

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO. O2016-415**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON, AMENDING SECTIONS 20.05.030, 20.05.040,  
20.05.060, 20.05.100 AND 20.10.180 OF THE SAMMAMISH  
MUNICIPAL CODE RELATING TO PERMITTING  
PROCEDURES; PROVIDING FOR SEVERABILITY;  
DECLARING AN EMERGENCY; AND PROVIDING THAT  
THE ORDINANCE TAKE EFFECT IMMEDIATELY UPON  
PASSAGE**

WHEREAS, residents of the City of Sammamish have expressed concern to the City Council regarding the adequacy of notice and information provided by developers regarding continued growth and development within the city; and

WHEREAS, the City evaluated the provisions in the Sammamish Municipal Code relating to public noticing and other permitting procedures and identified recommended improvements (the "Proposed Amendments"); and

WHEREAS, on May 5, 2016, and June 16, 2016, the Proposed Amendments were presented to the Planning Commission for courtesy review, and the Planning Commission recommended that the Proposed Amendments be presented to the City Council for formal review; and

WHEREAS, in accordance with WAC 365-195-620, on June 20, 2016, the City submitted a Notice of Intent to Adopt Amendments to the Washington State Department of Commerce for expedited review (the "Commerce NOI"); and

WHEREAS, an environmental review of the proposed amendments has been conducted in accordance with the requirements of the State Environmental Policy Act ("SEPA"), and a SEPA threshold determination of non-significance ("DNS") was issued on June 24, 2016, and sent to state agencies and interested parties; and

WHEREAS, after providing 30 days' public notice, the City Council held a public hearing on the Proposed Amendments on July 5, 2016; and

WHEREAS, on July 19, 2016, the City Council adopted Ordinance No. O2016-413 as an emergency ordinance, but directed staff to further revise certain Code sections (the "Subsequent Revisions") and bring the revisions back to the Council for discussion; and

WHEREAS, the Subsequent Revisions arise from and were contemplated by the Commerce NOI, the DNS, and the public hearing referenced above; and

WHEREAS, on September 6, 2016, the City Council reviewed the Subsequent Revisions and completed the first and second reading of this Ordinance; and

WHEREAS, the City Council finds that the Subsequent Revisions are reasonable and necessary in order to improve public noticing, streamline permit and land use processing, and to generally increase the clarity and predictability of the City Code; and

WHEREAS, the City Council finds that the immediate adoption of the Subsequent Revisions is necessary to redress citizen concerns regarding public noticing prior to the vesting of additional development applications in the City;

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

**Section 1. Findings of Fact.** The City Council adopts as findings of fact the recitals set forth above, which are incorporated herein by this reference.

**Section 2. SMC 20.05.030, Feasibility conference – Preapplication conference, Amended.** Sammamish Municipal Code Section 20.05.030, *Feasibility conference – Preapplication conference*, is hereby amended as set forth in **Attachment A**, which is incorporated herein by this reference.

**Section 3. SMC 20.05.040, Application requirements, Amended.** Sammamish Municipal Code Section 20.05.040, *Application requirements*, is hereby amended as set forth in **Attachment B**, which is incorporated herein by this reference.

**Section 4. SMC 20.05.060, Notice of application, Amended.** Sammamish Municipal Code Section 20.05.060, *Notice of application*, is hereby amended as set forth in **Attachment C**, which is incorporated herein by this reference.

**Section 5. SMC 20.05.100, Permit issuance, Amended.** Sammamish Municipal Code Section 20.05.100, *Permit issuance*, is hereby amended as set forth in **Attachment D**, which is incorporated herein by this reference.

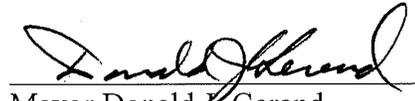
**Section 6. SMC 20.10.180, Notice, Amended.** Sammamish Municipal Code Section 20.10.180, *Notice*, is hereby amended as set forth in **Attachment E**, which is incorporated herein by this reference.

**Section 7. 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 8. Effective Date.** This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the "WHEREAS" clauses, above, all of which are adopted by reference as findings of fact as if fully set forth herein.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 6<sup>TH</sup> DAY OF SEPTEMBER, 2016.**

CITY OF SAMMAMISH

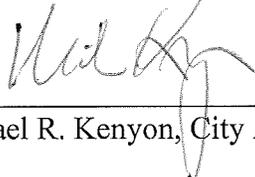


Mayor Donald V. Gerend

ATTEST/AUTHENTICATED:

  
Melonie Anderson, City Clerk

Approved as to form:

  
Michael R. Kenyon, City Attorney

Filed with the City Clerk:	August 31, 2016
First Reading:	September 6, 2016
Passed by the City Council:	September 6, 2016
Date of Publication:	September 9, 2016
Effective Date:	September 6, 2016

**ATTACHMENT A:  
Amended SMC 20.05.030**

**20.05.030 Feasibility conference – Preapplication conference.**

(1) Prior to the filing of any ~~permit~~ land use application, applicants shall contact the department for a feasibility conference and shall subsequently request a preapplication conference with the department as provided by subsections (2) and (3) of this section.

(a) Feasibility conference. The purpose of the feasibility conference is to discuss the general scope of the proposed project prior to the preapplication conference. The feasibility conference may be an informal conversation between the department and the applicant.

(b) Preapplication conference. The purpose of the preapplication conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The preapplication conference shall be scheduled by the department, at the request of an applicant, and shall be held in a timely manner within 30 days from the date of the applicant's request. The director may waive the requirement for a preapplication conference if it is determined to be unnecessary for review of an application. Except as provided in subsection (5) herein, nothing in this section shall be interpreted to require more than one preapplication conference or to prohibit the applicant from filing an application if the department is unable to schedule a preapplication conference within 30 days following the applicant's request. The provisions of subsections (2) through (5) of this section apply only to the preapplication conference and not to the feasibility conference.

(2) The applicant shall contact the department to schedule a preapplication conference prior to filing a permit application for a Type 1 decision involving any of the following:

(a) property that will have 5,000 square feet or greater of development and/or right-of-way improvements;

or

(b) property in a critical drainage area; or

(c) property that has a wetland, steep slope, landslide hazard, or erosion hazard; or

(d) single-family residences and accessory buildings directly impacting critical areas and/or their buffers;

Provided, that the provisions of this subsection shall not apply to structures where all work is in an existing building and no parking is required or added.

(3) Prior to filing a permit application requiring a Type 2, 3 or 4 decision, the applicant shall contact the department to schedule a preapplication conference that shall be held prior to filing the application, except as provided in subsection (1)(b) herein.

(4) For the purposes of this section, "applicant" means the person(s) with actual or apparent authority to speak for and answer questions about the property or project on behalf of the applicant as defined in SMC 19A.04.030.

(5) Information presented at or required as a result of the preapplication conference shall be valid for a period of 180 days following the preapplication conference. An applicant wishing to submit a permit application more than 180 days following the preapplication conference for that permit must schedule and participate in another preapplication conference prior to submitting the permit application, however, the director may waive this requirement for de minimus deviations or if it is determined to be unnecessary for review of an application.

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

**ATTACHMENT B:  
Amended SMC 20.05.040**

**20.05.040 Application requirements.**

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

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

(b) Designation of who the applicant is, except that this designation shall not be required as part of a complete application for purposes of this section when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right-of-way and the following three requirements are met:

(i) The name of the agency or private or public utility is shown on the application as the applicant;

(ii) The agency or private or public utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and

(iii) The form designating who the applicant is is submitted to the department prior to permit approval;

(c) A certificate of sewer availability from the Sammamish Plateau Sewer and Water District or site percolation data with preliminary approval by the Seattle-King County department of public health;

(d) A current certificate of water availability, as required by Chapter 21A.60 SMC;

(e) Review by Sammamish fire services;

(f) A site plan, prepared in a form prescribed by the director;

- (g) Proof that the lot or lots are recognized as separate lots pursuant to the provisions of Chapter 19A.04 SMC, if required by SMC 21A.50.100;
- (h) A sensitive areas affidavit if required by Chapter 21A.50 SMC;
- (i) A completed environmental checklist, if required by Chapter 20.15 SMC, State Environmental Policy Act Procedures;
- (j) Payment of any development permit review fees, excluding impact fees, as set forth by resolution;
- (k) A list of any permits or decisions applicable to the development proposal that have been obtained prior to filing the application or that are pending before the City or any other governmental entity;
- (l) Approved traffic impact analysis from the director or designee, if required by Chapter 14.15 SMC;
- (m) Certificate of future connection from the appropriate purveyor for lots located within the City that are proposed to be served by on-site or community sewage system and/or group B water systems or private well;
- (n) A determination if drainage review applies to the project pursuant to Chapter 9.04 KCC as adopted by SMC Title 13, and, if applicable, all drainage plans and documentation required by the King County surface water design manual adopted pursuant to Chapter 9.04 KCC as adopted by SMC Title 13;
- (o) Current assessor's maps and a list of tax parcels to which public notice must be given as provided in this chapter, for land use permits requiring a Type 2, 3 or 4 decision;
- (p) Legal description of the site;
- (q) Variances obtained or required under SMC Title 21A to the extent known at the date of application;
- (r) Verification that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has a right to develop the site and that the application has been submitted with the consent of all owners of the affected property; provided, that compliance with SMC 20.05.040(2)(d) shall satisfy the requirements of this subsection (1)(r); and
- ~~(rs)~~ For commercial site development permits only, a phasing plan and a time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years.

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

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

(a) Clearing and grading permit, as set forth in SMC 16.15.070;

(b) Construction permits as set forth in SMC 16.20.215;

(c) Mobile home permits as set forth in SMC 21A.70.170;

(d) For all applications for land use permits requiring Type 2, 3, or 4 decisions, a title report from a reputable title company indicating that the applicant has either sole marketable title to the development site or has a publicly recorded right to develop the site (such as an easement); if the title report does not clearly indicate that the applicant has such rights, then the applicant shall include the written consent of the record holder(s) of the development site.

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

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

(5) Applications shall be accompanied by the payment of the applicable filing fees, if any, as set forth by resolution.

**ATTACHMENT C:  
Amended SMC 20.05.060**

**20.05.060 Notice of application.**

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

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

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

(4) All required notices of application shall contain the following information:

(a) The file number;

(b) The name of the applicant;

(c) The date of application, the date of the notice of completeness and the date of the notice of application;

(d) A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;

(e) A site plan on eight and one-half by 14-inch paper, if applicable;

(f) The procedures and deadline for filing comments, requesting notice of any required hearings, and any appeal procedure;

(g) The date, time, place, and type of hearing, if applicable and scheduled at the time of notice;

(h) The identification of other permits not included in the application to the extent known;

(i) The identification of existing environmental documents that evaluate the proposed project;

(j) A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and of consistency with applicable City plans and regulations.

(5) Notice shall be provided in the following manner:

(a) Posted at the project site as provided in subsections (6) and (9) of this section;

(b) Mailed by first class mail as provided in subsection (7) of this section; and

(c) Published as provided in subsection (8) of this section.

(6) Posted notice for a proposal shall consist of one or more notice boards posted by the applicant within 14 days following the department's determination of completeness as follows:

(a) A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing and shall be placed by the applicant:

(i) At the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility;

(ii) Five feet inside the street property line except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street property without approval of the department;

(iii) So that the top of the notice board is between seven to nine feet above grade; and

(iv) Where it is completely visible to pedestrians.

(b) Additional notice boards may be required when:

(i) The site does not abut a public road;

(ii) A large site abuts more than one public road; or

(iii) The department determines that additional notice boards are necessary to provide adequate public notice.

(c) Notice boards shall be:

(i) Maintained in good condition by the applicant during the notice period through the time of the final City decision on the proposal, including the expiration of any applicable appeal periods, and for decisions that are appealed, through the time of the final resolution of any appeal;

(ii) In place at least 28 days prior to the date of any required hearing for a Type 3 or 4 decision, or at least 14 days following the department's determination of completeness for any Type 2 decision; and

(iii) Removed within 14 days after the end of the notice period.

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

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

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

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

(a) By first class mail to owners of record of property in an area within 1,000 feet of the site, ~~or within 2,000 feet of the site and~~, if the site lies within an erosion hazards near sensitive water bodies overlay, to owners of record of property within a 2,000-foot-wide column centered at the site and extending directionally with the natural drainage of the basin to the perimeter of the overlay or to the Lake Sammamish shoreline, as determined by the director; provided, that such area shall be expanded as necessary to send mailed notices to at least 20 different property owners;

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

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

(d) To the affected tribes;

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

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

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

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

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

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

(b) Notice boards shall include the following information:

(i) Permit number and description of the project;

(ii) Projected completion date of the project;

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

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

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

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

**ATTACHMENT D:  
Amended SMC 20.05.100**

**20.05.100 Permit issuance.**

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

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

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

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

shall notify the applicant of the deficiencies, and the procedures of this section shall apply as if a new request for revision had been made.

(i) The department shall set a reasonable deadline for submittal by the applicant of corrections, studies, or other information in response to a request for revision, and shall provide written notification of the deadline to the applicant. The deadline may not exceed 90 days from the date of the request for revision; provided, that an extension of such deadline may be granted upon written request by the applicant providing satisfactory justification for an extension or upon the applicant's agreement to and compliance with an approved schedule with specific target dates for submitting the full revisions, corrections or other information requested.

(ii) Applications may be canceled for inactivity if an applicant fails to provide, by such deadline, an adequate response substantively addressing code requirements identified in the written request for revision.

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

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

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

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

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

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

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

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

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

(3) Permits or approvals subject to the procedures of this chapter may be denied if the applicant is unable to present satisfactory proof of ownership of the property or development site as required by SMC 20.05.040(1)(r).

(4) If the department is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision. Within fourteen (14) days of the date of such notice, a copy of the notice shall be provided to the public in the manner set forth in SMC 20.05.060(5).

**ATTACHMENT E:  
Amended SMC 20.10.180**

**20.10.180 Notice.**

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(1) Notice of the time and place of any hearing on an application before the hearing examiner pursuant to this chapter shall be mailed by first class mail at least 14 calendar days prior to the scheduled hearing date to all persons who would be entitled to receive notice under SMC 20.05.060(7) and to all persons who commented or requested notice of the hearing. The notice of decision or recommendation required by this title may be combined with the notice of hearing required hereby.

(2) Notice of the time and place of any appeal hearing before the hearing examiner pursuant to this chapter shall be mailed to all parties of record by first class mail at least 14 calendar days prior to the scheduled hearing date.

(3) If testimony cannot be completed prior to adjournment on the date set for a hearing, the examiner shall announce prior to adjournment the time and place said hearing will be continued. (Ord. O99-29 § 1)