. The schedule is based upon a formula and/or method of calculating the impact fees. In determining proportionate share, the formula and/or method of calculating the fees incorporates, among other things, the following: (a) the cost of public facilities necessitated by new development; (b) an adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt

service payments, taxes, or other payments earmarked for or proratable to the particular system improvement; (c) the availability of other means of funding public facility improvements; (d) the cost of existing public facilities improvements; and (e) the methods by which public facilities improvements were financed.

The street impact fee rates in this section are generated from the formula for calculating impact fees set forth in the street impact fee analysis, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in SMC 14A.15.120, exemptions in SMC 14A.15.030, and credits in SMC 14A.15.040, all new developments in the City will be charged the impact fee applicable to the type of development:

Street Impact Fee Rates per Unit of Development

ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	Percent New Trips ³	Trip Length Factor ⁴	Net New Trips per Development Unit	Impact Fee per Unit @ \$14,063.63 per Trip
090	Park and Ride with Bus Service	0.75	75%	1.00	0.563	7,910.79 per Space
110	Light Industrial	0.98	100%	1.22	1.196	16.81 per Sq. Ft.
130	Industrial Park	0.86	100%	1.22	1.049	14.76 per Sq. Ft.
140	Manufacturing	0.74	100%	1.22	0.903	12.70 per Sq. Ft.
151	Mini Warehouse	0.26	75%	0.29	0.057	0.80 per Sq. Ft.
210	Single-Family House	1.01	100%	1.00	1.010	14,204.27 per DU
220	Apartment	0.62	100%	1.00	0.620	8,719.45 per DU
231	Low-Rise Condo/Townhouse	0.78	100%	1.00	0.780	10,969.63 per DU
240	Mobile Home	0.56	100%	1.00	0.560	7,875.63 per DU
251	Sr. Housing Detached	0.26	75%	1.00	0.195	2,742.41 per DU
252	Sr. Housing Attached	0.11	75%	1.00	0.083	1,160.25 per DU
253	Congregate Care Facility	0.18	75%	0.29	0.039	550.59 per DU
254	Assisted Living (limited data)	0.22	75%	0.29	0.048	672.94 per Bed
310	Hotel	0.59	75%	0.29	0.128	1.80 per Sq. Ft.
320	Motel	0.94	75%	0.29	0.204	2.88 per Sq. Ft.
420	Marina (limited data)	0.19	75%	0.29	0.041	581.18 per Slip
430	Golf Course	0.30	75%	0.29	0.065	917.65 per Acre
441	Live Theater (limited data)	1.00	75%	0.29	0.218	3.06 per Sq. Ft.
445	Multiplex Movie Theater	5.22	75%	0.29	1.135	15.97 per Sq. Ft.
491	Racquet Club	0.64	50%	0.29	0.093	1.31 per Sq. Ft.
492	Health Fitness Club	4.05	50%	0.29	0.587	8.26 per Sq. Ft.
495	Recreational Community Center	1.64	50%	0.29	0.238	3.34 per Sq. Ft.
520	Public Elementary School	1.19	75%	0.29	0.259	3.64 per Sq. Ft.
522	Public Middle School	1.19	75%	0.29	0.259	3.64 per Sq. Ft.
530	Public High School	0.97	75%	0.29	0.211	2.97 per Sq. Ft.
534	Private School K-8 (limited data)	3.40	75%	0.29	0.740	10.40 per Sq. Ft.
536	Private School K-12 (limited data)	2.75	75%	0.29	0.598	8.41 per Sq. Ft.

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Street Impact Fee Rates per Unit of Development (Continued)

ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	Percent New Trips ³	Trip Length Factor ⁴	Net New Trips per Development Unit	Impact Fee per Unit @ \$14,063.63 per Trip
560	Church over 20,000 Sq. Ft.	0.66	75%	0.29	0.144	2.02 per Sq. Ft.
560	Church under 20,000 Sq. Ft.	0.66	50%	0.29	0.096	1.35 per Sq. Ft.
565	Day Care Center	13.18	25%	0.29	0.956	13.44 per Sq. Ft.
590	Library	7.09	40%	0.29	0.822	11.57 per Sq. Ft.
610	Hospital	1.18	75%	0.29	0.257	3.61 per Sq. Ft.
620	Nursing Home	0.22	75%	0.29	0.048	672.94 per Bed
630	Clinic (limited data)	5.18	75%	0.29	1.127	15.84 per Sq. Ft.
710	General Office	1.49	100%	1.22	1.818	25.56 per Sq. Ft.
715	Single Tenant Office	1.73	100%	1.22	2.111	29.68 per Sq. Ft.
720	Medical/Dental Office	3.72	75%	0.29	0.809	11.38 per Sq. Ft.
732	U.S. Post Office	25.00	25%	0.29	1.813	25.49 per Sq. Ft.
750	Office Park	1.50	100%	1.22	1.830	25.74 per Sq. Ft.
813	Freestanding Discount Super Store	3.87	43%	1.00	1.664	23.40 per Sq. Ft.
814	Specialty Retail Center	2.71	75%	0.29	0.589	8.29 per Sq. Ft.
815	Freestanding Discount Store	5.06	54%	0.29	0.792	11.14 per Sq. Ft.
816	Hardware/Paint Store	4.84	43%	0.29	0.604	8.49 per Sq. Ft.
820	Shopping Center < 1 million Sq. Ft.	3.75	43%	1.00	1.613	22.68 per Sq. Ft.
848	Tire Store	4.15	40%	0.29	0.481	6.77 per Sq. Ft.
849	Tire Super Store	2.11	40%	0.29	0.245	3.44 per Sq. Ft.
850	Supermarket	10.45	34%	0.29	1.030	14.49 per Sq. Ft.
851	Convenience Market	52.41	24%	0.29	3.648	51.30 per Sq. Ft.
853	Convenience Market w/Gas Pumps	19.22	14%	0.29	0.780	10,974.30 per VSP
854	Discount Supermarket	8.90	54%	0.29	1.394	19.60 per Sq. Ft.
861	Discount Club	4.24	43%	1.00	1.823	25.64 per Sq. Ft.
862	Home Improvement Super Store	2.45	32%	1.00	0.784	11.03 per Sq. Ft.
863	Electronics Super Store	4.50	27%	1.00	1.215	17.09 per Sq. Ft.
867	Office Supply Super Store	3.40	32%	1.00	1.088	15.30 per Sq. Ft.
880	Pharmacy/Drug Store	8.42	38%	0.29	0.928	13.05 per Sq. Ft.
881	Pharmacy/Drug Store w/Drive-up	8.62	38%	0.29	0.950	13.36 per Sq. Ft.
896	Video Rental Store	13.60	20%	0.29	0.789	11.09 per Sq. Ft.
911	Walk-in Bank (limited data)	33.15	27%	0.29	2.596	36.50 per Sq. Ft.
912	Drive-in Bank	45.74	27%	0.29	3.581	50.37 per Sq. Ft.
931	Quality Restaurant	7.49	38%	0.29	0.825	11.61 per Sq. Ft.
932	High Turnover Restaurant	10.92	37%	0.29	1.172	16.48 per Sq. Ft.
933	Fast Food	26.15	30%	0.29	2.275	32.00 per Sq. Ft.
934	Fast Food w/Drive-up	34.64	30%	0.29	3.014	42.38 per Sq. Ft.
936	Drinking Place	11.34	38%	0.29	1.250	17.57 per Sq. Ft.
941	Quick Lube	5.19	14%	0.29	0.211	2,963.40 per VSP
942	Auto Care	3.38	30%	0.29	0.294	4.14 per Sq. Ft.
944	Gas Station	13.86	14%	0.29	0.563	7,913.83 per VSP
945	Gas Station w/Conven Mkt	13.38	14%	0.29	0.543	7,639.76 per VSP
946	Gas Station w/Conven Mkt & Car Wash	13.33	14%	0.29	0.541	7,611.21 per VSP
947	Self-Serve Car Wash	5.54	14%	0.29	0.225	3,163.25 per VSP

Street Impact Fee Rates per Unit of Development (Continued)

ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	Percent New Trips ³	Trip Length Factor ⁴	Net New Trips per Develop- ment Unit	Impact Fee per Unit @ \$14,063.63 per Trip
¹ Institute of Transportation Engineers, Trip Generation (7th Edition). ² Trip generation rate per development unit, for p.m. peak hour of the adjacent street traffic (4:00 – 6:00 p.m.). Note: Sq. Ft. rate expressed per 1,000 SF. ³ Omits linked/diverted and pass-by trips, per Trip Generation Handbook: an ITE Recommended Practice, March, 2001. ⁴ Average trip length relative to single-family trip. ⁵ DU = dwelling unit, Sq. Ft. = square feet, VSP = vehicle servicing position.						

If an applicant proposes a land use that is not identified above, the impact fee shall be an amount equal to \$14,063.63 for each p.m. peak hour trip generated, adjusted for trip length and percentage of new trips using methods and data comparable to those in the street study. (Ord. O2014-366 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.120 Independent fee calculations.

(1) If, in the judgment of the director, none of the fee categories or fee amounts set forth in SMC 14A.15.110 accurately describe or capture the impacts of a new development on streets and roads, the department may prepare independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

(2) If a feepayer opts not to have the impact fees determined according to SMC 14A.15.110, then the feepayer shall prepare and submit to the director an independent fee calculation for the development for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

(3) Any feepayer submitting an independent fee calculation shall be required to pay the City a fee to cover the cost of reviewing the independent fee calculation. The amount of the fee required by the City for conducting the review of the independent fee calculation shall be in accordance with the adopted fee resolution by the City council and shall be paid by the feepayer prior to initiation of review.

(4) While there is a presumption that the calculations set forth in the street impact fee analysis are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not

reliable, and may modify or deny the request, or, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The director's decision shall be set forth in writing and shall be mailed to the feepayer.

(5) Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner as set forth in SMC 14A.15.060. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.130 Administrative fees.

(1) All development permits subject to the impact fees pursuant to SMC 14A.15.110 shall pay an administrative processing fee as adopted by the City council.

(2) All development permits that require an independently determined impact fee pursuant to SMC 14A.15.120 shall pay an administrative processing fee as adopted by the City council. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.140 Mitigation of adverse environmental impacts.

Nothing in this title shall preclude the City from requiring the feepayer or the proponent of a development to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW. (Ord. O2006-208 § 2)

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Chapter 14A.20

**IMPACT FEES FOR PARKS AND
RECREATIONAL FACILITIES**

Sections:

- 14A.20.010 Findings and authority.
- 14A.20.020 Assessment of impact fees.
- 14A.20.030 Exemptions.
- 14A.20.040 Credits.
- 14A.20.050 Tax adjustments.
- 14A.20.060 Appeals.
- 14A.20.070 Establishment of impact fee accounts.
- 14A.20.080 Refunds.
- 14A.20.090 Use of funds.
- 14A.20.100 Review.
- 14A.20.110 Park and recreational facilities impact fee rates.
- 14A.20.120 Independent fee calculations.
- 14A.20.130 Administrative fees.
- 14A.20.140 Mitigation of adverse environmental impacts.

14A.20.010 Findings and authority.

The council hereby finds and determines that new growth and development, including but not limited to new residential development in the City, will create additional demand and need for public facilities in the City, and the council finds that new growth and development should pay a proportionate share of the cost of system improvements reasonably related to and that will reasonably benefit the new growth and development. The City has conducted extensive studies documenting the procedures for measuring the impact of new development on public facilities, has prepared the Rate Study for Impact Fees for Parks and Recreational Facilities, Henderson, Young and Company, dated November 2, 2006, and the Park Impact Fee Update Summary Memorandum by FCS Group dated October 14, 2015 (collectively referred to hereafter as the "rate study"), and hereby incorporates the rate study into this title by reference. Therefore, pursuant to RCW 82.02.050 through 82.02.090, the council adopts this chapter to assess impact fees for parks and recreational facilities ("impact fee"). The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. (Ord. O2015-400 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.020 Assessment of impact fees.

(1) The City shall collect impact fees, based on the rates in SMC 14A.20.110, from any applicant seeking development approval from the City for any residential development within the City, where such development requires the issuance of a building permit. This shall include, but is not limited to, the expansion or change of use of existing uses that creates a demand for additional public facilities.

(2) An impact fee shall not be assessed for the following types of development activity because the activity either does not create additional demand as provided in RCW 82.02.050 and/or is a project improvement (as opposed to a system improvement) under RCW 82.02.090:

(a) Miscellaneous improvements to residential dwelling units that will not create additional park use demand, including, but not limited to, fences, signs, walls, swimming pools, sheds, and residential accessory uses as defined in SMC 21A.15.020;

(b) Demolition or moving of a residential structure;

(c) Expansion or alteration of a residential structure provided the expansion or alteration does not result in the creation of any additional dwelling units as defined in SMC 21A.15.345 through 21A.15.370;

(d) Replacement of a residential structure with a new residential structure at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure.

(3) For a change in use of an existing structure or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use; provided, that the applicant has previously paid the required impact fee for the original use.

(4) For mixed use developments, impact fees shall be imposed for the proportionate share of each residential land use based on the applicable measurement in the impact fee rates set forth in SMC 14A.20.110.

(5) Applicants seeking development approval for a change in use shall be required to pay an impact fee if the change in use increases the number of dwelling units.

(6) Except as provided in SMC 14A.25.030, impact fees shall be assessed and collected, at the option of the applicant, either:

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(a) At the time of final plat (for platted development) or building permit application (for nonplatted development); or

(b) At the time of building permit issuance; which option shall be declared at the time of final plat (for platted development) or building permit application (for nonplatted development) in writing on a form or forms provided by the City.

(7) Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 14A.20.040 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 14A.20.040 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the fee payer at the time the building permit is issued by the City for each residential dwelling unit in the development.

(8) The department shall not issue the required building permit unless and until the impact fees required by this chapter, less any permitted exemptions or credits provided pursuant to SMC 14A.20.030 or 14A.20.040, have been paid, unless a deferral has been granted pursuant to Chapter 14A.25 SMC.

(9) The service area for impact fees shall be a single City-wide service area.

(10) In accordance with RCW 82.02.050, the City shall collect and spend impact fees only for the public facilities defined in this title and RCW 82.02.090 which are addressed by the capital facilities plan element of the City's Comprehensive Plan. The City shall base continued authorization to collect and expend impact fees on revising its Comprehensive Plan in compliance with RCW 36.70A.070, and on the capital facilities plan identifying: (a) deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) additional demands placed on existing public facilities by new development; and (c) additional public facility improvements required to serve new development.

(11) In accordance with RCW 82.02.050, if the City's capital facilities plan is complete other than for the inclusion of those elements which are the responsibility of a special district, the City may impose impact fees to address those public facility needs for which the City is responsible.

(12) Applicants for single-family attached or single-family detached residential construction

may request deferral of all impact fees due under this chapter in accordance with the provisions of Chapter 14A.25 SMC.

(13) If, prior to February 12, 2016, an applicant submits a copy of a fully executed purchase and sale agreement with an affidavit from the applicant attesting that the agreement was fully executed prior to November 11, 2015, the residential dwelling unit that is the subject of that agreement will be subject to the parks and recreational facilities impact fee in effect on the date of execution of that agreement, as provided in SMC 14A.20.110. (Ord. O2016-412 § 3 (Att. C); Ord. O2015-400 § 1 (Att. A); Ord. O2012-339 § 1 (Att. A); Ord. O2010-294 § 1 (Att. A); Ord. O2009-263 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.030 Exemptions.

(1) Pursuant to RCW 82.02.060, the City may provide exemptions for low-income housing and other development activities with broad public purposes; provided, that the impact fees from such development activity shall be paid from public funds other than impact fee accounts if the waiver is greater than 80 percent of the impact fee. The director shall be authorized to determine whether a particular development falls within an exemption identified below. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in SMC 14A.20.060. The following development activities are exempt from the requirements of this chapter. A parks impact fee shall not be assessed for:

(a) Any development activity undertaken by the City of Sammamish;

(b) Accessory dwelling units approved by the City.

(2) Except as provided above, the provision of affordable housing as defined in SMC 14A.05.010 may be exempted from some or all of the required impact fees as shown in Table 1:

Table 1: Impact Fee Reductions for Affordable Housing Units

Affordable Housing	Impact Fee Reduction*	Maximum Number of Affordable Housing Units per Development
Low-Income	Up to 100%	4 units
	50% to 80%	5 units or more (including the first 4) subject to decision by the director of the department of community development in consultation with the director of the department of parks and recreation
Moderate-Income	Up to 80%	4 units
	0% to 50%	5 units or more (including the first 4) subject to approval by the director of the department of community development in consultation with the director of the department of parks and recreation

*The % fee reduction is expressed as a maximum amount per unit.

(a) As a condition of receiving an exemption or percentage fee reduction under this section, prior to any development approval, the owner shall execute and record in the King County real property title records a City-prepared lien, covenant, or other contractual provision against the property that provides that the proposed housing unit or development will continue to be used for low- or moderate-income housing and remain affordable to those families/households for a period of not less than 30 years. The lien, covenant, or other contractual provision shall run with the land and apply to subsequent owners and assigns. In the event that the housing unit(s) no longer meets the definition of affordable housing set forth in Table 1 during the term of the life of the lien, covenant or contractual provision, then the owner(s) shall pay to the City the amount of impact fees from which the housing unit(s) was exempted into the City's account for park impact fees plus 12 percent interest per year.

(b) In determining the impact fee reductions for development(s) containing five or more affordable housing units, the community development director in consultation with the parks and recreation director should consider the following:

(i) The proposed housing units meet the provisions set forth by the City's housing strategy plan adopted by the City council.

(ii) The proposed housing units will assist the City in meeting Sammamish's affordable housing targets.

(iii) The location of the units meets the City's Comprehensive Plan policies for the proposed housing type and density.

(iv) Approval of the proposed housing units and the associated impact fee reduction would not result in a significant adverse impact on the level of service provided by the parks system.

(c) The impact fee amounts waived in excess of 80 percent shall be paid from public funds from sources other than impact fees or interest on impact fees.

(d) Determinations of the community development director in consultation with the parks and recreation director regarding the exemption or reduction of impact fees shall be in writing and shall be subject to the appeals procedures set forth in SMC 14A.20.060. (Ord. O2014-367 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.040 Credits.

(1) A feepayer can request that a credit or credits for impact fees be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:

(a) For one or more of the system improvements identified in the capital facilities plan for parks and recreational facilities which are included in the rate study as the basis of the impact fee, and that are required by the City as a condition of approving the development activity; and

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(b) At suitable sites and constructed at acceptable quality as determined by the City.

(2) The director shall determine if requests for credits meet the criteria in subsection (1) of this section.

(3) The value of a credit for structures, facilities or other improvements shall be established by original receipts provided by the applicant for one or more of the same system improvements for which the impact fee is being charged.

(4) The value of a credit for land, including right-of-way and easements, shall be established on a case-by-case basis by an appraiser selected by, or acceptable to, the director. The appraiser must be licensed in good standing by the state of Washington for the category of the property appraised.

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The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised. The appraisal shall be in accord with the most recent version of the Uniform Standards of Professional Appraisal Practice and shall be subject to review and acceptance by the director.

(5) The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the City may be providing to the feepayer, in the event that a credit is awarded.

(6) If a credit is due, after receiving the appraisal the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

(7) No credit shall be given for project improvements as defined in SMC 14A.05.010.

(8) A feepayer can request that a credit or credits for impact fees be awarded to him/her for significant past tax payments as defined in SMC 14A.05.010. For each request for a credit or credits for significant past tax payments, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the particular system improvement. The director shall determine the amount of credits, if any, for significant past tax payments.

(9) Any claim for credit must be made prior to or at the time of submission of an application for a building permit. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

(10) Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in SMC 14A.20.060. (Ord. O2006-207 § 1)

14A.20.050 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the rate study provides adjustments for past and future taxes and other sources of revenue to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development. The impact fee rates in SMC 14A.20.110 have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund these system improvements. (Ord. O2006-207 § 1)

14A.20.060 Appeals.

(1) Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit. No appeal shall be permitted until the impact fees at issue have been paid.

(2) Appeals regarding the impact fees imposed on any development may only be filed by the feepayer of the property where such development will occur.

(3) The feepayer must first file a request for review regarding impact fees with the director, as provided herein:

(a) The request shall be in writing on the form provided by the City;

(b) The request for review by the director shall be filed within 21 calendar days after the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;

(c) No administrative fee will be imposed for the request for review by the director; and

(d) The director shall issue his/her determination in writing.

(4) The following decisions may be appealed to the hearing examiner: determinations of the director with respect to the applicability of the impact fees to a given development; the director's determination regarding the availability or value of a credit; the director's decision concerning the independent fee calculation which is authorized in SMC 14A.20.120; fees imposed by the director pursuant to SMC 14A.20.110; or any other determination which the director is authorized to make pursuant to this title.

(5) Appeals to the hearing examiner shall be taken within 21 calendar days of the director's issuance of a written determination by filing with the department a notice of appeal specifying the grounds thereof, and depositing the necessary administrative fee, which is set forth in the existing

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fee schedules for appeals of such decisions. The director shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including, where appropriate, the independent fee calculation.

(6) The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in the Sammamish Municipal Code. At the hearing, any party may appear in person or by agent or attorney.

(7) The hearing examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the hearing examiner shall be final, except as provided in this section.

(8) The hearing examiner may, so long as such action is in conformance with the provisions of this title, reverse or affirm, in whole or in part, or may modify the determinations of the director with respect to the amount of the impact fees imposed or the credit awarded. (Ord. O2006-207 § 1)

14A.20.070 Establishment of impact fee accounts.

(1) Impact fee receipts shall be earmarked specifically and deposited in a special interest-bearing impact fee account maintained by the City.

(2) There is hereby established the parks and recreational facilities impact fee account for the fees collected pursuant to this title. Funds withdrawn from this account must be used in accordance with the provisions of SMC 14A.20.090 and applicable state law. Interest earned on the fees shall be retained in the account and expended for the purposes for which the impact fees were collected.

(3) On an annual basis, the finance director shall provide a report to the City council on the parks and recreational facilities impact fee account showing the source and amount of all moneys collected, earned, or received, and the system improvements that were financed in whole or in part by impact fees.

(4) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan element of the City's Comprehensive Plan.

(5) Impact fees shall be expended or encumbered within 10 years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the City to hold

the fees beyond the 10-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. (Ord. O2013-342 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.080 Refunds.

(1) If the City fails to expend or encumber the impact fees within 10 years of when the fees were paid, or where extraordinary or compelling reasons exist and the council has established other time periods pursuant to SMC 14A.20.070, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

(2) The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property for which the impact fee was paid.

(3) Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

(4) Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the City and expended on the appropriate public capital facilities.

(5) Refunds of impact fees under this section shall include interest paid at the statutory rate.

(6) When the City seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City, but must be expended for the appropriate public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered

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balances within the account or accounts being terminated.

(7) The City shall refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, pursuant to RCW 82.02.080(3), if the development for which impact fees were imposed did not occur; provided, that if the City has expended or encumbered the impact fees in good faith prior to the application for a refund, the director shall determine whether an impact has resulted and whether all or a portion of the impact fees paid shall be refunded. (Ord. O2013-342 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.090 Use of funds.

(1) Pursuant to this title, impact fees:

(a) Shall be used for system improvements that will reasonably benefit the new growth and development;

(b) Shall not be imposed to make up for any system improvement deficiencies serving existing developments; and

(c) Shall not be used for maintenance or operation.

(2) Impact fees may be spent for system improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, administrative expenses, mitigation costs, and any other expenses which can be capitalized pertaining to parks and recreational facility improvements.

(3) Impact fees may also be used to recoup public improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

(4) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. (Ord. O2006-207 § 1)

14A.20.100 Review.

(1) The fee rates set forth in SMC 14A.20.110 may be reviewed and adjusted by the council as it deems necessary and appropriate to meet City

needs, including, but not limited to, addressing the impact of inflation on labor, materials, and real property costs. The fee rates may be adjusted 12 months after the effective date of the ordinance codified in this chapter, or 12 months after the most recent review by the council. The council may determine the amount of the adjustment and revise the fee rates set forth in SMC 14A.20.110. If the council does not determine the amount of the adjustment, the adjustment shall be administratively adjusted by the same amount that the five-year average Washington State Department of Transportation Construction Cost Index changed for the most recent 12-month period prior to the date of the adjustment.

(2) In the last quarter of each calendar year, the community development director together with the parks and recreation director shall prepare a report to the planning commission, for the year to date, including the following:

(a) The number of requests for impact fee exemptions or waivers pursuant to SMC 14A.20.030(2);

(b) The total number of residential units and dollar amounts of the exemptions or waivers approved by the community development director in consultation with the parks and recreation director;

(c) A copy of the hearing examiner decision, if any of the decisions of the community development director, in consultation with the parks and recreation director, were appealed to the hearing examiner.

Based on this annual review, the planning commission shall recommend to the City council any revision to SMC 14A.20.030 deemed appropriate. (Ord. O2006-207 § 1)

14A.20.110 Park and recreational facilities impact fee rates.

In accordance with RCW 82.02.060, the park and recreational facilities impact fees are based upon a schedule of impact fees which is adopted for each type of development activity that is subject to impact fees and which specifies the amount of the impact fee to be imposed for each type of system improvement.

The park and recreational facilities impact fee rates in this section are generated from the formula for calculating impact fees set forth in the rate study which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in SMC 14A.20.120, exemptions in

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SMC 14A.20.030, and credits in SMC 14A.20.040, all new residential developments in the City will be charged the following park and recreational facilities

ties impact fee applicable to the type of development:

Unit Type	Fee per Dwelling Unit		
	For qualifying residences under SMC 14A.20.020(13) only	Through January 31, 2016	February 1, 2016, and later
Single-Family	\$2,697.28	\$5,526.00	\$6,739.00 per dwelling unit, or
Multifamily	\$1,558.19	\$3,521.00	\$4,362.00 per dwelling unit

(Ord. O2015-400 § 1 (Att. A); Ord. O2013-342 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.120 Independent fee calculations.

(1) If, in the judgment of the director, none of the fee categories or fee amounts set forth in SMC 14A.20.110 accurately describe or capture the impacts of a new development on parks and recreational facilities, the department may prepare independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

(2) If a feepayer opts not to have the impact fees determined according to SMC 14A.20.110, then the feepayer shall prepare and submit to the director an independent fee calculation for the development for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

(3) Any feepayer submitting an independent fee calculation shall be required to pay the City a fee to cover the cost of reviewing the independent fee calculation. The amount of the fee required by the City for conducting the review of the independent fee calculation shall be in accordance with the adopted fee resolution approved by the City council and shall be paid by the feepayer prior to initiation of review.

(4) While there is a presumption that the calculations set forth in the rate study are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not reliable, and may modify or deny the request, or, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the

independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The director's decision shall be set forth in writing and shall be mailed to the feepayer.

(5) Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner subject to the procedures set forth in SMC 14A.20.060. (Ord. O2006-207 § 1)

14A.20.130 Administrative fees.

(1) All development permits subject to the park and recreational facilities impact fees pursuant to SMC 14A.20.110 shall pay an administrative processing fee as adopted by the City council.

(2) All development permits that require an independently determined park and recreational facilities impact fee pursuant to SMC 14A.20.120 shall pay an administrative processing fee as adopted by the City council. (Ord. O2006-207 § 1)

14A.20.140 Mitigation of adverse environmental impacts.

Nothing in this title shall preclude the City from requiring the feepayer or the proponent of a development to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW. (Ord. O2006-207 § 1)

Chapter 14A.25

IMPACT FEE DEFERRAL

Sections:

- 14A.25.010 Purpose.
- 14A.25.020 Applicability.
- 14A.25.030 Impact fee deferral.
- 14A.25.040 Deferral term.
- 14A.25.050 Deferred impact fee lien.
- 14A.25.060 Limitation on deferrals.

14A.25.010 Purpose.

The purpose of this chapter is to comply with the requirements of RCW 82.02.050, as amended by ESB 5923, Chapter 241, Laws of 2015, to provide an impact fee deferral process for single-family residential construction, in order to promote economic recovery in the construction industry. (Ord. O2016-412 § 1 (Att. A))

14A.25.020 Applicability.

(1) The provisions of this chapter shall apply to all impact fees established and adopted by the City pursuant to Chapter 82.02 RCW, including street impact fees assessed under Chapter 14A.15 SMC, impact fees for parks and recreational facilities assessed under Chapter 14A.20 SMC, and school impact fees assessed under Chapter 21A.105 SMC.

(2) Subject to the limitations imposed in SMC 14A.25.060, the provisions of this chapter shall apply to all building permit applications for single-family detached and single-family attached residential construction. For the purposes of this chapter, an “applicant” includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant. (Ord. O2016-412 § 1 (Att. A))

14A.25.030 Impact fee deferral.

(1) Deferral Request Authorized. Applicants for single-family attached or single-family detached residential building permits may request to defer payment of required impact fees until the sooner of:

- (a) Final inspection; or
- (b) The closing of the first sale of the property occurring after the issuance of the applicable building permit;

which request shall be granted so long as the requirements of this chapter are satisfied.

(2) Method of Request. A request for impact fee deferral shall be declared at the time of prelim-

inary plat application (for platted development) or building permit application (for nonplatted development) in writing on a form or forms provided by the City. Any request for impact fee deferral must be accompanied by an administrative fee in an amount equal to one hour at the City’s hourly rate for planning as stated in the City’s current fee schedule.

(3) Calculation of Impact Fees. The amount of impact fees to be deferred under this chapter shall be determined as of the date the request for deferral is submitted. (Ord. O2016-412 § 1 (Att. A))

14A.25.040 Deferral term.

The term of an impact fee deferral granted under this chapter may not exceed 18 months from the date the building permit is issued (“deferral term”). If the condition triggering payment of the deferred impact fees does not occur prior to the expiration of the deferral term, then full payment of the impact fees shall be due on the last date of the deferral term. (Ord. O2016-412 § 1 (Att. A))

14A.25.050 Deferred impact fee lien.

(1) Applicant’s Duty to Record Lien. An applicant requesting a deferral under this chapter must grant and record a deferred impact fee lien, in an amount equal to the deferred impact fees as determined under SMC 14A.25.030(3), against the property in favor of the City in accordance with the requirements of RCW 82.02.050(3)(c).

(2) Satisfaction of Lien. Upon receipt of final payment of all deferred impact fees for the property, the City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release is responsible, at his or her own expense, for recording the lien release. (Ord. O2016-412 § 1 (Att. A))

14A.25.060 Limitation on deferrals.

The deferral entitlements allowed under this chapter shall be limited to the first 20 single-family residential construction building permits per applicant, as identified by contractor registration number or other unique identification number, per year. (Ord. O2016-412 § 1 (Att. A))

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Chapter 20.05

PROCEDURES FOR LAND USE PERMIT APPLICATIONS, PUBLIC NOTICE, HEARINGS AND APPEALS

Sections:

- 20.05.010 Chapter purpose.
- 20.05.020 Classifications of land use decision processes.
- 20.05.030 Feasibility conference – Preapplication conference.
- 20.05.035 Neighborhood meetings.
- 20.05.037 Unified zone development plan process.
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20.05.010 Chapter purpose.

The purpose of this chapter is to establish standard procedures for land use permit applications, public notice, hearings, and appeals in the City of Sammamish. These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, permit review, hearing and appeal processes; provide for uniformity in public notice procedures; minimize delay and expense; and result in development approvals that implement the policies of the interim comprehensive plan. These procedures also provide for an integrated and consolidated land use permit and environmental review process consistent with Chapter 347, Laws of 1995. (Ord. O99-29 § 1)

20.05.020 Classifications of land use decision processes.

(1) Land use permit decisions are classified into four types, based on the amount of discretion associated with each decision. Procedures for the four different types are distinguished according to who makes the decision, whether public notice is

required, whether a public hearing is required before a decision is made, and whether administrative appeals are provided. The types of land use decisions are listed in Exhibit A of this section.

(a) Type 1 decisions are made by the director (director) of the department of community development (department). Type 1 decisions are non-appealable administrative decisions that require the exercise of little or no administrative discretion. For Type 1 decisions for which the department has issued a SEPA threshold determination, the issuance of any subsequent permits shall not occur until any allowed administrative appeal of the SEPA threshold determination is decided.

(b) Type 2 decisions are made by the director, or his or her designee. Type 2 decisions are discretionary decisions that are subject to administrative appeal in accordance with applicable provisions of law or ordinance.

(c) Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to superior court.

(d) Type 4 decisions are quasi-judicial decisions made by the hearing examiner. Type 4 decisions may be appealed to the State Shoreline Hearings Board.

(2) Except as provided in SMC 20.15.130(1)(f) or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application.

(3) Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

(4) Land use permits that are categorically exempt from review under the State Environmental Policy Act (SEPA) will not require a threshold determination (determination of nonsignificance (DNS) or determination of significance (DS)). For all other projects, the SEPA review procedures codified in Chapter 20.15 SMC are supplemental to the procedures set forth in this chapter.

Exhibit A

LAND USE DECISION TYPE

Type 1	Decision by director, no administrative appeal	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 ¹ ; variance from the requirements of Chapter 9.04 KCC as adopted by SMC Title 13; shoreline exemption; approval of a conversion harvest plan; temporary homeless encampment permit ²
Type 2	Decision by director appealable to hearing examiner, no further administrative appeal	Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; 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 ³
Type 3	Recommendation by director, hearing and decision by hearing examiner appealable to superior court	Preliminary plat; plat alterations; preliminary plat revisions; plat vacations; zone reclassifications ⁴ ; urban planned development; special use
Type 4	Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board	Shoreline variances; shoreline substantial development permits (SSDPs); shoreline conditional use permits

¹ 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.

² Subject to the notice requirements of SMC 21A.70.195(4).

³ Subject also to the procedural requirements of SMC 20.05.037 and Chapter 21B.95 SMC.

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.

(Ord. O2016-410 § 1 (Att. A); Ord. O2014-372 § 1; Ord. O2011-297 § 1 (Att. A); Ord. O2010-293 § 1 (Att. A); Ord. O2009-249 § 1; Ord. O2004-150 §§ 1 – 4; Ord. O2000-63 §§ 1, 2, 3; Ord. O99-29 § 1)

**20.05.030 Feasibility conference –
Preapplication conference.**

(1) Prior to the filing of a land use application, applicants shall contact the department for a feasibility conference and shall subsequently request a preapplication conference with the department as provided by subsections (2) and (3) of this section.

(a) Feasibility Conference. The purpose of the feasibility conference is to discuss the general

scope of the proposed project prior to the preapplication conference. The feasibility conference may be an informal conversation between the department and the applicant.

(b) Preapplication Conference. The purpose of the preapplication conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The preapplication conference shall

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be scheduled by the department, at the request of an applicant, and shall be held in a timely manner within 30 days from the date of the applicant's request. The director may waive the requirement for a preapplication conference if it is determined to be unnecessary for review of an application. Except as provided in subsection (5) of this section, nothing in this section shall be interpreted to require more than one preapplication conference or to prohibit the applicant from filing an application if the department is unable to schedule a preapplication conference within 30 days following the applicant's request. The provisions of subsections (2) through (5) of this section apply only to the preapplication conference and not to the feasibility conference.

(2) The applicant shall contact the department to schedule a preapplication conference prior to filing a permit application for a Type 1 decision involving any of the following:

(a) Property that will have 5,000 square feet or greater of development and/or right-of-way improvements; or

(b) Property in a critical drainage area; or

(c) Property that has a wetland, steep slope, landslide hazard, or erosion hazard; or

(d) Single-family residences and accessory buildings directly impacting critical areas and/or their buffers;

provided, that the provisions of this subsection shall not apply to structures where all work is in an existing building and no parking is required or added.

(3) Prior to filing a permit application requiring a Type 2, 3 or 4 decision, the applicant shall contact the department to schedule a preapplication conference that shall be held prior to filing the application, except as provided in subsection (1)(b) of this section.

(4) For the purposes of this section, "applicant" means the person(s) with actual or apparent authority to speak for and answer questions about the property or project on behalf of the applicant as defined in SMC 19A.04.030.

(5) Information presented at or required as a result of the preapplication conference shall be valid for a period of 180 days following the preapplication conference. An applicant wishing to submit a permit application more than 180 days following the preapplication conference for that permit must schedule and participate in another preapplication conference prior to submitting the permit application; however, the director may

waive this requirement for de minimus deviations or if it is determined to be unnecessary for review of an application.

(6) At or subsequent to a preapplication conference, the department may issue a preliminary determination that a proposed development is not permissible under applicable City policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the hearing examiner in the manner provided for a Type 2 permit, as an alternative to proceeding with a complete application. Mailed and published notice of the appeal shall be provided for as in SMC 20.05.060(7) and (8). (Ord. O2016-415 § 2 (Att. A); Ord. O2016-413 § 4 (Att. C))

20.05.035 Neighborhood meetings.

(1) The applicant for a subdivision, short subdivision, or conditional use permit shall conduct and attend a neighborhood meeting within the City limits to discuss the proposed development after the preapplication conference but prior to submission of the development proposal to the City, at a date and time which shall not be unreasonable. The purpose of the meeting shall be to receive neighborhood input and suggestions prior to submission of the application, and an opportunity for the applicant to amend the proposal to address neighborhood feedback as appropriate. Such a public meeting is not a mediation, and any party who participates in such a meeting may still request mediation in accordance with SMC 20.20.060 and the provisions of the City land use mediation program. For the purposes of this subsection, "applicant" means the person(s) with actual or apparent authority to speak for and answer questions about the property or project on behalf of the applicant as defined in SMC 19A.04.030.

(2) At least 21 days prior to the neighborhood meeting, the applicant shall give notice of the date, time, and location of the meeting to the community development director and to all persons who would be entitled to receive notice of the proposed plat application, short subdivision application or conditional use permit application under the requirements of the Sammamish Municipal Code.

(3) The notice shall be on a form provided by the community development director and shall briefly describe the proposal and its location and shall include the name, address, and telephone number of the applicant or a representative of the applicant who may be contacted for additional

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information about the proposal. Notice to the community development director shall include a list of the persons and addresses notified of the neighborhood meeting.

(4) Within 30 days following the neighborhood meeting, the applicant shall provide to the community development director, and to all attendees who signed in at the meeting, documentation of the meeting as follows:

- (a) The date, time, and location of the meeting;
- (b) Contact information for all persons representing the applicant at the meeting;
- (c) A summary of comments provided for the meeting attendees by the applicant prior to or during the meeting;
- (d) A summary of comments received from meeting attendees or other persons prior to or during the meeting; and
- (e) Copies of documents submitted or presented at the meeting.

(5) Complete applications must be received by the City within 120 days of the neighborhood meeting. If an application is not submitted in this time frame, or if the materials submitted with the application do not substantially conform to the materials provided at the meeting, the applicant shall be required to hold a new neighborhood meeting. (Ord. O2016-413 § 5 (Att. D); Ord. O2004-151 § 2)

20.05.037 Unified zone development plan process.

Following application submittal and prior to approval of the unified zone development plan, the applicant and City shall conduct an open house. Notice of the open house shall be provided at least 14 days prior to the open house, and shall include the date, time, and location of the meeting and shall be mailed to all persons who would be entitled to receive notice of decision pursuant to SMC 20.05.090. The purpose of this open house is to provide an additional opportunity for the community to review and provide comments on the proposed unified zone development plan. (Ord. O2010-293 § 1 (Att. A))

20.05.040 Application requirements.

(1) The department shall not commence review of any application set forth in this chapter until the applicant has submitted the materials and fees specified for complete applications. Applications for land use permits requiring Type 1, 2, 3, or 4

decisions shall be considered complete as of the date of submittal upon determination by the department that the materials submitted meet the requirements of this section. Except as provided in subsection (2) of this section, all land use permit applications described in SMC 20.05.020, Exhibit A, shall include the following:

(a) An application form provided by the department and completed by the applicant that allows the applicant to file a single application form for all land use permits requested by the applicant for the development proposal at the time the application is filed;

(b) Designation of who the applicant is, except that this designation shall not be required as part of a complete application for purposes of this section when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right-of-way and the following three requirements are met:

(i) The name of the agency or private or public utility is shown on the application as the applicant;

(ii) The agency or private or public utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and

(iii) The form designating who the applicant is is submitted to the department prior to permit approval;

(c) A certificate of sewer availability from the Sammamish Plateau Sewer and Water District or site percolation data with preliminary approval by the Seattle-King County department of public health;

(d) A current certificate of water availability, as required by Chapter 21A.60 SMC;

(e) Review by Sammamish fire services;

(f) A site plan, prepared in a form prescribed by the director;

(g) Proof that the lot or lots are recognized as separate lots pursuant to the provisions of Chapter 19A.04 SMC;

(h) A sensitive areas affidavit if required by Chapter 21A.50 SMC;

(i) A completed environmental checklist, if required by Chapter 20.15 SMC, State Environmental Policy Act Procedures;

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(j) Payment of any development permit review fees, excluding impact fees, as set forth by resolution;

(k) A list of any permits or decisions applicable to the development proposal that have been obtained prior to filing the application or that are pending before the City or any other governmental entity;

(l) Approved traffic impact analysis from the director or designee, if required by Chapter 14.15 SMC;

(m) Certificate of future connection from the appropriate purveyor for lots located within the City that are proposed to be served by on-site or community sewage system and/or group B water systems or private well;

(n) A determination if drainage review applies to the project pursuant to Chapter 9.04 KCC as adopted by SMC Title 13, and, if applicable, all drainage plans and documentation required by the King County Surface Water Design Manual adopted pursuant to Chapter 9.04 KCC as adopted by SMC Title 13;

(o) Current assessor's maps and a list of tax parcels to which public notice must be given as provided in this chapter, for land use permits requiring a Type 2, 3 or 4 decision;

(p) Legal description of the site;

(q) Variances obtained or required under SMC Title 21A to the extent known at the date of application;

(r) Verification that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has a right to develop the site and that the application has been submitted with the consent of all owners of the affected property; provided, that compliance with subsection (2)(d) of this section shall satisfy the requirements of this subsection (1)(r); and

(s) For commercial site development permits only, a phasing plan and a time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years.

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the department and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the department from requesting additional information or studies either at the time of notice of

completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

(2) Additional complete application requirements apply for the following land use permits:

(a) Clearing and grading permit, as set forth in SMC 16.15.070;

(b) Construction permits as set forth in SMC 16.20.215;

(c) Mobile home permits as set forth in SMC 21A.70.170;

(d) For all applications for land use permits requiring Type 2, 3, or 4 decisions, a title report from a reputable title company indicating that the applicant has either sole marketable title to the development site or has a publicly recorded right to develop the site (such as an easement); if the title report does not clearly indicate that the applicant has such rights, then the applicant shall include the written consent of the record holder(s) of the development site.

(3) The director may specify the requirements of the site plan required to be submitted for various permits and may waive any of the specific submittal requirements listed herein that are determined to be unnecessary for review of an application.

(4) The applicant shall attest by written oath to the accuracy of all information submitted for an application.

(5) Applications shall be accompanied by the payment of the applicable filing fees, if any, as set forth by resolution. (Ord. O2016-415 § 3 (Att. B); Ord. O99-29 § 1)

20.05.050 Notice of complete application to applicant.

(1) Within 28 days following receipt of a land use permit application, the department shall mail or provide written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete. To the extent known by the department, the notice shall identify other agencies of local, state, regional, or federal governments that may have jurisdiction over some aspects of the development proposal.

(2) An application shall be deemed complete under this section if the department does not provide written notice to the applicant that the application is incomplete within the 28-day period as provided herein.

(3) If the application is incomplete and the applicant submits the additional information requested by the department, the department shall notify the applicant in writing within 14 days whether the application is complete or what additional information specified by the department as provided in subsection (1) of this section is necessary to make the application complete. An application shall be deemed complete if the department fails to provide written notice to the applicant within the 14-day period that the application is incomplete.

(4) The date an application is deemed complete is the date of receipt by the department of all of the information necessary to make the application complete as provided in this chapter. The department's issuance of a notice of complete application as provided in subsections (1) or (3) of this section, or the failure of the department to provide such a notice as provided in subsections (2) or (3) of this section, shall cause an application to be conclusively deemed to be complete and vested as provided in this chapter.

(5) The department may cancel an incomplete application if the applicant fails to submit the additional information required by this chapter within 90 days following notification from the department that the application is incomplete. (Ord. O99-29 § 1)

20.05.060 Notice of application.

(1) A notice of application shall be provided to the public for all land use permit applications requiring Type 2, 3 or 4 decisions or Type 1 decisions subject to SEPA pursuant to this section.

(2) Notice of the application shall be provided by the department within 14 days following the department's determination that the application is complete. A public comment period of at least 21 days shall be provided, except as otherwise provided in Chapter 90.58 RCW.

(3) If the director has made a determination of significance (DS) under Chapter 43.21 RCW prior to the issuance of the notice of application, the notice of the DS shall be combined with the notice of application and the scoping notice.

(4) All required notices of application shall contain the following information:

- (a) The file number;
- (b) The name of the applicant;
- (c) The date of application, the date of the notice of completeness and the date of the notice of application;

(d) A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;

(e) A site plan on eight-and-one-half-by-14-inch paper, if applicable;

(f) The procedures and deadline for filing comments, requesting notice of any required hearings, and any appeal procedure;

(g) The date, time, place, and type of hearing, if applicable and scheduled at the time of notice;

(h) The identification of other permits not included in the application to the extent known;

(i) The identification of existing environmental documents that evaluate the proposed project;

(j) A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and of consistency with applicable City plans and regulations.

(5) Notice shall be provided in the following manner:

(a) Posted at the project site as provided in subsections (6) and (9) of this section;

(b) Mailed by first class mail as provided in subsection (7) of this section; and

(c) Published as provided in subsection (8) of this section.

(6) Posted notice for a proposal shall consist of one or more notice boards posted by the applicant within 14 days following the department's determination of completeness as follows:

(a) A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing and shall be placed by the applicant:

(i) At the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility;

(ii) Five feet inside the street property line except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street property without approval of the department;

(iii) So that the top of the notice board is between seven to nine feet above grade; and

(iv) Where it is completely visible to pedestrians.

(b) Additional notice boards may be required when:

- (i) The site does not abut a public road;

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(ii) A large site abuts more than one public road; or

(iii) The department determines that additional notice boards are necessary to provide adequate public notice.

(c) Notice boards shall be:

(i) Maintained in good condition by the applicant during the notice period through the time of the final City decision on the proposal, including the expiration of any applicable appeal periods, and for decisions that are appealed, through the time of the final resolution of any appeal;

(ii) In place at least 28 days prior to the date of any required hearing for a Type 3 or 4 decision, or at least 14 days following the department's determination of completeness for any Type 2 decision; and

(iii) Removed within 14 days after the end of the notice period.

(d) Removal of the notice board prior to the end of the notice period may be cause for discontinuance of City review until the notice board is replaced and remains in place for the specified time period.

(e) An affidavit of posting shall be submitted to the department by the applicant within 14 days following the department's determination of completeness to allow continued processing of the application by the department.

(f) Notice boards shall be constructed and installed in accordance with this subsection, and any additional specifications promulgated by the department pursuant to Chapter 2.55 SMC, Rules of City Departments.

(7) Mailed notice for a proposal shall be sent by the department within 14 days after the department's determination of completeness:

(a) By first class mail to owners of record of property in an area within 1,000 feet of the site and, if the site lies within an erosion hazards near sensitive water bodies overlay, to owners of record of property within a 2,000-foot-wide column centered at the site and extending directionally with the natural drainage of the basin to the perimeter of the overlay or to the Lake Sammamish shoreline, as determined by the director; provided, that such area shall be expanded as necessary to send mailed notices to at least 20 different property owners;

(b) To any utility that is intended to serve the site;

(c) To the State Department of Transportation, if the site adjoins a state highway;

(d) To the affected tribes;

(e) To any agency or community group that the department may identify as having an interest in the proposal;

(f) Be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice; and

(g) For preliminary plats only, to all cities within one mile of the proposed preliminary plat.

(8) Notice of a proposed action shall be published by the department within 14 days after the department's determination of completeness in the official City newspaper.

(9) Posted Notice for Approved Formal Subdivision Engineering Plan, Clearing or Grading Permits Subject to SEPA, or Building Permits Subject to SEPA. Posted notice for approved formal subdivision engineering plans, clearing or grading permits subject to SEPA, or building permits subject to SEPA shall be a condition of the plan or permit approval and shall consist of a single notice board posted by the applicant at the project site, prior to construction as follows:

(a) Notice boards shall comport with the size and placement provisions identified for construction signs in SMC 21A.45.070(3);

(b) Notice boards shall include the following information:

(i) Permit number and description of the project;

(ii) Projected completion date of the project;

(iii) A contact name and phone number for both the department and the applicant; and

(iv) Hours of construction, if limited as a condition of the permit;

(c) Notice boards shall be maintained in the same manner as identified in subsection (6) of this section;

(d) Notice boards shall remain in place until final construction approval is granted. Early removal of the notice board may preclude authorization of final construction approval. (Ord. O2016-415 § 4 (Att. C); Ord. O2016-413 § 6 (Att. E); Ord. O99-29 § 1)

20.05.070 Vesting.

(1) Applications for Type 1, 2, 3 and 4 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application

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is filed meeting all of the requirements of this chapter. The department's issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

(2) Supplemental information required after vesting of a complete application shall not affect the validity of the vesting for such application.

(3) Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals. (Ord. O2009-249 § 1; Ord. O99-29 § 1)

20.05.080 Applications – Modifications to proposal.

(1) Modifications required by the City to a pending application shall not be deemed a new application.

(2) An applicant-requested modification occurring either before or after issuance of the permit shall be deemed a new application when such modification would result in a substantial change in a project's review requirements, as determined by the department. (Ord. O99-29 § 1)

20.05.085 Reasonable accommodation.

(1) Purpose and Intent. The Federal Fair Housing Act (FFHA) requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. The community development director is therefore authorized to make accommodations in the provisions of this code as applied to dwellings occupied or to be occupied by persons with disabilities as defined in the Federal Fair Housing Act, when the director determines that such accommodations reasonably may be necessary in order to comply with such Act.

(2) Applicability. The director may grant reasonable accommodation to individuals with disabilities as defined by the Fair Housing Amendments Act (FHAA), 42 U.S.C. 3602(h), or the Washington Law Against Discrimination (WLAD), Chapter 49.60 RCW.

(3) Procedure. If modification of a standard or regulation in the Sammamish Municipal Code is sought, the director shall make a written determination within 45 days and either grant, grant with

modifications, or deny a request for reasonable accommodation in accordance with the following:

(a) Application. Requests for reasonable accommodation by any eligible person or entity described in subsection (1) of this section shall be submitted on an application form provided by the community development department, or in the form of a letter, to the director of community development and shall contain the following information:

(i) The applicant's name, address, email, and telephone number.

(ii) Address of the property for which the request is being made.

(iii) The property owner's name, address and telephone number and the owner's written consent.

(iv) The current actual use of the property.

(v) The basis for the claim that the individual that resides or will reside at the property is considered disabled under the Acts.

(vi) The provision, regulation or policy from which reasonable accommodation is being requested.

(vii) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

(viii) Copies of emails, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation.

(b) No fee shall be charged to the applicant for a response to a reasonable accommodation request.

(c) The director shall determine what adverse land use impacts, including cumulative impacts, if any, would result from granting the proposed accommodation. This determination shall take into account the size, shape and location of the dwelling unit and lot; the traffic and parking conditions on adjoining and neighboring streets; vehicle usage to be expected from the residents, staff and visitors; and any other circumstances determined to be relevant.

(d) A grant of reasonable accommodation permits a dwelling to be inhabited only according to the terms and conditions of the applicant's proposal and the director's decision. If it is determined that the accommodation has become unreasonable because circumstances have changed or adverse land use impacts have occurred that were not antic-

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ipated, the director shall rescind or modify the decision to grant reasonable accommodation.

(e) Appeals of reasonable accommodation decisions made by the director must be filed within 21 days of the decision issuance date. (Ord. O2016-408 § 1 (Att. A))

20.05.090 Notice of decision or recommendation – Appeals.

(1) The department shall provide notice in a timely manner of its final decision or recommendation on permits requiring Type 2, 3 and 4 land use decisions and Type 1 decisions subject to SEPA, including the threshold determination, if any, the dates for any public hearings, and the procedures for administrative appeals, if any. Notice shall be provided to the applicant, to the Department of Ecology, and to agencies with jurisdiction if required by Chapter 20.15 SMC, to the Department of Ecology and Attorney General as provided in Chapter 90.58 RCW, and to any person who, prior to the decision or recommendation, had requested notice of the decision or recommendation or submitted comments. The notice shall also be provided to the public as provided in SMC 20.05.060.

(2) Except for shoreline permits that are appealable to the State Shorelines Hearings Board, all notices of appeal to the hearing examiner of Type 2 land use decisions made by the director shall be filed within 21 calendar days from the date of issuance of the notice of decision as provided in SMC 20.10.080. (Ord. O99-29 § 1)

20.05.100 Permit issuance.

(1) Final decisions by the City on all permits and approvals subject to the procedures of this chapter should be issued within 120 days from the date the applicant is notified by the department pursuant to this chapter that the application is complete; provided, that the following shorter time periods should apply for the type of land use permit indicated:

New residential building permits	90 days
Residential remodels	40 days
Residential appurtenances, such as decks and garages	15 days
Residential appurtenances that require substantial site review	40 days
SEPA exempt clearing and grading	45 days
SEPA clearing and grading	90 days

Health department review (for projects pending a final department review and/or permit)	40 days
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The following periods shall be excluded from this 120-day period:

(a) Any period of time during which the applicant has been requested by the department, hearing examiner or council to correct plans, perform required studies or provide additional information, including road variances and variances required under Chapter 9.04 KCC as adopted by SMC Title 13. The period shall be calculated from the date of notice to the applicant of the need for additional information (“request for revision”) until either the City advises the applicant that the additional information satisfies the City’s request or 14 days after the date the information has been provided, whichever is the earlier date. If the City determines that the correction, study, or other information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies, and the procedures of this section shall apply as if a new request for revision had been made.

(i) The department shall set a reasonable deadline for submittal by the applicant of corrections, studies, or other information in response to a request for revision, and shall provide written notification of the deadline to the applicant. The deadline may not exceed 90 days from the date of the request for revision; provided, that an extension of such deadline may be granted upon written request by the applicant providing satisfactory justification for an extension or upon the applicant’s agreement to and compliance with an approved schedule with specific target dates for submitting the full revisions, corrections or other information requested.

(ii) Applications may be canceled for inactivity if an applicant fails to provide, by such deadline, an adequate response substantively addressing code requirements identified in the written request for revision.

(iii) When granting a request for a deadline extension, the department shall give consideration to the number of days between receipt by the department of a written request for a deadline extension and the mailing to the applicant of the department’s decision regarding that request.

(b) The period of time, as set forth in SMC 20.15.060, during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW.

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(c) A period of no more than 90 days for an open record appeal hearing by the hearing examiner on a Type 2 land use decision, and no more than 60 days for a closed record appeal by the county council on a Type 3 land use decision appealable to the county council, except when the parties to an appeal agree to extend these time periods.

(d) Any period of time during which an applicant fails to post the property, if required by this chapter, following the date notice is required until an affidavit of posting is provided to the department by the applicant.

(e) Any time extension mutually agreed upon by the applicant and the department.

(2) The time limits established in this section shall not apply if a proposed development:

(a) Requires an amendment to the Comprehensive Plan or a development regulation, or modification or waiver of a development regulation as part of a demonstration project;

(b) Requires approval of a new fully contained community as provided in RCW 36.70A.350, master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided for RCW 36.70A.200; or

(c) Is substantially revised by the applicant, when such revisions will result in a substantial change in a project's review requirements, as determined by the department, in which case the time period shall start from the date at which the revised project application is determined to be complete.

(3) Permits or approvals subject to the procedures of this chapter may be denied if the applicant is unable to present satisfactory proof of ownership of the property or development site as required by SMC 20.05.040(1)(r).

(4) If the department is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision. Within 14 days of the date of such notice, a copy of the notice shall be provided to the public in the manner set forth in SMC 20.05.060(5). (Ord. O2016-415 § 5 (Att. D); Ord. O2016-413 § 7 (Att. F); Ord. O2009-253 § 1 (Att. A); Ord. O99-29 § 1)

20.05.110 Semi-annual report.

Beginning January 1, 2000, and continuing semi-annually thereafter, the director shall prepare a report to the City council detailing the length of time required to process applications for Type 1, 2, 3, and 4 land use decisions in the previous period, categorized both on average and by type of permit. The report shall provide commentary on department operations and identify any need for clarification of City policy or development regulations or process. (Ord. O99-29 § 1)

20.05.120 Citizen's guide.

The director shall issue a citizen's guide to permit processing including making an appeal or participating in a hearing. (Ord. O99-29 § 1)

SMC Title 14 (Repealed) From Municipal Code Version 22 - June, 2019

Title 14

PUBLIC WORKS AND TRANSPORTATION

(Repealed by Ord. O2018-465)

SMC Title 14A From Municipal Code Version 22 - June, 2019

Title 14A

PUBLIC FACILITIES

Chapters:

- 14A.01 Public Works Standards Adopted**
- 14A.05 Definitions**
- 14A.10 Concurrency**
- 14A.15 Street Impact Fees**
- 14A.20 Impact Fees for Parks and Recreational Facilities**
- 14A.25 Impact Fee Deferral**
- 14A.30 Right-of-Way Use Permits**

SMC Title 14A From Municipal Code Version 22 - June, 2019

Chapter 14A.01**PUBLIC WORKS STANDARDS ADOPTED**

Sections:

- 14A.01.010 Public works standards adopted.
 14A.01.020 Resolution of conflicts.
 14A.01.030 Appeals.

14A.01.010 Public works standards adopted.

(1) The City hereby adopts by reference the design standards and specifications set forth in the document entitled “City of Sammamish 2016 Public Works Standards” as now or hereafter amended as the public works standards for the City, which includes but is not limited to transportation standards and street standards. Pursuant to RCW 35A.13.180, a copy of the most current City of Sammamish public works standards is available on the City’s website at www.sammamish.us.

(2) The public works director is hereby authorized to administratively interpret and apply the standards in a manner consistent with their terms in order to better implement the standards or allow for changes in street design and construction technology and methods. (Ord. O2018-465 § 2 (Att. A))

14A.01.020 Resolution of conflicts.

In case of inconsistency or conflict between other provisions of the Sammamish Municipal Code and the City of Sammamish public works standards adopted in this chapter, the most restrictive provision shall apply. (Ord. O2018-465 § 2 (Att. A))

14A.01.030 Appeals.

Any person or agency aggrieved by an act or decision of the City pursuant to the public works standards may appeal said act or decision to the City of Sammamish pursuant to the appeal provisions for the underlying development permit application as contained in Chapter 20.05 SMC. (Ord. O2018-465 § 2 (Att. A))

Chapter 14A.05**DEFINITIONS**

Sections:

- 14A.05.010 Definitions.

14A.05.010 Definitions.

The following words and terms shall have the following meanings for the purposes of this title, unless the context clearly requires otherwise. The following words, terms, and definitions shall apply to all portions of this title, except as specifically superseded by definitions set forth elsewhere in this title.

“Accessory dwelling unit” is defined for the purposes of this title the same as the term “Dwelling unit, accessory” in SMC 21A.15.350.

“Affordable housing” or “low-income housing” means residential housing that is rented or owned by a person or household whose monthly housing expenses, including utilities other than telephone, do not exceed 30 percent of the applicable median family income listed below and adjusted for household size. Based on the King County Income and Affordability Guidelines, housing affordability levels include:

(a) “Low income” means a family earning between zero and 50 percent of the King County median household income.

(b) “Moderate income” means a family earning between 51 and 80 percent of the King County median household income.

(c) “King County median household income” means the median income of the Seattle Metropolitan Statistical Area (“SMSA”), adjusted for household size, as determined by the United States Department of Housing and Urban Development (“HUD”). In the event that HUD no longer publishes median income figures for King County, the City may determine such other method as it may choose to determine the King County median household income, adjusted for household size.

“Applicant” means a property owner or a public agency or public or private utility that owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

“Building permit” means an official document or certification which is issued by the City and

which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

“Capital facilities plan” means the Capital Facilities Plan Element of a Comprehensive Plan adopted by the City of Sammamish pursuant to Chapter 36.70A RCW, and such plan as amended.

“Capital improvement program (CIP)” means the expenditures programmed by the City of Sammamish for capital purposes over the next six-year period in the CIP most recently adopted by the City council.

“Certificate of concurrency” means the document issued by the City indicating the location or other description of the property on which the development is proposed, the type of development permit for which the certificate is issued, the number and type of units, square footage, and/or maximum trip generation approved, the public facilities that are available and reserved for the property described in the certificate, any conditions attached to the approval, and the date of issuance.

“City” means the City of Sammamish.

“City’s traffic model a.m. peak hour” is from 7:00 to 8:00 a.m., which accommodates many schools’ peak hour.

“City’s traffic model p.m. peak hour” is from 4:45 to 5:45 p.m., which reflects the afternoon’s average system peak hour.

“Concurrency” means that a development does not cause the level of service on a locally owned transportation facility to decline below the standards adopted in the Transportation Element of the Comprehensive Plan, unless transportation improvements or strategies to accommodate the impacts of the development are made concurrent with the development. For the purposes of this title, “concurrent with the development” means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

“Concurrency test” means the determination of an applicant’s impact on transportation facilities by the comparison of the City’s adopted level of service standards to the projected level of service at intersections or road corridors, or road segments with the proposed development.

“Concurrency test deferral affidavit” means a document signed by an applicant which defers the application for a certificate of concurrency and the concurrency test, acknowledges that future rights

to develop the property are subject to the deferred concurrency test, and acknowledges that no vested rights concerning concurrency have been granted by the City or acquired by the applicant without such a test.

“Council” means the City council of the City of Sammamish.

“Department” means the department of public works, department of community development, or, when referenced in Chapter 14A.20 SMC, means the department of parks and recreation.

“Development” means specified improvements or changes in use designed or intended to permit a use of land that will contain more dwelling units or buildings than the existing use of the land, or to otherwise change the use of the land or buildings/improvements on the land, and that require a development permit from the City of Sammamish. The rezoning of land is not development.

“Development activity” means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land, that creates additional demand and need for public facilities.

“Development approval” means any written authorization from the City which authorizes the commencement of development activity.

“Development permit” means any order, permit or other official action of the City granting, or granting with conditions, an application for development, including specifically:

(a) Planned action, as that term is defined in RCW 43.21C.031(2);

(b) Subdivision, including preliminary plat, short plat, or binding site plan and revisions or alterations which increase the number of dwelling units or trip generation;

(c) Mobile home park;

(d) Unified zone development plan (UZDP);

(e) Conditional use permit;

(f) Site development permit;

(g) Building permit; or

(h) Certificate of occupancy for a change in use.

“Director,” when referenced in this title, means the director of the department of public works or the director’s designee, or the director of the department of parks and recreation or the director’s designee, or the director of the department of community development or the director’s designee, as appropriate.

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“Dwelling unit” means a residential location such as a house, apartment, condominium, townhouse, mobile home, or manufactured home in which people may live.

“Encumbered” means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

“Feepayer” means a person, corporation, partnership, incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit. “Feepayer” includes an applicant for an impact fee credit.

“Financial commitment” consists of the following:

“Financial commitment” means that sources of public or private funds or combinations thereof have been identified which will be sufficient to finance public facilities necessary to support development and that there is reasonable assurance that such funds will be timely put to that end.

(a) Revenue designated in the most currently adopted CIP for transportation facilities or strategies needed in the committed network for the transportation adequacy measure to test for concurrency. The financial plan underlying the adopted CIP identifies all applicable and available revenue sources and forecasts these revenues through the six-year period that can be reasonably expected. Projects to be used in defining the committed network shall represent those projects that are anticipated to be constructed in the six years of the CIP. This commitment is reviewed annually through the budget process;

(b) Unanticipated revenue from federal or state grants for which the City has received notice of approval;

(c) Revenue that is assured by an applicant in a form approved by the City in a voluntary agreement;

(d) Grants from federal, state or private sources if the grant has been awarded for specific projects;

(e) Appropriations in state biennial budget for specific projects;

(f) Revenues that can be imposed or expended at the discretion of the City, including, but not limited to, impact fees, SEPA mitigation payments, property taxes, real estate excise taxes,

user fees, charges, intergovernmental entitlements, and bonds;

(g) Revenue from special assessment districts created by the City;

(h) Irrevocable commitments from developers in a form acceptable to the City including:

(i) Performance or surety bonds from Washington State financial institutions;

(ii) Letters of credit from Washington State financial institutions; or

(iii) Assignments of assets in Washington State (i.e., interests in real property, savings certificates, bank accounts, or negotiable securities); or

(i) Payments by special districts if such payments are similar in character and reliability to those listed in subsections (a) through (e) of this definition.

“Gross floor area” means the total square footage of any building, structure, or use, including accessory uses.

“Hearing examiner” means the examiner who acts on behalf of the City in considering and applying land use regulatory codes as provided under the Sammamish Municipal Code. Where appropriate, “hearing examiner” also refers to the office of the hearing examiner.

“Impact fee” means a payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. “Impact fee” does not include a reasonable permit or application fee.

“Impact fee account” or “account” means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to SMC 14A.15.070, 14A.15.080, 14A.20.070 and 14A.20.080, and comply with the requirements of RCW 82.02.070.

“Independent fee calculation” means the street impact calculation or park and recreational impact fee and/or economic documentation prepared by a feepayer to support the assessment of an impact fee calculation other than by the use of the rates listed in SMC 14A.15.110 or 14A.20.110, or the calculations prepared by the director where none of the fee categories or fee amounts in SMC 14A.15.110 or

14A.20.110 accurately describe or capture the impacts of the new development on public facilities.

“ITE land use code” means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the current edition of Trip Generation Manual.

“Level of service standards” means the City’s defined performance standards for its adopted concurrency intersections, road corridors, and road segments, as defined in SMC 14A.10.050.

“Occupancy” means that a space is being lived in, rented, or used and therefore not vacant.

“Owner” means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

“Peak hour” means the hour during the morning or afternoon with the highest traffic volumes for a particular roadway or intersection.

“Planned action” means a project action as that term is defined in RCW 43.21C.031(2).

“Preapplication meeting” for the purposes of this title means a meeting between the applicant for a transportation concurrency certificate or its extension and the staff of the department, according to that department’s rules and administrative procedures held for the purpose of determining the requirements to file a development permit application.

“Project improvements” mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan approved by the City council shall be considered a project improvement.

“Proportionate share” means that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.

“Public facilities” means the following capital facilities owned or operated by government entities: (a) public streets and roads; (b) publicly owned parks, open space, and recreation facilities; (c) school facilities; and (d) fire protection facilities in jurisdictions that are not part of a fire district.

“Rate Study for Impact Fees for Parks and Recreational Facilities” means the rate study com-

pleted by Henderson, Young and Company, dated November 2, 2006, for the City of Sammamish.

“Reservation” and “reserve” mean development units are set aside in the City’s concurrency records in a manner that assigns the units to the applicant and prevents the same units being assigned to any other applicant.

“Residential” or “residential development” means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, townhouse and other multifamily development.

“Service area” means a geographic area defined by a county, city, town, or intergovernmental agreement in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles.

“Significant past tax payment” means taxes exceeding five percent of the amount of the impact fee, and which were paid prior to the date the impact fee is assessed and were earmarked or proratable to the same system improvements for which the impact fee is assessed.

“Square footage” means the square footage of the gross floor area of the development.

“State” means the state of Washington.

“Street” means a public thoroughfare providing pedestrian and vehicular access through neighborhoods and communities and to abutting property.

“Street Impact Fee Rate Study” means the “Rate Study for Impact Fees for Streets,” City of Sammamish, dated September 27, 2006, or the most current update.

“System improvements” mean public facilities that are included in the capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

“Trip” is a single or one-direction person or vehicle movement. A trip has an origin and a destination at its respective ends (known as trip ends). (Ord. O2019-484 § 2 (Att. A); Ord. O2018-465 § 2 (Att. A); Ord. O2014-366 § 1 (Att. A); Ord. O2006-206 § 1; Ord. O2004-138 § 1)

Chapter 14A.10

CONCURRENCY

Sections:

- 14A.10.010 Concurrence requirement.
- 14A.10.020 Application for certificate of concurrence.
- 14A.10.030 Exemptions from concurrence test.
- 14A.10.040 Concurrence test.
- 14A.10.050 Level of service standards.
- 14A.10.060 Certificate of concurrence.
- 14A.10.070 Fees.
- 14A.10.080 Appeals.

14A.10.010 Concurrence requirement.

(1) In accordance with RCW 36.70A.070(6)(b), the City must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards defined in SMC 14A.10.050, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of the City's concurrence requirement, "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(2) The City shall not issue a development permit until:

(a) A certificate of concurrence has been issued; or

(b) The applicant has executed a concurrence test deferral affidavit where specifically allowed; or

(c) The applicant has been determined to be exempt from the concurrence test as provided in SMC 14A.10.030(1). (Ord. O2019-484 § 2 (Att. A); Ord. O2018-465 § 2 (Att. A); Ord. O2018-465 § 2 (Att. A); Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.020 Application for certificate of concurrence.

(1) Each applicant requesting a Comprehensive Plan site-specific land use map amendment or zone reclassification, except as provided in SMC

14A.10.030(1), shall elect one of the following options:

- (a) Apply for a certificate of concurrence; or
- (b) Execute a concurrence test deferral affidavit.

(2) Each applicant for a planned action, subdivision (including a preliminary plat, short plat, or binding site plan and revisions or alterations which increase the number of dwelling units or trip generation), mobile home park, unified zone development plan, conditional use permit, or site development permit shall apply for a certificate of concurrence, unless a certificate has been issued for the same parcel in conjunction with a Comprehensive Plan site-specific land use map amendment or zone reclassification, or except as provided in SMC 14A.10.030(1).

(3) Each applicant for a building permit or certificate of occupancy for a change in use shall apply for a certificate of concurrence, unless a certificate has been issued for the same parcel in conjunction with subsection (1) or (2) of this section, or except as provided in SMC 14A.10.030(1).

(4) Each applicant filing under subsections (1) and (2) of this section shall contact the department to schedule a preapplication conference as defined in SMC 14A.05.010 and 20.05.030, that shall be held prior to filing an application for a certificate of concurrence. The director may waive the requirement for a preapplication conference if it is determined to be unnecessary for review of an application.

(5) Applicants for a certificate of concurrence may designate the density and intensity of development to be tested for concurrence, provided such density and intensity shall not exceed the maximum allowed for the parcel. If the applicant designates the density and intensity of development, the concurrence test will be based on and applicable to only the applicant's designated density and intensity. If the applicant does not designate density and intensity, the concurrence test will be based on the maximum allowable density and intensity. (Ord. O2019-484 § 2 (Att. A); Ord. O2018-465 § 2 (Att. A); Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.030 Exemptions from concurrence test.

(1) The following developments are exempt from this chapter, and applicants may submit applications, obtain development permits and com-

mence development without a certificate of concurrency:

(a) Any development permit for the following development because it creates insignificant and/or temporary additional impacts on any public facility:

- (i) Right-of-way use;
- (ii) Street improvements, including new streets constructed by the City of Sammamish;
- (iii) Street use permits;
- (iv) Utility facilities which do not impact public facilities, such as pump stations, transmission or collection systems, and reservoirs;
- (v) Expansion of an existing nonresidential structure that results in the addition of 100 square feet or less of gross floor area and does not add residential units or accessory dwelling units as defined in SMC 21A.15.345 to 21A.15.370;
- (vi) Expansion of a residential structure provided the expansion does not result in the creation of an additional dwelling unit or accessory dwelling unit as defined in SMC 21A.15.345 to 21A.15.370;
- (vii) Miscellaneous non-traffic generating improvements, including, but not limited to, fences, walls, swimming pools, sheds, and signs;
- (viii) Demolition or moving of a structure; or
- (ix) Tenant improvements that do not generate additional trips. (Ord. O2019-484 § 2 (Att. A); Ord. O2018-465 § 2 (Att. A); Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.040 Concurrency test.

(1) The City shall perform a concurrency test for each application for a certificate of concurrency. The public works director, or his/her designee, shall use the following methods to conduct the concurrency test:

(a) For individual single-family residential building permit applications on existing lots, or other land use permits that generate less than 10 trips during an individual peak hour, the City will run a concurrency test after permit applications have been received that collectively result in 10 or more trips during an individual peak hour; provided, however, that a concurrency certificate can be issued without conducting the concurrency test when fewer than 10 accumulated trips have been generated since the last concurrency test. The City may run the concurrency test when less than 10 accumulated trips have been generated since the last test when there are existing public transporta-

tion facility circumstances that necessitate the concurrency test be performed in the order received for single-family residential building permit applications on existing lots.

(b) For all other development, review of each application as received in subsection (4) of this section.

(2) If the impact of the development does not cause the level of service to decline below the standards set forth in SMC 14A.10.050, the concurrency test is passed, and the applicant shall receive a certificate of concurrency.

(3) If the impact of the development will cause the level of service to decline below the standards set forth in SMC 14A.10.050, the concurrency test is not passed, and the applicant may select one of the following options:

(a) Accept a 90-day reservation of public facilities that are available, and within the same 90-day period amend the application to meet the level of service standard set forth in SMC 14A.10.050; or

(b) Appeal the denial of the application for a certificate of concurrency, pursuant to the provisions of SMC 14A.10.080; or

(c) Arrange to provide for public facilities that are not otherwise available and that cause the level of service to rise to the standards set forth in SMC 14A.10.050.

(4) The City shall conduct the concurrency test, as needed, in the order that completed applications are received and proposed trip generation estimates are approved by the City.

(5) A concurrency test, and any resulting certificate of concurrency, shall be administrative actions of the City that are categorically exempt from the State Environmental Policy Act. (Ord. O2019-484 § 2 (Att. A); Ord. O2018-465 § 2 (Att. A); Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.050 Level of service standards.

(1) In conducting the concurrency test in accord with this chapter, the intersection LOS standards adopted in the Transportation Element of the Comprehensive Plan are LOS D for intersections that include principal arterials and LOS C for intersections that include minor arterials or collector arterials. The LOS for intersections with principal arterials may be reduced to E for intersections that require more than three approach lanes in any direction. The intersection standards shall be applied to both the morning and afternoon peak

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hours. The LOS standard for the higher road classification shall be the standard applied.

(2) In conducting the concurrency test in accord with this chapter, the road corridor and segment LOS standards are volume to capacity ratio of up to and including 1.1 for corridors and 1.4 for segments, respectively, for the City’s principal and minor arterials. The roadway standards shall be applied per the City’s traffic model’s AM and PM

peak hours in each direction. The 2016 and 2024 corridor and segment capacities and LOS standards are shown in Figure 1. The capacity was calculated by modifying the Highway Capacity Manual, 6th Edition, methodology as described in the Measuring Concurrency for Segments and Corridors: HCM 6th Edition, Modified memo, dated November 16, 2018, by Kendra Breiland and Bianca Popescu, Fehr & Peers.

Figure 1: 2016 HCM Modified Methodology

Segment*		AM Volume	PM Volume	Capacities	AM V/C	PM V/C	AM	PM
					2016 HCM Mod	2016 HCM Mod	2016 HCM Mod	Corridor ≤1.1 Segment ≤1.4
East Lake Sammamish Parkway North Corridor	NB				1.52	0.78	Fail	Pass
	SB				0.44	1.55	Pass	Fail
1 E Lk Sammamish Pkwy, City limits - 196th Ave NE (Weber Pl) ⁴	NB	1,145	586	705	1.62	0.83	Fail	Pass
	SB	365	1,238		0.52	1.76	Pass	Fail
2 E Lk Sammamish Pkwy, 196th Ave NE - NE 26th Pl	NB	1,198	614	705	1.70	0.87	Fail	Pass
	SB	309	1,167		0.44	1.65	Pass	Fail
3 E Lk Sammamish Pkwy, NE 26th Pl - NE Inglewood Hill Rd	NB	1,202	623	969	1.24	0.64	Pass	Pass
	SB	358	1,209		0.37	1.25	Pass	Pass
East Lake Sammamish Parkway Central Corridor	NB				0.61	0.65	Pass	Pass
	SB				0.47	0.77	Pass	Pass
4 E Lk Sammamish Pkwy, Inglewood Hill Rd – Louis Thompson Rd	NB	649	529	925	0.70	0.57	Pass	Pass
	SB	363	759		0.39	0.82	Pass	Pass
5 E Lk Sammamish Pkwy, Louis Thompson Rd NE – SE 8th St	NB	385	454	705	0.55	0.64	Pass	Pass
	SB	335	546		0.48	0.77	Pass	Pass
6 E Lk Sammamish Pkwy, SE 8th St – SE 24th Way	NB	345	523	705	0.49	0.74	Pass	Pass
	SB	378	494		0.54	0.70	Pass	Pass

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East Lake Sammamish Parkway South Corridor				NB			0.53	1.02	Pass	Pass	
				SB			0.87	0.80	Pass	Pass	
7	E Lk Sammamish Pkwy, SE 24th Way – 212th Ave SE			NB	331	545	705	0.47	0.77	Pass	Pass
				SB	450	545		0.64	0.77	Pass	Pass
8	E Lk Sammamish Pkwy, 212th Ave SE – South City Limit			NB	429	881	749	0.57	1.18	Pass	Pass
				SB	750	620		1.00	0.83	Pass	Pass
Sahalee Way–228th Avenue North Corridor				NB				1.12	0.67	Fail	Pass
				SB				0.56	1.03	Pass	Pass
9	Sahalee Way/228th Ave NE, City Limit – NE 37th Way			NB	1,256	573	951	1.32	0.60	Pass	Pass
				SB	471	1,102		0.50	1.16	Pass	Pass
10	Sahalee Way/228th Ave NE, NE 36th Way - NE 36th St ²			NB	1,043	547	906	1.15	0.60	Pass	Pass
				SB	474	989		0.52	1.09	Pass	Pass
11	Sahalee Way/228th Ave NE, NE 36th St - 223rd Ave NE ²			NB	1,023	531	906	1.13	0.59	Pass	Pass
				SB	457	947		0.50	1.04	Pass	Pass
12	Sahalee Way/228th Ave NE, 223rd Ave NE – NE 25th Way			NB	950	545	906	1.05	0.60	Pass	Pass
				SB	450	840		0.50	0.93	Pass	Pass
13	228th Ave, NE 25th Way – NE 12th Pl ³			NB	711	790	906	0.78	0.87	Pass	Pass
				SB	660	796		0.73	0.88	Pass	Pass
228th Avenue Central Corridor				NB				0.54	0.68	Pass	Pass
				SB				0.58	0.66	Pass	Pass
14	228th Ave, NE 12th Pl – NE 8th St/Inglewood Hill Rd			NB	727	894	969	0.75	0.92	Pass	Pass
				SB	807	870		0.83	0.90	Pass	Pass
15	228th Ave, NE 8th St/Inglewood Hill Rd – Main St			NB	808	1,058	1,861	0.43	0.57	Pass	Pass
				SB	1,024	1,052		0.55	0.57	Pass	Pass
16	228th Ave, Main St - SE 8th St ⁴			NB	923	1,085	1,861	0.50	0.58	Pass	Pass
				SB	820	1,148		0.44	0.62	Pass	Pass
17	228th Ave, SE 8th St – SE 10th St			NB	854	1,209	1,861	0.46	0.65	Pass	Pass
				SB	954	1,078		0.51	0.58	Pass	Pass
18	228th Ave, SE 10th St – SE 20 th St			NB	1,086	1,303	1,861	0.58	0.70	Pass	Pass
				SB	1,087	1,233		0.58	0.66	Pass	Pass
228th Avenue South Corridor				NB				0.55	0.83	Pass	Pass
				SB				0.70	0.66	Pass	Pass
19	228th Ave, SE 20th St – Issaquah Pine Lake Rd SE			NB	1,128	1,426	1,949	0.58	0.73	Pass	Pass
				SB	1,136	1,341		0.58	0.69	Pass	Pass
20	228th Ave, Issaquah Pine Lake Rd SE – SE 43rd Way			NB	454	953	969	0.47	0.98	Pass	Pass
				SB	827	565		0.85	0.58	Pass	Pass
244th Avenue North Corridor				NB				0.39	0.40	Pass	Pass
				SB				0.48	0.42	Pass	Pass
21	244th Ave NE, NE 30th Pl - NE 20th St			NB	295	293	705	0.42	0.42	Pass	Pass
				SB	313	320		0.44	0.45	Pass	Pass
22	244th Ave NE, NE 20th St - NE 8th St			NB	320	334	705	0.45	0.47	Pass	Pass
				SB	467	350		0.66	0.50	Pass	Pass
23	244th Ave NE, NE 8th St – E Main St			NB	369	306	925	0.40	0.33	Pass	Pass
				SB	295	375		0.32	0.41	Pass	Pass
24	244th Ave NE/SE, E Main St - SE 8th St			NB	189	342	881	0.21	0.39	Pass	Pass
				SB	371	291		0.42	0.33	Pass	Pass
NE Inglewood Hill Road Corridor				EB				0.31	0.79	Pass	Pass
				WB				0.77	0.39	Pass	Pass
25	NE Inglewood Hill Rd, E Lk Sammamish Pkwy – 216th Ave			EB	180	678	705	0.25	0.96	Pass	Pass
				WB	681	288		0.97	0.41	Pass	Pass
26	NE Inglewood Hill Rd, 216th Ave NE – 228th Ave NE ⁴			EB	334	560	969	0.34	0.58	Pass	Pass
				WB	480	364		0.50	0.38	Pass	Pass
NE 8th Street Corridor				EB				0.35	0.52	Pass	Pass
				WB				0.46	0.34	Pass	Pass
27	NE 8 th St, 228 th Ave NE – 235 th Ave NE			EB	385	554	969	0.40	0.57	Pass	Pass
				WB	461	344		0.48	0.36	Pass	Pass
28	NE 8 th St, 235 th Ave NE – 244 th Ave NE			EB	228	393	881	0.26	0.45	Pass	Pass
				WB	384	288		0.44	0.33	Pass	Pass
SE 8th Street Corridor				EB				0.28	0.40	Pass	Pass
				WB				0.63	0.32	Pass	Pass
29	SE 8 th St, 228 th Ave SE – 244 th Ave SE			EB	257	372	925	0.28	0.40	Pass	Pass
				WB	585	292		0.63	0.32	Pass	Pass
Issaquah-Pine Lake Road Corridor				EB/SB				0.97	0.83	Pass	Pass
				WB/NB				0.54	1.06	Pass	Pass
30	Issaquah-Pine Lk Rd, 228 th Ave SE - SE 32 nd Way ⁷			EB	467	802	969	0.48	0.83	Pass	Pass
				WB	589	613		0.61	0.63	Pass	Pass
31	Issaquah-Pine Lk Rd, SE 32 nd Way - SE Klahanie Blvd			NB	505	747	881	0.57	0.85	Pass	Pass
				SB	610	754		0.69	0.86	Pass	Pass
32	Issaquah-Pine Lk Rd, SE Klahanie Blvd – SE 46 th St			NB	391	990	881	0.44	1.12	Pass	Pass
				SB	979	742		1.11	0.84	Pass	Pass
33	Issaquah-Pine Lk Rd, SE 46th St - SE 48th St			NB	444	1,207	881	0.50	1.37	Pass	Pass
				SB	1,078	717		1.22	0.81	Pass	Pass

(Revised 6/19)

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SE 32nd Way/Street - Issaquah-Beaver Lake Road Corridor		EB		0.25	0.56	Pass	Pass
		WB		0.46	0.41	Pass	Pass
34 SE 32 nd Way, Issaquah-Pine Lk Rd – 235 th Place SE	EB	178	475	705	0.25	0.67	Pass
	WB	390	329		0.55	0.47	Pass
35 SE 32 nd Way, 235 th Place SE – 244 th Ave SE	EB	173	381	705	0.25	0.54	Pass
	WB	285	264		0.40	0.37	Pass
36 SE 32 nd Way, 244 th Ave SE – E Beaver Lake Dr SE	EB	216	439	705	0.31	0.62	Pass
	WB	364	333		0.52	0.47	Pass
37 Issaquah-Beaver Lk Rd, E Beaver Lk Dr – SE Duthie Hill Rd	EB	171	282	881	0.19	0.32	Pass
	WB	257	285		0.29	0.32	Pass
Issaquah-Fall City Road Corridor		NB/EB		0.26	0.91	Pass	Pass
		SB/WB		0.94	0.54	Pass	Pass
38 SE Issaquah-Fall City Rd, Issaquah-Pine Lk Rd – 245 th Pl SE ⁶	EB	592	1,271	1,772	0.30	0.72	Pass
	WB	1,186	744		0.67	0.42	Pass
39 SE Issaquah-Fall City Rd, 245 th Ave SE – Klahanie Dr SE	EB	149	1,160	881	0.17	1.32	Pass
	WB	1,263	669		1.43	0.76	Fail
40 SE Issaquah-Fall City Rd, Klahanie Dr SE – SE Duthie Hill Rd	EB	237	746	881	0.27	0.85	Pass
	WB	653	488		0.74	0.55	Pass
41 SE Duthie Hill Rd, SE Issaquah-Beaver Lk Rd – SE Issaquah-Fall City Rd ⁶	NB	203	521	881	0.23	0.59	Pass
	SB	599	264		0.68	0.30	Pass
Duthie Hill Road Corridor		NB/EB		0.32	0.93	Pass	Pass
		SB/WB		0.90	0.63	Pass	Pass
42 SE Duthie Hill Rd, SE Issaquah-Beaver Lk Rd – 266 th Ave SE	NB	254	769	725	0.35	1.06	Pass
	SB	745	520		1.03	0.72	Pass
43 SE Duthie Hill Rd, 266 th Ave SE – Trossachs Blvd SE ⁶	EB	262	713	906	0.29	0.79	Pass

Notes

- Corridor V/C ratios are volume weighted.
- * ELP corridors are shown for information purposes only as they are excluded from concurrency.
- ¹ A portion of this segment is 30 MPH.
- ² PM Peak Hour in Sammamish is 4:45-5:45 PM. 15 minute segment count not available, 5-6PM used.
- ³ A portion of this segment is 35 MPH.
- ⁴ 2016 count was not available, 2017 count used.
- ⁵ This segment transitions from a wider cross-section to two lanes, the narrower section
- ⁶ Segment is partially outside of Sammamish City Limits.

2024 HCM Modified Methodology										
Segment*		AM Volume	PM Volume	Capacities 2024 HCM Mod	AM V/C HCM Mod	PM V/C HCM Mod	Corridor ≤1.1		Segment ≤1.4	
							AM	PM	AM	PM
East Lake Sammamish Parkway North Corridor	NB				1.52	0.82	Fail	Pass		
	SB				0.54	1.61	Fail	Fail		
1 E Lk Sammamish Pkwy, City limits - 196th Ave NE (Weber Pl) ¹	NB	1,144	611	705	1.62	0.87	Fail	Pass		
	SB	442	1,285		0.63	1.82	Pass	Fail		
2 E Lk Sammamish Pkwy, 196th Ave NE - NE 26th Pl	NB	1,198	642	705	1.70	0.91	Fail	Pass		
	SB	385	1,215		0.55	1.72	Pass	Fail		
3 E Lk Sammamish Pkwy, NE 26th Pl - NE Inglewood Hill Rd	NB	1,201	653	969	1.24	0.67	Pass	Pass		
	SB	433	1,258		0.45	1.30	Pass	Pass		
East Lake Sammamish Parkway Central Corridor	NB				0.63	0.67	Pass	Pass		
	SB				0.50	0.78	Pass	Pass		
4 E Lk Sammamish Pkwy, Inglewood Hill Rd – Louis Thompson Rd	NB	678	541	943	0.72	0.57	Pass	Pass		
	SB	383	762		0.41	0.81	Pass	Pass		
5 E Lk Sammamish Pkwy, Louis Thompson Rd NE – SE 8th St	NB	415	475	705	0.59	0.67	Pass	Pass		
	SB	361	557		0.51	0.79	Pass	Pass		
6 E Lk Sammamish Pkwy, SE 8th St – SE 24th Way	NB	374	541	705	0.53	0.77	Pass	Pass		
	SB	404	501		0.57	0.71	Pass	Pass		
East Lake Sammamish Parkway South Corridor	NB				0.52	0.99	Pass	Pass		
	SB				0.85	0.72	Pass	Pass		
7 E Lk Sammamish Pkwy, SE 24th Way – 212th Ave SE	NB	362	567	881	0.41	0.64	Pass	Pass		
	SB	487	546		0.55	0.62	Pass	Pass		
8 E Lk Sammamish Pkwy, 212th Ave SE – South City Limit	NB	451	904	749	0.60	1.21	Pass	Pass		
	SB	781	610		1.04	0.81	Pass	Pass		
Sahalee Way–228th Avenue North Corridor	NB				1.16	0.66	Fail	Pass		
	SB				0.55	1.05	Pass	Pass		
9 Sahalee Way/228th Ave NE, City Limit – NE 37th Way	NB	1,382	582	1,015	1.36	0.57	Pass	Pass		
	SB	485	1,178		0.48	1.16	Pass	Pass		
10 Sahalee Way/228th Ave NE, NE 37th Way - NE 36th St ²	NB	1,164	571	969	1.20	0.59	Pass	Pass		
	SB	495	1,071		0.51	1.11	Pass	Pass		
11 Sahalee Way/228th Ave NE, NE 36th St - 223rd Ave NE ²	NB	1,139	561	969	1.18	0.58	Pass	Pass		
	SB	474	1,033		0.49	1.07	Pass	Pass		
12 Sahalee Way/228th Ave NE, 223rd Ave NE – NE 25th Way	NB	1,047	585	969	1.08	0.60	Pass	Pass		
	SB	470	911		0.49	0.94	Pass	Pass		
13 228th Ave, NE 25th Way – NE 12th Pl ³	NB	810	836	969	0.84	0.86	Pass	Pass		
	SB	683	872		0.71	0.90	Pass	Pass		

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228th Avenue Central Corridor			NB			0.58	0.71	Pass	Pass	
			SB			0.59	0.70	Pass	Pass	
14	228th Ave, NE 12th Pl - NE 8th St/Inglewood Hill Rd		NB	825	937	987	0.84	0.95	Pass	Pass
			SB	858	924		0.87	0.94	Pass	Pass
15	228th Ave, NE 8th St/Inglewood Hill Rd - Main St		NB	884	1,099	1,896	0.47	0.58	Pass	Pass
			SB	973	1,124		0.51	0.59	Pass	Pass
16	228th Ave, Main St - SE 8th St		NB	984	1,159	1,896	0.52	0.61	Pass	Pass
			SB	788	1,237		0.42	0.65	Pass	Pass
17	228th Ave, SE 8th St - SE 10th St		NB	948	1,344	1,896	0.50	0.71	Pass	Pass
			SB	1,032	1,249		0.54	0.66	Pass	Pass
18	228th Ave, SE 10th St - SE 20th St		NB	1,127	1,408	1,896	0.59	0.74	Pass	Pass
			SB	1,130	1,350		0.60	0.71	Pass	Pass
228th Avenue South Corridor			NB				0.59	0.87	Pass	Pass
			SB				0.73	0.70	Pass	Pass
19	228th Ave, SE 20th St - Issaquah Pine Lake Rd SE ⁴		NB	1,190	1,504	1,949	0.61	0.77	Pass	Pass
			SB	1,203	1,424		0.62	0.73	Pass	Pass
20	228th Ave, Issaquah Pine Lake Rd SE - SE 43rd Way		NB	526	997	969	0.54	1.03	Pass	Pass
			SB	861	608		0.89	0.63	Pass	Pass
244th Avenue North Corridor			NB				0.35	0.39	Pass	Pass
			SB				0.43	0.40	Pass	Pass
21	244th Ave NE, NE 30th Pl - NE 20th St		NB	303	332	881	0.34	0.38	Pass	Pass
			SB	318	351		0.36	0.40	Pass	Pass
22	244th Ave NE, NE 20th St - NE 8th St		NB	330	374	881	0.37	0.42	Pass	Pass
			SB	474	382		0.54	0.43	Pass	Pass
23	244th Ave NE, NE 8th St - E Main St		NB	370	320	925	0.40	0.35	Pass	Pass
			SB	298	375		0.32	0.41	Pass	Pass
24	244th Ave NE/SE, E Main St - SE 8th St		NB	195	368	881	0.22	0.42	Pass	Pass
			SB	391	299		0.44	0.34	Pass	Pass
NE Inglewood Hill Road Corridor			EB				0.28	0.83	Pass	Pass
			WB				0.74	0.39	Pass	Pass
25	NE Inglewood Hill Rd, E Lk Sammamish Pkwy - 216th Ave		EB	236	734	705	0.33	1.04	Pass	Pass
			WB	654	320		0.93	0.45	Pass	Pass
26	NE Inglewood Hill Rd, 216th Ave NE - 228th Ave NE		EB	227	554	1,013	0.22	0.55	Pass	Pass
			WB	479	335		0.47	0.33	Pass	Pass
NE 8th Street Corridor			EB				0.32	0.52	Pass	Pass
			WB				0.44	0.36	Pass	Pass
27	NE 8th St, 228th Ave NE - 235th Ave NE		EB	375	585	1,013	0.37	0.58	Pass	Pass
			WB	470	373		0.46	0.37	Pass	Pass
28	NE 8th St, 235th Ave NE - 244th Ave NE		EB	230	415	925	0.25	0.45	Pass	Pass
			WB	385	316		0.42	0.34	Pass	Pass
SE 8th Street Corridor			EB				0.28	0.43	Pass	Pass
			WB				0.65	0.33	Pass	Pass
29	SE 8th St, 228th Ave SE - 244th Ave SE		EB	256	396	925	0.28	0.43	Pass	Pass
			WB	600	304		0.65	0.33	Pass	Pass
Issaquah-Pine Lake Road Corridor			EB/SB				0.94	0.80	Pass	Pass
			WB/NB				0.50	1.02	Pass	Pass
30	Issaquah-Pine Lk Rd, 228th Ave SE - SE 32nd Way ²		EB	422	845	987	0.43	0.86	Pass	Pass
			WB	509	629		0.52	0.64	Pass	Pass
31	Issaquah-Pine Lk Rd, SE 32nd Way - SE Klahanie Blvd		NB	540	778	987	0.55	0.79	Pass	Pass
			SB	682	782		0.69	0.79	Pass	Pass
32	Issaquah-Pine Lk Rd, SE Klahanie Blvd - SE 46th St		NB	408	1,020	943	0.43	1.08	Pass	Pass
			SB	1,015	751		1.08	0.80	Pass	Pass
33	Issaquah-Pine Lk Rd, SE 46th St - SE 48th St		NB	456	1,236	943	0.48	1.31	Pass	Pass
			SB	1,107	723		1.17	0.77	Pass	Pass
SE 32nd Way/Street - Issaquah-Beaver Lake Road Corridor			EB				0.34	0.62	Pass	Pass
			WB				0.51	0.44	Pass	Pass
34	SE 32nd Way, Issaquah-Pine Lk Rd - 235th Place SE		EB	255	524	749	0.34	0.70	Pass	Pass
			WB	458	363		0.61	0.49	Pass	Pass
35	SE 32nd Way, 235th Place SE - 244th Ave SE		EB	228	449	705	0.32	0.64	Pass	Pass
			WB	326	281		0.46	0.40	Pass	Pass
36	SE 32nd Way, 244th Ave SE - E Beaver Lake Dr SE		EB	286	479	705	0.41	0.68	Pass	Pass
			WB	401	365		0.57	0.52	Pass	Pass
37	Issaquah-Beaver Lk Rd, E Beaver Lk Dr - SE Duthie Hill Rd		EB	242	298	881	0.27	0.34	Pass	Pass
			WB	274	295		0.31	0.34	Pass	Pass
Issaquah-Fall City Road Corridor			NB/EB				0.25	0.83	Pass	Pass
			SB/WB				0.79	0.44	Pass	Pass
38	SE Issaquah-Fall City Rd, Issaquah-Pine Lk Rd - 245th Pl SE ²		EB	532	1,494	1,772	0.30	0.84	Pass	Pass
			WB	1,353	787		0.76	0.44	Pass	Pass
39	SE Issaquah-Fall City Rd, 245th Ave SE - Klahanie Dr SE		EB	147	1,385	1,861	0.08	0.74	Pass	Pass
			WB	1,430	721		0.77	0.39	Pass	Pass
40	SE Issaquah-Fall City Rd, Klahanie Dr SE - SE Duthie Hill Rd		EB	237	951	925	0.26	1.03	Pass	Pass
			WB	795	528		0.86	0.57	Pass	Pass
41	SE Duthie Hill Rd, SE Issaquah-Beaver Lk Rd - SE Issaquah-Fall City Rd ⁴		NB	211	585	881	0.24	0.66	Pass	Pass
			SB	693	287		0.79	0.33	Pass	Pass

(Revised 6/19)

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Duthie Hill Road Corridor		NB/EB		SB/WB		0.34	1.02	Pass	Pass
42	SE Duthie Hill Rd, SE Issaquah-Beaver Lk Rd – 266th Ave SE	NB	271	839	725	0.96	0.66	Pass	Pass
		SB	794	544		0.37	1.16	Pass	Pass
43	SE Duthie Hill Rd, 266th Ave SE – Trossachs Blvd SE ⁶	EB	278	787	906	1.09	0.75	Pass	Pass
		WB	733	520		0.31	0.87	Pass	Pass
						0.81	0.57	Pass	Pass

Notes

Corridor V/C ratios are volume weighted.
 * EISP corridors are shown for information purposes only as they are excluded from concurrency.

¹ A portion of this segment is 30 MPH.

² PM Peak Hour in Sammamish is 4:45-5:45 PM. 15 minute segment count not available. 5-6PM used.

³ A portion of this segment is 35 MPH.

⁴ 228th/IPLR: No FYA; 228th/SE 24th: No FYA during peak hours; 228th/SE 20th: FYA. Since the FYA is not in operation during peak hours for the majority of the major intersections, the segment overall doesn't experience increased capacity due to FYAs during peak hours.

⁵ This segment transitions from a wider cross-section to two lanes, the narrower section was used.

⁶ Segment is partially outside of Sammamish City Limits.

(3) In conducting the concurrency test in accord with this chapter, the City shall apply the level of service standards for the concurrency intersections as designated in subsection (1) of this section and for the concurrency corridors and segments in subsection (2) of this section. If any intersection, corridor or segment operates at or better than the level of service standards, the concurrency certificate shall be granted. If any concurrency intersection, corridor or segment operates worse than the level of service standards, the concurrency certificate will be denied, or the applicant may select one of the options described in SMC 14A.10.040(3).

(4) In conducting the concurrency test, the City shall find that the impact of development occurs, and therefore the level of service standards for intersections, corridors and segments shall be achieved and maintained, no later than six years from the date of the development.

(5) In the event that the applicant is required to construct a public facility, the development cannot be occupied until the public facility is completed, or the applicant provides the City with a performance bond that is acceptable to the City.

(6) The City shall determine which additional public facilities are needed to be included in the Capital Facilities Plan Element of the Comprehensive Plan to achieve the adopted level of service standards. Such additional public facilities shall be underwritten by a financial commitment. (Ord. O2019-484 § 2 (Att. A); Ord. O2018-465 § 2 (Att. A); Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.060 Certificate of concurrency.

(1) A certificate of concurrency shall be issued by the public works director or his/her designee after the concurrency test is passed.

(2) Upon issuance of a certificate of concurrency, the City shall reserve capacity on behalf of

the applicant, and indicate the reservation on the certificate of concurrency.

(3) A certificate of concurrency shall expire if the development permit for which the concurrency is reserved is not applied for within 180 days of issuance of the certificate of concurrency.

(4) A certificate of concurrency shall be valid for the development permit application period and subsequently for the same period of time as the development permit for which it was issued.

(5) A certificate of concurrency may be extended according to the same terms and conditions as the underlying development permit. If a development permit is granted an extension, the certificate of concurrency, if any, shall also be extended. Certificates of concurrency shall not be extended beyond the expiration of the underlying development permit, or any extensions thereof.

(6) A certificate of concurrency is valid only for the uses and intensities authorized for the development permit for which it is issued. Any change in use or intensity that increases the impact of development on public facilities is subject to an additional concurrency test of the incremental increase in impact on public facilities. Any change in use or intensity that decreases the impact of development on public facilities is not subject to an additional concurrency test and any capacity that is not required as a result of the decrease in impact shall be available for other applications.

(7) A certificate of concurrency is valid only for the development permit with which it is issued, and for subsequent development permits for the same parcel, as long as the applicant obtains the subsequent development permit prior to the expiration of the earlier development permit. A certificate of concurrency transfers automatically to subsequent development permits for the parcel for which the certificate was issued; provided, that the use or intensity has not changed, and the previous devel-

opment permit has not expired. The transfer of validity of a certificate of concurrency from one development permit to a subsequent development permit shall not extend or otherwise change the expiration of the certificate of concurrency.

(8) A certificate of concurrency runs with the land and cannot be transferred to a different parcel. A certificate of concurrency transfers automatically with ownership of the parcel for which the certificate was issued. Upon final subdivision approval of a parcel that has obtained a certificate of concurrency, the City shall replace the certificate of concurrency by issuing a separate certificate of concurrency to each subdivided parcel, assigning to each a pro rata portion of the public facility capacity or other measure that was reserved for the original certificate. The issuance of pro rata certificates of concurrency to subdivided parcels shall not extend or otherwise change the expiration of the certificates of concurrency. (Ord. O2018-465 § 2 (Att. A); Ord. O2006-208 § 1; Ord. O2004-139 § 1)

(2) Appeal of denial of a certificate of concurrency shall be to the hearing examiner in accordance with procedures in SMC Title 20. (Ord. O2018-465 § 2 (Att. A); Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.070 Fees.

(1) The City shall charge each applicant an administrative fee and a concurrency test fee in an amount to be established by resolution by the City council. The concurrency test fee shall not be refundable after the concurrency test has been performed.

(2) The City shall charge a processing fee to any individual who requests an informal analysis of capacity if the requested analysis requires substantially the same research as a concurrency test. The processing fee shall be nonrefundable and nonassignable to a concurrency test. The amount of the processing fee shall be the same as the concurrency test fee authorized by subsection (1) of this section. (Ord. O2018-465 § 2 (Att. A); Ord. O2006-208 § 1; Ord. O2004-139 § 1)

14A.10.080 Appeals.

(1) An applicant may appeal a denial of a certificate of concurrency on the following grounds:

- (a) A technical or mathematical error;
- (b) The applicant provided alternative data that was rejected by the City; or
- (c) Unwarranted delay in review of the application that allowed capacity to be given to another applicant.

Chapter 14A.15

STREET IMPACT FEES

Sections:

- 14A.15.010 Findings and authority.
- 14A.15.020 Assessment of impact fees.
- 14A.15.030 Exemptions.
- 14A.15.040 Credits.
- 14A.15.050 Tax adjustments.
- 14A.15.060 Appeals.
- 14A.15.070 Establishment of impact fee accounts.
- 14A.15.080 Refunds.
- 14A.15.090 Use of funds.
- 14A.15.100 Review.
- 14A.15.110 Street impact fee rates.
- 14A.15.120 Independent fee calculations.
- 14A.15.130 Administrative fees.
- 14A.15.140 Mitigation of adverse environmental impacts.

14A.15.010 Findings and authority.

The council hereby finds and determines that new growth and development, including but not limited to new residential, commercial, retail, and office development in the City, will create additional demand and need for public facilities in the City, and the council finds that new growth and development should pay a proportionate share of the cost of system improvements reasonably related to and that will reasonably benefit the new growth and development. The City has conducted extensive studies documenting the procedures for measuring the impact of new development on public facilities, has prepared the street impact fee analysis, and hereby incorporates this study into this title by reference. Therefore, pursuant to RCW 82.02.050 through 82.02.090, the council adopts this chapter to assess impact fees for streets (“impact fee”). The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.020 Assessment of impact fees.

(1) The City shall collect impact fees, based on the rates in SMC 14A.15.110, from any applicant seeking development approval from the City for any development within the City, where such development requires the issuance of a building permit. This shall include, but is not limited to, the

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development of residential, commercial, retail, and office uses, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in existing use that creates a demand for additional public facilities.

(2) An impact fee shall not be assessed for the following types of development activity because the activity either does not create additional demand as provided in RCW 82.02.050 and/or is a project improvement (as opposed to a system improvement) under RCW 82.02.090:

(a) Miscellaneous non-traffic generating improvements, including, but not limited to, fences, walls, swimming pools, sheds, and signs;

(b) Demolition or moving of a structure;

(c) Expansion of an existing nonresidential structure that results in the addition of 100 square feet or less of gross floor area;

(d) Expansion of a residential structure provided the expansion does not result in the creation of any additional dwelling units as defined in SMC 21A.15.345 through 21A.15.370;

(e) Replacement of a residential structure with a new residential structure at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. For the terms of this requirement, "replacement" is satisfied by submitting a complete building permit application;

(f) Replacement of a nonresidential structure with a new nonresidential structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a nonresidential structure with a new nonresidential structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet. For the terms of this requirement, "replacement" is satisfied by submitting a complete building permit application.

(3) For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use; provided, that the applicant has previously paid the required impact fee for the original use.

(4) For mixed use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the impact fee rates set forth in SMC 14A.15.110.

(5) Applicants seeking a building permit for a change in use shall be required to pay an impact fee if the change in use increases the existing trip generation by the lesser of five percent or 10 peak hour trips.

(6) Except as provided in SMC 14A.25.030, impact fees shall be assessed and collected, at the option of the applicant, either:

(a) At the time of final plat (for platted development) or building permit application (for nonplatted development); or

(b) At the time of building permit issuance; which option shall be declared at the time of final plat (for platted development) or building permit application (for nonplatted development) in writing on a form or forms provided by the City.

(7) Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 14A.15.040 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 14A.15.040 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the fee payer at the time the building permit is issued by the City for each unit in the development.

(8) Where the impact fees imposed are determined by the square footage of the development, a deposit shall be due from the fee payer pursuant to subsection (6) of this section. Deposit and installment percentages shall be based on an estimate, submitted by the fee payer, of the size and type of structure proposed to be constructed on the property. In the absence of an estimate provided by the fee payer, the department shall calculate percentages based on the maximum allowable density/intensity permissible on the property. If the final square footage of the development is in excess of the initial estimate, any difference in the amount of the impact fee will be due prior to the issuance of a building permit, using the same impact fee rate previously assessed. The fee payer shall pay any such difference plus interest, calculated at the statutory rate. If the final square footage

is less than the initial estimate, the department shall give a credit for the difference, plus interest at the statutory rate.

(9) The department shall not issue the required building permit unless and until the impact fees required by this chapter, less any permitted exemptions or credits provided pursuant to SMC 14A.15.030 or 14A.15.040, have been paid, unless a deferral has been granted pursuant to Chapter 14A.25 SMC.

(10) The service area for impact fees shall be a single City-wide service area.

(11) In accordance with RCW 82.02.050, the City shall collect and spend impact fees only for the public facilities defined in this title and RCW 82.02.090 which are addressed by the capital facilities plan element of the City's Comprehensive Plan. The City shall base continued authorization to collect and expend impact fees on revising its Comprehensive Plan in compliance with RCW 36.70A.070 and on the capital facilities plan identifying: (a) deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) additional demands placed on existing public facilities by new development; and (c) additional public facility improvements required to serve new development.

(12) In accordance with RCW 82.02.050, if the City's capital facilities plan is complete other than for the inclusion of those elements which are the responsibility of a special district, the City may impose impact fees to address those public facility needs for which the City is responsible.

(13) Applicants for single-family attached or single-family detached residential construction may request deferral of all impact fees due under this chapter in accordance with the provisions of Chapter 14A.25 SMC. (Ord. 2016-412 § 2 (Att. B); Ord. O2012-339 § 1 (Att. A); Ord. O2010-294 § 1 (Att. A); Ord. O2009-263 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.030 Exemptions.

(1) Pursuant to RCW 82.02.060, the City may provide exemptions for low-income housing and other development activities with broad public purposes; provided, that the impact fees from such development activity shall be paid from public funds other than impact fee accounts if the waiver is greater than 80 percent of the impact fee. The director shall be authorized to determine whether a

particular development falls within an exemption identified in this chapter. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in SMC 14A.15.060.

(2) Except as provided in subsection (3) of this section, the following development activities are exempt from the requirements of this chapter. An impact fee shall not be assessed for:

- (a) Any development activity undertaken by the City of Sammamish;
- (b) Public schools;
- (c) Accessory dwelling units approved by the City.

(3) Except as provided above, the provision of affordable housing as defined in SMC 14A.05.010 may be exempted from some or all of the required impact fees as shown in Table 1:

Table 1: Impact Fee Reductions for Affordable Housing Units

Affordable Housing	Impact Fee Reduction*	Maximum Number of Affordable Housing Units per Development
Low-Income	Up to 100%	4 units
	50% to 80%	5 units or more (including the first 4) subject to recommendation by the community development director in consultation with the public works director
Moderate-Income	Up to 80%	4 units
	0% to 50%	5 units or more (including the first 4) subject to recommendation by the community development director in consultation with the public works director

*The % fee reduction is expressed as a maximum amount per unit.

(a) As a condition of receiving an exemption or percentage fee reduction under this subsection, prior to any development approval, the owner shall execute and record in the King County real property title records a City-prepared lien, covenant, or other contractual provision against the property that provides that the proposed housing unit or development will continue to be used for low- or moderate-income housing and remain affordable to those families/households for a period of not less than 30 years. The lien, covenant, or other contractual provision shall run with the land and apply to subsequent owners and assigns. In the event that the housing unit(s) no longer meets the definition of affordable housing set forth in Table 1 during the term of the life of the lien, covenant or contractual provision, then the owner(s) shall pay to the City the amount of impact fees from which the housing unit(s) was exempted into the City's account for impact fees plus 12 percent interest per year.

(b) In determining the impact fee reductions for development(s) containing five or more affordable housing units, the community development director in consultation with the public works director should consider the following:

(i) The proposed housing units meet the provisions set forth by the City's housing strategy plan adopted by the City council.

(ii) The proposed housing units will assist the City in meeting Sammamish's affordable housing targets.

(iii) The location of the units meets the City's comprehensive plan policies for the proposed housing type and density.

(iv) Approval of the proposed housing units and the associated impact fee reduction does

not exempt the proposed housing units from meeting the City's concurrency requirements and public works standards.

(c) The impact fee amounts waived in excess of 80 percent shall be paid from public funds from sources other than impact fees or interest on impact fees, and budgeted for this purpose.

(d) Determinations of the community development director in consultation with the public works director regarding the reduction of impact fees shall be in writing and shall be subject to the appeals procedures set forth in SMC 14A.15.060. (Ord. O2014-366 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.040 Credits.

(1) A feepayer can request that a credit or credits for impact fees be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:

(a) For one or more of the system improvements identified in the capital facilities plan, which are included in the street impact fee analysis as the basis of the impact fee, and that are required by the City as a condition of approving the development activity; and

(b) At suitable sites and constructed at acceptable quality as determined by the City.

(2) The director shall determine if requests for credits meet the criteria in subsection (1) of this section.

(3) The value of a credit for structures, facilities or other improvements shall be established by original receipts provided by the applicant for one or

more of the same system improvements for which the impact fee is being charged.

(4) The value of a credit for land, including right-of-way and easements, shall be established on a case-by-case basis by an appraiser selected by or acceptable to the director. The appraiser must be licensed in good standing by the state of Washington for the category of the property appraised. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised. The appraisal shall be in accord with the most recent version of the Uniform Standards of Professional Appraisal Practice and shall be subject to review and acceptance by the director.

(5) The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the City may be providing to the feepayer, in the event that a credit is awarded.

(6) If a credit is due, after receiving the appraisal the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

(7) No credit shall be given for project improvements as defined in SMC 14A.05.010.

(8) A feepayer can request that a credit or credits for impact fees be awarded to him/her for significant past tax payments as defined in SMC 14A.05.010. For each request for a credit or credits for significant past tax payments, the feepayer shall submit receipts and a calculation of significant past tax payments earmarked for or proratable to the particular system improvement. The director shall determine the amount of credits, if any, for significant past tax payments.

(9) Any claim for credit must be made prior to or at the time of submission of an application for a

building permit. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

(10) A feepayer shall receive a credit for all impact fee deposits paid pursuant to SMC 14A.15.020.

(11) Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in SMC 14A.15.060. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.050 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the street impact fee analysis provides adjustments for past and future taxes and other sources of revenue to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development. The impact fee rates in SMC 14A.15.110 have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund these system improvements. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.060 Appeals.

(1) Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit or occupancy permit. No appeal shall be permitted until the impact fees at issue have been paid.

(2) Appeals regarding the impact fees imposed on any development may only be filed by the feepayer of the property where such development will occur.

(3) The feepayer must first file a request for review regarding impact fees with the director, as provided herein:

(a) The request shall be in writing on the form provided by the City;

(b) The request for review by the director shall be filed within 21 calendar days after the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;

(c) No administrative fee will be imposed for the request for review by the director; and

(d) The director shall issue his/her determination in writing.

(4) The following decisions may be appealed to the hearing examiner: determinations of the director with respect to the applicability of the impact

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fees to a given development; the director's determination regarding the availability or value of a credit; the director's decision concerning the independent fee calculation which is authorized in SMC 14A.15.120; fees imposed by the director pursuant to SMC 14A.15.110; or any other determination which the director is authorized to make pursuant to this title.

(5) Appeals to the hearing examiner shall be taken within 21 calendar days of the director's issuance of a written determination by filing with the department a notice of appeal specifying the grounds thereof, and depositing the necessary administrative fee, which is set forth in the existing fee schedules for appeals of such decisions. The director shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including, where appropriate, the independent fee calculation.

(6) The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in the Sammamish Municipal Code. At the hearing, any party may appear in person or by agent or attorney.

(7) The hearing examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the hearing examiner shall be final, except as provided in this section.

(8) The hearing examiner may, so long as such action is in conformance with the provisions of this title, reverse or affirm, in whole or in part, or may modify the determinations of the director with respect to the amount of the impact fees imposed or the credit awarded. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.070 Establishment of impact fee accounts.

(1) Impact fee receipts shall be earmarked specifically and deposited in a special interest-bearing impact fee account maintained by the City.

(2) There is hereby established the street impact fee account for the fees collected pursuant to this title. Funds withdrawn from this account must be used in accordance with the provisions of SMC 14A.15.090 and applicable state law. Interest earned on the fees shall be retained in the account and expended for the purposes for which the impact fees were collected.

(3) On an annual basis, the finance department shall provide a report to the City council on the street impact fee account showing the source and amount of all moneys collected, earned, or received, and the system improvements that were financed in whole or in part by impact fees.

(4) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan element of the City's Comprehensive Plan.

(5) Impact fees shall be expended or encumbered within 10 years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the City to hold the fees beyond the 10-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. (Ord. O2013-341 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.080 Refunds.

(1) If the City fails to expend or encumber the impact fees within 10 years of when the fees were paid, or where extraordinary or compelling reasons exist and the council has established other time periods pursuant to SMC 14A.15.070, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

(2) The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property for which the impact fee was paid.

(3) Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

(4) Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the City and expended on the appropriate public capital facilities.

(5) Refunds of impact fees under this section shall include any interest paid at the statutory rate.

(6) When the City seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any termi-

nated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City, but must be expended for the appropriate public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

(7) The City shall refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees pursuant to RCW 82.02.080(3), if the development for which the impact fees were imposed did not occur; provided, that if the City has expended or encumbered the impact fees in good faith prior to the application for a refund, the director shall determine whether an impact has resulted and whether all or a portion of the impact fees paid shall be refunded. (Ord. O2013-341 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.090 Use of funds.

(1) Pursuant to this title, impact fees:

(a) Shall be used for system improvements that will reasonably benefit the new growth and development; and

(b) Shall not be imposed to make up for any system improvement deficiencies serving existing developments; and

(c) Shall not be used for maintenance or operation.

(2) Impact fees may be spent for public improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, administrative expenses, mitigation costs, and any other expenses which can be capitalized pertaining to transportation improvements.

(3) Impact fees may also be used to recoup public improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

(4) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.100 Review.

(1) The fee rates set forth in SMC 14A.15.110 may be reviewed and adjusted by the council as it deems necessary and appropriate to meet City needs, including but not limited to addressing the impact of inflation on labor, materials, and real property costs. The fee rates may be adjusted 12 months after the effective date of the ordinance codified in this chapter, or 12 months after the most recent review by the council. The council may determine the amount of the adjustment and revise the fee rates set forth in SMC 14A.15.110. If the council does not determine the amount of the adjustment, the adjustment shall be administratively adjusted by the same amount that the five-year average Washington State Department of Transportation Construction Cost Index changed for the most recent 12-month period prior to the date of the adjustment.

(2) In the last quarter of each calendar year, the community development director, together with the public works director, shall prepare a report to the planning commission for the year to date, including the following:

(a) The number of requests for impact fee exemptions pursuant to SMC 14A.15.030;

(b) The total number of residential units and dollar amounts of the exemptions approved by the community development director in consultation with the public works director;

(c) A copy of the hearing examiner decision, if any of the decisions of the community development director, in consultation with the public works director, were appealed to the hearing examiner.

Based on this annual review, the planning commission shall recommend to the City council any revision to SMC 14A.15.030 deemed appropriate. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

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14A.15.110 Street impact fee rates.

In accordance with RCW 82.02.060, the street impact fees are based upon a schedule of impact fees which is adopted for each type of development activity that is subject to impact fees and which specifies the amount of the impact fee to be imposed for each type of system improvement. The schedule is based upon a formula and/or method of calculating the impact fees. In determining proportionate share, the formula and/or method of calculating the fees incorporates, among other things, the following: (a) the cost of public facilities necessitated by new development; (b) an adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt

service payments, taxes, or other payments earmarked for or proratable to the particular system improvement; (c) the availability of other means of funding public facility improvements; (d) the cost of existing public facilities improvements; and (e) the methods by which public facilities improvements were financed.

The street impact fee rates in this section are generated from the formula for calculating impact fees set forth in the street impact fee analysis, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in SMC 14A.15.120, exemptions in SMC 14A.15.030, and credits in SMC 14A.15.040, all new developments in the City will be charged the impact fee applicable to the type of development:

Street Impact Fee Rates per Unit of Development

ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	Percent New Trips ³	Trip Length Factor ⁴	Net New Trips per Development Unit	Impact Fee per Unit @ \$14,063.63 per Trip
090	Park and Ride with Bus Service	0.75	75%	1.00	0.563	7,910.79 per Space
110	Light Industrial	0.98	100%	1.22	1.196	16.81 per Sq. Ft.
130	Industrial Park	0.86	100%	1.22	1.049	14.76 per Sq. Ft.
140	Manufacturing	0.74	100%	1.22	0.903	12.70 per Sq. Ft.
151	Mini Warehouse	0.26	75%	0.29	0.057	0.80 per Sq. Ft.
210	Single-Family House	1.01	100%	1.00	1.010	14,204.27 per DU
220	Apartment	0.62	100%	1.00	0.620	8,719.45 per DU
231	Low-Rise Condo/Townhouse	0.78	100%	1.00	0.780	10,969.63 per DU
240	Mobile Home	0.56	100%	1.00	0.560	7,875.63 per DU
251	Sr. Housing Detached	0.26	75%	1.00	0.195	2,742.41 per DU
252	Sr. Housing Attached	0.11	75%	1.00	0.083	1,160.25 per DU
253	Congregate Care Facility	0.18	75%	0.29	0.039	550.59 per DU
254	Assisted Living (limited data)	0.22	75%	0.29	0.048	672.94 per Bed
310	Hotel	0.59	75%	0.29	0.128	1.80 per Sq. Ft.
320	Motel	0.94	75%	0.29	0.204	2.88 per Sq. Ft.
420	Marina (limited data)	0.19	75%	0.29	0.041	581.18 per Slip
430	Golf Course	0.30	75%	0.29	0.065	917.65 per Acre
441	Live Theater (limited data)	1.00	75%	0.29	0.218	3.06 per Sq. Ft.
445	Multiplex Movie Theater	5.22	75%	0.29	1.135	15.97 per Sq. Ft.
491	Racquet Club	0.64	50%	0.29	0.093	1.31 per Sq. Ft.
492	Health Fitness Club	4.05	50%	0.29	0.587	8.26 per Sq. Ft.
495	Recreational Community Center	1.64	50%	0.29	0.238	3.34 per Sq. Ft.
520	Public Elementary School	1.19	75%	0.29	0.259	3.64 per Sq. Ft.
522	Public Middle School	1.19	75%	0.29	0.259	3.64 per Sq. Ft.
530	Public High School	0.97	75%	0.29	0.211	2.97 per Sq. Ft.
534	Private School K-8 (limited data)	3.40	75%	0.29	0.740	10.40 per Sq. Ft.
536	Private School K-12 (limited data)	2.75	75%	0.29	0.598	8.41 per Sq. Ft.

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Street Impact Fee Rates per Unit of Development (Continued)

ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	Percent New Trips ³	Trip Length Factor ⁴	Net New Trips per Development Unit	Impact Fee per Unit @ \$14,063.63 per Trip
560	Church over 20,000 Sq. Ft.	0.66	75%	0.29	0.144	2.02 per Sq. Ft.
560	Church under 20,000 Sq. Ft.	0.66	50%	0.29	0.096	1.35 per Sq. Ft.
565	Day Care Center	13.18	25%	0.29	0.956	13.44 per Sq. Ft.
590	Library	7.09	40%	0.29	0.822	11.57 per Sq. Ft.
610	Hospital	1.18	75%	0.29	0.257	3.61 per Sq. Ft.
620	Nursing Home	0.22	75%	0.29	0.048	672.94 per Bed
630	Clinic (limited data)	5.18	75%	0.29	1.127	15.84 per Sq. Ft.
710	General Office	1.49	100%	1.22	1.818	25.56 per Sq. Ft.
715	Single Tenant Office	1.73	100%	1.22	2.111	29.68 per Sq. Ft.
720	Medical/Dental Office	3.72	75%	0.29	0.809	11.38 per Sq. Ft.
732	U.S. Post Office	25.00	25%	0.29	1.813	25.49 per Sq. Ft.
750	Office Park	1.50	100%	1.22	1.830	25.74 per Sq. Ft.
813	Freestanding Discount Super Store	3.87	43%	1.00	1.664	23.40 per Sq. Ft.
814	Specialty Retail Center	2.71	75%	0.29	0.589	8.29 per Sq. Ft.
815	Freestanding Discount Store	5.06	54%	0.29	0.792	11.14 per Sq. Ft.
816	Hardware/Paint Store	4.84	43%	0.29	0.604	8.49 per Sq. Ft.
820	Shopping Center < 1 million Sq. Ft.	3.75	43%	1.00	1.613	22.68 per Sq. Ft.
848	Tire Store	4.15	40%	0.29	0.481	6.77 per Sq. Ft.
849	Tire Super Store	2.11	40%	0.29	0.245	3.44 per Sq. Ft.
850	Supermarket	10.45	34%	0.29	1.030	14.49 per Sq. Ft.
851	Convenience Market	52.41	24%	0.29	3.648	51.30 per Sq. Ft.
853	Convenience Market w/Gas Pumps	19.22	14%	0.29	0.780	10,974.30 per VSP
854	Discount Supermarket	8.90	54%	0.29	1.394	19.60 per Sq. Ft.
861	Discount Club	4.24	43%	1.00	1.823	25.64 per Sq. Ft.
862	Home Improvement Super Store	2.45	32%	1.00	0.784	11.03 per Sq. Ft.
863	Electronics Super Store	4.50	27%	1.00	1.215	17.09 per Sq. Ft.
867	Office Supply Super Store	3.40	32%	1.00	1.088	15.30 per Sq. Ft.
880	Pharmacy/Drug Store	8.42	38%	0.29	0.928	13.05 per Sq. Ft.
881	Pharmacy/Drug Store w/Drive-up	8.62	38%	0.29	0.950	13.36 per Sq. Ft.
896	Video Rental Store	13.60	20%	0.29	0.789	11.09 per Sq. Ft.
911	Walk-in Bank (limited data)	33.15	27%	0.29	2.596	36.50 per Sq. Ft.
912	Drive-in Bank	45.74	27%	0.29	3.581	50.37 per Sq. Ft.
931	Quality Restaurant	7.49	38%	0.29	0.825	11.61 per Sq. Ft.
932	High Turnover Restaurant	10.92	37%	0.29	1.172	16.48 per Sq. Ft.
933	Fast Food	26.15	30%	0.29	2.275	32.00 per Sq. Ft.
934	Fast Food w/Drive-up	34.64	30%	0.29	3.014	42.38 per Sq. Ft.
936	Drinking Place	11.34	38%	0.29	1.250	17.57 per Sq. Ft.
941	Quick Lube	5.19	14%	0.29	0.211	2,963.40 per VSP
942	Auto Care	3.38	30%	0.29	0.294	4.14 per Sq. Ft.
944	Gas Station	13.86	14%	0.29	0.563	7,913.83 per VSP
945	Gas Station w/Conven Mkt	13.38	14%	0.29	0.543	7,639.76 per VSP
946	Gas Station w/Conven Mkt & Car Wash	13.33	14%	0.29	0.541	7,611.21 per VSP
947	Self-Serve Car Wash	5.54	14%	0.29	0.225	3,163.25 per VSP

Street Impact Fee Rates per Unit of Development (Continued)

ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	Percent New Trips ³	Trip Length Factor ⁴	Net New Trips per Development Unit	Impact Fee per Unit @ \$14,063.63 per Trip
¹ Institute of Transportation Engineers, Trip Generation (7th Edition). ² Trip generation rate per development unit, for p.m. peak hour of the adjacent street traffic (4:00 – 6:00 p.m.). Note: Sq. Ft. rate expressed per 1,000 SF. ³ Omits linked/diverted and pass-by trips, per Trip Generation Handbook: an ITE Recommended Practice, March, 2001. ⁴ Average trip length relative to single-family trip. ⁵ DU = dwelling unit, Sq. Ft. = square feet, VSP = vehicle servicing position.						

If an applicant proposes a land use that is not identified above, the impact fee shall be an amount equal to \$14,063.63 for each p.m. peak hour trip generated, adjusted for trip length and percentage of new trips using methods and data comparable to those in the street study. (Ord. O2014-366 § 1 (Att. A); Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.120 Independent fee calculations.

(1) If, in the judgment of the director, none of the fee categories or fee amounts set forth in SMC 14A.15.110 accurately describe or capture the impacts of a new development on streets and roads, the department may prepare independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

(2) If a feepayer opts not to have the impact fees determined according to SMC 14A.15.110, then the feepayer shall prepare and submit to the director an independent fee calculation for the development for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

(3) Any feepayer submitting an independent fee calculation shall be required to pay the City a fee to cover the cost of reviewing the independent fee calculation. The amount of the fee required by the City for conducting the review of the independent fee calculation shall be in accordance with the adopted fee resolution by the City council and shall be paid by the feepayer prior to initiation of review.

(4) While there is a presumption that the calculations set forth in the street impact fee analysis are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not

reliable, and may modify or deny the request, or, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The director's decision shall be set forth in writing and shall be mailed to the feepayer.

(5) Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner as set forth in SMC 14A.15.060. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.130 Administrative fees.

(1) All development permits subject to the impact fees pursuant to SMC 14A.15.110 shall pay an administrative processing fee as adopted by the City council.

(2) All development permits that require an independently determined impact fee pursuant to SMC 14A.15.120 shall pay an administrative processing fee as adopted by the City council. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.15.140 Mitigation of adverse environmental impacts.

Nothing in this title shall preclude the City from requiring the feepayer or the proponent of a development to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW. (Ord. O2006-208 § 2)

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14A.20.010

Chapter 14A.20**IMPACT FEES FOR PARKS AND RECREATIONAL FACILITIES**

Sections:

- 14A.20.010 Findings and authority.
- 14A.20.020 Assessment of impact fees.
- 14A.20.030 Exemptions.
- 14A.20.040 Credits.
- 14A.20.050 Tax adjustments.
- 14A.20.060 Appeals.
- 14A.20.070 Establishment of impact fee accounts.
- 14A.20.080 Refunds.
- 14A.20.090 Use of funds.
- 14A.20.100 Review.
- 14A.20.110 Park and recreational facilities impact fee rates.
- 14A.20.120 Independent fee calculations.
- 14A.20.130 Administrative fees.
- 14A.20.140 Mitigation of adverse environmental impacts.

14A.20.010 Findings and authority.

The council hereby finds and determines that new growth and development, including but not limited to new residential development in the City, will create additional demand and need for public facilities in the City, and the council finds that new growth and development should pay a proportionate share of the cost of system improvements reasonably related to and that will reasonably benefit the new growth and development. The City has conducted extensive studies documenting the procedures for measuring the impact of new development on public facilities, has prepared the Rate Study for Impact Fees for Parks and Recreational Facilities, Henderson, Young and Company, dated November 2, 2006, and the Park Impact Fee Update Summary Memorandum by FCS Group dated October 14, 2015 (collectively referred to hereafter as the "rate study"), and hereby incorporates the rate study into this title by reference. Therefore, pursuant to RCW 82.02.050 through 82.02.090, the council adopts this chapter to assess impact fees for parks and recreational facilities ("impact fee"). The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. (Ord. O2015-400 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.020 Assessment of impact fees.

(1) The City shall collect impact fees, based on the rates in SMC 14A.20.110, from any applicant seeking development approval from the City for any residential development within the City, where such development requires the issuance of a building permit. This shall include, but is not limited to, the expansion or change of use of existing uses that creates a demand for additional public facilities.

(2) An impact fee shall not be assessed for the following types of development activity because the activity either does not create additional demand as provided in RCW 82.02.050 and/or is a project improvement (as opposed to a system improvement) under RCW 82.02.090:

(a) Miscellaneous improvements to residential dwelling units that will not create additional park use demand, including, but not limited to, fences, signs, walls, swimming pools, sheds, and residential accessory uses as defined in SMC 21A.15.020;

(b) Demolition or moving of a residential structure;

(c) Expansion or alteration of a residential structure provided the expansion or alteration does not result in the creation of any additional dwelling units as defined in SMC 21A.15.345 through 21A.15.370;

(d) Replacement of a residential structure with a new residential structure at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure.

(3) For a change in use of an existing structure or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use; provided, that the applicant has previously paid the required impact fee for the original use.

(4) For mixed use developments, impact fees shall be imposed for the proportionate share of each residential land use based on the applicable measurement in the impact fee rates set forth in SMC 14A.20.110.

(5) Applicants seeking development approval for a change in use shall be required to pay an impact fee if the change in use increases the number of dwelling units.

(6) Except as provided in SMC 14A.25.030, impact fees shall be assessed and collected, at the option of the applicant, either:

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(a) At the time of final plat (for platted development) or building permit application (for nonplatted development); or

(b) At the time of building permit issuance; which option shall be declared at the time of final plat (for platted development) or building permit application (for nonplatted development) in writing on a form or forms provided by the City.

(7) Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 14A.20.040 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 14A.20.040 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued by the City for each residential dwelling unit in the development.

(8) The department shall not issue the required building permit unless and until the impact fees required by this chapter, less any permitted exemptions or credits provided pursuant to SMC 14A.20.030 or 14A.20.040, have been paid, unless a deferral has been granted pursuant to Chapter 14A.25 SMC.

(9) The service area for impact fees shall be a single City-wide service area.

(10) In accordance with RCW 82.02.050, the City shall collect and spend impact fees only for the public facilities defined in this title and RCW 82.02.090 which are addressed by the capital facilities plan element of the City's Comprehensive Plan. The City shall base continued authorization to collect and expend impact fees on revising its Comprehensive Plan in compliance with RCW 36.70A.070, and on the capital facilities plan identifying: (a) deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) additional demands placed on existing public facilities by new development; and (c) additional public facility improvements required to serve new development.

(11) In accordance with RCW 82.02.050, if the City's capital facilities plan is complete other than for the inclusion of those elements which are the responsibility of a special district, the City may impose impact fees to address those public facility needs for which the City is responsible.

(12) Applicants for single-family attached or single-family detached residential construction

may request deferral of all impact fees due under this chapter in accordance with the provisions of Chapter 14A.25 SMC.

(13) If, prior to February 12, 2016, an applicant submits a copy of a fully executed purchase and sale agreement with an affidavit from the applicant attesting that the agreement was fully executed prior to November 11, 2015, the residential dwelling unit that is the subject of that agreement will be subject to the parks and recreational facilities impact fee in effect on the date of execution of that agreement, as provided in SMC 14A.20.110. (Ord. O2016-412 § 3 (Att. C); Ord. O2015-400 § 1 (Att. A); Ord. O2012-339 § 1 (Att. A); Ord. O2010-294 § 1 (Att. A); Ord. O2009-263 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.030 Exemptions.

(1) Pursuant to RCW 82.02.060, the City may provide exemptions for low-income housing and other development activities with broad public purposes; provided, that the impact fees from such development activity shall be paid from public funds other than impact fee accounts if the waiver is greater than 80 percent of the impact fee. The director shall be authorized to determine whether a particular development falls within an exemption identified below. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in SMC 14A.20.060. The following development activities are exempt from the requirements of this chapter. A parks impact fee shall not be assessed for:

(a) Any development activity undertaken by the City of Sammamish;

(b) Accessory dwelling units approved by the City.

(2) Except as provided above, the provision of affordable housing as defined in SMC 14A.05.010 may be exempted from some or all of the required impact fees as shown in Table 1:

Table 1: Impact Fee Reductions for Affordable Housing Units

Affordable Housing	Impact Fee Reduction*	Maximum Number of Affordable Housing Units per Development
Low-Income	Up to 100%	4 units
	50% to 80%	5 units or more (including the first 4) subject to decision by the director of the department of community development in consultation with the director of the department of parks and recreation
Moderate-Income	Up to 80%	4 units
	0% to 50%	5 units or more (including the first 4) subject to approval by the director of the department of community development in consultation with the director of the department of parks and recreation

*The % fee reduction is expressed as a maximum amount per unit.

(a) As a condition of receiving an exemption or percentage fee reduction under this section, prior to any development approval, the owner shall execute and record in the King County real property title records a City-prepared lien, covenant, or other contractual provision against the property that provides that the proposed housing unit or development will continue to be used for low- or moderate-income housing and remain affordable to those families/households for a period of not less than 30 years. The lien, covenant, or other contractual provision shall run with the land and apply to subsequent owners and assigns. In the event that the housing unit(s) no longer meets the definition of affordable housing set forth in Table 1 during the term of the life of the lien, covenant or contractual provision, then the owner(s) shall pay to the City the amount of impact fees from which the housing unit(s) was exempted into the City's account for park impact fees plus 12 percent interest per year.

(b) In determining the impact fee reductions for development(s) containing five or more affordable housing units, the community development director in consultation with the parks and recreation director should consider the following:

(i) The proposed housing units meet the provisions set forth by the City's housing strategy plan adopted by the City council.

(ii) The proposed housing units will assist the City in meeting Sammamish's affordable housing targets.

(iii) The location of the units meets the City's Comprehensive Plan policies for the proposed housing type and density.

(iv) Approval of the proposed housing units and the associated impact fee reduction would not result in a significant adverse impact on the level of service provided by the parks system.

(c) The impact fee amounts waived in excess of 80 percent shall be paid from public funds from sources other than impact fees or interest on impact fees.

(d) Determinations of the community development director in consultation with the parks and recreation director regarding the exemption or reduction of impact fees shall be in writing and shall be subject to the appeals procedures set forth in SMC 14A.20.060. (Ord. O2014-367 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.040 Credits.

(1) A feepayer can request that a credit or credits for impact fees be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:

(a) For one or more of the system improvements identified in the capital facilities plan for parks and recreational facilities which are included in the rate study as the basis of the impact fee, and that are required by the City as a condition of approving the development activity; and

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(b) At suitable sites and constructed at acceptable quality as determined by the City.

(2) The director shall determine if requests for credits meet the criteria in subsection (1) of this section.

(3) The value of a credit for structures, facilities or other improvements shall be established by original receipts provided by the applicant for one or more of the same system improvements for which the impact fee is being charged.

(4) The value of a credit for land, including right-of-way and easements, shall be established on a case-by-case basis by an appraiser selected by, or acceptable to, the director. The appraiser must be licensed in good standing by the state of Washington for the category of the property appraised.

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The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised. The appraisal shall be in accord with the most recent version of the Uniform Standards of Professional Appraisal Practice and shall be subject to review and acceptance by the director.

(5) The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the City may be providing to the feepayer, in the event that a credit is awarded.

(6) If a credit is due, after receiving the appraisal the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

(7) No credit shall be given for project improvements as defined in SMC 14A.05.010.

(8) A feepayer can request that a credit or credits for impact fees be awarded to him/her for significant past tax payments as defined in SMC 14A.05.010. For each request for a credit or credits for significant past tax payments, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the particular system improvement. The director shall determine the amount of credits, if any, for significant past tax payments.

(9) Any claim for credit must be made prior to or at the time of submission of an application for a building permit. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

(10) Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in SMC 14A.20.060. (Ord. O2006-207 § 1)

14A.20.050 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the rate study provides adjustments for past and future taxes and other sources of revenue to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development. The impact fee rates in SMC 14A.20.110 have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund these system improvements. (Ord. O2006-207 § 1)

14A.20.060 Appeals.

(1) Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit. No appeal shall be permitted until the impact fees at issue have been paid.

(2) Appeals regarding the impact fees imposed on any development may only be filed by the feepayer of the property where such development will occur.

(3) The feepayer must first file a request for review regarding impact fees with the director, as provided herein:

(a) The request shall be in writing on the form provided by the City;

(b) The request for review by the director shall be filed within 21 calendar days after the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;

(c) No administrative fee will be imposed for the request for review by the director; and

(d) The director shall issue his/her determination in writing.

(4) The following decisions may be appealed to the hearing examiner: determinations of the director with respect to the applicability of the impact fees to a given development; the director's determination regarding the availability or value of a credit; the director's decision concerning the independent fee calculation which is authorized in SMC 14A.20.120; fees imposed by the director pursuant to SMC 14A.20.110; or any other determination which the director is authorized to make pursuant to this title.

(5) Appeals to the hearing examiner shall be taken within 21 calendar days of the director's issuance of a written determination by filing with the department a notice of appeal specifying the grounds thereof, and depositing the necessary administrative fee, which is set forth in the existing

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fee schedules for appeals of such decisions. The director shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including, where appropriate, the independent fee calculation.

(6) The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in the Sammamish Municipal Code. At the hearing, any party may appear in person or by agent or attorney.

(7) The hearing examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the hearing examiner shall be final, except as provided in this section.

(8) The hearing examiner may, so long as such action is in conformance with the provisions of this title, reverse or affirm, in whole or in part, or may modify the determinations of the director with respect to the amount of the impact fees imposed or the credit awarded. (Ord. O2006-207 § 1)

14A.20.070 Establishment of impact fee accounts.

(1) Impact fee receipts shall be earmarked specifically and deposited in a special interest-bearing impact fee account maintained by the City.

(2) There is hereby established the parks and recreational facilities impact fee account for the fees collected pursuant to this title. Funds withdrawn from this account must be used in accordance with the provisions of SMC 14A.20.090 and applicable state law. Interest earned on the fees shall be retained in the account and expended for the purposes for which the impact fees were collected.

(3) On an annual basis, the finance director shall provide a report to the City council on the parks and recreational facilities impact fee account showing the source and amount of all moneys collected, earned, or received, and the system improvements that were financed in whole or in part by impact fees.

(4) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan element of the City's Comprehensive Plan.

(5) Impact fees shall be expended or encumbered within 10 years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the City to hold

the fees beyond the 10-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. (Ord. O2013-342 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.080 Refunds.

(1) If the City fails to expend or encumber the impact fees within 10 years of when the fees were paid, or where extraordinary or compelling reasons exist and the council has established other time periods pursuant to SMC 14A.20.070, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

(2) The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property for which the impact fee was paid.

(3) Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

(4) Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the City and expended on the appropriate public capital facilities.

(5) Refunds of impact fees under this section shall include interest paid at the statutory rate.

(6) When the City seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City, but must be expended for the appropriate public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered

balances within the account or accounts being terminated.

(7) The City shall refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, pursuant to RCW 82.02.080(3), if the development for which impact fees were imposed did not occur; provided, that if the City has expended or encumbered the impact fees in good faith prior to the application for a refund, the director shall determine whether an impact has resulted and whether all or a portion of the impact fees paid shall be refunded. (Ord. O2013-342 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.090 Use of funds.

(1) Pursuant to this title, impact fees:

(a) Shall be used for system improvements that will reasonably benefit the new growth and development;

(b) Shall not be imposed to make up for any system improvement deficiencies serving existing developments; and

(c) Shall not be used for maintenance or operation.

(2) Impact fees may be spent for system improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, administrative expenses, mitigation costs, and any other expenses which can be capitalized pertaining to parks and recreational facility improvements.

(3) Impact fees may also be used to recoup public improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

(4) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. (Ord. O2006-207 § 1)

14A.20.100 Review.

(1) The fee rates set forth in SMC 14A.20.110 may be reviewed and adjusted by the council as it deems necessary and appropriate to meet City

needs, including, but not limited to, addressing the impact of inflation on labor, materials, and real property costs. The fee rates may be adjusted 12 months after the effective date of the ordinance codified in this chapter, or 12 months after the most recent review by the council. The council may determine the amount of the adjustment and revise the fee rates set forth in SMC 14A.20.110. If the council does not determine the amount of the adjustment, the adjustment shall be administratively adjusted by the same amount that the five-year average Washington State Department of Transportation Construction Cost Index changed for the most recent 12-month period prior to the date of the adjustment.

(2) In the last quarter of each calendar year, the community development director together with the parks and recreation director shall prepare a report to the planning commission, for the year to date, including the following:

(a) The number of requests for impact fee exemptions or waivers pursuant to SMC 14A.20.030(2);

(b) The total number of residential units and dollar amounts of the exemptions or waivers approved by the community development director in consultation with the parks and recreation director;

(c) A copy of the hearing examiner decision, if any of the decisions of the community development director, in consultation with the parks and recreation director, were appealed to the hearing examiner.

Based on this annual review, the planning commission shall recommend to the City council any revision to SMC 14A.20.030 deemed appropriate. (Ord. O2006-207 § 1)

14A.20.110 Park and recreational facilities impact fee rates.

In accordance with RCW 82.02.060, the park and recreational facilities impact fees are based upon a schedule of impact fees which is adopted for each type of development activity that is subject to impact fees and which specifies the amount of the impact fee to be imposed for each type of system improvement.

The park and recreational facilities impact fee rates in this section are generated from the formula for calculating impact fees set forth in the rate study which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in SMC 14A.20.120, exemptions in

14A.20.120

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SMC 14A.20.030, and credits in SMC 14A.20.040, all new residential developments in the City will be charged the following park and recreational facili-

ties impact fee applicable to the type of development:

Unit Type	Fee per Dwelling Unit		
	For qualifying residences under SMC 14A.20.020(13) only	Through January 31, 2016	February 1, 2016, and later
Single-Family	\$2,697.28	\$5,526.00	\$6,739.00 per dwelling unit, or
Multifamily	\$1,558.19	\$3,521.00	\$4,362.00 per dwelling unit

(Ord. O2015-400 § 1 (Att. A); Ord. O2013-342 § 1 (Att. A); Ord. O2006-207 § 1)

14A.20.120 Independent fee calculations.

(1) If, in the judgment of the director, none of the fee categories or fee amounts set forth in SMC 14A.20.110 accurately describe or capture the impacts of a new development on parks and recreational facilities, the department may prepare independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

(2) If a feepayer opts not to have the impact fees determined according to SMC 14A.20.110, then the feepayer shall prepare and submit to the director an independent fee calculation for the development for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

(3) Any feepayer submitting an independent fee calculation shall be required to pay the City a fee to cover the cost of reviewing the independent fee calculation. The amount of the fee required by the City for conducting the review of the independent fee calculation shall be in accordance with the adopted fee resolution approved by the City council and shall be paid by the feepayer prior to initiation of review.

(4) While there is a presumption that the calculations set forth in the rate study are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not reliable, and may modify or deny the request, or, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the

independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The director's decision shall be set forth in writing and shall be mailed to the feepayer.

(5) Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner subject to the procedures set forth in SMC 14A.20.060. (Ord. O2006-207 § 1)

14A.20.130 Administrative fees.

(1) All development permits subject to the park and recreational facilities impact fees pursuant to SMC 14A.20.110 shall pay an administrative processing fee as adopted by the City council.

(2) All development permits that require an independently determined park and recreational facilities impact fee pursuant to SMC 14A.20.120 shall pay an administrative processing fee as adopted by the City council. (Ord. O2006-207 § 1)

14A.20.140 Mitigation of adverse environmental impacts.

Nothing in this title shall preclude the City from requiring the feepayer or the proponent of a development to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW. (Ord. O2006-207 § 1)

Chapter 14A.25

IMPACT FEE DEFERRAL

Sections:

- 14A.25.010 Purpose.
- 14A.25.020 Applicability.
- 14A.25.030 Impact fee deferral.
- 14A.25.040 Deferral term.
- 14A.25.050 Deferred impact fee lien.
- 14A.25.060 Limitation on deferrals.

14A.25.010 Purpose.

The purpose of this chapter is to comply with the requirements of RCW 82.02.050, as amended by ESB 5923, Chapter 241, Laws of 2015, to provide an impact fee deferral process for single-family residential construction, in order to promote economic recovery in the construction industry. (Ord. O2016-412 § 1 (Att. A))

14A.25.020 Applicability.

(1) The provisions of this chapter shall apply to all impact fees established and adopted by the City pursuant to Chapter 82.02 RCW, including street impact fees assessed under Chapter 14A.15 SMC, impact fees for parks and recreational facilities assessed under Chapter 14A.20 SMC, and school impact fees assessed under Chapter 21A.105 SMC.

(2) Subject to the limitations imposed in SMC 14A.25.060, the provisions of this chapter shall apply to all building permit applications for single-family detached and single-family attached residential construction. For the purposes of this chapter, an “applicant” includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant. (Ord. O2016-412 § 1 (Att. A))

14A.25.030 Impact fee deferral.

(1) Deferral Request Authorized. Applicants for single-family attached or single-family detached residential building permits may request to defer payment of required impact fees until the sooner of:

- (a) Final inspection; or
- (b) The closing of the first sale of the property occurring after the issuance of the applicable building permit;

which request shall be granted so long as the requirements of this chapter are satisfied.

(2) Method of Request. A request for impact fee deferral shall be declared at the time of prelim-

inary plat application (for platted development) or building permit application (for nonplatted development) in writing on a form or forms provided by the City. Any request for impact fee deferral must be accompanied by an administrative fee in an amount equal to one hour at the City’s hourly rate for planning as stated in the City’s current fee schedule.

(3) Calculation of Impact Fees. The amount of impact fees to be deferred under this chapter shall be determined as of the date the request for deferral is submitted. (Ord. O2016-412 § 1 (Att. A))

14A.25.040 Deferral term.

The term of an impact fee deferral granted under this chapter may not exceed 18 months from the date the building permit is issued (“deferral term”). If the condition triggering payment of the deferred impact fees does not occur prior to the expiration of the deferral term, then full payment of the impact fees shall be due on the last date of the deferral term. (Ord. O2016-412 § 1 (Att. A))

14A.25.050 Deferred impact fee lien.

(1) Applicant’s Duty to Record Lien. An applicant requesting a deferral under this chapter must grant and record a deferred impact fee lien, in an amount equal to the deferred impact fees as determined under SMC 14A.25.030(3), against the property in favor of the City in accordance with the requirements of RCW 82.02.050(3)(c).

(2) Satisfaction of Lien. Upon receipt of final payment of all deferred impact fees for the property, the City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release is responsible, at his or her own expense, for recording the lien release. (Ord. O2016-412 § 1 (Att. A))

14A.25.060 Limitation on deferrals.

The deferral entitlements allowed under this chapter shall be limited to the first 20 single-family residential construction building permits per applicant, as identified by contractor registration number or other unique identification number, per year. (Ord. O2016-412 § 1 (Att. A))

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14A.30.010

Chapter 14A.30**RIGHT-OF-WAY USE PERMITS**

Sections:

- 14A.30.010 Purpose – Permit required.
- 14A.30.015 Definitions.
- 14A.30.020 Right-of-way use permit application process and fee.
- 14A.30.025 Right-of-way use permit types.
- 14A.30.030 Type A right-of-way special use permit.
- 14A.30.040 Type B right-of-way construction permit.
- 14A.30.050 Type C right-of-way utility permit.
- 14A.30.060 Type D right-of-way lease permit.
- 14A.30.070 Revocation or suspension of permit.
- 14A.30.080 Enforcement.

14A.30.010 Purpose – Permit required.

The purpose of this chapter is to establish minimum rules and regulations for controlling and enforcing right-of-way uses to assure that proposed uses are consistent with the public health, safety, and welfare of the community, and that harm or nuisance which may result from a proposed right-of-way use is prevented.

It shall be unlawful for anyone to make private use of any public right-of-way without a right-of-way use permit issued by the City, or to use any public right-of-way without complying with all provisions of a permit issued by the City. (Ord. O2018-465 § 2 (Att. A))

14A.30.015 Definitions.

The following words and phrases, wherever used in this chapter, shall have the meanings ascribed to them in this section except where otherwise defined or unless the context shall clearly indicate to the contrary.

(1) “Abutting property” means and includes property bordering upon and contiguous to a public right-of-way as defined herein.

(2) “Applicant” means any person, company, corporation, enterprise, or entity applying for the issuance or renewal of a right-of-way use permit or any person, company, corporation, enterprise, or entity that has been issued a right-of-way use permit.

(3) “Application” means, for the purposes of this chapter, the collection of papers or electronic data necessary to initiate a right-of-way use permit request and shall include an application in the form

approved by the City, and other submittals consistent with the purposes of this chapter.

(4) “Private use” means use of the public right-of-way for the benefit of a person, partnership, group, organization, company, corporation, entity or outside jurisdiction other than as a public thoroughfare for any type of vehicle, pedestrian, bicycle or equestrian travel.

(5) “Right-of-way” or “ROW” means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, landscape (parking) strips, squares, triangles, easements and other rights-of-way open to the use of the public, including the space above or beneath the surface of same. This definition specifically does not include streets, alleys, ways, landscape strips, sidewalks, easements, etc., which have not been deeded, dedicated, or otherwise permanently appropriated to the City for public use.

(6) “Special event” means an event which will generate or invite public participation, and/or spectators, for a particular and limited purpose and time including, but not limited to, fun runs/walks, roadway foot races, fundraising walks, bike-a-thons, parades, block parties, carnivals, shows, exhibitions and fairs. (Ord. O2018-465 § 2 (Att. A))

14A.30.020 Right-of-way use permit application process and fee.

(1) The City engineer or designee, herein referred to as “the City,” shall establish policies and procedures to administer the permit program.

(2) Applicants may be required to submit, in addition to the application form, any documents the City deems necessary for the City to perform an accurate evaluation of the right-of-way use permit application.

(3) Decisions regarding issuance, renewal, denial, or termination of any such permits shall be subject to insurance requirements, bond requirements, indemnification and hold harmless agreements, the capacity of the rights-of-way to accommodate the applicant’s proposed facilities or use, evaluation of competing public interests, and any other administrative requirements applicable to the permit.

(4) As part of a complete right-of-way use permit application, the applicant shall submit to the City, at the time of application, right-of-way use permit fees, including a nonrefundable application fee, as set forth in the most current City of Sammamish fee schedule.

(5) If insurance is required, the insurance guidelines in City policy shall apply unless otherwise established by the City.

(6) Conditions of approval will be identified during the City's review of the application and may include a certificate of insurance, indemnification and hold harmless agreement, traffic control plan, performance bond, time and use restrictions, video data, status reports, restoration of disturbed right-of-way features, or any other requirements the City deems necessary to protect the right-of-way and public health, safety, and welfare. (Ord. O2018-465 § 2 (Att. A))

14A.30.025 Right-of-way use permit types.

(1) Type A, ROW special use permit, is a short-term permit and allows the use of the right-of-way for nonconstruction activities as described in SMC 14A.30.030.

(2) Type B, ROW construction permit, is a permit that allows the use of the right-of-way for construction activities as described in SMC 14A.30.040.

(3) Type C, ROW utility permit, is a permit that allows for the use of the right-of-way to construct or maintain utilities as described in SMC 14A.30.050.

(4) Type D, ROW lease permit, is a permit that allows long-term usage of public right-of-way for nonconstruction activities as described in SMC 14A.30.060. (Ord. O2018-465 § 2 (Att. A))

14A.30.030 Type A right-of-way special use permit.

(1) Type A ROW special use permit is required for any special event that is held within the public right-of-way or creates significant traffic impacts within the public right-of-way.

(2) Type A ROW special use permit may be required for uses that are nonconstruction uses but not defined as a special event by this chapter.

(3) Proof of insurance may be required with the City listed as an additional insured to protect the public and the City against liability for injury to persons or property. (Ord. O2018-465 § 2 (Att. A))

14A.30.040 Type B right-of-way construction permit.

(1) Type B ROW construction permits are required before any person, firm, corporation, company, enterprise or entity shall commence or permit any other person, firm, corporation, company, enterprise or entity to commence any work

within the public right-of-way. Types of activities that would fall under a Type B ROW construction permit include but are not limited to driveways, curbs, stormwater infrastructure, sidewalks, retaining walls, cutting or maintaining trees and haul routes. Construction work associated with a franchised utility provider or a telecommunications provider shall obtain a Type C ROW utility permit as described in SMC 14A.30.050.

(2) Proof of insurance shall be required, with the City listed as an additional insured, on all work within the right-of-way to address liability for injury to persons or property. Insurance amounts shall be those identified in Section 1-07.18 (Public Liability and Property Damage Insurance) of the Standard Specifications for Road, Bridge and Municipal Construction (current version) published by the Washington State Department of Transportation, and City amendments thereto. These insurance requirements may be modified at the discretion of the City.

(3) A current City business license is required for any person performing work in the City right-of-way.

(4) It is unlawful for any person to perform any work in City right-of-way unless operating under a valid state of Washington general contractor's license, or a valid state of Washington specialty contractor's license applicable to the type of work being performed.

(5) Contractors are responsible for traffic control, work area protection/security and street maintenance to protect the life, health and safety of the public during any permitted work within the right-of-way, and all methods and equipment used will be subject to the approval of the City.

(6) All streets, sidewalks, alleys, parkways, and other public rights-of-way disturbed in the course of work performed under any permit shall be restored in accordance with the City of Sammamish public works standards or as required and approved by the City engineer.

(7) All work within City right-of-way must be pursued to completion with due diligence, and if work is not completed within a reasonable length of time, as determined by the City engineer, the City shall cause the work to be completed at the applicant's expense.

(8) Any costs incurred by the City for right-of-way restoration will be charged to the property owner and/or developer employing the contractor. (Ord. O2018-465 § 2 (Att. A))

14A.30.050 Type C right-of-way utility permit.

(1) Type C ROW utility permits are required before any person, firm, corporation, company, enterprise or entity shall commence or permit any other person, firm, or corporation to commence any work within the public right-of-way associated with providing or maintaining franchised utilities or telecommunication facilities within the City right-of-way.

(2) Proof of insurance shall be required, with the City listed as an additional insured, on all work within the right-of-way to address liability for injury to persons or property. Insurance amounts shall be those identified in Section 1-07.18 (Public Liability and Property Damage Insurance) of the Standard Specifications for Road, Bridge and Municipal Construction (current version) published by the Washington State Department of Transportation, and City amendments thereto. These insurance requirements may be modified at the discretion of the City.

(3) A current City business license is required for any person performing work in the City right-of-way.

(4) It is unlawful for any person to perform any work in City right-of-way unless operating under a valid state of Washington general contractor's license, or a valid state of Washington specialty contractor's license applicable to the type of work being performed.

(5) Contractors are responsible for traffic control, work area protection/security and street maintenance to protect the life, health and safety of the public during any permitted work within the right-of-way, and all methods and equipment used will be subject to the approval of the City.

(6) All streets, sidewalks, alleys, parkways, and other public rights-of-way disturbed in the course of work performed under any permit shall be restored in accordance with the City of Sammamish public works standards or as required and approved by the City engineer.

(7) All work within City right-of-way must be pursued to completion with due diligence, and if work is not completed within a reasonable length of time, as determined by the City engineer, the City shall cause the work to be completed at the applicant's expense.

(8) Any costs incurred by the City for right-of-way restoration will be charged to the property owner and/or developer employing the contractor. (Ord. O2018-465 § 2 (Att. A))

14A.30.060 Type D right-of-way lease permit.

(1) Type D ROW lease permits are required before any person, firm, corporation, company, enterprise or entity shall commence or permit any other person, firm, or corporation to commence any work within the ROW or utilize the unopened or unused public ROW for long-term private benefit or use. Types of activities that fall under a Type D ROW lease permit include, but are not limited to, construction of fences, landscaping, private irrigation, sheds, private nonfranchised utilities, and garages. Infrastructure associated with a franchised utility provider or a telecommunications provider shall obtain a Type C ROW utility permit as described in SMC 14A.30.050.

(2) Proof of insurance may be required with the City listed as an additional insured to protect the public and the City against liability for injury to persons or property.

(3) At any time the City deems the area being leased is necessary for public benefit, the ROW lease permit may be terminated and the applicant will be required, at their expense, to move their facilities from the public ROW. (Ord. O2018-465 § 2 (Att. A))

14A.30.070 Revocation or suspension of permit.

All permits issued pursuant to this chapter shall be temporary, shall vest no permanent rights in the applicant, and may be revoked by the City as follows:

(1) The permit may be immediately revoked by the City in the event of a violation of any of the terms or conditions of the permit; or

(2) The permit may be immediately revoked by the City in the event the permitted special event or street use shall become dangerous to persons or property, or if any structure, site condition or obstruction permitted becomes insecure or unsafe; or

(3) The permit may be revoked by the City upon 30 days' notice if the permit was not for a specified period of time and is not covered by either of the preceding subsections.

(4) If any event, use or occupancy for which the permit has been revoked is not immediately discontinued, the City may remove any structure, site condition or obstruction, or cause to be made such repairs upon the structure, site condition or obstruction as may be necessary to render the same secure and safe, or to adjourn any special event. The cost and expense of such removal, repair or

adjournment shall be assessed against the permittee, including all fees and costs associated with enforcement of the collection of same, including attorney's fees. (Ord. O2018-465 § 2 (Att. A))

14A.30.080 Enforcement.

The City engineer is authorized to enforce or seek enforcement of the provisions of this chapter, and ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of SMC Title 23. (Ord. O2018-465 § 2 (Att. A))

Chapter 20.05

PROCEDURES FOR LAND USE PERMIT APPLICATIONS, PUBLIC NOTICE, HEARINGS AND APPEALS

Sections:

- 20.05.010 Chapter purpose.
- 20.05.020 Classifications of land use decision processes.
- 20.05.030 Feasibility conference – Preapplication conference.
- 20.05.035 Neighborhood meetings.
- 20.05.037 Unified zone development plan process.
- 20.05.040 Application requirements.
- 20.05.050 Notice of complete application to applicant.
- 20.05.060 Notice of application.
- 20.05.070 Vesting.
- 20.05.080 Applications – Modifications to proposal.
- 20.05.085 Reasonable accommodation.
- 20.05.090 Notice of decision or recommendation – Appeals.
- 20.05.100 Permit issuance.
- 20.05.110 Semi-annual report.
- 20.05.120 Citizen’s guide.

20.05.010 Chapter purpose.

The purpose of this chapter is to establish standard procedures for land use permit applications, public notice, hearings, and appeals in the City of Sammamish. These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, permit review, hearing and appeal processes; provide for uniformity in public notice procedures; minimize delay and expense; and result in development approvals that implement the policies of the interim comprehensive plan. These procedures also provide for an integrated and consolidated land use permit and environmental review process consistent with Chapter 347, Laws of 1995. (Ord. O99-29 § 1)

20.05.020 Classifications of land use decision processes.

(1) Land use permit decisions are classified into four types, based on the amount of discretion associated with each decision. Procedures for the four different types are distinguished according to who makes the decision, whether public notice is

required, whether a public hearing is required before a decision is made, and whether administrative appeals are provided. The types of land use decisions are listed in Exhibit A of this section.

(a) Type 1 decisions are made by the director (director) of the department of community development (department). Type 1 decisions are non-appealable administrative decisions that require the exercise of little or no administrative discretion. For Type 1 decisions for which the department has issued a SEPA threshold determination, the issuance of any subsequent permits shall not occur until any allowed administrative appeal of the SEPA threshold determination is decided.

(b) Type 2 decisions are made by the director, or his or her designee. Type 2 decisions are discretionary decisions that are subject to administrative appeal in accordance with applicable provisions of law or ordinance.

(c) Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to superior court.

(d) Type 4 decisions are quasi-judicial decisions made by the hearing examiner. Type 4 decisions may be appealed to the State Shoreline Hearings Board.

(2) Except as provided in SMC 20.15.130(1)(f) or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application.

(3) Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

(4) Land use permits that are categorically exempt from review under the State Environmental Policy Act (SEPA) will not require a threshold determination (determination of nonsignificance (DNS) or determination of significance (DS)). For all other projects, the SEPA review procedures codified in Chapter 20.15 SMC are supplemental to the procedures set forth in this chapter.

Exhibit A

LAND USE DECISION TYPE

Type 1	Decision by director, no administrative appeal	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 ¹ ; variance from the requirements of Chapter 9.04 KCC as adopted by SMC Title 13; shoreline exemption; approval of a conversion harvest plan; temporary homeless encampment permit ²
Type 2	Decision by director appealable to hearing examiner, no further administrative appeal	Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; 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 ³
Type 3	Recommendation by director, hearing and decision by hearing examiner appealable to superior court	Preliminary plat; plat alterations; preliminary plat revisions; plat vacations; zone reclassifications ⁴ ; urban planned development; special use
Type 4	Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board	Shoreline variances; shoreline substantial development permits (SSDPs); shoreline conditional use permits

¹ 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.

² Subject to the notice requirements of SMC 21A.70.195(4).

³ Subject also to the procedural requirements of SMC 20.05.037 and Chapter 21B.95 SMC.

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.

(Ord. O2016-410 § 1 (Att. A); Ord. O2014-372 § 1; Ord. O2011-297 § 1 (Att. A); Ord. O2010-293 § 1 (Att. A); Ord. O2009-249 § 1; Ord. O2004-150 §§ 1 – 4; Ord. O2000-63 §§ 1, 2, 3; Ord. O99-29 § 1)

**20.05.030 Feasibility conference –
Preapplication conference.**

(1) Prior to the filing of a land use application, applicants shall contact the department for a feasibility conference and shall subsequently request a preapplication conference with the department as provided by subsections (2) and (3) of this section.

(a) Feasibility Conference. The purpose of the feasibility conference is to discuss the general

scope of the proposed project prior to the preapplication conference. The feasibility conference may be an informal conversation between the department and the applicant.

(b) Preapplication Conference. The purpose of the preapplication conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The preapplication conference shall

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be scheduled by the department, at the request of an applicant, and shall be held in a timely manner within 30 days from the date of the applicant's request. The director may waive the requirement for a preapplication conference if it is determined to be unnecessary for review of an application. Except as provided in subsection (5) of this section, nothing in this section shall be interpreted to require more than one preapplication conference or to prohibit the applicant from filing an application if the department is unable to schedule a preapplication conference within 30 days following the applicant's request. The provisions of subsections (2) through (5) of this section apply only to the preapplication conference and not to the feasibility conference.

(2) The applicant shall contact the department to schedule a preapplication conference prior to filing a permit application for a Type 1 decision involving any of the following:

- (a) Property that will have 5,000 square feet or greater of development and/or right-of-way improvements; or
- (b) Property in a critical drainage area; or
- (c) Property that has a wetland, steep slope, landslide hazard, or erosion hazard; or
- (d) Single-family residences and accessory buildings directly impacting critical areas and/or their buffers;

provided, that the provisions of this subsection shall not apply to structures where all work is in an existing building and no parking is required or added.

(3) Prior to filing a permit application requiring a Type 2, 3 or 4 decision, the applicant shall contact the department to schedule a preapplication conference that shall be held prior to filing the application, except as provided in subsection (1)(b) of this section.

(4) For the purposes of this section, "applicant" means the person(s) with actual or apparent authority to speak for and answer questions about the property or project on behalf of the applicant as defined in SMC 19A.04.030.

(5) Information presented at or required as a result of the preapplication conference shall be valid for a period of 180 days following the preapplication conference. An applicant wishing to submit a permit application more than 180 days following the preapplication conference for that permit must schedule and participate in another preapplication conference prior to submitting the permit application; however, the director may

waive this requirement for de minimus deviations or if it is determined to be unnecessary for review of an application.

(6) At or subsequent to a preapplication conference, the department may issue a preliminary determination that a proposed development is not permissible under applicable City policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the hearing examiner in the manner provided for a Type 2 permit, as an alternative to proceeding with a complete application. Mailed and published notice of the appeal shall be provided for as in SMC 20.05.060(7) and (8). (Ord. O2016-415 § 2 (Att. A); Ord. O2016-413 § 4 (Att. C))

20.05.035 Neighborhood meetings.

(1) The applicant for a subdivision, short subdivision, or conditional use permit shall conduct and attend a neighborhood meeting within the City limits to discuss the proposed development after the preapplication conference but prior to submission of the development proposal to the City, at a date and time which shall not be unreasonable. The purpose of the meeting shall be to receive neighborhood input and suggestions prior to submission of the application, and an opportunity for the applicant to amend the proposal to address neighborhood feedback as appropriate. Such a public meeting is not a mediation, and any party who participates in such a meeting may still request mediation in accordance with SMC 20.20.060 and the provisions of the City land use mediation program. For the purposes of this subsection, "applicant" means the person(s) with actual or apparent authority to speak for and answer questions about the property or project on behalf of the applicant as defined in SMC 19A.04.030.

(2) At least 21 days prior to the neighborhood meeting, the applicant shall give notice of the date, time, and location of the meeting to the community development director and to all persons who would be entitled to receive notice of the proposed plat application, short subdivision application or conditional use permit application under the requirements of the Sammamish Municipal Code.

(3) The notice shall be on a form provided by the community development director and shall briefly describe the proposal and its location and shall include the name, address, and telephone number of the applicant or a representative of the applicant who may be contacted for additional

information about the proposal. Notice to the community development director shall include a list of the persons and addresses notified of the neighborhood meeting.

(4) Within 30 days following the neighborhood meeting, the applicant shall provide to the community development director, and to all attendees who signed in at the meeting, documentation of the meeting as follows:

- (a) The date, time, and location of the meeting;
- (b) Contact information for all persons representing the applicant at the meeting;
- (c) A summary of comments provided for the meeting attendees by the applicant prior to or during the meeting;
- (d) A summary of comments received from meeting attendees or other persons prior to or during the meeting; and
- (e) Copies of documents submitted or presented at the meeting.

(5) Complete applications must be received by the City within 120 days of the neighborhood meeting. If an application is not submitted in this time frame, or if the materials submitted with the application do not substantially conform to the materials provided at the meeting, the applicant shall be required to hold a new neighborhood meeting. (Ord. O2016-413 § 5 (Att. D); Ord. O2004-151 § 2)

20.05.037 Unified zone development plan process.

Following application submittal and prior to approval of the unified zone development plan, the applicant and City shall conduct an open house. Notice of the open house shall be provided at least 14 days prior to the open house, and shall include the date, time, and location of the meeting and shall be mailed to all persons who would be entitled to receive notice of decision pursuant to SMC 20.05.090. The purpose of this open house is to provide an additional opportunity for the community to review and provide comments on the proposed unified zone development plan. (Ord. O2010-293 § 1 (Att. A))

20.05.040 Application requirements.

(1) The department shall not commence review of any application set forth in this chapter until the applicant has submitted the materials and fees specified for complete applications. Applications for land use permits requiring Type 1, 2, 3, or 4

decisions shall be considered complete as of the date of submittal upon determination by the department that the materials submitted meet the requirements of this section. Except as provided in subsection (2) of this section, all land use permit applications described in SMC 20.05.020, Exhibit A, shall include the following:

(a) An application form provided by the department and completed by the applicant that allows the applicant to file a single application form for all land use permits requested by the applicant for the development proposal at the time the application is filed;

(b) Designation of who the applicant is, except that this designation shall not be required as part of a complete application for purposes of this section when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right-of-way and the following three requirements are met:

(i) The name of the agency or private or public utility is shown on the application as the applicant;

(ii) The agency or private or public utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and

(iii) The form designating who the applicant is is submitted to the department prior to permit approval;

(c) A certificate of sewer availability from the Sammamish Plateau Sewer and Water District or site percolation data with preliminary approval by the Seattle-King County department of public health;

(d) A current certificate of water availability, as required by Chapter 21A.60 SMC;

(e) Review by Sammamish fire services;

(f) A site plan, prepared in a form prescribed by the director;

(g) Proof that the lot or lots are recognized as separate lots pursuant to the provisions of Chapter 19A.04 SMC;

(h) A sensitive areas affidavit if required by Chapter 21A.50 SMC;

(i) A completed environmental checklist, if required by Chapter 20.15 SMC, State Environmental Policy Act Procedures;

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(j) Payment of any development permit review fees, excluding impact fees, as set forth by resolution;

(k) A list of any permits or decisions applicable to the development proposal that have been obtained prior to filing the application or that are pending before the City or any other governmental entity;

(l) Approved traffic impact analysis from the director or designee, if required by Chapter 14A.15 SMC;

(m) Certificate of future connection from the appropriate purveyor for lots located within the City that are proposed to be served by on-site or community sewage system and/or group B water systems or private well;

(n) A determination if drainage review applies to the project pursuant to Chapter 9.04 KCC as adopted by SMC Title 13, and, if applicable, all drainage plans and documentation required by the King County Surface Water Design Manual adopted pursuant to Chapter 9.04 KCC as adopted by SMC Title 13;

(o) Current assessor's maps and a list of tax parcels to which public notice must be given as provided in this chapter, for land use permits requiring a Type 2, 3 or 4 decision;

(p) Legal description of the site;

(q) Variances obtained or required under SMC Title 21A to the extent known at the date of application;

(r) Verification that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has a right to develop the site and that the application has been submitted with the consent of all owners of the affected property; provided, that compliance with subsection (2)(d) of this section shall satisfy the requirements of this subsection (1)(r); and

(s) For commercial site development permits only, a phasing plan and a time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years.

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the department and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the department from requesting additional information or studies either at the time of notice of

completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

(2) Additional complete application requirements apply for the following land use permits:

(a) Clearing and grading permit, as set forth in SMC 16.15.070;

(b) Construction permits as set forth in SMC 16.20.215;

(c) Mobile home permits as set forth in SMC 21A.70.170;

(d) For all applications for land use permits requiring Type 2, 3, or 4 decisions, a title report from a reputable title company indicating that the applicant has either sole marketable title to the development site or has a publicly recorded right to develop the site (such as an easement); if the title report does not clearly indicate that the applicant has such rights, then the applicant shall include the written consent of the record holder(s) of the development site.

(3) The director may specify the requirements of the site plan required to be submitted for various permits and may waive any of the specific submittal requirements listed herein that are determined to be unnecessary for review of an application.

(4) The applicant shall attest by written oath to the accuracy of all information submitted for an application.

(5) Applications shall be accompanied by the payment of the applicable filing fees, if any, as set forth by resolution. (Ord. O2018-466 § 1 (Att. A); Ord. O2016-415 § 3 (Att. B); Ord. O99-29 § 1)

20.05.050 Notice of complete application to applicant.

(1) Within 28 days following receipt of a land use permit application, the department shall mail or provide written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete. To the extent known by the department, the notice shall identify other agencies of local, state, regional, or federal governments that may have jurisdiction over some aspects of the development proposal.

(2) An application shall be deemed complete under this section if the department does not provide written notice to the applicant that the application is incomplete within the 28-day period as provided herein.

(3) If the application is incomplete and the applicant submits the additional information requested by the department, the department shall notify the applicant in writing within 14 days whether the application is complete or what additional information specified by the department as provided in subsection (1) of this section is necessary to make the application complete. An application shall be deemed complete if the department fails to provide written notice to the applicant within the 14-day period that the application is incomplete.

(4) The date an application is deemed complete is the date of receipt by the department of all of the information necessary to make the application complete as provided in this chapter. The department's issuance of a notice of complete application as provided in subsections (1) or (3) of this section, or the failure of the department to provide such a notice as provided in subsections (2) or (3) of this section, shall cause an application to be conclusively deemed to be complete and vested as provided in this chapter.

(5) The department may cancel an incomplete application if the applicant fails to submit the additional information required by this chapter within 90 days following notification from the department that the application is incomplete. (Ord. O99-29 § 1)

20.05.060 Notice of application.

(1) A notice of application shall be provided to the public for all land use permit applications requiring Type 2, 3 or 4 decisions or Type 1 decisions subject to SEPA pursuant to this section.

(2) Notice of the application shall be provided by the department within 14 days following the department's determination that the application is complete. A public comment period of at least 21 days shall be provided, except as otherwise provided in Chapter 90.58 RCW.

(3) If the director has made a determination of significance (DS) under Chapter 43.21 RCW prior to the issuance of the notice of application, the notice of the DS shall be combined with the notice of application and the scoping notice.

(4) All required notices of application shall contain the following information:

- (a) The file number;
- (b) The name of the applicant;
- (c) The date of application, the date of the notice of completeness and the date of the notice of application;

(d) A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;

(e) A site plan on eight-and-one-half-by-14-inch paper, if applicable;

(f) The procedures and deadline for filing comments, requesting notice of any required hearings, and any appeal procedure;

(g) The date, time, place, and type of hearing, if applicable and scheduled at the time of notice;

(h) The identification of other permits not included in the application to the extent known;

(i) The identification of existing environmental documents that evaluate the proposed project;

(j) A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and of consistency with applicable City plans and regulations.

(5) Notice shall be provided in the following manner:

(a) Posted at the project site as provided in subsections (6) and (9) of this section;

(b) Mailed by first class mail as provided in subsection (7) of this section; and

(c) Published as provided in subsection (8) of this section.

(6) Posted notice for a proposal shall consist of one or more notice boards posted by the applicant within 14 days following the department's determination of completeness as follows:

(a) A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing and shall be placed by the applicant:

(i) At the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility;

(ii) Five feet inside the street property line except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street property without approval of the department;

(iii) So that the top of the notice board is between seven to nine feet above grade; and

(iv) Where it is completely visible to pedestrians.

(b) Additional notice boards may be required when:

- (i) The site does not abut a public road;

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(ii) A large site abuts more than one public road; or

(iii) The department determines that additional notice boards are necessary to provide adequate public notice.

(c) Notice boards shall be:

(i) Maintained in good condition by the applicant during the notice period through the time of the final City decision on the proposal, including the expiration of any applicable appeal periods, and for decisions that are appealed, through the time of the final resolution of any appeal;

(ii) In place at least 28 days prior to the date of any required hearing for a Type 3 or 4 decision, or at least 14 days following the department's determination of completeness for any Type 2 decision; and

(iii) Removed within 14 days after the end of the notice period.

(d) Removal of the notice board prior to the end of the notice period may be cause for discontinuance of City review until the notice board is replaced and remains in place for the specified time period.

(e) An affidavit of posting shall be submitted to the department by the applicant within 14 days following the department's determination of completeness to allow continued processing of the application by the department.

(f) Notice boards shall be constructed and installed in accordance with this subsection, and any additional specifications promulgated by the department pursuant to Chapter 2.55 SMC, Rules of City Departments.

(7) Mailed notice for a proposal shall be sent by the department within 14 days after the department's determination of completeness:

(a) By first class mail to owners of record of property in an area within 1,000 feet of the site and, if the site lies within an erosion hazards near sensitive water bodies overlay, to owners of record of property within a 2,000-foot-wide column centered at the site and extending directionally with the natural drainage of the basin to the perimeter of the overlay or to the Lake Sammamish shoreline, as determined by the director; provided, that such area shall be expanded as necessary to send mailed notices to at least 20 different property owners;

(b) To any utility that is intended to serve the site;

(c) To the State Department of Transportation, if the site adjoins a state highway;

(d) To the affected tribes;

(e) To any agency or community group that the department may identify as having an interest in the proposal;

(f) Be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice; and

(g) For preliminary plats only, to all cities within one mile of the proposed preliminary plat.

(8) Notice of a proposed action shall be published by the department within 14 days after the department's determination of completeness in the official City newspaper.

(9) Posted Notice for Approved Formal Subdivision Engineering Plan, Clearing or Grading Permits Subject to SEPA, or Building Permits Subject to SEPA. Posted notice for approved formal subdivision engineering plans, clearing or grading permits subject to SEPA, or building permits subject to SEPA shall be a condition of the plan or permit approval and shall consist of a single notice board posted by the applicant at the project site, prior to construction as follows:

(a) Notice boards shall comport with the size and placement provisions identified for construction signs in SMC 21A.45.070(3);

(b) Notice boards shall include the following information:

(i) Permit number and description of the project;

(ii) Projected completion date of the project;

(iii) A contact name and phone number for both the department and the applicant; and

(iv) Hours of construction, if limited as a condition of the permit;

(c) Notice boards shall be maintained in the same manner as identified in subsection (6) of this section;

(d) Notice boards shall remain in place until final construction approval is granted. Early removal of the notice board may preclude authorization of final construction approval. (Ord. O2016-415 § 4 (Att. C); Ord. O2016-413 § 6 (Att. E); Ord. O99-29 § 1)

20.05.070 Vesting.

(1) Applications for Type 1, 2, 3 and 4 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application

is filed meeting all of the requirements of this chapter. The department's issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

(2) Supplemental information required after vesting of a complete application shall not affect the validity of the vesting for such application.

(3) Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals. (Ord. O2009-249 § 1; Ord. O99-29 § 1)

20.05.080 Applications – Modifications to proposal.

(1) Modifications required by the City to a pending application shall not be deemed a new application.

(2) An applicant-requested modification occurring either before or after issuance of the permit shall be deemed a new application when such modification would result in a substantial change in a project's review requirements, as determined by the department. (Ord. O99-29 § 1)

20.05.085 Reasonable accommodation.

(1) Purpose and Intent. The Federal Fair Housing Act (FFHA) requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. The community development director is therefore authorized to make accommodations in the provisions of this code as applied to dwellings occupied or to be occupied by persons with disabilities as defined in the Federal Fair Housing Act, when the director determines that such accommodations reasonably may be necessary in order to comply with such Act.

(2) Applicability. The director may grant reasonable accommodation to individuals with disabilities as defined by the Fair Housing Amendments Act (FHAA), 42 U.S.C. 3602(h), or the Washington Law Against Discrimination (WLAD), Chapter 49.60 RCW.

(3) Procedure. If modification of a standard or regulation in the Sammamish Municipal Code is sought, the director shall make a written determination within 45 days and either grant, grant with

modifications, or deny a request for reasonable accommodation in accordance with the following:

(a) Application. Requests for reasonable accommodation by any eligible person or entity described in subsection (1) of this section shall be submitted on an application form provided by the community development department, or in the form of a letter, to the director of community development and shall contain the following information:

(i) The applicant's name, address, email, and telephone number.

(ii) Address of the property for which the request is being made.

(iii) The property owner's name, address and telephone number and the owner's written consent.

(iv) The current actual use of the property.

(v) The basis for the claim that the individual that resides or will reside at the property is considered disabled under the Acts.

(vi) The provision, regulation or policy from which reasonable accommodation is being requested.

(vii) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

(viii) Copies of emails, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation.

(b) No fee shall be charged to the applicant for a response to a reasonable accommodation request.

(c) The director shall determine what adverse land use impacts, including cumulative impacts, if any, would result from granting the proposed accommodation. This determination shall take into account the size, shape and location of the dwelling unit and lot; the traffic and parking conditions on adjoining and neighboring streets; vehicle usage to be expected from the residents, staff and visitors; and any other circumstances determined to be relevant.

(d) A grant of reasonable accommodation permits a dwelling to be inhabited only according to the terms and conditions of the applicant's proposal and the director's decision. If it is determined that the accommodation has become unreasonable because circumstances have changed or adverse land use impacts have occurred that were not antic-

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ipated, the director shall rescind or modify the decision to grant reasonable accommodation.

(e) Appeals of reasonable accommodation decisions made by the director must be filed within 21 days of the decision issuance date. (Ord. O2016-408 § 1 (Att. A))

20.05.090 Notice of decision or recommendation – Appeals.

(1) The department shall provide notice in a timely manner of its final decision or recommendation on permits requiring Type 2, 3 and 4 land use decisions and Type 1 decisions subject to SEPA, including the threshold determination, if any, the dates for any public hearings, and the procedures for administrative appeals, if any. Notice shall be provided to the applicant, to the Department of Ecology, and to agencies with jurisdiction if required by Chapter 20.15 SMC, to the Department of Ecology and Attorney General as provided in Chapter 90.58 RCW, and to any person who, prior to the decision or recommendation, had requested notice of the decision or recommendation or submitted comments. The notice shall also be provided to the public as provided in SMC 20.05.060.

(2) Except for shoreline permits that are appealable to the State Shorelines Hearings Board, all notices of appeal to the hearing examiner of Type 2 land use decisions made by the director shall be filed within 21 calendar days from the date of issuance of the notice of decision as provided in SMC 20.10.080. (Ord. O99-29 § 1)

20.05.100 Permit issuance.

(1) Final decisions by the City on all permits and approvals subject to the procedures of this chapter should be issued within 120 days from the date the applicant is notified by the department pursuant to this chapter that the application is complete; provided, that the following shorter time periods should apply for the type of land use permit indicated:

New residential building permits	90 days
Residential remodels	40 days
Residential appurtenances, such as decks and garages	15 days
Residential appurtenances that require substantial site review	40 days
SEPA exempt clearing and grading	45 days
SEPA clearing and grading	90 days

Health department review (for projects pending a final department review and/or permit)	40 days
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The following periods shall be excluded from this 120-day period:

(a) Any period of time during which the applicant has been requested by the department, hearing examiner or council to correct plans, perform required studies or provide additional information, including road variances and variances required under Chapter 9.04 KCC as adopted by SMC Title 13. The period shall be calculated from the date of notice to the applicant of the need for additional information (“request for revision”) until either the City advises the applicant that the additional information satisfies the City’s request or 14 days after the date the information has been provided, whichever is the earlier date. If the City determines that the correction, study, or other information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies, and the procedures of this section shall apply as if a new request for revision had been made.

(i) The department shall set a reasonable deadline for submittal by the applicant of corrections, studies, or other information in response to a request for revision, and shall provide written notification of the deadline to the applicant. The deadline may not exceed 90 days from the date of the request for revision; provided, that an extension of such deadline may be granted upon written request by the applicant providing satisfactory justification for an extension or upon the applicant’s agreement to and compliance with an approved schedule with specific target dates for submitting the full revisions, corrections or other information requested.

(ii) Applications may be canceled for inactivity if an applicant fails to provide, by such deadline, an adequate response substantively addressing code requirements identified in the written request for revision.

(iii) When granting a request for a deadline extension, the department shall give consideration to the number of days between receipt by the department of a written request for a deadline extension and the mailing to the applicant of the department’s decision regarding that request.

(b) The period of time, as set forth in SMC 20.15.060, during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW.

(c) A period of no more than 90 days for an open record appeal hearing by the hearing examiner on a Type 2 land use decision, and no more than 60 days for a closed record appeal by the county council on a Type 3 land use decision appealable to the county council, except when the parties to an appeal agree to extend these time periods.

(d) Any period of time during which an applicant fails to post the property, if required by this chapter, following the date notice is required until an affidavit of posting is provided to the department by the applicant.

(e) Any time extension mutually agreed upon by the applicant and the department.

(2) The time limits established in this section shall not apply if a proposed development:

(a) Requires an amendment to the Comprehensive Plan or a development regulation, or modification or waiver of a development regulation as part of a demonstration project;

(b) Requires approval of a new fully contained community as provided in RCW 36.70A.350, master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided for RCW 36.70A.200; or

(c) Is substantially revised by the applicant, when such revisions will result in a substantial change in a project's review requirements, as determined by the department, in which case the time period shall start from the date at which the revised project application is determined to be complete.

(3) Permits or approvals subject to the procedures of this chapter may be denied if the applicant is unable to present satisfactory proof of ownership of the property or development site as required by SMC 20.05.040(1)(r).

(4) If the department is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision. Within 14 days of the date of such notice, a copy of the notice shall be provided to the public in the manner set forth in SMC 20.05.060(5). (Ord. O2016-415 § 5 (Att. D); Ord. O2016-413 § 7 (Att. F); Ord. O2009-253 § 1 (Att. A); Ord. O99-29 § 1)

20.05.110 Semi-annual report.

Beginning January 1, 2000, and continuing semi-annually thereafter, the director shall prepare a report to the City council detailing the length of time required to process applications for Type 1, 2, 3, and 4 land use decisions in the previous period, categorized both on average and by type of permit. The report shall provide commentary on department operations and identify any need for clarification of City policy or development regulations or process. (Ord. O99-29 § 1)

20.05.120 Citizen's guide.

The director shall issue a citizen's guide to permit processing including making an appeal or participating in a hearing. (Ord. O99-29 § 1)