# CITY OF SAMMAMISH
## WASHINGTON

### ORDINANCE NO. O2016 - 410

**AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, PERTAINING TO THE PROTECTION AND REGULATION OF ENVIRONMENTALLY CRITICAL AREAS IN THE SAMMAMISH SHORELINE MASTER PROGRAM AND IN THE ENVIRONMENTALLY CRITICAL AREAS REGULATIONS, AMENDING CHAPTERS 25.01, 25.02, AND 25.08 AND 21A.15 AND 21A.50 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 Council adopted Ordinance O2013-350, which contained development regulation amendments pertaining to the protection and regulation of Environmentally Critical Areas in Sammamish on July 9, 2013; and

WHEREAS, the City Council desires the proposed amendments to be effective throughout the City including within shoreline jurisdiction; and

WHEREAS, the Washington State Department of Ecology Conditionally Approved the proposed development regulation amendments pertaining to the protection and regulation of Environmentally Critical Areas in the Sammamish Shoreline areas in the Sammamish Shoreline Master Program on March 9, 2016; and

WHEREAS, the City, in preparation of the Environmentally Critical Areas regulatory amendments for Ordinance O2013-350, 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, laws, rules, guidelines, and agency comments; and

WHEREAS, the City, in preparation of the Environmentally Critical Areas regulatory amendments for Ordinance O2013-350, 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, in preparation of the Environmentally Critical Areas regulatory amendments for Ordinance O2013-350, has received 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 preparation of the Environmentally Critical Areas regulatory amendments for Ordinance O2013-350, 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, in preparation of the Environmentally Critical Areas regulatory amendments for Ordinance O2013-350, 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

WHEREAS, in preparation of the Environmentally Critical Areas regulatory amendments for Ordinance O2013-350, 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, in preparation of the Environmentally Critical Areas regulatory amendments for Ordinance O2013-350, 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, in preparation of the Environmentally Critical Areas regulatory amendments for Ordinance O2013-350, 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 provided a recommendation to the City Council supporting the Environmentally Critical Areas regulatory amendments adopted into Ordinance O2013-350; and

WHEREAS, prior to the adoption of the Environmentally Critical Areas regulatory amendments for Ordinance O2013-350, the City Council held five study sessions on the proposed amendments on March 5, March 12, March 18, April 2, and April 15, 2013, public hearings on May 7, May 20, and June 4, 2013, and deliberated on June 4, June 11, July 2, and July 15, 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, 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, 25.01 – Introduction, 25.02 – Definitions, 25.08 – Permit Criteria and Administrative Standards**. 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 and Title 25 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 five days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 7th DAY OF JUNE, 2016**

CITY OF SAMMAMISH

Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

Approved as to form:

Michael R. Kenyon, City Attorney

| | |
|---|---|
| Filed with the City Clerk: | April 27, 2016 |
| Public Hearing: | May 3, 2016 |
| First Reading: | May 3, 2016 |
| Public Hearing: | May 17, 2016 |
| Second Reading: | May 17, 2016 |
| Third Reading: | May 24, 2017 |
| Passed by the City Council: | June 7, 2016 |
| Date of Publication: | June 10, 2016 |
| Effective Date: | June 15, 2016 |

# Ordinance O2016-410 - Attachment A – Item 1
# City of Sammamish 2016 ECA/SMP Update
# Amendments to SMC Title 20.05.020

"Normal Text" is existing code language
"~~Strikethrough Text~~" is existing language that will be deleted
"Underline Test" is code language that will be added
"…" indicates that there is additional code language that has been omitted

## 20.05.020 Classifications of land use decision processes.

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

(a) Type 1 decisions are made by the director (director) of the department of community development (department). Type 1 decisions are non-appealable administrative decisions that require the exercise of little or no administrative discretion. For Type 1 decisions for which the department has issued a SEPA threshold determination, the issuance of any subsequent permits shall not occur until any allowed administrative appeal of the SEPA threshold determination is decided.

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

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

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

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

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

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

**Exhibit A**

**LAND USE DECISION TYPE**

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

| | | |
|---|---|---|
| **Type 4** | Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board | Shoreline variances; shoreline substantial development permits (SSDPs); shoreline conditional use permits |

[1] The road variance process is administered by the City engineer pursuant to the City's street standards as set forth in the public works standards.

[2] Subject to the notice requirements of SMC 21A.70.195(4).

[3] Subject also to the procedural requirements of SMC 20.05.037 and Chapter 21B.95 SMC.

[4] Approvals that are consistent with the interim comprehensive plan may be considered by the examiner at any time. Zone reclassifications that are not consistent with the interim comprehensive plan require a site-specific land use map amendment and the City council's hearing and consideration will be scheduled with the amendment to the interim comprehensive plan pursuant to SMC 24.25.040 and 24.25.050.

(Ord. O2014-372 § 1; Ord. O2011-297 § 1 (Att. A); Ord. O2010-293 § 1 (Att. A); Ord. O2009-249 § 1; Ord. O2004-150 §§ 1 – 4; Ord. O2000-63 §§ 1, 2, 3; Ord. O99-29 § 1)

# Ordinance O2016-410 - Attachment A – Item 2
# City of Sammamish 2016 ECA/SMP Update
# Amendments to SMC Title 21A.15

"Normal Text" is existing code language
"~~Strikethrough Text~~" is existing language that will be deleted
"Underline Test" is code language that will be added
"…" indicates that there is additional code language that has been omitted

## 21A.15.469 Fish and wildlife habitat corridors.

"Fish and wildlife habitat corridors" means those corridors set aside and protected for preserving connections between habitats 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~~8 on the Washington State Wetland Rating System for Western Washington (Department of Ecology ~~2004~~2014 or as revised) that are 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~~8 on the Washington State Wetland Rating System for Western Washington. Fish and wildlife habitat corridors do not increase streams buffers, except as required to provide a connection between two features as described above. (Ord. O2013-350 § 1 (Att. A))

# Ordinance O2016-410 - Attachment A – Item 3
# City of Sammamish 2016 ECA/SMP Update
# Amendments to SMC Title 21A.50

"Normal Text" is existing code language
"~~Strikethrough Text~~" is existing language that will be deleted
"Underline Test" is code language that will be added
"…" indicates that there is additional code language that has been omitted

Chapter 21A.50
ENVIRONMENTALLY CRITICAL AREAS

Sections:

21A.50.010 Purpose.

21A.50.020 Applicability.

21A.50.030 Appeals.

21A.50.040 Critical areas rules.

21A.50.045 Fees.

21A.50.050 Complete exemptions.

21A.50.060 Allowances for existing urban development and other uses.

21A.50.070 Exceptions.

21A.50.080 Repealed.

21A.50.090 Critical area maps and inventories.

21A.50.100 Disclosure by applicant.

21A.50.110 Critical area review.

21A.50.120 Critical areas study requirement.

21A.50.130 Contents of critical areas study.

21A.50.135 Avoiding impacts to critical areas.

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

21A.50.145 Mitigation plan requirements.

21A.50.150 Financial guarantees.

21A.50.160 Vegetation management plan.

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

21A.50.180 Notice on title.

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

21A.50.200 Recodified.

21A.50.210 Building setbacks.

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

21A.50.225 Erosion hazards near sensitive water bodies overlay.

21A.50.230 Frequently flooded areas.

21A.50.240 Repealed.

21A.50.250 Repealed.

21A.50.260 Landslide hazard areas – Development standards and permitted alterations.

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

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

21A.50.290 Wetlands – Development standards.

21A.50.300 Wetlands – Permitted alterations.

21A.50.310 Wetlands – Mitigation requirements.

21A.50.315 Wetlands – Alternative mitigation.

21A.50.320 Wetlands – Development flexibilities.

21A.50.322 Wetland management area – Special district overlay.

21A.50.325 Fish and wildlife habitat conservation areas – Development standards.

21A.50.327 Fish and wildlife habitat corridors.

21A.50.330 Streams – Development standards.

21A.50.340 Streams – Permitted alterations.

21A.50.350 Streams – Mitigation requirements.

21A.50.351 Repealed.

21A.50.352 Repealed.

21A.50.355 Lake management areas – Special district overlay.

21A.50.360 Repealed.

21A.50.370 Repealed.

21A.50.380 Repealed.

21A.50.390 Repealed.

21A.50.400 Repealed.

**21A.50.010 Purpose.**

The purpose of this chapter is to implement the goals and policies of the Washington State Growth Management Act, Chapters 36.70A and 36.70B RCW, the State Environmental Policy Act, Chapter 43.21C RCW, and the City of Sammamish Comprehensive Plan, as amended, that call for protection of the functions and values of the natural environment and the public health and safety by:

(1) Establishing development standards to protect defined critical areas;

(2) Protecting members of the public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, seismic events, soil subsidence or steep slope failures;

(3) Protecting unique, fragile, and valuable elements of the environment including, but not limited to, wildlife and its habitat;

(4) Requiring mitigation of unavoidable impacts on environmentally critical areas by regulating alterations in or near critical areas;

(5) Preventing cumulative adverse environmental impacts on water availability, water quality, groundwater, wetlands, and streams;

(6) Measuring the quantity and quality of wetland and stream resources and preventing overall net loss of wetland and stream functions and values;

(7) Protecting the public trust as to navigable waters and aquatic resources;

(8) Meeting the requirements of the National Flood Insurance Program and maintaining the City as an eligible community for federal flood insurance benefits;

(9) Alerting members of the public including, but not limited to, appraisers, owners, potential buyers or lessees to the development limitations of critical areas;

(10) Establishing special district overlays with alternative development standards for increasing minimum requirements to address unique site characteristics in areas of increased sensitivity;

(11) Providing City officials with sufficient information to protect critical areas; and

(12) Providing the public with a clear review and approval process for the development of sites constrained by critical areas. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

**21A.50.020 Applicability.**

(1) The provisions of this chapter shall apply to all land uses in the City of Sammamish, and all persons within the City shall comply with the requirements of this chapter.

(2) The City shall not approve any development proposal or otherwise issue any authorization to alter the condition of any land, water or vegetation or to construct or alter any structure or improvement without first assuring compliance with the requirements of this chapter.

(3) Approval of a development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.

(4) When any provision of any other chapter of the Sammamish Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, that provision that provides more protection to environmentally

critical areas shall apply unless specifically provided otherwise in this chapter or unless such provision conflicts with federal or state laws or regulations.

(5) The provisions of this chapter shall apply to all forest practices over which the City has jurisdiction pursuant to Chapter 76.09 RCW and WAC Title 222. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.030 Appeals.**

Any decision to approve, condition or deny a development proposal based on the requirements of this chapter may be appealed according to and as part of the appeal procedure for the permit or approval involved. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.040 Critical areas rules.**

Applicable departments within the City are authorized to adopt, pursuant to Chapter 2.55 SMC, such administrative rules and regulations as are necessary and appropriate to implement this chapter and to prepare and require the use of such forms as are necessary to its administration. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.045 Fees.**

(1) Consistent with the City's adopted fee schedule, the City shall establish fees for the application filing, review and other services provided by the City for critical areas review. Basis for these fees shall include, but not be limited to, the cost of engineering and planning review time, cost of inspection time, costs for administration, costs for third-party peer review, and any other special costs attributable to the critical areas review process.

(2) Unless otherwise indicated in this title, the applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessments, studies, plans, reconnaissances, or other work prepared in support of or necessary to review the application. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1)

**21A.50.050 Complete exemptions.**

The following are exempt from the provisions of this chapter and any administrative rules promulgated thereunder except as provided in SMC 25.01.070 which excludes specific Environmentally Critical Areas rules from application within the City of Sammamish Shoreline Jurisdiction:

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

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

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

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

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

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

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

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

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

(5) All clearing and grading activities that are exempt from the requirement for a clearing and grading permit as specified in SMC 16.15.050, unless these activities require other permits or authorizations as specified in SMC 21A.50.020. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

**21A.50.060 Allowances for existing urban development and other uses.**

Subject to the limitations set forth in subsection (1) below ~~T~~the following developments, activities, and uses are allowed in critical areas and associated buffers and building setbacks as specified in the following subsections, provided such activities are otherwise consistent with this program and other applicable regulations. The director may apply conditions to an underlying permit or approval to ensure that the activities are consistent with the provisions of this chapter.

(1) Change of Use and Existing Improvements. Approval of a preliminary subdivision, short subdivision or binding site plan shall require that an existing improvements, or nonconformance, as that term is defined in SMC 21A.15.800, be removed or discontinued prior to recording of the final plat, final short plat, or binding site plan resulting in five (5) or more lots in the following circumstances:

(a) The existing improvements or nonconformance is located within environmentally critical areas or buffers. This includes, but is not limited to, a nonconformance within an area proposed to be included in an averaged or reduced buffer; and,

(b) Removal of the existing improvement or nonconformance will result in a reduced impact to environmentally critical areas; or

(c) One of or more of the following criteria are met:

i. Removal or discontinuance of the existing improvement or nonconformance is necessary to meet water quality, drainage, or re-vegetation requirements or to qualify for incentives.

ii. The existing improvement or nonconformance is a use no longer allowed in the zoning designation or would be incompatible with a proposed use.

iii. Removal or discontinuance of the existing improvement or nonconformance is necessary for public health, safety, or welfare, including but not limited to adequate sanitation, access, and/or safe walking conditions for school children.

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

(3~~2~~) Modifications of Existing Improvements. Addition, expansion, reconstruction or revision of existing building(s) or other structures is subject to the following:

(a) Modification or Replacement. Structural modification or replacement of legally established structures that do not meet the building setback or buffer requirements for wetlands, streams, fish and wildlife habitat conservation areas, wildlife habitat corridors, or landslide hazard areas is allowed if the modification, replacement or related activity does not increase the existing footprint of the structure lying within the critical area, buffer or building setback area, and there is no increased risk to life or property.

(b) Expansions of Single Detached Dwelling Units and Accessory Dwelling Units. Structural modification of, addition to, or replacement of legally created single detached dwelling unit(s) and accessory dwelling unit(s) and associated impervious surfaces that do not meet the applicable building setback or buffer requirements for wetlands, streams, fish and wildlife habitat conservation areas, or landslide hazard areas are allowed a one-time up to 1,000 square foot increase in the existing total footprint of the single detached dwelling unit(s) and accessory dwelling unit(s) and associated impervious surface areas lying within the buffer or building setback subject to the following:

(i) If the existing legally created single detached dwelling unit(s) and accessory dwelling unit(s) and associated impervious surfaces are located within the building setback or buffer required for a landslide hazard area, a critical areas study must be supplied consistent with the provisions of SMC 21A.50.130 and approved by the City that demonstrates that there will be no increased risk to life or property by the proposed footprint expansion;

(ii) If the existing legally created single detached dwelling unit(s) and accessory dwelling unit(s) and associated impervious surfaces are located over or within a wetland, stream, or landslide hazard area, no further expansion within the wetland, stream, or landslide hazard area is allowed; and

(iii) If an existing legally created single detached dwelling unit and an accessory dwelling unit and associated impervious surfaces are located within the building setback or buffer for a stream or wetland, or within a fish and wildlife habitat conservation area:

(A) No portion of the modification, addition or replacement may be located closer to a wetland or stream than the nearest extent of the existing single detached dwelling unit, except as provided under subsection (2)(b)(iii)(B) of this section.

(B) When there is an intervening single detached dwelling unit(s) or accessory dwelling unit(s) on a perpendicular line in between the subject wetland or stream and a single detached dwelling unit or accessory dwelling unit that is proposed to be modified, added to, or replaced, the modification, addition or replacement may be located closer to the wetland or stream, provided no portion of the modification, addition or replacement is located closer than 50 feet to the wetland or stream.

(C) Modifications, additions, or replacements authorized under this subsection shall meet the following criteria:

(1) A critical areas study approved by the City demonstrates a net improvement in hydrologic and habitat values to the subject affected wetland, stream, fish and wildlife habitat conservation area through restoration of degraded areas and/or buffer or through provision of additional vegetated buffer; and

(2) Mitigation of impacts to disturbed critical areas or buffers is provided in accordance with this chapter.

(c) Expansions of Buildings in Commercial Zoning Districts. Structural modification of, addition to, or replacement of legally created buildings and associated impervious surfaces located in the community business, neighborhood business, office, and Town Center A zones, that do not meet the applicable building setback or buffer requirements for wetlands, streams, fish and wildlife habitat conservation area, or landslide hazard areas are allowed a one-time up to 1,000 square foot increase in the existing total footprint of the building and associated impervious surface areas lying within the buffer or building setback subject to the following:

(i) If the existing legally created building(s) and associated impervious surfaces are located within the building setback or buffer required for a landslide hazard area, a critical areas study must be supplied consistent with the provisions of SMC 21A.50.130 and approved by the City that demonstrates that there will be no increased risk to life or property by the proposed footprint expansion;

(ii) If the existing legally created building(s) and associated impervious surfaces are located over or within a wetland, stream, or landslide hazard area, no further expansion within the wetland, stream, or landslide hazard area is allowed; and

(iii) If an existing legally created building(s), and associated impervious surfaces, are located within the building setback or buffer for a stream or wetland, or within a fish and wildlife habitat conservation area:

(A) No portion of the modification, addition or replacement may be located closer to a wetland or stream than the nearest extent of the existing building(s), except as provided under subsection (2)(c)(iii)(B) of this section.

(B) When there is an intervening building(s) on a perpendicular line in between the subject wetland or stream and building(s) that is proposed to be modified, added to, or replaced, the modification, addition or replacement may be located closer to the wetland or stream, provided no portion of the modification, addition or replacement is located closer than 50 feet to the wetland or stream.

(C) Modifications, additions, or replacements authorized under this subsection shall meet the following criteria:

(1) A critical areas study approved by the City demonstrates that the proposed modification, addition, or replacements authorized by this subsection will also result in a net improvement in hydrologic and habitat values to the subject affected wetland, stream, fish and wildlife habitat conservation area through

restoration of degraded areas and/or buffer or through provision of additional vegetated buffer; and

(2) Mitigation of impacts to disturbed critical areas or buffers is provided in accordance with this chapter.

(~~3~~4) Revisions to existing legally established landscaping are allowed subject to the following:

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

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

(c) Revisions authorized under this subsection shall not require a critical areas study.

(~~4~~5) Conservation, preservation, restoration and/or enhancement is allowed within critical areas or buffers subject to the following:

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

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

(~~5~~6) Select Vegetation Removal Activities.

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

(i) The plants are removed using hand labor and/or light equipment;

(ii) Soil disturbance is minimized and no filling or modification of soil contours occurs;

(iii) Water quality is protected and there is no modification of hydrology patterns within the critical area or buffer;

(iv) Native plants are protected from removal or damage;

(v) Appropriate erosion-control measures are used;

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

(vii) Removal of nonnative or invasive plants authorized under this subsection shall not require a critical areas study.

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

(~~6~~7) Reconstruction or replacement of the exterior footprint of an existing, legally established structure not meeting current regulations is allowed; provided, that the addition or reconstruction does not increase the noncompliance to current regulations. A critical areas study may be required by the director.

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

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

(c) If a structure not meeting current regulations is damaged by fire, explosion, or other casualty and/or natural disaster or is otherwise demolished, it may be reconstructed to match the footprint that existed immediately prior to the time the damage occurred or in accordance with subsection (6)(a) of this section; provided, that all of the following criteria are met:

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

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

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

(~~7~~8) A permit or approval sought as part of a development proposal where previous critical areas review has been completed is exempt from the provisions of this chapter and any administrative rules promulgated thereunder, except for the notice on title provisions, SMC 21A.50.180 and 21A.50.190, if:

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

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

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

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

(e) The prior permit or approval, including any conditions, has been complied with. (Ord. O2013-350 § 1 (Att. A); Ord. O2009-264 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.070 Exceptions.**

Except as prohibited in the City of Sammamish Shoreline Jurisdiction under SMC 25.01.070, the following are exceptions from the provisions of this chapter when applicable criteria and performance standards are met:

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

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

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

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

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

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

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

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

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

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

(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. O2013-350 § 1 (Att. A); 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:

(1) Many of the wetlands located within the City's boundaries are inventoried in the King County wetlands inventory notebooks.

(2) Flood hazard areas are mapped by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for King County."

(3) 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 environmentally critical areas. The determination may be challenged by the property owner pursuant to Chapter 21A.05 SMC. (Ord. O2013-350 § 1 (Att. A); 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, the applicant shall declare whether such violation has been corrected to the satisfaction of the City. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

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

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

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

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

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

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

(d) Evaluate the critical areas study and require third party review, if necessary;

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

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

(g) Determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare, consistent with the goals, purposes, objectives, and requirements of this chapter. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

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

(1) An applicant for a development proposal where impacts to or alteration of an environmentally critical area or modification or reduction of a buffer associated with an environmentally critical area is proposed or may occur as a consequence of proposed actions shall submit a critical areas study at a level determined by the director to adequately evaluate the proposal and probable impacts.

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

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

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

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

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

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

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

(5) A development proposal may be allowed to utilize past studies from neighboring properties, if confirmed that the study findings remain accurate and applicable to proposed development. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

(6) A wetland delineation completed over five years ago needs to be revisited. Revisiting a wetland delineation that is five or more years old does not necessarily mean that a new wetland delineation needs to be completed. It means that a field verification by the City may need to be performed to determine whether the delineation is still accurate or whether it needs to be redone based on existing conditions.

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

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

(a) 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;

(b) Assessment of the impacts or risks to an environmentally critical area or buffer:

(i) Related to the development proposal and associated alterations to the subject property; and

(ii) Affecting other properties and any environmentally critical areas or buffers located on them.

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

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

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

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

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

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

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

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

(2) A critical areas study may be combined with any studies required by other laws and regulations. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

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

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

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

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

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

(c) Restoring the impacted critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer.

(d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through plantings, engineering or other methods.

(e) Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal, activity or alteration.

(f) Compensating for the adverse impact by enhancing critical areas and their buffers or creating substitute critical areas and their buffers as required in the SMC.

(g) Monitoring the impact, hazard or success of required mitigation and taking remedial action based upon findings over time.

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

(3) The department shall document the decision-making process used under this section as a part of the critical areas review conducted pursuant to SMC 21A.50.110. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1)

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

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

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

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

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

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

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

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

(a) Within the same drainage sub-basin;

(b) Within the City limits;

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

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

(6) Mitigation shall not be implemented until after the City of Sammamish approves the applicable critical areas study, mitigation plan and any required permits. Following City approval, mitigation shall be implemented in accordance with the provisions of the approved critical areas study and mitigation plan. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

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

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

(1) Existing Conditions and Proposed Impacts. A description of existing critical area(s) and/or buffer(s) conditions, functions, and values and a description of the anticipated impacts;

(2) Proposed Mitigation. A description of proposed mitigating actions and mitigation site selection criteria;

(3) Environmental Goals and Objectives. A description of the goals and objectives of proposed mitigation. The goals and objectives shall be related to the functions and values of the impacted critical area(s) and/or buffer(s);

(4) Best Available Science. A review of the best available science supporting proposed mitigation, a description of the plan/report author's experience to date in restoring or creating the type of critical area proposed, and an analysis of the likelihood of success of the mitigation project;

(5) Performance Standards. A description of specific measurable criteria for evaluating whether or not the goals and objectives of the mitigation plan have been successfully attained and whether or not the requirements of this chapter have been met;

(6) Detailed Construction Plans. Detailed site diagrams, cross-sectional drawings, topographic elevations at one- or two-foot contours, slope percentage, final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. In addition, plans should include specifications and descriptions of:

(a) Proposed construction sequence, timing, and duration;

(b) Grading and excavation details;

(c) Erosion and sediment control features;

(d) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

(e) Measures to protect and maintain plants until established;

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

(8) Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met; and

(9) Fee-in-Lieu Program. If fee-in-lieu mitigation is proposed, a critical areas study shall be supplied that demonstrates how proposed impacts and mitigation meet the requirements of SMC 21A.50.140 and 21A.50.310 or 21A.50.350, whichever is applicable, and also the specific requirements of the fee-in-lieu mitigation program to be utilized. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4)

**21A.50.150 Financial guarantees**.

Financial guarantees shall be required consistent with the provisions of SMC Title 27A. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

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

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

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

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

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

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

(6) Submittal requirements for vegetation management plans shall be set forth by the department. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

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

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

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

(3) Fencing. Permanent fencing shall be required at the outer edge of the critical area buffer under the following circumstances:

(a) As part of any development proposal for:

(i) Plats;

(ii) Short plats;

(iii) Parks;

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

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

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

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

Fencing installed in accordance with this section shall be designed to not interfere with fish and wildlife migration and shall be constructed in a manner that minimizes critical areas impacts. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

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

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

(2) The applicant shall submit proof that the notice has been filed for public record before the City shall approve any development proposal for the property or, in the case of subdivisions, short subdivisions and binding site plans, at or before recording. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

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

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

(a) All landslide hazard areas and buffers that are one acre or greater in size;

(b) All wetlands and buffers;

(c) All streams and buffers; and

(d) All fish and wildlife habitat conservation areas and buffers.

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

(3) Site plans submitted as part of development proposals for building permits, master plan developments, and clearing and grading permits shall include and delineate all flood hazard areas (if they have been mapped by FEMA or if a critical areas study is required), landslide hazard areas, streams and wetlands, buffers, and building setbacks.

If only a part of the development site has been mapped pursuant to SMC 21A.50.130(3), the part of the site that has not been mapped shall be clearly identified and labeled on the site plans. The site plans shall be attached to the notice on title required by SMC 21A.50.180. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.200 Alteration.**

Recodified to SMC 21A.15.056 by Ord. O2005-172. (Ord. O99-29 § 1)

**21A.50.210 Building setbacks**.

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

(1) Landscaping;

(2) Uncovered decks, less than 18 inches above grade;

(3) Building overhangs if such overhangs do not extend more than 18 inches into the setback area;

(4) Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to special drainage provisions adopted for the various critical areas; and

(5) Trails. (Ord. O2013-350 § 1 (Att. A); Ord. O2009-264 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

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

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

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

(i) The minimum requirements from the adopted surface water design manual and SMC Title 13, Surface Water Management:

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

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

(C) Establishment of a manager, who is a Certified Erosion and Sediment Control Lead (CESCL) in the state of Washington, and will be available on call to respond to temporary erosion and sediment control noncompliance;

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

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

(F) A seasonal suspension plan for suspending work until the end of the rainy season if temporary erosion and sediment control measures are found to be inadequate;

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

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

(iv) The owner must provide a financial guarantee in accordance with Chapter 27A.15 SMC, and in an amount sufficient to cover all costs of implementing the approved 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 use 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 subsection (1)(a) of this section, the director may require additional studies of the site hydrology, soils and storm water retention, and may also require grading, structural improvements, erosion control measures, restoration plans, and/or an indemnification/release agreement.

(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.

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

(2) All development proposals on sites containing erosion hazard areas shall include a temporary erosion and sediment control plan as specified in subsection (1)(a) of this section 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 SMC 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 SMC 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. 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.

(5) The use of hazardous substances, pesticides, and fertilizers in erosion hazard areas may be prohibited by the City. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.225 Erosion hazards near sensitive water bodies overlay.**

(1) The purpose of the erosion hazards near sensitive water bodies overlay 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:

(a) The one acre exemption in the storm water design manual addendum shall not apply within the erosion hazards near sensitive water body overlay.

(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).

(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 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.

(3) No-Disturbance Area Development Standards. The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the no-disturbance area:

(a) Development shall not occur in the no-disturbance area, except for the development activities listed in subsection (3)(a)(i) of this section. Development activities listed in subsection (3)(a)(i) of this section shall only be permitted if they meet the requirements of subsection (3)(a)(ii) of this section.

(i) Development activities may be permitted as follows:

(A) For single-family residences, associated landscaping and any appurtenances on preexisting separate lots;

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

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

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

(E) Work authorized pursuant to the pilot program.

(ii) The development activities listed in subsection (3)(a)(i) of this section may be permitted only if the following requirements are met:

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

(B) The development activities shall be mitigated, monitored and bonded consistent with the mitigation requirements applicable to environmentally critical areas;

(C) The development activities are limited to the minimal area and duration necessary for construction; and

(D) The development activities are consistent with this chapter.

(b) 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 existing soil conditions, consistent with the infiltration system design requirements of the KCSWDM;

(ii) Development proposals that meet the goals of low impact development, as follows:

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

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

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

(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 in addition to the applicable flow control and water quality treatment standards of the adopted surface water design manual to minimize the risk of landslide or erosion within the no-disturbance area and minimize the risk of water quality impacts to any sensitive water body located downstream of 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 400 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this subsection.

(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:

(a) 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 (per the adopted surface water design manual and SMC 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:

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

(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.

(b) 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.

(c) 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.

(a) Establishment of Pilot Program. A pilot program is hereby established to allow pilot project subdivision, including 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. The provisions of this pilot program shall not apply, and pilot projects shall not be authorized, within the mapped Ebright Creek, Pine Lake Creek, Zaccuse Creek, and “mid-Monohon” sub-basins.

(b) Effective Date. The terms of this pilot program related to pilot projects authorized under subsection (5)(d)(i) of this section, and to properties within the shoreline jurisdiction, shall take effect following the adoption of the pilot program into a Department of Ecology approved Sammamish shoreline master program.

(c) 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, and are not subject to the preceding subsections of this section.

(d) Eligibility. A maximum of four subdivision projects are authorized by this pilot program. A maximum of two projects may be authorized under subsection (5)(d)(i) of this section and a maximum of two projects may be authorized under subsection (5)(d)(ii) of this section. Projects eligible for inclusion in this pilot program shall meet the provisions of subsection (5)(d)(i) or (5)(d)(ii) of this section:

(i) Tightline Drainage Design. Where direct access to Lake Sammamish is available, the applicant shall install permanent water quality treatment per the adopted surface water design manual and a tightline storm drain system discharging directly into Lake Sammamish designed by a professional engineer using the adopted surface water design manual and technologies. The applicant shall also install temporary erosion sediment control improvements, including active

water quality treatment. The tightline system shall extend through the property and be available by extension or easement upstream to properties that naturally drain to the subject property; or

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

(A) Sixty-five percent of the site shall remain as forested open space. Revegetation shall be required to convert nonforested open space to forested as part of the project approval.

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

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

(e) Pilot Program Administration.

(i) Application. Applications for eligible projects meeting the provisions of subsection (5)(d) of this section shall be administered as follows:

(A) Within two years of the effective date of this subsection, a maximum of one project eligible for the pilot program under subsection (5)(d)(i) of this section and a maximum of one project eligible for the pilot program under subsection (5)(d)(ii) of this section may be accepted subject to the provisions of subsection (5) of this section. Following completion and acceptance of all required infrastructure necessary to support the proposed project, and barring any failure of the required infrastructure that causes an environmental failure, an additional one project eligible for the pilot program under subsection (5)(d)(i) of this section and an additional one project eligible for the pilot program under subsection (5)(d)(ii) of this section may be accepted subject to the provisions of subsection (5) of this section. For the purposes of this subsection, infrastructure necessary to support the proposed project shall include, at a minimum, all public or private storm water improvements, and all public or private roads improvements associated with the project.

(B) 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 Chapter 20.05 SMC, and an applicant must have completed any necessary preliminary steps prior to application as set forth in Chapter 20.05 SMC.

(C) 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 for the same development type shall be accepted into the pilot program.

(D) 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.

(E) 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 the period established in subsection (5)(e)(i) of this section. 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.

(f) Development Requirements. Projects accepted under this pilot program may conduct clearing and development in the no-disturbance area, and shall not be subject to subsection (2) of this section so long as projects accepted under this pilot program and associated clearing and development meet the following requirements:

(i) The development shall comply with the adopted surface water design manual and SMC Title 13, Surface Water Management;

(ii) The total project area shall be limited to 30 acres per project. For the purposes of this subsection, pilot projects on adjoining lots shall be considered one project;

(iii) Pilot projects proposed pursuant to subsection (5)(d)(ii) of this section, Low Impact Design, shall incorporate Level 3 flow control, or equivalent, as approved by the director, in addition to the volume control standard specified in subsection (5)(d)(ii) of this section;

(iv) Pilot projects proposed pursuant to subsection (5)(d)(i) of this section, Tightline Drainage Design, shall incorporate an energy dissipater in the tightline system, or equivalent, as approved by the director;

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

(vi) Post Development Phosphorous Control. The proposed storm water facilities shall be designed to remove 80 percent of all new total phosphorus loading on an annual basis due to new development (and associated storm water discharges) where feasible or utilize AKART if infeasible. At a minimum, post development water quality treatment shall be designed to achieve a goal of 60 percent total phosphorus (TP) removal for the water quality design flow or volume (defined in Section 6.2.1, p. 6-17 of the adopted 2009 KCSWDM);

(vii) Drainage systems shall be designed to accommodate the 100-year storm, consistent with the requirements of the adopted surface water design manual;

(viii) Low impact design techniques shall be incorporated into the design of homes constructed on the resultant lots to the maximum extent practically feasible; provided, that infiltration of storm water shall be prohibited except where there are no erosion hazard areas located downslope of the infiltration system;

(ix) Pilot projects shall set aside 50 percent of the gross site area as a permanent open space tract. Revegetation shall be required to convert nonforested open space to forest as part of the project approval. For the purposes of this subsection, the gross site area shall be the entire area of a property associated with a pilot project participating in the pilot program;

(x) Lots shall be clustered to the maximum extent feasible to minimize site grading in the no-disturbance area;

(xi) No more than 30 percent of the net developable area within a pilot project shall be covered by impervious surfaces. Required street improvements are included in this impervious surface limitation. For the purposes of this subsection, the net developable area shall be the entire area of a property participating in the pilot program minus any environmentally critical areas and buffers;

(xii) Construction Season Work Limits. Land clearing and grading may only occur between June 1st to August 30th with the phases of construction limited as follows:

(A) On or after June 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 storm water conveyance, permanent and temporary storm water 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 storm water conveyance system if feasible, or a temporary tightline system to be replaced by the permanent system as construction progresses;

(B) Following installation and approval of the permanent and water quality treatment described in subsection (5)(f)(xii)(A) of this section, development of the remainder of the site may occur;

(C) No later than August 30th, all site clearing and grading activity must be completed and the site fully prepared for winter rains, through techniques such as hydroseeding or stabilization as set forth in an approved construction season work limit plan;

(D) The director may extend the seasonal construction limitations described above if, in the director's determination, appropriate erosion control measures and practices are in place and then prevailing weather patterns permit. The director shall not authorize work prior to May 1st or after September 30th.

(xiii) Construction Season Work Limit Implementation. City approval of a temporary erosion and sediment control plan consistent with this section, SMC 21A.50.220, and other laws and regulations is required prior to any site work. The temporary erosion and sediment control plan shall comply with grading limits, shall include construction season work limits that comply with

the construction season limitations, and shall include a close out plan identifying the actions that will be taken to ready the site for winter weather. The close out plan shall include the following:

(A) By July 15th City approval of any proposed changes to the close out plan to assure that the site will be prepared for winter weather by August 30th is required.

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

(C) By August 15th, City inspection is required of the site to confirm that all mandatory elements of the close out plan are being implemented. Following inspections, the City shall direct the applicant to take any additional actions that are necessary and may order all construction work to be stopped other than work to prepare the site for winter weather.

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

(E) The director may extend these seasonal construction limitations if, in the director's determination, appropriate erosion control measures and practices are in place and then prevailing weather patterns permit. The director shall not authorize work prior to May 1st or after September 30th.

(xiv) Early Installation of Permanent Storm Water Management System. In addition to installation of all required temporary sediment and erosion control measures, and prior to any grading, other than grading necessary for installation of the storm water management system, the applicant shall construct the project's storm water management systems in accordance with plans approved by the City. Storm water systems shall include permanent and temporary water quality treatment and detention facilities specified in the latest approved version of the surface water design manual and the pipes and outlet facilities necessary to convey storm water to the approved discharge location.

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

(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 (Sections C250 and C251, Volume II, Department of Ecology Stormwater Management Manual).

(g) Monitoring and Reporting on Pilot Program Projects. The purpose of collecting, monitoring, and reporting information on the pilot program projects is to 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)(d)(ii) of this section, Low Impact Design, 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 submitted 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. (Ord. O2013-350 § 1 (Att. A); 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. 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).

(2) Development in frequently flooded areas shall be subject to the provisions in Chapter 15.10 SMC. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.240 Flood hazard areas – Certification by engineer or surveyor.**

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

**21A.50.250 Channel relocation and stream meander areas.**

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

**21A.50.260 Landslide hazard areas – Development standards and permitted alterations.**

A development proposal containing, or within 50 feet of, a landslide hazard area shall meet the following requirements:

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

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

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

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

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

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

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

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

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

(f) Recommendations for building siting limitations;

(g) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion; and

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

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

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

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

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

(i) Approved surface water conveyances, as specified in the adopted surface water design manual and SMC Title 13, Surface Water Management, may be allowed in a landslide hazard area if they are installed in a manner to minimize disturbance to the slope and vegetation;

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

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

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

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

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

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

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

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

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

(ii) 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 landslides;

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

(6) 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. O2013-350 § 1 (Att. A); 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. O2013-350 § 1 (Att. A); 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

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

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

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

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

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

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

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

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

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

(a) New and existing commercial and industrial land uses and activities located in Class 1 and Class 2 CARAs shall submit a hazardous materials inventory statement with a development proposal.

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

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

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

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

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

(ii) Groundwater depth, flow direction and gradient;

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

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

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

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

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

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

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

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

(d) A spill containment and response plan, when required by subsection (3)(b) of this section, is required to identify equipment and/or structures that could fail and shall include provisions for inspection as required by the applicable state regulations, repair and replacement of structures and equipment that could fail.

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

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

**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) |
|---|---|---|---|
| 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 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 used to recirculate a chemical heat transfer fluid other than potable water | prohibited | | prohibited |
| Closed loop geothermal/heat exchange wells used to recirculate potable water* | prohibited | | ** |
| Open loop geothermal/heat exchange wells | prohibited | | prohibited |
| Closed loop geothermal/heat exchange systems (surface) | allowed subject to compliance with federal and state standards** | | ** |
| Injection wells (storm water or reclaimed water) | prohibited | prohibited | ** |
| Cemeteries | prohibited | ** | ** |

**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) |
|---|---|---|---|
| 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 |

* Closed loop geothermal/heat exchange wells shall register their location with the City.

** Best management practices (BMPS) and integrated pest management (IPM), as applicable, are required for these uses.

**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 | | |

(5) Requirements for Specific Uses and Activities.

(a) Commercial Vehicle Repair and Servicing.

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

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

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

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

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

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

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

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

(i) Source location of imported fill;

(ii) Previous land uses of the source location; and

(iii) Whether or not fill to be imported is native, undisturbed soil.

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

(i) The system is approved by the Washington State Department of Health and the system either uses an upflow media filter system or a proprietary packed-bed filter system or is designed to achieve approximately 80 percent total nitrogen removal for typical domestic wastewater; or

(ii) The Seattle-King County department of public health determines that the systems required under subsection (5)(f)(i) of this section will not function on the site.

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

(i) The system is approved by the Washington Department of Ecology as compliant with the provisions of Chapter 173-160 WAC; and

(ii) A notice on title is recorded documenting the maintenance requirements of the geothermal/heat exchange wells. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

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

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

(1) Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington (Department of Ecology, 2014~~2004~~, or as may be amended or revised by the Department from time to time). This document contains the definitions, methods and a rating form for determining the categorization of wetlands described below:

(a) Category 1. Category 1 wetlands include those that receive a score of greater than or equal to ~~70~~23-27 points based on functions, or those that are rated Category 1 based on special characteristics as defined in the rating form.

(b) Category 2. Category 2 wetlands include those that receive a score of ~~51 through 69~~ 20-22 points based on functions, or those that are rated Category 2 based on special characteristics as defined in the rating form.

(c) Category 3. Category 3 wetlands include those that receive a score of ~~30 through 50~~ 16-19 points based on functions.

(d) Category 4. Category 4 wetlands that score ~~less than 30~~ equal to or less than 15 points based on functions.

(2) 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~~8-9 | 200 |
| | Habitat score ~~20 – 28~~5-7 | 150 |
| | Not meeting above criteria | 125 |
| Category II: | Habitat score ~~29 – 36~~8-9 | 150 |

| Wetland Category | | Standard Buffer Width (ft) |
|---|---|---|
| | Habitat score ~~20 – 28~~5-7 | 100 |
| | Not meeting above criteria | 75 |
| Category III: | Habitat score ~~20 – 28~~8-9 | 75 |
| | Not meeting above criteria | 50 |
| Category IV: | | All land use types – 50 |
| Category III and IV: | Subject to SMC 21A.50.320 | |

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

(b) In addition to the provisions of SMC 21A.50.060, where a buffer has been previously established on a legally created parcel or tract that was legally established according to the regulations in place at the time of establishment, and is permanently recorded on title or placed within a separate tract, the buffer shall remain as previously established, provided it is equal to or greater than 50 percent of the current required standard buffer distance for the applicable wetland category.

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

(3) Removal of any native vegetation or woody debris from a wetland or wetland buffer may be allowed only as part of an approved alteration. Only native vegetation can be planted in wetland or buffer areas, unless the planting is otherwise allowed by SMC 21A.50.060, Allowances for existing urban development and other uses.

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

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

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

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

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

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

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

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

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

(f) Buffer averaging may be used in conjunction with buffer reduction options in this section, provided the total combined reduction does not reduce the buffer to less than 50 percent of standard buffer width at any location.

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

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

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

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

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

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

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

(i) Habitat complexity, connectivity and biological functions;

(ii) Seasonal hydrological dynamics as provided in the adopted surface water design manual;

(iii) Sediment removal and erosion control;

(iv) Pollutant removal;

(v) Large wood debris (LWD) recruitment;

(vi) Water temperature;

(vii) Wildlife habitat; and

(viii) Microclimate.

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

(a) Up to 20 percent reduction in the standard buffer width may be allowed if water quality is improved in excess of the requirements of the adopted surface water design manual and SMC Title 13, Surface Water Management, through the use of created and/or enhanced wetlands, or ponds supplemental to existing storm drainage and water quality requirements.

(b) Removal of existing impervious surfaces:

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

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

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

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

(i) An undisturbed vegetated buffer is preserved in the remaining buffer width; and

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

(iii) Native tree or shrub vegetation covers less than 25 percent of the total buffer area and the area will be revegetated according to a City-approved restoration plan with native trees and shrubs; and

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

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

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

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

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

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

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

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

(i) 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.

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

(11) The introduction of livestock into a wetland or wetland buffer is prohibited. (Ord. O2013-350 § 1 (Att. A); Ord. O2009-264 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

**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 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 except as required by a state or federal permit or approval or as otherwise allowed by SMC 21A.50.060, Allowances for existing urban development and other uses.

(4) Utilities may be allowed in wetland buffers if:

(a) The director determines that no reasonable alternative location is available; and

(b) The utility corridor meets any additional requirements for installation, replacement of vegetation and maintenance, as needed to mitigate impacts.

(5) Sewer utility corridors may be allowed in wetland buffers only if:

(a) The applicant demonstrates that the sewer line location is necessary for gravity flow;

(b) The corridor is not located in a wetland or buffer used by species listed as endangered or threatened by the state or federal government or containing critical or outstanding actual habitat for those species or heron rookeries or raptor nesting trees;

(c) The corridor alignment including, but not limited to, any allowed maintenance roads follows a path farthest from the wetland edge as feasible;

(d) Corridor construction and maintenance protects the wetland and buffer and is aligned to avoid cutting trees greater than 12 inches in diameter at breast height, when possible, and pesticides, herbicides and other hazardous substances are not used;

(e) An additional, contiguous and undisturbed buffer, equal in width to the proposed corridor, including any allowed maintenance roads, is provided to protect the wetland;

(f) The corridor is revegetated with appropriate native vegetation at preconstruction densities or greater immediately upon completion of construction or as soon thereafter as possible, and the sewer utility ensures that such vegetation survives;

(g) Any additional corridor access for maintenance is provided, to the extent possible, at specific points rather than by a parallel road; and

(h) The width of any necessary parallel road providing access for maintenance is as small as possible, but not greater than 15 feet; the road is maintained without the use of herbicides, pesticides or other hazardous substances; and the location of the road is contiguous to the utility corridor on the side away from the wetland.

(6) Joint use of an approved sewer utility corridor by other utilities may be allowed.

(7) Where technically feasible, surface water discharge shall be located outside of the wetland and wetland buffer. Where surface water management is authorized within a wetland or wetland buffer it shall be consistent with Appendix I-D: Guidelines for Wetlands when Managing Stormwater Manual for Western Washington, Volume I, August 2012, Publication No. 12-10-030, as such publication may be amended or revised by the Department of Ecology from time to time.

(8) Public and private trails may be allowed in the outer 25 percent of wetland buffers consistent with the standards and requirements in this chapter, development standards in Chapter 21A.30 SMC, and requirements elsewhere in the SMC. Proposals for constructing viewing platforms, associated access trails, and spur trails must be reviewed by a qualified professional and a critical areas study may be required.

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

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

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

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

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

(a) The director determines that:

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

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

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

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

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

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

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

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

(a) The restoration is approved by all agencies with jurisdiction;

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

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

(d) The restoration should be completed in accordance with best management practices (BMPs) and acceptable standards consistent with best available wetland science to minimize impacts to wetlands; and

(e) The restoration is performed under the direction of a qualified professional. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

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

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

(1) Equivalent or Greater Biological Functions. Mitigation for alterations to wetland(s) and/or wetland buffer(s) shall achieve equivalent or greater biologic functions and shall be consistent with the Department of Ecology

Guidance on Wetland Mitigation in Washington State (2004, Department of Ecology Publication No. 06-06-11a and b), as such publication may be amended or revised by the Department of Ecology from time to time.

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

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

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

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

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

(c) Off-site locations have been identified and evaluated in the following order of preference:

(i) Within the same drainage sub-basin;

(ii) Within the City limits;

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

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

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

(6) Mitigation Ratios.

(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.

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

| Category and type of wetland | Wetland reestablishment or creation | Wetland rehabilitation | 1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E) |
|---|---|---|---|
| Category I bog | Not allowed | 6:1 rehabilitation of a bog | Case-by-case |

| Category and type of wetland | Wetland reestablishment or creation | Wetland rehabilitation | 1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E) |
|---|---|---|---|
| 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:

| Wetland category | Permanent conversion of forested and shrub wetlands into emergent wetlands | | | Mitigation for temporal loss of forested and shrub wetlands when the impacted wetlands will be revegetated to forest or shrub communities | | |
|---|---|---|---|---|---|---|
| | Enhancement | Rehabilitation | Creation or restoration | Enhancement | Rehabilitation | Creation or restoration |
| Category I | 6:1 | 4.5:1 | 3:1 | 3:1 | 2:1 | 1.5:1 |
| Category II | 3:1 | 2:1 | 1.5:1 | 1.5:1 | 1:1 | .75:1 |
| Category III | 2:1 | 1.5:1 | 1:1 | 1:1 | .75:1 | .5:1 |
| Category IV | 1.5:1 | 1:1 | .75:1 | Not applicable | Not applicable | Not applicable |

(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.

(c) Increased 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.

(d) Decreased 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.

(e) Minimum 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. 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.

(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 conforming to the requirements of this chapter and section shall be provided.

(b) On sites where nonnative vegetation was cleared, restoration shall include installation of native vegetation with a density equal to or greater than the pre-altered site conditions. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.315 Wetlands – Alternative mitigation.**

(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.

(d) Implementation of a mitigation bank is subject to City council review and approval.

(2) Fee-in-Lieu Mitigation.

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

(i) The approved wetland impact is related to the approval of a single-family home, City of Sammamish capital improvement project, or development proposal within the Town Center;

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

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

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

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

(vi) 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 same sub-basin as the approved wetland impact.

(ii) The King County mitigation reserves program, or other approved program that gives priority to sites within the same sub-basin.

(iii) A City approved program, the King County mitigation reserves program, or other approved program that gives priority to sites that will expand or improve habitat for Lake Sammamish Kokanee.

(iv) The King County mitigation reserves program, or other approved program that gives priority to sites within the same sub-basin and/or a predefined service area that includes the City of Sammamish. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1)

**21A.50.320 Wetlands – Development flexibilities**.

The following alterations shall be authorized if the director determines that the cumulative impacts do not unduly counteract the purposes of this chapter and are mitigated pursuant to an approved mitigation plan:

(1) Isolated wetlands, ~~as designated by a qualified professional using the adopted Washington State Wetland Rating System for Western Washington~~ as defined consistent with SMC 21A.15.1410, and evaluated in a written and approved critical areas study meeting the requirements of SMC 21A.50.130, with a total area of up to 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.~~

(2) Category III and IV wetlands with a total area of 4,000 square feet or less may have the buffer reduced by 15 feet, provided:

(a) The wetland does not score ~~15~~4 points or ~~greater~~less for habitat in the adopted Western Washington rating system; and

(b) The buffer functions associated with the area of the reduced buffer width are mitigated through the enhancement of the wetland, the remaining on-site wetland buffer area, and/or other adjoining high value habitat areas as needed to replace lost buffer functions and values; and

(c) No subsequent buffer reduction or averaging is authorized.

(3) Pilot Program. In accordance with SMC 25.01.070 this Pilot Program is not applicable within the City of Sammamish Shoreline Jurisdiction.

(a) Establishment of Pilot Program. A pilot program is hereby established to allow isolated category III and IV wetlands to be exempted from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) and the provisions of SMC 21A.50.290, subject to the provisions of this section.

(b) Purpose. The purpose of this pilot program is to allow for limited alterations of low habitat value isolated category III and IV wetlands with an area of 4,000 square feet or less, to evaluate the effects of such alterations on hydrologic, habitat, and water quality functions and values.

(c) Application. Applications for eligible projects meeting the provisions of subsections (3)(d) through (g) of this section must be submitted within two calendar years from the effective date of the revision to the Sammamish shoreline master program.

(d) Pilot Program Administration.

(i) Three projects associated with the construction of a single-family home are authorized by this pilot project, subject to the provisions of this section.

(ii) Eligible projects shall be accepted in the order received. To qualify for submittal, an applicant must have a complete application as described in the City's application material and Chapter 20.05 SMC, and completed any necessary preliminary steps prior to application as set forth in Chapter 20.05 SMC.

(iii) In the event that an application for a project accepted into the pilot program is withdrawn by the applicant or cancelled by the director prior to the expiration of the pilot program, the next submitted application shall be accepted into the pilot program.

(iv) The director shall use the authority under SMC 20.05.100 to ensure expeditious processing of 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.

(e) Eligible Projects. Subject to the limitation in the total number of projects in subsection (3)(d) of this section, wetlands that meet the following criteria 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. To be eligible, a critical areas study prepared by a qualified professional shall be approved by the director and shall document the following:

(i) The wetland is a category III or IV wetland that is hydrologically isolated from other aquatic resources; and

(ii) The total area of the isolated wetland is 4,000 square feet or less; and

(iii) The wetland is not adjacent to a riparian area; and

(iv) The wetland has a score of 15 points or less for habitat in the adopted Western Washington rating system; and

(v) The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife.

(f) Mitigation. Mitigation to replace lost wetland functions and values, consistent with SMC 21A.50.310, shall be prepared for review and approval by the director; and

(g) Monitoring. Monitoring of the effect on biologic, hydrologic, and water quality, and assessment of the performance of required mitigation shall be provided by the applicant for five years following the completion of pilot projects authorized by this section. Annual monitoring reports shall be provided to the City for review and approval. Monitoring shall include the collection and analysis of data for the purpose of understanding and documenting changes in natural ecosystems, functions and features including, but not limited to, gathering baseline data.

(h) No subsequent exemption from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) or 21A.50.290 is authorized for the property participating in this pilot program.

~~(i) Effective Date. The pilot program described in this subsection (3) shall take effect following the adoption of the pilot program into a Department of Ecology approved Sammamish shoreline master program. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

**21A.50.322 Wetland management area – Special district overlay.**

(1) The purpose of the wetland management area special overlay district is to provide a means to designate certain unique and outstanding wetlands when necessary to protect their functions and values from the impacts created from geographic and hydrologic isolation and impervious surface.

(2) The wetland management area special overlay district shall be designated on critical areas maps maintained by the department of community development.

(3) The following development standards shall be applied in addition to all applicable requirements of this chapter to development proposals located within a wetland management area district overlay:

(a) All development proposals on properties zoned R-1 in wetland management areas shall have a maximum impervious surface area of eight percent of the gross acreage of the site. Distribution of the

allowable impervious area among the platted lots shall be recorded on the face of the plat. Impervious surface of existing streets need not be counted towards the allowable impervious area. The provisions of this section shall not apply to the Sammamish Town Center Study Area as identified in Ordinance O2005-185;

(b) All subdivisions and short subdivisions on properties identified in a management area for clustering and set aside requirements in the East Lake Sammamish Basin and Nonpoint Action Plan (1994) shall be required to cluster away from wetlands or the axis of corridors along stream tributaries and identified swales connecting wetlands. At least 50 percent of all portions of the property located within wetland management areas identified for vegetation retention shall be left in native vegetation, preferably forest, and placed in a permanent open space tract. The open space tract shall be designed to maximize the amount of separation between any critical areas and the proposed development. If no critical area tracts are required, the open space tract shall be located to provide additional protection to nearby wetlands;

(c) Clearing and grading activity from October 1st through April 30th shall meet the provisions of SMC 16.15.120(4) wherever not already applicable;

(d) All R-1 zoned properties within wetland management areas, as identified in the East Lake Sammamish Basin and Nonpoint Action Plan, shall retain native vegetation, or revegetate with trees to meet the following standards:

(i) Fifty percent of the site area shall be used to retain trees or revegetate with trees;

(ii) Retained vegetation shall be located primarily within the 50 percent open space area required by SMC 21A.25.030;

(iii) Retained vegetation shall consist primarily of trees with 0.0096 significant trees per square foot;

(iv) Areas revegetated shall provide 0.012 trees per square foot. Planted trees shall be planted primarily in the required open space area and shall be of a caliper or height approved by the director;

(v) The provisions of this section shall not apply to the Sammamish Town Center Study Area as identified in Ordinance O2005-185; and

(e) The director may, based upon review and approval of a critical areas special study, modify the provisions of this chapter to allow for:

(i) The installation of site access; provided, that the applicant shall limit impervious surfaces to the minimum required to grant access; or

(ii) Development using low impact development techniques to achieve standards adopted by the City that will demonstrably minimize development impacts consistent with subsections (3)(a) through (c) of this section. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1)

**21A.50.325 Fish and wildlife habitat conservation areas – Development standards.**

A development proposal that includes a fish and wildlife habitat conservation area or buffer shall meet the following requirements:

(1) When appropriate due to the type of habitat or species present or the project area conditions, the director may require a critical areas study that includes a habitat management plan consistent with the latest guidance from the

Department of Fish and Wildlife. If the habitat conservation area is also classified as a stream, lake or wetland, then the stream, lake or wetland protection standards shall apply and habitat management shall be addressed as part of the stream, lake or wetland review; provided, that the City may impose additional requirements when necessary to provide for protection of the habitat conservation areas consistent with this chapter.

(2) The director may require the following site- and proposal-related information with the critical areas study:

(a) Identification of any endangered, threatened, sensitive or candidate species that has a primary association with habitat on or adjacent to the project area, and an assessment of potential project impacts to the species;

(b) A discussion of any federal or state management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

(c) A discussion of any ongoing management practices that will protect habitat after the project site has been developed, including any proposed monitoring, maintenance, and adaptive management programs;

(d) When appropriate due to the type of habitat or species present or the project area conditions, the director may also require the habitat management plan to include an evaluation by the State Department of Fish and Wildlife, local Native American Indian Tribe, or other qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and

(e) When appropriate, information from the Washington Department of Fish and Wildlife's backyard wildlife sanctuary program shall be included.

(3) General Requirements. Habitat conservation areas that are on Lake Sammamish, Pine Lake, and Beaver Lake shall be governed by the requirements of the Sammamish shoreline master program. Other habitat conservation areas are subject to the following provisions:

(a) The department shall require the establishment of buffer areas for development activities in, or adjacent to, habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity and functions of the habitat. Required buffer widths shall consider the management recommendations identified in subsection (2) of this section and reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Development activities may be further restricted and buffers may be increased during the specified season.

(b) Where applicable, a fish and wildlife habitat corridor shall be established as required in SMC 21A.50.327.

(c) A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not reduce the quantitative and qualitative functions and values of the habitat, except in accordance with this chapter.

(d) In addition to the provisions of SMC 21A.50.060, removal of any native vegetation or woody debris from the habitat conservation area may be allowed only as part of an approved habitat management plan, critical areas study, and/or alteration plan.

(e) Low impact uses and development activities which are consistent with the purpose and function of the habitat conservation area and do not detract from its integrity may be permitted within the conservation area depending on the sensitivity of the habitat area. Examples of uses and development activities which may be permitted in appropriate cases include trails that are pervious, viewing platforms, storm water management facilities such as grass-lined swales, utility easements and other similar uses and development activities; provided, that any impacts to the habitat resulting from such permitted facilities shall be fully mitigated.

(f) Whenever development activities are proposed in or adjacent to a habitat conservation area with which state or federally endangered or threatened species have a primary association, such area shall be protected through the application of measures in accordance with a critical areas report prepared by a qualified professional and approved by the City of Sammamish, with guidance provided by the appropriate state and/or federal agencies.

(g) Plant, wildlife, or fish species not indigenous to the coastal region of the Pacific Northwest shall not be introduced into habitat conservation areas unless authorized by this chapter and by any required state or federal permit or approval.

(h) 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.

(i) 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.

(j) 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. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1)

**21A.50.327 Fish and wildlife habitat corridors.**

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~~8, 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~~8, a fish and wildlife habitat corridor shall be set aside and protected as follows:

(1) 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) Individual lots shall place the corridor in a conservation easement.

(3) The fish and wildlife habitat corridor shall be sited on the property in order to meet the following conditions, where feasible:

(a) Forms one contiguous tract that connects on-site high value habitat areas to other on-site or off-site high value habitat areas;

(b) New development proposals shall provide a minimum fish and wildlife habitat corridor width of 300 feet or a corridor width that is consistent with an approved habitat management plan;

(c) In addition to the provisions of SMC 21A.50.060, development proposals on sites constrained by a fish and wildlife habitat corridor and where development already exists shall maintain a minimum fish and wildlife habitat corridor width of 300 feet unless, through an approved habitat management plan, it can be shown that a lesser habitat corridor width supports and maintains the corridor's function and value;

(d) Be contiguous with and include and/or connect critical areas, buffers, and open space tracts or wooded areas on site or on adjacent properties, if present; and

(e) The director may modify corridor widths based on supporting documentation from an approved habitat management plan.

(4) Fish and wildlife habitat corridors do not parallel Type Np streams, except as required to provide a connection between two features as described above.

(5) A management plan for the wildlife corridor contained within a tract or tracts shall be prepared that specifies the permissible extent of recreation, forestry or other uses compatible with preserving and enhancing the wildlife habitat value of the tract or tracts. The management plan shall be reviewed and approved by the department. The approved management plan for a subdivision shall be contained within and recorded with the covenants, conditions and restrictions (CCRs). If the wildlife corridor is contained in a conservation easement, a management plan is not required, but may be submitted to the department for review and approval, and recorded with the conservation easement.

(6) Clearing within the wildlife corridor contained in a tract or tracts shall be limited to that allowed by the management plan or as otherwise allowed by this chapter. No clearing, including the removal of woody debris, shall be allowed within a wildlife corridor contained within a conservation easement on individual lots, unless the property owner has an approved management plan.

(7) Where feasible, a homeowners' association or other entity capable of long-term maintenance and operation shall be established to monitor and assure compliance with the management plan. The association shall provide homeowners with information on the Washington Department of Fish and Wildlife's backyard wildlife sanctuary program.

(8) Wildlife corridors set aside in tracts or conservation easements shall meet the provisions in SMC 16.15.120.

(9) The permanent open space tract containing the wildlife corridor may be credited toward the other applicable requirements such as surface water management and the recreation space requirement of SMC 21A.30.140, provided the proposed uses within the tract are compatible with preserving and enhancing the wildlife habitat

value. Restrictions on other uses within the wildlife corridor tract shall be clearly identified in the management plan.

(10) Low impact uses and activities which are consistent with the purpose and function of the habitat corridor and do not detract from its integrity may be permitted within the corridor depending on the sensitivity of the habitat area. Examples of uses and activities which may be permitted in appropriate cases include trails that are pervious, viewing platforms, storm water management facilities such as grass-lined swales, utility easements and other similar uses, or activities otherwise described and approved by the Washington Department of Fish and Wildlife; provided, that any impacts to the corridor resulting from such permitted facilities shall be fully mitigated.

(11) At the discretion of the director, these standards may be waived or reduced for public facilities such as schools, fire stations, parks, and public road projects. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1)

**21A.50.330 Streams – Development standards.**

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

(1) The following standard buffers shall be established from the ordinary high water mark or from the top of 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 |

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

(b) Where a buffer has been previously established on a legally created parcel or tract that was legally established according to the regulations in place at the time of establishment, and is permanently recorded on title or placed within a separate tract, the buffer shall remain as previously established, provided it is equal to or greater than 50 percent of the required standard buffer distance for the applicable stream category.

(2) Any stream with an ordinary high water mark within 25 feet of the toe of a slope 30 percent or steeper, but less than 40 percent, shall have:

(a) The minimum buffer required for the stream class involved or a 25-foot buffer beyond the top of the slope, whichever is greater, if the horizontal length of the slope, including small benches and terraces, is within the buffer for that stream class; or

(b) A 25-foot buffer beyond the minimum buffer width required for the stream class involved if the horizontal length of the slope, including small benches and terraces, extends beyond the buffer for that stream class.

(3) Any stream adjoined by a riparian wetland or other contiguous critical area shall have the buffer required for the stream type involved or the buffer that applies to the wetland or other critical area, whichever is greater.

(4) Buffer Averaging. Buffer width averaging may be allowed by the City if:

(a) It will provide additional natural resource protection, as long as the total area contained in the buffer on the development proposal site does not decrease (see also SMC 21A.30.210(4) for buffer compensation requirements for trails);

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

(c) The buffer width is not reduced to less than 50 percent of the standard buffer;

(d) The buffer is associated with a development proposal and it will not further encumber a neighboring property not owned by the applicant; and

(e) Buffer averaging may be used in conjunction with buffer reduction options in this section, provided the total combined reduction does not reduce the buffer to less than 50 percent of the standard buffer width at any location.

(5) Increased Buffers. Increased buffer widths may be required by a distance necessary to protect:

(a) Fish and wildlife habitat conservation areas and habitat connections based on an approved habitat management plan as defined by the Department of Fish and Wildlife;

(b) Landslide or erosion hazard areas contiguous to streams;

(c) Groundwater recharge and discharge area;

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

(e) At-risk ecological stream functions including, but not limited to the following:

(i) Habitat complexity, connectivity and biological functions;

(ii) Seasonal hydrological dynamics as provided in the adopted surface water design manual;

(iii) Sediment removal and erosion control;

(iv) Pollutant removal;

(v) Large wood debris (LWD) recruitment;

(vi) Water temperature;

(vii) Wildlife habitat; and

(viii) Microclimate.

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

(a) Up to 20 percent reduction in the standard buffer width may be allowed if water quality is improved in excess of the requirements of the adopted surface water design manual and SMC Title 13, Surface Water Management, through the use of created and/or enhanced wetlands, or ponds supplemental to existing storm drainage and water quality requirements.

(b) Removal of existing impervious surfaces:

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

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

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

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

(i) An undisturbed vegetated buffer is preserved in the remaining buffer width; and

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

(iii) Native tree or shrub vegetation covers less than 25 percent of the total buffer area and the area will be revegetated according to a City-approved restoration plan with native trees and shrubs to replace impacted buffer functions;

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

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

(e) In-stream habitat enhancement:

(i) Up to 20 percent reduction in standard buffer width for log structure placement, bioengineered bank stabilization, or culvert removal; or

(ii) Up to 30 percent reduction in standard buffer width for improving fish passage and/or creation of side channel or backwater areas.

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

(g) Use of pervious material for driveway/road construction: up to 10 percent reduction in standard buffer width.

(h) Restoration of on-site buffer and habitat areas, or restoration of off-site buffer and habitat areas within the same sub-basin of the impacted stream if no on-site restoration is possible:

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

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

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

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

(8) The introduction of livestock into a stream or stream buffer is prohibited.

(9) In addition to the provisions of SMC 21A.50.060, removal of any native vegetation or woody debris from the stream or stream buffer may be allowed only as part of an approved habitat management plan, critical areas study, and/or alteration plan. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

**21A.50.340 Streams – Permitted alterations.**

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

(1) Alterations may only be permitted if based upon a critical areas study conducted in accordance with SMC 21A.50.130 that determines the proposed development will:

(a) Protect, restore or enhance the habitat, natural drainage, or other valuable functions of the stream resulting in a net improvement to the stream and stream buffer;

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

(c) Perform the restoration or enhancement under the direction of a qualified professional; and

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

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

(3) There shall be no introduction of any plant or wildlife which is not indigenous to the coastal region of the Pacific Northwest into any stream or buffer unless required by a state or federal permit or approval or as otherwise allowed by SMC 21A.50.060, Allowances for existing urban development and other uses.

(4) Utilities may be allowed in stream buffers if:

(a) No reasonable alternative location is available;

(b) The utility corridor meets any additional requirements for installation, replacement of vegetation and maintenance, as needed to mitigate impacts;

(c) The requirements for sewer utility corridors in SMC 21A.50.300 shall also apply to streams; and

(d) Joint use of an approved sewer utility corridor by other utilities may be allowed.

(5) Where technically feasible, surface water discharge shall be located outside of the stream and stream buffer. If surface water discharge to a stream or stream buffer is unavoidable, the following management activities and provisions shall apply:

(a) Surface water discharge to a stream from a flow control or water quality treatment facility, sediment pond or other surface water management activity or facility may be allowed if the discharge is in compliance with the applicable City-adopted storm water requirements.

(b) A Type Ns stream buffer may be used as a regional storm water management facility if:

(i) A public agency and utility exception is granted pursuant to SMC 21A.50.070;

(ii) All requirements of the applicable City-adopted storm water requirements are met;

(iii) The use will not lower the rating or alter the factors used in rating the stream; and

(iv) There are no significant adverse impacts to the stream or habitat.

(6) Except as provided in subsection (7) of this section, public and private trails may be allowed in stream buffers consistent with the standards and requirements in this chapter, the development standards in Chapter 21A.30 SMC, and requirements elsewhere in the SMC. Proposals for constructing viewing platforms, associated access trails, and spur trails must be reviewed by a qualified professional and a critical areas study may be required.

(7) Crossings. The use of existing crossings, including but not limited to utility corridors, road and railroad rights-of-way across streams or buffers for public or private trails is preferred to new crossings, subject to the standards and requirements in the SMC. New stream crossings may be allowed and may encroach on the otherwise required stream buffer if:

(a) Bridges, bottomless culverts or other appropriate methods demonstrated to provide fisheries protection shall be used for stream crossings and the applicant shall demonstrate that such methods and their implementation will pose no harm to the stream habitat or inhibit migration of anadromous fish;

(b) All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to resident or anadromous fish including salmonids;

(c) Crossings do not occur over spawning areas used by resident or anadromous fish including salmonids unless the City determines that no other reasonable crossing site exists;

(d) Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;

(e) Crossings do not diminish the flood-carrying capacity of the stream;

(f) Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the state of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in SMC 21A.50.330. Crossing of Type Ns streams when dry may be made with open cuts; and

(g) Trail crossings shall use bridges and boardwalks consistent with the design requirements of the Washington Department of Fish and Wildlife (WDFW, 2003, Design of Road Culverts for Fish Passage, as amended); and

(h) The number of crossings is minimized and consolidated to serve multiple purposes and properties whenever possible.

(8) Relocations. Stream relocations may be allowed only for:

(a) Type F, Np, and Ns streams as part of a public road, trail, or park project for which a public agency and utility exception is granted pursuant to SMC 21A.50.050; and

(b) Type F, Np and Ns streams for the purpose of enhancing resources in the stream if:

(i) Appropriate floodplain protection measures are used; and

(ii) The relocation occurs on site, except that relocation off site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream.

(9) For any relocation allowed by this section, the applicant shall demonstrate, based on information provided by qualified professionals, including a civil engineer and a biologist, that:

(a) The equivalent base flood storage volume and function will be maintained;

(b) There will be no adverse impact to local groundwater;

(c) There will be no increase in velocity;

(d) There will be no interbasin transfer of water;

(e) There will be no increase in sediment load;

(f) Requirements set out in the mitigation plan are met;

(g) The relocation conforms to other applicable laws; and

(h) All work will be carried out under the direct supervision of a qualified biologist.

(10) A stream channel may be stabilized if:

(a) Movement of the stream channel threatens existing residential or commercial structures, public facilities or improvements, unique natural resources or the only existing access to property;

(b) The stabilization is done in compliance with the requirements of SMC 21A.50.230; and

(c) Soft-bank stabilization techniques are utilized unless the applicant demonstrates that soft-bank techniques are not a reasonable alternative due to site-specific soil, geologic and/or hydrologic conditions.

(11) Replacement of existing culverts to enhance stream habitat, not associated with any other development proposal, may be allowed if accomplished according to a plan for its design, implementation, maintenance, and monitoring prepared by qualified professionals, including a civil engineer and a biologist, and carried out under the direction of a qualified biologist.

(12) Stream and habitat restoration or enhancement may be allowed if:

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

(b) The restoration is unassociated with mitigation of a specific development proposal;

(c) The restoration is limited to placement of rock weirs, log controls, spawning gravel, and other specific habitat improvements for resident or anadromous fish including salmonids;

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

(e) The restoration is performed under the direction of qualified professionals; and

(f) Stream relocation, if proposed, may be approved pursuant to subsection (9) of this section as part of an approved restoration plan.

(13) Roadside ditches that carry streams with salmonids may be maintained through the use of best management practices developed in consultation with relevant City, state, and federal agencies. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

**21A.50.350 Streams – Mitigation requirements.**

When mitigation for stream or stream buffer impacts is required, mitigation shall meet the requirements listed in SMC 21A.50.145 in addition to the following supplementary requirements:

(1) Equivalent or Greater Functions. Mitigation for alterations to stream(s) and/or stream buffer(s) shall achieve equivalent or greater functions including, but not limited to:

(a) Habitat complexity, connectivity, and other biological functions;

(b) Seasonal hydrological dynamics, water storage capacity and water quality; and

(c) Geomorphic and habitat processes and functions.

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

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

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

(c) Off-site locations have been identified and evaluated in the following order of preference:

(i) Within the same drainage sub-basin;

(ii) Within the City limits;

(iii) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank program sites within the City limits in accordance with the provisions of this section;

(iv) Within the Sammamish service area for an approved fee-in-lieu or mitigation bank program sites within the WRIA 8 in accordance with the provisions of this section.

(3) Fee-In-Lieu Stream Mitigation Program. Fee-in-lieu mitigation may be authorized for approved stream impacts; provided, that the impact is related to the approval of a single-family home, City of Sammamish capital improvement project, or development proposal within the Town Center. Fee-in-lieu mitigation shall be subject to the avoidance sequence requirements and mitigation measures of this title, and the approval of a program by the City, to be used in the following order of preference:

(a) A City approved program that utilizes receiving mitigation sites within the same sub-basin as the approved wetland impact.

(b) The King County mitigation reserves program, or other approved program that gives priority to sites within the same sub-basin.

(c) A City approved program, the King County mitigation reserves program, or other approved program that gives priority to sites that will expand or improve habitat for Lake Sammamish Kokanee.

(d) The King County mitigation reserves program, or other approved program that gives priority to sites within the same sub-basin and/or a predefined service area that includes the City of Sammamish.

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

(5) Restoration Required. Restoration shall be required when a stream or its buffer is altered in violation of law or without any specific permission or approval by the City. A mitigation plan for restoration shall conform to the requirements of this chapter and demonstrate that:

(a) The restoration will reliably and demonstrably improve the water quality and fish and wildlife habitat of the stream;

(b) The restoration will have no lasting significant adverse impact on any stream functions; and

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

(6) Surface water management or flood control alterations shall not be considered enhancement unless other functions are simultaneously improved. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

**21A.50.351 Ponds – Development standards.**

Repealed by Ord. O2013-350. (Ord. O2009-264 § 1 (Att. A); Ord. O2005-193 § 1)

**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) The Beaver Lake watershed as generally identified in the Beaver Lake management plan, which is available at the City of Sammamish community development department, is a sensitive lake and is hereby designated a critical drainage area. This designation is:

(a) Existing whole-lake total phosphorus concentration for the combined Beaver Lake system is 23 micrograms/liter. Beaver Lake 1 and Beaver Lake 2, individually, have whole-lake total phosphorus concentrations of 36 (±2) micrograms/liter and 20 (±1) micrograms/liter, respectively;

(b) Whole-lake total phosphorus concentration, chlorophyll a, and Secchi depth indicate that the Beaver Lake system is bordering on eutrophic conditions;

(c) Modeling of the Beaver Lake system's future trophic status indicates that the lake will become hypereutrophic with a whole-lake total phosphorus concentration predicted to be 36 micrograms/liter without additional phosphorus removal via storm water treatment; and

(d) Maintaining existing trophic status is a management plan goal. To maintain existing trophic status, an 80 percent total phosphorus annual loading removal goal was established for new impervious surface development prior to storm water discharges to Beaver Lake.

(4) The Pine Lake watershed is generally identified in the City of Sammamish Comprehensive Plan (Figure IV-1 in the Comprehensive Plan or as updated). All appropriate Beaver Lake specific water quality regulations shall be extended to the Pine Lake drainage basin.

(a) These regulations shall only be in effect until such time that a customized Pine Lake water quality strategy is developed and development regulations are adopted based on approved findings of the study.

(b) An applicant for development within the Pine Lake drainage basin may apply for a variance from the standards specified in subsection (8) of this section if it can be proven that conditions are clearly different than at Beaver Lake.

(5) The standards specified in subsection (8) of this section shall apply to all development proposals located within the Beaver Lake and Pine Lake watersheds which require drainage review as specified in the adopted surface water design manual and SMC Title 13, Surface Water Management.

(6) Development proposals within the Beaver Lake or Pine Lake watersheds may be exempt from management plan requirements if they demonstrate to the satisfaction of the community development department that on-site surface and storm water runoff drainage does not in fact drain into the basin in question.

(7) Phosphorous Control Required.

(a) Applicability. Unless the conditions identified in subsection (6) of this section are documented to the satisfaction of the department, the following development proposals are subject to the conditions and standards contained in subsections (7)(b) through (7)(d) of this section:

(i) Projects that create greater than 5,000 square feet of new impervious surface subject to vehicular use in the Beaver Lake or Pine Lake watersheds; or

(ii) Projects that create greater than one acre of pollution generating pervious surface, as defined in the adopted surface water design manual and SMC Title 13, Surface Water Management, in the Beaver Lake or Pine Lake watersheds.

(b) The proposed storm water facilities shall be designed to remove 80 percent of all new total phosphorus loading on an annual basis due to new development (and associated storm water discharges) in the Beaver Lake or Pine Lake watersheds where feasible or utilize AKART if infeasible.

(c) The AKART standard or best management practices for phosphorus-sensitive lakes can be fulfilled by achieving the 50 percent phosphorous removal standard from the adopted surface water design manual and SMC Title 13, Surface Water Management, together with additional applicant proposed measures:

(i) For all development proposals subject to this section, the applicant shall demonstrate that a reduction of 80 percent total phosphorous is achievable through the use of engineering design computations.

(ii) As the adopted King County surface water design manual is updated and additional treatment options and designs for total phosphorus removal become available, new treatment systems may be approved by the City if the AKART standard for phosphorus removal can be demonstrated using the Department of Ecology's Technology Assessment Protocol – Ecology (TAPE protocol).

(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 SMC Title 13, Surface Water Management.

(iv) Development proposals using on-site infiltration that do not comply with subsection (7)(c)(iii) of this section shall demonstrate that 80 percent, 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.

(d) Hydrologic analysis shall be determined using a continuous hydrologic model such as the Hydrologic Simulation Program – Fortran (HSPF) or the King County runoff time series program (KCRTS) methodology. These methodologies may be revised or superseded by other methodologies for achieving the same performance goal as stipulated by future revision to the surface water design manual. (Ord. O2013-350 § 1 (Att. A); Ord. O2005-193 § 1)

**21A.50.360 Critical areas mitigation fee – Creation of fund.**

Repealed by Ord. O2013-350. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.370 Critical areas mitigation fee – Source of funds.**

Repealed by Ord. O2013-350. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.380 Critical areas mitigation fee – Use of funds.**

Repealed by Ord. O2013-350. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.390 Critical areas mitigation fee – Investment of funds.**

Repealed by Ord. O2013-350. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

**21A.50.400 Sunset provisions.**

Repealed by Ord. O2013-350. (Ord. O2013-347 § 1; Ord. O2012-338 § 1; Ord. O2011-315 § 1; Ord. O2009-274 § 1 (Att. A); Ord. O2005-193 § 1)

# Ordinance O2016-410 - Attachment A – Item 4
# City of Sammamish 2016 ECA/SMP Update
# Amendments to SMC Title 25

"Normal Text" is existing code language
"~~Strikethrough Text~~" is existing language that will be deleted
"Underline Test" is code language that will be added
"…" indicates that there is additional code language that has been omitted

## 25.01.060 Relationship to plans, policies and regulations.

(1) Uses, alterations and developments regulated by this program are subject to applicable provisions of the Sammamish Municipal Code (SMC), the Sammamish Comprehensive Plan, the Shoreline Management Act (Chapter 90.58 RCW), the Growth Management Act (Chapter 36.70A RCW), State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC), and other local, state and federal laws.

(2) This program shall be implemented according to the definitions contained in Chapter 25.02 SMC. Where definitions contained in this program conflict or differ from definitions contained in other sections of the SMC, these definitions shall prevail.

(3) Unless otherwise stated, where this program makes reference to any RCW, WAC, or other federal, state or local law or regulation, the most recent amendment or current edition shall apply.

(4) In the event the regulations of this program differ from other applicable City policies or regulations, the more restrictive provisions shall apply.

(5) The following provisions of the Sammamish Municipal Code are adopted as part of this SMP, and attached herein: SMC Title 13 (Surface Water Management, adopted by Ord 2011-304 on May 16, 2011), SMC 21.10.120 (Historic resources – Review process, adopted by Ord 2008-240 on Dec. 16, 2008) and sections of the City's critical areas ordinance as described within SMC 25.01.070 (adopted by Ord 2005-193 on December 20, 2005, and revised by Ord 2009-264 on October 6, 2009, and Ord 2009-274 on December 1, 2009, and Ord 02013-350 on July 9, 2013). (Ord. O2011-308 § 1 (Att. A))

## 25.01.070 Critical areas regulations incorporated by reference.

Provisions of the Sammamish critical areas ordinance codified in Chapter 21A.50 SMC, exclusive of SMC 21A.50.050 (Complete exemptions), ~~21A.50.060 (Partial exemptions – Critical areas)~~, 21A.50.070 (Exceptions), and 21A.50.320(3) (Isolated Wetlands – Pilot Program)~~21A.50.400 (Sunset provisions)~~ are considered part of this SMP. (Ord. O2011-308 § 1 (Att. A))

## 25.01.080 Effective date.

This program and all amendments thereto shall become effective ~~immediately~~ fourteen days from the date of the Department of Ecology's written notice of ~~upon~~ final approval ~~by the Department of Ecology~~. (Ord. O2011-308 § 1 (Att. A))

## 25.07.080 Residential use regulations.

(1) Preferred Use. Single-family residential use is a preferred shoreline use and shall be permitted when consistent with this program and the Act, including the goal to ensure no net loss of shoreline ecological functions.

(2) New Residential Development. New residential development and normal appurtenances shall be located sufficiently landward of the OHWM to preclude the need for new structural shoreline stabilization and/or flood protection for the useful life of the structure in accordance with the following:

(a) New residential development and normal appurtenances shall be located landward of the shoreline setback, or if applicable the reduced shoreline setback, or as otherwise allowed, in accordance with this program. Houseboats, live-aboards, or other dwelling units are prohibited overwater.

(b) Residential structures shall be located to avoid the need for future shoreline stabilization.

(c) For shoreline residential areas, ~~impervious surface allowances shall be in accordance with R-4 zoning requirements, with the exception that no additional impervious surface percentage is allowed for lots less than 9,076 square feet. See SMC 21A.25.030, Note (4)(c).~~ 45% of the lot shall be yard area. For purposes of this section, "yard" is any surface area that is not structured or hardened. Yard areas may be landscaped, contain uncovered decks of less than 18 inches above grade, or artificial turf, but do not include areas covered by pervious concrete or other similar materials.

(d) For urban conservancy areas, the ~~maximum~~ minimum amount ~~of impervious surface shall not exceed~~ of yard shall be no less than ~~40~~60 percent of the lot area above OHWM. For

purposes of this section, "yard" is any surface area that is not structured or hardened. Yard areas may be landscaped, contain uncovered decks of less than 18 inches above grade, or artificial turf, but do not include areas covered by pervious concrete or other similar materials.

(e) New structures, excluding accessory dwelling units, may be located waterward of the shoreline setback; provided, that all of the following criteria are met:

(i) The maximum total footprint is not more than 200 square feet; and

(ii) The maximum height is not more than 10 feet above existing average grade level; and

(iii) The structure is located outside of wetlands, streams, other ecologically sensitive areas and associated buffers; and

(iv) Potential impacts are managed consistent with the provisions of this program. Where environmental impacts not otherwise avoided or mitigated by compliance with the program and other applicable regulations are identified, mitigation sequencing (i.e., avoid, minimize, and then mitigate), including identification of appropriate mitigation to offset any anticipated impacts resulting from the project, shall be utilized.

(f) New accessory dwelling units may be located landward of the shoreline setback; provided, that all of the applicable zoning requirements and provisions of this program are met.

(3) Expansion of Existing Legally Established Residential Use.

(a) All Lakes. An existing legally established residential structure may be expanded or reconfigured consistent with the substantive requirements of this program.

(4) Interior Setbacks.

(a) Lake Sammamish. Interior setbacks within shoreline jurisdiction shall total 15 percent of the width of the lot, with a minimum setback of five feet on either side of the lot.

(5) Fences. No portion of any fences within shoreline jurisdiction shall exceed six feet in height, as measured from the existing ground elevation along the proposed fence alignment, and shall not be located within wetlands, streams, or Chapter 21A.50 SMC buffers.

Fences should be located outside of the shoreline setback upland of the OHWM, in an effort to minimize disruption of wildlife migration along shoreline areas. Fences may be located within the shoreline setback upland of the OHWM when needed to serve their primary function. When located within the shoreline setback the fence height shall not exceed 42 inches, and nonsolid materials shall be utilized.

(6) Subdivision. Shoreline lots may be subdivided in accordance with SMC Title 19.

(a) The minimum lot width required for subdivision within shoreline jurisdiction shall be 50 feet as measured by scaling a circle of the applicable diameter within the boundaries of the lot. For lots fronting directly on the OHWM, the lot width circle shall touch the OHWM. An access easement may be included in the lot width circle; and

(b) Landward portions of all lots created through subdivision shall have a minimum size of 12,500 square feet; provided, that all other applicable regulations are met, including this program, Chapter 21A.25 SMC and the King County department of health (septic system siting standards); and

(c) All new subdivisions shall be allowed one additional shared use dock. A dock existing prior to subdivision application may remain for either shared use or use by one lot in the subdivision.

(7) Accessory Dwelling Unit (ADU). Only one accessory dwelling is allowed per primary single detached dwelling unit. An ADU is only allowed in the same building as the primary dwelling unit when the lot is less than 10,000 square feet in area or when there is more than one primary dwelling on a lot. One of the dwelling units shall not exceed a floor area of 1,000 square feet except when one of the dwelling units is wholly contained within a basement or attic. A detached ADU shall be located outside of all critical area buffers and/or shoreline setback areas and shall not be subject to any shoreline setback reductions or variances.

(8) Accessory Utilities. For single-family residences accessory utilities include electrical, gas, water, cable, telephone, and public sewer connections to the primary utilities, and also installation of septic tank and drainfields. (Ord. O2011-308 § 1 (Att. A))

**Table 25.07.010-2: Dimensional Standards**

| | Lake Sammamish Shoreline Residential | Lake Sammamish Urban Conservancy | Pine and Beaver Lakes Shoreline Residential | Pine and Beaver Lakes Urban Conservancy |
|---|---|---|---|---|
| **Single-Family Residential (SMC 25.06.020 and 25.07.080)** | | | | |
| Height | 35 feet | 35 feet | 35 feet | 35 feet |
| Setbacks | 15% of lot width, minimum setback 5 feet | 15% of lot width, minimum setback 5 feet | R-4 | R-4 |
| ~~Impervious surface (max.)~~Minimum Yard Area | ~~R-4, no additional % for lots under 9,076 square feet~~45% | ~~40~~60% | ~~R-4, no additional % for lots under 9,076 square feet~~45% | ~~40~~60% |
| Fences | 6 feet | 6 feet | 6 feet | 6 feet |
| **Accessory structures (not ADU) (SMC 25.07.080)** | | | | |
| Height | 10 feet | 10 feet | 10 feet | 10 feet |
| Maximum footprint | 200 square feet | 200 square feet | 200 square feet | 200 square feet |
| **Other structures outside shoreline setback** | | | | |
| Height | 35 feet | 35 feet | 35 feet | 35 feet |
| Footprint Maximum | None | None | None | None |
| **Docks: Private Residential (SMC 25.07.050)** | | | | |
| Length | Dock length of 80 feet maximum or length | Dock length of 80 feet maximum or length | Dock length of 80 feet maximum or | Dock length of 80 feet maximum or length |

**Table 25.07.010-2: Dimensional Standards**

| | Lake Sammamish Shoreline Residential | Lake Sammamish Urban Conservancy | Pine and Beaver Lakes Shoreline Residential | Pine and Beaver Lakes Urban Conservancy |
|---|---|---|---|---|
| | necessary to reach a depth of 8 feet. No dock shall be more than 1/4 the distance to the opposite shoreline. | necessary to reach a depth of 8 feet. No dock shall be more than 1/4 the distance to the opposite shoreline. | length necessary to reach a depth of 8 feet. No dock shall be more than 1/4 the distance to the opposite shoreline. | necessary to reach a depth of 8 feet. No dock shall be more than 1/4 the distance to the opposite shoreline. |
| Area: One owner | 480 square feet | 480 square feet | 480 square feet | 480 square feet |
| Area: Two to nine owners | 700 square feet | 700 square feet | 700 square feet | 700 square feet |
| Area: 10 or more owners | 1,000 square feet | 1,000 square feet | 700 square feet | 700 square feet |
| Width | 4 feet within 30 feet of OHWM, 6 feet when more than 30 feet from OHWM | 4 feet within 30 feet of OHWM, 6 feet when more than 30 feet from OHWM | 4 to 6 feet within 10 feet of OHWM. Total of the platform area and walkway area are not to exceed 480 square feet or 700 square feet for joint use docks. | 4 to 6 feet within 10 feet of OHWM. Total of the platform area and walkway area are not to exceed 480 square feet or 700 square feet for joint use docks. |
| Placement | At least 15 feet from property line | At least 15 feet from property line | At least 15 feet from property line | At least 15 feet from property line |
| Subdivision (SMC 25.07.080) | Shared use docks are required (see above | Shared use docks are required (see above | Shared use docks are required (see | Shared use docks are required (see above for |

**Table 25.07.010-2: Dimensional Standards**

| | Lake Sammamish Shoreline Residential | Lake Sammamish Urban Conservancy | Pine and Beaver Lakes Shoreline Residential | Pine and Beaver Lakes Urban Conservancy |
|---|---|---|---|---|
| | for shared use dock allowances). | for shared use dock allowances). | above for shared use dock allowances). | shared use dock allowances). |
| **Canopy (SMC 25.07.050)** | | | | |
| Coverage | 25 x 15 feet | 25 x 15 feet | N/A | N/A |
| Height above OHWM | 10 feet | 10 feet | N/A | N/A |
| **Docks: Public Recreational (SMC 25.07.060)** | | | | |
| Length | No limit | No limit | No limit | No limit |
| Area | 3,000 square feet | 3,000 square feet | 3,000 square feet | 3,000 square feet |
| Width | 6 feet | 6 feet | 6 feet | 6 feet |
| **Setbacks (SMC 25.06.020)** | | | | |
| Shoreline setback | 50 feet | 50 feet | 45 feet | 45 feet |
| Building setback | N/A | N/A | 5 feet | 5 feet |
| Vegetation enhancement area (VEA) | 15 feet | 15 feet | 15 feet as specified in the program | 15 feet as specified in the program |
| Active use area | 15 – 25% of VEA | 15 – 25% of VEA | 25% of VEA | 25% of VEA |
| **Subdivision (SMC 25.07.050(7))** | | | | |
| Minimum area | 12,500 square feet | 12,500 square feet | 12,500 square feet | 12,500 square feet |

**Table 25.07.010-2: Dimensional Standards**

| | **Lake Sammamish Shoreline Residential** | **Lake Sammamish Urban Conservancy** | **Pine and Beaver Lakes Shoreline Residential** | **Pine and Beaver Lakes Urban Conservancy** |
|---|---|---|---|---|
| Minimum lot width | 50 feet | 50 feet | 50 feet | 50 feet |

(Ord. O2011-308 § 1 (Att. A))