



# City Council, Regular Meeting

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## AGENDA

May 20, 2013

6:30 pm – 9:30 pm  
Council Chambers

### Call to Order

### Roll Call

### Pledge of Allegiance

### Approval of Agenda

### Student Liaison Reports

- Eastside Catholic High School Student Liaison
- Eastlake High School Student Liaison

### Presentations/Proclamations

- City of Issaquah (15 minutes)

### Public Comment

**Note:** *This is an opportunity for the public to address the Council. Three-minutes limit per person or 5 minutes if representing the official position of a recognized community organization.*

### Consent Agenda

- Payroll for the period ending May 15, 2013 for pay date May 20, 2013 in the amount of \$276,240.17
- 1. Approval: Claims for period ending May 20, 2013 in the amount of \$943,148.41 for Check No. 34739 through No. 34856
- 2. Ordinance: Second Reading Amending Ordinance No. 02012-337, The 2013-2014 City Budget, For The Purpose Of Revising The 2013-2014 Biennial Budget.
- 3. Contract: City Hall Drainage Repair/Dan Crocker Construction
- 4. Authorization: Sammamish Contribution for Improvements of Issaquah Hatchery for the Kokanee Supplementation Program
- 5. Bid Award: 2013 Pavement Program/Overlays

### Unfinished Business

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.

6. Ordinance: Second Reading Amending Section 22.15.020 Of The Sammamish Municipal Code Related To The Impoundment Of Vehicles (5 minutes)

#### **New Business**

7. Resolution: Related To Use Of The Land Conservation And Local Infrastructure Program

#### **Public Hearings**

8. Ordinance: Second Reading: Pertaining To The Protection And Regulation Of Environmentally Critical Areas, Amending Chapters 21a.50, 21a.15 And 21a.70 Of The Sammamish Municipal Code (120 minutes)

#### **Council Reports**

#### **City Manager Report**

#### **Executive Session – If necessary**

#### **Adjournment**

**AGENDA CALENDAR**

<b>June 2013</b>				
Tues. 6/4	6:30 pm	Regular Meeting	Public Hearing: Resolution Adopting Six Year TIP Public Hearing: Huvinen Street Vacation Ordinance: First Reading Amending SMC 16 Building Codes Resolution: 2013-2014 Sammamish Youth Boards Appointments (consent) Resolution: Appointing One Member to the Beaver Lake Management Board (consent) Contract: Comprehensive Plan Update/ (consent) Contract: Wolverine West Fireworks/4 <sup>th</sup> of July (consent) Contract: Live Sound and Recording/ Summer Events (consent)	
Tues 6/11	6:30 pm	Joint Study Session with Parks & Recreation Commission	Cable TV Franchise Tree Retention Hours of Construction Collective Garden/Recreational Marijuana Discussion: Community Center (120 mins)	
Mon. 6/17	6:30 pm	Regular Meeting	Ordinance: First Reading Extending Collective Garden Moratorium Ordinance: Second Reading Amending SMC 16 Building Codes	
<b>July 2013</b>				
Tues. 07/2	6:30 pm	Regular Meeting	Ordinance: Second Reading Extending Collective Garden Moratorium	
Tues 07/09	6:30 pm	Joint Meeting PC/CC		
Tues 07/15	6:30 pm	Regular Meeting	City Managers Report: Fireworks Ordinance Enforcement	
<b>Sept 2013</b>				
Tues 09/03	6:30 pm	Regular Meeting		
Tues 09/10	6:30 pm	Study Session	Discussion: Community Center (120 mins)	
Mon. 09/16	6:30 pm	Regular Meeting	Resolution: LWSD Bond/Levy Ballot Measure	
<b>Oct 2013</b>				
Tues 10/01	6:30 pm	Regular Meeting		
Tues 10/08	6:30 pm	Study Session		
Mon. 10/14	6:30 pm	Regular Meeting		
<b>Nov 2013</b>				
Tues 11/05	6:30 pm	Regular Meeting		
Tues 11/12	6:30 pm	Study Session		
Mon. 11/18	6:30 pm	Regular Meeting		
<b>Dec 2013</b>				
Tues 12/03	6:30 pm	Regular Meeting		
Tues 12/10	6:30 pm	Study Session		
Mon. 12/16	6:30 pm	Regular Meeting		
<b>To Be Scheduled</b>		<b>To Be Scheduled</b>		<b>Parked Items</b>
Ordinance: Second Reading Puget Sound Energy Franchise				



If you are looking for facility rentals, please click [here](#).

<< April

## May 2013

June >>

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			<b>1</b> 4 p.m. <b>Finance Committee Meeting</b> 6:30 p.m. <b>Parks and Recreation Commission Meeting</b> <span style="color: red;">Canceled</span>	<b>2</b> 6:30 p.m. <b>Planning Commission Meeting</b> 7 p.m. <b>ACT Theatre- "Assisted Living"</b> 7 p.m. <b>Beaver Lake Management District Board Meeting</b>	<b>3</b>	<b>4</b> 9 a.m. <b>ARAS Bike Drive</b>
<b>5</b>	<b>6</b>	<b>7</b> 6:30 p.m. <b>City Council Meeting</b>	<b>8</b>	<b>9</b> 10 a.m. <b>Art for Seniors (55+) Workshop Series</b>	<b>10</b>	<b>11</b> 10 a.m. <b>Free Computer Recycling Drive</b>
<b>12</b>	<b>13</b> 5:30 p.m. <b>City Council Office Hour</b>	<b>14</b> 4 p.m. <b>Community and Economic Development Committee Meeting</b> 5:30 p.m. <b>Joint Meeting w/Lake Washington and Issaquah School District Board Members</b>	<b>15</b> 3 p.m. <b>Sammamish Farmers Market OPENING DAY</b> 6 p.m. <b>Sammamish Youth Board Meeting</b>	<b>16</b> 6:30 p.m. <b>Planning Commission Meeting</b> 6:30 p.m. <b>Community Garden Steering Committee</b>	<b>17</b>	<b>18</b> 9 a.m. <b>Parks and Recreation Volunteer Opportunity</b> 10 a.m. <b>Sammamish Walks - Pine Lake Park History Walk</b> 10 a.m. <b>Home Business Expo</b>
<b>19</b>	<b>20</b> 6:30 p.m. <b>Arts Commission Meeting</b> 6:30 p.m. <b>City Council Meeting</b>	<b>21</b>	<b>22</b> 3 p.m. <b>Sammamish Farmers Market</b>	<b>23</b>	<b>24</b>	<b>25</b>
<b>26</b>	<b>27</b> <span style="color: red;">Memorial Day</span> <span style="color: red;">City offices closed</span>	<b>28</b>	<b>29</b> 3 p.m. <b>Sammamish Farmers Market</b>	<b>30</b>	<b>31</b>	

If you are looking for facility rentals, please click [here](#).

<< May

## June 2013

July >>

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 10 a.m. Sammamish Native Plant and Trail Steward Volunteer Event
2	3	4 6:30 p.m. City Council Meeting	5 3 p.m. Sammamish Farmers Market 6:30 p.m. Parks and Recreation Commission Meeting	6 6:30 p.m. Planning Commission Meeting	7	8
9	10 5:30 p.m. City Council Office Hour	11 6:30 p.m. Joint Meeting with Parks & Recreation Commission	12 3 p.m. Sammamish Farmers Market 6 p.m. Sammamish Youth Board Meeting	13	14 3:30 p.m. Teen Fest - Skate Competition and Teen Music Festival	15 10 a.m. Sammamish Walks - "I Spy"
16	17 6:30 p.m. Arts Commission Meeting 6:30 p.m. City Council Meeting	18	19 3 p.m. Sammamish Farmers Market	20 6:30 p.m. Planning Commission Meeting 6:30 p.m. Community Garden Steering Committee	21	22
23	24	25	26 3 p.m. Sammamish Farmers Market	27	28	29
30						



# MEMORANDUM

**TO:** Melonie Anderson/City Clerk  
**FROM:** Marlene/Finance Department  
**DATE:** April 26, 2013  
**RE:** Claims for May 7, 2013

\$ 4,872.75  
 12,549.15  
 923,407.20  
 2,319.31

### Top 5 Expense Items in Packet

Eastside Fire & Rescue	\$470,588.10	May-13
King County Finance	\$85,393.54	Election Costs - 2012 (\$84,422.54) & \$971 I-Net
Lake Wa School District	\$42,621.00	School Impact Fees - April 2013
Columbia Ford	\$35,130.35	Ford F-250 for M&O
Watermark Assets	\$28,041.68	Refund of Cash Bond on Permit

**TOTAL \$ 943,148.41**

**Checks # 34739 - 34856**

4,872.75  
 12,549.15  
 923,407.20  
 2,319.31  
 943,148.41

Accounts Payable  
 Computer Check Register

User: jboss  
 Printed: 05/07/2013 - 3:01PM  
 Batch: 00003.05.2013  
 Bank Account: APPR



Check	Vendor No	Vendor Name	Date	Invoice No	Amount
34739	ALEXMOOR	Todd E. Alexander	5/7/2013	002	4,872.75
Check 34739 Total:					4,872.75
Report Total:					4,872.75

# Accounts Payable

## Check Register Totals Only

User: mdunham  
 Printed: 5/10/2013 - 1:58 PM



Check	Date	Vendor No	Vendor Name	Amount	Voucher
34740	05/13/2013	PSE	Puget Sound Energy	12,549.15	34,740
				Check Total:	
				12,549.15	

## Accounts Payable

## Check Register Totals Only

User: mdunham  
 Printed: 5/15/2013 - 4:14 PM



Check	Date	Vendor No	Vendor Name	Amount	Voucher
34741	05/20/2013	ANDERMEL	Melonie Anderson	59.70	34,741
34742	05/20/2013	ANI	ANI Administrators NW Inc	348.00	34,742
34743	05/20/2013	ANM	ANM Electric Inc	6,652.03	34,743
34744	05/20/2013	APEXPRES	Richard Miller	1,642.50	34,744
34745	05/20/2013	APPLIEDC	Applied Concepts, Inc	3,170.03	34,745
34746	05/20/2013	ATHLETES	Athletes for Kids	2,500.00	34,746
34747	05/20/2013	ATWORK	At Work!	750.00	34,747
34748	05/20/2013	BACKGROU	Background Source Intl	120.00	34,748
34749	05/20/2013	BOYSANDG	Boys and Girls Clubs of King County	120.00	34,749
34750	05/20/2013	BRICKMAN	Brickman Group Ltd LLC	5,834.35	34,750
34751	05/20/2013	BRIDGE	Bridge Disability Ministries	750.00	34,751
34752	05/20/2013	CENTLIN2	Century Link	43.24	34,752
34753	05/20/2013	CERTIFIE	Certified Backflow Testing, Inc	30.00	34,753
34754	05/20/2013	CHAPMAN	Nathan Chapman	1,359.80	34,754
34755	05/20/2013	CHINOOK	Chinook Lumber	3,954.82	34,755
34756	05/20/2013	COLUMBIA	Columbia Ford	35,130.35	34,756
34757	05/20/2013	COMCAST2	COMCAST	107.62	34,757
34758	05/20/2013	COMCAST3	Comcast	986.49	34,758
34759	05/20/2013	COMCHEM	Commercial Chemtech, Inc	136.88	34,759
34760	05/20/2013	COMPOFF	The Complete Office	486.62	34,760
34761	05/20/2013	COSTCO	Costco Wholesale	524.88	34,761
34762	05/20/2013	DEERE	John Deere Landscapes	662.41	34,762
34763	05/20/2013	DESIGNAI	Design Air, Ltd	5,475.00	34,763
34764	05/20/2013	DILLEY	Jennifer Dilley	68.25	34,764
34765	05/20/2013	Drivers	Drivers License Guide Co.	28.95	34,765
34766	05/20/2013	EASTEQ	Eastside Equipment & Marine	686.24	34,766
34767	05/20/2013	EASTFIRE	Eastside Fire & Rescue	470,588.10	34,767
34768	05/20/2013	ECO3	ECO3 Associates LLC	1,850.00	34,768
34769	05/20/2013	EVERETTS	Everett Steel, Inc	76.65	34,769
34770	05/20/2013	EVERSONS	Everson's Econo Vac, Inc.	2,482.10	34,770
34771	05/20/2013	FIREPROT	Fire Protection, Inc.	1,511.10	34,771
34772	05/20/2013	FRANCO	Francotyp-Postalia, Inc	455.28	34,772
34773	05/20/2013	FRONTIR2	Frontier	340.80	34,773
34774	05/20/2013	GARDNERS	Gardners Plant Services	187.29	34,774
34775	05/20/2013	GENERATO	Generator Services NW	731.33	34,775
34776	05/20/2013	GRAINGER	Grainger	698.02	34,776
34777	05/20/2013	GREATAME	Great America Financial Services	130.31	34,777
34778	05/20/2013	HENDERSO	Henderson Partners	22,479.00	34,778
34779	05/20/2013	HOPEEFS	Hopelink/Emergency Food	756.25	34,779
34780	05/20/2013	HOWARD	Lyman Howard	373.95	34,780
34781	05/20/2013	HWA	HWA GeoSciences, Inc	1,211.64	34,781
34782	05/20/2013	INTEGRA	Integra Telecom	1,232.11	34,782
34783	05/20/2013	ISD	Issaquah School District	16,821.00	34,783
34784	05/20/2013	ISSAQI	Issaquah Press, Inc.	252.00	34,784
34785	05/20/2013	ISSCHURC	Issaquah Community Services	250.00	34,785
34786	05/20/2013	ISSCITY	City Of Issaquah	4,590.00	34,786
34787	05/20/2013	ISSFOOD	Issaquah Food & Clothing Bank	756.25	34,787
34788	05/20/2013	ISSIGNS	Issaquah Signs	1,222.02	34,788
34789	05/20/2013	JOHNSOND	Daniel Johnson	200.00	34,789
34790	05/20/2013	JOHNSONT	Trevor Johnson	200.00	34,790

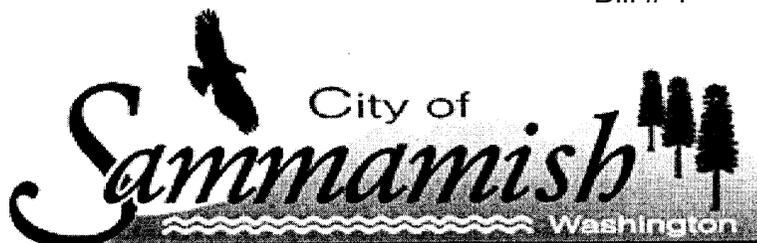
Check	Date	Vendor No	Vendor Name	Amount	Voucher
34791	05/20/2013	KCBLANK	King County Finance	2,131.52	34,791
34792	05/20/2013	KINGFI	King County Finance A/R	85,393.54	34,792
34793	05/20/2013	KINGPET	King County Pet Licenses	485.00	34,793
34794	05/20/2013	LESSCHWA	Les Schwab Tire Center	1,245.33	34,794
34795	05/20/2013	LEYTON	Kimberly Leyton	529.84	34,795
34796	05/20/2013	LIGHTLOA	Light Loads Concrete, LLC	4,088.29	34,796
34797	05/20/2013	LOZIER	Lozier Group	2,533.05	34,797
34798	05/20/2013	LWSD	Lake Washington School Dist	42,621.00	34,798
34799	05/20/2013	MACDONAL	MacDonald-Miller Facility Solutions	3,244.49	34,799
34800	05/20/2013	MAILPO	Mail Post	294.12	34,800
34801	05/20/2013	MICRO	Microflex, Inc.	16.63	34,801
34802	05/20/2013	MINUTE	Mike Immel	2,223.93	34,802
34803	05/20/2013	MOBERLY	Lynn Moberly	15,000.00	34,803
34804	05/20/2013	NAPA	Genunine Parts Company/Issaquah	1,943.19	34,804
34805	05/20/2013	NAPA/RED	Woodinville Auto Parts	1,448.79	34,805
34806	05/20/2013	NC MACH	NC Machinery Co	4,601.37	34,806
34807	05/20/2013	NESAM	NE Sammamish Sewer & Water	136.65	34,807
34808	05/20/2013	NEXTEL	Nextel Communications	758.50	34,808
34809	05/20/2013	NIELSEN	Bradley Nielsen	1,034.00	34,809
34810	05/20/2013	NWCASC	Northwest Cascade, Inc.	1,293.94	34,810
34811	05/20/2013	OER	Olympic Environmental Resource	19,782.56	34,811
34812	05/20/2013	OILCAN	Oil Can Henry's	260.46	34,812
34813	05/20/2013	PACSOIL	Pacific Topsoils, Inc	12,100.70	34,813
34814	05/20/2013	PAETEC	PAETEC Integrated Solutions Group,	2,272.46	34,814
34815	05/20/2013	PAPE	Pape Machinery Exchange	3,335.92	34,815
34816	05/20/2013	PLANTSCA	Plantscapes, Inc	23,557.66	34,816
34817	05/20/2013	POA	Pacific Office Automation	150.89	34,817
34818	05/20/2013	PROTH	Prothman Company	3,324.85	34,818
34819	05/20/2013	PROVIDEN	Providence Marianwood	10,000.00	34,819
34820	05/20/2013	PSE	Puget Sound Energy	10,828.86	34,820
34821	05/20/2013	R&RPARTY	R&R Party Rentals	402.00	34,821
34822	05/20/2013	RAINIER	Rainier Wood Recyclers Inc	59.50	34,822
34823	05/20/2013	RH2	RH2 Enginecring Inc	753.08	34,823
34824	05/20/2013	RHOMAR	Rhomar Industries, Inc	717.75	34,824
34825	05/20/2013	ROBINDAP	Daphnc Robinson	48.29	34,825
34826	05/20/2013	ROTARSAM	Rotary Club of Sammamish	65.00	34,826
34827	05/20/2013	RUIZ	Kevin Ruiz	50.00	34,827
34828	05/20/2013	SAM	Sammamish Plateau Water Sewer	825.44	34,828
34829	05/20/2013	SAMCHAMB	Sammamish Chamber of Commerce	25.00	34,829
34830	05/20/2013	SAUER	Mike Sauerwein	227.29	34,830
34831	05/20/2013	SEAAARCHI	Seattle Architecture Foundation	160.00	34,831
34832	05/20/2013	SERVICE	BUNZL Seattle/Sumner	986.72	34,832
34833	05/20/2013	SIGNARAM	Signarama-Redmond	153.16	34,833
34834	05/20/2013	SPRAGUE	SPRAGUE	91.98	34,834
34835	05/20/2013	STOECKL	Jane C. Stoecklin	125.00	34,835
34836	05/20/2013	SUBPROPA	Suburban Propane	295.83	34,836
34837	05/20/2013	SUNBELT	Sunbelt Rentals	279.72	34,837
34838	05/20/2013	SWIFTTRE	Swift Tree Care	4,380.00	34,838
34839	05/20/2013	TAGS	Tags Awards & Specialties	32.10	34,839
34840	05/20/2013	THYSSENK	Thyssenkrupp Elevator Corp.	262.80	34,840
34841	05/20/2013	TRIPLECR	Triple Crown Sports	3,127.20	34,841
34842	05/20/2013	TUBBSCHR	Chris Tubbs	95.00	34,842
34843	05/20/2013	UNITRENT	United Rentals NA, Inc	1,180.73	34,843
34844	05/20/2013	VERIZON	Verizon Wireless	1,916.66	34,844
34845	05/20/2013	VOYAGER	Voyager	7,306.00	34,845
34846	05/20/2013	WAEMP	State of Wa Employment Security Dep	9,559.73	34,846
34847	05/20/2013	WAREV	Wa State Dept of Revenue	228.18	34,847
34848	05/20/2013	WATERMAR	Watermark Assets	28,041.68	34,848
34849	05/20/2013	WATERSH	The Watershed Company	1,847.50	34,849

Check	Date	Vendor No	Vendor Name	Amount	Voucher
34850	05/20/2013	WAWORK	Washington Workwear Stores Inc	1,044.22	34,850
34851	05/20/2013	WED	Western Equipment Distributors	1,022.84	34,851
34852	05/20/2013	ZUMAR	Zumar Industries, Inc.	435.90	34,852
				923,407.20	
Check Total:				923,407.20	

## Accounts Payable

## Check Register Totals Only

User: mdunham  
 Printed: 5/16/2013 - 10:20 AM



Check	Date	Vendor No	Vendor Name	Amount	Voucher
34853	05/20/2013	KCBLANK	King County Finance	500.00	34,853
34854	05/20/2013	SAM	Sammamish Plateau Water Sewer	54.28	34,854
34855	05/20/2013	STAPLES	Staples Advantage	1,434.12	34,855
34856	05/20/2013	NELSONCO	Walter E. Nelson Company	330.91	34,856
				<hr/> <hr/>	
Check Total:				2,319.31	
				<hr/> <hr/>	





# City Council Agenda Bill

**Meeting Date:** May 20, 2013

**Date Submitted:** May 15, 2013

**Originating Department:** Finance IT

**Clearances:**

<input checked="" type="checkbox"/> City Manager	<input type="checkbox"/> Community Development	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Attorney	<input checked="" type="checkbox"/> Finance & IT	<input type="checkbox"/> Police
<input type="checkbox"/> Admin Services	<input type="checkbox"/> Fire	<input type="checkbox"/> Public Works

**Subject:** 2nd Reading of an ordinance amending the 2013-2014 City Biennial Budget for carry forward expenditures from 2012 and to update 2013 beginning fund balances based on actual 2012 ending fund balances.

**Action Required:** This is the 2nd Reading. The ordinance may be adopted, thereby adopting the 2012 carry forward expenditures and beginning fund balance adjustments to the 2013-2014 budget.

**Exhibits:**

1. Ordinance
2. Table A, 2013-2014 Biennial Budget Summary
3. Budget Carryforward Summary

**Budget:** \$162,385,306 for 2013-2014 with Transfers and Ending Fund Balance.

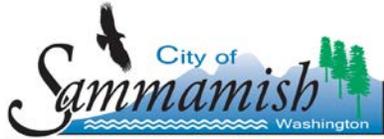
**Summary Statement:**

This ordinance increases total Beginning Fund Balance by \$8,747,617 to reflect the actual 2012 activity through the end of 2012 and allows for carry forward requests of \$8,493,063. The carry forward requests include \$6.1 million for the Community Center plus funds to complete work that was budgeted in the 2011-2012 Biennial Budget but not completed by the end of 2012. The end result of this update to the 2013-2014 Biennial Budget is a net increase in total budgeted Ending Fund Balance of \$254,554.

**Background:**

2012 expenditures were \$16,840,616 below budgeted levels. \$8,493,063 reflects costs that were budgeted in 2012 but are not anticipated to be incurred until 2013. The remaining \$8,347,553 reflects savings realized across all funds.

The 2013-2014 Biennial Budget was adopted by Council on November 19, 2012 (Ordinance No. O2012-337). The adjustments proposed would update the current biennial budget with the amended 2013-2014 Biennial Budget outlined in Table A.



## City Council Agenda Bill

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### **Financial Impact:**

The total 2013-2014 Biennial Budget with Transfers and Ending Fund Balance will increase from \$153,637,689 to \$162,385,306.

### **Recommended Motion:**

Motion to adopt O2013-XXX, adopting 2012 carry forward expenditures and 2013 beginning fund balance adjustments to the 2013-2014 budget.

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE No. O2013-XXX**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON, AMENDING ORDINANCE NO. 02012-337,  
THE 2013-2014 CITY BUDGET, FOR THE PURPOSE OF  
REVISING THE 2013-2014 BIENNIAL BUDGET.**

**WHEREAS**, the City Council adopted Ordinance No. 02012-337, establishing the City's Biennial budget for the years 2013-2014; and

**WHEREAS**, the City budget set forth anticipated revenues and expenditures for the forthcoming years; and

**WHEREAS**, during 2012, certain budgeted revenues and expenditures have increased or decreased and the City Council wishes to amend the City Budget to reflect the 2013 actual beginning fund balances resulting from the revenues and expenditures as received and incurred; and

**WHEREAS**, certain commitments were made as part of the 2011-2012 Biennial Budget for projects that were not completed by December 31, 2012 and funds related to these commitments need to be carried forward for payment into 2013;

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

**Section 1.** Ordinance No. 2012-337, adopted November 19, 2012, relating to the City of Sammamish's 2013-2014 budget, is hereby amended to adopt the revised budget for the 2013-2014 biennium in the amounts and for the purposes as shown on the attached Table A.

**Section 2.** The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

**Section 3.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**PASSED BY THE CITY COUNCIL OF THE CITY OF SAMMAMISH,  
WASHINGTON ON THIS 20th DAY OF MAY 2013.**

CITY OF SAMMAMISH

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Mayor Thomas T. Odell

Attest:

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Melonie Anderson, City Clerk

Approved as to form:

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Bruce L. Disend, City Attorney

1<sup>st</sup> Reading: May 7th, 2013  
2<sup>nd</sup> Reading: May 20th, 2013  
Date Adopted:  
Date of Publication:  
Effective date:

# CITY OF SAMMAMISH

## ORDINANCE O2013-XXX

### 2013-2014 BIENNIAL BUDGET AMENDMENT: TABLE A

<b>2013-2014 BIENNIAL BUDGET = \$162,385,306</b>								
FUND	BEGINNING BALANCE		REVENUES & OTHER SOURCES		EXPENSES & OTHER USES		ENDING BALANCE	
	2013-2014		2013-2014		2013-2014		2013-2014	
	Original	Revised	No Change		Original	Revised	Original	Revised
001	General Fund	\$ 15,909,000	\$ 18,340,898	\$ 60,579,480	\$ 69,201,087	\$ 69,375,987	\$ 7,287,393	\$ 9,544,391
101	Street Fund	\$ 2,831,000	\$ 3,358,155	\$ 12,548,300	\$ 10,807,510	\$ 10,807,510	\$ 4,571,790	\$ 5,098,945
201	G.O. Debt Service Fund	\$ -	\$ -	\$ 1,112,000	\$ 1,112,000	\$ 1,112,000	\$ -	\$ -
301	CIP General Fund	\$ 8,533,000	\$ 8,754,593	\$ 31,000	\$ 3,620,000	\$ 3,620,000	\$ 4,944,000	\$ 5,165,593
302	CIP Parks Fund	\$ 10,326,000	\$ 12,188,626	\$ 8,772,000	\$ 2,583,225	\$ 9,995,643	\$ 16,514,775	\$ 10,964,983
340	CIP Transportation	\$ 11,574,000	\$ 13,877,117	\$ 6,320,500	\$ 8,696,000	\$ 8,976,745	\$ 9,198,500	\$ 11,220,872
408	Surface Water Management-Operating Fund	\$ 376,000	\$ 1,085,176	\$ 6,313,221	\$ 6,245,368	\$ 6,545,368	\$ 443,853	\$ 853,029
438	Surface Water Management-CIP Fund	\$ 1,404,000	\$ 2,121,543	\$ 2,605,500	\$ 2,644,968	\$ 2,969,968	\$ 1,364,532	\$ 1,757,075
501	Equipment Replacement Fund	\$ 971,000	\$ 871,181	\$ 563,388	\$ 555,238	\$ 555,238	\$ 979,150	\$ 879,331
502	Information Services Replacement Fund	\$ 595,000	\$ 666,503	\$ 1,459,500	\$ 1,703,800	\$ 1,703,800	\$ 350,700	\$ 422,203
503	Risk Management Fund	\$ 395,000	\$ 397,825	\$ 418,800	\$ 706,000	\$ 706,000	\$ 107,800	\$ 110,625
<b>2013-2014 TOTAL BIENNIAL BUDGET</b>		<b>\$ 52,914,000</b>	<b>\$ 61,661,617</b>	<b>\$ 100,723,689</b>	<b>\$ 107,875,196</b>	<b>\$ 116,368,259</b>	<b>\$ 45,762,493</b>	<b>\$ 46,017,047</b>

<b>2013 ANNUAL BUDGET FOR REFERENCE PURPOSES</b>								
	FY 2013		FY 2013		FY 2013		FY 2013	
	Original	Revised	No Change		Original	Revised	Original	Revised
001	General Fund	\$ 15,909,000	\$ 18,340,898	\$ 30,248,840	\$ 34,135,298	\$ 34,310,198	\$ 12,022,542	\$ 14,279,540
101	Street Fund	\$ 2,831,000	\$ 3,358,155	\$ 6,356,200	\$ 5,368,730	\$ 5,368,730	\$ 3,818,470	\$ 4,345,625
201	G.O. Debt Service Fund	\$ -	\$ -	\$ 557,333	\$ 557,333	\$ 557,333	\$ -	\$ -
301	CIP General Fund	\$ 8,533,000	\$ 8,754,593	\$ 14,000	\$ 3,620,000	\$ 3,620,000	\$ 4,927,000	\$ 5,148,593
302	CIP Parks Fund	\$ 10,326,000	\$ 12,188,626	\$ 4,456,000	\$ 1,128,400	\$ 8,540,818	\$ 13,653,600	\$ 8,103,808
340	CIP Transportation	\$ 11,574,000	\$ 13,877,117	\$ 3,497,500	\$ 4,932,333	\$ 5,213,078	\$ 10,139,167	\$ 12,161,539
408	Surface Water Management-Operating Fund	\$ 376,000	\$ 1,085,176	\$ 2,919,230	\$ 3,067,809	\$ 3,367,809	\$ 227,421	\$ 636,597
438	Surface Water Management-CIP Fund	\$ 1,404,000	\$ 2,121,543	\$ 802,400	\$ 874,984	\$ 1,199,984	\$ 1,331,416	\$ 1,723,959
501	Equipment Replacement Fund	\$ 971,000	\$ 871,181	\$ 303,494	\$ 433,119	\$ 433,119	\$ 841,375	\$ 741,556
502	Information Services Replacement Fund	\$ 595,000	\$ 666,503	\$ 729,600	\$ 900,500	\$ 900,500	\$ 424,100	\$ 495,603
503	Risk Management Fund	\$ 395,000	\$ 397,825	\$ 209,300	\$ 353,000	\$ 353,000	\$ 251,300	\$ 254,125
<b>TOTAL BUDGET</b>		<b>\$ 52,914,000</b>	<b>\$ 61,661,617</b>	<b>\$ 50,093,897</b>	<b>\$ 55,371,506</b>	<b>\$ 63,864,569</b>	<b>\$ 47,636,391</b>	<b>\$ 47,890,945</b>

<b>2014 ANNUAL BUDGET FOR REFERENCE PURPOSES</b>								
	FY 2014		FY 2014		FY 2014		FY 2014	
	Original	Revised	No Change		No Change	No Change	Original	Revised
001	General Fund	\$ 12,022,542	\$ 14,279,540	\$ 30,330,640	\$ 35,065,789	\$ 35,065,789	\$ 7,287,393	\$ 9,544,391
101	Street Fund	\$ 3,818,470	\$ 4,345,625	\$ 6,192,100	\$ 5,438,780	\$ 5,438,780	\$ 4,571,790	\$ 5,098,945
201	G.O. Debt Service Fund	\$ -	\$ -	\$ 554,667	\$ 554,667	\$ 554,667	\$ -	\$ -
301	CIP General Fund	\$ 4,927,000	\$ 5,148,593	\$ 17,000	\$ -	\$ -	\$ 4,944,000	\$ 5,165,593
302	CIP Parks Fund	\$ 13,653,600	\$ 8,103,808	\$ 4,316,000	\$ 1,454,825	\$ 1,454,825	\$ 16,514,775	\$ 10,964,983
340	CIP Transportation	\$ 10,139,167	\$ 12,161,539	\$ 2,823,000	\$ 3,763,667	\$ 3,763,667	\$ 9,198,500	\$ 11,220,872
408	Surface Water Management-Operating Fund	\$ 227,421	\$ 636,597	\$ 3,393,991	\$ 3,177,559	\$ 3,177,559	\$ 443,853	\$ 853,029
438	Surface Water Management-CIP Fund	\$ 1,331,416	\$ 1,723,959	\$ 1,803,100	\$ 1,769,984	\$ 1,769,984	\$ 1,364,532	\$ 1,757,075
501	Equipment Replacement Fund	\$ 841,375	\$ 741,556	\$ 259,894	\$ 122,119	\$ 122,119	\$ 979,150	\$ 879,331
502	Information Services Replacement Fund	\$ 424,100	\$ 495,603	\$ 729,900	\$ 803,300	\$ 803,300	\$ 350,700	\$ 422,203
503	Risk Management Fund	\$ 251,300	\$ 254,125	\$ 209,500	\$ 353,000	\$ 353,000	\$ 107,800	\$ 110,625
<b>TOTAL BUDGET</b>		<b>\$ 47,636,391</b>	<b>\$ 47,890,945</b>	<b>\$ 50,629,792</b>	<b>\$ 52,503,690</b>	<b>\$ 52,503,690</b>	<b>\$ 45,762,493</b>	<b>\$ 46,017,047</b>



Exhibit 3

2012 to 2013 Budget Carryforward Summary

Operating Expense Commitments

\$	23,900	Permit Center Professional Services - Piedmont Sign (reimbursable) & temporary Permit Technician services.
	40,000	Economic Development Plan implementation.
	50,000	Building Professional Services - Major project plan review & inspection. Reimbursable.
	61,000	Comprehensive Plan & Environmentally Critical Area/SMP Amendment.
<u>\$</u>	<u>174,900</u>	<b>Subtotal General Fund Commitments</b>

\$	100,000	King County contract work - Maintenance/repairs, mowing, inspections.
	200,000	Engineering work delayed waiting for outcome of NPDES appeal.
<u>\$</u>	<u>300,000</u>	<b>Subtotal Surface Water Management Operating Fund Commitments</b>

Capital Expense Commitments

\$	12,854	Freed House - City portion of project started in 2012 to be completed in 2013.
	38,641	Beaver Lake Lodge interior renovation- exterior trim paint and ADA ramp to be completed in 2013.
	64,683	Funding for Beaver Lake Preserve Phase II design to be completed in 2013.
	85,000	Big Rock Park-initial repair & improvement projects including water line, well , septic tank scheduled for 2013.
	135,476	Sammamish Landing shoreline and dock replacement project started in 2012 and will be completed in spring 2013.
	181,394	Eastlake High School ballfields. Project construction in 2012, closeout in 2013.
	194,370	Community Garden at Lower Commons-moved from Beaver Lake Park. Construction contract awarded March 2013.
	600,000	Capital contingency reserve. \$300K for Sammamish Landing project. Remainder for capital projects rolling forward.
	6,100,000	Community Center project-design in 2013 with construction beginning in 2014.
	39,000	Towncenter Roadway Analysis. This is development driven and wasn't utilized in 2012
	97,490	Inglewood Hill non-motorized. Construction not completed in 2012.
	144,255	228th turn lanes delayed.
	50,000	Stormwater Comp Plan was delayed due to Planning Commission calendar.
	75,000	Inglewood Hill non-motorized construction not completed in 2012
	200,000	Flooding resolutions contract work not completed in 2012
<u>\$</u>	<u>8,018,163</u>	<b>Subtotal Capital Expense Commitments</b>

<b>\$ 8,493,063 Grand Total</b>
\$16,840,616 TOTAL available (all funds)
<b>\$8,347,553 NET Savings</b>

Exhibit 3

**2012 Fiscal Year**

Fund #	Savings NET		Major Savings Component
	Bgt-Act	of CF Request	
101	\$ 366,168	\$ 366,168	Unspent operating contingency funds.
201	-	-	Debt service fund.
301	2,546,189	2,546,189	Town Center funding-re budgeted in 2013
302	7,918,035	505,617	Unspent contingency funds. Project expenses delayed.
340	1,322,012	1,041,267	Unspent contingency funds. Projects not completed in 2012.
408	305,285	5,285	Maintenance and operations professional services.
438	688,675	363,675	Small capital projects.
501	(236,774)	(236,774)	Off-cycle vehicles replaced early. Maintenance costs higher than budgeted.
502	76,751	76,751	Equipment purchases delayed.
503	9,836	9,836	Insurance premium less than budgeted.
Subtotal	<u>\$ 12,996,177</u>	<u>\$ 4,678,014</u>	

General Fund	\$ 3,844,439	\$ 3,669,539
<b>TOTAL</b>	<b>\$ 16,840,616</b>	<b>\$ 8,347,553</b>

Savings by Area

\$ (109,127)	Personnel - Limited term Parks planner, development revenue funded inspector.
955,052	GF Contingency (\$119,948 spent in 301 fund. Cash transferred from GF to 301 fund).
500,000	Development Revenue Service Contingency.
1,500,000	GF Capital Contingency.
823,614	Other GF savings not carried forward.
<u>\$ 3,669,539</u>	<b>Subtotal General Fund Savings</b>





# City Council Agenda Bill

**Meeting Date:** May 20, 2013

**Date Submitted:** May 15, 2013

**Originating Department:** Public Works

**Clearances:**

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> City Manager | <input type="checkbox"/> Community Development   | <input type="checkbox"/> Parks & Recreation      |
| <input type="checkbox"/> Attorney                | <input checked="" type="checkbox"/> Finance & IT | <input type="checkbox"/> Police                  |
| <input type="checkbox"/> Admin Services          | <input type="checkbox"/> Fire                    | <input checked="" type="checkbox"/> Public Works |

**Subject:** Construction Contract Award – City Hall Driveway/Stormwater Repair

**Action Required:** Authorize the City Manager to award and execute a contract with Dan Crocker Construction Inc. for the construction repair of the city hall driveway in the amount of \$24,597, and to administer a construction contingency in the amount of \$6,500.

**Exhibits:** N/A

**Budget:** \$250,000 from the adopted 2013 Surface Water Capital Projects Fund (438-413-595-40-41-00)

**Summary Statement:**

The Public Works Department recommends that the City Council authorize the City Manager to award and execute a contract with Dan Crocker Construction Inc., the lowest responsive and responsible bidder for construction of the city hall driveway and stormwater repair. This project was advertised using the small works roster, and the bids/quotes were received on May 10, 2013.

**Background:**

The project will repair a sinkhole that has formed in the city hall driveway entrance. The cause of the subsidence appears to be stormwater related. The stormwater system was examined, and it was found to be full of sediment. Video access from above the apparent failure was not available due to a buried catch basin. So along with the driveway repair, a buried stormwater structure will be raised to the surface, and a grate will be installed. The repair has some uncertainty associated with it because it is unknown what type of failure will be found during the excavation.

This work will take place on the weekend to avoid any impacts to the normal weekday city hall business. It is scheduled for the first and second weekends in June.

The City received two bids for this work. The lowest responsible bid was \$24,597 plus sales tax from Dan Crocker Construction Inc.



## City Council Agenda Bill

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### **Financial Impact:**

The project costs are funded through the Surface Water Capital Projects Fund which has budgeted at \$250,000 for major drainage repairs in 2013. The low bid is \$24,597 plus sales tax for a total contract amount of \$26,934. Staff is requesting a construction contingency of 25%, due to the uncertainty of what will be encountered when the area is uncovered.

### **Recommended Motion:**

Move to authorize the City Manager to award and execute a contract with Dan Crocker Construction Inc. for the construction repair of the city hall driveway in the amount of \$26,934, which includes Washington State Sales Tax, and to administer a construction contingency in the amount of \$6,733.



# City Council Agenda Bill

**Meeting Date:** May 20, 2013

**Date Submitted:** May 16, 2013

**Originating Department:** Public Works

**Clearances:**

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> City Manager | <input type="checkbox"/> Community Development   | <input type="checkbox"/> Parks & Recreation      |
| <input type="checkbox"/> Attorney                | <input checked="" type="checkbox"/> Finance & IT | <input type="checkbox"/> Police                  |
| <input type="checkbox"/> Admin Services          | <input type="checkbox"/> Fire                    | <input checked="" type="checkbox"/> Public Works |

**Subject:** Kokanee Supplementation Program Hatchery Improvement

**Action Required:** Authorize the City Manager to pay up to \$2500 for necessary improvements to the Issaquah Hatchery for the Kokanee Supplementation Program.

**Exhibits:** N/A

**Budget:** \$2,500 from the operating contingency in 2013 Surface Management Fund

**Summary Statement:**

The Public Works Department recommends that the City Council authorize the City Manager to reimburse the Washington State Department of Fish and Wildlife for the cost of necessary upgrades to equipment for the Kokanee supplementation program up to an amount of \$2,500.

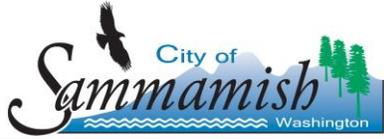
**Background:**

The City of Sammamish is an active partner in the Kokanee Work Group (KWG). The KWG is an inter-agency group concentrating on the recovery of the Lake Sammamish Kokanee. KWG has spearheaded a Lake Sammamish Kokanee supplementation program to aid in the recovery of the native fish populations. The Issaquah fish hatchery is where this program takes place.

In years past, Sammamish has contributed to the cost of the water for the supplementation program. The water was purchased from a business adjacent to the hatchery; Darigold. This year Darigold has made the commitment to donate the water and because of that we did not budget funds for this purpose in 2013/2014 budget. The KWG has proposed to take the capacity the partners have been paying for water and use it to make some improvements to the fish hatchery that are necessary for the Kokanee program.

**Financial Impact:**

We are proposing to contribute \$2,500 towards this project through the Surface Water Management Fund operating contingency. This amount is similar to the amount that Sammamish has historically contributed to the cost of Darigold water used in the supplementation.



## City Council Agenda Bill

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### **Recommended Motion:**

Authorize the City Manager to pay up to \$2500 for necessary improvements to the Issaquah Hatchery for the Kokanee Supplementation Program.



# City Council Agenda Bill

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**Meeting Date:** May 20, 2013

**Date Submitted:** May 15, 2013

**Originating Department:** Public Works

**Clearances:**

- City Manager  
 Attorney  
 Admin Services

- Community Development  
 Finance & IT  
 Fire

- Parks & Recreation  
 Police  
 Public Works

**Subject:** 2013 Pavement Program - Overlays

**Action Required:** Authorize the City Manager to award and execute a contract Watson Asphalt Paving Co., Inc. for construction of the 2013 Pavement Program – Overlays in the amount of \$2,158,759 and to administer a construction contingency in the amount of \$108,000.

**Exhibits:**

1. Overlay Vicinity Map
2. Bid Summary

**Budget:** Street Maintenance Fund (101-000-542-30-48-51)  
 2013 Approved Budget: \$3,000,000

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**Summary Statement:**

The Public Works Department recommends that the City Council authorize the City Manager to award and execute a contract with Watson Asphalt Paving Co., Inc., the lowest responsible bidder, for construction of the 2013 Pavement Program – Overlays for arterial and local streets. Bids are scheduled to be opened on May 16th, 2013. Prior to recommending award to the City Manager, Staff will conduct due diligence for confirming the lowest responsible bidder.

**Background:**

This project provides for pavement preservation through localized pavement patching and Hot Mix Asphalt (HMA) overlays. The streets were selected based on engineering judgment and data records created through the City's on-going pavement management program. A review of the streets included in this project along with selection criteria were presented to City Council at the March 12 Study Session.



## City Council Agenda Bill

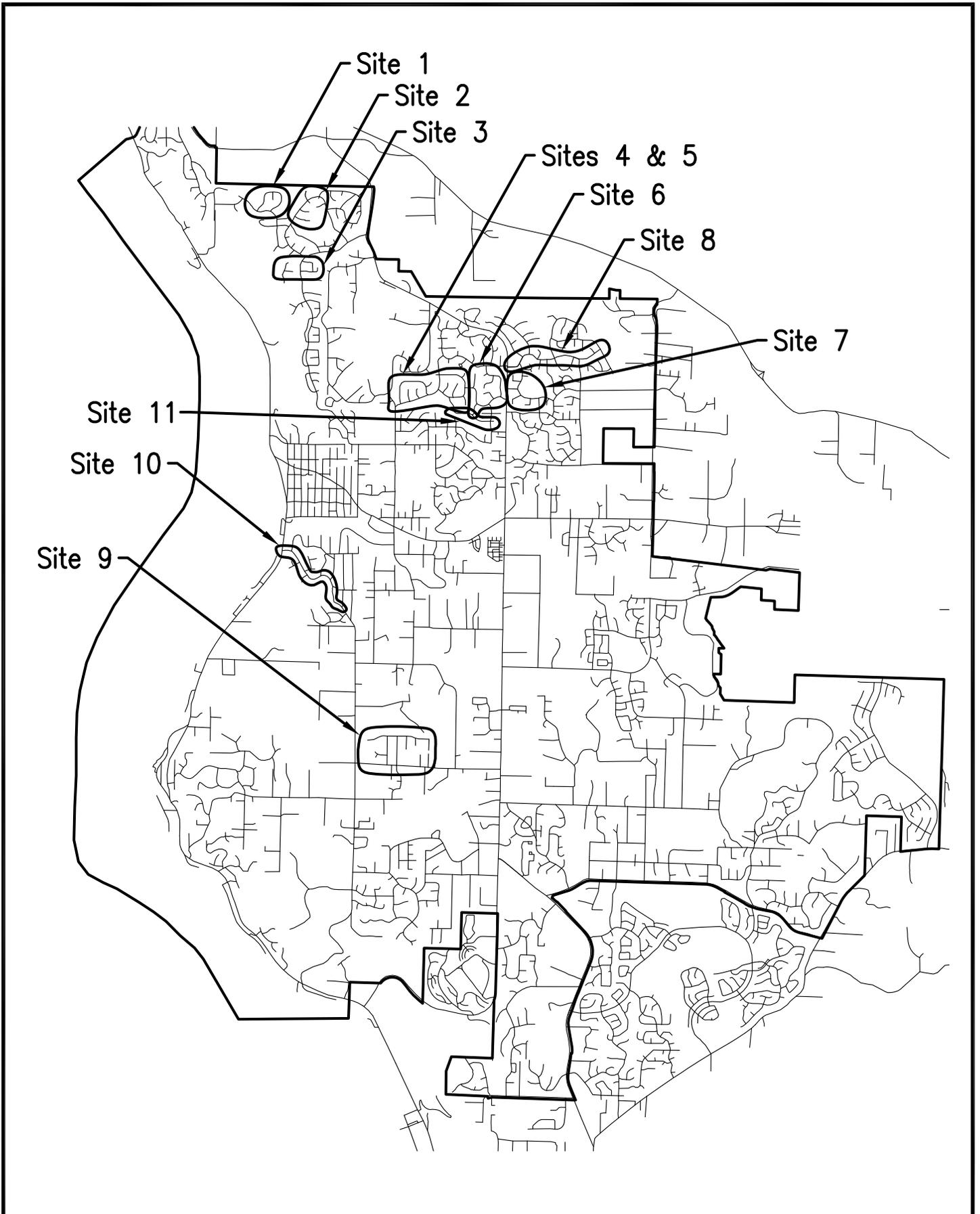
### Financial Impact:

The work to be performed is anticipated to fit within the adopted 2013 budget.

<b>Program Budget (101-000-542-30-48-51)</b>	<b>\$ 3,000,000</b>
Construction Contract	\$ (2,158,759)
Construction Contingency (5%)	\$ (108,000)
Sidewalk Ramp Alterations	\$ (300,000)
Pavement Condition Survey	\$ (55,000)
Patching/Crack Seal	\$ (170,000)
Inglewood Hill Road Pavement Overlay	\$ (385,000)
<b>Federal Aid Grant – Inglewood Overlay</b>	<b>\$ 175,000</b>
<b>Remaining Budget</b>	<b>\$ 0</b>

### Recommended Motion:

Move to authorize the City Manager to award and execute a contract Watson Asphalt Paving Co., Inc. for construction of the 2013 Pavement Program – Overlays in an the amount of \$2,158,759 and to administer a construction contingency in the amount of \$108,000.



CITY OF SAMMAMISH DEPARTMENT OF PUBLIC WORKS		2013 PAVEMENT PROGRAM – OVERLAYS VICINITY MAP			
REV		DWN	SCALE	DATE	SHEET
		JG	N.T.S.	5/15/13	1





**Bid Opening**

**City of Sammamish Public Works Department**

Project: **2013 Pavement Program - Overlays**

Bid Date & Time: **May 16th, 2013, 2:00 pm**

Bidder		Signed Proposal	Schedule of Prices (Addendum No 1)	Bid Security Form	Acknowledgement of Receipt of Addenda	Bidder Information and Signature	Non-Collusion and Debarment Affidavit	Minimum Wage Affidavit Form	<sup>1</sup> List of Subcontractors	<sup>2</sup> Statement of Bidder's Qualifications	<sup>2</sup> Responsible Bidder Criteria	Total Bid Price
1	Lakeside Industries	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,383,268.38
2	Watson	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,158,758.73
3												
4												
5												
6												
7												
8												

Engineer's Estimate: \$2,430,000

<sup>1</sup>Form must be submitted within one hour after published bid submittal time.

<sup>2</sup>Form must be submitted within 48 hours after the published bid submittal time.





# City Council Agenda Bill

**Meeting Date:** May 7, 2013

**Date Submitted:** April 15, 2013

**Originating Department:** Police

**Clearances:**

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> City Manager | <input type="checkbox"/> Community Development | <input type="checkbox"/> Parks & Recreation |
| <input checked="" type="checkbox"/> Attorney     | <input type="checkbox"/> Finance & IT          | <input type="checkbox"/> Police             |
| <input type="checkbox"/> Admin Services          | <input type="checkbox"/> Fire                  | <input type="checkbox"/> Public Works       |

**Subject:** Ordinance: Second Reading Amending Section 22.15.020 Of The Sammamish Municipal Code Related To The Impoundment Of Vehicles

**Action Required:** Adopt ordinance upon second reading

**Exhibits:**

1. Ordinance: Option A
2. Ordinance: Option B (Proposed by Councilmember Geren)

**Budget:** NA

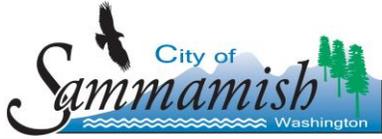
**Summary Statement:**

SMC 22.15 mandates the impound of vehicles of drivers who are arrested for a violation of driving under the influence (DUI) or driving while license suspended (DWLS). The Washington State Court of Appeals has ruled that mandatory impounds of vehicles for these offenses are unconstitutional. In order to comply with the court's ruling, the language in the ordinance needs to reflect that the decision to impound is up to the officer's discretion.

**Background:**

Traffic safety is a priority with City of Sammamish. In an effort to prevent serious injury or death, the Sammamish Police Department aggressively enforces DUI laws, as well as those laws that pertain to DWLS.

The city's impound ordinance helps prevent recurrence of these offenses by mandating that officers impound the vehicles of those arrested for DUI or DWLS. In a recent decision, the Washington State Court of Appeals ruled that the mandatory impound of vehicles for these offenses is unconstitutional. In order to comply with the court's ruling, impound statutes need to grant an officer "discretionary" authority to impound, rather than stating that they "shall" impound.



# City Council Agenda Bill

The City of Sammamish currently has the following regulations within the Sammamish Municipal Code (SMC) that address impounds for DUI and DWLS:

## **SMC 22.15.020 – Impoundment Authorized**

- (1) If a driver is arrested for a violation of driving while license suspended (“DWLS”) in the third degree, as defined in RCW 46.20.342, or if the driver is arrested for driving with a license that is suspended in another state, the vehicle shall be impounded.
- (2) If the driver is arrested for a violation of DWLS second degree, as defined in RCW 46.20.342, the vehicle shall be impounded for 30 days.
- (3) If the driver is arrested for a violation of DWLS first degree, as defined in RCW 46.20.342, the vehicle shall be impounded for 30 days.
- (4) If a driver is arrested for a violation of RCW 46.61.502, Driving under the influence, or RCW 46.61.504, Physical control of vehicle under the influence, the vehicle shall be impounded.

Based on the review of the existing ordinance and the court’s ruling by the Police Chief and City Attorney’s office, the following update to the impound ordinance is submitted for City Council’s consideration. This update changes the language from “shall be impounded” to “is subject to impoundment”:

## **SMC 22.15.020 – Impoundment Authorized**

- (1) If a driver is arrested for a violation of driving while license suspended (“DWLS”) in the third degree, as defined in RCW 46.20.342, or if the driver is arrested for driving with a license that is suspended in another state, the vehicle is subject to impoundment at the officer’s discretion.
- (2) If the driver is arrested for a violation of DWLS second degree, as defined in RCW 46.20.342, the vehicle is subject to impoundment at the officer’s discretion for 30 days.
- (3) If the driver is arrested for a violation of DWLS first degree, as defined in RCW 46.20.342, the vehicle is subject to impoundment at the officer’s discretion for 30 days.
- (4) If a driver is arrested for a violation of RCW 46.61.502, Driving under the influence, or RCW 46.61.504, Physical control of vehicle under the influence, the vehicle is subject to impoundment at the officer’s discretion.

The first reading of this ordinance was held on May 7. At that meeting Councilmember Gerend suggesting amending the amendment by adding the words “at the officer’s” discretion. In the Council packets two ordinances are being offered for consideration: Option A which modifies the ordinance by changing the current language from “shall be impounded” to “is subject to impoundment”. Option B contains the additional wording of “at the officer’s discretion” as recommended by Councilmember Gerend

### **Financial Impact:**

There is no financial impact.

**Recommended Motion:** Staff recommends adoption of Option A of the ordinance. Option B will create an unrealistic expectation that an officer has the authority to release all vehicles that are subject to impound, when in reality there will be protocols in place that govern the release of these vehicles.

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE O2013-\_\_\_\_\_**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON AMENDING SECTION 22.15.020 OF THE  
SAMMAMISH MUNICIPAL CODE RELATED TO THE  
IMPOUNDMENT OF VEHICLES**

WHEREAS, RCW 46.55.113 grants police officers discretionary authority to impound vehicles in conjunction with certain vehicle-related arrests; and

WHEREAS, the Washington Supreme Court clarified in *In re Impoundment of Chevrolet Truck*, 148 Wash. 2d 145 (2002) that a municipality must grant its police officers such discretion to impound vehicles in conjunction with certain vehicle-related arrests in accordance with RCW 46.55.113; and

WHEREAS, the City Council desires that the Sammamish Municipal Code comply with Washington State law;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH,  
WASHINGTON, DOES RESOLVE AS FOLLOWS:**

Section 1. Amendment. Section 22.15.020 (“Impoundment Authorized”) is hereby amended to read as follows:

**22.15.020 Impoundment authorized.**

(1) If a driver is arrested for a violation of driving while license suspended (“DWLS”) in the third degree, as defined in RCW 46.20.342, or if the driver is arrested for driving with a license suspended in another state, the vehicle ~~shall be impounded~~ is subject to impoundment.

(2) If the driver is arrested for a violation of DWLS second degree, as defined in RCW 46.20.342, the vehicle ~~shall be impounded~~ is subject to impoundment for 30 days.

(3) If the driver is arrested for a violation of DWLS first degree, as defined in RCW 46.20.342, the vehicle ~~shall be impounded~~ is subject to impoundment for 30 days.

(4) If a driver is arrested for a violation of RCW 46.61.502, Driving under the influence, or RCW 46.61.504, Physical control of vehicle under the influence, the vehicle ~~shall be impounded~~ is subject to impoundment.

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.

Exhibit 1

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON  
THE \_\_\_\_\_ DAY OF MAY, 2013**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Thomas T. Odell

ATTEST/ATHENTICATED

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

Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney

Filed with the City Clerk: April 30, 2013  
First Reading May 7, 2013  
Passed by the City Council:  
Date of Publication:  
Effective Date:

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE O2013-\_\_\_\_\_**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON AMENDING SECTION 22.15.020 OF THE  
SAMMAMISH MUNICIPAL CODE RELATED TO THE  
IMPOUNDMENT OF VEHICLES**

WHEREAS, RCW 46.55.113 grants police officers discretionary authority to impound vehicles in conjunction with certain vehicle-related arrests; and

WHEREAS, the Washington Supreme Court clarified in *In re Impoundment of Chevrolet Truck*, 148 Wash. 2d 145 (2002) that a municipality must grant its police officers such discretion to impound vehicles in conjunction with certain vehicle-related arrests in accordance with RCW 46.55.113; and

WHEREAS, the City Council desires that the Sammamish Municipal Code comply with Washington State law;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH,  
WASHINGTON, DOES RESOLVE AS FOLLOWS:**

Section 1. Amendment. Section 22.15.020 (“Impoundment Authorized”) is hereby amended to read as follows:

**22.15.020 Impoundment authorized.**

(1) If a driver is arrested for a violation of driving while license suspended (“DWLS”) in the third degree, as defined in RCW 46.20.342, or if the driver is arrested for driving with a license suspended in another state, the vehicle ~~shall be impounded~~ is subject to impoundment at the officer’s discretion

(2) If the driver is arrested for a violation of DWLS second degree, as defined in RCW 46.20.342, the vehicle ~~shall be impounded~~ is subject to impoundment at the officer’s discretion for 30 days.

(3) If the driver is arrested for a violation of DWLS first degree, as defined in RCW 46.20.342, the vehicle ~~shall be impounded~~ is subject to impoundment at the officer’s discretion for 30 days.

(4) If a driver is arrested for a violation of RCW 46.61.502, Driving under the influence, or RCW 46.61.504, Physical control of vehicle under the influence, the vehicle ~~shall be impounded~~ is subject to impoundment at the officer’s discretion.

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

Exhibit 2

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 shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON  
THE \_\_\_\_\_ DAY OF MAY, 2013**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Thomas T. Odell

ATTEST/ATHENTICATED

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

Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney

Filed with the City Clerk:     April 30, 2013  
First Reading                     May 7, 2013  
Passed by the City Council:  
Date of Publication:  
Effective Date:



# City Council Agenda Bill

**Meeting Date:** May 20, 2013

**Date Submitted:** May 16, 2013

**Originating Department:** Community Development

**Clearances:**

<input checked="" type="checkbox"/> City Manager	<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Attorney	<input type="checkbox"/> Finance & IT	<input type="checkbox"/> Police
<input type="checkbox"/> Admin Services	<input type="checkbox"/> Fire	<input type="checkbox"/> Public Works

**Subject:** Resolution: Related to the Use of the Land Conservation and Local Infrastructure Program (LCLIP)

**Action Required:** Adopt resolution

**Exhibits:** 1. Proposed Resolution

**Budget:** N/A

**Summary Statement:** To test the financial feasibility of the LCLIP tool in Sammamish, King County provided \$15,000 of United States Environmental Protection Agency Sound Ecosystem Restoration and Protection Cooperative Agreement grant funds to Sammamish to pay for a consultant study. The consultant study has been completed and the results demonstrate that the LCLIP tool would be useful to generate additional revenue for such infrastructure and amenities, and that the projected benefits of the LCLIP tool depend on a variety of factors and choices. Key findings from the study are:

- Sammamish has agreed to accept at least 75 TDR credits from the County per an existing inter-local agreement (ILA), representing 35% of the allocation under the LCLIP program
- LCLIP is feasible for Sammamish and would generate new revenues for infrastructure; projected amounts depend upon program choices
- The City can mitigate program risk by implementing “risk sharing” measures with King County through a revised ILA
- LCLIP revenues may be more appropriate for pay-as-you-go financing rather than bonding

**Background:** In 2011, Sammamish and King County executed an Interlocal Agreement that sets forth an inter-jurisdictional Transfer of Development Right (TDR) program that provides for 75 TDR credits from King County Rural Areas that are in close proximity to the City to be used for increased development capacity in the Sammamish Town Center area. In 2011, the Washington State Legislature created the framework for a regional TDR mechanism by adopting ESSB 5253, the Landscape Conservation and Local Infrastructure Program (“LCLIP”), codified as RCW 39.108. LCLIP creates a mechanism for cities and counties to enact regional TDR partnerships for rural and resource land conservation that also create new financial tools to help pay for necessary infrastructure to support new urban development.



## City Council Agenda Bill

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**Financial Impact:** Revenue for capital projects would be realized through the LCLIP tool. Depending on the choices made by Sammamish in establishing an LCLIP district and accepting TDR credits from King County, the specific amount and timing of revenue would vary.

**Recommended Motion:** Approve the proposed resolution that authorizes the City Manager to propose an LCLIP district based on identified findings.

**CITY OF SAMMAMISH  
WASHINGTON  
RESOLUTION NO. R2013-XXX**

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**A RESOLUTION OF THE SAMMAMISH CITY COUNCIL  
RELATED TO USE OF THE LAND CONSERVATION AND LOCAL  
INFRASTRUCTURE PROGRAM**

WHEREAS, the City adopted a Comprehensive Plan in 2003 in accordance with the provisions of the Growth Management Act (GMA); and

WHEREAS, as one of the sections of the Sammamish Municipal Code (SMC) that implements the Comprehensive Plan, SMC Title 21A.80 establishes procedures for Transfer of Development Rights (TDR); and

WHEREAS, in 2011 Sammamish and King County executed an Interlocal Agreement that sets forth an inter-jurisdictional Transfer of Development Right (TDR) program that provides for 75 TDR credits from King County Rural Areas that are in close proximity to the City to be used for increased development capacity in the Sammamish Town Center area; and

WHEREAS, the 2011 Washington State Legislature created the framework for a regional TDR mechanism by adopting ESSB 5253, the Landscape Conservation and Local Infrastructure Program (“LCLIP”), codified as RCW 39.108; and

WHEREAS, RCW 39.108 creates a mechanism for cities and counties to enact regional TDR partnerships for rural and resource land conservation that also create new financial tools to help pay for necessary infrastructure to support new urban development; and

WHEREAS, LCLIP is a financial tool that allows cities to implement a form of Tax Increment Financing (TIF) through an inter-jurisdictional TDR program, and thereby receive additional tax revenue to help pay for infrastructure improvements and amenities; and

WHEREAS, under RCW 39.108, the Puget Sound Regional Council determined the City of Sammamish’s Receiving City Allocated Share is 215 TDR Credits, with a minimum acceptance of 43 TDR Credits to utilize the LCLIP tool; and

WHEREAS, to test the financial feasibility of the LCLIP tool in Sammamish, King County provided \$15,000 of United States Environmental Protection Agency Sound Ecosystem Restoration and Protection Cooperative Agreement grant funds to Sammamish to pay for a consultant study; and

WHEREAS, the consultant study has been completed and the results show that the LCLIP tool would be useful to generate additional revenue for such infrastructure and amenities, and that the projected benefits of the LCLIP tool depend on a variety of factors and choices;

WHEREAS, it is in the interest of Sammamish to have a variety of financial tools available to address funding needs and opportunities.

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

Section 1. Authorization of City Manager. The Sammamish City Council directs the City Manager to continue to explore the LCLIP tool in coordination with King County. The City Council also authorizes the City Manager to bring forth a proposal for consideration to utilize the LCLIP financial tool, when the City Manager makes the following findings:

- a. Sufficient development applications have proposed or are using the TDR incentives in peer city TDR programs or in the Sammamish Town Center TDR Receiving Area that confirm regional market interest in TDR.
- b. Analysis of the use of TDR credits confirms that the likelihood of meeting the threshold requirements for TDR use in a LCLIP district is reasonably high.
- c. Infrastructure projects have been identified that qualify under the LCLIP program.
- d. A district can be created that maximizes the projected LCLIP revenue while minimizing risk to the City of Sammamish and participating landowners.
- e. As needed, a risk-sharing strategy with King County or another partner agency should be included in the proposal.

Section 2. Effective Date. This resolution is effective immediately upon adoption.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Resolution, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Resolution 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.

**ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 20<sup>th</sup> DAY OF MAY, 2013**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Thomas T. Odell

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

\_\_\_\_\_

Exhibit 1

Approved as to form:

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Bruce L. Disend, City Attorney

Filed with the City Clerk:

Passed by the City Council:

Resolution Number: R2013-XXX

## Exhibit 1



# City Council Agenda Bill

**Meeting Date:** May 20, 2013

**Date Submitted:** May 16, 2013

**Originating Department:** Community Development

**Clearances:**

<input checked="" type="checkbox"/> City Manager	<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Attorney	<input type="checkbox"/> Finance & IT	<input type="checkbox"/> Police
<input type="checkbox"/> Admin Services	<input type="checkbox"/> Fire	<input type="checkbox"/> Public Works

**Subject:** Amendment to the Environmentally Critical Area (ECA) Regulations

**Action Required:** Second Reading, Public Hearing

**Exhibits:**

1. Draft Adopting Ordinance
  - a. Attachment A – Council Review Draft Doe
2. *Revised* - Summary of Council identified amendments
3. *Revised* - Staff Responses to Council Questions
4. Ecology Review of Proposed ECA Ordinance

**Budget:** N/A

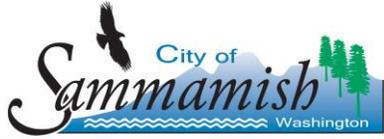
**Background:** On May 7, 2013, following the completion of five study sessions on the Planning Commission's recommended amendments to the Environmentally Critical Areas (ECA) regulations, the City Council opened the public hearing. Following the close of the public hearing, the Council will begin their deliberations.

**Council Review Draft:** The Council Review Draft code and Draft Adopting Ordinance are unchanged from those presented to the City Council on May 7, 2013.

***Revised* - Summary of Council identified amendments to the ECA Regulations:** Councilmembers have identified a number of possible amendments for consideration as part of the public hearing and their deliberations. Exhibit 2 provides a summary of each amendment for further consideration after the close of the public hearing, including additional amendments identified by Councilmembers Whitten and Gerend on May 7, 2013. This memo is also contained within 2013 ECA Volume 3, under Tab 4.

***Revised* - Staff Responses to Council Questions on the ECA Regulations:** Councilmembers have also identified a number of questions for response by the staff. The revised memo addresses all of the questions identified by the Council through May 14, 2013. To assist in tracking the questions, the memo also places the question and response into a table for quick reference. This memo is also contained within 2013 ECA Volume 3, under Tab 5.

**Ecology Review of Proposed ECA Ordinance:** The Department of Ecology (Ecology) provided comments on April 23, 2013 regarding the Planning Commission Recommended ECA Regulations. Some of the Ecology comments represent relatively minor changes to the text of the draft regulations while other



## City Council Agenda Bill

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comments, represent a more substantive change to the code. Given that an amendment to our adopted SMP will likely be pursued following adoption of the ECA changes, staff recommends that Ecology's comments be considered as part of the Council's deliberation process.

**Financial Impact:** N/A

**Recommended Motions:** Re-open public hearing and take testimony. Close the public hearing and begin deliberations.

**DRAFT**  
**CITY OF SAMMAMISH**  
**WASHINGTON**  
**ORDINANCE NO. O2013 -**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, PERTAINING TO THE PROTECTION AND REGULATION OF ENVIRONMENTALLY CRITICAL AREAS, AMENDING CHAPTERS 21A.50, 21A.15 AND 21A.70 OF THE SAMMAMISH MUNICIPAL CODE.**

WHEREAS, the adopted City of Sammamish Comprehensive Plan supports the protection of environmentally critical areas through the adoption of development regulations; and

WHEREAS, the State Growth Management Act (GMA) includes adopted goals and requirements to guide the development and adoption of comprehensive plans and development regulations including requirements to designate and protect environmentally critical areas; and

WHEREAS; the City has considered those adopted goals, policies and requirements in development of the proposed Sammamish Municipal Code Amendments related to critical areas, and, has considered other state requirements, law, rules, guidelines, and agency comments; and

WHEREAS, the City researched and assessed the experience of other jurisdictions in regard to standards and requirements for regulating critical areas, undertook an extensive Best Available Science (BAS) review and public process in accordance with the requirements of the GMA, developed Sammamish Municipal Code amendment drafts, prepared environmental documents in accordance with the requirements of the State Environmental Policy Act (SEPA), and held meetings and hearings throughout the code development process; and

WHEREAS, the City has been provided feedback on draft work products and guidance from members of the public, city staff, the Washington State Department of Fish and Wildlife, the Washington State Department of Ecology, other stakeholders and experts, the Sammamish Planning Commission, and elected and appointed officials during the development of the recommended code amendments; and

WHEREAS, in developing this ordinance, the City has followed the GMA's requirements, including to provide "early and continuous public involvement" through a variety of mechanisms described in the public record; and

WHEREAS, the City has followed the State guidelines for the BAS process required by RCW 36.70A.172 and WAC 365-195-900 through 925, employing a variety of mechanisms described in the public record; and

## Exhibit 1

WHEREAS, a notice of intent to adopt the proposed code amendments was sent to the State of Washington Department of Commerce and to other State agencies on March 14, 2013 for a 60 day review and comment period in accordance with State law; and

WHEREAS, an environmental review has been conducted in accordance with the requirements of State Environmental Policy Act (SEPA), and a SEPA threshold determination was issued, and published on May 20, 2013, in the Seattle Times; and

WHEREAS, the Planning Commission held a total of 22 public meetings to consider the proposed amendments, which included three open house public meetings, two joint meetings with the City Council on December 1, 2011 and May 8, 2012, and a public hearing beginning on November 8, 2012 and continuing through November 15, 2012, and deliberations on December 6, December 13, 2012, January 17, and January 24, 2013; and

WHEREAS, the Planning Commission has provided a recommendation to the City Council related to the proposed amendments; and

WHEREAS, the City Council held five study sessions on the proposed amendments on March 5, March 12, March 18, April 2, and April 15, 2013, and a public hearing and first reading on May 7, 2013 and second reading and continued public hearing on May 20, 2013; and

WHEREAS, the City Council has considered the recommendation of the City Planning Commission and the public comments received; and

WHEREAS, the City Council has reviewed and considered a variety of information sources including Best Available Science materials, informational documents in the public record, and public testimony submitted verbally and in writing to the Planning Commission and to the City Council; and

WHEREAS, the City Council desires the proposed amendments to be effective throughout the City including within shoreline jurisdiction, a subsequent Shoreline Master Program amendment should be prepared for submittal to the State Department of Ecology for approval;

WHEREAS, based upon the foregoing process, the City Council has made the following Findings of Facts and Conclusions:

1. The Growth Management Act requires critical areas to be designated and protected and for cities to include and be informed by BAS when developing critical areas regulations. RCW 36.70A.
2. Critical areas include wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas.
3. The City of Sammamish has within its borders a variety of environmentally sensitive areas that require protection of important functions and values.

4. The proposed regulations for critical areas are sufficient and appropriate to protect the functions and values of those areas consistent with the Sammamish Comprehensive Plan and Growth Management Act.
5. The amendments hereafter set forth address requirements related to development in and near environmentally critical areas including environmentally critical areas buffers, performance standards, mitigation requirements, exemptions and exceptions.
6. The amendments serve to further implement the Comprehensive Plan, and provide protection for critical areas that is consistent with BAS and with providing options and development flexibility, and are in the public interest.
7. The critical areas regulations continue to allow for reasonable use of property to ensure that such regulations do not infringe on constitutional private property rights.
8. The public record demonstrates that the amendments were developed through a review of the BAS literature available to the City for review and consideration.
9. The City has followed the GMA's requirements for public involvement and for including and considering BAS in modification of the regulations for critical areas.
10. The public testimony provided to the City included both support for the proposed amendments and suggestions for modifications.
11. Based on the review of the testimony and public record, the amendments attached to this ordinance reflect the City's requirement to protect critical areas and to consider the planning goals of the GMA, while recognizing public and private interests.

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

**Section 1. Adoption of amendments to Sammamish Municipal Code 21A.50 - Environmentally Critical Area Regulations, 21A.15 - Technical Terms and Land Use Definitions, and 21A.70 - Nonconformance, Temporary Uses, and Re-Use of Facilities.** The amendments to the Sammamish Municipal Code as set forth in Attachment "A" to this ordinance are hereby adopted.

**Section 2. Codification of the regulations.** The City Council authorizes the Community Development Director and City Clerk to correct errors in Attachment A, codify the regulatory provisions of the amendment to into Title 21A of the Sammamish Municipal Code, and publish the amended code.

**Section 3. Interpretation.** The City Council authorizes the Community Development Director to adopt administrative rules, adopt interpretations and administer the amended code as necessary to implement the legislative intent of the City Council.

**Section 4. 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 5. Effective Date.** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force \_\_\_\_\_ after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF  
ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2013**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor

ATTEST/AUTHENTICATED:

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

Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney

Filed with the City Clerk:  
Public Hearing:  
First Reading:  
Public Hearing:  
Second Reading:  
Passed by the City Council:  
Ordinance No.  
Date of Publication:

1 **City Council Review Draft – May 7, 2013**

2 **COUNCIL REVIEW DRAFT**

3 **Chapter 21A.50**  
4 **ENVIRONMENTALLY CRITICAL AREAS**

5  
6 "Plain Text" is existing code language

7 "~~Strikethrough Text~~" is existing language that the Planning Commission has recommended be deleted

8 "Underline Text" is code language that that the Planning Commission has recommended be added

9 "~~Strikethrough Highlighted Text~~" is language the Planning Commission has recommended that will be deleted

10 "Underline Highlighted Text" is language added to the Planning Commission's recommendation

11

Council Review Draft

- 1 Sections:
- 2 [21A.50.010](#) Purpose.
- 3 [21A.50.020](#) Applicability.
- 4 [21A.50.030](#) Appeals.
- 5 [21A.50.040](#) Critical areas rules.
- 6 [21A.50.045](#) Fees.
- 7 [21A.50.050](#) Complete exemptions.
- 8 [21A.50.060](#) ~~Partial exemptions – Critical areas.~~ Allowances for Existing Urban Development and Other
- 9 Uses
- 10 [21A.50.070](#) Exceptions.
- 11 [21A.50.080](#) *Repealed.*
- 12 [21A.50.090](#) Critical area maps and inventories.
- 13 [21A.50.100](#) Disclosure by applicant.
- 14 [21A.50.110](#) Critical area review.
- 15 [21A.50.120](#) Critical areas study requirement.
- 16 [21A.50.130](#) Contents of critical areas study.
- 17 [21A.50.135](#) Avoiding impacts to critical areas.
- 18 [21A.50.140](#) Mitigation, maintenance, monitoring and contingency.
- 19 [21A.50.145](#) Mitigation plan requirements.
- 20 [21A.50.150](#) Financial guarantees.
- 21 [21A.50.160](#) Vegetation management plan.
- 22 [21A.50.170](#) Critical area markers, signs and fencing.
- 23 [21A.50.180](#) Notice on title.
- 24 [21A.50.190](#) Critical area tracts and designations on site plans.
- 25 [21A.50.200](#) *Recodified.*
- 26 [21A.50.210](#) Building setbacks.
- 27 [21A.50.220](#) Erosion hazard areas – Development standards and permitted alterations.
- 28 [21A.50.225](#) Erosion hazards near sensitive water bodies – Special district overlay.
- 29 [21A.50.230](#) Frequently flooded areas.
- 30 [21A.50.240](#) *Repealed.*
- 31 [21A.50.250](#) *Repealed.*
- 32 [21A.50.260](#) Landslide hazard areas – Development standards and permitted alterations.
- 33 [21A.50.270](#) Seismic hazard areas – Development standards and permitted alterations.
- 34 [21A.50.280](#) Critical aquifer recharge areas – Development standards.
- 35 [21A.50.290](#) Wetlands – Development standards.
- 36 [21A.50.300](#) Wetlands – Permitted alterations.
- 37 [21A.50.310](#) Wetlands – Mitigation requirements.
- 38 [21A.50.315](#) Wetlands – Mitigation banking.
- 39 [21A.50.320](#) Wetlands – Limited exemption.
- 40 [21A.50.322](#) Wetland management area – Special district overlay.
- 41 [21A.50.325](#) Fish and wildlife habitat conservation areas – Development standards.
- 42 [21A.50.327](#) Wildlife habitat corridors.
- 43 [21A.50.330](#) Streams – Development standards.

- 1 [21A.50.340](#) Streams – Permitted alterations.
- 2 [21A.50.350](#) Streams – Mitigation requirements.
- 3 [21A.50.351](#) Ponds – Development standards.
- 4 [21A.50.352](#) *Repealed.*
- 5 [21A.50.355](#) Lake management areas – Special district overlay.
- 6 [21A.50.360](#) Critical areas mitigation fee – Creation of fund.
- 7 [21A.50.370](#) Critical areas mitigation fee – Source of funds.
- 8 [21A.50.380](#) Critical areas mitigation fee – Use of funds.
- 9 [21A.50.390](#) Critical areas mitigation fee – Investment of funds.
- 10 [21A.50.400](#) Sunset provisions.

11 **21A.50.010 Purpose.**

12 The purpose of this chapter is to implement the goals and policies of the Washington State Growth  
13 Management Act, Chapter 36.70A and 36.70B RCW, the State Environmental Policy Act, Chapter 43.21C  
14 RCW, and the City of Sammamish comprehensive plan [as amended](#), that call for protection of the functions  
15 and values of the natural environment and the public health and safety by:

- 16 (1) Establishing development standards to protect defined critical areas;
- 17 (2) Protecting members of the public and public resources and facilities from injury, loss of life, property  
18 damage or financial loss due to flooding, erosion, landslides, seismic events, soil subsidence or steep slope  
19 failures;
- 20 (3) Protecting unique, fragile, and valuable elements of the environment including, but not limited to, wildlife  
21 and its habitat;
- 22 (4) Requiring mitigation of unavoidable impacts on environmentally critical areas by regulating alterations in  
23 or near critical areas;
- 24 (5) Preventing cumulative adverse environmental impacts on water availability, water quality, groundwater,  
25 wetlands, and streams;
- 26 (6) Measuring the quantity and quality of wetland and stream resources and preventing overall net loss of  
27 wetland and stream functions and values;
- 28 (7) Protecting the public trust as to navigable waters and aquatic resources;
- 29 (8) Meeting the requirements of the National Flood Insurance Program and maintaining the City as an eligible  
30 community for federal flood insurance benefits;
- 31 (9) Alerting members of the public including, but not limited to, appraisers, owners, potential buyers or  
32 lessees to the development limitations of critical areas;
- 33 (10) Establishing special district overlays with alternative development standards for increasing minimum  
34 requirements to address unique site characteristics in areas of increased sensitivity;

- 1 (11) Providing City officials with sufficient information to protect critical areas; and
- 2 (12) Providing the public with a clear review and approval process for the development of sites constrained
- 3 by critical areas. (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)
- 4 **21A.50.020 Applicability.**
- 5 (1) The provisions of this chapter shall apply to all land uses in the City of Sammamish, and all persons within
- 6 the City shall comply with the requirements of this chapter.
- 7 (2) The City shall not approve any permit-development proposal or otherwise issue any authorization to alter
- 8 the condition of any land, water or vegetation or to construct or alter any structure or improvement without
- 9 first assuring compliance with the requirements of this chapter.
- 10 (3) Approval of a development proposal pursuant to the provisions of this chapter does not discharge the
- 11 obligation of the applicant to comply with the provisions of this chapter.
- 12 (4) When any provision of any other chapter of the Sammamish Municipal Code conflicts with this chapter or
- 13 when the provisions of this chapter are in conflict, that provision that provides more protection to
- 14 environmentally critical areas shall apply unless specifically provided otherwise in this chapter or unless such
- 15 provision conflicts with federal or state laws or regulations.
- 16 (5) The provisions of this chapter shall apply to all forest practices over which the City has jurisdiction
- 17 pursuant to Chapter 76.09 RCW and WAC Title 222. (Ord. O2005-193 § 1; Ord. O99-29 § 1)
- 18 **21A.50.030 Appeals.**
- 19 Any decision to approve, condition or deny a development proposal based on the requirements of this
- 20 chapter may be appealed according to and as part of the appeal procedure for the permit or approval
- 21 involved. (Ord. O2005-193 § 1; Ord. O99-29 § 1)
- 22 **21A.50.040 Critical areas rules.**
- 23 Applicable departments within the City are authorized to adopt, pursuant to Chapter 2.55 SMC, such
- 24 administrative rules and regulations as are necessary and appropriate to implement this chapter and to
- 25 prepare and require the use of such forms as are necessary to its administration. (Ord. O2005-193 § 1; Ord.
- 26 O99-29 § 1)
- 27 **21A.50.045 Fees.**
- 28 (1) Consistent with the City's adopted fee schedule, the City shall establish fees for the application filing,
- 29 review and other services provided by the City for critical areas review. Basis for these fees shall include, but
- 30 not be limited to, the cost of engineering and planning review time, cost of inspection time, costs for
- 31 administration, costs for third-party peer review, and any other special costs attributable to the critical areas
- 32 review process.
- 33 (2) Unless otherwise indicated in this title, the applicant shall be responsible for the initiation, preparation,
- 34 submission, and expense of all required reports, assessments, studies, plans, reconnaissances, or other work
- 35 prepared in support of or necessary to review the application. (Ord. O2005-193 § 1)

1 **21A.50.050 Complete exemptions.**

2 The following are exempt from the provisions of this chapter and any administrative rules promulgated  
3 thereunder:

4 (1) Alterations in response to emergencies that threaten the public health, safety, and welfare or that pose  
5 an imminent risk of damage to private property as long as any alteration undertaken pursuant to this  
6 subsection is reported to the department immediately. The director shall confirm that an emergency exists  
7 and determine what, if any, mitigation shall be required to protect the health, safety, welfare and  
8 environment and to repair any resource damage;

9 (2) Public water, electric, and natural gas distribution, public sewer collection, cable communications,  
10 telephone utility, and related activities undertaken pursuant to City-approved best management practices, as  
11 follows:

12 (a) Normal and routine maintenance or repair of existing utility structures or rights-of-way;

13 (b) Relocation of electric facilities, lines, equipment or appurtenances, not including substations,  
14 with an associated voltage of 55,000 volts or less, only when required by a local governmental  
15 agency that approves the new location of the facilities;

16 (c) Replacement, operation, repair, modification, installation, or construction in existing developed  
17 utility corridors, an improved City street right-of-way or City-authorized private street of all electric  
18 facilities, lines, equipment, or appurtenances, not including substations;

19 (d) Relocation of public sewer local collection, public water local distribution, natural gas, cable  
20 communication or telephone facilities, lines, pipes, mains, equipment, or appurtenances, only when  
21 required by a local governmental agency that approves the new location of the facilities; and

22 (e) Replacement, operation, repair, modification, installation, or construction of public sewer local  
23 collection, public water local distribution, natural gas, cable communication or telephone facilities,  
24 lines, pipes, mains, equipment, or appurtenances when such facilities are located within an  
25 improved public right-of-way or authorized private street;

26 (3) Maintenance, operation, repair, modification, or replacement of publicly improved streets as long as any  
27 such alteration does not involve the expansion of streets or related improvements into previously  
28 unimproved rights-of-way or portions of rights-of-way;

29 (4) Maintenance, operation, or repair of parks, trails and publicly improved recreation areas as long as any  
30 such alteration does not involve the expansion of improvements into previously unimproved areas or new  
31 clearing of native vegetation beyond routine pruning and related activities; and

32 (5) All clearing and grading activities that are exempt from the requirement for a clearing and grading permit  
33 as specified in SMC [16.15.050](#), unless these activities require other permits or authorizations as specified in  
34 SMC [21A.50.020](#). (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

35 **21A.50.060 Allowances for Existing Urban Development and Other Uses** ~~Partial exemptions – Critical areas.~~

Comment [EM1]: 2-14c, 5-1, & 5-20

1 The following developments, activities, and uses are allowed in critical areas and associated buffers and  
2 building setbacks as specified in the following subsections, provided such activities are otherwise consistent  
3 with this program and other applicable regulations. The Director may apply conditions to an underlying  
4 permit or approval to ensure that the activities are consistent with the provisions of this chapter.

5 (1) Maintenance of Existing Improvements. Existing single detached dwelling unit, other structures,  
6 landscaping, and other existing uses that do not meet the requirements of this chapter, which were  
7 legally established according to the regulations in place at their time of establishment may be  
8 maintained and no critical areas study or review is required.

9  
10 (2) Modifications of Existing Improvements. Addition, expansion, reconstruction or revision of existing  
11 building(s) or other structures is subject to the following:

12 a) Modification or replacement. Structural modification or replacement of legally established  
13 structures that do not meet the building setback or buffer requirements for wetlands, streams, Fish  
14 and Wildlife Habitat Conservation Area, wildlife habitat corridor, or landslide hazard areas is allowed  
15 if the modification, replacement or related activity does not increase the existing footprint of the  
16 structure lying within the critical area, buffer or building setback area, and there is no increased risk  
17 to life or property.

18 b) Expansions. Structural modification of, addition to, or replacement of legally created building(s)  
19 and associated impervious surfaces that do not meet the applicable building setback or buffer  
20 requirements for wetlands, streams, Fish and Wildlife Habitat Conservation Area, wildlife habitat  
21 corridor, or landslide hazard areas are allowed a one-time up to 1,000 square foot increase in the  
22 existing total footprint of the building(s) and associated impervious surface areas lying within the  
23 buffer or building setback subject to the following:

24 1. If the existing legally created building(s) and associated impervious surfaces are  
25 located within the building setback or buffer required for a landslide hazard area, a critical  
26 areas study must be supplied and approved by the City that demonstrates that there will be  
27 no increased risk to life or property by the proposed footprint expansion;

28 2. If the existing legally created building(s) and associated impervious surfaces are  
29 located over or within a wetland, stream, Fish and Wildlife Habitat Conservation Area,  
30 wildlife habitat corridor, or landslide hazard area, no further expansion within the wetland,  
31 stream, Fish and Wildlife Habitat Conservation Area, wildlife habitat corridor, or landslide  
32 hazard area is allowed; and

33 3. If an existing legally created single detached dwelling unit and associated impervious  
34 surfaces are located within the building setback or buffer for a stream or wetland, or within a  
35 Fish and Wildlife Habitat Conservation Area:

36 a. No portion of the modification, addition or replacement may be located  
37 closer to the critical area-a wetland or stream than the nearest extent of the existing  
38 single detached dwelling unit, except as provided under subsection "b." below.

1           b.       When there is an intervening building(s) on a perpendicular line in between  
2           the subject critical wetland or stream area(s) and a single detached dwelling unit that  
3           is proposed to be modified, added to, or replaced, the modification, addition or  
4           replacement may be located closer to the wetland or stream critical area, provided  
5           no portion of the modification, addition or replacement is located closer than 50-feet  
6           to the wetland or stream critical area.

7           c.       Modifications, additions, or replacements authorized under subsections "a,"  
8           and "b," above this section, shall meet the following criteria:

9                   i.       A critical areas study approved by the City demonstrates a net  
10                  improvement in hydrologic and habitat values to the subject critical area(s)  
11                  affected wetland, stream, Fish and Wildlife Habitat Conservation Area  
12                  through restoration of degraded critical areas and/or buffer or through  
13                  provision of additional vegetated buffer; and

14                  ii.       Mitigation of impacts to disturbed critical areas or buffers is  
15                  provided in accordance with this chapter.

16       (3) Revisions to existing legally-established landscaping are allowed subject to the following:

17           a) The landscaped area shall not be increased within the critical area or buffer; and,

18           b) Landscaping features may be revised or replaced with similar features or features with less  
19           impact to the critical area or buffer, such that the remaining functions of the critical area and/or  
20           buffer are maintained or improved (e.g. plant material replaced with alternate plant material,  
21           hardscape replaced with alternate hardscape, hardscape replaced with plant material, etc.); and,

22           c) Revisions authorized under this section shall not require a critical areas study.

23       (4) Conservation, Preservation, Restoration and/or Enhancement is allowed within critical areas or  
24       buffers subject to the following:

25           a) Conservation and preservation of soil, water, vegetation, and other fish and wildlife habitat is  
26           allowed where it does not include alteration of the location, size, dimensions or functions of an  
27           existing critical area or buffer.

28           b) Restoration and enhancement of critical areas or buffers is allowed provided that actions do not  
29           alter the location, dimensions or size of the critical area or buffer; that actions improve and do  
30           not reduce the existing quality or functions of the critical areas or buffers; and that actions are  
31           implemented according to a restoration or enhancement plan that has been approved by the  
32           City of Sammamish.

33       (5) ~~Select~~ Vegetation Removal Activities.

Comment [EM2]: Item 5-2

1 a) Removal of non-native or invasive Washington State and/or King County listed noxious weeds in  
2 an area of up to 2,500 square feet within a critical area or buffer is allowed with no permit  
3 requirement if the following provisions are met:

4 i. The plants are removed using hand labor and/or light equipment;

5 ii. Soil disturbance is minimized and no filling or modification of soil contours occurs;

6 iii. Water quality is protected and there is no modification of hydrology patterns within the  
7 critical area or buffer is permitted;

8 iv. Native plants are protected from removal or damage;

9 v. Appropriate erosion-control measures are used;

10 vi. The area is replanted with a like kind and density of native vegetation following non-native  
11 plant removal. For example, if dense non-native blackberry is removed, at a minimum, dense  
12 native shrubs must be replanted following blackberry removal, though native trees and  
13 groundcover could also be included and are encouraged if desired; and

14 vii. Removal of non-native or invasive plants authorized under this subsection shall not require a  
15 critical areas study.

16 b) For removal of non-native vegetation in an area greater than 2,500 square feet, a clearing and  
17 grading permit is required and must be accompanied by a native plant restoration plan in accordance  
18 with applicable provisions of this chapter. A critical areas study may be required by the director.

19  
20 (6) Reconstruction, or replacement, or expansion of the exterior footprint of an existing, legally  
21 established structure not meeting current regulations is allowed; provided, that the addition or  
22 reconstruction does not increase the noncompliance to current regulations. A critical areas study  
23 may be required by the director.

24 a) Replacement may be allowed in a different location not meeting current regulations if a  
25 determination is made by the City that the new location results in less impact to environmental  
26 critical area functions and values than replacement in the existing footprint.

27 b) Existing structures that were legally established but which are not meeting current  
28 regulations may be maintained, reconstructed, or repaired; provided, that the maintenance /  
29 reconstruction / repair does not increase the extent of noncompliance with current regulations by  
30 encroaching upon or extending into the environmental critical areas or other area where new  
31 construction or use would not be allowed.

32 c) If a structure not meeting current regulations is damaged by fire, explosion, or other casualty  
33 and/or natural disaster or is otherwise demolished, it may be reconstructed to match the footprint

1 that existed immediately prior to the time the damage occurred or in accordance with subsection  
2 (6)a) of this section; provided, that all of the following criteria are met:

3  
4 (i) The owner(s) submit a complete application within 24 months of the date the  
5 damage occurred; and

6 (ii) All permits are issued within two years of initial submittal of the complete  
7 application, and the restoration is completed within two years of permit issuance. This  
8 period may be extended for one additional year by the director if the applicant has  
9 submitted the applications necessary to establish the use or activity and has provided written  
10 justification for the extension.

11 d) A structure not meeting current regulations that is moved outside the existing footprint must  
12 be brought into conformance with this chapter, except as allowed by subsection (6)a) of this section.

13 ~~(1) The following developments, activities and uses are exempt from the review process of this chapter,~~  
14 ~~except for the notice on title provisions, SMC 21A.50.180 and 21A.50.190, and the frequently flooded areas~~  
15 ~~provisions, SMC 21A.50.230, and provided such exempt activities are otherwise consistent with the purpose~~  
16 ~~of this chapter and other applicable regulations. The director may apply conditions to an underlying permit~~  
17 ~~or approval to ensure that the activities are consistent with the provisions of this chapter.~~

18 ~~(a) Structural modification of, addition to or replacement of existing legally created structures, except~~  
19 ~~single detached residences in existence before November 27, 1990, which do not meet the building~~  
20 ~~setback or buffer requirements for wetlands, streams, ponds or landslide hazard areas if the~~  
21 ~~modification, addition, replacement or related activity does not increase the existing footprint of the~~  
22 ~~structure lying within the above-described building setback area, critical area or buffer.~~

23 ~~(b) Structural modification of, addition to or replacement of legally created single detached residences~~  
24 ~~and improvements constructed on existing associated legally created impervious surfaces in existence~~  
25 ~~before November 27, 1990, which do not meet the building setback or buffer requirements for~~  
26 ~~wetlands, streams, lakes, ponds or landslide hazard areas if the modification, addition, replacement or~~  
27 ~~related activity does not increase the existing total footprint of the residence and associated~~  
28 ~~impervious surface lying within the above-described buffer or building setback area by more than~~  
29 ~~1,000 square feet over that existing before November 27, 1990, and no portion of the modification,~~  
30 ~~addition or replacement is located closer to the critical area or, if the existing residence is in the critical~~  
31 ~~area, extends farther into the critical area.~~

32 ~~(c) Maintenance or repair of structures that do not meet the development standards of this chapter for~~  
33 ~~landslide or seismic hazard areas if the maintenance or repair does not increase the footprint of the~~  
34 ~~structure and there is no increased risk to life or property as a result of the proposed maintenance or~~  
35 ~~repair.~~

1 ~~(d) Select Vegetation Removal Activities. The removal of the following invasive vegetation is allowed~~  
2 ~~with hand labor and/or light equipment; provided, that the appropriate erosion control measures are~~  
3 ~~used and the area is replanted with native vegetation according to a restoration or enhancement plan~~  
4 ~~that has been approved by the City of Sammamish:~~

5 ~~(i) Noxious weeds as identified by Washington State or King County noxious weed lists;~~

6 ~~(ii) Himalayan blackberry (*Rubus discolor*, *R. procerus*);~~

7 ~~(iii) Evergreen blackberry (*R. laciniatus*);~~

8 ~~(iv) Ivy (*Hedera spp.*); and~~

9 ~~(v) Holly (*Ilex spp.*), laurel, Japanese knotweed (*Polygonum cuspidatum*), or any other species on~~  
10 ~~the King County noxious weed list.~~

11 ~~Removal of any native vegetation or woody debris from a critical area is prohibited unless the action is~~  
12 ~~part of an approved alteration.~~

13 ~~(e) Conservation, Preservation, Restoration and/or Enhancement.~~

14 ~~(i) Conservation and preservation of soil, water, vegetation, fish and other wildlife that does not~~  
15 ~~entail alteration of the location, size, dimensions or functions of an existing critical area or buffer;~~  
16 ~~and~~

17 ~~(ii) Restoration and enhancement of critical areas or buffers; provided, that actions do not alter~~  
18 ~~the location, dimensions or size of the critical area or buffer; that actions improve and do not~~  
19 ~~reduce the existing quality or functions of the critical areas or buffers; and that actions are~~  
20 ~~implemented according to a restoration or enhancement plan that has been approved by the City~~  
21 ~~of Sammamish.~~

22 ~~(2) Existing and ongoing agriculture and grazing of livestock is exempt from the provisions of this chapter and~~  
23 ~~any administrative rules promulgated thereunder, except for the livestock restriction provisions, SMC~~  
24 ~~[21A.50.290](#) and [21A.50.330](#), and any animal density limitations established by law, if the agriculture or~~  
25 ~~grazing activity was in existence before November 27, 1990.~~

26 ~~(73) A permit or approval sought as part of a development proposal where previous critical areas review has~~  
27 ~~been completed is exempt from the provisions of this chapter and any administrative rules promulgated~~  
28 ~~thereunder, except for the notice on title provisions, SMC [21A.50.180](#) and [21A.50.190](#), if:~~

29 ~~(a) The City previously reviewed all critical areas on the site;~~

30 ~~(b) There is no material change in the development proposal since the prior review that would affect a~~  
31 ~~critical area;~~

1 (c) There is no new information available that is important to any critical area review of the site or  
2 particular critical area;

3 (d) No more than five years have lapsed since the issuance of the permit or approval under which the  
4 prior review was conducted; provided, that the director may allow a longer time period if new review  
5 would be unlikely to provide new information about the critical area; and

6 (e) The prior permit or approval, including any conditions, has been complied with. (Ord. O2009-264 §  
7 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

8 **21A.50.070 Exceptions.**

9 (1) Public Agency and Utility Exception. If the application of this chapter would prohibit an activity or a  
10 development proposal by a public agency or utility, the agency or utility may apply for an exception pursuant  
11 to this section:

12 (a) The public agency or utility shall apply to the department and shall make available to the  
13 department other related project documents such as permit applications to other agencies, special  
14 studies and SEPA documents.

15 (b) The director may approve alterations to critical areas, buffers and critical area setbacks by an  
16 agency or utility not otherwise allowed by this chapter when the following criteria are met:

17 (i) There is no other reasonable alternative to the activity or proposed development with less  
18 impact on the critical area; and

19 (ii) The activity or development proposal is designed to avoid, minimize, and mitigate the  
20 impact on environmentally critical areas consistent with the avoidance and mitigation  
21 sequencing requirements in this chapter; and, if applicable:

22 (iii) The proposed development or activity is of a linear nature and is on an existing corridor or  
23 connects to public lands, trails, utility corridors, rights-of-way or other public infrastructure, or  
24 is required for functional reasons such as gravity flow.

25 (c) The department shall process exceptions, provide public notice, provide opportunity for the  
26 public to request a public hearing, and provide an appeal process consistent with the provisions of  
27 Chapter [20.05](#) SMC.

28 (2) Reasonable Use Exception. If the application of this chapter would deny all reasonable use of the  
29 property, the applicant may apply for an exception pursuant to this subsection:

30 (a) The director may approve alterations to critical areas, critical area buffers and setbacks to allow a  
31 reasonable use not otherwise allowed by this chapter when the following criteria are met:

32 (i) The application of this chapter would deny all reasonable use of the property;

33 (ii) There is no other reasonable use with less impact on the critical area;

(iii) The proposed development does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest; and

(iv) Any alterations permitted to the critical area or buffer shall be the minimum necessary to allow for reasonable use of the property; and any authorized alteration of a critical area under this subsection shall be subject to conditions established by the department including, but not limited to, mitigation under an approved mitigation plan. (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

**21A.50.080 Modification or waiver of sensitive area requirements – Urban lots.**

*Repealed by Ord. O2005-193. (Ord. O99-29 § 1)*

**21A.50.090 Critical area maps and inventories.**

Not all of the critical areas in the City of Sammamish are fully mapped. Field verification and, if appropriate, evaluation and mapping by a qualified professional of the location of critical areas will be required. The distribution of many environmentally critical areas in the City of Sammamish is displayed in the City’s critical areas map folio, as amended. Additionally, the following maps are referenced and/or maintained by the City:

Comment [EM3]: Item 5-4

(a) Additionally, many of the wetlands located within the City’s boundaries are inventoried in the King County wetlands inventory notebooks.

(b) Many flood hazard areas are mapped by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for King County.”

(c) The wetland management, erosion hazard near sensitive water bodies, critical aquifer recharge area, and lake management special overlay districts are designated on maps maintained by the City of Sammamish Department of Community Development.

All maps are deemed advisory with the exception of the Critical Aquifer Recharge Area, Flood Insurance Study for King County, Wetland Management Area and Erosion Hazard Near Sensitive Water Bodies overlay maps. If there is a conflict among the advisory maps, inventory and/or site-specific features, the Department of Community Development shall verify the actual presence or absence of the features defined in this title as environmental critical areas. The determination may be challenged by the property owner pursuant to SMC 21A.05. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.100 Disclosure by applicant.**

(1) The applicant shall disclose to the City the presence of critical areas on the development proposal site and any mapped or identifiable critical areas within the distance equal to the largest potential required buffer applicable to the development proposal area on the applicant’s property.

(2) If the development proposal site contains or is within a critical area or buffer, the applicant shall submit an affidavit that declares whether the applicant has knowledge of any illegal alteration to any or all critical areas or their buffers on the development proposal site and whether the applicant previously has been found in violation of this chapter, pursuant to SMC Title 23. If the applicant previously has been found in violation,

1 the applicant shall declare whether such violation has been corrected to the satisfaction of the City. (Ord.  
2 O2005-193 § 1; Ord. O99-29 § 1)

3 **21A.50.110 Critical area review.**

4 (1) The City shall perform a critical area review prior to issuing any approval for a development proposal  
5 permit application or other request for permission to proceed with an alteration on a site that includes a  
6 critical area or is within an identified critical area buffer or building setback area.

7 (2) As part of the critical area review, the City shall:

8 (a) Confirm whether critical areas or buffers have been mapped or identified within the distance  
9 equal to the largest potential required buffer applicable to the development proposal area;

10 (b) Confirm the nature and type of the critical area;

11 (c) Determine whether a critical areas study is required;

12 (d) Evaluate the critical areas study ~~and require third party review, if necessary independent peer~~  
13 ~~review, if required; and;~~

Comment [EM4]: Item 4-10

14 (e) Determine whether the development proposal is consistent with this chapter;

15 (f) Determine whether any proposed alteration to the critical area is necessary; and

16 (g) Determine if the mitigation and monitoring plans and bonding measures proposed by the  
17 applicant are sufficient to protect the public health, safety, and welfare, consistent with the goals,  
18 purposes, objectives, and requirements of this chapter. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

19 **21A.50.120 Critical areas study requirement.**

20 (1) An applicant for a development proposal where ~~impacts to, or~~ alteration of an ~~environmentally critical~~  
21 ~~area landslide hazard area, wetland, stream, or fish and wildlife habitat conservation area~~ or modification or  
22 reduction of a buffer ~~associated with an environmentally critical area~~ is proposed ~~or may occur as a~~  
23 ~~consequence of proposed actions,~~ shall submit a critical areas study at a level determined by the director to  
24 adequately evaluate the proposal and probable impacts. ~~A critical areas study shall also be required for a~~  
25 ~~development proposal located in erosion and seismic hazard areas, critical aquifer recharge areas, and~~  
26 ~~frequently flooded areas, consistent with the requirements of this chapter, as determined by the director.~~

27 (2) The director may waive or modify the requirement for a critical areas study if the applicant shows, to the  
28 director's satisfaction, that:

29 (a) There will be no alteration of the critical area or buffer;

30 (b) The development proposal will not have an impact on the critical area in a manner contrary to  
31 the goals, purposes, objectives, and requirements of this chapter; and

32 (c) The minimum standards required by this chapter are met; or

1 (d) Critical areas are located off-site and access to applicable off-site property is restricted.

2 (3) If the development proposal will affect only a part of the development proposal site, the department may  
3 limit the scope of the required critical areas study to include only that area that is affected by the  
4 development proposal.

5 (4) If necessary to ensure compliance with this chapter, the director may require additional information from  
6 the applicant, separate from the critical areas study.

7 (5) A development proposal may be allowed to utilize past studies from neighboring properties, if confirmed  
8 that the study findings remain accurate and applicable to proposed development. (Ord. O2005-193 § 1; Ord.  
9 O99-29 § 1)

10 **21A.50.130 Contents of critical areas study.**

11 (1) The critical areas study shall be in the form of a written report prepared by a qualified professional using  
12 guidance based on best available science per RCW 36.70A and shall contain the following, as determined to  
13 be applicable by the director:

Comment [CdS5]: Item 5-6

14 (a) The applicant shall disclose to the City the presence of critical areas on the development  
15 proposal site and any mapped or identifiable critical areas within the distance equal to the largest  
16 potential required buffer applicable to the development proposal area on the applicant's  
17 property. ~~Identification and characterization of all critical areas and buffers within the distance equal~~  
18 ~~to the largest potential required buffer that can be reasonably ascertained from the subject~~  
19 ~~property;~~

20 (b) Assessment of the impacts or risks ~~of any alteration proposed for~~ to an environmental critical  
21 area or buffer;

22 (i) Related to the development proposal and associated alterations to the subject property;  
23 assessment of the impacts of any alteration on the development proposal; and

24 (ii) Affecting other properties and any environmental critical areas or buffers located on  
25 them ~~other properties and the environment,~~ and/or assessment of the impacts to the development  
26 ~~proposal resulting from development near the critical area or buffer;~~

27 (c) A description of efforts made to apply mitigation sequencing pursuant to SMC 21A.50.135 to  
28 avoid, minimize and mitigate impacts to environmentally critical areas;

29 (d) Studies that propose adequate mitigation, maintenance, monitoring, and contingency plans and  
30 bonding measures as necessary to offset impacts to the critical area from the development  
31 proposal;

32 (e) A scale map of the development proposal site;

33 (f) Photographic records of the site both before any the proposed alteration occurs;

Comment [EM6]: Item 5-6

1 (fg) Detailed studies, as required by this chapter, for individual critical areas or as otherwise deemed  
2 necessary for critical areas protection by the director;

3 (gh) Assessment of potential impacts that may occur downstream or downhill from the  
4 development site, such as sedimentation or erosion, where applicable;

5 (hi) Assessment of potential impacts to wetland management areas, lake management areas, and  
6 other areas designated for special protection, where applicable; and

7 (hj) Consideration of the protection recommendations of the East Lake Sammamish Basin and  
8 Nonpoint Action Plan (1994), the Lake Washington/Cedar/Sammamish Watershed Chinook Salmon  
9 Conservation Plan – WRIA 8 Steering Committee, and adopted sub-basin plans.

10 (2) A critical areas study may be combined with any studies required by other laws and regulations.

11 ~~(3) If the development proposal will affect only a part of the development proposal site, the director may~~  
12 ~~limit the scope of the required critical areas study to include only that part of the site that may be affected by~~  
13 ~~the development. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

14 **21A.50.135 Avoiding impacts to critical areas.**

15 (1) Except as otherwise provided in SMC 21A.50.060, An applicant for a development proposal, activity, or  
16 alteration shall document the consideration of and subsequently shall implement the following sequential  
17 measures, which appear in order of preference, to avoid, minimize, and mitigate impacts to environmentally  
18 critical areas and associated buffers:

19 (a) Avoiding the impact or hazard by not taking a certain action, or redesigning the proposal to  
20 eliminate the impact. The applicant shall consider reasonable, affirmative steps and make best  
21 efforts to avoid critical area impacts. However, avoidance shall not be construed to mean  
22 mandatory withdrawal or denial of the development proposal or activity if the proposal or activity is  
23 an allowed, permitted, conditional, or special use in the SMC. In determining the extent to which the  
24 proposal should be redesigned to avoid the impact, the department may consider the purpose,  
25 effectiveness, engineering feasibility, commercial availability of technology, best management  
26 practices, safety and cost of the proposal and identified modifications to the proposal.

27 The department may also consider the extent to which the avoidance of one type or location of an  
28 environmentally critical area could require or lead to impacts to other types or locations of nearby  
29 or adjacent environmentally critical areas. The department should seek to avoid, minimize and  
30 mitigate overall impacts based on the functions and values of all of the relevant environmentally  
31 critical areas and based on the recommendations of a critical areas study. If impacts cannot be  
32 avoided through redesign, or because of site conditions or project requirements, the applicant shall  
33 then proceed with the sequence of steps in subsection (1)(b) through (g) of this section.

34 (b) Minimizing the impact or hazard by limiting the degree or magnitude of the action or impact with  
35 appropriate technology or by changing the timing of the action.

- 1 (c) Restoring the impacted critical areas by repairing, rehabilitating or restoring the affected critical  
2 area or its buffer.
- 3 (d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through  
4 plantings, engineering or other methods.
- 5 (e) Reducing or eliminating the impact or hazard over time by preservation or maintenance  
6 operations during the life of the development proposal, activity or alteration.
- 7 (f) Compensating for the adverse impact by enhancing critical areas and their buffers or creating  
8 substitute critical areas and their buffers as required in the SMC.
- 9 (g) Monitoring the impact, hazard or success of required mitigation and taking remedial action  
10 based upon findings over time.

11 (2) In addition to the above steps, the specific development standards, permitted alteration requirements,  
12 and mitigation requirements of this chapter and elsewhere in the SMC apply.

13 (3) The department shall document the decision-making process used under this section as a part of the  
14 critical areas review conducted pursuant to SMC [21A.50.110](#). (Ord. O2005-193 § 1)

15 **21A.50.140 Mitigation, maintenance, monitoring and contingency.**

16 (1) When mitigation is required by this chapter to compensate for adverse impacts, unless otherwise  
17 provided, mitigation, maintenance, monitoring measures and contingency plans shall be in place to protect  
18 critical areas and buffers from alterations occurring on the development proposal site.

19 (2) Where monitoring reveals a significant deviation from predicted impacts or a failure of mitigation or  
20 maintenance measures, the applicant shall be responsible for appropriate corrective action which, when  
21 approved, shall be subject to further monitoring.

22 (3) Mitigation shall be in-kind and on-site where on-site mitigation is feasible, and sufficient to maintain  
23 critical area and buffer functions, and where applicable to prevent risk from a hazard posed by a critical area.

24 (4) The city may approve off-site mitigation if an applicant demonstrates that:

25 (a) It is not feasible to mitigate on the development proposal site; and

26 (b) The off-site mitigation will achieve equivalent or greater hydrological, water quality and wetland  
27 or aquatic area habitat functions.

28 (5) When off-site mitigation is authorized, the city shall give priority to locations in the following order of  
29 preference:

30 (a) Within the same drainage subbasin; and

31 (b) Within the city limits;

Comment [EM7]: Item 2-8 & 3-3

1 (c) Within the Sammamish service area boundaries of an approved fee-in-lieu mitigation program;

2 (d) Within the Sammamish service area boundaries of an approved mitigation bank program.

3 (64) Mitigation shall not be implemented until after the City of Sammamish approves the applicable critical  
4 areas study, mitigation plan and any required permits. Following City approval, mitigation shall be  
5 implemented in accordance with the provisions of the approved critical areas study and mitigation plan.  
6 (Ord. O2005-193 § 1; Ord. O99-29 § 1)

7 **21A.50.145 Mitigation plan requirements.**

8 When mitigation is required, the applicant shall submit, for approval by the City of Sammamish, a mitigation  
9 plan as part of, or in addition to, the critical areas study. The mitigation plan shall include, or be accompanied  
10 by a report with, the following information, as determined to be applicable by the director:

- 11 (1) Existing Conditions and Proposed Impacts. A description of existing critical area(s) and/or buffer(s)  
12 conditions, functions, and values and a description of the anticipated impacts;
- 13 (2) Proposed Mitigation. A description of proposed mitigating actions and mitigation site selection criteria;
- 14 (3) Environmental Goals and Objectives. A description of the goals and objectives of proposed mitigation. The  
15 goals and objectives shall be related to the functions and values of the impacted critical area(s) and/or  
16 buffer(s);
- 17 (4) Best Available Science. A review of the best available science supporting proposed mitigation, a  
18 description of the plan/report author's experience to date in restoring or creating the type of critical area  
19 proposed, and an analysis of the likelihood of success of the mitigation project;
- 20 (5) Performance Standards. A description of specific measurable criteria for evaluating whether or not the  
21 goals and objectives of the mitigation plan have been successfully attained and whether or not the  
22 requirements of this chapter have been met;
- 23 (6) Detailed Construction Plans. Detailed site diagrams, cross-sectional drawings, topographic elevations at  
24 one- or two-foot contours, slope percentage, final grade elevations, and any other drawings appropriate to  
25 show construction techniques or anticipated final outcome. In addition, plans should include specifications  
26 and descriptions of:
  - 27 (a) Proposed construction sequence, timing, and duration;
  - 28 (b) Grading and excavation details;
  - 29 (c) Erosion and sediment control features;
  - 30 (d) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
  - 31 (e) Measures to protect and maintain plants until established;

1 (7) Monitoring Program. Mitigation plans shall include a program for monitoring construction of the  
2 compensation project, and for assessing a completed project. A protocol shall be included that outlines the  
3 schedule for site monitoring and how the monitoring data will be evaluated to determine if the performance  
4 standards are being met. A monitoring report shall be submitted as needed to document milestones,  
5 successes, problems, and contingency actions of the compensation project. The compensation project shall  
6 be monitored for a period necessary to establish that performance standards have been met. The monitoring  
7 period shall be five years; provided, that the director may approve a greater period when needed to ensure  
8 mitigation success or a lesser period for minor mitigation; ~~and~~

9 (8) Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any  
10 corrective measures to be taken if monitoring or evaluation indicates project performance standards are not  
11 being met- (Ord. O2005-193 § 1; Ord. O2005-172 § 4); and

12 (9) Fee in lieu program. If fee-in lieu mitigation is proposed, a critical areas study shall be supplied that  
13 demonstrates how proposed impacts and mitigation meet the requirements of SMC 21A.50.140 and  
14 21A.50.310 or 21A.50.350, whichever is applicable, and also the specific requirements of the fee-in-lieu  
15 mitigation program to be utilized.

Comment [EM8]: Item 2-8 & 3-3

16 **21A.50.150 Financial guarantees.**

17 Financial guarantees shall be required consistent with the provisions of SMC Title 27A. (Ord. O2005-193 § 1;  
18 Ord. O99-29 § 1)

19 **21A.50.160 Vegetation management plan.**

20 (1) For all development proposals where preservation of existing vegetation is required by this chapter, a  
21 vegetation management plan shall be submitted and approved prior to issuance of the permit or other  
22 request for permission to proceed with an alteration.

23 (2) The vegetation management plan shall identify the proposed clearing limits for the project and any areas  
24 where vegetation in a critical area or its buffer is proposed to be disturbed.

25 (3) Where clearing includes cutting any merchantable stand of timber, as defined in WAC 222-16-010(28), the  
26 vegetation management plan shall include a description of proposed logging practices that demonstrates  
27 how all critical areas will be protected in accordance with the provisions of this chapter.

28 (4) Clearing limits as shown on the plan shall be marked in the field in a prominent and durable manner.  
29 Proposed methods of field marking shall be reviewed and approved by the City prior to any site alteration.  
30 Field marking shall remain in place until the certificate of occupancy or final project approval is granted.

31 (5) The vegetation management plan may be incorporated into a temporary erosion and sediment control  
32 plan or landscaping plan where either of these plans is required by other laws or regulations.

33 (6) Submittal requirements for vegetation management plans shall be set forth by the department. (Ord.  
34 O2005-193 § 1; Ord. O99-29 § 1)

35 **21A.50.170 Critical area markers, signs and fencing.**

1 (1) Markers. Permanent survey stakes delineating the boundary between adjoining property and critical area  
2 tracts shall be set, using markers capable of being magnetically located and as established by current survey  
3 standards.

4 (2) Signs. ~~Development proposals approved by the city shall require that~~ the boundary between a critical  
5 area ~~buffer tract~~ and contiguous land shall be identified with permanent signs. Permanent signs shall be a  
6 City-approved type designed for high durability. Signs must be posted at an interval of one per lot or every 50  
7 feet, whichever is less, and must be maintained by the property owner or homeowners' association in  
8 perpetuity. The wording, number and placement of the signs ~~shall may be as at specified by modified by the~~  
9 ~~director based on specific site conditions.~~

Comment [CdS9]: Item 5-7

Comment [CdS10]: Item 5-7

10 (3) ~~Fencing. The director may require fencing to protect the functions of a critical area. If found to be~~  
11 ~~necessary, permanent~~ Permanent fencing shall be required at the outer edge of the critical area ~~or~~ buffer  
12 under the following circumstances:

Comment [EM11]: Item 5-7

13 (a) As part of any ~~D~~development proposals for:

14 (i) Plats;

15 (ii) Short plats;

16 (iii) Parks;

17 (iv) Other development proposals, including but not limited to multifamily, mixed use, and  
18 commercial development where the Director determines that such fencing is necessary to  
19 protect the functions of the critical area.

20 (b) When buffer reductions are employed as part of a development proposal;

21 (c) When buffer averaging is employed as part of a development proposal; and

22 (d) At the director's discretion to protect the values and functions of a critical area.

23 ~~Fencing~~ installed in accordance with this section shall be designed to not interfere with fish and wildlife  
24 migration and shall be constructed in a manner that minimizes critical areas impacts. (Ord. O2005-193 § 1;  
25 Ord. O99-29 § 1)

26 **21A.50.180 Notice on title.**

27 (1) The owner of any property containing critical areas or buffers on which a development proposal is  
28 submitted or any property on which mitigation is established as a result of development, except a public  
29 right-of-way or the site of a permanent public facility, shall file a notice approved by the City with the records  
30 and elections division of King County. The required contents and form of the notice shall be determined by  
31 the director. The notice shall inform the public of the presence of critical areas, buffers or mitigation sites on  
32 the property, of the application of this chapter to the property and that limitations on actions in or affecting  
33 such critical areas or buffers may exist. The notice shall run with the land.

1 (2) The applicant shall submit proof that the notice has been filed for public record before the City shall  
2 approve any development proposal for the property or, in the case of subdivisions, short subdivisions and  
3 binding site plans, at or before recording. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

4 **21A.50.190 Critical area tracts and designations on site plans.**

5 (1) Critical area tracts shall be used to delineate and protect those critical areas and buffers listed below in  
6 development proposals for subdivisions, short subdivisions, or binding site plans and shall be recorded on all  
7 documents of title of record for all affected lots:

- 8 (a) All landslide hazard areas and buffers that are one acre or greater in size;
- 9 (b) All wetlands and buffers;
- 10 (c) All streams and buffers; and
- 11 (d) All fish and wildlife habitat conservation areas and buffers.

12 (2) Any required critical area tract shall be held in an undivided interest by each owner of a building lot within  
13 the development with this ownership interest passing with the ownership of the lot or shall be held by an  
14 incorporated homeowners' association or other legal entity which assures the ownership, maintenance, and  
15 protection of the tract, or dedicated to the City of Sammamish, at the City's discretion.

16 (3) Site plans submitted as part of development proposals for building permits, master plan developments,  
17 and clearing and grading permits shall include and delineate all flood hazard areas (if they have been mapped  
18 by FEMA ~~or King County~~ or if a critical areas study is required), landslide hazard areas, streams and wetlands,  
19 buffers, and building setbacks. If only a part of the development site has been mapped pursuant to SMC  
20 [21A.50.130](#)(3), the part of the site that has not been mapped shall be clearly identified and labeled on the  
21 site plans. The site plans shall be attached to the notice on title required by SMC [21A.50.180](#). (Ord. O2005-  
22 193 § 1; Ord. O99-29 § 1)

23 **21A.50.200 Alteration.**

24 *Recodified to SMC [21A.15.056](#) by Ord. O2005-172. (Ord. O99-29 § 1)*

25 **21A.50.210 Building setbacks.**

26 Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the  
27 edges of a critical area buffer. The following may be allowed in the building setback area:

- 28 (1) Landscaping;
- 29 (2) Uncovered decks, **less than 18 inches above grade;**
- 30 (3) Building overhangs if such overhangs do not extend more than 18 inches into the setback area;
- 31 (4) Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be  
32 subject to special drainage provisions adopted for the various critical areas; and

1 (5) Trails. (Ord. O2009-264 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

2 **21A.50.220 Erosion hazard areas – Development standards and permitted alterations.**

3 (1) Land clearing, grading, filling, and foundation work in an erosion hazard area is allowed only from May 1st  
4 to September 30th, except that:

5 (a) Construction outside of this seasonal development limitation may be authorized if the director  
6 determines that the hazard area will not be adversely impacted by the proposed construction work  
7 or the applicant demonstrates that erosion hazards will be fully mitigated through a temporary  
8 erosion and sediment control management plan that includes:

9 (i) The minimum requirements from the adopted Surface Water Design Manual and Title 13  
10 Surface Water Management:

11 (A) Provisions to store site construction runoff and treat runoff sufficiently to  
12 meet water quality standards prior to discharge;

13 (B) Daily and post-storm inspections of temporary erosion and sediment control  
14 best management practices;

15 (C) Establishment of a manager, who is a Certified Erosion and Sediment  
16 Control Lead (CESCL) in the State of Washington, and will be available on-call  
17 to respond to temporary erosion and sediment control non-compliance;

18 (D) A water-quality monitoring plan for site discharges, where the applicant is  
19 responsible for measuring turbidity of stormwater released from the site  
20 and maintaining records of monitoring data that shall be available upon  
21 request by the City or Ecology. Monitoring protocols **should-shall** conform to  
22 the monitoring requirements of the construction stormwater general permit;

23 (E) A Contingency Plan incorporated into the temporary erosion and sediment  
24 control plan that identifies corrective actions and BMPs that will be  
25 implemented if monitoring shows discharge water quality exceeds water  
26 quality standards, and that specifies materials to be stockpiled on site for use  
27 in an erosion and sediment control response;

28 (F) A Seasonal Suspension Plan for suspending work until the end of the rainy  
29 season if temporary erosion and sediment control measures are found to be  
30 inadequate;

31 (ii) Pre-design site inspection by a licensed engineer or geologist to identify erosion  
32 hazard areas, no-disturbance areas, **other environmentally critical areas,** and resources  
33 downstream of the site that are to be protected;

34 (iii) Construction stormwater systems and temporary erosion and sediment control  
35 best management practices are to be sized for a minimum of a 10-year storm interval;:-

36 (iv) The owner must provide a financial guarantee in accordance with SMC 27A.15,  
37 **specifically and in an amount sufficient** to cover all costs of implementing the approved  
38 temporary erosion and sediment control plan, monitoring site discharges, permanently

stabilizing the site, and restoring any off-site impacts, including materials, labor, and City costs, and include a mechanism allowing the City to be used the financial guarantee if the development is stalled or not completed;

(v) Preparation and implementation of site grading, stabilization, and restoration plans by a licensed engineer, with certification by a geotechnical engineer that these plans are sufficient to prevent erosion and sedimentation of susceptible soils; and

(vi) Preparation of a vegetation management plan by a qualified professional for establishment of permanent vegetation on the site following completion of clearing and grading work.

(b) In addition to the requirements of 21A.50.220(1)(a), the director may require a critical areas additional studies of the site hydrology, soils and stormwater retention, and may also require, grading, structural improvements, hydrology, soils and storm water retention studies, erosion control measures, restoration plans, and/or an indemnification/release agreement.

Comment [EM12]: Item 4-1

(c) Timber harvest may be allowed pursuant to an approved forest practice Type II and III permit issued by the Washington Department of Natural Resources.

(d) Construction activity associated with subdivisions, short subdivisions, and similar projects that drain to Lake Sammamish during the wet season shall provide water quality monitoring reports to the city consistent with SMC 21A.50.225(5)(g), and shall include monitoring of water temperature.

(ed) The director may halt wet season construction as necessary to protect the hazard area and/or to prevent downstream impacts.

Comment [CdS13]: Item 4-1

(2) All development proposals on sites containing erosion hazard areas shall include a temporary erosion and sediment control plan as specified in section (1)(a) above consistent with this section and other laws and regulations prior to receiving approval. Specific requirements for such plans shall be set forth in the adopted surface water design manual and Title 13 Surface Water Management, or as otherwise specified by the department.

(3) All subdivisions, short subdivisions, or binding site plans on sites with erosion hazard areas shall comply with the following additional requirements:

(a) Except as provided in this section, existing vegetation shall be retained on all lots until building permits are approved for development on individual lots;

(b) If any vegetation on the lots is damaged or removed during construction of the subdivision infrastructure, the applicant shall be required to submit a restoration plan to the department for review and approval. Following approval, the applicant shall be required to implement the plan;

(c) Clearing of vegetation on lots will not be allowed unless the City determines that:

(i) Such clearing is a necessary part of a large-scale grading plan;

(ii) It is not a reasonable alternative to perform such grading on an individual lot basis; and

(iii) Drainage from the graded area will meet water quality standards to be established by the adopted surface water design manual and Title 13 Surface Water Management.

(4) Where the City determines that erosion from a development site poses a significant risk of damage to downstream receiving waters, based either on the size of the project, the proximity to the receiving water or the sensitivity of the receiving water, the applicant shall be required to provide regular monitoring of surface water discharge from the site as required by the adopted Surface Water Design Manual and City of Sammamish Addendum (2009). If the project does not meet the applicable provisions of the adopted water quality standards as established by law, the City may suspend further development work on the site until such standards are met.

Comment [CdS14]: Item 4-2

(5) The use of hazardous substances, pesticides, and fertilizers in erosion hazard areas may be prohibited by the City. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.225 Erosion hazards near sensitive water bodies — ~~Special district~~ overlay.**

(1) The purpose of the erosion hazards near sensitive water bodies ~~special overlay district~~ is to provide a means to designate sloped areas posing erosion hazards that drain directly to lakes or streams of high resource value that are particularly sensitive to the impacts of increased erosion and the resulting sediment loads from development.

(2) General development standards. The following development standards shall be applied to all properties within the erosion hazard near sensitive water body overlay:

Comment [EM15]: Re-organization for clarity

(a) The one (1) acre exemption in the Storm Water Design Manual Addendum shall not apply within the erosion hazards near sensitive water body overlay.

Comment [EM16]: Item 4-15d

(b) If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to SMC 21A.50.070(2).

Comment [EM17]: Re-organization for clarity

(c) The director may modify the property-specific development standards required by this section when a critical areas study is conducted by the applicant and approved by the director which demonstrates that the proposed development substantially increases improves water quality by showing all of the following:

(i) Water quality on site is improved through site enhancements and/or other innovative management techniques;

(ii) The development project will not subject downstream channels to increased risk of landslide or erosion; and

(iii) The development project will not subject the nearest sensitive water body to additional hazards resulting from erosion hazards.

1 ~~The department of community development shall maintain a map of the boundaries of the erosion hazard~~  
2 ~~near sensitive water bodies overlay district.~~

3 (3) No-disturbance area development standards. The following development standards shall be applied, in  
4 addition to all applicable requirements of this chapter, to development proposals located within the no-  
5 disturbance area erosion hazards near a sensitive water bodies special district overlay:

6 ~~(a) A no-disturbance area shall be established on the sloped portion of the special district overlay to~~  
7 ~~prevent damage from erosion. The upslope boundary of the no-disturbance area lies at the first~~  
8 ~~obvious break in slope from the upland plateau over onto the steep valley walls. The downslope~~  
9 ~~boundary of the no-disturbance area is the extent of those areas designated as erosion or landslide~~  
10 ~~hazard areas. The department shall maintain maps of the approximate location of the no-~~  
11 ~~disturbance areas, which shall be subject to field verification for new development proposals.~~

12 ~~(ab) Land-clearing or d~~Development shall not occur in the no-disturbance area, except for the  
13 ~~clearing-development~~ activities listed in subsection (3)(~~ba~~)(i) of this section. Clearing-Development  
14 activities listed in subsection (3)(~~ba~~)(i) of this section shall only be permitted if they meet the  
15 requirements of subsection (3)(~~ab~~)(ii) of this section.

16 (i) Clearing-Development activities may be permitted as follows:

17 (A) For single-family residences, associated landscaping and any appurtenances on pre-  
18 existing separate lots;

19 (B) For utility corridors to service existing development along existing rights-of-way  
20 including any vacated portions of otherwise contiguous rights-of-way, or for the  
21 construction of utility corridors identified within an adopted water, storm water, or sewer  
22 comprehensive plan;

23 (C) For streets providing sole access to buildable property and associated utility facilities  
24 within those streets; ~~or~~

25 (D) For public park facilities including parking lots, restrooms or recreational structures  
26 and pedestrian trail/sidewalks; ~~or~~.

27 (E) Work authorized pursuant to the pilot program.

28 (ii) The clearing-development activities listed in subsection (3)(~~ba~~)(i) of this section may be  
29 permitted only if the following requirements are met:

30 (A) ~~A-Where applicable under SMC 21A.50.120, a~~ report that meets the requirements of  
31 SMC 21A.50.130 shall show that the clearing-development activities will not subject the  
32 area to risk of landslide or erosion and that the purpose of the no-disturbance area is not  
33 compromised in any way;

- 1 (B) The clearing-development activities shall be mitigated, monitored and bonded
- 2 consistent with the mitigation requirements applicable to environmentally critical areas;
- 3 (C) The clearing-development activities are limited to the minimal area and duration
- 4 necessary for construction; and
- 5 (D) The clearing-development activities are consistent with this chapter.

6 (b) New single-family home construction or modifications or additions to existing single-family homes  
7 on existing legal lots that will result in a total site impervious surface of more than 2,000 square feet  
8 shall provide a drainage design, using the following sequential measures, which appear in order of  
9 preference:

Comment [EM18]: Re-organization for clarity

10 (i) Infiltration of all site runoff shall be required to the maximum extent technically feasible in  
11 existing soil conditions, consistent with the infiltration system design requirements of the  
12 KCSWDM;

13 (ii) Development proposals that meets the goals of Low Impact Development, as follows:

14 (A) Sixty-five (65) percent of the site shall remain as open space.

Comment [EM19]: Item 4-15e

15 (B) No more than ten (10) percent of the gross site area may be covered with impervious  
16 surface.

17 (C) The development proposal's stormwater system shall limit stormwater discharge  
18 volumes to match the average annual volume discharged from the pre-developed  
19 forested site conditions as determined using a calibrated continuous simulation  
20 hydrologic model based on the EPA's HSPF program or an approved equivalent model.  
21 The city may modify these requirements based upon site specific analysis of the  
22 feasibility of required improvements, standards and specifications. Such analysis shall  
23 include evaluation of site and vicinity soils, hydrology, and other factors, as determined  
24 by the City, affecting the successful design of the stormwater or low impact  
25 development improvements. The city shall consider purpose, effectiveness,  
26 engineering feasibility, commercial availability of technology, best management  
27 practices, safety and cost of the proposal when evaluating a waiver or modification  
28 request. The applicant shall bear the burden of proof that a waiver or modification is  
29 warranted.

30 (iii) For development proposals that cannot infiltrate all site runoff, the applicant shall design a  
31 drainage system that provides a drainage outlet designed using the best available science  
32 techniques in addition to the applicable flow control and water quality treatment standards of  
33 the adopted surface water design manual to minimize limit the risk of landslide or erosion to  
34 within the no-disturbance area and minimize the risk of water quality impacts to any sensitive  
35 water body located downstream of the no disturbance area; and

36 (iv) Structural modification of, addition to or replacement of legally created single detached  
37 residences and improvements that were legally established according to the regulations in

place at the time of establishment, where such modification, addition or replacement does not increase the amount of impervious surface on the lot, shall be exempt from the provisions of this section.

(4) Development standards for properties draining to the no-disturbance area. The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the erosion hazards near sensitive water body overlay that drain to a no-disturbance area:

Comment [EM20]: Re-organization for clarity

(ae) New proposed subdivisions, short subdivisions, public institutions, commercial site development permits, and binding site plans for sites that drain predeveloped runoff to the no-disturbance zone shall evaluate the suitability of on-site soils for infiltration. All runoff from newly constructed impervious surfaces shall be retained on site unless this requirement precludes a proposed subdivision or short subdivision from achieving 75 percent of the maximum net density as identified in Chapter 21A.25 SMC. When 75 percent of the maximum net density cannot be met, the applicant shall retain runoff on site and a perforated tightline (Figure C.2.1, Appendix C, of the 1998 KCSWDM, as amended per the adopted surface water design manual and Title 13 Surface Water Management,) shall be used to connect each lot to the central drainage system. The following drainage systems shall be evaluated, using the following sequential measures, which appear in order of preference:

Comment [CdS21]: Item 4-5

(i) Infiltration of all site runoff shall be required in granular soils as defined in the adopted surface water design manual and Title 13 Surface Water Management, King County Surface Water Design Manual (KCSWDM);

(ii) Infiltration of downspouts shall be required in granular soils and in soil conditions defined as allowable in the KCSWDM when feasible to fit the required trench lengths on site. All flows not going to an individual infiltration system shall be detained on site using the most restrictive flow control standard; and

(iii) When infiltration of downspouts is not feasible, the applicant shall design a drainage system that will detain flows on site using the applicable flow control standard and shall install an outlet from the drainage system designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; provided, that in no case shall development proposals generating more than 2,000 square feet of impervious surface create point discharges in or upstream of the no-disturbance or landslide hazard areas.

~~(d) New single-family home construction or modifications or additions to existing single-family homes on existing legal lots that will result in a total site impervious surface of more than 2,000 square feet shall provide a drainage design, using the following sequential measures, which appear in order of preference:~~

~~(i) Infiltration of all site runoff shall be required to the maximum extent technically feasible in soil conditions, consistent with the infiltration system design requirements of the KCSWDM;~~

(ii) For development proposals that cannot infiltrate all site runoff, impervious surfaces shall be infiltrated to the maximum extent technically feasible in soil conditions, consistent with the infiltration system design requirements of the KCSWDM;

(iii) For development proposals that cannot infiltrate all site runoff, the applicant shall design a drainage system that provides a drainage outlet designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; and

(iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements in existence before January 1, 2006, that do not increase the existing total footprint of the residence and associated impervious surface by more than 200 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this section.

(eb) For the portions of proposed subdivisions, short subdivisions and binding site plans that cannot infiltrate runoff up to the 100-year peak flow, at least 25 percent of the portion of the site that cannot infiltrate shall remain undisturbed and set aside in an open space tract consistent with SMC 21A.50.160 through 21A.50.190. The open space tract shall be located adjacent to any required critical area tracts and shall be designed to maximize the amount of separation between the critical area and the proposed development. If no critical areas tracts are required, the open space tract shall be located to provide additional protection to the no-disturbance area.

(fc) For the portions of all subdivisions and short subdivisions that cannot infiltrate runoff up to the 100-year peak flow, no more than 35 percent of the gross site area shall be covered by impervious surfaces. For new subdivisions and short subdivisions, maximum lot coverage should be specified for subsequent residential building permits on individual lots.

(5) Pilot Program.

Comment [EM22]: Item 4-15d

(a) Establishment of Pilot Program. A Pilot Program is hereby established to allow clearing and development projects within the no-disturbance area as set forth herein on land that has slopes of less than 40 percent grade and that is located outside of environmentally critical area buffers.

(b) Purpose. The purpose of this Pilot Program is to allow for limited development within the no disturbance area under strict limitations in order to evaluate the ability to allow increased development within the no-disturbance area without adversely affecting the water quality of Lake Sammamish. Projects qualifying for this Pilot Program are subject to the requirements below, would are not be subject to the preceding sections of 21A.50.225.

(c) Eligible Projects. Projects eligible for inclusion in this Pilot Program include, without limitation, three (3) subdivisions with direct discharges to the lake using a permitted tightline system conforming to the requirements set forth in (c)(i) below, three (3) subdivisions without direct discharge via a tightline conforming to the requirements set forth in (c)(ii) or (c)(iii) below, and three (3) short subdivisions conforming to the requirements set forth in (c)(i), (c)(ii), or (c)(iii) below that are designed subject to one of the following:

Comment [EM23]: Item 4-15g

1 (i) Where direct access to Lake Sammamish is available, the applicant shall install permanent  
2 water quality treatment per adopted manual and a tightline storm drain system discharging  
3 directly into Lake Sammamish designed by a professional engineer using the most current  
4 drainage manual and technologies. The applicant shall also install temporary erosion  
5 sediment control improvements, in particular active water quality treatment. The tightline  
6 system shall extend through the property and be available by extension or easement  
7 upstream to properties that naturally drain to the subject property; or,

8 (ii) Where direct access to Lake Sammamish is not available, the applicant shall design a  
9 project consistent with the development standards of Low Impact Development, specifically:

Comment [EM24]: Item 4-15d

10 (A) Sixty-five (65) percent of the site shall remain as forested open space. Re-  
11 vegetation shall be required to convert non-forested open space to forested as  
12 part of the project approval.

13 (B) No more than ten (10) percent of the gross site area may be covered with  
14 impervious surface.

15 (C) The project's stormwater system shall limit stormwater discharge volumes to  
16 match the average annual volume discharged from the pre-developed forested  
17 site conditions as determined using a calibrated continuous simulation  
18 hydrologic model based on the EPA's HSPF program or an approved equivalent  
19 model. The city may modify these requirements based upon site specific analysis  
20 of the feasibility of required improvements, standards and specifications. Such  
21 analysis shall include evaluation of site and vicinity soils, hydrology, and other  
22 factors, as determined by the City, affecting the successful design of the  
23 stormwater or low impact development improvements. The city shall consider  
24 purpose, effectiveness, engineering feasibility, commercial availability of  
25 technology, best management practices, safety and cost of the proposal when  
26 evaluating a waiver or modification request. The applicant shall bear the burden  
27 of proof that a waiver or modification is warranted.

28 (iii) Where access to Lake Sammamish is only available via connection to an existing offsite,  
29 manmade conveyance, the applicant shall design a project consistent with the following:

30 (A) The project site must be less than 5 acres in size;

31 (B) Permanent stormwater treatment and flow control facilities shall be installed  
32 consistent with current City standards. In addition, these facilities shall remove  
33 60 percent of total phosphorus be designed to achieve a goal of 60 percent total  
34 phosphorus (TP) removal for the WQ design flow or volume (defined in Section  
35 6.2.1, p. 6-17 of the 2009 KCSWDM);

36 (C) Stormwater detention shall be enhanced to achieve Level 3 flow control or  
37 equivalent based upon the adopted surface water design manual and Title 13  
38 Surface Water Management;

39 (D) All treatment and flow control facilities, tightlines, and connections to existing  
40 offsite, manmade conveyances shall be designed by a professional engineer,  
41 using the adopted surface water design manual. The off-site manmade  
42 conveyance shall be evaluated per section 1.2.4.2 (Conveyance Requirements for  
43 Existing Systems) of the adopted surface water design manual and Title 13

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Surface Water Management. A downstream analysis of all open channel elements of the off-site, manmade conveyance shall be required. The analysis shall address the entirety of the conveyance from the project site to Lake Sammamish and shall include a field inspection, geotechnical review, and quantitative hydraulic analysis. The analysis shall be subject to a third-party peer review at the applicant’s expense. Any necessary repairs or improvements to the existing offsite, manmade conveyance, as identified in the downstream analysis, shall be required to ensure that the conveyance can function properly without creating or exacerbating erosive or flooding conditions within the conveyance or on other affected areas;

(E) Temporary erosion and sediment control improvements, in particular temporary flow attenuation and active water quality treatment, shall be installed in accordance with current City standards, subject to the additional provisions of 5(e), below;

(F) Effective impervious surface coverage on each residential lot shall be limited to a maximum of 50 percent of the lot area;

(G) A minimum of 15 percent of the gross project site area shall be retained as open space. This open space shall be in addition to the open space otherwise required for recreational use, and shall be established in dedicated tracts that may include stormwater management facilities;

(H) In addition to meeting current tree retention standards per SMC 21A.35.210(1)(a), all dedicated open space areas shall be revegetated. Revegetation shall consist of: native trees (70% evergreen), provided at a rate of 1 per 200 square feet and spaced no more than 40 feet on center; native shrubs, provided at a rate of 1 per 20 square feet; and groundcover pursuant to SMC 21A.35.080. Revegetation shall apply to disturbed areas not otherwise occupied by storm water management facilities or recreation area;

(I) A minimum of 15 percent of each residential lot shall contain drought-tolerant native plantings; and,

(J) Each single-family residence developed shall provide roof rainwater harvesting (collection, storage, and distribution) facilities sufficient to flush toilets for a family of four.

(d) Pilot Program Administration.

(i) Application. Applications for eligible projects meeting the provisions of 5(c) above must be submitted within three calendar years from the effective date of the adoption by ordinance of the Pilot Program on forms provided by the Department.

(A) Application for eligible projects shall be accepted in the order received. To qualify for application, an applicant must have a complete application as described in the city’s application material and SMC 20.05, and completed any necessary preliminary steps prior to application as set forth in SMC 20.05. The City shall maintain a register of applications submitted after the maximum number of application have been received.

(B) In the event that an application for a project accepted into the Pilot Program is withdrawn by the applicant or cancelled by the City prior to the expiration of the

Pilot Program, the next submitted application on the register for the same development type shall be accepted into the Pilot Program.

(C) The city shall use its authority under SMC 20.05.100 to ensure expeditious processing of subdivision applications. In particular, the director shall set a reasonable deadline for the submittal of corrections, studies, or other information when requested; an extension may be provided based upon a reasonable request. Failure by the applicant to meet a deadline shall be cause for the department to cancel/deny the application.

(D) Site development construction shall begin no later than 18 months from the date of preliminary plat approval. The director may authorize a one year extension based upon extenuating circumstances.

(ii) Pilot Program Expiration. The Pilot Program shall expire and no further applications shall be accepted after such three year period as established in subsection "(d)(i)" above. Projects for which applications are accepted into the Pilot Program may be reviewed, approved and constructed, under the terms of the Pilot Program, even if such review, approval, or construction occurs after the Pilot Program has expired.

(e) Development Restrictions. Projects accepted under this Pilot Program may conduct clearing and development in the no-disturbance area, and shall not be subject to subsection 21A.50.225(2) so long as such clearing and development meets all of the following requirements:

(i) The development shall comply with the adopted Surface Water Design Manual (KCSWDM) and Title 13 Surface Water Management;

(ii) Clearing of the site shall be limited based on the treatment capacity designed into the permanent and temporary water quality treatment systems installed;

(iii) Construction Season Work Limits - Land clearing and grading may only occur between May 1st to September 30th with the phases of construction limited as follows:

(A) On or after May 1st, site clearing and grading necessary for the installation of permanent and temporary water quality treatment and conveyance may occur. Clearing and grading shall be limited to those portions of a site where such work is necessary to install tight-line stormwater conveyance, permanent and temporary stormwater detention, and/or water quality facilities. For the purposes of temporary erosion and sediment control, the required tightline system may be either a portion of the permanent stormwater conveyance system if feasible, or a temporary tightline system to be replaced by the permanent system as construction progresses;

(B) On or after June 1st, development of the site may occur;

(C) No later than September 30th, all site clearing and grading activity must be completed and the site fully prepared for winter rains, through techniques such

1 as hydroseeding or stabilization as set forth in an approved Construction Season  
2 Work Limit Plan;

3 (D) The Director may extend the seasonal construction limitations described above  
4 may be extended with permission of the director if, in the Director's  
5 determination, appropriate erosion control measures and practices are in place  
6 and then prevailing weather patterns permit.

7 (iv) Construction Season Work Limit Implementation. City approval of a temporary  
8 erosion and sediment control plan consistent with this section, SMC 21A.50.220, and  
9 other laws and regulations is required prior to any site work. The temporary erosion  
10 and sediment control plan shall comply with grading limits, shall include Construction  
11 Season Work Limits that comply with the construction season limitations, and shall  
12 include a Close Out Plan identifying the actions that will be taken to ready the site for  
13 winter weather. The Close Out Plan shall include the following:

14 (A) By August 15th City approval of any proposed changes to the Close Out Plan to  
15 assure that the site will be prepared for winter weather by September 30<sup>th</sup> is  
16 required.

17 (B) By September 1st review and approval of any revisions to the close out plan is  
18 required.

19 (C) By September 15<sup>th</sup>, city inspection is required of the site to confirm that all  
20 mandatory elements of the Close Out Plan are being implemented. Following  
21 inspections, the city shall direct the applicant to take any additional actions that  
22 are necessary and may order all construction work to be stopped other than  
23 work to prepare the site for winter weather.

24 (D) By September 30th all site work to prepare the site for winter weather shall be  
25 completed.

26 (E) The Director may extend these seasonal construction limitations may be  
27 extended with permission of the director if, in the Director's determination,  
28 appropriate erosion control measures and practices are in place and then  
29 prevailing weather patterns permit.

30 (v) Early Installation of Permanent Stormwater Management System. In addition to  
31 installation of all required Temporary Sediment and Erosion Control measures, and  
32 prior to any grading, other than grading necessary for installation of the stormwater  
33 management system, the applicant shall construct the Project's stormwater  
34 management systems in accordance with plans approved by the City. Stormwater  
35 systems shall include permanent and temporary water quality treatment and  
36 detention facilities specified in the latest approved version of the Surface Water  
37 Design Manual and the pipes and outlet facilities necessary to convey stormwater to  
38 the approved discharge location.

39 (A) Temporary water quality treatment facilities shall be sized to treat runoff  
40 generated by cleared areas during the 10 year storm event during May through

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September and the 25 year storm event for the remainder of the year and release treated runoff with a measured turbidity of no more than 25 NTU.

Comment [EM25]: Item 4-15g

(B) Temporary water quality treatment facilities shall include active sediment controls, such as chemical treatment, enhanced filtration or a combination of both per DOE guidelines (Section C250 & C251, Volume II, Department of Ecology Stormwater Management Manual).

(f) ~~Post Development Phosphorous Control.~~ Post development water quality treatment shall be designed to be designed to achieve a goal of 60 percent total phosphorus (TP) removal for the WQ design flow or volume (defined in Section 6.2.1, p. 6-17 of the 2009 KCSWDM) remove, on an annual basis, 60% or more of all new total phosphorous loading resulting from new development and associated storm water discharge.

Comment [EM26]: Item 4-15g

(g) Monitoring and Reporting on Pilot Program projects. The purpose of collecting monitoring and reporting information on the pilot program projects is to create inform the eventual legislative decision on development in the no-disturbance area. Projects authorized by this pilot program shall collect and report the following:

(i) Monitoring Data. Water quality monitoring data collected pursuant to this section shall include the following:

- (A) Turbidity;
- (B) Total phosphorous;
- (C) Total suspended solids;
- (D) Temperature
- (E) Flow rate; and,
- (F) Volume.

Pilot program projects authorized under subsection (5)(c)(i) above, shall not be required to collect flow rate or volume data. Water quality monitoring data shall be retained by the project applicant for a period of five years after final inspection of the last house built.

(ii) Prior to Construction. Prior to any site construction activity, the project applicant shall be responsible for completing visual inspections of the site and downstream properties to identify possible sources of erosion before, during, and after construction to provide a baseline condition for other data collection.

(iii) During Construction. During any site construction activity the project applicant shall be responsible for collecting monitoring data in accordance with the frequency established by the NPDES permit at the natural discharge location. Monitoring data shall be collected prior to the start of construction, through the construction period and until the last house has been built on the site.

(iv) Following Construction. Following the final inspection of the last house built, the project applicant shall be responsible for collecting monitoring data for five years. Data collection shall occur at a frequency of seven times a year between the months of October and June. ~~Monitoring shall not be required following construction if the Pilot~~

Program is adopted as a permanent amendment to the Erosion Hazard Near Sensitive Water Body overlay.

(v) Water Quality Reporting. Monitoring data shall be summarized in annual water quality reports submitted to the city. Annual reports shall evaluate the effect on King County water quality data from Lake Sammamish.

(vi) Administrative rules. The director is authorized to adopt administrative rules to ensure the successful water quality data collection, monitoring, and reporting to the city.

(h) Pilot Program Evaluation. The city shall monitor the pilot program through the annual reports and shall summarize the report findings in a report evaluating how well each project achieved the pilot program's purpose and goals and present the report to the City Council along with a recommended legislative action.

(g) If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to SMC 21A.50.070(2).

(h) The director may modify the property-specific development standards required by this section when a critical areas study is conducted by the applicant and approved by the director which demonstrates that the proposed development substantially increases water quality by showing the following:

(i) Water quality on site is improved through site enhancements and/or other innovative management techniques;

(ii) The development project will not subject downstream channels to increased risk of landslide or erosion; and

(iii) The development project will not subject the nearest sensitive water body to additional erosion hazards. (Ord. O2009-250 § 1; Ord. O2005-193 § 1)

**21A.50.230 Frequently flooded areas.**

(1) Frequently flooded areas include all areas of special flood hazards within the jurisdiction of the City of Sammamish.

(a) The areas of special flood hazard are identified by the Federal Insurance Administration in a scientific and engineering report entitled "the Flood Insurance Study for King County," as amended, as stated in SMC 15.10.060. The flood insurance study is on file at Sammamish City Hall. The best available information for flood hazard area identification as outlined in SMC 15.10.130(2) shall be the basis for regulation until a new Flood Insurance Rate Map (FIRM) is issued that incorporates the data utilized under SMC 15.10.130(2).

(b) The director may use additional flood information that is more restrictive or detailed than that provided in the Flood Insurance Study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar information.

Comment [EM27]: Clarification

1 (2) Development in frequently flooded areas shall be subject to the provisions in Chapter [15.10](#) SMC. (Ord.  
2 O2005-193 § 1; Ord. O99-29 § 1)

3 **21A.50.240 Flood hazard areas – Certification by engineer or surveyor.**  
4 *Repealed by Ord. O2005-193.* (Ord. O99-29 § 1)

5 **21A.50.250 Channel relocation and stream meander areas.**  
6 *Repealed by Ord. O2005-193.* (Ord. O99-29 § 1)

7 **21A.50.260 Landslide hazard areas – Development standards and permitted alterations.**  
8 A development proposal containing, or within 50 feet of, a landslide hazard area shall meet the following  
9 requirements:

10 (1) A minimum buffer of 50 feet shall be established from ~~all edges~~the top and toe of the landslide hazard  
11 area. The buffer shall be extended as required to mitigate a landslide or erosion hazard or as otherwise  
12 necessary to protect the public health, safety, and welfare.

Comment [CdS28]: Item 4-7

13 ~~(a)~~<sup>2</sup> The buffer may be reduced to a minimum of 15 feet if, based on a critical areas study, the City  
14 determines that the reduction will adequately protect the proposed development and other  
15 properties, the critical area and other critical areas off-site.

16 ~~(ab)~~ For single-family residential building permits only, the City may ~~waive the~~reduce the scope of  
17 the critical areas study requirement if other development in the area has already provided sufficient  
18 information or if such information is otherwise readily available.

Comment [CdS29]: Item 5-8

19 ~~(2)(b)~~ In addition to the general requirements for critical areas studies that may be required consistent with  
20 SMC [21A.50.130](#), the critical areas study for a landslide hazard area shall include a geotechnical report  
21 prepared by a qualified professional consistent with SMC 21A.15.545, unless otherwise approved by the city,  
22 which also includes the following:

Comment [EM30]: Item 5-6

Comment [EM31]: Item 5-6

23 (i) A description of the extent and type of vegetative cover;

24 (ii) A description of subsurface conditions based on data from site-specific explorations;

25 (iii) Descriptions of surface and groundwater conditions, public and private sewage disposal  
26 systems, fills and excavations, and all structural improvements;

27 ~~(Div) An estimate of slope stability and the effect construction and placement of structures~~  
28 ~~will have on the slope over the estimated life of the structure;~~

Comment [CdS32]: Item 4-11

29 (iv) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic  
30 events such as seismic activity or a 100-year storm event;

31 (v) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide  
32 run-out on downslope properties;

1 ~~(vii) A study of slope stability including an analysis of proposed cuts, fills, and other site~~  
2 ~~grading;~~

Comment [CdS33]: 4-11

3 (vi) Recommendations for building siting limitations; ~~and~~

4 (vii) An analysis of proposed surface and subsurface drainage, and the vulnerability of the  
5 site to erosion; ~~and~~

6 ~~(viii) A comprehensive study of slope stability including an analysis of proposed cuts, fills, and~~  
7 ~~other site grading and construction effects where the overall minimum factor of safety for~~  
8 ~~slope stability is 1.5 for static conditions and 1.1 for seismic conditions as based on current~~  
9 ~~building code seismic design conditions.~~

Comment [CdS34]: Item 4-11

10 ~~(43)~~ Unless otherwise provided herein or as part of an approved alteration, removal of any vegetation from a  
11 landslide hazard area or buffer shall be prohibited, except for limited removal of vegetation necessary for  
12 surveying purposes and for the removal of hazard trees determined to be unsafe by the City. The City may  
13 require the applicant to submit a report prepared by a certified arborist to confirm hazard tree conditions.  
14 Notice to the City shall be provided prior to any vegetation removal permitted by this subsection.

15 ~~(54)~~ Vegetation on slopes within a landslide hazard area or buffer that has been damaged by human activity  
16 or infested by noxious weeds may be replaced with native vegetation pursuant to an enhancement plan  
17 approved by the City pursuant to SMC 21A.50.060. The use of hazardous substances, pesticides, and  
18 fertilizers in landslide hazard areas and their buffers may be prohibited by the City.

19 ~~(65)~~ Alterations to landslide hazard areas and buffers may be allowed only as follows:

20 (a) A landslide hazard area located on a slope 40 percent or steeper may be altered only if the  
21 alteration meets the following standards and limitations:

22 (i) Approved surface water conveyances, as specified in the ~~applicable adopted surface water~~  
23 ~~design manual and Title 13 Surface Water Management, City-adopted storm water~~  
24 ~~requirements~~, may be allowed in a landslide hazard area if they are installed in a manner to  
25 minimize disturbance to the slope and vegetation;

26 (ii) Public and private trails may be allowed in a landslide hazard area subject to the standards  
27 and mitigations contained in this chapter, development standards in Chapter 21A.30 SMC, and  
28 requirements elsewhere in the SMC, when locating outside of the hazard area is not feasible;

29 (iii) Utility corridors may be allowed in a landslide hazard area if a critical areas study shows  
30 that such alteration will not subject the area to the risk of landslide or erosion;

31 (iv) Limited trimming and pruning of vegetation may be allowed in a landslide hazard area  
32 pursuant to an approved vegetation management plan for the creation and maintenance of  
33 views if the soils are not disturbed;

1 (v) Stabilization of sites where erosion or landsliding threatens public or private structures,  
2 utilities, roads, driveways or trails, or where erosion and landsliding threaten any lake, stream,  
3 wetland, or shoreline. Stabilization work shall be performed in a manner that causes the least  
4 possible disturbance to the slope and its vegetative cover; and

5 (vi) Reconstruction, remodeling, or replacement of an existing structure upon another portion  
6 of an existing impervious surface that was established pursuant to City ordinances and  
7 regulations may be allowed; provided:

8 (A) If within the buffer, the structure is located no closer to the landslide hazard area than  
9 the existing structure; and

10 (B) The existing impervious surface within the buffer or landslide hazard area is not  
11 expanded as a result of the reconstruction or replacement.

12 (b) A landslide hazard area located on a slope less than 40 percent may be altered only if the  
13 alteration meets the following requirements:

14 (i) The development proposal will not decrease slope stability on contiguous properties; and

15 (ii) Mitigation based on the best available engineering and geological practices is implemented  
16 that either eliminates or minimizes the risk of damage, death, or injury resulting from  
17 landslides; and

18 (c) Neither buffers nor a critical area tract shall be required if the alteration meets the standards of  
19 subsection (5)(b) of this section.

20 ~~(6) New development proposals that will result in a total site impervious surface of more than 2,000 square~~  
21 ~~feet shall submit a drainage plan which complies with all applicable and project specific provisions of the~~  
22 ~~King CountySDM and City of Sammamish Addendum. provide a drainage design, using the following~~  
23 ~~sequential measures, which appear in order of preference:~~

Comment [CdS35]: Item 4-9

24 ~~(a) Infiltration of all site runoff shall be required to the maximum extent technically feasible in soil~~  
25 ~~conditions, consistent with the infiltration system design requirements of the KCSWDM;~~

26 ~~(b) For development proposals that cannot infiltrate all site runoff, impervious surfaces shall be~~  
27 ~~infiltrated to the maximum extent technically feasible in soil conditions, consistent with the~~  
28 ~~infiltration system design requirements of the KCSWDM;~~

29 ~~(c) For development proposals that cannot infiltrate all site runoff, the applicant shall design a~~  
30 ~~drainage system that provides a drainage outlet designed using the best available science~~  
31 ~~techniques to limit the risk of landslide or erosion to the no-disturbance area; and~~

32 ~~(d) Structural modification of, addition to or replacement of legally created single detached~~  
33 ~~residences and improvements in existence before January 1, 2006, that do not increase the existing~~

~~total footprint of the residence and associated impervious surface by more than 200 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this section.~~

(7) The following are exempt from the provisions of this section:

(a) Slopes that are 40 percent or steeper with a vertical elevation change of up to 20 feet if no adverse impact will result from the exemption based on the City’s review of and concurrence with a soils report prepared by a licensed geologist or geotechnical engineer; and

(b) The approved regrading of any slope that was created through previous legal grading activities. (Ord. O2009-250 § 1; Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.270 Seismic hazard areas – Development standards and permitted alterations.**

A development proposal containing a seismic hazard area shall meet the following requirements:

(1) All applicable building code requirements; and

(2) Alterations to seismic hazard areas may be allowed only as follows:

(a) The evaluation of site-specific subsurface conditions shows that the proposed development site is not located in a seismic hazard area; or

(b) Mitigation based on the best available engineering and geological practices is implemented that either eliminates or minimizes the risk of damage, death, or injury resulting from seismically induced settlement or soil liquefaction. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.280 Critical aquifer recharge areas – Development standards.**

(1) Groundwater Quantity Protection Standards. For developments in all CARA classes, the applicant shall provide surface water infiltration as follows:

(a) Seventy-five percent of on-site storm water volume generated from the proposed development shall be infiltrated; provided, that a lesser standard may apply or on-site infiltration may be waived when:

(i) The applicant demonstrates that infiltration is not a reasonable alternative due to site-specific soil and/or geologic conditions;

(ii) It is determined that increased saturation of soils would result in an increased risk to existing facilities and/or adjacent properties;

(iii) Infiltration would result in significant unavoidable impacts to other critical areas or result in an excessive loss of native vegetation; or

1 (iv) The applicant proposes an addition of no more than 700 square feet of total new  
2 impervious surface compared cumulatively to 2005 levels.

3 (b) If infiltration is not feasible or required, then storm water facilities shall be constructed in  
4 accordance with City standards.

5 (c) The design and implementation of infiltration facilities shall follow the ecology infiltration  
6 guidelines specified in the Western Washington Stormwater Manual (2005), or other technical  
7 guidance as approved by the City.

8 (d) To prevent groundwater contamination, storm water infiltration may be prohibited for all or a  
9 portion of a site that includes use of hazardous substances.

10 (2) Groundwater Quality Protection Standards. The following provisions shall apply to development in all  
11 CARA classes:

12 (a) Activities may only be permitted in a critical aquifer recharge area if the proposed activity will  
13 not result in a significant increased risk of contamination of drinking water supplies;

14 (b) The City shall impose development conditions when necessary to prevent degradation of  
15 groundwater. Conditions to permits shall be based on known, available and reasonable methods of  
16 prevention control and treatment; and

17 (c) The proposed activity must comply with the water source protection requirements and  
18 recommendations of the Federal Environmental Protection Agency, State Department of Ecology,  
19 State Department of Health, and the Seattle-King County health district.

20 (3) Regulation of Facilities Handling and Storing Hazardous Materials regulated by the State Department of  
21 Ecology.

22 (a) New and existing commercial and industrial land uses and activities located in Class 1 and Class 2  
23 CARAs shall submit a hazardous materials inventory statement with a ~~land use or building permit~~  
24 ~~application~~ development proposal.

25 (b) Report Requirement. Commercial and industrial land uses and activities that involve the use,  
26 storage, transport or disposal of hazardous materials ~~as regulated by the State of Washington, as~~  
27 ~~defined in this chapter~~, in quantities equal to or greater than 20 gallons or the equivalent of 200  
28 pounds, located in Class 1 and Class 2 CARAs, shall submit a critical areas study in accordance with  
29 SMC 21A.50.130 including, as necessary, a hydrogeologic critical area assessment report, spill  
30 containment and response plan and/or groundwater monitoring plan, except for the following  
31 uses/activities:

32 (i) Retail sale of containers five gallons or less in size, where there is less than 500 total gallons;  
33 and

34 (ii) Hazardous materials of no risk to the aquifer.

1 (c) A hydrogeologic critical area assessment report, when required by subsection (3)(b) of this  
2 section, shall be prepared by a qualified professional to determine potential impacts of  
3 contaminants on the aquifer. The report shall include the following site- and proposal-related  
4 information, at a minimum:

5 (i) Information regarding geologic and hydrogeologic characteristics of the site including the  
6 surface location of all CARA classes located on site or immediately adjacent to the site and  
7 permeability of the unsaturated/vadose zone;

8 (ii) Groundwater depth, flow direction and gradient;

9 (iii) Data on wells and springs within 1,300 feet of the project area;

10 (iv) Location of other critical areas, including surface waters, within 1,300 feet of the project  
11 area;

12 (v) Historic hydrogeologic data for the area to be affected by the proposed activity;

13 (vi) Best management practices (BMPs) and integrated pest management (IPM) proposed to be  
14 used; and

15 (vii) Discussion of the effects of the proposed project on the groundwater quality and quantity,  
16 including:

17 (A) Predictive evaluation of groundwater withdrawal and recharge effects on nearby wells  
18 and surface water features;

19 (B) Predictive evaluation of contaminant transport based on potential releases to  
20 groundwater; and

21 (C) Predictive evaluation of changes in the infiltration/recharge rate.

22 (d) A spill containment and response plan, when required by subsection (3)(b) of this section, is  
23 required to identify equipment and/or structures that could fail and shall include provisions for

24 inspection as required by the applicable state regulations, repair and replacement of structures and  
25 equipment that could fail.

26 (e) A groundwater monitoring plan, when required by subsection (3)(b) of this section, may be  
27 required to monitor quality and quantity of groundwater, surface water runoff, and/or site soils. The  
28 City may require the owner of a facility to install one or more groundwater monitoring wells to  
29 accommodate the required groundwater monitoring.

30 (i) Criteria used to determine the need for site monitoring shall include, but not be limited to,  
31 the proximity of the facility to production or monitoring wells, the type and quantity of

Exhibit 1a

hazardous materials on-site, and whether or not the hazardous materials are stored in underground vessels.

(ii) The City may employ an outside consultant at the applicant’s expense to review the monitoring plan and analysis, to ensure that the monitoring plan is followed, and that corrective actions are completed.

(4) Prohibited Uses. Where land uses or materials prohibited in this section are allowed in the Table of Permitted Land Uses (Chapter [21A.20](#) SMC), this section shall control and the use shall be prohibited.

(a) Table 21A.50.280a identifies land uses and materials prohibited in Class 1, 2 and 3 CARAs for new uses; and

(b) Table 21A.50.280b identifies land uses and materials that should be discontinued, removed and decommissioned where existing in Class 1, 2 and 3 CARAs. The City shall require discontinuation, removal and decommissioning of these uses from Class 1, 2 and 3 CARAs at the time of development and redevelopment, in proportion to the degree and nature of the proposal.

**Table 21A.50.280a**

Prohibited Land Uses and Materials (New Uses/Activities)	Class 1 (1- and 5-year WHPA)	Class 2 (10-year WHPA)	Class 3 (High Recharge Areas)
Hazardous liquid transmission pipelines	prohibited	allowed subject to compliance with federal and state standards	
Mining, processing and reclamation of any type	prohibited	prohibited	reviewed under development permit
Processing, storage, and disposal of radioactive substances (except certain medical uses)	prohibited	prohibited	prohibited
Underground storage tanks (UST)	prohibited	prohibited	prohibited
UST with double walls, vault and monitor	prohibited	allowed subject to compliance with federal and state standards	
Above ground storage tanks for hazardous substances or hazardous waste with primary and secondary containment area and spill protection plan	allowed subject to compliance with federal and state standards		
Wells for class B and private water systems, when located in a water service area	prohibited	prohibited	allowed subject to compliance with federal and state

Table 21A.50.280a

Prohibited Land Uses and Materials (New Uses/Activities)	Class 1 (1- and 5-year WHPA)	Class 2 (10-year WHPA)	Class 3 (High Recharge Areas)
			standards
Golf courses	prohibited	**	**
Land use activities that require the use of nitrates, phosphorus, pesticides, and other chemicals that have a potential to degrade groundwater and surface water quality when used inappropriately or in excess.	Prohibited	**	**
Closed loop geothermal / heat exchange wells	allowed subject to compliance with federal and state standards **		**
Closed loop geothermal/heat exchange systems (surface)	allowed subject to compliance with federal and state standards **		**
Open loop geothermal / heat exchange wells	allowed subject to compliance with federal and state standards **		Prohibited
Injection Wells (storm water or reclaimed water)	Prohibited	Prohibited	**
Cemeteries	prohibited	**	**
Wrecking yards	prohibited	prohibited	prohibited
Landfills with hazardous waste, municipal solid waste, or special waste	prohibited	prohibited	prohibited
Dry cleaning using chlorinated solvents	prohibited	prohibited	prohibited
**Best management practices (BMPS) and integrated pest management (IPM), as applicable, are required for these uses.			

Comment [EM36]: Item 1-1

Comment [EM37]: Item 1-2

Comment [EM38]: Item 1-2

Comment [EM39]: Item 1-3

Table 21A.50.280b

Restricted Land Uses and Materials – (Existing Uses/Activities)	Class 1 (1- and 5-year WHPA)	Class 2 (10-year WHPA)	Class 3 (High Recharge Areas)
UST (underground storage tank)	Remove, decommission or upgrade to comply with federal and state standards		
Abandoned wells	Decommission to comply with federal and state standards		
Existing uses that have a long-term potential to degrade water quality in the WHPA	Discontinue, remove or mitigate potential impacts		

1 (5) Requirements for Specific Uses and Activities.

2 (a) Commercial Vehicle Repair and Servicing.

3 (i) In all CARA classes, vehicle repair and servicing must be conducted over impermeable pads,  
 4 with containment curbs, and within a covered structure capable of withstanding normally  
 5 expected weather conditions. Chemicals used in the process of vehicle repair and servicing  
 6 must be stored in a manner that protects them from weather and provides containment  
 7 should leaks occur.

8 (ii) In all CARA classes, no dry wells shall be allowed on sites used for vehicle repair and  
 9 servicing. Dry wells existing on the site prior to facility establishment must be abandoned using  
 10 techniques approved by the State Department of Ecology prior to commencement of the  
 11 proposed activity.

12 (b) Use of Pesticides, Herbicides, and Fertilizers.

13 (i) Residential Use. In all CARA classes, application of household pesticides, herbicides, and  
 14 fertilizers shall not exceed times, rates, concentrations and locations specified on the  
 15 packaging.

16 (ii) Other Uses. In Class 1 and 2 CARA areas, proposed developments with maintained  
 17 landscape areas greater than 10,000 square feet in area shall prepare an operations and  
 18 maintenance manual using best management practices (BMPs) and integrated pest  
 19 management (IPM) for fertilizer and pesticide/herbicide applications. The BMPs shall include  
 20 recommendations on the quantity, timing and type of fertilizers applied to lawns and gardens  
 21 to protect groundwater quality.

22 (c) Spreading or Injection of Storm Water or Reclaimed Water. Water reuse projects for reclaimed  
 23 water and storm water are regulated in accordance with the adopted water, sewer or storm water  
 24 comprehensive plans that have been approved by the Departments of Ecology and Health. Injection  
 25 wells are prohibited in Class 1 and 2 CARA areas. Injection wells are allowed, subject to city review  
 26 and approval, in Class 3 CARA areas provided injection wells shall comply with the requirements of  
 27 WAC 173-200 and 173-218 and Sammamish Municipal Code.

Comment [EM40]: Item 1-3

1 (d) Construction Activity. In all CARA classes, if construction vehicles will be refueled on a  
2 construction site and/or the quantity of hazardous materials that will be used or stored on a site  
3 exceeds 20 gallons, exclusive of the quantity of hazardous materials contained in fuel or fluid  
4 reservoirs of construction vehicles, then persons obtaining construction permits shall provide  
5 information to the public works department regarding the types and quantities of hazardous  
6 materials that will be on-site and then use BMPs to prevent and respond to spills. Construction site  
7 refueling must be conducted over impermeable pads, with containment curbs. The operator of the  
8 site shall immediately report to the City any spills and is responsible for complete recovery and  
9 cleanup.

10 (e) Fill Quality Standards and Imported Fill Source Statement. In all CARA classes, fill material shall  
11 not contain concentrations of contaminants that exceed cleanup standards for soil as specified in  
12 the Model Toxics Control Act (MTCA). An imported fill source statement is required for all projects  
13 where more than 100 cubic yards of fill will be imported to a site. The City may require analytical  
14 results to demonstrate that fill materials do not exceed cleanup standards. The imported fill source  
15 statement shall include:

- 16 (i) Source location of imported fill;
- 17 (ii) Previous land uses of the source location; and
- 18 (iii) Whether or not fill to be imported is native, undisturbed soil.

19 (f) In Class 1 and 2 CARAs, on lots smaller than one acre, new on-site septic systems are prohibited,  
20 unless:

- 21 (i) The system is approved by the Washington State Department of Health and the system  
22 either uses an upflow media filter system or a proprietary packed-bed filter system or is  
23 designed to achieve approximately 80 percent total nitrogen removal for typical domestic  
24 wastewater; or
- 25 (ii) The Seattle–King County department of public health determines that the systems required  
26 under subsection (5)(f)(i) of this section will not function on the site.

27 (g) Geothermal / heat exchange wells are allowed, subject to city review and approval, provided:

- 28 (i) The system is approved by the Washington Department of Ecology as compliant with the  
29 provisions of WAC 173-160; and
- 30 (ii) A notice on title is recorded documenting the maintenance requirements of the  
31 geothermal / heat exchange wells

32 **21A.50.290 Wetlands – Development standards.**

33 A development proposal on a parcel or parcels containing a wetland or associated buffer of a wetland  
34 located on-site or off-site shall meet the following requirements:

1 (1) The following standard buffers shall be established from the wetland edge:

Wetland Category		Standard Buffer Width (ft)
Category I:	Natural Heritage or bog wetlands	215
	Habitat score 29–36	200
	Habitat score 20–28	150
	Not meeting above criteria	125
Category II:	Habitat score 29–36	150
	Habitat score 20–28	100
	Not meeting above criteria	75
Category III:	Habitat score 20–28	75
	Not meeting above criteria	50
Category IV:		All Land Use Types - 50
<u>Category III and IV:</u>	<u>subject to SMC 21A.50.320</u>	

2 (a) Where a legally established and constructed street or the East Lake Sammamish Trail transects a  
 3 wetland buffer, the department may approve a modification of the standard buffer width to the  
 4 edge of the street or the East Lake Sammamish Trail if the isolated part of the buffer does not  
 5 provide additional protection of the wetland and provides insignificant biological, geological or  
 6 hydrological buffer functions relating to the wetland. If the resulting buffer distance is less than 50  
 7 percent of the standard buffer for the applicable wetland category, no further reduction shall be  
 8 allowed.

9 (b) In addition to the provisions of SMC 21A.50.060, where a buffer has been previously  
 10 established on a legally created parcel or tract that was legally established according to the  
 11 regulations in place at the time of establishment through City or county development review on or  
 12 after November 27, 1990, and is permanently recorded on title or placed within a separate tract, the  
 13 buffer shall be remain as previously established, provided it is at least as large as equal to or greater  
 14 than 50 percent of the current required standard buffer distance for the applicable wetland  
 15 category.

Comment [EM41]: Item 5-9

16 (c) Where wetland functions have been improved due to voluntary implementation of an approved  
 17 stewardship, restoration and/or enhancement plan that is not associated with required mitigation  
 18 or enforcement, the standard wetland buffer width shall be determined based on the previously  
 19 established wetland category and habitat score as documented in the approved stewardship and  
 20 enhancement plan.

21 (2) Repealed by Ord. 02009-264. Removal of any native vegetation or woody debris from a wetland or  
 22 wetland buffer may be allowed only as part of an approved alteration. Only native vegetation can be planted

Comment [EM42]: Item 5-3

1 in wetland or buffer areas, unless the planting is otherwise allowed by SMC 21A.50.060 –Allowance for  
2 Existing Urban Development and Other Uses.

3 (3) Activities and uses shall be prohibited from wetlands and associated buffers, except as provided for in this  
4 chapter.

5 (4) Any wetland restored, relocated, replaced, or enhanced because of a wetland alteration shall have the  
6 buffer required for the highest wetland class involved.

7 (5) For a wetland buffer that includes a landslide hazard area, the buffer width shall be the greater of either  
8 the buffer width required by the wetland’s category in this section or 25 feet beyond the top of the landslide  
9 hazard area.

10 (6) Buffer Averaging. Buffer width averaging may be allowed by the department if:

11 (a) It will provide additional protection to wetlands or enhance their functions, as long as the total  
12 area contained in the buffer on the development proposal site does not decrease (see also SMC  
13 [21A.30.210\(5\)](#) for buffer compensation requirements for trails);

14 (b) The wetland contains variations in sensitivity due to existing physical characteristics or the  
15 character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a  
16 wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

17 (c) The buffer width is not reduced to less than 50 percent of the standard buffer width at any  
18 location; ~~and~~

19 ~~(de)~~ The buffer width is decreased on one part of a wetland and increased on another part of the  
20 same wetland feature; and

21 ~~(ef)~~ The buffer is associated with a development proposal and it will not further encumber a  
22 neighboring property not owned by the applicant.

23 ~~(fe)~~ Buffer averaging may be used in conjunction with buffer reduction options in this section,  
24 provided the total combined reduction does not reduce the buffer to less than 50 percent of  
25 standard buffer width at any location;:-

26 (7) Increased Buffers. Increased buffer widths may be required by a distance necessary to protect wetland  
27 functions and provide connectivity to other wetland and habitat areas when the following occur:

28 (a) When a Category 1 or 2 wetland with a habitat score of greater than 29 points (per Washington  
29 State Wetland Rating System for Western Washington – Department of Ecology 2009 or as revised) is  
30 located within 200 feet of the wetland subject to the increased buffer;

31 (b) Fish and wildlife habitat conservation area and habitat connections are present;

32 (c) Landslide or erosion hazard areas are contiguous to wetlands;

Comment [CdS43]: Item 5-10

Comment [CdS44]: Item 5-11

1 (d) Groundwater recharge and discharge areas are at risk;

2 (e) Or to offset buffer impacts, such as trail and utility corridors; and

3 (f) Ecological wetland functions are at risk including, but not limited to the following:

4 \_\_\_\_\_ (i) Habitat complexity, connectivity and biological functions;

5 \_\_\_\_\_ (ii) Seasonal hydrological dynamics as provided in the adopted Surface Water Design Manual;

6 \_\_\_\_\_ (iii) Sediment removal and erosion control;

7 \_\_\_\_\_ (iv) Pollutant removal;

8 \_\_\_\_\_ (v) Large wood debris (LWD) recruitment;

9 \_\_\_\_\_ (vi) Water temperature;

10 \_\_\_\_\_ (vii) Wildlife habitat; and

11 \_\_\_\_\_ (viii) Microclimate. Increased Buffers. The department may require the standard buffer to be  
12 increased by the greater of 50 feet or a distance necessary to protect wetland functions and provide  
13 connectivity to other wetland and habitat areas when a Category 1 or 2 wetland with a habitat score greater  
14 than 20 points is located within 300 feet of:

15 (a) Another Category 1 or 2 wetland;

16 (b) A fish and wildlife habitat conservation area; or

17 (c) A type S or F stream.

18 ~~The increased buffer distance may be limited to those areas that provide connectivity or are necessary to~~  
19 ~~protect wetland and habitat functions.~~

20 (8) Buffer Reduction. Buffers may be reduced when buffer reduction impacts are mitigated and result in  
21 equal or greater protection of the wetland functions. Prior to considering buffer reductions, the applicant  
22 shall demonstrate application of mitigation sequencing as required in SMC [21A.50.135](#). A plan for mitigating  
23 buffer-reduction impacts must be prepared using selected incentive-based mitigation options from the list  
24 below. The following incentive options for reducing standard buffer widths shall be considered cumulative up  
25 to a maximum reduction of 50 percent of the standard buffer width. In all circumstances where a substantial  
26 portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native  
27 vegetation in the degraded portions of the remaining buffer area and shall include a five-year monitoring and  
28 maintenance plan.

29 ~~(a) Installation of biofiltration/infiltration mechanisms: up to 20 percent reduction in the standard~~  
30 ~~buffer width may be allowed for the installation of bioswales, Up to 20 percent reduction in the~~  
31 ~~standard buffer width may be allowed if water quality is improved in excess of the requirements of~~

1 the adopted surface water design manual and Title 13 Surface Water Management, through the use  
2 of created and/or enhanced wetlands, or ponds supplemental to existing storm drainage and water  
3 quality requirements.

4 (b) Removal of existing impervious surfaces:

5 (i) Up to 10 percent reduction in standard buffer width if impervious surfaces within the to-be-  
6 remaining buffer area are reduced by at least 50 percent; or

7 (ii) Up to 20 percent reduction in standard buffer width if the to-be-remaining buffer area is  
8 presently more than 50 percent impervious and all of it is to be removed.

9 (c) Removal of invasive, nonnative vegetation: up to 10 percent reduction in standard buffer width  
10 for the removal and extended (minimum five-year) monitoring and continued-removal maintenance  
11 of relatively dense stands of invasive, nonnative vegetation from significant portions of the  
12 remaining buffer area.

13 (d) Restoration, preservation and maintenance of the existing wetland and buffer vegetation if the  
14 following conditions are present and/or attainable as a result of action:

Comment [EM45]: Item 3-10

15 (i) An undisturbed vegetated buffer of 100 feet is preserved in the remaining buffer width;  
16 and,

17 (ii) Existing buffer conditions are degraded such that more than 40 percent of the buffer is  
18 covered by non-native/invasive plant species and are the buffer is restored according to a  
19 city-approved restoration plan to improve wetland buffer functions; and,

20 (iii) Native tree or shrub vegetation covers less than 25 percent of the total buffer area and  
21 the area will be re-vegetated according to a city-approved restoration plan with native trees  
22 and shrubs to replace existing reduced and impacted buffer functions; and,

23 (iv) The wetland buffer has slopes of less than 25 percent; and

24 (v) The buffer reduction determination and percentage shall be on a site by site basis based  
25 on the applicant's plan and demonstration of improvement to water quality and habitat  
26 functions.

27  
28  
29 (e) If not already required under an existing development proposal, installation of oil/water  
30 separators for storm water quality control: up to 10 percent reduction in standard buffer width.

31  
32  
33 (f) Use of pervious material for driveway/road construction: up to 10 percent reduction in standard  
34 buffer width.

35  
36  
37 (g) Restoration of on-site buffer and wetland areas, or restoration of off-site buffer and wetland  
38 areas within the same sub-basin of the impacted wetland if no on-site restoration is possible:

39 (i) Up to 10 percent reduction in standard buffer width if restoration area is at a 2:1 ratio or  
40 greater; or

(ii) Up to 20 percent reduction in standard buffer width if restoration area is at a 4:1 ratio or greater.

(gh) Removal of significant refuse or sources of toxic material: up to 10 percent reduction in standard buffer width.

(hi) Percentages listed above may be added together to create a total buffer reduction; provided, that the total reduction does not exceed 50 percent of the standard buffer width.

(9) The use of hazardous substances, pesticides and fertilizers in the wetland and its buffer may be prohibited by the City.

(10) ~~The introduction of livestock into a wetland or wetland buffer is prohibited. Unless otherwise provided, the following restrictions shall apply to all development proposals that include the introduction of livestock on sites with wetlands or wetland buffers:~~

~~(a) A plan to protect and enhance the wetland's water quality shall be implemented pursuant to the adopted surface water design manual standards; and~~

~~(b) Fencing located not closer to the wetland than the outer wetland buffer edge shall be required. (Ord. O2009-264 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)~~

Comment [CdS46]: Item 5-12

**21A.50.300 Wetlands – Permitted alterations.**

Alterations to wetlands and wetland buffers are not allowed, except as provided for by complete exemptions, ~~allowances for existing urban development and other uses~~ ~~partial exemptions~~ and exceptions in this chapter or as allowed for by this section.

(1) Alterations may be permitted if the department determines, based upon its review of critical areas studies completed by qualified professionals, that the proposed development will:

(a) Protect, restore or enhance the wildlife habitat, natural drainage, or other valuable functions of the wetland resulting in a net improvement to the functions of the wetland system;

(b) Design, implement, maintain, and monitor a mitigation plan prepared by a qualified professional;

(c) Perform the mitigation under the direction of a qualified professional; and

(d) Will otherwise be consistent with the purposes of this chapter.

(2) If a wetland is in a flood hazard area, the applicant shall notify affected communities and native tribes of proposed alterations prior to any alteration and submit evidence of such notification to the Federal Insurance Administration.

(3) There shall be no introduction of any nonnative or invasive plant or wildlife into any wetland or wetland buffer ~~unless authorized except as required~~ by a state or federal permit or approval ~~or as otherwise allowed~~ ~~by SMC 21A.50.060 – Allowance for Existing Urban Development and Other Uses.~~

Comment [EM47]: Item 5-15

- 1 (4) Utilities may be allowed in wetland buffers if:
- 2 (a) The director determines that no reasonable alternative location is available; and
- 3 (b) The utility corridor meets any additional requirements for installation, replacement of vegetation
- 4 and maintenance, as needed to mitigate impacts.
- 5 (5) Sewer utility corridors may be allowed in wetland buffers only if:
- 6 (a) The applicant demonstrates that ~~the sewer lines are~~ location is necessary for gravity flow;
- 7 (b) The corridor is not located in a wetland or buffer used by species listed as endangered or
- 8 threatened by the state or federal government or containing critical or outstanding actual habitat
- 9 for those species or heron rookeries or raptor nesting trees;
- 10 (c) The corridor alignment including, but not limited to, any allowed maintenance roads follows a
- 11 path farthest from the wetland edge as feasible;
- 12 (d) Corridor construction and maintenance protects the wetland and buffer and is aligned to avoid
- 13 cutting trees greater than 12 inches in diameter at breast height, when possible, and pesticides,
- 14 herbicides and other hazardous substances are not used;
- 15 (e) An additional, contiguous and undisturbed buffer, equal in width to the proposed corridor,
- 16 including any allowed maintenance roads, is provided to protect the wetland;
- 17 (f) The corridor is revegetated with appropriate native vegetation at preconstruction densities or
- 18 greater immediately upon completion of construction or as soon thereafter as possible, and the
- 19 sewer utility ensures that such vegetation survives;
- 20 (g) Any additional corridor access for maintenance is provided, to the extent possible, at specific
- 21 points rather than by a parallel road; and
- 22 (h) The width of any necessary parallel road providing access for maintenance is as small as possible,
- 23 but not greater than 15 feet; the road is maintained without the use of herbicides, pesticides or
- 24 other hazardous substances; and the location of the road is contiguous to the utility corridor on the
- 25 side away from the wetland.
- 26 (6) Joint use of an approved sewer utility corridor by other utilities may be allowed.
- 27 (7) Where technically feasible, surface water discharge shall be located outside of the wetland and wetland
- 28 buffer. The following surface water management activities and facilities may be allowed in wetlands or their
- 29 buffers only as follows: Where surface water discharge is authorized within a wetland or wetland buffer, the
- 30 following shall apply:
- 31 (a) Surface water discharge to a wetland from a flow control or water quality treatment facility,
- 32 sediment pond or other surface water management activity or facility may be allowed if the

Comment [CdS48]: Item 5-13

1 discharge does not increase the rate of flow, change the plant composition in a forested wetland or  
2 decrease the water quality of the wetland;

3 (b) Isolated Category 4 wetlands and buffers may be used as a flow control facility if:

4 (i) Presettlement pond or water quality treatment is required prior to flow into the wetland;  
5 and

6 (ii) They are not part of, or immediately adjacent to, a designated wildlife habitat corridor and  
7 all requirements of the applicable City-adopted storm water requirements are met; and

8 (c) Use of a wetland buffer for a surface water management activity or facility, other than a flow  
9 control or water quality treatment facility, such as an energy dissipater and associated pipes, may be  
10 allowed only if the applicant demonstrates, to the satisfaction of the department, that:

11 (i) No reasonable alternative exists; and

12 (ii) The functions of the buffer or the wetland are not adversely affected.

13 (8) Public and private trails may be allowed in wetland buffers consistent with the standards and  
14 requirements in this chapter, development standards in Chapter [21A.30](#) SMC, and requirements elsewhere in  
15 the SMC. Proposals for constructing viewing platforms, associated access trails, and spur trails must be  
16 reviewed by a qualified professional and a critical areas study may be required.

17 (9) A dock, pier, moorage, float, or launch facility may be allowed, subject to the provisions of SMC Title [25](#),  
18 if:

19 (a) The existing and zoned density around the wetland is three dwelling units per acre or more;

20 (b) At least 75 percent of the lots around the wetland have been built upon and no significant buffer  
21 or wetland vegetation remains on these lots; and

22 (c) Open water is a significant component of the wetland.

23 (10) Crossings. The use of existing crossings, including but not limited to utility corridors, road and railroad  
24 rights-of-way, within wetlands or buffers for public or private trails is preferred to new crossings, subject to  
25 the standards and requirements in the SMC. New wetland road and trail crossings may be allowed if:

26 (a) The director determines that:

27 (i) The crossing is identified as a part of a corridor shown in a City-adopted parks or trails plan,  
28 park master plan, transportation plan, or comprehensive plan, or otherwise is necessary to  
29 connect or construct the road or trail to publicly owned lands, utility corridors, rights-of-way or  
30 other public infrastructure, or is required to provide access to property where no other  
31 reasonable alternative access is possible; or

1 (ii) The applicant demonstrates that the new crossing creates less overall or less incremental  
2 impacts to critical areas and habitat than the use of an existing corridor while still achieving  
3 overall project goals and objectives;

4 (b) All crossings avoid or minimize impact to the wetland and provide mitigation for unavoidable  
5 impacts through restoration, enhancement or replacement of disturbed areas as described in this  
6 chapter and in the SMC;

7 (c) Crossings do not significantly change the overall wetland hydrology;

8 (d) Crossings do not diminish the flood storage capacity of the wetland; and

9 (e) All crossings are constructed during summer low water periods.

10 ~~(11) Reconstruction, Remodeling, or Replacement of Existing Structures. Reconstruction, remodeling, or~~  
11 ~~replacement of an existing structure upon another portion of an existing impervious surface that was~~  
12 ~~established pursuant to ordinances and regulations in effect at the time may be allowed, provided:~~

13 ~~(a) If within the buffer, the structure is located no closer to the wetland than the existing structure;~~  
14 ~~and~~

15 ~~(b) The existing impervious surface within the buffer or wetland is not expanded as a result of the~~  
16 ~~reconstruction or replacement.~~

17 (12) Enhancement and Restoration. Wetland enhancement or restoration not associated with any other  
18 development proposal may be allowed if accomplished according to a plan for its design, implementation,  
19 maintenance and monitoring prepared by and carried out under the direction of a qualified professional.  
20 Restoration or enhancement must result in a net improvement to the functions of the wetland system.

21 (12) Wetland Restoration Project. A wetland restoration project for habitat enhancement may be allowed if:

22 (a) The restoration is sponsored by a public agency with a mandate to do such work;

23 (b) The restoration is not associated with mitigation of a specific development proposal;

24 (c) The restoration is limited to revegetation of wetlands and their buffers and other specific fish and  
25 wildlife habitat improvements that result in a net improvement to the functions of the wetland  
26 system;

27 (d) The restoration only involves the use of hand labor and light equipment, or the use of helicopters  
28 and cranes that deliver supplies to the project site; provided, that they have no contact with critical  
29 areas or their buffers; and

30 (e) The restoration is performed under the direction of a qualified professional. (Ord. O2005-193 §  
31 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

1 **21A.50.310 Wetlands – Mitigation requirements.**

2 When mitigation for wetland and/or wetland buffer impacts is required, mitigation shall meet the  
3 requirements listed in SMC [21A.50.145](#) in addition to the following supplementary requirements:

4 (1) Equivalent or Greater Biological Functions. Mitigation for alterations to wetland(s) and/or wetland  
5 buffer(s) shall achieve equivalent or greater biologic functions and shall be consistent with the Department of  
6 Ecology Guidance on Wetland Mitigation in Washington State (2004, Department of Ecology Publication No.  
7 04-06-013), or as revised.

8 (2) No Net Loss. Wetland mitigation actions shall not result in a net loss of wetland area.

9 (3) Functions and Values. Mitigation actions shall address and provide equivalent or greater wetland and  
10 buffer functions and values compared to wetland and buffer conditions existing prior to the proposed  
11 alteration.

12 (4) Mitigation Type and Location. Mitigation actions shall be in-kind and conducted within the same sub-  
13 basin and on the same site as the alteration except when the following apply:

14 (a) There are no reasonable on-site opportunities for mitigation, or on-site opportunities do not  
15 have a high likelihood of success due to development pressures, adjacent land uses, or on-site  
16 buffers or connectivity are inadequate;

17 (b) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions  
18 than the impacted wetland; and

19 (c) Off-site locations ~~shall be in the same sub-basin~~ have been identified and evaluated in the  
20 following ~~sequence~~ order of preference:-

Comment [EM49]: Item 2-8 & 3-3

21 (i) Within the same drainage subbasin;

22 (ii) Within the city limits;

23 (iii) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank  
24 program sites within the city limits in accordance with SMC 21A.50.315;

25 (iv) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank  
26 program sites within the WRIA 8 in accordance with SMC 21A.50.315.

27

28 (5) Mitigation Timing. Where feasible, mitigation projects shall be completed prior to activities that will  
29 disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and  
30 prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed  
31 to reduce impacts to existing wildlife and flora.

32 (6) Mitigation Ratios.

(a) Acreage Replacement Ratios. The following ratios shall apply to wetland creation or restoration that is in-kind, on-site, the same category, and has a high probability of success. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Category I	6-to-1
Category II	3-to-1
Category III	2-to-1
Category IV	1.5-to-1

(a) Wetland Mitigation Ratios. The following ratios shall apply to required wetland mitigation. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Comment [EM50]: Item 3-6

(i) Permanent Wetland Mitigation. The following ratios of area of mitigation to area of alteration apply to mitigation measures for permanent alterations.

<u>Category and type of wetland</u>	<u>Wetland reestablishment or creation</u>	<u>Wetland rehabilitation</u>	<u>1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E)</u>
Category I bog	Not allowed	6:1 rehabilitation of a bog	Case-by-case
Category I natural heritage site	Not allowed	6:1 rehabilitation of a natural heritage site	Case-by-case
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 E
Category I forested	6:1	12:1	1:1 R/C and 10:1 E
Category II	3:1	8:1	1:1 R/C and 4:1 E
Category III	2:1	4:1	1:1 R/C and 2:1 E
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E

(ii) Temporary Wetland Mitigation. The following ratios of area of mitigation to area of alteration apply to mitigation measures for temporary alterations where wetlands will not be impacted by permanent fill material:

<u>Wetland category</u>	<u>Permanent conversion of forested and shrub wetlands into emergent wetlands</u>			<u>Mitigation for temporal loss of forested and shrub wetlands when the impacted wetlands will be revegetated to forest or shrub communities</u>		
	<u>Enhancement</u>	<u>Re-habilitation</u>	<u>Creation or restoration</u>	<u>Enhancement</u>	<u>Re-habilitation</u>	<u>Creation or restoration</u>
Category	6:1	4.5:1	3:1	3:1	2:1	1.5:1

<u>I</u>						
<u>Category II</u>	<u>3:1</u>	<u>2:1</u>	<u>1.5:1</u>	<u>1.5:1</u>	<u>1:1</u>	<u>.75:1</u>
<u>Category III</u>	<u>2:1</u>	<u>1.5:1</u>	<u>1:1</u>	<u>1:1</u>	<u>.75:1</u>	<u>.5:1</u>
<u>Category IV</u>	<u>1.5:1</u>	<u>1:1</u>	<u>.75:1</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>Not applicable</u>

(b) Wetland Buffer Replacement Ratio. Altered wetland buffer area shall be replaced at a minimum ratio of one-to-one, provided that the replacement ratio may be increased at the director's discretion to replace lost functions and values.

Comment [EM51]: Item 3-5

(cb) Increased Replacement-Mitigation Ratio. The director may increase the ratios under the following circumstances:

- (i) Uncertainty exists as to the probable success of the proposed restoration or creation; or
- (ii) A significant period of time will elapse between impact and replication of wetland functions; or
- (iii) Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
- (iv) The impact was an unauthorized impact.

(de) Decreased Replacement-Mitigation Ratio. The director may decrease these ratios under the following circumstances:

- (i) Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high likelihood of success. This documentation should specifically identify how the proposed mitigation actions are similar to other known mitigation projects with similar site-specific conditions and circumstances that have been shown to be successful;
- (ii) Documentation by a qualified professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; or
- (iii) The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful over the course of at least one full year.

(d) Minimum Replacement-Mitigation Ratio. In all cases of permanent wetland impacts, a minimum acreage replacement ratio of one to one shall be required.

(7) Wetland Enhancement as Mitigation.

~~(a)~~ Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands only after a one-to-one minimum acreage replacement ratio has been satisfied. Applicants proposing to enhance wetlands must produce a critical areas study that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland function at the impact site.

~~(b) At a minimum, enhancement acreage shall be double the acreage required for creation or restoration under subsection (6)(a) of this section. The ratios shall be greater than double the required acreage where the enhancement proposal would result in minimal gain in the performance of wetland functions and/or result in the reduction of other wetland functions currently being provided in the wetland.~~

(8) Restoration Required. Restoration shall be required when a wetland or its buffer is altered in violation of law or without any specific permission or approval by the City in accordance with the following provisions:-

~~(a) A mitigation plan for restoration shall conforming to the requirements of this chapter and section shall be provided. (Ord. 02005-193 § 1; Ord. 099-29 § 1)~~

~~(b) On sites where non-native vegetation was cleared, restoration shall include installation of native vegetation with a density equal to or greater than the pre-altered site conditions.~~

Comment [CdS52]: Item 5-14

**21A.50.315 Wetlands – ~~Alternative Mitigation banking.~~**

(1) Wetland banking:

~~(a)~~ Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

~~(i) Criteria in SMC 21A.50.310(4) are met;~~

~~(ii) The bank is certified under Chapter 173-700 WAC;~~

~~(iii) The department determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts;~~

~~(iv) The proposed use of credits is consistent with the terms and conditions of the bank's certification; and~~

~~(v) The compensatory mitigation agreement occurs in advance of authorized impacts.~~

~~(b) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.~~

~~(c) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.~~

(d4) Implementation of a mitigation bank is subject to City council review and approval. (~~Ord. O2005-193-S-1~~)

(2) Fee-in-lieu Mitigation:

Comment [EM53]: Item 2-8 & 3-3

(a) Fee-in-lieu mitigation may be approved for use as compensation for approved impacts to wetlands, when:

(i) Criteria in SMC 21A.50.310(4) are met;

(ii) The fee-in-lieu mitigation program is state certified;

(iii) The department determines that the wetland fee-in-lieu mitigation provides appropriate compensation for the authorized impacts;

(iv) The proposed use of fee-in-lieu mitigation is consistent with the terms and conditions of the fee-in-lieu mitigation program; and

(v) The compensatory mitigation agreement occurs in advance of authorized impacts.

(b) Fee-in-lieu mitigation may be authorized in the city based upon the following order of preference:

(i) A city approved program that utilizes receiving mitigation sites within the city of Sammamish.

(ii) The King County Mitigation Reserves Program, or other approved program that gives priority to sites within the same sub-basin and/or a pre-defined service area that includes the city of Sammamish.

**21A.50.320 Wetlands – ~~Limited exemption~~ Development Flexibilities.** The following alterations shall be authorized if the City determines that the cumulative impacts do not unduly counteract the purposes of this chapter SMC 21A.50 Environmentally Critical Areas and are mitigated pursuant to an approved mitigation plan.

(1) Isolated wetlands, as designated by a qualified professional in a written and approved critical areas study meeting the requirements of SMC 21A.50.130 and, which includes the use of the adopted Washington State Wetland Rating System for Western Washington, with a total area with an area of less up to than 1,000 square feet may be exempted from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) and the provisions of SMC 21A.50.290 and may be altered and may be altered by filling or dredging if the City determines that the cumulative impacts do not unduly counteract the purposes of this chapter and are mitigated pursuant to an approved mitigation plan.

(2) Isolated category III and IV wetlands, as designated by a qualified professional in a written and approved critical areas study meeting the requirements of SMC 21A.50.130 and, which includes the use of the adopted Washington State Wetland Rating System for Western Washington, with a total area of more than 1,000 square feet and up to 4,000 square feet, may be exempted from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) and the provisions of SMC 21A.50.290 and may be altered, provided:

Comment [EM54]: Item 3-7 & 3-19e

1 (a) The total area of wetland alterations shall be limited to 2,500 square feet; and

2 (b) A critical areas study is prepared, which includes the use of the adopted Washington State  
3 Wetland Rating System for Western Washington, includes a review of the existing functions that the  
4 wetland provides, determines how the isolated wetland should be managed for ecological function  
5 of the watershed as a whole, and according to the approved critical areas study meets all of the  
6 following criteria:

7 (i) The wetland is not adjacent to a riparian area; and

8 (ii) The wetland is not part of a wetland mosaic; and

9 (iii) The wetland does not score 15 points or greater for habitat; and

10 (iv) The wetland does not contain habitat identified as essential for local populations of  
11 priority species identified by Washington Department of Fish and Wildlife; and,

12 (c) Mitigation to replace lost wetland functions and values, consistent with SMC 21A.50.310 shall be  
13 prepared for review and approval by the City; and,

14 (d) No subsequent exemption from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) or  
15 SMC 21A.50.290 is authorized.

16 (3) Category III and IV wetlands with a total area of 4,000 square feet or less may have the buffer reduced to  
17 15 feet, provided:

Comment [EM55]: Item 3-19d

18 (a) The wetland does not score 15 points or greater for habitat in the adopted Western Washington  
19 Rating System; and,

20 (b) The wetland is not part of a wetland mosaic; and,

21 (c) The buffer functions associated with the area of the reduced buffer width are mitigated through  
22 the enhancement of the wetland, the remaining on-site wetland buffer area, and/or other adjoining  
23 high value habitat areas as needed to replace lost buffer functions and values; and

24 (d) No subsequent buffer reduction or averaging is authorized.

25 **21A.50.322 Wetland management area – Special district overlay.**

26 (1) The purpose of the wetland management area special overlay district is to provide a means to designate  
27 certain unique and outstanding wetlands when necessary to protect their functions and values from the  
28 impacts created from geographic and hydrologic isolation and impervious surface.

29 (2) The wetland management area special overlay district shall be designated on critical areas maps  
30 maintained by the department of community development.

1 (3) The following development standards shall be applied in addition to all applicable requirements of this  
2 chapter to development proposals located within a wetland management area district overlay:

3 (a) All development proposals on properties zoned R-1 in wetland management areas shall have a  
4 maximum impervious surface area of eight percent of the gross acreage of the site. Distribution of  
5 the allowable impervious area among the platted lots shall be recorded on the face of the plat.  
6 Impervious surface of existing streets need not be counted towards the allowable impervious area.  
7 The provisions of this section shall not apply to the Sammamish Town Center Study Area as  
8 identified in Ordinance O2005-185;

9 (b) All subdivisions and short subdivisions on properties identified in a management area for  
10 clustering and set aside requirements in the East Lake Sammamish Basin and Nonpoint Action Plan  
11 (1994) shall be required to cluster away from wetlands or the axis of corridors along stream  
12 tributaries and identified swales connecting wetlands. At least 50 percent of all portions of the  
13 property located within wetland management areas identified for vegetation retention shall be left  
14 in native vegetation, preferably forest, and placed in a permanent open space tract. The open space  
15 tract shall be designed to maximize the amount of separation between any critical areas and the  
16 proposed development. If no critical area tracts are required, the open space tract shall be located  
17 to provide additional protection to nearby wetlands;

18 (c) Clearing and grading activity from October 1st through April 30th shall meet the provisions of  
19 SMC [16.15.120](#)(4) wherever not already applicable;

20 (d) All R-1 zoned properties within wetland management areas, as identified in the East Lake  
21 Sammamish Basin and Nonpoint Action Plan, shall retain native vegetation, or revegetate with trees  
22 to meet the following standards:

23 (i) Fifty percent of the site area shall be used to retain trees or revegetate with trees;

24 (ii) Retained vegetation shall be located primarily within the 50 percent open space area  
25 required by SMC [21A.25.030](#);

26 (iii) Retained vegetation shall consist primarily of trees with 0.0096 significant trees per square  
27 foot;

28 (iv) Areas revegetated shall provide 0.012 trees per square foot. Planted trees shall meet the  
29 following specifications:

30 (A) Coniferous trees shall be at least three feet tall;

31 (B) Deciduous trees shall be at least five feet tall; and

32 (C) Trees shall be planted primarily in the required open space area;

33 (v) The provisions of this section shall not apply to the Sammamish Town Center Study Area as  
34 identified in Ordinance O2005-185; and

1 (e) The director may, based upon review and approval of a critical areas special study, modify the  
2 provisions of this chapter to allow for:

3 (i) The installation of site access; provided, that the applicant shall limit impervious surfaces to  
4 the minimum required to grant access; or

5 (ii) Development using low impact development techniques to achieve standards adopted by  
6 the City that will demonstrably minimize development impacts consistent with subsections  
7 (3)(a) through (c) of this section. (Ord. O2005-193 § 1)

8  
9 **21A.50.325 Fish and wildlife habitat conservation areas – Development standards.**

10 A development proposal that includes ~~alteration of~~ a fish and wildlife habitat conservation area or buffer  
11 shall meet the following requirements:

12 (1) When appropriate due to the type of habitat or species present or the project area conditions, the  
13 director may require a critical areas study ~~that includes a habitat management plan consistent with the latest~~  
14 ~~guidance from the Department of Fish and Wildlife~~. If the habitat conservation area is also classified as a  
15 stream, lake, ~~pond~~ or a wetland, then the stream, lake, ~~pond~~ or wetland protection standards shall apply and  
16 habitat management shall be addressed as part of the stream, lake, ~~pond~~ or wetland review; provided, that  
17 the City may impose additional requirements when necessary to provide for protection of the habitat  
18 conservation areas consistent with this chapter.

Comment [EM56]: Item 2-13

19 (2) The director may require the following site- and proposal-related information with the critical areas  
20 study:

21 (a) Identification of any endangered, threatened, sensitive or candidate species that have a primary  
22 association with habitat on or adjacent to the project area, and an assessment of potential project  
23 impacts to the species;

24 (b) A discussion of any federal or state management recommendations, including Washington  
25 Department of Fish and Wildlife habitat management recommendations, that have been developed  
26 for species or habitats located on or adjacent to the project area;

27 (c) A discussion of any ongoing management practices that will protect habitat after the project site  
28 has been developed, including any proposed monitoring, maintenance, and adaptive management  
29 programs; ~~and~~

30 (d) When appropriate due to the type of habitat or species present or the project area conditions,  
31 the director may also require the habitat management plan to include an evaluation by the State  
32 Department of Fish and Wildlife, local Native American Indian Tribe, or other qualified professional  
33 regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or  
34 programs, to include any recommendations as appropriate; ~~and-~~

1 (e) When appropriate, information from the Washington Department of Fish and Wildlife's Fish and  
2 Wildlife's Backyard Wildlife Sanctuary Program shall be included.

Comment [Cd57]: Item 2-13c

3 (3) General Requirements. Habitat conservation areas that are lakes on Lake Sammamish, Pine Lake, and  
4 Beaver Lake shall be governed by the requirements of the Sammamish Shoreline Master program. Other  
5 habitat conservation areas are subject to the following provisions:

6 (a) The department shall require the establishment of buffer areas for development activities in, or  
7 adjacent to, habitat conservation areas when needed to protect habitat conservation areas. Buffers  
8 shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established  
9 to protect the integrity and functions of the habitat. Required buffer widths shall consider the  
10 management recommendations identified in subsection (2) of this section and reflect the sensitivity of  
11 the habitat and the type and intensity of human activity proposed to be conducted nearby. When a  
12 species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions  
13 may apply. Development activities may be further restricted and buffers may be increased during the  
14 specified season.

15 (b) Where applicable, a fish and wildlife habitat corridor shall be established as required in 21A.50.327.

Comment [EM58]: Item 2-13c

16 ~~(c)~~ A habitat conservation area may be altered only if the proposed alteration of the habitat or the  
17 mitigation proposed does not reduce the quantitative and qualitative functions and values of the  
18 habitat, except in accordance with this chapter.

19 (d) In addition to the provisions of SMC 21A.50.060, removal of any native vegetation or woody  
20 debris from the habitat conservation area may be allowed only as part of an approved habitat  
21 management plan, critical areas study, and/or alteration plan.

Comment [C59]: Item 5-3

22 ~~(e)~~ Low impact uses and development activities which are consistent with the purpose and function of  
23 the habitat conservation area and do not detract from its integrity may be permitted within the  
24 conservation area depending on the sensitivity of the habitat area. Examples of uses and development  
25 activities which may be permitted in appropriate cases include trails that are pervious, viewing  
26 platforms, storm water management facilities such as grass-lined swales, utility easements and other  
27 similar uses and development activities; provided, that any impacts to the habitat resulting from such  
28 permitted facilities shall be fully mitigated.

29 ~~(f)~~ Whenever development activities are proposed in or adjacent to a habitat conservation area with  
30 which state or federally endangered or threatened species have a primary association, such area shall  
31 be protected through the application of measures in accordance with a critical areas report prepared  
32 by a qualified professional and approved by the City of Sammamish, with guidance provided by the  
33 appropriate state and/or federal agencies.

34 ~~(g)~~ Plant, wildlife, or fish species not indigenous to the coastal region of the Pacific Northwest shall not  
35 be introduced into habitat conservation areas unless authorized by this chapter and by any required  
36 state or federal permit or approval.

(g) Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical areas report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

(h) The director shall condition approvals of development activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary, to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

- (i) Establishment of buffer zones;
- (ii) Preservation of critically important vegetation;
- (iii) Limitation of public access to the habitat area, including fencing to deter unauthorized access;
- (iv) Seasonal restriction of development activities;
- (v) Establishment of a duration and timetable for periodic review of mitigation activities; and
- (vi) Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

~~(i)~~ Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions, and shall include mitigation for adverse impacts from the proposed development as appropriate. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per-function basis. (Ord. O2005-193 § 1)

**21A.50.327 Fish and Wildlife habitat corridors.**

~~Habitat~~ On development proposal sites that contain Type F or Np streams and/or wetlands with a high habitat score greater than or equal to 29, that are also located within 200 feet of an on-site or off-site Type F or Np stream and/or wetland with a high habitat score greater than or equal to 29, ~~fw~~ corridors as defined in 21A.15.467-a fish and wildlife habitat corridor shall be set aside and protected for preserving connections between habitats along the designated wildlife habitat network as follows:

~~(1) Habitat corridors shall be identified and protected in one of the following ways:~~

~~(1) (a)~~ Subdivisions and short subdivisions shall either place the corridor in a contiguous permanent open space tract with all developable lots sited on the remaining portion of the project site, or shall design the lots so that conservation easements on individual lots can form a contiguous easement covering the corridor;

~~(2) (b)~~ Individual lots shall place the corridor in a conservation easement.

~~(2)~~<sup>(3)</sup> The fish and wildlife habitat corridor shall be sited on the property in order to meet the following conditions, **where feasible**:

Comment [EM60]: Item 2-13

1 (a) Forms one contiguous tract that connects on-site high value habitat areas to other on-site or off-  
2 site high value habitat areas. that enters and exits the property at the points the designated wildlife  
3 habitat network crosses the property boundary;

4 (b) New development proposals shall provide a minimum fish and wildlife habitat corridor width of  
5 300 feet or a corridor width that is consistent with an approved habitat management plan. Maintains  
6 a width, wherever possible, of 300 feet. The network width shall not be less than 150 feet wide at  
7 any point;

8 (c) In addition to the provisions of SMC 21A.50.060, development proposals on sites constrained by  
9 a fish and wildlife habitat corridor and where development already exists, shall maintain a minimum  
10 fish and wildlife habitat corridor width of 300 feet unless, through an approved habitat management  
11 plan, it can be shown that a lesser habitat corridor width supports and maintains the corridor's  
12 function and value; and

Comment [EM61]: Item 2-13

13 (ed) Be contiguous with and may include and / or connect sensitive critical areas, tracts and their  
14 buffers, and open space tracts or wooded areas onsite or on adjacent properties, if present; and

15 (e) The director may modify corridor widths based on supporting conditions documentation from an  
16 approved habitat management plan.

Comment [EM62]: Item 2-13

17 (4) Fish and wildlife habitat corridors do not parallel Type Np streams, except as required to provide a  
18 connection between two features as described above.

19 (3) When feasible, the fish and wildlife habitat corridor shall be sited on the property in order to meet the  
20 following conditions:

21 (a) Connect isolated critical areas or habitat; and

22 (b) Connect with other fish and wildlife habitat corridors, open space tracts or wooded areas on  
23 adjacent properties, if present.

24 (4) The wildlife corridor tract shall be permanently marked consistent with the methods contained in SMC  
25 21A.50.170. Conservation easements are exempt from the permanent marking requirement.

26 (54) A management plan for the wildlife corridor contained within a tract or tracts shall be prepared that  
27 specifies the permissible extent of recreation, forestry or other uses compatible with preserving and  
28 enhancing the wildlife habitat value of the tract or tracts. The management plan shall be reviewed and  
29 approved by the department. The approved management plan for a subdivision shall be contained within  
30 and recorded with the covenants, conditions and restrictions (CCRs). If the wildlife corridor is contained in a  
31 conservation easement, a management plan is not required, but may be submitted to the department for  
32 review and approval, and recorded with the conservation easement.

33 (55) Clearing within the wildlife corridor contained in a tract or tracts shall be limited to that allowed by the  
34 management plan or as otherwise allowed by this chapter. No clearing, including the removal of woody

1 ~~debris~~, shall be allowed within a wildlife corridor contained within a conservation easement on individual  
 2 lots, unless the property owner has an approved management plan.

Comment [CdS63]: Item 5-3

3 (66) ~~Where feasible, A~~ homeowners' association or other entity capable of long-term maintenance and  
 4 operation shall be established to monitor and assure compliance with the management plan. ~~The association~~  
 5 ~~shall provide homeowners with information on Washington Department of Fish and Wildlife's Backyard~~  
 6 ~~Wildlife Sanctuary Program.~~

Comment [CdS64]: Item 2-13c

7 (89) Wildlife corridors set aside in tracts or conservation easements shall meet the provisions in SMC  
 8 [16.15.120](#).

9 (910) The permanent open space tract containing the wildlife corridor may be credited toward the other  
 10 applicable requirements such as surface water management and the recreation space requirement of SMC  
 11 [21A.30.140](#), provided the proposed uses within the tract are compatible with preserving and enhancing the  
 12 wildlife habitat value. Restrictions on other uses within the wildlife corridor tract shall be clearly identified in  
 13 the management plan.

14 (119) Low impact uses and activities which are consistent with the purpose and function of the habitat  
 15 corridor and do not detract from its integrity may be permitted within the corridor depending on the  
 16 sensitivity of the habitat area. Examples of uses and activities which may be permitted in appropriate cases  
 17 include trails that are pervious, viewing platforms, storm water management facilities such as grass-lined  
 18 swales, utility easements and other similar uses, ~~or activities otherwise described and approved by the~~  
 19 ~~Washington Department of Fish and Wildlife and activities~~; provided, that any impacts to the corridor  
 20 resulting from such permitted facilities shall be fully mitigated.

Comment [C65]: Item 2-13

21 (124) At the discretion of the director, these standards may be waived or reduced for public facilities such as  
 22 schools, fire stations, parks, and public road projects. (Ord. O2005-193 § 1)

23 **21A.50.330 Streams – Development standards.**

24 A development proposal on a parcel or parcels containing a stream or associated buffer of a stream located  
 25 on-site or off-site shall meet the following requirements:

26 (1) The following standard buffers shall be established from the ordinary high water mark or from the top of  
 27 the bank if the ordinary high water mark cannot be identified:

Stream Type	Standard Buffer Width (ft)
Type S:	150
Type F:	150
Type Np:	75
Type Ns:	50

28 (a) Where a legally established and constructed street ~~or the East Lake Sammamish Trail~~ transects a  
 29 stream buffer, the department may approve a modification of the standard buffer width to the edge

1 of the street or the East Lake Sammamish Trail if the isolated part of the buffer does not provide  
2 additional protection of the stream and provides insignificant biological, geological or hydrological  
3 buffer functions relating to the stream. If the resulting buffer distance is less than 50 percent of the  
4 standard buffer, no further reduction shall be allowed.

5 (b) Where a buffer has been previously established on a legally created parcel or tract that was  
6 legally established according to the regulations in place at the time of establishment through City or  
7 county development review on or after November 27, 1990, and is permanently recorded on title or  
8 placed within a separate tract, the buffer shall ~~be remain~~ as previously established, provided it is ~~at~~  
9 ~~least equal to or greater than~~ 50 percent of the required standard buffer distance for the applicable  
10 stream category.

Comment [CdS66]: Item 5-9

11 (2) Any stream with an ordinary high water mark within 25 feet of the toe of a slope 30 percent or steeper,  
12 but less than 40 percent, shall have:

13 (a) The minimum buffer required for the stream class involved or a 25-foot buffer beyond the top of  
14 the slope, whichever is greater, if the horizontal length of the slope, including small benches and  
15 terraces, is within the buffer for that stream class; or

16 (b) A 25-foot buffer beyond the minimum buffer width required for the stream class involved if the  
17 horizontal length of the slope, including small benches and terraces, extends beyond the buffer for  
18 that stream class.

19 (3) Any stream adjoined by a riparian wetland or other contiguous critical area shall have the buffer required  
20 for the stream type involved or the buffer that applies to the wetland or other critical area, whichever is  
21 greater.

22 (4) Buffer Averaging. Buffer width averaging may be allowed by the City if:

23 (a) It will provide additional natural resource protection, as long as the total area contained in the  
24 buffer on the development proposal site does not decrease (see also SMC [21A.30.210](#)(4) for buffer  
25 compensation requirements for trails);

26 (b) The stream contains variations in sensitivity due to existing physical characteristics or the  
27 character of the buffer varies in slope, soils, or vegetation, and the stream would benefit from a  
28 wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

29 (c) The buffer width is not reduced to less than 50 percent of the standard buffer; ~~and~~

30 ~~(de)~~ The buffer is associated with a development proposal and it will not further encumber a  
31 neighboring property not owned by the applicant; ~~and~~.

Comment [CdS67]: Item 5-11

32 ~~(ed)~~ Buffer averaging may be used in conjunction with buffer reduction options in this section,  
33 provided the total combined reduction does not reduce the buffer to less than 50 percent of the  
34 standard buffer width at any location. ~~and~~.

1 (5) Increased Buffers. Increased buffer widths shall may be required by the a distance necessary City when  
2 necessary to protect:

3 ~~(a) Critical drainage areas;~~

4 (b) Fish critical fish and wildlife habitat conservation areas and habitat connections based on an  
5 approved habitat management plan as defined by the Department of Fish and Wildlife;

6 (c) Landslide or erosion hazard areas contiguous to streams;

7 (d) Groundwater recharge and discharge area;

8 (e) Or to offset buffer impacts, such as trail and utility corridors; and

9 (f) At risk ecological streams functions including, but not limited to the following: critical drainage  
10 areas, critical fish and wildlife habitat landslide or erosion hazard areas contiguous to streams, and  
11 groundwater recharge and discharge area, or to offset buffer impacts, such as trail and utility corridors.

12 (i) Habitat complexity, connectivity and biological functions;

13 (ii) Seasonal hydrological dynamics as provided in the adopted Surface Water Design Manual;

14 (iii) Sediment removal and erosion control;

15 (iv) Pollutant removal;

16 (v) Large wood debris (LWD) recruitment;

17 (vi) Water temperature;

18 (vii) Wildlife habitat; and

19 (viii) Microclimate.

Comment [CdS68]: Item 2-5

20 (6) Buffer Reduction. Buffers may be reduced when buffer-reduction impacts are mitigated and result in  
21 equal or greater protection of the ecological stream functions as defined in 21A.50.330.

Comment [EM69]: Item 2-4

22 Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing  
23 as required in SMC 21A.50.135. A plan for mitigating buffer-reduction impacts must be prepared using  
24 selected incentive-based mitigation options from the list below, and is subject to approval by the City. The  
25 following incentive options for reducing standard buffer widths shall be considered cumulative up to a  
26 maximum reduction of 50 percent of the standard buffer width. In all circumstances where a substantial  
27 portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native  
28 vegetation in the degraded portions of the remaining buffer area and shall include a five-year monitoring and  
29 maintenance plan.

1 (a) ~~Installation of biofiltration/infiltration mechanisms: up to 20 percent reduction in standard buffer~~  
2 ~~width for the installation of bioswales. Up to 20 percent reduction in the standard buffer width may~~  
3 ~~be allowed if water quality is improved in excess of the requirements of the adopted surface water~~  
4 ~~design manual and Title 13 Surface Water Management, through the use of~~ created and/or  
5 enhanced wetlands, or ponds supplemental to existing storm drainage and water quality  
6 requirements.

7 (b) Removal of existing impervious surfaces:

8 (i) Up to 10 percent reduction in standard buffer width if impervious surfaces within the to-be-  
9 remaining buffer area are reduced by at least 50 percent; or

10 (ii) Up to 20 percent reduction in standard buffer width if the to-be-remaining buffer area is  
11 presently more than 50 percent impervious and all of it is to be removed.

12 (c) Removal of invasive, nonnative vegetation: up to 10 percent reduction in standard buffer width  
13 for the removal and extended (minimum five-year) monitoring and continued-removal maintenance  
14 of relatively dense stands of invasive, nonnative vegetation from significant portions of the  
15 remaining buffer area.

16 (d) Restoration, preservation and maintenance of the existing stream and buffer vegetation if the  
17 following conditions are present and/or attainable as a result of action:

18 (i) An undisturbed vegetated buffer is preserved in the remaining buffer width; and,

19 (ii) Existing buffer conditions are degraded such that more than 40 percent of the buffer is  
20 covered by non-native/invasive plant species and are the buffer is restored according to a  
21 city-approved restoration plan to improve wetland buffer functions; and,

22 (iii) Native tree or shrub vegetation covers less than 25 percent of the total buffer area and  
23 the area will be re-vegetated according to a city-approved restoration plan with native trees  
24 and shrubs to replace impacted buffer functions; and,

25 (iv) The stream buffer has slopes of less than 25 percent; and

26 (v) The buffer reduction determination and percentage shall be on a site by site basis based  
27 on the applicant's plan and demonstration of improvement to water quality and habitat  
28 functions.

29 (e) In-stream habitat enhancement:

30 (i) Up to 20 percent reduction in standard buffer width for log structure placement,  
31 bioengineered bank stabilization, or culvert removal; or

32 (ii) Up to 30 percent reduction in standard buffer width for improving fish passage and/or  
33 creation of side channel or backwater areas.  
34

- 1 (fe) If not already required under an existing development proposal, installation of oil/water
- 2 separators for storm water quality control: up to 10 percent reduction in standard buffer width.
- 3 (gf) Use of pervious material for driveway/road construction: up to 10 percent reduction in standard
- 4 buffer width.
- 5 (hg) Restoration of on-site buffer and habitat areas, or restoration of off-site buffer and habitat
- 6 areas within the same sub-basin of the impacted stream if no on-site restoration is possible:
- 7 (i) Up to 10 percent reduction in standard buffer width if restoration area is at a 2:1 ratio or
- 8 greater; or
- 9 (ii) Up to 20 percent reduction in standard buffer width if restoration area is at a 4:1 ratio or
- 10 greater.
- 11 (ih) Removal of significant refuse or sources of toxic material: up to 10 percent reduction in standard
- 12 buffer width.

13 ~~(78)~~ The use of hazardous substances, pesticides and fertilizers in the stream corridor and its buffer may be  
14 prohibited by the City.

15 ~~(89) The introduction of livestock into a stream or stream buffer is prohibited. The livestock restrictions in~~  
16 ~~SMC 21A.50.290 shall also apply to Type S and F streams and their buffers. (Ord. O2005-193 § 1; Ord. O2005-~~  
17 ~~172 § 4; Ord. O99-29 § 1)~~

Comment [CdS70]: Item 5-12

18 ~~(10) In addition to the provisions of SMC 21A.50.060, Removal of any native vegetation or woody debris~~  
19 ~~from the stream or stream buffer may be allowed only as part of an approved habitat management plan,~~  
20 ~~critical areas study, and/or alteration plan.]~~

Comment [C71]: Item 5-3

21 **21A.50.340 Streams – Permitted alterations.**

22 Alterations to streams and stream buffers are not allowed except as provided for by complete exemptions,  
23 ~~allowances for existing urban development and other uses, partial exemptions~~ and exceptions in this chapter  
24 or as allowed for by this section.

25 (1) Alterations may only be permitted if based upon a critical areas study conducted in accordance with SMC  
26 21A.50.130 that determines the proposed development will:

- 27 (a) Protect, restore or enhance the habitat, natural drainage, or other valuable functions of the
- 28 stream resulting in a net improvement to the stream and stream buffer;
- 29 (b) Design, implement, maintain and monitor a restoration or enhancement plan prepared by a
- 30 qualified professional;
- 31 (c) Perform the restoration or enhancement under the direction of a qualified professional; and
- 32 (d) Will otherwise be consistent with the purposes of this chapter.

1 (2) The applicant shall notify affected communities and native tribes of proposed alterations prior to any  
2 alteration if a stream is in a flood hazard area and shall submit evidence of such notification to the Federal  
3 Insurance Administration.

4 ~~(343)~~ There shall be no introduction of any plant or wildlife which is not indigenous to the coastal region of  
5 the Pacific Northwest into any stream or buffer unless ~~required-authorized~~ by a state or federal permit or  
6 approval or as otherwise allowed by SMC 21A.50.060 – Allowance for Existing Urban Development and Other  
7 Uses.

8 ~~(45)~~ Utilities may be allowed in stream buffers if:

- 9 (a) No reasonable alternative location is available;
- 10 (b) The utility corridor meets any additional requirements for installation, replacement of vegetation  
11 and maintenance, as needed to mitigate impacts;
- 12 (c) The requirements for sewer utility corridors in SMC [21A.50.300](#) shall also apply to streams; and
- 13 (d) Joint use of an approved sewer utility corridor by other utilities may be allowed.

14 ~~(56) Where technically feasible, surface water discharge shall be located outside of the stream and stream~~  
15 ~~buffer. If surface water discharge to a stream or stream buffer is unavoidable, the following management~~  
16 ~~activities and provisions shall apply:~~

Comment [CdS72]: Item 5-13

17 ~~The following surface water management activities and facilities may be allowed in stream buffers as follows:~~

- 18 (a) Surface water discharge to a stream from a flow control or water quality treatment facility,  
19 sediment pond or other surface water management activity or facility may be allowed if the  
20 discharge is in compliance with the applicable City-adopted storm water requirements.
- 21 (b) A Type ~~Np or~~ Ns stream buffer may be used as a regional storm water management facility if:
  - 22 (i) A public agency and utility exception is granted pursuant to SMC [21A.50.070](#);
  - 23 (ii) All requirements of the applicable City-adopted storm water requirements are met;
  - 24 (iii) The use will not lower the rating or alter the factors used in rating the stream; and
  - 25 (iv) There are no significant adverse impacts to the stream or habitat.

26 ~~(67)~~ Except as provided in subsection (7) of this section, public and private trails may be allowed in stream  
27 buffers consistent with the standards and requirements in this chapter, the development standards in  
28 Chapter [21A.30](#) SMC, and requirements elsewhere in the SMC. Proposals for constructing viewing platforms,  
29 associated access trails, and spur trails must be reviewed by a qualified professional and a critical areas study  
30 may be required.

1 ~~(78)~~ Crossings. The use of existing crossings, including but not limited to utility corridors, road and railroad  
2 rights-of-way, across streams or buffers for public or private trails is preferred to new crossings, subject to  
3 the standards and requirements in the SMC. New stream crossings may be allowed and may encroach on the  
4 otherwise required stream buffer if:

5 (a) Bridges, bottomless culverts or other appropriate methods demonstrated to provide fisheries  
6 protection shall be used for stream crossings and the applicant shall demonstrate that such methods  
7 and their implementation will pose no harm to the stream habitat or inhibit migration of  
8 anadromous fish;

9 (b) All crossings are constructed during the summer low flow and are timed to avoid stream  
10 disturbance during periods when use is critical to resident or anadromous fish including salmonids;

11 (c) Crossings do not occur over spawning areas used by resident or anadromous fish including  
12 salmonids unless the City determines that no other reasonable crossing site exists;

13 (d) Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water  
14 mark;

15 (e) Crossings do not diminish the flood-carrying capacity of the stream;

16 (f) Underground utility crossings are laterally drilled and located at a depth of four feet below the  
17 maximum depth of scour for the base flood predicted by a civil engineer licensed by the state of  
18 Washington. Temporary bore pits to perform such crossings may be permitted within the stream  
19 buffer established in SMC [21A.50.330](#). Crossing of Type Ns streams when dry may be made with  
20 open cuts; and

21 ~~(g) Trail crossings shall use bridges and boardwalks consistent with the design requirements of the~~  
22 ~~Washington Department of Fish and Wildlife [WDFW, 2003, Design of Road Culverts for Fish Passage~~  
23 ~~as amended]; and~~

Comment [EM73]: Item 2-3

24 ~~(h)(e)~~ The number of crossings is minimized and consolidated to serve multiple purposes and  
25 properties whenever possible.

26 ~~(89)~~ Relocations. Stream relocations may be allowed only for:

27 (a) Type F, Np, and Ns streams as part of a public road, trail, or park project for which a public  
28 agency and utility exception is granted pursuant to SMC [21A.50.050](#); and

29 ~~(b) Type F, Np and Ns streams for the purpose of enhancing resources in the stream if:~~

Comment [EM74]: Item 2-6

30 (i) Appropriate floodplain protection measures are used; and

31 (ii) The relocation occurs on-site, except that relocation off-site may be allowed if the applicant  
32 demonstrates that any on-site relocation is impracticable, the applicant provides all necessary

# Exhibit 1a

1 easements and waivers from affected property owners and the off-site location is in the same  
2 drainage sub-basin as the original stream.

3 (910) For any relocation allowed by this section, the applicant shall demonstrate, based on information  
4 provided by qualified professionals, including a civil engineer and a biologist, that:

- 5 (a) The equivalent base flood storage volume and function will be maintained;
- 6 (b) There will be no adverse impact to local groundwater;
- 7 (c) There will be no increase in velocity;
- 8 (d) There will be no interbasin transfer of water;
- 9 (e) There will be no increase in sediment load;
- 10 (f) Requirements set out in the mitigation plan are met;
- 11 (g) The relocation conforms to other applicable laws; and
- 12 (h) All work will be carried out under the direct supervision of a qualified biologist.

13 (4011) A stream channel may be stabilized if:

- 14 (a) Movement of the stream channel threatens existing residential or commercial structures, public  
15 facilities or improvements, unique natural resources or the only existing access to property;
- 16 (b) The stabilization is done in compliance with the requirements of SMC [21A.50.230](#); and
- 17 (c) Soft-bank stabilization techniques are utilized unless the applicant demonstrates that soft-bank  
18 techniques are not a reasonable alternative due to site-specific soil, geologic and/or hydrologic  
19 conditions.

20 (4412) Replacement of existing culverts to enhance stream habitat, not associated with any other  
21 development proposal, may be allowed if accomplished according to a plan for its design, implementation,  
22 maintenance, and monitoring prepared by qualified professionals, including a civil engineer and a biologist,  
23 and carried out under the direction of a qualified biologist.

24 (4213) Stream and habitat restoration or enhancement may be allowed if:

- 25 (a) The restoration is sponsored **or approved** by a public agency with a mandate to do such work;
- 26 (b) The restoration is unassociated with mitigation of a specific development proposal;
- 27 (c) The restoration is limited to placement of rock weirs, log controls, spawning gravel, and other  
28 specific habitat improvements for resident or anadromous fish including salmonids;

Comment [CdS75]: Item 5-16

1 (d) The restoration only involves the use of hand labor and light equipment; or the use of helicopters  
2 and cranes that deliver supplies to the project site; provided, that they have no contact with critical  
3 areas or their buffers; ~~and~~

4 (e) The restoration is performed under the direction of qualified professionals; ~~and,~~

5 ~~(f) The restoration is part of a stream relocation plan consistent with 21A.50.340. Stream relocation,~~  
6 ~~if proposed, may be approved pursuant to 21A.50.340(9) as part of an approved restoration plan.~~

Comment [EM76]: Item 2-6

7 ~~(1314)~~ Roadside ditches that carry streams with salmonids may be maintained through the use of best  
8 management practices developed in consultation with relevant City, state, and federal agencies.

9 ~~(1415) Reconstruction, remodeling, or replacement of an existing structure upon another portion of an~~  
10 ~~existing impervious surface that was established pursuant to City ordinances and regulations may be allowed,~~  
11 ~~provided:~~

12 ~~(a) If within the buffer, the structure is located no closer to the stream than the existing structure;~~  
13 ~~and~~

14 ~~(b) The existing impervious surface within the buffer or stream is not expanded as a result of the~~  
15 ~~reconstruction or replacement. (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)~~

16 **21A.50.350 Streams – Mitigation requirements.**

17 When mitigation for stream or stream buffer impacts is required, mitigation shall meet the requirements  
18 listed in SMC [21A.50.145](#) in addition to the following supplementary requirements:

19 (1) Equivalent or Greater Functions. Mitigation for alterations to stream(s) and/or stream buffer(s) shall  
20 achieve equivalent or greater functions including, but not limited to:

21 (a) Habitat complexity, connectivity, and other biological functions;

22 (b) Seasonal hydrological dynamics, water storage capacity and water quality; and

23 (c) Geomorphic and habitat processes and functions.

24 (2) Mitigation Type and Location. Mitigation actions shall be in-kind and conducted within the same sub-  
25 basin and on the same site as the alteration, except when the following apply:

26 (a) There are no reasonable on-site opportunities for mitigation or on-site opportunities do not have  
27 a high likelihood of success due to development pressures, adjacent land uses, or on-site buffers or  
28 connectivity are inadequate;

29 (b) Off-site mitigation has a greater likelihood of providing equal or improved functions than the  
30 impacted stream; and

31 (c) Off-site locations ~~shall have been identified and evaluated in the following order of preference:~~

1 (i) Within the same drainage subbasin;

2 (ii) Within the city limits;

3 (iii) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank program  
4 sites within the city limits in accordance with the provisions of this section;

5 (iv) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank  
6 program sites within the WRIA 8 in accordance with the provisions of this section.  
7 ~~be in the same sub-basin.~~

8 (3) Fee-In-Lieu Stream Mitigation Program. Fee-in-lieu mitigation may be authorized for streams, subject to  
9 the avoidance sequence requirements– and mitigation measures of this title, and the approval of a program  
10 by the city, to be used in the following order of preference:

11 (a) A city approved program that utilizes receiving mitigation sites within the city of Sammamish.

12 (b) The King County Mitigation Reserves Program, or other approved program that gives priority to  
13 sites within the same sub-basin and/or a pre-defined service area that includes the city of  
14 Sammamish.

15  
16 (3) Mitigation Timing. Where feasible, mitigation projects shall be completed prior to activities that will  
17 disturb streams. In all other cases, mitigation shall be completed immediately following disturbance and prior  
18 to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to  
19 reduce impacts to existing wildlife and flora.

20 (4) Restoration Required. Restoration shall be required when a stream or its buffer is altered in violation of  
21 law or without any specific permission or approval by the City. A mitigation plan for restoration shall conform  
22 to the requirements of this chapter and demonstrate that:

23 (a) The restoration will reliably and demonstrably improve the water quality and fish and wildlife  
24 habitat of the stream; ~~and~~

25 (b) The restoration will have no lasting significant adverse impact on any stream functions; ~~and~~

26 (c) On sites where non-native vegetation was cleared, restoration shall include installation of native  
27 vegetation with a density equal to or greater than the pre-altered site conditions.

Comment [CdS77]: Item 5-14

28 (5) Surface water management or flood control alterations shall not be considered enhancement unless  
29 other functions are simultaneously improved. (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

30 ~~21A.50.351 Ponds – Development standards.~~

31 ~~(1) Naturally Occurring Ponds – New Residence Setback and Tree Retention.~~

32 ~~(a) A 50-foot building setback for new residences shall be established from the ordinary high water~~  
33 ~~mark (OHWM) for naturally occurring ponds that are not otherwise regulated by the Sammamish~~  
34 ~~shoreline master program.~~

(b) On lots abutting a pond or containing the 50-foot setback area, 25 percent of existing significant trees shall be retained on site. Half of the significant trees to be retained shall be located within the 50-foot building setback area. Where half of the trees to be retained are not present within the setback area, the remaining number may be retained elsewhere on site. (Ord. O2009-264 § 1 (Att. A); Ord. O2005-193 § 1)

Comment [CdS78]: Item 5-17

**21A.50.352 Lake Sammamish buffer – Permitted alterations.**  
*Repealed by Ord. O2009-264. (Ord. O2005-193 § 1)*

**21A.50.355 Lake management areas – Special district overlay.**

(1) The purpose of lake management areas is to designate the Beaver Lake and Pine Lake watersheds as special management areas for total phosphorus loading control and to establish standard procedures for evaluating drainage plans and related materials for applications of development within the Beaver Lake and Pine Lake Watersheds (within the East Lake Sammamish drainage basin).

(2) The lake management areas special overlay district shall be designated on critical areas maps maintained by the department of community development.

~~(3) Definitions. In addition to the definitions listed below, all definitions included in the King County Surface Water Design Manual are hereby adopted by reference.~~

~~(a) “AKART” means all known, available, and reasonable methods of prevention, control, and treatment.~~

~~(b) “Eutrophic” means a trophic status characterized by moderately high algal productivity, more serious oxygen depletion in the bottom waters, some recreational use impairment, summer chlorophyll a concentration greater than 10 micrograms/liter, a summer Secchi depth of less than two meters, and a winter total phosphorus concentration greater than 20 micrograms/liter.~~

~~(c) “Hypereutrophic” means a trophic status characterized by high algal productivity, intense algal blooms, fish kills due to oxygen depletion in the bottom waters, frequent recreational use impairment, summer chlorophyll a concentration greater than 10 micrograms/liter, a summer Secchi depth generally less than two meters, and a winter total phosphorus concentration greater than 30 micrograms/liter.~~

~~(d) “Lake management plan” means the plan (and supporting documents as appropriate) describing the lake management recommendations and requirements.~~

~~(e) “Mesotrophic” means a trophic status characterized by moderate algal productivity, oxygen depletion in the bottom waters, usually no recreational use impairment, summer chlorophyll a concentration averaging four to 10 micrograms/liter, a summer Secchi depth of two to five meters, and a winter total phosphorus concentration ranging from 10 to 20 micrograms/liter.~~

~~(f) “Oligotrophic” means a trophic status characterized by low algal productivity, algal blooms are rare, water clarity is high, all recreational uses unimpaired, summer chlorophyll a concentration~~

1 average less than four micrograms/liter, a summer Secchi depth greater than five meters, and a  
2 winter total phosphorus concentration ranging from zero to 10 micrograms/liter.

3 (g) "Phosphorus" means elemental phosphorus and for the purposes of this section shall be  
4 measured as total phosphorus.

5 (h) "Phosphorus concentration" means the mass of phosphorus per liquid volume.

6 (i) "Phosphorus loading" means the total mass of phosphorus per time basis.

7 (j) "Total phosphorus" means the phosphorus concentration as determined by a state-certified  
8 analytical laboratory using EPA 365.3 or SM 4500 P-B, E or an equivalent method.

9 (k) "Trophic state index" means a classification system which uses algal biomass as the basis for  
10 classification which can be independently measured by chlorophyll a, Secchi depth, and total  
11 phosphorus concentration.

12 (l) "Trophic status" means a classification which defines lake quality by the degree of biological  
13 productivity.

Comment [CdS79]: Item 5-18

14 (43) The Beaver Lake watershed as generally identified in the Beaver Lake management plan, which is  
15 available at the City of Sammamish community development department, is a sensitive lake and is hereby  
16 designated a critical drainage area. This designation is:

17 (a) Existing whole-lake total phosphorus concentration for the combined Beaver Lake system is 23  
18 micrograms/liter. Beaver Lake 1 and Beaver Lake 2, individually, have whole-lake total phosphorus  
19 concentrations of 36 (±2) micrograms/liter and 20 (±1) micrograms/liter, respectively;

20 (b) Whole-lake total phosphorus concentration, chlorophyll a, and Secchi depth indicate that the  
21 Beaver Lake system is bordering on eutrophic conditions;

22 (c) Modeling of the Beaver Lake system's future trophic status indicates that the lake will become  
23 hypereutrophic with a whole-lake total phosphorus concentration predicted to be 36  
24 micrograms/liter without additional phosphorus removal via storm water treatment; and

25 (d) Maintaining existing trophic status is a management plan goal. To maintain existing trophic  
26 status, an 80 percent total phosphorus annual loading removal goal was established for new  
27 impervious surface development prior to storm water discharges to Beaver Lake.

28 (54) The Pine Lake watershed is generally identified in the City of Sammamish comprehensive plan (Figure IV-  
29 1 in the comprehensive plan or as updated). All appropriate Beaver Lake specific water quality regulations  
30 shall be extended to the Pine Lake drainage basin ~~as well~~.

31 (a) These ~~interim~~ regulations shall only be in effect until such time that a customized Pine Lake  
32 water quality strategy is developed and development regulations are adopted based on approved  
33 findings of the study.

1 (b) An applicant for development within the Pine Lake drainage basin may apply for a variance from  
2 the standards specified in subsection (8) of this section if it can be proven that conditions are clearly  
3 different than at Beaver Lake.

4 ~~(65)~~ The standards specified in subsection (8) of this section shall apply to all development proposals located  
5 within the Beaver Lake and Pine Lake watersheds which require drainage review as specified in the adopted  
6 surface water design manual and Title 13 Surface Water Management, King County Surface Water Design  
7 Manual.

8 ~~(76)~~ Development proposals within the Beaver Lake or Pine Lake watersheds may be exempt from  
9 management plan requirements if they demonstrate to the satisfaction of the community development  
10 department that on-site surface and storm water runoff drainage does not in fact drain into the basin in  
11 question.

12 ~~(87)~~ Phosphorous Control Required.

13 (a) Applicability. Unless the conditions identified in subsection (6) of this section are documented to  
14 the satisfaction of the department, the following development proposals are subject to the  
15 conditions and standards contained subsections 7(b) through 7(d) below:

Comment [EM80]: Item 3-12

16 (i) For projects which that create greater than 5,000 square feet of new impervious surface  
17 subject to vehicular use in the Beaver Lake or Pine Lake watersheds, the following conditions  
18 shall apply, unless the conditions identified in subsection (6) of this section are documented to  
19 the satisfaction of the community development department; or

20 (ii) Projects that create greater than one acre of pollution generating pervious surface, as  
21 defined in the adopted surface water design manual and Title 13 Surface Water Management,  
22 in the Beaver Lake or Pine Lake watersheds.

Comment [EM81]: Item 3-12

23 ~~(ba)~~ The proposed storm water facilities shall be designed to remove 80 percent of all new total  
24 phosphorus loading on an annual basis due to new development (and associated storm water  
25 discharges) in the Beaver Lake or Pine Lake watersheds where feasible or utilize AKART if infeasible.

26 ~~(cb)~~ Currently, the AKART standard or interim best management practices for phosphorus-sensitive  
27 lakes can be fulfilled by achieving the 50% phosphorous removal standard from the adopted surface  
28 water design manual and Title 13 Surface Water Management, together with additional applicant  
29 proposed measures:

Comment [EM82]: Item 3-14

30 (i) For all development proposals subject to this section, the applicant shall demonstrate  
31 that a reduction of 80% total phosphorous is achievable through the use of engineering design  
32 computations.

Comment [EM83]: Item 3-14

34 (ii) As the adopted King County Surface Water Design Manual is updated and additional  
35 treatment options and designs for total phosphorous removal become available, new treatment  
36 systems may be approved by the city if the AKART standard for phosphorous removal can be

demonstrated using the Department of Ecology’s Technology Assessment Protocol – Ecology (TAPE) protocol).

Comment [EM84]: Item 3-13

(iii) Where soils are suitable, on-site infiltration of storm water runoff can be pursued through the variance process as an AKART alternative using methods described in the manual, as well as providing an organic soil layer consistent with the standards of the adopted surface water design manual and Title 13 Surface Water Management.

(iv) Development proposals using on-site infiltration, that do not comply with subsection 7(c)(iii), shall demonstrate that 80%, or better, phosphorus treatment can be expected with the designed on-site infiltration system, rather than by methods described in subsection (7)(c)(iii) of this section.

the following storm water treatment design criteria:

(i) A wetpond or combined detention/wetpond with a permanent pool volume equal to four and one half times the volume of runoff from the mean annual storm (VB/VR=4.5).

(A) Mandatory roof downspout infiltration, unless shown to be infeasible, and maximization of forest or native vegetation retention.

(B) Pond volume can be reduced by maximizing forest retention according to the following schedule:

Forest (%)	VB/VR ratio
25	4.25
30	4.00
40	3.50
50	3.25
60	3.00

(C) Forest retention areas shall be in tracts dedicated to the City. Buffers without trails can be counted in the percent forest figure.

(D) The VB/VR ratio is the volume of the wetpond basin divided by the volume of the runoff from the mean annual storm. The mean annual storm is equal to 0.46 inches at SeaTac. Runoff can be estimated using a runoff coefficient of 0.9 for impervious area and 0.25 for all other pervious area. Forested areas in tracts dedicated to the City need not be included in the calculation of pond sizing (i.e., zero new runoff volume assumed). If this method is used in other areas, and SeaTac

1 precipitation statistics underestimate the rainfall as judged by the isopluvial distribution of the two-  
2 year 24-hour precipitation, the mean annual rainfall should be adjusted upward.

3 (ii) Although current King County SWM designs are not complete for sand filtration, incorporation of  
4 sand filters into storm water treatment facility designs (i.e., treatment trains) can be pursued  
5 through the variance process to achieve additional total phosphorus removal. The proponent must  
6 demonstrate that equivalent or improved total phosphorus treatment can be expected with an  
7 alternative treatment system which incorporates sand filtration other than by methods described in  
8 subsection (8)(b)(i) of this section.

9 (iii) Where soils are suitable, on-site infiltration of storm water runoff can be pursued through  
10 the variance process as an AKART alternative. Soils are considered suitable for infiltration if at  
11 least two feet of soil exist where one of the following soil conditions are met:

12 (A) The cation exchange capacity of the soil equals or is greater than five milliequivalents;

13 (B) The organic content of the soil is equal to or greater than five percent;

14 (C) The grain size distribution of site soils is equivalent to not more than 25 percent gravel  
15 by weight (75 percent passing the No. 4 sieve) and of that passing the No. 4 sieve, either  
16 (1) 50 percent minimum passes the No. 40 sieve and two percent minimum passes the  
17 No. 100 sieve, or (2) 25 percent minimum passes the No. 40 sieve and five percent  
18 minimum passes the No. 200 sieve; and

19 (D) The infiltration rate is 2.4 inches/hour or less.

20 Additionally, the proponent must demonstrate that equivalent or better phosphorus  
21 treatment can be expected with on-site infiltration than by methods described in subsection  
22 (8) of this section.

23 (iv) As the King County Surface Water Design Manual is updated and additional treatment  
24 options and designs for total phosphorus removal become available, alternative treatment  
25 systems may be utilized if the AKART standard for phosphorus removal can be demonstrated.

26 (de) Hydrologic analysis shall be determined using a continuous hydrologic model such as the  
27 Hydrologic Simulation Program – Fortran (HSPF) ~~or~~ the King County Runoff Time Series Program  
28 (KCRTS), ~~the Santa Barbara Urban Hydrograph, or the VB/VR methodology.~~ These methodologies  
29 may be revised or superseded by other methodologies for achieving the same performance goal as  
30 stipulated by future revision to the Surface Water Design Manual. (Ord. O2005-193 § 1)

31 ~~21A.50.360 Critical areas mitigation fee – Creation of fund.~~

32 ~~There is hereby created a critical areas mitigation fund. This fund shall be administered by the City's finance~~  
33 ~~director. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

34 ~~21A.50.370 Critical areas mitigation fee – Source of funds.~~

1 All monies received from penalties resulting from the violation of rules and laws regulating development and  
2 activities within critical areas shall be deposited into the fund. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

3 **~~21A.50.380 Critical areas mitigation fee — Use of funds.~~**

4 ~~Monies from the fund shall only be used for paying the cost of enforcing and implementing critical area laws  
5 and rules. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

6 **~~21A.50.390 Critical areas mitigation fee — Investment of funds.~~**

7 ~~Monies in the fund not needed for immediate expenditure shall be deposited in a separate investment fund  
8 pursuant to RCW 36.29.020. The finance director shall be designated as the investment fund director. (Ord.  
9 O2005-193 § 1; Ord. O99-29 § 1)~~

10 **~~21A.50.400 Sunset provisions.~~**

11 ~~The provisions contained in SMC 21A.50.290, Wetlands — Development standards, 21A.50.310(6)(a), wetland  
12 mitigation ratios, and 21A.50.330, Streams — Development standards, shall revert to those in effect prior to  
13 January 3, 2006, 84 months following the January 3, 2006, effective date of the ordinance codified in this  
14 chapter unless renewed or revised. (Ord. O2011-315 § 1; Ord. O2009-274 § 1 (Att. A); Ord. O2005-193 § 1)~~

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Council Review Draft

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**Chapter 21A.15**  
**TECHNICAL TERMS AND LAND USE DEFINITIONS**

*Please Note: The city has selected relevant definitions from the definitions section; for brevity, not all definitions are included here. The complete code is available at:*  
<http://www.codepublishing.com/wa/sammamish/>

**21A.15.050 AKART.**

**"AKART" means all known, available, and reasonable methods of prevention, control, and treatment.**

Comment [CdS85]: Item 5-18

**21A.15.056 Alteration.**

Any human activity that results or is likely to result in an impact upon the existing condition of a critical area is an "alteration" that is subject to specific limitations as specified for each critical area. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants, except storm water, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, ~~pruning~~, topping, ~~trimming~~, relocating or removing vegetation or any other human activity that results or is likely to result in an impact to existent vegetation, hydrology, fish or wildlife, or fish or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities. (Ord. O2005-193 § 2; Ord. O2005-172 § 2; Ord. O99-29 § 1. Formerly 21A.50.200)

**21A.15.062 Anadromous fish.**

"Anadromous fish" are those that live part or the majority of their lives in saltwater, but return to freshwater to spawn. (Ord. O2005-172 § 2)

**21A.15.080 Base flood.**

"Base flood" means a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "100-year flood." (Ord. O2003-132 § 10)

**21A.15.085 Base flood elevation.**

"Base flood elevation" means the water surface elevation of the base flood in relation to the National Geodetic Vertical Datum of 1929. (Ord. O2003-132 § 10)

**21A.15.098 Best available science.**

"Best available science" means the process used and information developed consistent with requirements in RCW 36.70A.172 and WAC 365-195-900 through 365-195-925. (Ord. O2005-172 § 2)

**21A.15.110 Biologist.**

"Biologist" means a person who has earned at least a Bachelor of Science degree in the biological sciences from an accredited college or university or who has equivalent educational training and experience. (Ord. O2003-132 § 10)

**21A.15.122 Buffer.**

1 “Buffer” means a designated area contiguous to a steep slope or landslide hazard area intended to protect  
2 slope stability, attenuation of surface water flows and landslide hazards, or a designated area contiguous to a  
3 habitat conservation area, stream or wetland intended to protect the habitat, stream or wetland and be an  
4 integral part of the habitat, stream or wetland ecosystem. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

5 **21A.15.195 Clearing.**

6 “Clearing” means the limbing, pruning, trimming, topping, cutting or removal of vegetation or other organic  
7 plant matter by physical, mechanical, chemical or other means. (Ord. O2003-132 § 10)

8 **21A.15.253 Critical aquifer recharge area.**

9 “Critical aquifer recharge areas” means those areas in the City of Sammamish with a critical recharging effect  
10 on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic  
11 conditions associated with infiltration rates that create a high potential for contamination of groundwater  
12 resources or contribute significantly to the replenishment of groundwater. CARAs shall be classified based on  
13 the following criteria:

14 (1) Class 1 CARAs include those areas located within the mapped one- or five-year capture zone of a  
15 wellhead protection area.

16 (2) Class 2 CARAs include those areas located within the mapped 10-year capture zone of a wellhead  
17 protection area.

18 (3) Class 3 CARAs include those areas outside wellhead protection areas that are identified as high aquifer  
19 recharge potential areas based on characteristics of surficial geology and soil types. (Ord. O2005-193 § 2)

20 **21A.15.254 Critical areas.**

21 “Critical areas” means those areas in the City that are erosion hazard areas, frequently flooded areas,  
22 landslide hazard areas, seismic hazard areas, critical aquifer recharge areas, wetlands, streams, and fish and  
23 wildlife habitat conservation areas. (Ord. O2005-193 § 2)

24 **21A.15.255 Critical drainage area.**

25 “Critical drainage area” means an area that has been formally determined by the King County surface water  
26 management department to require more restrictive regulation than countywide standards afford in order to  
27 mitigate severe flooding, drainage, erosion, or sedimentation problems that result from the cumulative impacts  
28 of development and urbanization. (Ord. O2003-132 § 10)

29 **21A.15.XXX Development.** “Development” means the construction or exterior expansion of structures or  
30 buildings; clearing or grading; paving, landscaping, or placing of obstructions; and any project of a permanent  
31 or temporary nature exterior to a building.

Comment [EM86]: Item 4-15

32 **21A.15.310 Development proposal.**

33 “Development proposal” means any activities requiring a permit or other approval from the City of Sammamish  
34 relative to the use or development of land. (Ord. O2003-132 § 10)

35

1 **21A.15.365 Dwelling unit, single detached.**

2 “Dwelling unit, single detached” means a detached building containing one dwelling unit. (Ord. O2003-132 §  
3 10)

4 **21A.15.400 Enhancement.**

5 “Enhancement” means an action that increases the functions and values of a stream, wetland, or other  
6 sensitive area or buffer. (Ord. O2003-132 § 10)

7 **21A.15.410 Erosion.**

8 “Erosion” means the process by which soil particles are mobilized and transported by natural agents such as  
9 wind, rainsplash, frost action or surface water flow. (Ord. O2003-132 § 10)

10 **21A.15.415 Erosion hazard areas.**

11 “Erosion hazard areas” means those areas in the City underlain by soils that are subject to severe erosion  
12 when disturbed. Such soils include, but are not limited to, those classified as having a severe or very severe  
13 erosion hazard according to the USDA Soil Conservation Service, the 1973 King County Soils Survey or any  
14 subsequent revisions or addition by or to these sources. These soils include the following when they occur on  
15 slopes 15 percent or steeper:

- 16 (1) The Alderwood gravelly sandy loam (AgD);
- 17 (2) The Alderwood and Kitsap soils (AkF);
- 18 (3) The Beausite gravelly sandy loam (BeD and BeF);
- 19 (4) The Everett gravelly sandy loam (EvD);
- 20 (5) The Kitsap silt loam (KpD);
- 21 (6) The Ovall gravelly loam (OvD and OvF);
- 22 (7) The Ragnar fine sandy loam (RaD); and
- 23 (8) The Ragnar-Indianola Association (RdE). (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

24 **21A.15.4XX Erosion Hazard Near Sensitive Water Body Overlay.** The Erosion Hazard Near Sensitive  
25 Water Body overlay means an area within the city where sloped areas posing erosion hazards, or  
26 contributing to erosion hazards, that drain directly to lakes or streams of high resource value that are  
27 particularly sensitive to the impacts of increased erosion and the resulting sediment loads from  
28 development. The department of community development shall maintain a map of the boundaries of the  
29 erosion hazard near sensitive water bodies overlay district.

Comment [EM87]: Item 4-15

30  
31 The Erosion Hazard Near Sensitive Water Body overlay is divided into two areas:

- 32 (a) The no-disturbance area. The no-disturbance area shall be established on the sloped portion of the  
33 special district overlay to prevent damage from erosion. The upslope boundary of the no-disturbance  
34 area lies at the first obvious break in slope from the upland plateau over onto the valley walls. For  
35 the purposes of locating the first obvious break in slope, the first obvious break shall generally be

1 located at the top of the erosion hazard area associated with the slope. The downslope boundary of  
2 the no-disturbance area is the extent of those areas designated as erosion or landslide hazard areas.  
3 The department shall maintain maps, supported by LIDAR (Light Detection and Ranging) data or  
4 other suitable technology, of the approximate location of the no-disturbance areas, which shall be  
5 subject to field verification for new development proposals.

Comment [EM88]: Item 4-3

6 (b) Properties draining to the no-disturbance area. Properties draining to the no-disturbance area are  
7 within the Erosion Hazard near Sensitive Water body overlay that drain to the no-disturbance area.

8 **21A.15.420 Eutrophic.**

9 "Eutrophic" means a trophic status characterized by moderately high algal productivity, more serious oxygen  
10 depletion in the bottom waters, some recreational use impairment, summer chlorophyll a concentration greater  
11 than 10 micrograms/liter, a summer Secchi depth of less than two meters, and a winter total phosphorus  
12 concentration greater than 20 micrograms/liter.

Comment [CdS89]: Item 5-18

13 **21A.15.XXX Feasible.**

14 "Feasible" means that an action, such as a development project, mitigation, or preservation requirement,  
15 meets all of the following conditions:

- 16 (a) The action can be accomplished with technologies and methods that have been used in the past in  
17 similar circumstances, or studies or tests have demonstrated in similar circumstances that such  
18 approaches are currently available and likely to achieve the intended results;
- 19 (b) The action provides a reasonable likelihood of achieving its intended purpose; and
- 20 (c) The action does not physically preclude achieving the project's primary intended legal use. In cases  
21 where these guidelines require certain actions unless they are infeasible, the burden of proving  
22 infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may  
23 weigh the action's relative public costs and public benefits, considered in the short- and long-term  
24 time frames.

Comment [EM90]: Item 2-13

25 **21A.15.467 Fish and wildlife habitat corridors.**

26 "Fish and wildlife habitat corridors" means those corridors set aside and protected for preserving connections  
27 between habitats on development proposal sites that contain Type F or Np streams and/or wetlands with a  
28 high habitat score greater than or equal to 29 on the Washington State Wetland Rating System for Western  
29 Washington (Department of Ecology 2004 or as revised) that are located within 200 feet of an on-site or off-  
30 site Type F or Np stream and/or wetland with a high habitat score greater than or equal to 29 on the  
31 Washington State Wetland Rating System for Western Washington. Fish and wildlife habitat corridors do not  
32 parallel Type Np streams, except as required to provide a connection between two features as described  
33 above.

35 **21A.15.468 Fish and wildlife habitat conservation areas.**

36 "Fish and wildlife habitat conservation areas" means those areas that are essential for the preservation of  
37 critical habitat and species. All areas within the City of Sammamish meeting one or more of the following  
38 criteria are designated wildlife habitat conservation areas:

- 39 (1) Areas with which state or federally designated endangered, threatened, and sensitive species have a  
40 primary association.

1 (a) Federally designated endangered and threatened species are those fish and wildlife species  
2 identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in  
3 danger of extinction or are threatened to become endangered. The U.S. Fish and Wildlife Service and  
4 the National Marine Fisheries Service should be consulted as necessary for current listing status;

5 (b) State-designated endangered, threatened, and sensitive species are those fish and wildlife species  
6 native to the coastal region of the Pacific Northwest identified by the State Department of Fish and  
7 Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and  
8 -are likely to become endangered or threatened in a significant portion of their range within the state  
9 without cooperative management or removal of threats. State-designated endangered, threatened, and  
10 sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC  
11 232-12-011 (state threatened and sensitive species). The State Department of Fish and Wildlife  
12 maintains the most current listing and should be consulted as necessary for current listing status;

13 (2) ~~Wetlands, streams, and lakes and naturally occurring ponds;~~

14 (3) State natural area preserves and natural resource conservation areas. Natural area preserves and natural  
15 resource conservation areas are defined, established, and managed by the State Department of Natural  
16 Resources; and

17 (4) ~~Fish and Wildlife habitat corridors as defined in 21A.15.467 for preserving connections between habitats  
18 along the designated wildlife habitat network. (Ord. O2005-193 § 2)~~

Comment [EM91]: Item 2-13

19 **21A.15.470 Flood fringe.**

20 "Flood fringe" means that portion of the floodplain outside of the zero-rise floodway that is covered by  
21 floodwaters during the base flood, generally associated with standing water rather than rapidly flowing water.  
22 (Ord. O2003-132 § 10)

23 **21A.15.475 Flood hazard areas.**

24 "Flood hazard areas" means those areas in the City of Sammamish subject to inundation by the base flood  
25 and those areas subject to risk from channel relocation or stream meander including, but not limited to,  
26 streams, lakes, wetlands, and closed depressions. (Ord. O2003-132 § 10)

27 **21A.15.480 Flood insurance rate map.**

28 "Flood insurance rate map" means the official map on which the Federal Insurance Administration has  
29 delineated some areas of flood hazard. (Ord. O2003-132 § 10)

30 **21A.15.485 Flood insurance study for King County.**

31 "Flood insurance study for King County" means the official report provided by the Federal Insurance  
32 Administration that includes flood profiles and the flood insurance rate map. (Ord. O2003-132 § 10)

33 **21A.15.490 Flood protection elevation.**

34 "Flood protection elevation" means an elevation that is one foot above the base flood elevation. (Ord. O2003-  
35 132 § 10)

1 **21A.15.495 Floodplain.**

2 "Floodplain" means the total area subject to inundation by the base flood. (Ord. O2003-132 § 10)

3 **21A.15.500 Floodproofing.**

4 "Floodproofing" means adaptations that will make a structure that is below the flood protection elevation  
5 substantially impermeable to the passage of water and resistant to hydrostatic and hydrodynamic loads  
6 including the impacts of buoyancy. (Ord. O2003-132 § 10)

7 **21A.15.505 Floodway, zero-rise.**

8 "Floodway, zero-rise" means the channel of a stream and that portion of the adjoining floodplain which is  
9 necessary to contain and discharge the base flood flow without any measurable increase in flood height. A  
10 measurable increase in base flood height means a calculated upward rise in the base flood elevation, equal to  
11 or greater than .01 foot, resulting from a comparison of existing conditions and changed conditions directly  
12 attributable to development in the floodplain. This definition is broader than that of the FEMA floodway, but  
13 always includes the FEMA floodway. The boundaries of the 100-year floodplain, as shown on the flood  
14 insurance study for King County, are considered the boundaries of the zero-rise floodway unless otherwise  
15 delineated by a sensitive area special study. (Ord. O2003-132 § 10)

16 **21A.15.532 Frequently flooded areas.**

17 "Frequently flooded areas" means those lands in the City in the floodplain subject to a one percent or greater  
18 chance of flooding in any given year and those lands that provide important flood storage, conveyance, and  
19 attenuation functions, as determined by the City in accordance with WAC 365-190-080(3). Frequently flooded  
20 areas perform important hydrologic functions and may present a risk to persons and property. Frequently  
21 flooded areas include all areas of special flood hazards within the jurisdiction of the City of Sammamish. (Ord.  
22 O2005-193 § 2)

23 **21A.15.545 Geologist.**

24 "Geologist" ~~means a professional geologist who holds a current geologist license from the Washington state~~  
25 ~~Geologist Licensing Board, means a person who has earned at least a Bachelor of Science degree in the~~  
26 ~~geological sciences from an accredited college or university or who has equivalent educational training and at~~  
27 ~~least four years of professional experience. (Ord. O2003-132 § 10)~~

Comment [CdS92]: Item 4-14

Comment [CdS93]: Item 4-13

28 **21A.15.550 Geotechnical engineer.**

29 "Geotechnical engineer" means a practicing geotechnical/civil engineer licensed as a professional civil  
30 engineer by the state of Washington who has at least four years of professional employment as a geotechnical  
31 engineer. (Ord. O2003-132 § 10)

32 **21A.15.575 Hypereutrophic.**

33 "Hypereutrophic" means a trophic status characterized by high algal productivity, intense algal blooms, fish  
34 kills due to oxygen depletion in the bottom waters, frequent recreational use impairment, summer chlorophyll a  
35 concentration greater than 10 micrograms/liter, a summer Secchi depth generally less than two meters, and a  
36 winter total phosphorus concentration greater than 30 micrograms/liter.

Comment [CdS94]: Item 5-18

37 **21A.15.620 Lake Management Plan.**

1 "Lake management plan" means the plan (and supporting documents as appropriate) describing the lake  
2 management recommendations and requirements.

Comment [CdS95]: Item 5-18

3 **21A.15.670 Landscaping.**

4 "Landscaping" means live vegetative materials required for a development. Said materials provided along the  
5 boundaries of a development site are referred to as perimeter landscaping. (Ord. O2003-132 § 10)

6 **21A.15.675 Landslide.**

7 "Landslide" means episodic downslope movement of a mass including, but not limited to, soil, rock or snow.  
8 (Ord. O2003-132 § 10)

9 **21A.15.680 Landslide hazard areas.**

10 "Landslide hazard areas" means those areas in the City of Sammamish potentially subject to risk of mass  
11 movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically  
12 susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope  
13 aspect, geologic structure, groundwater, or other factors. Landslide hazard areas include the following:

14 (1) Areas of historic failures, such as:

15 (a) Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation  
16 Service as having a "severe" limitation for building site development;

17 (b) Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by  
18 the U.S. Geological Survey or Department of Natural Resources;

19 (2) Areas that have shown movement during the Holocene epoch, from 10,000 years ago to the present, or  
20 which are underlain by mass wastage debris from that epoch;

21 (3) Any area with all three of the following characteristics:

22 (a) Slopes steeper than 15 percent; and

23 (b) Hillside intersecting geologic contacts with a relatively permeable sediment overlying a relatively  
24 impermeable sediment or bedrock; and

25 (c) Springs or groundwater seepage;

26 (4) Areas with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas  
27 composed of consolidated rock. A slope is delineated by establishing its toe and top, as defined in SMC  
28 21A.15.1230, and measured by averaging the inclination over at least 10 feet of vertical relief;

Comment [CdS96]: Item 4-12

29 (5) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and  
30 fault planes) in subsurface materials;

31 (6) Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking;

1 (7) Areas potentially unstable because of rapid stream incision, stream bank erosion or undercutting by wave  
2 action; and

3 (8) Landslide hazard areas do not include those areas composed of slopes greater than 40 percent that were  
4 created from a previously non-landslide hazard area through legal grading activity and that are confirmed to be  
5 stable by a qualified professional. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

6 **21A.15.XXX Maintenance.** "Maintenance" means those usual acts to prevent a decline, lapse or cessation  
7 from a lawfully established condition or use. Maintenance may include, but is not limited to, pruning, plant  
8 material replaced with alternate plant material, hardscape replaced with alternate hardscape, hardscape  
9 replaced with plant material.

Comment [EM97]: Item 2-14

10 **21A.15.720 Mesotrophic.**

11 "Mesotrophic" means a trophic status characterized by moderate algal productivity, oxygen depletion in the  
12 bottom waters, usually no recreational use impairment, summer chlorophyll a concentration averaging four to  
13 10 micrograms/liter, a summer Secchi depth of two to five meters, and a winter total phosphorus concentration  
14 ranging from 10 to 20 micrograms/liter.

Comment [CdS98]: Item 5-18

15 **21A.15.XXX Microclimate.** "Microclimate" means a climatic condition in a relatively small area, within a few  
16 feet above and below the Earth's surface and within canopies of vegetation. Microclimates are affected by  
17 such factors as temperature, humidity, wind and turbulence, dew, frost, heat balance, evaporation, the nature  
18 of the soil and vegetation, the local topography, latitude, elevation, and season. Weather and climate are  
19 sometimes influenced by microclimatic conditions, especially by variations in surface characteristics.

20 **21A.15.751 Mitigation bank.**

21 "Mitigation bank" means a property that has been protected in perpetuity, and approved by appropriate City,  
22 state, and federal agencies expressly for the purpose of providing compensatory mitigation in advance of  
23 authorized impacts through restoration, creation, and/or enhancement of wetlands, and in exceptional  
24 circumstances, preservation of adjacent wetlands, wetland buffers, and/or other aquatic resources. (Ord.  
25 O2003-132 § 10)

26 **21A.15.752 Mitigation banking.**

27 "Mitigation banking" means a system for providing compensatory mitigation in advance of authorized wetland  
28 impacts of development in the City in which credits are generated through restoration, creation, and/or  
29 enhancement of wetlands, and in exceptional circumstances, preservation of adjacent wetlands, wetland  
30 buffers, and/or other aquatic resources. (Ord. O2003-132 § 10)

31 **21A.15.765 Monitoring.**

32 "Monitoring" means evaluating the impacts of development proposals on biologic, hydrologic, and geologic  
33 systems and assessing the performance of required mitigation through the collection and analysis of data for  
34 the purpose of understanding and documenting changes in natural ecosystems, functions and features  
35 including, but not limited to, gathering baseline data. (Ord. O2003-132 § 10)

36 **21A.15.790 Native vegetation.**

1 “Native vegetation” means vegetation comprised of plant species, other than noxious weeds, which are  
2 indigenous to the coastal region of the Pacific Northwest and that reasonably could have been expected to  
3 naturally occur on the site. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

4 ~~21A.15.794 Naturalized species.~~

Comment [EM99]: Item 3-20

5 ~~“Naturalized species” means non-native species of vegetation that are adaptable to the climatic conditions of~~  
6 ~~the coastal region of the Pacific Northwest. (Ord. O2011-300 § 1 (Att. A); Ord. O2003-132 § 10. Formerly~~  
7 ~~21A.15.795)~~

8 ~~21A.15.795 Naturally occurring ponds.~~

9 ~~See “Ponds, naturally occurring,” SMC 21A.15.898. (Ord. O2011-300 § 1 (Att. A); Ord. O2005-193 § 2.~~  
10 ~~Formerly 21A.15.796)~~

Comment [CdS100]: Item 5-17

11 ~~21A.15.810 Oligotrophic.~~

12 ~~“Oligotrophic” means a trophic status characterized by low algal productivity, algal blooms are rare, water~~  
13 ~~clarity is high, all recreational uses unimpaired, summer chlorophyll a concentration average less than four~~  
14 ~~micrograms/liter, a summer Secchi depth greater than five meters, and a winter total phosphorus~~  
15 ~~concentration ranging from zero to 10 micrograms/liter.~~

Comment [CdS101]: Item 5-18

16 ~~21A.15.825 Ordinary high water mark.~~

17 ~~“Ordinary high water mark” means the mark found by examining the bed and banks of a stream, lake, or tidal~~  
18 ~~water and ascertaining where the presence and action of waters are so common and long maintained in~~  
19 ~~ordinary years as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any~~  
20 ~~area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In any~~  
21 ~~area where neither can be found, the top of the channel bank shall substitute. In braided channels and alluvial~~  
22 ~~fans, the ordinary high water mark or line of mean high water shall be measured so as to include the entire~~  
23 ~~stream feature. (Ord. O2003-132 § 10)~~

24 ~~21A.15.850 Phosphorus.~~

25 ~~“Phosphorus” means elemental phosphorus and for the purposes of this section shall be measured as total~~  
26 ~~phosphorus.~~

Comment [CdS102]: Item 5-18

27 ~~21A.15.855 Phosphorus concentration.~~

28 ~~“Phosphorus concentration” means the mass of phosphorus per liquid volume.~~

Comment [CdS103]: Item 5-18

29 ~~21A.15.860 Phosphorus loading.~~

30 ~~“Phosphorus loading” means the total mass of phosphorus per time basis.~~

Comment [CdS104]: Item 5-18

31 ~~21A.15.898 Ponds, naturally occurring.~~

Comment [EM105]: Item 3-20

32 ~~“Ponds, naturally occurring” means those surface water bodies under 20 acres and their submerged aquatic~~  
33 ~~beds that provide fish or wildlife habitat, including those manmade ponds intentionally created in order to~~  
34 ~~mitigate critical area impacts. Naturally occurring ponds do not include ponds deliberately designed and~~  
35 ~~created from dry sites for other reasons such as canals, detention facilities, wastewater treatment facilities,~~

1 ~~farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were~~  
2 ~~intentionally created for mitigation. (Ord. O2005-193 § 2)~~

3 **21A.15.942 Qualified professional.**

4 "Qualified professional" means a person with experience and training in the applicable field or critical area. A  
5 qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering,  
6 environmental studies, fisheries, geomorphology or a related field, and two years of related work experience.

7 (1) A qualified professional for watercourses, wetlands, and wildlife habitat conservation areas must have a  
8 degree in biology or a related field and relevant professional experience.

9 (2) A qualified professional for preparing geotechnical reports and geotechnical design recommendations must  
10 be a professional geotechnical engineer or geologist licensed in the state of Washington. Identification of  
11 geologic hazards may be performed by geologists or other geology professionals with experience identifying  
12 geologic hazards.

13 (3) A qualified professional for preparing critical aquifer recharge reports must be a professional  
14 hydrogeologist or geologist licensed in the state of Washington.

15 **21A.15.1000 Restoration.**

16 "Restoration" means returning a stream, wetland, other sensitive area or any associated buffer to a state in  
17 which its stability and functions approach its unaltered state as closely as possible. (Ord. O2003-132 § 10)

18 **21A.15.XXXX Riparian.**

Comment [EM106]: Item 3-19c

19 "Riparian" means the area adjacent to flowing or standing freshwater aquatic systems. Riparian habitat  
20 encompasses the area beginning at the ordinary high water mark and extends to that portion of the terrestrial  
21 landscape that is influenced by, or that directly influences, the aquatic ecosystem. In riparian systems, the  
22 vegetation, water tables, soils, microclimate, and wildlife inhabitants of terrestrial ecosystems are often  
23 influenced by perennial or intermittent water. Simultaneously, adjacent vegetation, nutrient and sediment  
24 loading, terrestrial wildlife, as well as organic and inorganic debris influence the biological and physical  
25 properties of the aquatic ecosystem. Riparian habitat includes the entire extent of the floodplain and riparian  
26 areas of wetlands that are directly connected to stream courses or other freshwater.

27 **21A.15.1015 Salmonid.**

28 "Salmonid" means a member of the fish family Salmonidae, including:

29 (1) Chinook, coho, chum, sockeye and pink salmon;

30 (2) Rainbow, steelhead and cutthroat salmon;

31 (3) Brown trout;

32 (4) Brook and dolly varden char;

33 (5) Kokanee; and

1 (6) Whitefish. (Ord. O2003-132 § 10)

2 **21A.15.1045 Seismic hazard areas.**

3 “Seismic hazard areas” means ~~those areas mapped as moderate to high and high liquefaction susceptibility~~  
4 ~~and peat deposits on the Liquefaction Susceptibility Map of King County, Washington, Washington Division of~~  
5 ~~Geology and Earth Sciences, OFR 2004-20, Palmer et al., September, 2004 as revised, those areas in the City~~  
6 ~~subject to severe risk of earthquake damage as a result of soil liquefaction in areas underlain by cohesionless~~  
7 ~~soils of low density and usually in association with a shallow groundwater table or of other seismically induced~~  
8 ~~settlement. (Ord. O2003-132 § 10)~~

Comment [EM107]: Item 1-4

9 **21A.15.1070 Setback.**

10 “Setback” means the minimum required distance between a structure and a specified line such as a lot,  
11 easement or buffer line that is required to remain free of structures. (Ord. O2003-132 § 10)

12 **21A.15.1230 Steep slope hazard areas.**

13 “Steep slope hazard areas” means those landslide hazard areas in the City on slopes 40 percent or steeper  
14 within a vertical elevation change of at least 10 feet. A slope is delineated by establishing its toe and top and is  
15 measured by averaging the inclination over at least 10 feet of vertical relief. For the purpose of this definition:

16 (1) The toe of a slope is a distinct topographic break in slope that separates slopes inclined at less than 40  
17 percent from slopes 40 percent or steeper. Where no distinct break exists, the toe of a steep slope is the  
18 lowermost limit of the area where the ground surface drops 10 feet or more vertically within a horizontal  
19 distance of 25 feet; and

20 (2) The top of a slope is a distinct, topographic break in slope that separates slopes inclined at less than 40  
21 percent from slopes 40 percent or steeper. Where no distinct break exists, the top of a steep slope is the  
22 uppermost limit of the area where the ground surface drops 10 feet or more vertically within a horizontal  
23 distance of 25 feet. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

24 ~~(3) A distinct topographic break occurs when the change in gradient is less than 5 feet vertically within a~~  
25 ~~horizontal distance of 25 feet.~~

Comment [CdS108]: Item 4-12

26 **21A.15.1235 Stream functions.**

27 “Stream functions” means natural processes performed by streams including functions that are important in  
28 facilitating food chain production, providing habitat for nesting, rearing, and resting sites for aquatic, terrestrial,  
29 and avian species, maintaining the availability and quality of water, such as purifying water, acting as recharge  
30 and discharge areas for groundwater aquifers, moderating surface and storm water flows and maintaining the  
31 free flowing conveyance of water, sediments, and other organic matter. (Ord. O2003-132 § 10)

32 **21A.15.1240 Streams.**

33 “Streams” means those areas in the City where surface waters produce a defined channel or bed, not  
34 including irrigation ditches, canals, storm or storm water runoff conveyance devices or other entirely artificial  
35 watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to  
36 construction of such watercourses. For the purpose of this definition, a defined channel or bed is an area that  
37 demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels,

1 gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-  
2 round. For the purpose of defining the following categories of streams, normal rainfall is rainfall that is at or  
3 near the mean of the accumulated annual rainfall record, based upon the water year for King County as  
4 recorded at the Seattle-Tacoma International Airport.

5 (1) Streams shall be classified according to the following criteria:

6 (a) Type S streams are all streams inventoried as “shorelines of the state” under the City’s shoreline  
7 master program. No Type S streams have been identified in the City as of September 1, 2005.

8 (b) Type F streams are those streams that are used by salmonids, have the potential to support  
9 salmonid uses, or that have been identified as being of special significance. Streams of special  
10 significance are those perennial reaches designated by the City based on historic fish presence and/or  
11 the probability of restoration of the following:

12 (i) George Davis Creek;

13 (ii) Ebright Creek;

14 (iii) Pine Lake Creek; and

15 (iv) Laughing Jacobs Creek, below Laughing Jacobs Lake.

16 (c) Type Np streams which are perennial during a year of normal rainfall and do not have the potential to  
17 be used by salmonids. Type Np streams include the intermittent dry portions of the perennial channel  
18 below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified  
19 with simple, nontechnical observations, then the point of perennial flow should be determined using the  
20 best professional judgment of a qualified professional.

21 (d) Type Ns streams which are seasonal or ephemeral during a year of normal rainfall and do not have  
22 the potential to be used by salmonids.

23 (2) For the purposes of this definition, “used by salmonids” and “potential to support salmonid uses” is  
24 presumed for:

25 (a) Streams where naturally reoccurring use by salmonid populations has been documented by a  
26 government agency;

27 (b) Streams that are fish passable by salmonid populations from Lake Sammamish, as determined by a  
28 qualified professional based on review of stream flow, gradient and barriers and criteria for fish  
29 passability established by the Washington Department of Fish and Wildlife; and

30 (c) Streams that are planned for restoration in a six-year capital improvement plan adopted by a  
31 government agency that will result in a fish passable connection to Lake Sammamish. (Ord. O2005-193  
32 § 2; Ord. O2003-132 § 10)

1 **21A.15.1265 Submerged land.**

2 "Submerged land" means any land at or below the ordinary high water mark. (Ord. O2003-132 § 10)

3 ~~21A.15.1275 Total phosphorus.~~

4 ~~"Total phosphorus" means the phosphorus concentration as determined by a state-certified analytical~~  
5 ~~laboratory using EPA 365.3 or SM 4500-P-B, E or an equivalent method.~~

Comment [CdS109]: Item 5-18

6 **21A.15.1285 Trails.**

7 "Trails" means manmade pathways designed and intended for use by pedestrians, bicyclists, equestrians,  
8 and/or recreational users. Trails may be paved or unpaved, and may be intended and constructed for  
9 transportation, recreation, and nature contact and enjoyment. Types of trails are described and defined in the  
10 park and recreation plan, trails, bikeways and paths plan, or elsewhere in the city comprehensive plan. (Ord.  
11 O2005-172 § 2; Ord. O2003-132 § 10)

12 ~~21A.15.1295 Trophic state index.~~

13 ~~"Trophic state index" means a classification system which uses algal biomass as the basis for classification~~  
14 ~~which can be independently measured by chlorophyll a, Secchi depth, and total phosphorus concentration.~~

Comment [CdS110]: Item 5-18

15 ~~21A.15.1300 Trophic status.~~

16 ~~"Trophic status" means a classification which defines lake quality by the degree of biological productivity.~~

Comment [CdS111]: Item 5-18

17 ~~21A.15.1390 Wet meadows, grazed.~~

18 ~~"Wet meadows, grazed" means palustrine emergent wetlands typically having up to six inches of standing~~  
19 ~~water during the wet season and dominated under normal conditions by meadow emergents such as reed~~  
20 ~~canary grass, spike rushes, bulrushes, sedges and rushes. During the growing season, the soil is often~~  
21 ~~saturated but not covered with water. These meadows have been frequently used for livestock activities. (Ord.~~  
22 ~~O2003-132 § 10)~~

Comment [EM112]: Item 3-20

23 **21A.15.1395 Wetland edge.**

24 "Wetland edge" means the line delineating the outer edge of a wetland, consistent with the Washington State  
25 Wetlands and Delineation Manual (1997, as amended). (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

26 ~~21A.15.1400 Wetland, forested.~~

27 ~~"Wetland, forested" means a wetland that is characterized by woody vegetation at least 20 feet tall. (Ord.~~  
28 ~~O2003-132 § 10)~~

Comment [EM113]: Item 3-20

29 **21A.15.1405 Wetland functions.**

30 "Wetland functions" means natural processes performed by wetlands including functions that are important in  
31 facilitating food chain production, providing habitat for nesting, rearing, and resting sites for aquatic, terrestrial,  
32 and avian species, maintaining the availability and quality of water, acting as recharge and discharge areas for  
33 groundwater aquifers and moderating surface and storm water flows, as well as performing other functions  
34 including, but not limited to, those set forth in 33 CFR 320.4(b)(2), 1988. (Ord. O2003-132 § 10)

35 **21A.15.1410 Wetland, isolated.**

1 "Wetland, isolated" means a wetland that is hydrologically isolated from other wetlands or streams, does not  
2 have permanent open water, and is determined to be of low function. (Ord. O2005-193 § 2; Ord. O2003-132 §  
3 10)

4 **21A.15.1415 Wetlands.**

5 "Wetlands" are those areas in the City of Sammamish designated in accordance with the federal 1987 Wetland  
6 Delineation Manual (Environmental Laboratory, 1987) and the United States Army Corps of Engineers  
7 (USACE) Interim Regional Supplement for Western Mountains, Valleys, and Coast Region (USACE,  
8 2010), Washington State Wetlands Identification and Delineation Manual (1997, as amended). Wetlands are  
9 areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to  
10 support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life  
11 in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands  
12 do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to,  
13 irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities,  
14 farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally  
15 created as a result of the construction of a road, street, or highway. Wetlands may include those artificial  
16 wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

Comment [EM114]: Item 3-1

17 Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington  
18 (Department of Ecology, 2004, or as revised). This document contains the definitions, methods and a rating  
19 form for determining the categorization of wetlands described below:

20 (1) Category 1. Category 1 wetlands include those that receive a score of greater than or equal to 70 based on  
21 functions, or those that are rated Category 1 based on special characteristics as defined in the rating form.

22 (2) Category 2. Category 2 wetlands include those that receive a score of 51 through 69 based on functions, or  
23 those that are rated Category 2 based on special characteristics as defined in the rating form.

24 (3) Category 3. Category 3 wetlands include those that receive a score of 30 through 50 based on functions.

25 (4) Category 4. Category 4 wetlands score less than 30 points based on functions. (Ord. O2005-193 § 2; Ord.  
26 O2003-132 § 10)

27  
28 **Chapter 21A.70**  
29 **NONCONFORMANCE, TEMPORARY USES, AND RE-USE OF FACILITIES**

30 **21A.70.020 Nonconformance – Applicability.**

31 (1) All nonconformances except nonconforming uses and improvements related to the provisions of SMC  
32 21A.50, shall be subject to the provisions of this chapter.

Comment [EM115]: Item 2-14

33 (2) The provisions of this chapter do not supersede or relieve a property owner from compliance with:

34 (a) The requirements of the Uniform Building and Fire Codes; or

1  
2

(b) The provisions of this code beyond the specific nonconformance addressed by this chapter. (Ord. O99-29 § 1)

Council Review Draft



## Community Development

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801 228<sup>th</sup> Avenue SE • Sammamish, WA 98075 • Phone: 425.295.0500 • Fax: 425.295.0600 • web: www.ci.sammamish.wa.us

TO: City Council

May 20, 2013

FM: Kamuron Gurol

RE: *Revised* - Summary of Council identified amendments to the Environmental Critical Areas (ECA) Regulations

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### **Background:**

The Council held several study sessions from early March through mid-April to review the Planning Commission's recommended amendments to the ECA regulations. Through the course of that review, Councilmembers identified several possible amendments that they will wish to consider as part of their deliberations.

The following is a list and brief description of the proposed amendment to the ECA regulations identified by each Council member, with a brief summary of the components associated with the proposed change to the regulatory policy.

Amendments that are identified with *italicized text* were identified after the council packet for May 7, 2013 or reflect clarifications provided by the individual Councilmembers.

### **Don Gerend:**

- *Identification of "Wetlands of Local Significance": Councilmember Gerend has suggested that the Council identify Category I Bog wetlands as "Wetlands of Local Significance" and provide for additional protection.*
- *Isolated / Small Wetland Flexibilities: Councilmember Gerend has suggested that the Council consider modifying the provisions to:*
  - *Allow for the alteration of wetlands of Class III or IV under 4000 square feet*
  - *Allow for fee-in-lieu mitigation*
  - *Set up a Sammamish Based mitigation program within the same watershed*
  - *Prioritize mitigation to expand the habitat for Lake Sammamish kokanee or expanding educational opportunities.*

### **Ramiro Valderrama-Aramayo:**

- *Isolated / Small Wetland Flexibilities: Deputy Mayor Valderrama-Aramayo has suggested the Council consider the following policy approach to small and isolated wetlands:*
  - *Establish a pilot program for 3 single family residence (SFR) projects anywhere in the city.*

## Exhibit 2

- Small wetlands under 4,000 square feet with a low habitat score
- Require the applicant to fund monitoring all water quality and effects.
- Allow for mitigation by:
  - Participating in the King County fee-in-lieu mitigation program (prioritization given to in-City mitigation through interlocal with King County), or
  - Allowing on-site relocation of the wetland and associated wetland mitigation.

### **Tom Vance:**

- Erosion Hazard Near Sensitive Water Body overlay – Pilot Program: Councilmember Vance has suggested the Council consider the following policy approach to the Erosion Hazard near Sensitive Water Body (EHNSWB) overlay:
  - Do not adopt the pilot program for subdivision / development in the no-disturbance area.
  - As a component of the 2015 Comprehensive Plan Re-write process, undertake a zoning study that would consider a re-zone all properties in the no-disturbance area to R-1.
  - Allow for subdivision of R-1 zoned properties in the no-disturbance area, provided:
    - Storm mitigation is installed.
    - Clustering to minimize impervious surfaces and clearing / grading within the no-disturbance area.
    - Limit onsite impervious surface to avoid additional drainage discharge.
  - Grandfather current zoned “lot yield” and allow sale of density TDRs as an alternative to subdivision at R-1 density.
  - Increase TDR receiving areas elsewhere in Sammamish such as the commercial zones.
- Allowances for Existing Urban Development and Other Uses: Councilmember Vance has suggested the Council consider not adopting the proposed amendments that would use the term “building” as opposed to “single family”. As an alternative, allowances would be provided for expansions to existing single family residences.

### **Nancy Whitten:**

- Isolated / Small Wetland Flexibilities: Councilmember Whitten has suggested the Council include a water quality component in identifying which isolated wetlands would qualify for additional flexibility.
- Critical Aquifer Recharge Areas: Councilmember Whitten has suggested the Council consider an amendment to prohibit the use of “vertical” geothermal wells within Class 1 and 2 Critical Aquifer Recharge Areas.
- Stream and Wetland Fee-in-Lieu mitigation: Councilmember Whitten has suggested the Council consider the following policy amendments:
  - Limiting the use of fee-in-lieu mitigation for streams and wetlands to city capital projects and single family homes. Fee-in-lieu mitigation would be prohibited for subdivisions and non-residential development.

## Exhibit 2

- Require that fee-in-lieu mitigation only be allowed if in the same sub-basin as the altered wetland or stream.
- Erosion Hazard Near Sensitive Water Body overlay – Pilot Program: Councilmember Whitten has suggested the Council consider the following policy approach to amending the pilot program in the EHNSWB overlay:
  - Limit the number of pilot program projects to one short plat using a tightline to Lake Sammamish.
    - A second project may be authorized if it includes a volume control component
  - Limit the total project acreage to 10 acres.
  - Limit the number of lots to an R-1 density in the no-disturbance area.
  - Limit impervious surface to 10% of the total site area.
  - Increase the percent of open space to 50% and increase tree retention within the subdivision
  - Locate new lots near the bottom of the no-disturbance area (e.g. within 200 feet of the “toe” of the no-disturbance area).
  - Require increased rainwater harvesting.
- Erosion Hazard Near Sensitive Water Body overlay – expansions for single family homes on small lots: Councilmember Whitten has suggested the Council consider the allowing for single family homes to increase the footprint by up to 400 square feet (currently allowed by up to 200 square feet).
- Erosion Hazard Near Sensitive Water Body overlay – expansions for single family homes on small lots: Councilmember Whitten has suggested the Council consider in lieu and replacement and substitution of Items 4-15g and 4-15f, we add a new Item 4-15h, pilot projects in the no-disturbance zone, as follows:
  1. *There shall be no more than two pilot projects: one using a tightline for storm water that by-passes all erosion hazard areas; the other using LID, including volume control standards equal to pre-forested conditions.*
  2. *Require 50% forested/natural permanent open space, replicating existing predevelopment water cycle.*
  3. *Allow maximum of ten housing units per pilot project and a minimum lot size of one acre.*
  4. *A 10% impervious surface limit, except as the director may authorize if required for access or other design factors.*
  5. *Green building requirements limiting clearing and grading to the minimum site area necessary to complete the project.*
  6. *Complete monitoring should begin with analysis of pre-development conditions, continue through development, and continue post project completion.*

*In addition to the foregoing Councilmember Whitten suggests that each of the following items be made part of any pilot program in the no disturbance area.*

## Exhibit 2

- a. *Other than a tightline, no runoff shall be conveyed using man-made conveyances, including but not limited to drainage ditches.*
- b. *Storm water controls should meet the 80% phosphorus removal goal under the AKART standard, with a minimum of 60% removal required.*
- c. *Clustering of housing units should be encouraged if feasible.*
- d. *All permanent erosion control measures shall be in place prior to commencement of clearing and grading and other construction activities.*
- e. *“Active “ chemical and mechanical water quality treatment is required during clearing and grading.*
- f. *No clearing and grading except during dry conditions during the period from June 1-August 31, and except at the discretion of the Director based on predicted weather conditions during May and September.*
- g. *An objective, equitable selection process shall be used by staff to determine the best suited properties to be chosen for the two pilot programs. Criteria should include but not be limited to soil conditions, topographic characteristics of the property, the presence of bodies of water and whether the property is best suited to provide a fair exercise of the pilot program given its purposes. Notice of possible eligibility shall be sent to all known eligible property owners who could then submit requests for consideration within an identified period of time.*
- h. *No additional pilot programs shall be allowed in the no-disturbance zone until the performance of the pilot programs can be evaluated over a seven year period, post development.*
- i. *No infiltration shall be allowed in the no-disturbance area except in an area below any erosion hazard.*
- j. *Proper energy dissipaters shall be required for any tightline*

*For independent consideration Councilmember Whitten also recommends the Council consider the following:*

- I. *Permanent post development bonds are required to protect the City and downstream and downslope property owners from pilot project failure.*
- II. *Post development HOAs and homeowners will indemnify the City and downstream and downslope homeowners from pilot project failure.*
- III. *All costs associate with the pilot programs, shall be borne by the developer and the city shall be reimbursed for all staff time and expenses and for outside consultant and other third party expenses incurred by the city in regard to the pilot programs.*

Exhibit 3

**Staff Responses to City Council Questions on the Environmentally Critical Areas (ECA) regulations**

The City Council has identified a number of questions through their review of the Planning Commission recommended amendments to the ECA regulations. The following table is intended to address questions identified by the City Council through May 14.

<b>CITY COUNCIL QUESTIONS &amp; COMMENTS</b>	<b>CITY STAFF RESPONSE OR RECOMMENDATION</b>
<b><i>Don Gerend - Frequently Flooded Areas</i></b>	
1: What is the flood hazard area?	Response: The City of Sammamish 100-year FEMA floodplain areas (flood hazard areas) are located entirely along the shoreline of Lake Sammamish. The FEMA floodplain location varies with elevation, with areas below elevation 33' NGVD 1929 within the floodplain. These areas are also considered critical areas, and are subject to several overlapping state and federal requirements. The City's Shoreline Master Program regulates uses and standards for these areas, including critical areas requirements (adopted into the SMP). In addition, FEMA requires the City to meet regulatory standards in order to provide federal flood insurance availability to residents, and more recently, to meet the requirements of the Endangered Species Act.
<b><i>Don Gerend - Wetlands</i></b>	
2: On p. 2 "Wetlands also provide value to community such as recreation, open space and other aesthetic functions." What recreation if we are even restricted on trails in the buffers of wetlands?	Response: SMC 21A.30.210(5) allows trails in the outer 25% of buffers. SMC 21A.50.300(8) and (10) allow trail crossings, spur trails, and viewing platforms where these proposals meet code criteria. One of the common recreational wetland uses is bird watching, which, depending on the surrounding topography and vegetation, can often be conducted from outside the wetland buffer.
3: On p. 2 Hruby 2004 Functional Classification: Can I get a copy of this to see what the methods and approaches are that are "considered best available science."	Response: A copy has been provided.
4: On p. 3 and p. 5. Can I see copies of NRC 2001 and Sheldon, et. al. 2005?	Response: A copy has been provided.

Exhibit 3

<p>5: On p. 9 Clustered in R-1 zone. Question: So does that include cottage housing? I believe we concluded that it doesn't. Should we change this?</p>	<p>Response: Cottage housing is currently only allowed under the pilot program within the R-4 through R-18 zones. The R-1 zone mandates clustering and council may want to consider code revisions to allow cottage housing in the R-1 zone after an evaluation has been completed for the current cottage housing pilot program.</p>
<p>6: Did the Planning Commission support a Fee in Lieu option to be a way to buy into compliance by financially supporting off site mitigation (I believe that we were told that this would be an expensive alternative), whereas the 4,000 foot wetland proposal would allow 2,500 square feet filled with proper on-site mitigation without requiring Fee in Lieu in addition?</p>	<p>Response: The Planning Commission evaluated the Fee in Lieu mitigation option as a distinct policy item not associated with the isolated wetlands policy recommendation. Fee in lieu mitigation was one of the mitigation options discussed and ultimately recommended as available for mitigation of fill of a smaller wetland. However, on-site mitigation is also recommended and must be explored before fee in lieu mitigation is pursued.</p>
<p><b><i>Don Gerend – Wildlife Habitat &amp; Corridors</i></b></p>	
<p>7: On p. 19 Development Standards. "...preserve and enhance wildlife function" <b>Question:</b> Why "enhance" in urban areas? That is the point of the UGB, in my opinion; habitat enhancement <u>outside</u> of urban areas.</p>	<p>Response: Part of the basis for providing wetland buffers under Best Available Science is to provide habitat for wildlife that is dependent upon wetlands. The adopted Sammamish Comprehensive Plan contains policy guidance directing the city to provide for wildlife habitat within Sammamish; the council would need to identify a new or revised policy basis for pursuing the relocation of habitat enhancement outside of the urban growth area.</p>
<p>8: Which wildlife species did the Planning Commission feel are of greatest interest to the City to protect, what are the management recommendations for those species and what existing constraints make these protections not reasonable?</p>	<p>Response: The Planning Commission considered expanding the list of protected species, to include identified species of significance to the city of Sammamish. The Planning Commission initially considered a species identified from a list based upon the East Sammamish Basin and Non Point Action Plan. Among those species considered, staff recalls that there was specific discussion of Red Tail Hawk, Great Blue Heron, Mountain Beavers, Bobcats, and Black bears. Ultimately, the Planning Commission did not recommend that the City Council identify any species of special significance to Sammamish as part of the recommended amendments.</p>
<p>9: Regarding the wildlife corridors, ..... the general theme could be to try not to encourage wild animals to find urban (or even suburban) areas attractive, since the</p>	<p>Response: A large number and variety of large and small mammals, amphibians, reptiles, birds, and fish benefit from, or are dependent on, larger buffer widths for survival, population sustainability, and/or species richness. For those that are interested in learning more about the habitat size needs of specific species, the following best available science documents may be consulted and are</p>

Exhibit 3

<p>cost/benefit ratio is very high. So, why are we so concerned about maintaining wildlife corridors? I understand that we can't resolve this in the ECA update, since, as Kamuron pointed out our Comprehensive Plan is rife with wildlife corridors, but I would like this to be a topic for discussion and potential policy change when it comes to the Comp Plan update. Once again, I ask for examples of wildlife habitat which require wider buffers.</p>	<p>available on the Washington Department of Fish and Wildlife website. Due to the large size of these documents, it is suggested that these be viewed online to reduce printing and resource costs; however, copies can be provided upon request.</p> <ul style="list-style-type: none"><li>I) Landscape Planning for Washington's Wildlife: Managing for Biodiversity in Developing Areas and related appendices (Washington Department of Fish and Wildlife, 2009); and</li><li>II) Management Recommendations for Washington's Priority Habitats and Species (Washington Department of Fish and Wildlife, 1995 revised and expanded multiple times through 2011)</li></ul> <p>Comments related to the comprehensive plan update are noted. The City Council will provide direction to staff and the Planning Commission as the Comprehensive Plan re-write proceeds.</p> <p>Some considerations in the comprehensive planning process include state law requirements to protect Fish and Wildlife Habitat Conservation areas, which are designated as critical areas under WAC 365-196-830. Additional related requirements are located in WAC 365-196-130, including:</p> <ul style="list-style-type: none"><li>a) A requirement to consider creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces, integrating with open space corridor planning where appropriate,</li><li>b) Counties and cities may protect critical areas in different ways or may allow some localized impacts to critical areas, or even the potential loss of some critical areas, development regulations must preserve the existing functions and values of critical areas. If development regulations allow harm to critical areas, they must require compensatory mitigation of the harm. Development regulations may not allow a net loss of the functions and values of the ecosystem that includes the impacted or lost critical areas, Functions and values must be evaluated at a scale appropriate to the function being evaluated. Functions are the conditions and processes that support the ecosystem. Conditions and processes operate on varying geographic scales ranging from site-specific to watershed and even regional scales. Some critical areas, such as wetlands and fish and wildlife habitat conservation areas, may constitute ecosystems or parts of ecosystems that transcend the boundaries of individual parcels and jurisdictions, so that protection of their function, and values should be considered on a larger scale.</li></ul>
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Exhibit 3

<b><i>Nancy Whitten – Logistics/PC Review</i></b>	
10: Provided to us an identification of each item where the Planning Commission changed the rating on the evaluation form from that recommended by staff, and a description of those changes (ROADMAP)	Response: A road map for the proposed major amendments has been provided to the City Council.
<b><i>Nancy Whitten – Wetlands</i></b>	
11: What would it take to adopt a watershed approach to items such as fee in lieu and isolated wetlands filling with no mitigation sequencing. If, e.g., a wetland filling took place in the Beaver Lake basin, what mitigations on site or within that watershed would be possible and feasible to mitigate this action.	<p>Response: According to ECY guidance (Ecology Publication #09-06-032), a watershed is defined as the area contributing water, organic matter, dissolved nutrients, and sediments to aquatic resources. Watersheds can be defined at a small drainage subbasin scale or can be defined at a large drainage basin scale.</p> <p>Taking “a watershed approach” to selecting mitigation sites is described in referenced ECY guidance as being based on analysis of the ecological processes in a drainage basin/watershed; determining what ecological processes have been altered (i.e. change in groundwater flows from loss of forest cover); identifying where these processes can be most effectively restored and protected; and assessing the role mitigation can play in repairing those processes. Taking a watershed approach to selecting mitigation sites can result in a mitigation site being located in a different drainage subbasin than the impact site. Therefore, selecting a mitigation site for an impact in the Beaver Lake drainage basin may or may not result in a mitigation site being established in the Beaver Lake drainage basin.</p> <p>The code, as currently proposed, requires that mitigation first occur on-site. If it can be demonstrated that on-site mitigation is not feasible and that off-site mitigation will achieve a better outcome, then off-site mitigation is to first occur within the same drainage subbasin, then within city limits. If it can be demonstrated that off-site mitigation within the same drainage subbasin or within city limits cannot be accomplished, the applicant can propose mitigation through use of credits purchased from an approved in-lieu fee program or mitigation bank.</p> <p>Depending on the definition of “watershed,” a watershed approach may, or may not, be possible with the use of mitigation credits purchased from an in-lieu fee mitigation program or a regional mitigation bank. The County’s in-lieu fee mitigation program coordinator has relayed to staff that</p>

Exhibit 3

	<p>the County can work with the City to establish a mitigation reserve site(s) within the City depending on the availability of land suitable and available for this purpose. It is unlikely that an in-lieu fee mitigation reserve site(s) could be established in every drainage subbasin within the City, and it is possible that no suitable sites can be feasibly acquired for establishment of an in-lieu fee mitigation reserve site within City limits. This possible limitation is the same whether or not the City works to establish our own in-lieu fee mitigation reserve program or if the City takes advantage of the County’s efforts and resources already expended to establish their program.</p> <p>There are currently no mitigation banks established with Sammamish within the bank’s approved service area; however, one private mitigation banking company is working to establish a mitigation bank north of the city that is expected to include Sammamish within the bank’s service area. Although the City would be within the bank’s service area, the bank would be located outside of the city; hence, mitigation would be outside of the drainage subbasin for most impact sites.</p>
<p>12: In determining if a wetland is of no or low value, why could we not look to all functions of the wetland, not just habitat? What is the justification for limiting the determination of the value of an isolated wetland to only a habitat score?</p>	<p>Response: Landscape position, water quality functions, hydrologic functions, habitat functions, and special characteristics are all considered in the classification of a wetland using the Washington State Wetland Rating System devised by the Washington State Department of Ecology. The proposed limited wetland exemption for isolated, non-riparian wetlands under 4,000 square feet in size is only available for use with Category III or IV wetlands, which typically have a lower score for all of the functions rated using Ecology’s wetland rating methodology when compared to Category II or I wetlands.</p> <p>Use of the proposed limited wetland exemption for isolated, non-riparian wetlands under 4,000 square feet in size is further limited by a low habitat score of 15 because it is thought that the lower rated hydrologic functions lost through filling up to 2,500 square feet of wetland can be mitigated on-site somewhat through on-site stormwater management practices, while lost habitat functions cannot be easily mitigated outside of the remaining wetland or on-site mitigation area. Therefore, the added low habitat score limitation was intended to ensure that there was not much habitat function present to lose or mitigate for.</p>
<p>13: What other jurisdictions use only habitat in determining a low value wetland? What other jurisdictions use all functions in determining a low value</p>	<p>Response: All Washington jurisdictions that utilize the Washington State Wetland Rating System devised by the Washington State Department of Ecology use the habitat rating as part of the overall classification of wetlands. The wetland’s classification, as determined through use of this rating system, is then utilized to determine which wetlands have higher or lower function overall with</p>

Exhibit 3

<p>wetland?</p>	<p>respect to all functions, or with respect to specific functions like habitat. Several jurisdictions, including Sammamish, utilize the habitat function score as derived from the Washington State Wetland Rating System as part of the determination of the required buffer width because best available science indicates that wider buffers are needed to support greater habitat function. No other jurisdictions were identified as having a limited wetland exemption for isolated with the same set of limitations (e.g. riparian, &lt;15 habitat score, etc) under consideration by Sammamish.</p>
<p>14: Please explain the water quality function of a nearly 4000 square foot wetland that is isolated but that keeps untreated storm water from entering a small lake sensitive to P input. Could the water quality be quantified? Could we look at factors, such as the depth and size of the wetland, the volume of water it holds, its ability to infiltrate, its trans evaporation of water into the air, and quantify that and determine a value of that wetland for water quality and quantity purposes?</p>	<p>Response: The City utilizes the Washington State Wetland Rating System devised by the Washington State Department of Ecology to evaluate the water quality function of a wetland. The size of the wetland does not play a significant role in this evaluation method. Water volume can be estimated, but does not in itself determine the water quality function.</p>
<p>15: How much would it cost and how much staff time would it take to adopt a watershed approach to fee in lieu and dealing with isolated wetlands?</p>	<p>Response: Please see above response to question 11, which includes a description of what taking a “watershed approach” to selecting mitigation sites entails. Staff already applies this approach to mitigation site selection and this approach is built into the in lieu fee program as well as mitigation bank programs.</p> <p>It appears that this question may have instead been meant to ask about adopting a “same drainage subbasin as the impact site” approach to mitigation? Please also see the above discussion related to this topic.</p> <p>It does not appear that there will be any significant added cost to the City to work with the County in establishing an in-lieu fee mitigation reserve site in the City. The costs of using this County program will be assumed by individual applicants that purchase mitigation credits through the program. There will be additional time demands on City staff to work with the County on</p>

Exhibit 3

	<p>establishing the in-lieu fee program for use by Sammamish applicants and added staff review time needed when applicants propose to utilize this program, but the amount of time this will add is difficult to quantify at this time.</p> <p>Utilizing the County’s in-lieu fee mitigation program will take less staff time and resources than if the City were to try to establish a separate in-lieu fee mitigation program. The County has indicated that they are willing to work with the City to establish in-city mitigation reserve site(s) utilizing the County’s program and the County’s program has already been established and approved by applicable state and federal agencies.</p>
<p><b><i>Nancy Whitten – EHNSWB Overlay</i></b></p>	
<p>16: What are our erodible slope development regulations OUTSIDE of the no disturbance area?</p>	<p>Response: The city regulates erodible slopes generally under the “Erosion hazard areas – Development standards and permitted alterations” regulations contained in SMC 21A.50.220, which include limitations on the construction season and requirements for the use of erosion and sediment control best management practices. The proposed amendments to this section will further specify appropriate erosion and sediment control measures for sites that are developing during the wet season.</p>
<p><b><i>Ramiro Valderrama - Wetlands</i></b></p>	
<p>17: There are several references in regards to wetlands to Renton and King County regulations. Unless I missed it I did not see their regulations in Volume 2 - can you forward them to the Council please so we can better understand why they don't or do apply.</p>	<p>Response: Ecology has suggested that the city focus on comparing ECA regulations on an overall basis, rather than focusing on individual specific aspects of each jurisdictions’ regulations (e.g. for isolated wetlands). The city has asked AMEC to complete that overall evaluation, which has been provided to the City Council as part of the May 7, 2013 Council packet.</p>
<p>18: On the one known isolated wetland in the city - I understand the hydrology score of this wetland is also low - and that the benefit to water quality though in an urban area is unknown - is that correct?</p>	<p>Response: Although the total number of hydrologically isolated wetlands in Sammamish is unknown, we do know that there is more than one. Although this type of wetland has not historically been tracked by the City, staff has identified several applications that included hydrologically isolated wetlands under 1,000 square feet that were filled utilizing current City Code provisions. Staff has also identified 42, which included properties with likely hydrologically isolated wetlands under 4,000 square feet in size, with habitat scores under 15. This information is from a recent review of permitting files, and therefore only quantifies this specific subset of isolated</p>

Exhibit 3

	<p>wetlands (under 4,000 square feet with habitat score below 15) on a subset of city properties (those subject to a development application). It is difficult to extrapolate these numbers to all parcels in the City. To date, staff has not identified any confirmed hydrologically isolated wetlands located within the shoreline jurisdiction. Under state guidelines, the shoreline jurisdiction includes all associated wetlands. Ecology staff has stated that wetlands in shoreline jurisdiction are unlikely to meet the isolated, non-riparian criteria.</p> <p>A review of BAS confirms that the benefits of a wetland, even with a low hydrology score, are more valuable in an urbanizing area than in a rural area because there is more pressure on, and more need for, a wetland’s hydrology functions in an urbanizing area. As described in the Western Washington Wetland Rating System manual, a key part of characterizing the function of a wetland is related to the “opportunity” that the subject wetland has to perform that function. For example, wetlands found in a polluted watershed have a higher opportunity to perform water quality functions than a wetland that has few if any pollutant sources in the surface or groundwater hydrologically associated with the wetland. Therefore, a wetland in a pristine watershed with no pollutant sources has less opportunity to provide water quality functions such as removing pollutants regardless of how capable the wetland is of performing this function.</p>
<p>19: Can we request that King County apply the money from a fee-in-lieu program to treat an approved water basin in Sammamish?</p>	<p>Response: Yes, the County’s in-lieu fee mitigation program coordinator has relayed to staff that the County can work with the City to establish a mitigation reserve site(s) within the City depending on the availability of land suitable and available for this purpose. It is unlikely that an in-lieu fee mitigation reserve site(s) could be established in every drainage subbasin within the City, and it is possible that no suitable sites can be feasibly acquired for establishment of an in-lieu fee mitigation reserve site within the City. This possible limitation is the same whether or not the City works to establish our own in-lieu fee mitigation reserve program or if the City takes advantage of the County’s efforts and resources already expended to establish their program. Staff is meeting with King County staff to get more information about what this coordinated effort will involve.</p>
<p>20. What are the pros and cons on wetland and stream buffer delineation?</p>	<p>Response: There is no Best Available Science (BAS) based methodology for buffer delineation. On the contrary, BAS indicates that when existing buffer conditions are degraded, a wider buffer and restoration should be required. Staff recommends that existing and proposed code flexibilities related to maintaining and expanding existing residential uses provide effective mechanisms.</p>
<p>21. Would there be a standard vegetation mitigation for the isolated wetland</p>	<p>Mitigation for the fill allowed in this proposed code section would have to be designed to replace lost wetland functions and values. The required vegetation component of mitigation will be</p>

Exhibit 3

<p>amendment proposed for SMC 21A.50.320(2)? What would the vegetation mitigation requirements be? Phosphorous controls are not necessary for an isolated wetland - correct?</p>	<p>dependent on the type of vegetation that is present in the wetland that is proposed to be filled. For example, if the wetland to be filled has a mature forested vegetation community, then the mitigation plan would need to address replacing the habitat and hydrological functions that will be lost with this forested vegetation community. If the wetland is characterized by grasses, the mitigation plan will need to address the lost functions from this vegetation community type. Adding a specific vegetation requirement would limit the flexibility needed to address an individual wetland’s functions and values that are being proposed to be replaced through mitigation.</p> <p>Depending on the location of the wetland and its relationship to surrounding areas, phosphorous controls may be appropriate, but staff does not recommend including this as a requirement because this can currently be included in required mitigation under existing code authority.</p>
<p><b>Ramiro Valderrama - EHNSWB Overlay</b></p>	
<p>22. On the no disturbance area - this was inherited from King County - were there other cities that had designated no disturbance areas? If so is their status today - are they still in place? If not what made Sammamish so distinct from all others.</p>	<p>Response: The Erosion Hazard near Sensitive Water Body (EHNSWB) overlay and the associated no-disturbance area were not identified in other portions of King County. King County initiated the review of Lake Sammamish water quality protection of what was then reviewed to as the East Sammamish Community (now Sammamish) in the late 1980s. The review culminated in the adoption of several plans, including the East Lake Sammamish Basin and Non Point Action Plan in 1994, which focused in part on the protection of water quality in Lake Sammamish. The East Lake Sammamish Basin and Non Point Action Plan provides the policy and regulatory direction to create what is now known as the EHNSWB overlay.</p> <p>When the East Lake Sammamish Basin and Non Point Action Plan was adopted, King County was the agency with jurisdiction on land use development for the area that is now Sammamish, which was largely undeveloped. Issaquah, Redmond, and Bellevue were already incorporated and largely, though not completely, developed when the overlay was first established by King County.</p>
<p>23. IF - the Council approved all the pilots on the no-disturbance area what developments would be left to develop in that area?</p>	<p>Response: Staff cannot predict with precision the amount of land that may be consumed through the development authorized by the pilot program; at this time there is not an overall limit on the amount of land used as part of a subdivision. The staff are aware of two or three possible projects within the no-disturbance area, including the Probst property (approximately 26 acres), the Osgood property (approximately 3.8 acres), and the Morelli property (approximately 9.6 acres).</p>
<p>24. Is there any significant difference between Mr. Carson development site</p>	<p>Response: The Probst property (the site Mr. Carson’s client is interested in developing) is constrained by on-site steep slopes, erosion hazard areas, and the city understands there may be a</p>

Exhibit 3

<p>and the current development taking place on ELSP in Redmond less than a mile north from Mr. Carson's property?</p>	<p>stream or wetland on the site (unconfirmed). Site slope gradients on the Probst site significantly exceed 15%, which is the threshold for most erosion hazard areas in the City of Sammamish. The Probst property currently drains to the west into Lake Sammamish. As may be expected, staff is less familiar with the site in Redmond. Redmond maps indicate that the site is not mapped as an erosion hazard area, and the available site topography appears to be approximately 15-16%. This site also appears (based on topography) to drain west into the wetland adjoining Marymoor park.</p>
<p>25. Can you send me the form that required volume controls on the pilot project on steep slopes - believe it was version (g) that was turned down by the planning commission?</p>	<p>Response: The Planning Commission did not request that the staff prepare a form including a volume control standard as part of 4-15f (Osgood). The idea was discussed with the Osgoods before the public hearing however the Osgoods were not supportive of the approach. The rating of the Osgood proposal initially was an overall "Negative", which was modified by the Planning Commission.</p>
<p><b>Tom Vance - Logistics</b></p>	
<p>26. Would like to review minor items that are substantial in nature.</p>	<p>Response: The city has presented a list of the "minor items" that represent a substantial amendment to the ECA regulations, although these items did not require increased scrutiny by the Planning Commission and were generally not controversial. These included the following:</p> <ul style="list-style-type: none"> <li>• Introduce thresholds to trigger stormwater treatment for redeveloped sites and pervious pollutant generating areas (3-12)</li> <li>• Revise the standard within SMC 21A.50.260(1) such that landslide hazard area buffers extend from top and toe of slope (instead of from edge) (4-7)</li> <li>• Revise SMC 21A.50.260 (2)(b) to include specified minimum static and seismic factors of safety for slope stability. (4-11)</li> <li>• Add functional criteria for allowing buffer reductions or increases (2-4, 2-5).</li> <li>• Specify under what conditions construction is allowed during the wet season in the Erosion Hazard area. (4-1)</li> <li>• Clarifying the location of the "top" of the no-disturbance area in the EHNSWB (4-3)</li> <li>• Clarifying the definition of landslide hazard areas related to steep topography (4-12)</li> </ul>
<p><b>Tom Vance - EHNSWB Overlay</b></p>	
<p>27. What is the effect of the tightline discharging into Lake Sammamish in terms of an effect on "stirring" phosphorous up from the lake bed?</p>	<p>Response: Tightline drainage discharges into Lake Sammamish are normally designed to dissipate energy associated with the outlet. The Planning Commission and City Council have received public comments / testimony, which is supported by the BAS Reports, that water quality in Lake Sammamish is sensitive to phosphorous. There is a risk that the proposed tightline approach could "stir up" sediment on the lake bottom, that may contribute to the amount of phosphorous in Lake</p>

Exhibit 3

	Sammamish. One possible option is to include specific language requiring the installation of an energy dissipater at the end of the tightline drainage system to minimize this risk further (e.g. by directing discharge towards the surface of the lake at the very end of the pipe).





STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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April 23, 2013

Mr. Evan Maxim  
Senior Planner  
City Sammamish  
801 228<sup>th</sup> Avenue, SE  
Sammamish, WA 98075

Subject: Ecology Review of Proposed Environmentally Critical Areas Ordinance

Dear Mr. Maxim:

Thank you for the opportunity to provide comments on the proposed amendments to the City's Environmentally Critical Areas Ordinance. The draft we reviewed is dated February 12, 2013, and is the Planning Commission-recommended draft. We are submitting the attached comments on the proposed wetland regulations for consideration by the City Council at the public hearing on May 7, 2013.

We appreciate the effort that has gone into the current draft, especially with regard to regulating small wetlands. However, we believe that some aspects of the current draft will result in a high risk of degradation to the City's wetland resources. We continue to be concerned about the City's strategy for protecting small wetlands and allowing buffer reductions.

Our Water Quality Program wrote the second half of this comment letter on the Pilot Project to Develop in the No Disturbance Area.

Please do not hesitate to contact me at (425) 649-4447 or [patrick.mcgraner@ecy.wa.gov](mailto:patrick.mcgraner@ecy.wa.gov) if you have any questions about these comments. You may also contact Donna Bunten at (360) 407-7172 or [donna.bunten@ecy.wa.gov](mailto:donna.bunten@ecy.wa.gov).

Sincerely,

Patrick McGraner  
Wetland Specialist  
Shorelands and Environmental Assistance

ecc: Heather Ballash, Department of Commerce  
Theresa Nation, WDFW  
Joe Burcar, Ecology SEA Program  
Donna Bunten, Ecology SEA Program  
Erik Stockdale, Ecology SEA Program  
Kevin Fitzpatrick, Ecology WQ  
Dave Garland, Ecology WQ Program  
Brent Carson, VanNess Feldman GordonDerr Attorneys at Law

## Exhibit 4

Mr. Evan Maxim  
April 23, 2013  
Page 2

### **21A.15.1415 Wetlands**

We believe that, as written, the definition of wetlands may be confusing. We recommend the following:

Wetlands in the City of Sammamish include all areas meeting the definition provided by RCW 36.70A.030(21), specifically: "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands. Wetlands shall be delineated in accordance with federal 1987 *Wetland Delineation Manual* (Environmental Laboratory, 1987) and the United States Army Corps of Engineers (USACE) *Interim Regional Supplement for Western Mountains, Valleys, and Coast Region* (USACE, 2010).

### **21A.15.1410 Isolated Wetlands**

Please see our previous comments and recommendation in the letter dated October 3, 2012. In order to re-emphasize and to provide additional clarity, we again recommend making the following revisions to this definition:

"Wetland, isolated," means a wetland that is hydrologically isolated from other aquatic resources, as determined by the United States Army Corps of Engineers (USACE). Isolated wetlands may perform important functions and are protected by state law (RCW 90.48) whether or not they are protected by federal law.

### **21A.50.060 Allowances for Existing Urban Development and Other Uses**

This section of proposed code has multiple allowances for expansions and additions that could impact critical area buffers. The concern that Ecology has with this section is the use of the overly broad term of "building(s)." Does this include small outbuildings, sheds, well-pump houses, garages or any and all structures? Is the term "buildings" defined in code anywhere?

The allowed expansions to buildings as outlined in 21A.50.060(2)(b) should only be applied to dwelling units. Ecology further recommends that 21A.50.060(2)(b)(3)(b) be eliminated from the draft code. A variance process is a more appropriate way to handle such a situation. Subsection 21A.50.060(2)(b)(3)(c) would thus need to be revised accordingly.

### **21A.50.320 Development Flexibilities**

A qualified professional does not have the *authority* to determine whether or not a wetland is isolated with regards to federal jurisdiction under the Clean Water Act. Only the USACE can make this determination based on its interpretation of the Clean Water Act. The language under .320(1) that refers to a qualified professional should be deleted accordingly. Codifying this language as currently drafted could lead citizens to falsely believe that a determination by a private consultant would preclude the need to comply with federal and/or state regulations with regards to filling small wetlands.

## Exhibit 4

Mr. Evan Maxim

April 23, 2013

Page 3

Paragraph (2) exempts certain small wetlands from mitigation sequencing and from the provisions of SMA 21A.50.290. As has been stated previously by Ecology (October 3, 2012), the scientific literature does not support exempting wetlands that are below a certain size. While we continue to recognize the ongoing administrative desire to place size thresholds on wetlands that are to be regulated, Ecology re-emphasizes that it is not possible to conclude from size alone what functions a particular wetland may be providing.

Ecology has already suggested (October 3, 2012) that the City adopt the language found in the *Guidance for Small Cities* which allows for exemptions to isolated Category III and Category IV wetlands less than 1,000 sf that meet specific criteria. Ecology continues to support this approach.

Paragraph (3) requires a 15-foot buffer on Category III and IV wetlands scoring 15 or fewer habitat points. This is not consistent with the best available science (BAS), and this provision will likely result in an unmitigated loss of wetland function. The City's stated purpose (21A.50.010(6)) in this ordinance is to prevent overall net loss of wetland functions.

In Section 8E.2.7.1 of *Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands* (Publication # 05-06-008, April 2005), the smallest recommended buffer is 25 feet for a Category IV wetland with *low-intensity adjacent land use*. The fact that a wetland receives a Category III rating indicates that it already provides a moderate level of functions.

We recommend deleting this provision (paragraph 3) from the draft and requiring the standard buffers in 21A.50.290(1) for these wetlands. The City should limit exemptions to isolated Category III and IV wetlands less than 1,000 square feet as discussed above and described in the *Guidance for Small Cities*. Otherwise, development applications that seek to reduce buffers below those supported by (BAS) should be reviewed through a reasonable use exception or variance process.

### **21A.50.290 Development Standards**

Ecology is concerned that the strategies for reducing wetland buffers contained in the draft proposal will not protect wetland functions and will result in degradation of the City's wetland resources. Buffer reductions should be achieved only through averaging or tied to reducing impacts from the adjacent land use that will have negative effects on the wetland's functions.

The draft ordinance allows buffer averaging to 50 percent of the standard buffer width. We are concerned that this will result in buffers that will not adequately protect wetland functions. We recommend limiting the reduction to 25 percent of the standard buffer and adding the requirement that no feasible alternatives to the site design could be accomplished without buffer averaging. Buffer averaging and buffer reduction should not be used on the same segment of buffer, as proposed in paragraph (6)(f).

Likewise, buffer reductions (paragraph (8)) should be limited to 25 percent of the standard buffer, not 50 percent as proposed. The options of allowing reduced buffer width as an incentive to reduce water quality impacts on adjacent wetlands are commendable. However, a number of the proposed incentive options are already required for stormwater treatment and should be reevaluated as an incentive for buffer reduction. However, in no case should a buffer width based on the habitat function of a wetland be reduced in exchange for reductions in water quality impacts from adjacent land uses. Buffer reductions under these circumstances should be limited to wetlands that score <19 points for habitat function.

## Exhibit 4

Mr. Evan Maxim

April 23, 2013

Page 4

Requiring replanting when a substantial portion of the remaining buffer is degraded is not consistent with Ecology's guidance. One of the most critical elements of Ecology's buffer widths is the assumption that the buffers are well-vegetated with a relatively intact, native plant community (8C.2.5.1 of *Wetlands in Washington State, Volume 2*):

If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

In other words, the buffer should be well vegetated; if it is not, it should be widened or replanted—but not reduced.

Paragraph (9) states that the use of hazardous substances “may” be prohibited by the City. Under what conditions? Ecology recommends that any pesticides used within 25 feet of a wetland (or 100 feet if spraying) have to be listed in their MSDS as non-toxic to fish and aquatic invertebrates, and that Integrated Pest Management practices be used when working in or near wetlands.

### **21A.50.300 Permitted Alterations**

Who will determine whether a wetland or buffer is “used” by a listed species (paragraph (5)(b))? How will this use by a T/E species be determined? Generally speaking, most data collected for a required critical areas study is collected in one or two brief site visits depending upon the size of the project so how will it be known whether or not the project site is being used by a T/E species? Does the proposed code define “actual habitat?”

Paragraph (7) addresses the use of wetlands and wetland buffers for stormwater. Ecology recently updated its Stormwater Manual for Western Washington. This manual has very specific requirements for the use of wetlands and buffers for stormwater management. Ecology recommends that stormwater management activities follow the guidance found in **Appendix I-D: Guidelines for Wetlands when Managing Stormwater** from *Stormwater Management Manual for Western Washington, Volume I, August 2012, Publication #12-10-030*. The guidance contains four Guide Sheets that were developed based on BAS. This publication is available on Ecology's web-site at <https://fortress.wa.gov/ecy/publications/publications/1210030part1.pdf>.

Paragraph (8) allows trails in wetland buffers. What are the development standards in Chapter 21A.30? The scientific literature is clear that at least 150 feet is required to prevent the disturbance associated with human intrusion from affecting wildlife. The decision to allow trails should be based on the size of the buffer, habitat function, and the societal need. Ecology recommends that trails be limited to the outer 25% of the buffer.

Ecology recommends changing the language in paragraph (13)(a) to be more inclusive rather than restricted only to sponsorship by a public agency. This sentence could simply read that restoration is allowed if approved by all agencies with jurisdiction. This approach would allow any entity to propose restoration.

## Exhibit 4

Mr. Evan Maxim

April 23, 2013

Page 5

The language in paragraph (13)(d) seems to imply that no contact with critical areas or their buffers is allowed during restoration. How is it feasible to restore a critical area without contact and temporal impacts? Both federal and state agencies routinely approve mitigation and restoration plans with temporal impacts during construction. These impacts are minimized through a number of best management practices (BMPs) including such things as limiting construction to the dry season, using pressure mats, large rubber tires on equipment, special rough terrain excavators, standard erosion control measures to mention a few examples.

Ecology recommends revising (13)(d) to read "restoration should be completed in accordance with best management practices (BMPs) and acceptable standards consistent with wetland science to minimize impacts to wetlands" or similar language. The draft language as written has the potential to limit the opportunity to improve the functions of degraded wetlands within the City's jurisdiction.

### **21A.50.310 Mitigation Requirements**

The correct citation in paragraph (1) should be to Publication No. 06-06-11a and b.

**21A.50.322(3)(d)(4)** – This subsection within the section for **Wetland management area – Special district overlay** requires the planting of native conifers not less than three feet tall and native deciduous trees to be not less than five feet tall. While Ecology understands the intention and desire to establish larger trees sooner as a goal for restoring forested communities within wetlands, there is substantial evidence based on years of monitoring mitigation sites that planting smaller trees yields the same or better results. Small stock has a better chance to spread roots in a manner that allows each individual plant to adapt to the specific spot in which it was planted.

It has been widely observed by wetland restoration scientists that smaller stock will quickly overtake and outgrow the larger stock in a few short years even when planted side by side. This is likely because it takes larger stock longer to adapt to the new environment. Larger stock often needs to be irrigated until fully established. Not all sites and situations are the same. There may be times when planting larger stock is preferred but Ecology recommends that this decision be made on a case by case basis and not as a code requirement.

### **21A.50.145 Mitigation Plan Requirements**

We recommend revising paragraph (7) to require monitoring for 10 years if a forested or scrub-shrub wetland is the goal. These communities take at least eight years after planting to reach 80-percent canopy closure. Having a ten-year monitoring program need not require biologists to collect data and produce a report every year. That could be done in years 1, 2, 3, 5, 7, and 10, for example. It may be more appropriate to include this requirement under 21A.50.310, since it pertains to wetland mitigation.

### **Ecology Water Quality Program Comments on the Pilot Project to Develop in the No Disturbance Area**

Ecology's Water Quality Program reviewed the implementation language on the pilot program in the draft City of Sammamish (City) Critical Areas Ordinance (CAO) 21A.20.220 and 21A.20.225. We are also in receipt of a letter dated April 8, 2013 from Brent Carson, attorney of VanNess Feldman GordonDerr, representing a Lake Sammamish area landowner. Mr. Carson's letter describes the City's plans to conduct a pilot project to develop within areas designated as No Disturbance Areas of the City's existing Erosion Hazard Near Sensitive Water Bodies Overlay (EHNSWB).

## Exhibit 4

Mr. Evan Maxim

April 23, 2013

Page 6

We recognize that the City is not the only jurisdiction permitting construction along Lake Sammamish and understand its interest in exploring the value in retaining these specially designated areas. Overall we appreciate that the City is proposing to go beyond the required minimums for some stormwater management control elements such as requiring a 60% total phosphorus reduction treatment in stormwater runoff for those projects where access to Lake Sammamish is only available via connection to an existing offsite, manmade conveyance.

We do, however, maintain the concern expressed in our letter of October 17, 2012 that the City needs to be vigilant about minimizing phosphorus loading to Lake Sammamish from all development and redevelopment projects. Cumulative development by all Lake Sammamish jurisdictions without water quality control can potentially lead to excessive nutrients in the lake which leads to algal blooms and low dissolved oxygen in the water. With this caution in mind we offer the following comments on proposed pilot program:

- (1) NPDES Construction Permitting: It will be necessary for qualifying pilot projects to comply with applicable construction stormwater permits and use all best management practices. For projects that will directly discharge to Lake Sammamish via a bypass pipe, it will be critically important to install any bypass pipes prior to construction. Under the Construction Permit, Ecology requires turbidity monitoring. During construction, Ecology also recommends monitoring for pH rather than the temperature monitoring found in the draft CAO. Further, Ecology will require that any project with the potential to pollute such as those projects in the EHNSWB, regardless of project size will be required to get a construction permit.
- (2) Municipal Stormwater NPDES Permit, WAR04-5540: In developing requirements for projects in erosion hazard areas, erosion hazard areas near sensitive water bodies, and no-disturbance areas, the City should be careful not to violate any provisions of its Municipal Stormwater NPDES Permit, WAR04-5540. We draw your attention, in particular to two provisions in the permit effective August 1, 2012:
  - a. Proposals to tightline stormwater directly to Lake Sammamish may be approved only if the criteria under the Applicability section of Minimum Requirement #7 are fully met. See Section 4.7 in Appendix 1 of your current permit. If the City wishes to allow direct tightlines to Lake Sammamish that do not meet the cited criteria, or criteria in the 2009 King County Surface Water Drainage Manual, it must develop a water quality and quantity plan that supports the proposal. The plan must receive Ecology approval prior to being implemented. See Section S5.C.4.a.i. and, as appropriate, Appendix 1, Section 6 or 7 of your current permit.
  - b. Because the City has adopted the King County Surface Water Drainage Manual, direct or indirect discharges to Lake Sammamish must comply with Section 1.2.8.1.B "Sensitive Lake WQ Treatment Areas." Ecology reminds the City that the treatment goal for facility options in the Sensitive Lake Protection menu is 50% annual average total phosphorus removal assuming typical pollutant concentrations in urban runoff. Mr. Carson's letter proposed that discharges from developments in the no-disturbance area be provided with treatment systems that remove 60% total phosphorous. To Ecology's knowledge, a listing of technologies that remove 60% total phosphorus has not been established. Development of such a list would require Ecology approval.
- (3) Pilot Project Sampling: Ecology recommends use of a Quality Assurance Project Plan (QAPP) (Ecology Publication No. 04-03-030) for pilot project sampling. The sampling should include a pre-construction baseline, include soluble reactive phosphorus, and define the monitoring as seven rain events rather than monitoring seven times per year. The monitoring should have an end date and make recommendations for local decision makers for future best development practices.

Exhibit 4

Mr. Evan Maxim

April 23, 2013

Page 7

- (4) Pilot Project Sizing: By definition, a pilot project is tested on a smaller scale before being placed in practice on a larger scale. Ecology recommends that draft CAO pilot project language define the scale as a smaller percentage of the EHNSWB developable acreage.
- (5) Ecology supports infiltrating as much water onsite as possible to recharge groundwater and maintain stream baseflow. In addition CAO21A.50.220 (1)(iii) language Ecology recommends adding that the engineer or geologist will determine how much water can safely be infiltrated on site before making recommendations for tightlines.
- (6) Native Growth Protection Easement: The 1994 East Lake Sammamish Basin and Nonpoint Plan has recommendations for base flow maintenance of 25% Native Growth Protection Easement (NGPE) in forested open space and less than 35% impervious area for new developments. 21A.20.225 (5)(c)(iii)(G) of the draft CAO calls for a 15% NGPE. Ecology recommends that the draft CAO language be updated to stipulate that all pilot projects maintain at least 25% NGPE forested open space. (5)(c)(iii)(F) limits impervious area for tightline projects to 50%. Ecology recommends that the selected projects be required to maintain at least 35% NGPE forested open space.

Thank you for the opportunity to provide comment on the pilot program. We are available to discuss these comments and provide guidance on recommended sampling and NPDES stormwater and construction permit requirements. We want keep careful track of maintaining the Lake Sammamish water quality goals. We know that it is in the interest of all who enjoy Lake Sammamish to keep our water clean.

