

**CITY OF SAMMAMISH
WASHINGTON**

ORDINANCE NO. 02014-375

**AN ORDINANCE OF THE CITY OF SAMMAMISH,
WASHINGTON, ESTABLISHING INTERIM DEVELOPMENT
REGULATIONS AS AUTHORIZED BY THE GROWTH
MANAGEMENT ACT RELATING TO TREE RETENTION;
PROVIDING FOR SEVERABILITY; AND DECLARING AN
EMERGENCY**

WHEREAS, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt interim development regulations; and

WHEREAS, to promote the public health, safety, aesthetic, and welfare, the City of Sammamish (the "City") provides for the retention of significant trees, which is done through the implementation of comprehensive and thorough review of new subdivisions and short plats; and

WHEREAS, the City has determined that tree retention for new subdivisions and short plats as currently codified in Sammamish Municipal Code (SMC) chapter 21A.35 is not accomplishing the goals set forth by the Sammamish Comprehensive Plan; and

WHEREAS, the City has determined that amendments to the tree retention regulations are required, and until new permanent regulations can be reviewed and adopted, is interested in preventing the removal of additional significant trees beyond what is allowed in these interim development regulations; and

WHEREAS, the City has determined that interim development regulations adopted under the provisions of RCW 36.70A.390 are necessary in order to allow adequate time for the City to effectively analyze and determine if the current development regulations are sufficient to provide for appropriate tree retention within the City; and

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

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as the City Council's initial findings of fact in support of the interim development regulations adopted herein. The City Council may, in its discretion, adopt additional findings after the public hearing referenced in Section 4 of this Ordinance.

Section 2. Adoption of Interim Zoning Regulations. The City Council hereby adopts the interim development regulations as set forth in Attachment A to this Ordinance amending Chapter 21A.35 SMC.

Section 3. Effective Duration of Interim Development Regulations. The interim development regulations set forth in this Ordinance shall be in effect for a period of six (6) months from the effective date of this Ordinance and shall automatically expire at the conclusion of that six-month period unless sooner repealed.

Section 4. Public Hearing. The City Council will hold a public hearing at the City Council's regular meeting beginning at 6:30 p.m. on November 18, 2014 or as soon thereafter as the business of the City Council shall permit, in order to take public testimony and to consider adopting further findings of fact.

Section 5. Referral to the City Manager. The City Manager is hereby authorized and directed to study the issues described in the above findings and to develop appropriate regulations for same as authorized by law. The City council requests that the City Manager and his staff work diligently to produce regulations for City Council consideration as soon as possible, and not later than April 14, 2015.

Section 6. 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 7. Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the "WHEREAS" clauses, above, all of which are adopted by reference as findings of fact as if fully set forth herein.

ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON THE 14TH DAY OF OCTOBER, 2014.

CITY OF SAMMAMISH



Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:



Melonie Anderson, City Clerk

Approved as to form:



Michael R. Kenyon, City Attorney

Filed with the City Clerk:	October 9, 2014
First Reading:	October 14, 2014
Passed by the City Council:	October 14, 2014
Date of Publication:	October 17, 2014
Effective Date:	October 14, 2014

Attachment A

Interim Development Regulations

Chapter 21A.35

DEVELOPMENT STANDARDS – LANDSCAPING AND IRRIGATION

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21A.35.210 Tree retention requirements

The following tree retention requirements shall be applied in addition to the applicable requirements of Chapters 16.15 and 21A.50 SMC:

(1) Emergency tree removal to prevent imminent danger or hazard to persons or property shall not be limited by this section or SMC 21A.35.230, Tree protection standards.

(4)(2) All new short plats of 2 lots shall retain significant trees subject to the following standards:

- (a) Within areas unconstrained by environmentally sensitive areas and associated buffers, a minimum of 25 percent of significant trees shall be retained.
- (b) Within environmentally sensitive areas and associated buffers, significant trees and other vegetation shall be retained subject to the requirements of Chapter 21A.50 SMC.

(32) All new subdivisions and short plats of 3 or more lots shall retain significant trees subject to the following standards:

- (a) Within areas unconstrained by environmentally sensitive areas and associated buffers, a minimum of ~~35~~25 percent of significant trees shall be retained.
- (b) Within environmentally sensitive areas and associated buffers, significant trees and other vegetation shall be retained subject to the requirements of Chapter 21A.50 SMC; ~~provided, that trees retained within environmentally sensitive areas and associated buffers may be counted for up to 50 percent of the tree retention requirement in subsection (2)(a) of this section.~~

(34) All new commercial and institutional developments shall retain significant trees subject to the following standards:

- (a) Within areas unconstrained by environmentally sensitive areas and associated buffers, a minimum of 30 percent of significant trees shall be retained.

- (b) Within environmentally sensitive areas and associated buffers, significant trees and other vegetation shall be retained subject to the requirements of Chapter 21A.50 SMC; provided, that trees retained within environmentally sensitive areas and associated buffers may be counted for up to 50 percent of the tree retention requirement in subsection (3)(a) of this section.

(54) All clearing and grading of existing undeveloped properties shall retain significant trees subject to the requirements for tree retention of commercial developments.

(65) Trees identified for retention shall be selected, to the extent feasible, subject to the following criteria:

- (a) Trees located within healthy, vegetated groups and stands rather than as isolated trees scattered throughout the site;
- (b) Trees that have a reasonable chance of survival once the site is developed;
- (c) Trees that will not pose a threat to persons or property;
- (d) Trees that can be incorporated into required landscaping or can be used to screen the site from adjacent properties;
- (e) Trees adjacent to open space, sensitive area buffers or sensitive area tracts;
- (f) Trees having a significant land stability function; or
- (g) Trees that meet the definition of heritage tree.

(76) Subject to review and approval by the director, up to 50 percent of trees identified for retention may be removed, provided replacement trees shall be required pursuant to SMC 21A.35.240, Tree replacement and enforcement.

(87) Exceptions to the tree retention standards may be requested and approved by the City subject to the satisfying all of the following criteria:

- (a) Strict compliance with the provisions of this code would prevent reasonable use of the property;
- (b) Proposed tree removal and proposed replacement is consistent with this section and SMC 21A.35.230, Tree protection standards, Chapters 21A.50 and 16.15 SMC; and
- (c) Proposed tree replacement is consistent with the requirements of SMC 21A.35.240, Tree replacement and enforcement. (Ord. O2005-175 § 1)

21A.35.220 Tree retention incentives

~~Projects that retain more trees than required pursuant to SMC 21A.35.210 may be granted the following incentives, subject to City review and approval:~~

- ~~(1) New subdivisions and short plats which retain a total of 30 percent or more of significant trees (outside of environmentally sensitive areas and associated buffers) on the subject site may reduce required on-site recreation space by up to 10 percent; and~~
- ~~(2) New subdivisions and short plats which retain a total of 35 percent or more of significant trees (outside of environmentally sensitive areas and associated buffers) on~~

~~the subject site may modify the net density calculation pursuant to SMC 21A.25.080 to include up to 10 percent of the area within environmentally sensitive areas towards site density calculations. (Ord. O2005-175 § 1)~~

21A.35.230 Tree protection standards

The following tree protection standards shall apply to trees retained pursuant to SMC 21A.35.210, Tree retention requirements:

(1) All trees identified for retention shall be identified on project site plans, and shall include a summary of the project specific tree protection measures.

(2) Trees identified for retention shall be identified on the project site by use of one or more of the following methods:

- (a) Tree protection barriers shall be installed along the outer edge and completely encompass the dripline of trees identified for retention. Protection barriers shall consist of fencing at least four feet high, constructed of chain link or polyethylene laminar safety fencing or similar material; or
- (b) Tree protection flagging shall be installed along the outer edge and completely encompass the dripline of trees identified for retention. Flagging should include signs reading "Tree Save Area."

(3) All construction activities shall be located outside of the dripline of trees identified for retention.

(4) Site plans shall be designed to provide long-term protection of trees identified for retention. Site design shall incorporate one of the following to provide protection of retained trees:

- (a) Curbing or other physical barrier in areas used by vehicular traffic;
- (b) Fencing around areas adjacent to areas not used by vehicular traffic; or
- (c) Other protection means subject to approval by the director.

(5) All trees identified for retention may be pruned and otherwise maintained at the property owner's discretion; provided, that topping of retained trees and removal of more than 25 percent of existing limbs shall only be permitted under the direction of a certified arborist. (Ord. O2005-175 § 1)

21A.35.240 Tree replacement and enforcement

This section shall apply in addition to the provisions of SMC Title 23, Code enforcement.

(1) Any significant tree lawfully removed pursuant to SMC 21A.35.210(3), (7) or (8) Tree retention requirements, shall be subject to the following replacement requirements:

- (a) Coniferous trees shall be replaced by coniferous trees native to Washington and deciduous trees shall be replaced by deciduous trees native to Washington;
- (b) Replacement coniferous trees shall be at least eight (8) feet in height. Replacement deciduous trees shall be at least two and one-half (2.5) inches in diameter (DBH); and
- (c) Each significant trees shall be replaced with one (1) new tree.

(24) Any tree removed in violation of SMC 21A.35.210, Tree retention requirement, or any tree removed pursuant to the exception process of SMC 21A.35.210(6), Tree retention requirement, shall be subject to the following replacement requirements:

- (a) Coniferous trees shall be replaced by coniferous trees native to Washington and deciduous trees shall be replaced by deciduous trees native to Washington;
- (b) Replacement coniferous trees shall be at least eight (8) feet in height. Replacement deciduous trees shall be at least ~~two~~ and one-half (2.5) inches in diameter (DBH); and
- (c) Trees shall be replaced subject to the following replacement ratios:
 - (i) Removed trees with a DBH greater than nine (9) inches up to twelve (12) inches shall be replaced by four (4) trees;
 - (ii) Removed trees with a DBH greater than twelve (12) inches up to sixteen (16) inches shall be replaced by six (6) trees; and
 - (iii) Removed trees with a DBH of sixteen (16) inches or more shall be replaced by eight (8) trees.

(32) Financial guarantees for replacement trees may be required consistent with the provisions of SMC Title 27A.

(43) At the discretion of the director, each tree removed in violation of this chapter may be considered a separate code enforcement case for the purposes of SMC Title 23, Code Enforcement. (Ord. O2005-175 § 1)