City Council, Joint Meeting with City of Redmond/Special Meeting

AGENDA

6:00 pm – 10:00 pm

May 24, 2016

Tour of Community Center 6:00 pm – 6:30 pm

Joint Meeting with Dinner 6:30 pm – 7:30 pm

Topics

- Transit and ST3
- Regional Homelessness/Human Services Issues
- SR202
- Emerald Necklace
- Legislative Agendas
- Duthie Hill Urban Growth Boundary Adjustment

Call to Order

Roll Call

Pledge of Allegiance

Approval of Agenda

Presentations/Proclamations

- Update: Issaquah-Fall City Road Open House

Public Comment

Note: *This is an opportunity for the public to address the Council. Three-minutes limit per person or five-minutes if representing the official position of a recognized community organization. If you would like to show a video or PowerPoint, it must be submitted or emailed by 5 pm, the end of the business day, to the City Clerk, Melonie Anderson at manderson@sammamish.us. Please be aware that Council meetings are videotaped and available to the public.*

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

Unfinished Business

1. **Ordinance:** Third Reading 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.

2. **Authorization:** Town Center Project Staffing

Council Reports

City Manager Report

Executive Session – If necessary

Adjournment

CITY OF SAMMAMISH
WASHINGTON
RESOLUTION NO. R2016-665

A RESOLUTION OF THE CITY OF SAMMAMISH CITY COUNCIL ADOPTING LEGISLATIVE PRIORITIES FOR 2016

WHEREAS, the City of Sammamish has an interest in influencing the development and amendment of state laws that affect the provision of City services, the construction of City facilities, and the associated revenues and costs; and

WHEREAS, to provide City services and facilities in the most efficient and cost-effective manner, the City of Sammamish should communicate its priorities and interests to state legislators and other interested parties; and

WHEREAS, the Association of Washington Cities (AWC) has established legislative priorities for 2016 under the themes of maintaining and restoring State-shared funding for infrastructure, local revenue options and reforms and greater flexibility in funding sources and that the City of Sammamish supports these priorities; and

WHEREAS, the legislative priorities attached to this resolution reflect the needs and interests of the residents and businesses in the City of Sammamish, and further support the AWC priorities.

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

The legislative priorities described in "Attachment A: City of Sammamish Legislative Priorities for 2016" are hereby adopted. The City Manager shall provide these priorities to legislators in Legislative Districts 41 and 45 prior to the start of the 2016 session and to other interested parties upon request.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 2nd DAY OF FEBRUARY, 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: January 27, 2016
Passed by the City Council: February 2, 2016
Resolution No.: R2016-665

Attachment "A"

City of Sammamish Potential Draft Legislative Priorities For 2016

AWC Adopted and City Supported

Maintain and Restore State-Shared Revenue and Funding for Infrastructure: *It will be a priority of the city to protect "state-shared revenues" that are vital for local government operations, such as liquor taxes and municipal criminal justice assistance. Municipalities have aging and inadequate infrastructure and cities can't keep up with the increasing demands. If Washington is going to keep moving forward, we need the Public Works Trust Fund and other infrastructure programs intact, to allow for planned and sustained investments in communities.*

Local revenue Options and Reforms and Greater Flexibility with Funding Sources: *The long history of local/state revenue sharing, a partnership dating 70+ years, has been severely undermined in recent years as the state's needs for revenue have substantially been derived by diverting the revenue stream from cities. The temporary ability for Cities to use a portion of their Real Estate Excise Tax for infrastructure maintenance should be made permanent. The State should grant additional revenue options to the cities to keep the cities in the state fiscally sustainable.*

Help Cities prepare for and address the impacts of natural disasters and other emergencies: *Based on recent experiences with devastating wildfires, landslides, and other emergencies, cities need better ways to coordinate response and enhance communications in emergencies.*

Strengthen the Public Records Act in response to changing technology and burdensome requests: *Cities support open and transparent government and continue to seek the best ways to meet this commitment. Unfortunately there are a growing number of requestors who monopolize resources with broad voluminous retaliatory and commercial requests with public benefit disproportionate to the taxpayer dollars needed to fulfill these requests. Cities need additional tools to resolve conflicts outside the courtroom and the authority to charge a reasonable fee for such requests.*

Enhance the provision of much needed human service programs to address issues that drive increased homelessness and public safety costs: *Investment in the state's human services network is necessary. Greater access to mental health and substance abuse services is essential. Cities, together with the state, counties and other partners, need to develop strategies to address affordable housing shortages and homelessness.*

Preserve Regulatory Authority over Marijuana Business and Share Marijuana Excise Tax: *The new marijuana industry is subject to a 75% state excise tax, but none of that funding is directed to local jurisdictions to address public safety needs and other complex local impacts. Additionally, Medical and recreational marijuana regulations need to be reconciled to meet the federal mandate for a tightly regulated system.*

City Priorities

Support Liquor Tax Restoration: Continue to support AWC efforts to ensure that suspension of liquor excise taxes going to local governments remains temporary (not permanent) and is not further reduced. *The long history of local/state revenue sharing, a partnership dating 70+ years, has been severely undermined in recent years as the state needs for revenue have substantially been derived by diverting the revenue stream from cities.*

SR-202 is a vital regional commute corridor, not only for Sammamish but for many residents in Duvall, Carnation, Redmond and unincorporated King County. The corridor gets congested

during the AM and PM peak hours. An improved corridor would benefit many jurisdictions, including Sammamish. Thus, it should be among the City's legislative priorities to press the Washington State Department of Transportation to make necessary improvements.

Issaquah/Fall City Road is a critical transportation corridor for Sammamish, Issaquah and unincorporated King County residents. Sammamish has already taken initial steps to improve this road. We would like to get additional state funds to complete this much needed transportation corridor.

Support the Road Usage Charge Study: The Sammamish City Council unanimously supports the Road Usage Charge (vehicle miles traveled) study currently being conducted by the Transportation Commission as instructed by the Legislature.

Economic Development/Land Use/Environment

Support Legislation to ensure reliable cost recovery for upfront State Environmental Policy Act (SEPA) Work: *Legislation is needed to allow local governments to fully recover SEPA review costs for infill development and planned actions via a latecomer's agreement or other mechanisms.*

Support for the Public Works Trust Fund (PWTF): The PWTF has served as a recurring and integral source of funding infrastructure for cities. *Funding for the Public Works Trust Fund has been systematically diverted by the state to fill their budget shortfalls. The diminished pool's funding process and project ranking criteria set by the PWTF Committee should be used to set the project list for funding rather than an executive or legislative list.*

Support for the eFairness Act: *Extend Sales Tax Sourcing Methodology nationally ensuring tax collection on goods coming into the state and protection for Washington based businesses from competitors using tax free pricing.*

Reduce Unfunded Mandates: *As an example, the cost to ratepayers and taxpayers to comply with National Pollution Discharge Elimination System (NPDES) requirements are substantial. Additionally, the City supports efforts to restore funding cuts previously made to Growth Management Act (GMA) planning grants.*

Affordable Housing Efforts

Support Funding of State's Housing Trust Fund: Also allow projects to be selected based on operative and effective criteria rather than on a Legislative List of Projects to be funded: *The State Housing Trust Fund has been a consistent funding source for East King County projects. The combination of reduced funding for the HTF and a project list set by the legislature resulted in a significant reduction of the ability to fund affordable housing projects in this geographic area.*

Other

Binding Arbitration: *Change binding arbitration to take into consideration pertinent factors and use the final and best offer from either labor or management, thus ensuring more realistic positions from the parties, rather than allowing the arbitrator to write the labor contract.*

City Council Agenda Bill

Meeting Date: **May 24, 2016** Date Submitted: May 11, 2016

Originating Department: Community Development

Clearances:

☑	Attorney	☑	Community Development	☐	Parks & Recreation
☐	Admin Services	☐	Eastside Fire and Rescue	☐	Police
☑	City Manager	☐	Finance & IT	☐	Public Works

Subject: An ordinance amending the Sammamish Municipal Code and the Shoreline Master Program

Action Required: Third Reading

Exhibits:
1. Ordinance with Attachment A
2. Washington Department of Ecology Conditional Approval Letter dated March 9, 2016 with Attachments A through D
3. Table of Amendments

Budget: N/A

Summary Statement:
The City Council had their first reading of this ordinance on May 3, 2016 and opened the public hearing. The public hearing was continued to May 17, 2016. Following the close of the public hearing on May 17, 2016, the City Council will be ready to begin deliberations. The exhibits for the May 24, 2016 meeting are the same exhibits originally provided to the City Council for May 3, 2016. All proposed amendments are summarized in Exhibit 3 to this agenda bill.

Background:
On July 9, 2013, after five study sessions and six public meetings, the City Council adopted amendments to the City of Sammamish Environmentally Critical Areas (ECA) regulations. The Council's review followed a lengthy and thorough review of the proposed amendments by the City of Sammamish Planning Commission, which included over 20 public meetings and more than a hundred comments from the public, agencies, and Native American tribes.

In adopting the revised ECA regulations, the Sammamish City Council confirmed that the proposed amendments should also be effective City-wide, including with the Sammamish Shoreline jurisdiction. Consequently, on November 12, 2013 the City of Sammamish submitted proposed amendments to the Sammamish Shoreline Master Program to the Department of Ecology for their review and approval. On March 17, 2016, the Department of Ecology formally approved the proposed amendments with conditions, which is attached as Exhibit 2. Attachment A to the Ecology letter contains Findings of Fact

and Conclusions related to the approval. Attachment B to the Ecology letter describes the three "required" amendments that will need to be incorporated into the Shoreline Master Program. Attachment C to the Ecology letter describes several "recommended" amendments to the Shoreline Master Program. Attachments B and C are summarized in Exhibit 3, along with several staff recommended amendments. Finally, Attachment D to the Ecology letter provides a response from Ecology to public comment received during their review of the Shoreline Master Program amendments.

Financial Impact:
There is no financial impact directly associated with adoption of this ordinance.

Recommended Motion:
Adopt the ordinance included in Exhibit 1, as amended, related to the protection and regulation of Environmentally Critical Areas in the Sammamish Shoreline Master Program.

CITY OF SAMMAMISH
WASHINGTON

ORDINANCE NO. O2016 -

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 _____DAY OF _____, 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:	
Second Reading:	
Passed by the City Council:	
Ordinance No.	
Date of Publication:	

Exhibit 1

Attachment A

Department of Ecology – Compiled Summary of Sammamish

Sammamish City Council

Amendments to the Shoreline Master Program

"Plain Text" is existing code language

"~~Strikethrough Text~~" is existing language that the City Council has deleted

"Underline Text" is code language that that the City Council has added

Sections:

21A.50.010 Purpose.

The purpose of this chapter is to implement the goals and policies of the Washington State Growth Management Act, Chapter 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. 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 ~~permit~~ 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. 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. 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. 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. O2005-193 § 1)

*[**Note:** Environmental Critical Area provisions **21A.50.050 (Complete exemptions)** are not included, as these provisions are not part of the approved SMP, pursuant to section 25.01.070] No amendment is currently proposed to section 25.01.070.*

*[**Note:** Environmental Critical Area provisions **21A.50.060 (Partial exceptions – Critical areas)** are not included, as these provisions are not part of the approved SMP, pursuant to section 25.01.070]. Please reference amendments to section 25.08.100.*

*[**Note:** Environmental Critical Area provisions **21A.50.070 (Exceptions)** are not included, as these provisions are not part of the approved SMP, pursuant to section 25.01.070]. No amendment is currently proposed to section 25.01.070.*

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:

(a) ~~Additionally, m~~Many of the wetlands located within the City's boundaries are inventoried in the King County wetlands inventory notebooks.

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

(c) The wetland management, erosion hazard near sensitive water bodies, critical aquifer recharge area, and lake management special overlay districts are designated on maps maintained by the City of Sammamish D~~d~~epartment of C~~c~~ommunity D~~d~~evelopment.

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 D~~d~~epartment of C~~c~~ommunity D~~d~~evelopment 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 SMC 21A.05. ~~(Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

21A.50.100 Disclosure by applicant.

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

(2) If the development proposal site contains or is within a critical area or buffer, the applicant shall submit an affidavit that declares whether the applicant has knowledge of any illegal alteration to any or all critical

areas or their buffers on the development proposal site and whether the applicant previously has been found in violation of this chapter, pursuant to SMC Title 23. If the applicant previously has been found in violation, the applicant shall declare whether such violation has been corrected to the satisfaction of the City. (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; and~~;~~

(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. 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 ~~landslide hazard area, wetland, stream, or fish and wildlife habitat conservation 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. ~~A critical areas study shall also be required for a development proposal located in erosion and seismic hazard areas, critical aquifer recharge areas, and frequently flooded areas, consistent with the requirements of this chapter, as determined by the director~~.

(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. O2005-193 § 1; Ord. O99-29 § 1)

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 RCW 36.70A -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~~Identification and characterization of all critical areas and buffers within the distance equal to the largest potential required buffer that can be reasonably ascertained from the subject property~~;

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

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

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

(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;

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

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

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

(~~i~~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.

~~(3) If the development proposal will affect only a part of the development proposal site, the director may limit the scope of the required critical areas study to include only that part of the site that may be affected by the development. (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, ~~A~~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 subsection (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. 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 subbasin;

(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.

(64) 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. 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; ~~and~~

(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~~.~~ (Ord. O2005-193 § 1; Ord. O2005-172 § 4); 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.

21A.50.150 Financial guarantees.

Financial guarantees shall be required consistent with the provisions of SMC Title 27A. (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. 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 ~~T~~the boundary between a critical area buffer ~~tract~~ 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 ~~shall~~ may be ~~as at specified by~~ modified by the director based on specific site conditions.

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

(a) As part of any development proposal~~s~~ 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. 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. 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 King County~~ 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. 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. 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 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 non-compliance;

(D) A water-quality monitoring plan for site discharges, where the applicant is responsible for measuring turbidity of stormwater 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 stormwater 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 stormwater 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 SMC 27A.15, ~~specifically~~ 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 ~~be~~ use~~d~~ 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 m~~M~~anagement ~~P~~plan by a qualified professional for establishment of permanent vegetation on the site following completion of clearing and grading work.

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

(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~~d~~) 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) above consistent with this section and other laws and regulations prior to receiving approval. Specific requirements for such plans shall be set forth in the adopted surface water design manual and Title 13 Surface Water Management, or as otherwise specified by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

(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 ~~hazards~~.

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

(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 ~~erosion hazards near a sensitive water bodies special district overlay~~:

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

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

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

(A) For single-family residences, associated landscaping and any appurtenances on pre-existing 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; ~~or~~

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

(A) ~~A~~ Where applicable under SMC 21A.50.120, a report that meets the requirements of SMC 21A.50.130 shall show that the ~~clearing~~ 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 ~~clearing~~ development activities shall be mitigated, monitored and bonded consistent with the mitigation requirements applicable to environmentally critical areas;

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

(D) The ~~clearing~~ 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 meets the goals of Low Impact Development, as follows:

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

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

(C) The development proposal's stormwater system shall limit stormwater discharge volumes to match the average annual volume discharged from the pre-developed 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 stormwater 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 ~~to~~ 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~~c~~) New proposed subdivisions, short subdivisions, public institutions, commercial site development permits, and binding site plans for sites that drain~~ed~~ predeveloped runoff to the no-disturbance zone shall evaluate the suitability of on-site soils for infiltration. All runoff from newly constructed impervious surfaces shall be retained on site unless this requirement precludes a proposed subdivision or short subdivision from achieving 75 percent of the maximum net density as identified in Chapter 21A.25 SMC. When 75 percent of the maximum net density cannot be met, the applicant shall retain runoff on site and a perforated tightline (~~Figure C.2.I, Appendix C, of the 1998 KCSWDM, as amended~~per the adopted surface water design manual and Title 13 Surface Water Management,) shall be used to connect each lot to the central drainage system. The following drainage systems shall be evaluated, using the following sequential measures, which appear in order of preference:

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

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

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

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

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

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

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

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

(~~e~~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.

(~~f~~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 (d)(i) below, 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 21A.50.225.

(d) Eligibility. A maximum of four (4) subdivision projects are authorized by this pilot program. A maximum of two (2) projects shall be authorized under subsection (d)(i) and a maximum of two (2) projects shall be authorized under subsection (d)(ii). Projects eligible for inclusion in this Pilot Program shall meet the provisions of subsection (d)(i) or (d)(ii) below:

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

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

(C) The project's stormwater system shall limit stormwater discharge volumes to match the average annual volume discharged from the pre-developed 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 stormwater 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 5(d) above shall be administered as follows:

(A) Within two (2) years of the effective date of this subsection, a maximum of one (1) project eligible for the pilot program under subsection (d)(i) and a maximum of one (1) project eligible for the pilot program under subsection (d)(ii) may be accepted subject to the provisions of subsection (5). 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 (1) project eligible for the pilot program under subsection (d)(i) and an additional one (1) project eligible for the pilot program under subsection (d)(ii) may be accepted subject to the provisions of subsection (5). For the purposes of this subsection, infrastructure necessary to support the proposed project shall include, at a minimum, all public or private stormwater 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 SMC 20.05, and an applicant must have completed any necessary preliminary steps prior to application as set forth in SMC 20.05.

(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 "(e)(i)" above. Projects for which applications are accepted into the Pilot Program may be reviewed, approved and constructed, under the terms of the Pilot Program, even if such review, approval, or construction occurs after the Pilot Program has expired.

(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 21A.50.225(2), 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 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 (d)(ii) - 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 (d)(ii);

(iv) Pilot projects proposed pursuant to subsection (d)(i) – 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 stormwater shall be prohibited except where there are no erosion hazard areas located downslope of the infiltration system;

(ix) Pilot projects shall set aside 50% of the gross site area as a permanent open space tract. Re-vegetation shall be required to convert non-forested 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 stormwater conveyance, permanent and temporary stormwater detention, and/or water quality facilities. For the purposes of temporary erosion and sediment control, the required tightline system may be either a portion of the permanent stormwater conveyance system if feasible, or a temporary tightline system to be replaced by the permanent system as construction progresses;

(B) Following installation and approval of the permanent and water quality treatment described in subsection (xi)(A) above, 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 Stormwater 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 stormwater management system, the applicant shall construct the Project's stormwater management systems in accordance with plans approved by the City. Stormwater 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 stormwater 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 (Section C250 &C251, Volume II, Department of Ecology Stormwater Management Manual).

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

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

(A) Turbidity;

(B) Total phosphorous;

(C) Total suspended solids;

(D) Temperature

(E) Flow rate; and,

(F) Volume.

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

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

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

(iv) Following Construction. Following the final inspection of the last house built, the project applicant shall be responsible for collecting monitoring data for five years. Data collection shall occur at a frequency of seven times a year between the months of October and June. Monitoring shall not be required following construction if the Pilot Program is adopted as a permanent amendment to the Erosion Hazard Near Sensitive Water Body overlay.

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

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

(i) 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.

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

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

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

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

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

21A.50.230 Frequently flooded areas.

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

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

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

(2) Development in frequently flooded areas shall be subject to the provisions in Chapter 15.10 SMC. (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 ~~all edges~~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~~2) 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.

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

(2) ~~(b)~~ 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:

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

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

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

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

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

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

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

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

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

(viii) 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.

(4~~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.

(5~~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.

(6~~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 ~~applicable~~ adopted surface water design manual and Title 13 Surface Water Management, ~~City-adopted storm water requirements~~, 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; ~~and~~

(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) New development proposals 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:~~

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

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

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

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

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

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

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

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

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

(1) All applicable building code requirements; and

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

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

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

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

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

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

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

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

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

(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 ~~land use or building permit application~~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~~, as defined in this chapter~~, 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 is 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

Attachment A

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	**	**
Wrecking yards	prohibited	prohibited	prohibited

Attachment A

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)
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 WAC 173-200 and 173-218 and 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 WAC 173-160; and

(ii) A notice on title is recorded documenting the maintenance requirements of the geothermal / heat exchange wells

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, 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 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 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 based on functions.

(d) Category 4. Category 4 wetlands score less than 30 points based on functions.

(2~~1~~) The following standard buffers shall be established from the wetland edge:

Wetland Category		Standard Buffer Width (ft)
Category I:	Natural Heritage or bog wetlands	215
	Habitat score 29–36	200

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Wetland Category		Standard Buffer Width (ft)
	Habitat score 20–28	150
	Not meeting above criteria	125
Category II:	Habitat score 29–36	150
	Habitat score 20–28	100
	Not meeting above criteria	75
Category III:	Habitat score 20–28	75
	Not meeting above criteria	50
Category IV:		All Land Use Types - 50
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, ~~W~~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~~through City or county development review on or after November 27, 1990~~, and is permanently recorded on title or placed within a separate tract, the buffer shall ~~be~~ remain as previously established, provided it is ~~at least as large as~~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~~2~~) ~~*Repealed by Ord. O2009-264.*~~ 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 –Allowance for Existing Urban Development and Other Uses.

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

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

(65) 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.

(76) 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; and

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

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

(fd) 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;.

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

~~(a) Another Category 1 or 2 wetland;~~

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

~~(c) A type S or F stream.~~

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

(9~~8~~) 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) ~~Installation of biofiltration/infiltration mechanisms: up to 20 percent reduction in the standard buffer width may be allowed for the installation of bioswales,~~ 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 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 non-native/invasive plant species and ~~are~~ 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 re-vegetated according to a city-approved restoration plan with native trees and shrubs;

(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.

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

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

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

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

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

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

21A.50.300 Wetlands – Permitted alterations.

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

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

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

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

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

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

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

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

(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~~s are~~ 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. ~~The following surface water management activities and facilities may be allowed in wetlands or their buffers only as follows~~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 #12-10-030 as such publication may be amended or revised by the Department of Ecology from time to time~~:~~.

~~(a) Surface water discharge to a wetland 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 does not increase the rate of flow, change the plant composition in a forested wetland or decrease the water quality of the wetland;~~

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

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

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

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

~~(i) No reasonable alternative exists; and~~

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

(8) Public and private trails may be allowed in the outer 25% 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) Reconstruction, Remodeling, or Replacement of Existing Structures. Reconstruction, remodeling, or replacement of an existing structure upon another portion of an existing impervious surface that was established pursuant to ordinances and regulations in effect at the time may be allowed, provided:~~

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

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

(11~~2~~) 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~~3~~) Wetland Restoration Project. A wetland restoration project for habitat enhancement may be allowed if:

(a) The restoration is ~~sponsored by a public agency with a mandate to do such work~~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 ~~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~~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. 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. ~~04-06-013~~06-06-11a and b), ~~or as revised~~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 ~~shall be in the same sub-basin~~have been identified and evaluated in the following order of preference:~~.~~

(i) Within the same drainage subbasin;

(ii) Within the city limits;

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

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

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

(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 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:

Attachment A

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	Re-habilitation	Creation or restoration	Enhancement	Re-habilitation	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~~b~~) Increased ~~Replacement~~ Mitigation Ratio. The director may increase the ratios under the following circumstances:

(i) Uncertainty exists as to the probable success of the proposed restoration or creation; or

(ii) A significant period of time will elapse between impact and replication of wetland functions; or

(iii) Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

(iv) The impact was an unauthorized impact.

(d~~c~~) Decreased ~~Replacement~~ Mitigation Ratio. The director may decrease these ratios under the following circumstances:

(i) Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high likelihood of success. This documentation should specifically identify how the proposed mitigation actions are similar to other known mitigation projects with similar site-specific conditions and circumstances that have been shown to be successful;

(ii) Documentation by a qualified professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; or

(iii) The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful over the course of at least one full year.

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

(7) Wetland Enhancement as Mitigation.

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

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

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

(a) A mitigation plan for restoration ~~shall~~ conforming to the requirements of this chapter and section shall be provided.~~ (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

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

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

(1) Wetland banking:

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

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

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

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

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

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

(b~~2~~) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

(c~~3~~) 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~~4~~) Implementation of a mitigation bank is subject to City council review and approval. ~~(Ord. O2005-193 § 1)~~

(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 pre-defined service area that includes the city of Sammamish.

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

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

(2) 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 points or greater 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.

(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 (d) through (g) below 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 (3) projects associated with the construction of a single family home are authorized by this pilot project, subject to the provisions of this section.

(i) 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 SMC 20.05, and completed any necessary preliminary steps prior to application as set forth in SMC 20.05.

(ii) 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.

(iii) 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 (d) above, 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 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 (5) 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 SMC 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.

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. ~~shall meet the following specifications:~~

~~(A) Coniferous trees shall be at least three feet tall;~~

~~(B) Deciduous trees shall be at least five feet tall; and~~

~~(C) Trees shall be planted primarily in the required open space area;~~

(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. O2005-193 § 1)

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

A development proposal that includes ~~alteration of~~ 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~~, pond~~ or a wetland, then the stream, lake~~, pond~~ or wetland protection standards shall apply and habitat management shall be addressed as part of the stream, lake~~, pond~~ 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 have 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; ~~and~~

(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 Fish and Wildlife's Backyard Wildlife Sanctuary Program shall be included.

(3) General Requirements. Habitat conservation areas that are ~~lakes~~ 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 21A.50.327.

(~~c~~b) 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.

(~~d~~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.

(fd) 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.

(gf) 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.

(g) Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical areas report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

(h) The director shall condition approvals of development activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary, to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

(i) Establishment of buffer zones;

(ii) Preservation of critically important vegetation;

(iii) Limitation of public access to the habitat area, including fencing to deter unauthorized access;

(iv) Seasonal restriction of development activities;

(v) Establishment of a duration and timetable for periodic review of mitigation activities; and

(vi) Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

(ih) Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions, and shall include mitigation for adverse impacts from the proposed development as appropriate. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per-function basis. (Ord. O2005-193 § 1)

21A.50.327 Fish and wWildlife habitat corridors.

Habitat On development proposal sites that contain Type F or Np streams and/or wetlands with a high habitat score greater than or equal to 29, that are also located within 200 feet of an on-site or off-site Type F or Np stream and/or wetland with a high habitat score greater than or equal to 29, corridors a fish and

wildlife habitat corridor shall be set aside and protected ~~for preserving connections between habitats along the designated wildlife habitat network~~ as follows:

~~(1) Habitat corridors shall be identified and protected in one of the following ways:~~

(1) ~~(a)~~ Subdivisions and short subdivisions shall either place the corridor in a contiguous permanent open space tract with all developable lots sited on the remaining portion of the project site, or shall design the lots so that conservation easements on individual lots can form a contiguous easement covering the corridor;

(2) ~~(b)~~ Individual lots shall place the corridor in a conservation easement.

~~(2)~~(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. ~~that enters and exits the property at the points the designated wildlife habitat network crosses the property boundary~~;

(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 ~~Maintains a width, wherever possible, of 300 feet. The network width shall not be less than 150 feet wide at any point~~;

(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; ~~and~~

(~~c~~d) Be contiguous with ~~and may~~ include and / or connect ~~sensitive~~ critical areas, ~~tracts and their~~ buffers, and open space tracts or wooded areas onsite or on adjacent properties, if present;~~.~~ and

(e) The director may modify corridor widths based on supporting ~~conditions~~ 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.

~~(3) When feasible, the wildlife habitat corridor shall be sited on the property in order to meet the following conditions:~~

~~(a) Connect isolated critical areas or habitat; and~~

~~(b) Connect with wildlife habitat corridors, open space tracts or wooded areas on adjacent properties, if present.~~

~~(4) The wildlife corridor tract shall be permanently marked consistent with the methods contained in SMC 21A.50.170. Conservation easements are exempt from the permanent marking requirement.~~

(~~5~~4) 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.

(~~5~~5) 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.

(~~6~~6) Where feasible, ~~A~~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 Washington Department of Fish and Wildlife's Backyard Wildlife Sanctuary Program.

(~~8~~9) Wildlife corridors set aside in tracts or conservation easements shall meet the provisions in SMC 16.15.120.

(~~9~~10) 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.

(1~~0~~0) 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 ~~and activities~~; provided, that any impacts to the corridor resulting from such permitted facilities shall be fully mitigated.

(12~~1~~) 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. 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~~through City or county development review on or after November 27, 1990~~, and is permanently recorded on title or placed within a separate tract, the buffer shall ~~be~~ remain as previously established, provided it is ~~at least~~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; ~~and~~

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

(e~~d~~) 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 b~~B~~uffer widths ~~shall~~ may be required by ~~the~~ a distance necessary ~~City when 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~~s~~ functions including, but not limited to the following:~~,~~ ~~critical drainage areas, critical fish and wildlife habitat landslide or erosion hazard areas contiguous to streams, and groundwater recharge and discharge area, or to offset buffer impacts, such as trail and utility corridors.~~

(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) ~~Installation of biofiltration/infiltration mechanisms: up to 20 percent reduction in standard buffer width for the installation of bioswales,~~ 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 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 non-native/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 re-vegetated 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.

(ed) 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.

(fe) 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.

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

(hg) 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.

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

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

(89) The introduction of livestock into a stream or stream buffer is prohibited. The livestock restrictions in SMC 21A.50.290 shall also apply to Type S and F streams and their buffers. (Ord. O2005-193 § 1; Ord. O2005-172 § 4; Ord. O99-29 § 1)

(10) In addition to the provisions of SMC 21A.50.060, Rremoval 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.

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, partial exemptions 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~~4~~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 ~~authorized~~ by a state or federal permit or approval or as otherwise allowed by SMC 21A.50.060 – Allowance for Existing Urban Development and Other Uses.

(4~~5~~) 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~~6) 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:

~~The following surface water management activities and facilities may be allowed in stream buffers as follows~~:

(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 ~~Np or~~ 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~~7) 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~~8) 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)~~(g)~~ The number of crossings is minimized and consolidated to serve multiple purposes and properties whenever possible.

(~~8~~9) 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~~10) 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~~11) 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~~12) 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~~13) 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; ~~and~~

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

(f) Stream relocation , if proposed, may be approved pursuant to 21A.50.340(9) as part of an approved restoration plan.

(~~13~~14) 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.

~~(14) 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 stream than the existing structure; and~~

~~(b) The existing impervious surface within the buffer or stream is not expanded as a result of the reconstruction or replacement. (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 ~~shall~~ have been identified and evaluated in the following order of preference:

(i) Within the same drainage subbasin;

(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~~i~~) 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.~~be in the same sub-basin.~~

(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 pre-defined service area that includes the city of Sammamish.

(3) 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.

(4) 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; ~~and~~

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

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

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

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

~~(1) Naturally Occurring Ponds – New Residence Setback and Tree Retention.~~

~~(a) A 50-foot building setback for new residences shall be established from the ordinary high water mark (OHWM) for naturally occurring ponds that are not otherwise regulated by the Sammamish shoreline master program.~~

~~(b) On lots abutting a pond or containing the 50-foot setback area, 25 percent of existing significant trees shall be retained on site. Half of the significant trees to be retained shall be located within the 50-foot building setback area. Where half of the trees to be retained are not present within the setback area, the remaining number may be retained elsewhere on site. (Ord. O2009-264 § 1 (Att. A); Ord. O2005-193 § 1)~~

~~**21A.50.352 Lake Sammamish buffer – Permitted alterations.**~~

~~*Repealed by Ord. O2009-264.* (Ord. O2005-193 § 1)~~

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

(1) The purpose of lake management areas is to designate the Beaver Lake and Pine Lake watersheds as special management areas for total phosphorus loading control and to establish standard procedures for evaluating drainage plans and related materials for applications of development within the Beaver Lake and Pine Lake Watersheds (within the East Lake Sammamish drainage basin).

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

~~(3) Definitions. In addition to the definitions listed below, all definitions included in the King County Surface Water Design Manual are hereby adopted by reference.~~

~~(a) "AKART" means all known, available, and reasonable methods of prevention, control, and treatment.~~

~~(b) "Eutrophic" means a trophic status characterized by moderately high algal productivity, more serious oxygen depletion in the bottom waters, some recreational use impairment, summer chlorophyll a concentration greater than 10 micrograms/liter, a summer Secchi depth of less than two meters, and a winter total phosphorus concentration greater than 20 micrograms/liter.~~

~~(c) "Hypereutrophic" means a trophic status characterized by high algal productivity, intense algal blooms, fish kills due to oxygen depletion in the bottom waters, frequent recreational use impairment, summer chlorophyll a concentration greater than 10 micrograms/liter, a summer Secchi depth generally less than two meters, and a winter total phosphorus concentration greater than 30 micrograms/liter.~~

~~(d) "Lake management plan" means the plan (and supporting documents as appropriate) describing the lake management recommendations and requirements.~~

~~(e) "Mesotrophic" means a trophic status characterized by moderate algal productivity, oxygen depletion in the bottom waters, usually no recreational use impairment, summer chlorophyll a concentration averaging four to 10 micrograms/liter, a summer Secchi depth of two to five meters, and a winter total phosphorus concentration ranging from 10 to 20 micrograms/liter.~~

~~(f) "Oligotrophic" means a trophic status characterized by low algal productivity, algal blooms are rare, water clarity is high, all recreational uses unimpaired, summer chlorophyll a concentration average less than four micrograms/liter, a summer Secchi depth greater than five meters, and a winter total phosphorus concentration ranging from zero to 10 micrograms/liter.~~

~~(g) "Phosphorus" means elemental phosphorus and for the purposes of this section shall be measured as total phosphorus.~~

~~(h) "Phosphorus concentration" means the mass of phosphorus per liquid volume.~~

~~(i) "Phosphorus loading" means the total mass of phosphorus per time basis.~~

~~(j) "Total phosphorus" means the phosphorus concentration as determined by a state-certified analytical laboratory using EPA 365.3 or SM 4500-P B, E or an equivalent method.~~

~~(k) "Trophic state index" means a classification system which uses algal biomass as the basis for classification which can be independently measured by chlorophyll a, Secchi depth, and total phosphorus concentration.~~

~~(l) "Trophic status" means a classification which defines lake quality by the degree of biological productivity.~~

(43) 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.

(54) 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 ~~as well~~.

(a) These ~~interim~~ 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.

(65) 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 Title 13 Surface Water Management, ~~King County Surface Water Design Manual~~.

(76) 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.

(87) 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 subsections 7(b) through 7(d) below:

(i) ~~For p~~Projects ~~which~~ that create greater than 5,000 square feet of new impervious surface subject to vehicular use in the Beaver Lake or Pine Lake watersheds~~, the following conditions shall apply, unless the conditions identified in subsection (6) of this section are documented to the satisfaction of the community development department:~~; or

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

(b~~a~~) 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~~b~~) ~~Currently t~~The AKART standard or ~~interim~~ best management practices for phosphorus-sensitive lakes can be fulfilled by- achieving the 50% phosphorous removal standard from the adopted surface water design manual and 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% 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 Title 13 Surface Water Management.

(iv) Development proposals using on-site infiltration, that do not comply with subsection 7(c)(iii), shall demonstrate that 80%, or better, phosphorus treatment can be expected with the designed on-site infiltration system, rather than by methods described in subsection (7)(c)(iii) of this section.

~~the following storm water treatment design criteria:~~

~~(i) A wetpond or combined detention/wetpond with a permanent pool volume equal to four and one-half times the volume of runoff from the mean annual storm (VB/VR=4.5).~~

~~(A) Mandatory roof downspout infiltration, unless shown to be infeasible, and maximization of forest or native vegetation retention.~~

~~(B) Pond volume can be reduced by maximizing forest retention according to the following schedule:~~

~~Forest (%)~~	~~VB/VR ratio~~
~~25~~	~~4.25~~
~~30~~	~~4.00~~
~~40~~	~~3.50~~
~~50~~	~~3.25~~
~~60~~	~~3.00~~

~~(C) Forest retention areas shall be in tracts dedicated to the City. Buffers without trails can be counted in the percent forest figure.~~

~~(D) The VB/VR ratio is the volume of the wetpond basin divided by the volume of the runoff from the mean annual storm. The mean annual storm is equal to 0.46 inches at SeaTac. Runoff can be estimated using a runoff coefficient of 0.9 for impervious area and 0.25 for all other pervious area. Forested areas in tracts dedicated to the City need not be included in the calculation of pond sizing (i.e., zero new runoff volume assumed). If this method is used in other areas, and SeaTac precipitation statistics underestimate the rainfall as judged by the isopluvial distribution of the two-year 24-hour precipitation, the mean annual rainfall should be adjusted upward.~~

~~(ii) Although current King County SWM designs are not complete for sand filtration, incorporation of sand filters into storm water treatment facility designs (i.e., treatment trains) can be pursued through the variance process to achieve additional total phosphorus removal. The proponent must demonstrate that equivalent or improved total phosphorus treatment can be expected with an alternative treatment system which incorporates sand filtration other than by methods described in subsection (8)(b)(i) of this section.~~

~~(iii) Where soils are suitable, on-site infiltration of storm water runoff can be pursued through the variance process as an AKART alternative. Soils are considered suitable for infiltration if at least two feet of soil exist where one of the following soil conditions are met:~~

~~(A) The cation exchange capacity of the soil equals or is greater than five milliequivalents;~~

~~(B) The organic content of the soil is equal to or greater than five percent;~~

~~(C) The grain size distribution of site soils is equivalent to not more than 25 percent gravel by weight (75 percent passing the No. 4 sieve) and of that passing the No. 4 sieve, either (1) 50 percent minimum passes the No. 40 sieve and two percent minimum passes the No. 100 sieve, or (2) 25 percent minimum passes the No. 40 sieve and five percent minimum passes the No. 200 sieve; and~~

~~(D) The infiltration rate is 2.4 inches/hour or less.~~

~~Additionally, the proponent must demonstrate that equivalent or better phosphorus treatment can be expected with on-site infiltration than by methods described in subsection (8) of this section.~~

~~(iv) As the King County Surface Water Design Manual is updated and additional treatment options and designs for total phosphorus removal become available, alternative treatment systems may be utilized if the AKART standard for phosphorus removal can be demonstrated.~~

(d~~c~~) 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)~~, the Santa Barbara Urban Hydrograph, or the VB/VR~~ 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. O2005-193 § 1)

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

~~There is hereby created a critical areas mitigation fund. This fund shall be administered by the City's finance director. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

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

~~All monies received from penalties resulting from the violation of rules and laws regulating development and activities within critical areas shall be deposited into the fund. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

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

~~Monies from the fund shall only be used for paying the cost of enforcing and implementing critical area laws and rules. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

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

~~Monies in the fund not needed for immediate expenditure shall be deposited in a separate investment fund pursuant to RCW 36.29.020. The finance director shall be designated as the investment fund director. (Ord. O2005-193 § 1; Ord. O99-29 § 1)~~

*[**Note:** Environmental Critical Area provisions **21A.50. 400 Sunset provisions)** are not included, as these provisions are not part of the approved SMP, pursuant to section 25.01.070]*

Attachment A

1

Attachment A

Chapter 21A.15
TECHNICAL TERMS AND LAND USE DEFINITIONS

Please Note: *The city has selected relevant definitions from the definitions section; for brevity, not all definitions are included here. The complete code is available at: http://www.codepublishing.com/wa/sammamish/*

21A.15.050 AKART.
"AKART" means all known, available, and reasonable methods of prevention, control, and treatment.

21A.15.056 Alteration.
Any human activity that results or is likely to result in an impact upon the existing condition of a critical area is an "alteration" that is subject to specific limitations as specified for each critical area. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants, except storm water, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, ~~pruning,~~ topping, ~~trimming,~~ relocating or removing vegetation or any other human activity that results or is likely to result in an impact to existent vegetation, hydrology, fish or wildlife, or fish or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities. (Ord. O2005-193 § 2; Ord. O2005-172 § 2; Ord. O99-29 § 1. Formerly 21A.50.200)

21A.15.062 Anadromous fish.
"Anadromous fish" are those that live part or the majority of their lives in saltwater, but return to freshwater to spawn. (Ord. O2005-172 § 2)

21A.15.080 Base flood.
"Base flood" means a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "100-year flood." (Ord. O2003-132 § 10)

21A.15.085 Base flood elevation.
"Base flood elevation" means the water surface elevation of the base flood in relation to the National Geodetic Vertical Datum of 1929. (Ord. O2003-132 § 10)

21A.15.098 Best available science.
"Best available science" means the process used and information developed consistent with requirements in RCW 36.70A.172 and WAC 365-195-900 through 365-195-925. (Ord. O2005-172 § 2)

21A.15.110 Biologist.
"Biologist" means a person who has earned at least a Bachelor of Science degree in the biological sciences from an accredited college or university or who has equivalent educational training and experience. (Ord. O2003-132 § 10)

21A.15.122 Buffer.
"Buffer" means a designated area contiguous to a steep slope or landslide hazard area intended to protect slope stability, attenuation of surface water flows and landslide hazards, or a designated area contiguous to a

habitat conservation area, stream or wetland intended to protect the habitat, stream or wetland and be an integral part of the habitat, stream or wetland ecosystem. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

21A.15.195 Clearing.
"Clearing" means the limbing, pruning, trimming, topping, cutting or removal of vegetation or other organic plant matter by physical, mechanical, chemical or other means. (Ord. O2003-132 § 10)

21A.15.253 Critical aquifer recharge area.
"Critical aquifer recharge areas" means those areas in the City of Sammamish with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater. CARAs shall be classified based on the following criteria:

(1) Class 1 CARAs include those areas located within the mapped one- or five-year capture zone of a wellhead protection area.

(2) Class 2 CARAs include those areas located within the mapped 10-year capture zone of a wellhead protection area.

(3) Class 3 CARAs include those areas outside wellhead protection areas that are identified as high aquifer recharge potential areas based on characteristics of surficial geology and soil types. (Ord. O2005-193 § 2)

21A.15.254 Critical areas.
"Critical areas" means those areas in the City that are erosion hazard areas, frequently flooded areas, landslide hazard areas, seismic hazard areas, critical aquifer recharge areas, wetlands, streams, and fish and wildlife habitat conservation areas. (Ord. O2005-193 § 2)

21A.15.255 Critical drainage area.
"Critical drainage area" means an area that has been formally determined by the King County surface water management department to require more restrictive regulation than countywide standards afford in order to mitigate severe flooding, drainage, erosion, or sedimentation problems that result from the cumulative impacts of development and urbanization. (Ord. O2003-132 § 10)

21A.15.XXX Development. "Development" means the construction or exterior expansion of structures or buildings; clearing or grading; paving, landscaping, or placing of obstructions; and any project of a permanent or temporary nature exterior to a building.

21A.15.310 Development proposal.
"Development proposal" means any activities requiring a permit or other approval from the City of Sammamish relative to the use or development of land. (Ord. O2003-132 § 10)

21A.15.365 Dwelling unit, single detached.

"Dwelling unit, single detached" means a detached building containing one dwelling unit. (Ord. O2003-132 § 10)

21A.15.400 Enhancement.

"Enhancement" means an action that increases the functions and values of a stream, wetland, or other sensitive area or buffer. (Ord. O2003-132 § 10)

21A.15.410 Erosion.

"Erosion" means the process by which soil particles are mobilized and transported by natural agents such as wind, rainsplash, frost action or surface water flow. (Ord. O2003-132 § 10)

21A.15.415 Erosion hazard areas.

"Erosion hazard areas" means those areas in the City underlain by soils that are subject to severe erosion when disturbed. Such soils include, but are not limited to, those classified as having a severe or very severe erosion hazard according to the USDA Soil Conservation Service, the 1973 King County Soils Survey or any subsequent revisions or addition by or to these sources. These soils include the following when they occur on slopes 15 percent or steeper:

(1) The Alderwood gravelly sandy loam (AgD);

(2) The Alderwood and Kitsap soils (AkF);

(3) The Beausite gravelly sandy loam (BeD and BeF);

(4) The Everett gravelly sandy loam (EvD);

(5) The Kitsap silt loam (KpD);

(6) The Ovall gravelly loam (OvD and OvF);

(7) The Ragnar fine sandy loam (RaD); and

(8) The Ragnar-Indianola Association (RdE). (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

21A.15.4XX Erosion Hazard Near Sensitive Water Body Overlay. The Erosion Hazard Near Sensitive Water Body overlay means an area within the city where sloped areas posing erosion hazards, or contributing to 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. The department of community development shall maintain a map of the boundaries of the erosion hazard near sensitive water bodies overlay district.

The Erosion Hazard Near Sensitive Water Body overlay is divided into two areas:

(a) The no-disturbance area. The no-disturbance area shall be established on the sloped portion of the special district overlay to prevent damage from erosion. The upslope boundary of the no-disturbance area lies at the first obvious break in slope from the upland plateau over onto the valley walls. For the purposes of locating the first obvious break in slope, the first obvious break shall generally be located at the top of the erosion hazard area associated with the slope. The downslope boundary of

the no-disturbance area is the extent of those areas designated as erosion or landslide hazard areas. The department shall maintain maps, supported by LIDAR (Light Detection and Ranging) data or other suitable technology, of the approximate location of the no-disturbance areas, which shall be subject to field verification for new development proposals.

(b) Properties draining to the no-disturbance area. Properties draining to the no-disturbance area are within the Erosion Hazard near Sensitive Water body overlay that drain to the no-disturbance area.

21A.15.420 Eutrophic.

"Eutrophic" means a trophic status characterized by moderately high algal productivity, more serious oxygen depletion in the bottom waters, some recreational use impairment, summer chlorophyll a concentration greater than 10 micrograms/liter, a summer Secchi depth of less than two meters, and a winter total phosphorus concentration greater than 20 micrograms/liter.

21A.15.XXX Feasible.

"Feasible" means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

(a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

(b) The action provides a reasonable likelihood of achieving its intended purpose; and

(c) The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

21A.15.467 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 on the Washington State Wetland Rating System for Western Washington (Department of Ecology 2004 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 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.

21A.15.468 Fish and wildlife habitat conservation areas.

"Fish and wildlife habitat conservation areas" means those areas that are essential for the preservation of critical habitat and species. All areas within the City of Sammamish meeting one or more of the following criteria are designated wildlife habitat conservation areas:

(1) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.

(a) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in

danger of extinction or are threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted as necessary for current listing status;

(b) State-designated endangered, threatened, and sensitive species are those fish and wildlife species native to the coastal region of the Pacific Northwest identified by the State Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and -are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State-designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species). The State Department of Fish and Wildlife maintains the most current listing and should be consulted as necessary for current listing status;

(2) Wetlands, Sstreams, and, lakes ~~and naturally occurring ponds~~;

(3) State natural area preserves and natural resource conservation areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the State Department of Natural Resources; and

(4) Fish and ~~W~~wildlife habitat corridors as defined in 21A.15.467 ~~for preserving connections between habitats along the designated wildlife habitat network. (Ord. O2005-193 § 2)~~

21A.15.470 Flood fringe.
"Flood fringe" means that portion of the floodplain outside of the zero-rise floodway that is covered by floodwaters during the base flood, generally associated with standing water rather than rapidly flowing water. (Ord. O2003-132 § 10)

21A.15.475 Flood hazard areas.
"Flood hazard areas" means those areas in the City of Sammamish subject to inundation by the base flood and those areas subject to risk from channel relocation or stream meander including, but not limited to, streams, lakes, wetlands, and closed depressions. (Ord. O2003-132 § 10)

21A.15.480 Flood insurance rate map.
"Flood insurance rate map" means the official map on which the Federal Insurance Administration has delineated some areas of flood hazard. (Ord. O2003-132 § 10)

21A.15.485 Flood insurance study for King County.
"Flood insurance study for King County" means the official report provided by the Federal Insurance Administration that includes flood profiles and the flood insurance rate map. (Ord. O2003-132 § 10)

21A.15.490 Flood protection elevation.
"Flood protection elevation" means an elevation that is one foot above the base flood elevation. (Ord. O2003-132 § 10)

21A.15.495 Floodplain.

"Floodplain" means the total area subject to inundation by the base flood. (Ord. O2003-132 § 10)

21A.15.500 Floodproofing.

"Floodproofing" means adaptations that will make a structure that is below the flood protection elevation substantially impermeable to the passage of water and resistant to hydrostatic and hydrodynamic loads including the impacts of buoyancy. (Ord. O2003-132 § 10)

21A.15.505 Floodway, zero-rise.

"Floodway, zero-rise" means the channel of a stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow without any measurable increase in flood height. A measurable increase in base flood height means a calculated upward rise in the base flood elevation, equal to or greater than .01 foot, resulting from a comparison of existing conditions and changed conditions directly attributable to development in the floodplain. This definition is broader than that of the FEMA floodway, but always includes the FEMA floodway. The boundaries of the 100-year floodplain, as shown on the flood insurance study for King County, are considered the boundaries of the zero-rise floodway unless otherwise delineated by a sensitive area special study. (Ord. O2003-132 § 10)

21A.15.532 Frequently flooded areas.

"Frequently flooded areas" means those lands in the City in the floodplain subject to a one percent or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the City in accordance with WAC 365-190-080(3). Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Frequently flooded areas include all areas of special flood hazards within the jurisdiction of the City of Sammamish. (Ord. O2005-193 § 2)

21A.15.545 Geologist.

"Geologist" means a professional ~~geologist~~ who holds a current geologist license from the Washington state Geologist Licensing Board.~~means a person who has earned at least a Bachelor of Science degree in the geological sciences from an accredited college or university or who has equivalent educational training and at least four years of professional experience. (Ord. O2003-132 § 10)~~

21A.15.550 Geotechnical engineer.

"Geotechnical engineer" means a practicing geotechnical/civil engineer licensed as a professional civil engineer by the state of Washington who has at least four years of professional employment as a geotechnical engineer. (Ord. O2003-132 § 10)

21A.15.575 Hypereutrophic.

"Hypereutrophic" means a trophic status characterized by high algal productivity, intense algal blooms, fish kills due to oxygen depletion in the bottom waters, frequent recreational use impairment, summer chlorophyll a concentration greater than 10 micrograms/liter, a summer Secchi depth generally less than two meters, and a winter total phosphorus concentration greater than 30 micrograms/liter.

21A.15.620 Lake Management Plan.

"Lake management plan" means the plan (and supporting documents as appropriate) describing the lake management recommendations and requirements.

21A.15.670 Landscaping.

"Landscaping" means live vegetative materials required for a development. Said materials provided along the boundaries of a development site are referred to as perimeter landscaping. (Ord. O2003-132 § 10)

21A.15.675 Landslide.

"Landslide" means episodic downslope movement of a mass including, but not limited to, soil, rock or snow. (Ord. O2003-132 § 10)

21A.15.680 Landslide hazard areas.

"Landslide hazard areas" means those areas in the City of Sammamish potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors. Landslide hazard areas include the following:

(1) Areas of historic failures, such as:

(a) Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;

(b) Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources;

(2) Areas that have shown movement during the Holocene epoch, from 10,000 years ago to the present, or which are underlain by mass wastage debris from that epoch;

(3) Any area with all three of the following characteristics:

(a) Slopes steeper than 15 percent; and

(b) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(c) Springs or groundwater seepage;

(4) Areas with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top, as defined in SMC 21A.15.1230, and measured by averaging the inclination over at least 10 feet of vertical relief;

(5) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(6) Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking;

(7) Areas potentially unstable because of rapid stream incision, stream bank erosion or undercutting by wave action; and

(8) Landslide hazard areas do not include those areas composed of slopes greater than 40 percent that were created from a previously non-landslide hazard area through legal grading activity and that are confirmed to be stable by a qualified professional. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

21A.15.XXX Maintenance. "Maintenance" means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition or use. Maintenance may include, but is not limited to, pruning, plant material replaced with alternate plant material, hardscape replaced with alternate hardscape, hardscape replaced with plant material.

21A.15.720 Mesotrophic.
"Mesotrophic" means a trophic status characterized by moderate algal productivity, oxygen depletion in the bottom waters, usually no recreational use impairment, summer chlorophyll a concentration averaging four to 10 micrograms/liter, a summer Secchi depth of two to five meters, and a winter total phosphorus concentration ranging from 10 to 20 micrograms/liter.

21A.15.XXX Microclimate. "Microclimate" means a climatic condition in a relatively small area, within a few feet above and below the Earth's surface and within canopies of vegetation. Microclimates are affected by such factors as temperature, humidity, wind and turbulence, dew, frost, heat balance, evaporation, the nature of the soil and vegetation, the local topography, latitude, elevation, and season. Weather and climate are sometimes influenced by microclimatic conditions, especially by variations in surface characteristics.

21A.15.751 Mitigation bank.
"Mitigation bank" means a property that has been protected in perpetuity, and approved by appropriate City, state, and federal agencies expressly for the purpose of providing compensatory mitigation in advance of authorized impacts through restoration, creation, and/or enhancement of wetlands, and in exceptional circumstances, preservation of adjacent wetlands, wetland buffers, and/or other aquatic resources. (Ord. O2003-132 § 10)

21A.15.752 Mitigation banking.
"Mitigation banking" means a system for providing compensatory mitigation in advance of authorized wetland impacts of development in the City in which credits are generated through restoration, creation, and/or enhancement of wetlands, and in exceptional circumstances, preservation of adjacent wetlands, wetland buffers, and/or other aquatic resources. (Ord. O2003-132 § 10)

21A.15.765 Monitoring.
"Monitoring" means evaluating the impacts of development proposals on biologic, hydrologic, and geologic systems and assessing the performance of required mitigation through 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. (Ord. O2003-132 § 10)

21A.15.790 Native vegetation.

"Native vegetation" means vegetation comprised of plant species, other than noxious weeds, which are indigenous to the coastal region of the Pacific Northwest and that reasonably could have been expected to naturally occur on the site. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

~~**21A.15.794 Naturalized species.**~~

~~"Naturalized species" means non-native species of vegetation that are adaptable to the climatic conditions of the coastal region of the Pacific Northwest. (Ord. O2011-300 § 1 (Att. A); Ord. O2003-132 § 10. Formerly 21A.15.795)~~

~~**21A.15.795 Naturally occurring ponds.**~~

~~See "Ponds, naturally occurring," SMC 21A.15.898. (Ord. O2011-300 § 1 (Att. A); Ord. O2005-193 § 2. Formerly 21A.15.796)~~

21A.15.810 Oligotrophic.

"Oligotrophic" means a trophic status characterized by low algal productivity, algal blooms are rare, water clarity is high, all recreational uses unimpaired, summer chlorophyll a concentration average less than four micrograms/liter, a summer Secchi depth greater than five meters, and a winter total phosphorus concentration ranging from zero to 10 micrograms/liter.

21A.15.825 Ordinary high water mark.

"Ordinary high water mark" means the mark found by examining the bed and banks of a stream, lake, or tidal water and ascertaining where the presence and action of waters are so common and long maintained in ordinary years as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In any area where neither can be found, the top of the channel bank shall substitute. In braided channels and alluvial fans, the ordinary high water mark or line of mean high water shall be measured so as to include the entire stream feature. (Ord. O2003-132 § 10)

21A.15.850 Phosphorus.

"Phosphorus" means elemental phosphorus and ~~for the purposes of this section~~ shall be measured as total phosphorus.

21A.15.855 Phosphorus concentration.

"Phosphorus concentration" means the mass of phosphorus per liquid volume.

21A.15.860 Phosphorus loading.

"Phosphorus loading" means the total mass of phosphorus per time basis.

~~**21A.15.898 Ponds, naturally occurring.**~~

~~"Ponds, naturally occurring" means those surface water bodies under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those manmade ponds intentionally created in order to mitigate critical area impacts. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites for other reasons such as canals, detention facilities, wastewater treatment facilities,~~

~~farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation. (Ord. O2005-193 § 2)~~

21A.15.942 Qualified professional.

"Qualified professional" means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or a related field, and two years of related work experience.

(1) A qualified professional for watercourses, wetlands, and wildlife habitat conservation areas must have a degree in biology or a related field and relevant professional experience.

(2) A qualified professional for preparing geotechnical reports and geotechnical design recommendations must be a professional geotechnical engineer or geologist licensed in the state of Washington. Identification of geologic hazards may be performed by geologists or other geology professionals with experience identifying geologic hazards.

(3) A qualified professional for preparing critical aquifer recharge reports must be a professional hydrogeologist or geologist licensed in the state of Washington.

21A.15.1000 Restoration.

"Restoration" means returning a stream, wetland, other sensitive area or any associated buffer to a state in which its stability and functions approach its unaltered state as closely as possible. (Ord. O2003-132 § 10)

21A.15.XXXX Riparian.

"Riparian" means the area adjacent to flowing or standing freshwater aquatic systems. Riparian habitat encompasses the area beginning at the ordinary high water mark and extends to that portion of the terrestrial landscape that is influenced by, or that directly influences, the aquatic ecosystem. In riparian systems, the vegetation, water tables, soils, microclimate, and wildlife inhabitants of terrestrial ecosystems are often influenced by perennial or intermittent water. Simultaneously, adjacent vegetation, nutrient and sediment loading, terrestrial wildlife, as well as organic and inorganic debris influence the biological and physical properties of the aquatic ecosystem. Riparian habitat includes the entire extent of the floodplain and riparian areas of wetlands that are directly connected to stream courses or other freshwater.

21A.15.1015 Salmonid.

"Salmonid" means a member of the fish family Salmonidae, including:

(1) Chinook, coho, chum, sockeye and pink salmon;

(2) Rainbow, steelhead and cutthroat salmon;

(3) Brown trout;

(4) Brook and dolly varden char;

(5) Kokanee; and

(6) Whitefish. (Ord. O2003-132 § 10)

21A.15.1045 Seismic hazard areas.

"Seismic hazard areas" means those areas mapped as moderate to high and high liquefaction susceptibility and peat deposits on the Liquefaction Susceptibility Map of King County, Washington, Washington Division of Geology and Earth Sciences, OFR 2004-20, Palmer et al., September, 2004 as revised.~~those areas in the City subject to severe risk of earthquake damage as a result of soil liquefaction in areas underlain by cohesionless soils of low density and usually in association with a shallow groundwater table or of other seismically induced settlement. (Ord. O2003-132 § 10)~~

21A.15.1070 Setback.

"Setback" means the minimum required distance between a structure and a specified line such as a lot, easement or buffer line that is required to remain free of structures. (Ord. O2003-132 § 10)

21A.15.1230 Steep slope hazard areas.

"Steep slope hazard areas" means those landslide hazard areas in the City on slopes 40 percent or steeper within a vertical elevation change of at least 10 feet. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief. For the purpose of this definition:

(1) The toe of a slope is a distinct topographic break in slope that separates slopes inclined at less than 40 percent from slopes 40 percent or steeper. Where no distinct break exists, the toe of a steep slope is the lowermost limit of the area where the ground surface drops 10 feet or more vertically within a horizontal distance of 25 feet; and

(2) The top of a slope is a distinct, topographic break in slope that separates slopes inclined at less than 40 percent from slopes 40 percent or steeper. Where no distinct break exists, the top of a steep slope is the uppermost limit of the area where the ground surface drops 10 feet or more vertically within a horizontal distance of 25 feet. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

(3) A distinct topographic break occurs when the change in gradient is less than 5 feet vertically within a horizontal distance of 25 feet.

21A.15.1235 Stream functions.

"Stream functions" means natural processes performed by streams including functions that are important in facilitating food chain production, providing habitat for nesting, rearing, and resting sites for aquatic, terrestrial, and avian species, maintaining the availability and quality of water, such as purifying water, acting as recharge and discharge areas for groundwater aquifers, moderating surface and storm water flows and maintaining the free flowing conveyance of water, sediments, and other organic matter. (Ord. O2003-132 § 10)

21A.15.1240 Streams.

"Streams" means those areas in the City where surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or storm water runoff conveyance devices or other entirely artificial watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to

construction of such watercourses. For the purpose of this definition, a defined channel or bed is an area that demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. For the purpose of defining the following categories of streams, normal rainfall is rainfall that is at or near the mean of the accumulated annual rainfall record, based upon the water year for King County as recorded at the Seattle-Tacoma International Airport.

(1) Streams shall be classified according to the following criteria:

(a) Type S streams are all streams inventoried as "shorelines of the state" under the City's shoreline master program. No Type S streams have been identified in the City as of September 1, 2005.

(b) Type F streams are those streams that are used by salmonids, have the potential to support salmonid uses, or that have been identified as being of special significance. Streams of special significance are those perennial reaches designated by the City based on historic fish presence and/or the probability of restoration of the following:

(i) George Davis Creek;

(ii) Ebright Creek;

(iii) Pine Lake Creek; and

(iv) Laughing Jacobs Creek, below Laughing Jacobs Lake.

(c) Type Np streams which are perennial during a year of normal rainfall and do not have the potential to be used by salmonids. Type Np streams include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations, then the point of perennial flow should be determined using the best professional judgment of a qualified professional.

(d) Type Ns streams which are seasonal or ephemeral during a year of normal rainfall and do not have the potential to be used by salmonids.

(2) For the purposes of this definition, "used by salmonids" and "potential to support salmonid uses" is presumed for:

(a) Streams where naturally reoccurring use by salmonid populations has been documented by a government agency;

(b) Streams that are fish passable by salmonid populations from Lake Sammamish, as determined by a qualified professional based on review of stream flow, gradient and barriers and criteria for fish passability established by the Washington Department of Fish and Wildlife; and

(c) Streams that are planned for restoration in a six-year capital improvement plan adopted by a government agency that will result in a fish passable connection to Lake Sammamish. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

21A.15.1265 Submerged land.

"Submerged land" means any land at or below the ordinary high water mark. (Ord. O2003-132 § 10)

21A.15.1275 Total phosphorus.

"Total phosphorus" means the phosphorus concentration as determined by a state-certified analytical laboratory using EPA 365.3 or SM 4500-P-B, E or an equivalent method.

21A.15.1285 Trails.

"Trails" means manmade pathways designed and intended for use by pedestrians, bicyclists, equestrians, and/or recreational users. Trails may be paved or unpaved, and may be intended and constructed for transportation, recreation, and nature contact and enjoyment. Types of trails are described and defined in the park and recreation plan, trails, bikeways and paths plan, or elsewhere in the city comprehensive plan. (Ord. O2005-172 § 2; Ord. O2003-132 § 10)

21A.15.1295 Trophic state index.

"Trophic state index" means a classification system which uses algal biomass as the basis for classification which can be independently measured by chlorophyll a, Secchi depth, and total phosphorus concentration.

21A.15.1300 Trophic status.

"Trophic status" means a classification which defines lake quality by the degree of biological productivity.

~~**21A.15.1390 Wet meadows, grazed.**~~

~~"Wet meadows, grazed" means palustrine emergent wetlands typically having up to six inches of standing water during the wet season and dominated under normal conditions by meadow emergents such as reed canary grass, spike rushes, bulrushes, sedges and rushes. During the growing season, the soil is often saturated but not covered with water. These meadows have been frequently used for livestock activities. (Ord. O2003-132 § 10)~~

21A.15.1395 Wetland edge.

"Wetland edge" means the line delineating the outer edge of a wetland, as determined by application of the federal 1987 *Wetland Delineation Manual* (Environmental Laboratory, 1987) and the United States Army Corps of Engineers (USACE) *Interim Regional Supplement for Western Mountains, Valleys, and Coast Region* (USACE, 2010), or such other manual(s) adopted by the Department consistent with RCW 90.58.380 and WAC 173-22-035, as amended.~~consistent with the Washington State Wetlands and Delineation Manual (1997, as amended).~~ (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

~~**21A.15.1400 Wetland, forested.**~~

~~"Wetland, forested" means a wetland that is characterized by woody vegetation at least 20 feet tall. (Ord. O2003-132 § 10)~~

21A.15.1405 Wetland functions.

"Wetland functions" means natural processes performed by wetlands including functions that are important in facilitating food chain production, providing habitat for nesting, rearing, and resting sites for aquatic, terrestrial, and avian species, maintaining the availability and quality of water, acting as recharge and discharge areas for groundwater aquifers and moderating surface and storm water flows, as well as performing other functions including, but not limited to, those set forth in 33 CFR 320.4(b)(2), 1988. (Ord. O2003-132 § 10)

21A.15.1410 Wetland, isolated.

"Wetland, isolated" means a wetland that is hydrologically isolated from other ~~wetlands or streams, does not have permanent open water, and is determined to be of low function~~aquatic resources. Isolated wetlands may perform important functions and are protected by state law (RCW 90.48) whether or not they are protected by federal law. ~~(Ord. O2005-193 § 2; Ord. O2003-132 § 10)~~

21A.15.1415 Wetlands.

"Wetlands" are those areas in the City of Sammamish designated in accordance with the federal 1987 *Wetland Delineation Manual* (Environmental Laboratory, 1987) and the United States Army Corps of Engineers (USACE) *Interim Regional Supplement for Western Mountains, Valleys, and Coast Region* (USACE, 2010), or such other manuals adopted by the Department of Ecology pursuant to RCW 90.58.380 and WAC 173-22-035, as amended.~~Washington State Wetlands Identification and Delineation Manual (1997, as amended)~~. Wetlands are areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

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

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

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

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

~~(4) Category 4. Category 4 wetlands score less than 30 points based on functions. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)~~

21A.15.14XX Wetlands of Local Significance.

"Wetlands of local significance" include the wetland identified in the King Council Wetlands Inventory (1990) as the East lake Sammamish #21 wetland (North Beaver Lake Bog), and others as designated by the City Council. Wetlands of local significance shall be subject to greater protection and environmental education efforts where possible.

Chapter 21A.70
NONCONFORMANCE, TEMPORARY USES, AND RE-USE OF FACILITIES

21A.70.020 Nonconformance – Applicability.

(1) All nonconformances except nonconforming uses and improvements related to the provisions of SMC 21A.50, shall be subject to the provisions of this chapter.

(2) The provisions of this chapter do not supersede or relieve a property owner from compliance with:

(a) The requirements of the Uniform Building and Fire Codes; or

(b) The provisions of this code beyond the specific nonconformance addressed by this chapter. (Ord. O99-29 § 1)

25.02.010 Definitions.

…

(17) Buffer. "Buffer" means a critical area buffer as designated by regulations in Chapter 21A.50 SMC and defined in Section 21A.15.122 SMC.

…

(49) Maintenance. "Maintenance" means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition or use. Maintenance may include, but is not limited to, pruning, plant material replaced with alternate plant material, hardscape replaced with alternate hardscape, hardscape replaced with plant material.

…

25.02.020 Scope of chapter.

This chapter contains definitions of technical and procedural terms used throughout the Sammamish Municipal Code. The definitions in this chapter supplement those in Chapter 21A.15 SMC and the Standard Industrial Classification Manual (SIC). Where there is a conflict between a definition in Chapter 21A.15 SMC and this chapter, the definition herein shall apply.

25.01.070 Critical Areas Regulations Incorporated by Reference

Provisions of the Sammamish Critical Areas Ordinance codified in SMC 21A.50 exclusive of SMC 21A.50.050 (Complete exemptions), SMC 21A.50.060 (Partial Exemptions), SMC 21A.50.070 (Exceptions), and SMC 21A.50.400 (Sunset provisions) are considered part of this SMP.

25.08.100 Existing development.

(1) Existing single-family homes, other structures, existing uses, and appurtenances that were legally established prior to the effective date of this SMP are considered to be conforming to the SMP. Additions, expansion or reconstruction must meet the provisions of the SMP.

(~~b~~a) Structures Not Meeting Current Regulations Other Than Critical Areas Requirements.

(i) Reconstruction, replacement, or expansion 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.

(ii) 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 shoreline functions than replacement in the existing footprint.

(iii) Existing structures that were legally established but which are not meeting current regulations with regard to the setback, area, bulk, height or density standards established by this program 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 building setback area or shoreline setback or other area where new construction or use would not be allowed.

(iv) If a structure not meeting current regulations is damaged by fire, explosion, or other casualty and/or natural disaster, it may be reconstructed to match the footprint that existed immediately prior to the time the damage occurred or in accordance with subsection (1)(b) of this section; provided, that all of the following criteria are met:

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

(B) 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; and

(C) If a structure not meeting current regulations is damaged by fire, explosion, or other casualty and/or natural disaster and these criteria are not met, the City may require the applicant to plant the vegetation enhancement area with native trees and shrubs in accordance with SMC 25.06.020.

(v) A structure not meeting current regulations that is moved outside the existing footprint must be brought into conformance with this program and Chapter 90.58 RCW, except as allowed by subsection (1)(b) of this section.

(vi) Allowances. The following developments, activities and uses are allowed, provided such activities are otherwise consistent with this program and other applicable regulations and law. The director may apply conditions to an underlying permit or approval to ensure that the activities are consistent with the provisions of the program.

(A) Structural modification of, addition to or replacement of existing legally created structures, except single detached residences, in existence before the effective date of the program, which do not meet

the current shoreline setback or building setback requirements if the modification, addition, replacement or related activity does not increase the existing footprint of the structure lying within the above-described shoreline setback or building setback area.

(B) Structural modification of, or replacement of legally created single detached residences in existence before the effective date of the program, that do not meet the current shoreline setback or building setback, if:

(1) The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the shoreline or building setback area more than 200 feet over that existing before the effective date of the program; and

(2) No portion of the modification, addition or replacement is located closer to the OHWM. This allowance may only be used once.

(3) Mitigation proportional (1:1) to the setback area impacted is required through planting of the VEA in accordance with the standards of this program.

(C) Structural modification of, or replacement of legally created single detached residences in existence before the effective date of the program, which do not meet the current shoreline setback or building setback, if:

(1) The footprint expansion extends landward (to the rear) from the existing structure footprint and maintains the same interior lot line setback distances up to the shoreline setback line (known as the “shadow” of the existing structure).

(2) Mitigation proportional (1:1) to the setback area impacted is required through planting of the VEA in accordance with the standards of this program. If the area impacted is over 500 square feet, the entire 15-foot VEA shall be vegetated with the exception of the allowed active use area.

~~(a) Allowed Activities in Critical Areas. The following developments, activities and uses are allowed, 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.~~

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

~~(ii) Structural modification of, addition to or replacement of legally created single detached residences in existence before November 27, 1990, which do not meet the building setback or buffer requirements for wetlands, streams, ponds or landslide hazard areas if the modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the above-described buffer or building setback area by more than 1,000 square feet over that existing before November 27, 1990, and no portion of the modification, addition or replacement is located closer to the critical area. Mitigation of impacts to critical areas or buffers disturbed is required and shall be evaluated to assure no net loss of ecological function.~~

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

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

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

~~(B) Restoration and enhancement of critical areas or buffers; 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.~~

~~(C) Existing and ongoing agriculture and grazing of livestock is allowed subject to any limitations established by law, if the agriculture or grazing activity was in existence before (1) 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.~~

~~(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.November 27, 1990.~~

(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) 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.

(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.

(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.

(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.

(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.

(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.

(92) Nonconforming Lots. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM that was legally established prior to the effective date of this program, but which does not conform to the present lot size standards, may be developed subject to conformance to other applicable requirements of this program.

(103) Nonconforming Uses.

(a) Uses that were legally established prior to the adoption or amendment of this program and are nonconforming with regard to the use regulations of this program may continue as legal nonconforming uses.

(b) An existing use designated as a conditional use that lawfully existed prior to the adoption or amendment of this program and which has not obtained a conditional use permit shall be considered a legal nonconforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.

(c) If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming unless in compliance with this program.

ATTACHMENT A: FINDINGS AND CONCLUSIONS FOR PROPOSED LIMITED AMENDMENT TO THE CITY OF SAMMAMISH SHORELINE MASTER PROGRAM

SMP Submittal accepted January 17, 2014, Ordinance No. 02013-350
Prepared by Joe Burcar on March 2, 2016

Brief Description of Proposed Amendment:

The City of Sammamish submitted to Ecology for approval, a limited amendment to their Shoreline Master Program (SMP) incorporating revised standards from their updated environmental Critical Areas Ordinance (CAO).

FINDINGS OF FACT

Need for amendment. Following the City's 2013 review of their environmental CAO, the proposed shoreline amendment intends to incorporate changes affecting the SMP to allow implementation of the updated CAO standards city-wide. According to the City, the 2013 amendments were informed by an updated Best Available Science review, which they conclude will ensure adequate environmental protection while also providing flexibility for property owners developing sites constrained by environmental critical areas.

SMP provisions to be changed by the amendment as proposed: As described within the City's Cumulative Impact Analysis (ESA, 2013; 2):

"The new (revised) ECA regulations as adopted by the Council maintain most of the critical areas protections incorporated by reference into the SMP. Some of the proposed amendments would alter the standards for wetlands, streams, fish and wildlife habitat conservations areas, and erosion hazards – all of which play an important role in maintaining shoreline ecological functions".

The amendment includes a number of changes that vary in significance to the SMP. As described in Ecology's comments to the City in April of 2013, the most significant concerns are related to the proposed wetland amendments.

The following table adapted from the City's Cumulative Impact Analysis (ESA, 2013) provides a summary of the major revisions adopted by the City. The middle column of the table generally describes the City's intent in making the revision and the right-hand column describes the anticipated effect of the change on shoreline ecological functions as they are described by the City's shoreline Inventory/Characterization report.

CAO Section	Intent of Revision to CAO	**Potential Effect** – *to Shoreline Ecologic Functions*
21A.50.350 (3) Streams – Mitigation requirements	**Allows fee-in-lieu mitigation for impacts to streams**	**Neutral** or **Beneficial**, especially with use of mitigation" receiving" sites within City's shoreline jurisdiction.
21A.50.327 Fish and wildlife habitat corridors.	**Alternative wildlife protection approach for fish and wildlife habitat corridors** - requires site specific analysis of wildlife habitats as opposed to reliance on outdated King County habitats map.	**Beneficial**, especially for habitat functions.
21A.50.060 Allowances for existing	**New allowances for addition to existing single detached dwelling units and accessory dwelling**	Detailed analysis of potential cumulative impacts provided in Chapter 4.

CAO Section	Intent of Revision to CAO	**Potential Effect** – *to Shoreline Ecologic Functions*
urban development and other uses	**units within critical areas buffers** – allows for limited expansion of these structures within some ECA buffers which could weaken buffer protection.	
21A.50.310(4) & 21A.50.315 (2) Wetlands – Mitigation requirements / Alternative mitigation	Allows fee-in-lieu mitigation for allowed impacts to wetlands	**Neutral** or **Beneficial**, especially with use of mitigation "receiving" sites within City's shoreline jurisdiction.
Wetlands – Mitigation requirements	**Revised wetland mitigation ratios** – requires mitigation ratios to be based upon different types of wetland mitigation (e.g., creation, rehabilitation, etc), and provides specific criteria for Category 1 bog and natural heritage site wetlands ensuring that mitigation is functionally appropriate and feasible for wetlands with special characteristics. Clarifies expectations for wetland mitigation and establishes consistency with state and federal regulatory guidelines.	**Beneficial**, especially for habitat and water quality functions.
21A.50.320(3) Wetlands – Development Flexibilities	**Allowance for Alteration of Small, Isolated Wetlands** – Establishes a pilot program that would allow isolated wetlands less than 4,000 SF to be filled without first avoiding the impact; must be non-riparian and score 15 or less habitat points. Allowed for a maximum of three single family home development projects.	**Potentially negative**; detailed analysis of potential cumulative impacts provided in Chapter 4.
21A.50.320(2) Wetlands – Development Flexibilities	**Buffer reduction without avoidance / minimization for Category III and IV wetlands 4,000 SF or less in size** – mitigation as enhancement is provided within wetland, remaining buffer, or adjoining high value habitat.	**Potentially negative**; detailed analysis of potential cumulative impacts provided in Chapter 4.
21A.50.225(3) EHNSWB Overlay, No-disturbance area development standards.	**New allowances for development and subdivision in the no-disturbance area of the Erosion Hazard Near Sensitive Water Bodies (EHNSWB) Overlay.**	
	The update provides new allowances for single-family home construction and modification on existing lots in the EHNSWB Overlay no-disturbance area; allows for an expansion in the amount of impervious surface on a site as long as there is no increase in stormwater volume; limited areas overlap with Lake Sammamish shoreline jurisdiction.	**Potentially negative** to functions supporting Lake Sammamish water quality; detailed analysis of potential cumulative impacts provided in Chapter 4.
21A.50.225(5) EHNSWB Overlay, Pilot program	The update authorizes up to four subdivisions in the no-disturbance area of the EHNSWB Overlay subject to a pilot program; criteria are provided directing how subdivision would manage runoff (either through a direct discharge / tightline approach, or through use of LID approaches for land development and stormwater management).	**Potentially negative** to functions supporting Lake Sammamish water quality; detailed analysis of potential cumulative impacts provided in Chapter 4.

Amendment History, Review Process: According to the City, the proposed SMP amendment was prompted by a comprehensive review of the City's environmental Critical Areas Ordinance that started in 2011. The record shows that the City provided multiple opportunities for the public or interested parties to comment on the proposed amendments. In fact, the City Council held a public hearing on the amendments, which was proceeded by five study sessions and six public meetings dedicated to this topic. In addition, the City's Planning Commission reportedly held over 20 public meetings throughout their time developing the proposed amendment.

With passage of Ordinance #02013-350, on July 13, 2013 the City authorized staff to forward the proposed amendments to Ecology for state review of the limited amendment to the City's existing Shoreline Master Program.

Ecology certified the amendment package as complete on January 17, 2014. In compliance with the requirements of WAC 173-26-120 (2) Notice of Ecology's comment period was distributed to over 100 state or local interested parties identified by the City in early September 2014 and was posted on Ecology's website.[1] The notice included a description of the proposed amendment, a description of the authority under which the action is proposed, and details of the manner in which interested persons may obtain copies and present their views. The state comment period formally started on September 12, 2014 and continued through October 13, 2014. At the close of the comment period, Ecology received written comments from three individuals, as summarized in attachment D.

Finding

Ecology finds that the City satisfied SMP-Guideline requirements related to public process in WAC 173-26-201 (3) (b), through Planning Commission review/deliberation and City Council review/deliberation, as well as extensive staff outreach throughout their amendment process.

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090 (3), (4) and (5). The City also provided evidence of compliance with SMA procedural requirements in amending their SMP, as contained in RCW 90.58.090 (1) and (2).

Consistency with "applicable guidelines" (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City and submitted to Ecology along with the other amendment materials.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendment on May 20, 2013. Notice of the SEPA determination was published in *The Seattle Times*.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following materials submitted by the City in support of the limited SMP amendment:

These materials include:

- *City of Sammamish Best Available Science Review (AMEC, 2013);*
- *Cumulative Impacts Analysis dated October 2, 2013 (ESA, 2013);*
- *City of Sammamish Ordinance #02013-35 dated July 9, 2013*
- *Shoreline Master Program Submittal Checklist dated November 8, 2013;*
- *Department of Ecology comment letter dated October 3, 2012*

[1] http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/SammamishLimitedAmendment.html

- *Department of Ecology comment letter dated April 23, 2013; and*
- *Additional materials provided by the City's limited amendment submittal accepted by Ecology as complete on January 17, 2014.*

Summary of Issues Identified by Ecology as Relevant To Its Decision: The scope of the City's amendments to their Shoreline Master Program (SMP) are a subset of the changes included in the City's 2013 amendments to their Critical Areas Ordinance (CAO), as not all of the CAO provisions are included in the City's SMP. As described in our October 3, 2012 and April 23, 2013 letters to the City, the adequacy of the City's wetland provisions are particular important to Ecology, as the SMP-Guidelines require that SMP provisions protect existing functions from loss from anticipated future development (i.e., No Net Loss). Consistent with this early feedback to the City, Ecology's formal review of the amendment considered all information provided in the record in determining consistency with state requirements.

WAC 173-26-186 (8) (b) of the SMP-Guidelines requires that; *"Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions."*

Consistent with the process described in WAC 173-26-201 of the SMP Guidelines, the City submitted to Ecology a Cumulative Impact Analysis prepared by ESA dated October 2013, analyzing the likely affects of amended SMP provisions.

WAC 173-26-221 (2) of the SMP-Guidelines requires that Shoreline Master Programs manage critical areas located within shoreline jurisdiction in a manner that adequately protects shoreline ecological functions. Subsection (c) (i) provide minimum standards specific to managing wetlands. Related to the City's "isolated wetland" amendment, WAC 173-26-221 (2) (c) (i) (C) states: *"**Alterations to wetlands.** Master program provisions addressing alterations to wetlands shall be consistent with the policy of no net loss of wetland area and functions, wetland rating, scientific and technical information, and the mitigation priority sequence defined in WAC 173-26-201 (2) (e)."*

Based on our review of the amended provisions for consistency with applicable SMP-Guideline requirements, and consideration of information/comments provided during Ecology's comment period (attachment D), the following topics remain relevant to Ecology's decision on this amendment:

Isolated Wetland Provisions – The City's amendment adds a definition for "wetlands isolated" in section 21A.15.1410 and authorizes alteration (filling) of some "isolated wetlands," without first demonstrating avoidance of impacts through new provisions in section 21A.50.320. The amendments appear to authorize wetland alteration under three of the following scenarios:

- Provision 21A.50.320 (1) modifies the definition of "isolated wetlands" provided in section 21A.15.1410 by deferring to a "qualified professional" in designating "isolated wetlands" that are less than 1000-sq' in total area;
- Provision 21A.50.320 (2) provides a 15-foot buffer reduction for Category III and IV wetlands less than 4,000-sq' in size and with a habitat score of "4"[2] or less;
- Provision 21A.50.320 (3) creates a pilot program, authorizing alteration of up to three Category III and IV "isolated wetlands" over a two year period. The pilot program would be

[2] Note the 2014 Wetland Rating System provide an updated scoring system, for which a score of "15" under the previous rating system is equivalent to a score of "4 or less" under the updated system.

limited to "isolated wetlands" that are less than 4,000-sq' in size and are characterized as "non riparian" and have a habitat score of "4"[3] or less.

Issue #1: By definition it is unlikely that "isolated wetlands" exist within shoreline jurisdiction, raising questions related to the need or appropriateness for the City's amendment.

As detailed in *attachment B* and *attachment C*, Ecology noted a number of inconsistencies with the City's amendment related to definitions and authorities associated with managing "isolated wetlands."

Provision 21A.50.320 (1) authorizes alteration of wetlands less than 1,000-sq' and inappropriately defers federal authority to a "qualified professional" to designate these features as "isolated wetlands." Under the Clean Water Act (CWA), the federal government (not the City or Ecology) has authority to make a jurisdictional determination on whether a particular wetland is regulated under the CWA or not. The U.S. Army Corps of Engineers regulates wetlands as waters of the United States, except for isolated wetlands which the Corps generally considers to be those wetlands without sufficient hydrologic connection with, or location next to, navigable water (such as a river, lake, or marine water). This federal authority was reaffirmed through a United States Supreme Court ruling in 2001 (*Solid Waste Agency of Northern Cook County vs. United States Army Corps of Engineers et al., 531 U.S. 159*). In this case, the Court determined that jurisdictional waters of the United States should be regulated under the Clean Water Act and that non-jurisdictional water called "isolated wetlands" would not be subject to federal oversight. The case clearly confirmed the federal government's authority to determine Clean Water Act jurisdiction, including designation of wetlands as connected or isolated from waters of the United States. Even though a qualified professional can assess the wetland and offer a written opinion of jurisdiction, they do not have the authority to determine if a wetland is in or out of Clean Water Act jurisdiction. As noted in the City's *Cumulative Impact Analysis*, the approach being proposed would likely generate ongoing disputes or debate between City staff, private consultants and Ecology when the ultimate decision lies with the federal government to determine jurisdiction relative to the Clean Water Act.

In addition, associated wetlands as defined in the City's SMP[4] and under state statute could not be considered to be an "isolated wetlands," as any influence to the wetland from the adjacent lake or stream is evidence of a connection and thus not "isolated."

Based on consideration of applicable SMP-Guideline requirements and the issues described above, Ecology cannot approve provision 21A.50.320 (1) to be included in the SMP as proposed. The proposed standards create inconsistencies related to the SMP's definition of "isolated wetlands" provided in 21A.15.1410 and inappropriately defers to a "qualified professional" to designate "isolated wetlands" as opposed to relying upon the federal authority (confirmed by the Supreme Court in 2001) under the CWA. Further, the underlying need to allow the amendment (within shoreline jurisdiction), is not adequately described in the record, nor are any "isolated wetlands"

[3] Note the 2014 Wetland Rating System provide an updated scoring system, for which a score of "15" under the previous rating system is equivalent to a score of "4 or less" under the updated system.

[4] (97) Wetland, Associated. Associated Wetland means wetlands that are in proximity to lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include but are not limited to: location contiguous to a shoreline waterbody, presence of a surface connection including through a culvert or similar device, location in part or whole within the 100 year floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

identified or anticipated to be found in shoreline jurisdiction according to the City's *Cumulative Impact Analysis*. Therefore, Ecology has no information or analysis to support a conclusion that the amendment would be consistent with applicable SMP-Guideline requirements such as maintaining no net loss of shoreline ecological functions (WAC 173-26-186) or consistency with applicable Critical Area standards in WAC 173-26-221.

Issue #2: Potential impacts associated with the amendment cannot be determined, as it is not clear if "isolated wetlands" exist in shoreline jurisdiction.

Ecology is not aware of any technical information or scientific literature that would support exempting the alteration of small wetlands. As suggested in comments provided to the City on April 23, 2013, if exemptions are proposed as a matter of regulatory flexibility, then the regulations should clearly state that the exemptions would only apply to "isolated" Category III and Category IV wetlands that meet the specific criteria.[5] In addition, Ecology recommended that a critical areas study would need to be required to demonstrate that the wetland to be altered satisfies the applicable criteria and to assure that all impacts are fully mitigated.

Section 21A.50.320 (1) of the amended ordinance does not limit alteration of wetlands based on criteria recommended by Ecology. Section 21A.50.320 (1) make no mention of wetland type (i.e., Category I – IV), characterization of riparian areas, buffers, wetland mosaics or local populations of priority species, as potential factors to consider before authorizing alteration of the wetland.

Ecology notes that the City did adopt language consistent with the Washington Department of Fish and Wildlife for "riparian area"[6] in the definitions section, but have not included the term "riparian" in 21.A50.320 (1) with regards to alteration of small isolated wetlands less than 1,000-sq' in size. As described in Ecology's October 3, 2012 letter to the City, it is not possible to conclude from size alone what functions and values a particular wetland is providing. Ecology's *Wetlands in Washington State, Volume 1: A Synthesis of the Science*[7] emphasizes that small wetlands and isolated wetlands provide many important functions. Many of these small and/or isolated wetlands are biologically unique systems that are critically important to amphibians. The loss of small wetlands could result in increased fragmentation of habitat and greater distances between wetland patches (See Chapter 4 of Volume 1). These impacts could have a significant effect on the ability of a landscape to support viable populations of wetland-dependent wildlife, including amphibians.

Consistent with the City's *Cumulative Impact Analysis* (CIA) prepared by ESA dated October 2013, Ecology believes that by definition it is very unlikely that "isolated wetlands" exist within shoreline jurisdiction. In fact, section 4.5.2. of the CIA acknowledges that while unlikely, it might be possible

[5] See *Wetlands & CAO Updates: Guidance for Small Cities (Western Washington Version),* Ecology Publication #10-06-002, January 2010

[6] As described in Ecology's comment letter to the City, WDFW defines riparian areas as the area adjacent to flowing or standing freshwater aquatic systems. Riparian habitat encompasses the area beginning at the ordinary high water mark and extends to that portion of the terrestrial landscape that is influenced by, or that directly influences, the aquatic ecosystem. In riparian systems, the vegetation, water tables, soils, microclimate, and wildlife inhabitants of terrestrial ecosystems are often influenced by perennial or intermittent water. Simultaneously, adjacent vegetation, nutrient and sediment loading, terrestrial wildlife, as well as organic and inorganic debris, influence the biological and physical properties of the aquatic ecosystem. Riparian habitat includes the entire extent of the floodplain and riparian areas of wetlands that are directly connected to stream courses or other freshwater.

[7] Ecology Publication #05-06-006, March 2005, sections 5.3.3 and 5.3.4

for an isolated wetland to exist, they state: *"it could be argued that any wetland within the shoreline jurisdiction is still within or adjacent to the riparian area…"*

In addition, Section 4.5.2 of the *Cumulative Impacts Analysis* cautions that: *"The allowance may create a tendency for applicants to claim that some wetlands are isolated and non-riparian, which could put an administrative burden on City staff to determine if wetlands in question are in fact isolated and not adjacent to a riparian area."*

The SMP-Guidelines at WAC 173-26-191 (2) (a) (ii) requires that master program regulations *"be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies of this chapter, and the local master program policies."*

Therefore, Ecology cannot approve the incorporation of provision 21A.50.320 (1) into the updated SMP, as the standards do not provide sufficient detail related to anticipated effects and/or potential cumulative impacts resulting from implementation of the amended provisions within the City's shoreline areas.

Finding

Ecology finds that the proposed SMP amendments as approved by the City under Ordinance 02013-350 cannot be approved as submitted, but can be modified to be consistent with applicable SMP-Guideline requirements as identified by Ecology's required changes listed in attachment B. Ecology also finds the proposed SMP amendments would be improved through adoption of recommended changes listed in attachment C.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's proposal, subject to and including Ecology's required changes (**attachment B**), could be considered consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP-Guidelines (WAC 173-26-171 through 251 and .020 definitions).

Ecology concludes that the proposed SMP amendment, subject to the required changes in attachment B, can satisfy the intent of the provision for no net loss of shoreline ecological functions provided in WAC 173-26-201 (2) (c).

Ecology concludes that recommended changes in attachment C will further clarify and improve the proposed SMP amendment.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090 (5).

Ecology concludes that the City of Sammamish complied with the purpose and intent of local amendment requirements contained in WAC 173-26-100, including conducting public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City of Sammamish complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

Ecology concludes that the City of Sammamish complied with requirements of Chapter 43.21 (C) RCW, the State Environmental Policy Act.

Ecology concludes that the City of Sammamish's limited SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201 (3) (a) and (h) and as demonstrated through the SMP Submittal Checklist submitted by the City.

Ecology concludes that procedural requirements for state review and approval of shoreline master program amendments have been followed, as set forth in WAC 173-26-120.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments will be consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules, once changes set forth in **attachment B** are accepted by the City.

As provided in RCW 90.58.090 (2) (e) (ii) the City may choose to submit an alternative to all or part of changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action on the amendment.

As provided in RCW 90.58.090 (7) Ecology's final approval of the proposed amendment will become effective fourteen days from the date of Ecology's written notice of final action.

Exhibit 2

The following changes are necessary to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III);

ITEM	PROVISION	TOPIC	BILL FORMAT CHANGES [underline-additions; ~~strikethrough-deletions~~]	ECOLOGY - *DISCUSSION/RATIONALE*
1	**25.01.060**	Incorporation by reference	25.01.060 ***Relationship to Plans, Policies and Regulations*** (5) The following provisions of the Sammamish Municipal Code are adopted as part of this SMP, and attached herein: SMC 13 (Surface Water Management, adopted by Ord 2011-304, on May 16, 2011), SMC 21.10.120 (Historic Resources, adopted by Ord 2008-240, on Dec 16, 2008) and sections of the City's Critical Areas Ordinance as described within this program 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).	*Ecology's guidelines at WAC 173-26- 191(2) (a) require that documents incorporated by reference must indicate the specific ordinance that will apply. This change is the mechanism for formally acknowledging the critical area ordinance amendments adopted July 9, 2013 that will apply within shoreline areas.*
2	**25.01.070**	Exceptions to critical areas regulations	25.01.070 ***Critical Areas Regulations Incorporated by Reference*** Provisions of the Sammamish Critical Areas Ordinance codified in SMC 21A.50 exclusive of SMC 21A.50.050 (Complete exemptions), SMC 21A.50.060 (Partial Exemptions), SMC 21A.50.070 (Exceptions), and SMC 21A.50.400 (Sunset provisions) are considered part of this SMP. In shoreline jurisdiction, the critical area shall be implemented consistent with the following: • Under 21A.50.320 (1) and 21A.15.1410, isolated wetlands shall be determined by the United States Army Corps of Engineers. • Pilot projects under 21A.50.320 (3) shall require approval of a shoreline conditional use permit if located within shoreline jurisdiction. The applicant shall obtain all necessary state and federal authorizations for isolated wetland impacts prior to beginning any ground disturbing activities or timber harvest.	***Regulations addressing isolated wetlands:*** *This change is required because under the City's Critical Areas Code 21A.50.320 (1) and 21A.15.1410, federal authority in determining Clean Water Act (CWA) jurisdiction is deferred to a "qualified professional." This change would be inconsistent with a 2001 US Supreme Court decision" (Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers et al., 531 U.S. 159). As established by the Court in 2001, the United States Army Corps of Engineers (USACOE) has authority to determine CWA jurisdiction, including the authority to designate a wetland as "isolated" or not a jurisdictional water of the United States. Further, as described in previous communication to the City (letters dated October 3, 2012 and April 23, 2013), the wetland rating system is not an appropriate tool for determining hydrological isolation or regulatory authority of isolated wetlands. A qualified professional can assess the likelihood of jurisdiction, but lacks the authority to make a regulatory decision affecting the jurisdiction of the CWA. Therefore, the identified change is necessary to assure consistency with SMP-Guidelines requirements at WAC 173-26-186 (8) (b) and WAC 173-26-221 related to designing SMP provisions to achieve no net loss of shoreline ecological functions and consistency with wetland development standards, Further confirmation of "isolated" wetland determination from state and/or federal agencies is recommended in the City's Cumulative Impact Analysis (ESA, 2013; 22).* ***Requirement for a CUP for pilot projects:*** *As described in the City's Cumulative Impact Analysis (ESA, 2013) and in Ecology's Findings & Conclusions (attachment A), "isolated wetlands" are not expected to be found within shoreline jurisdiction. Despite this conclusion, the City has adopted a Pilot Program as defined under section 21A.50.320 (3). Therefore, to accommodate the City's request, Ecology has incorporated this requirement for a shoreline Conditional Use Permit (CUP) that would be required for review of any isolated wetland alterations within shoreline jurisdiction. A shoreline CUP requires that a unique or unanticipated proposal demonstrate consistency with the local master program and shoreline management act goals through evaluation of CUP approval criteria listed in WAC 173-27-160. This criteria includes consideration of "cumulative impacts", which would be appropriate in this case, as the City's CIA (ESA, 2013) did not anticipate the occurrence of isolated wetlands within shoreline jurisdiction and therefore did not attempt to characterize potential cumulative impacts resulting from this provision.*

Exhibit 2

ITEM	PROVISION	TOPIC	BILL FORMAT CHANGES [underline-additions; ~~strikethrough-deletions~~]	ECOLOGY - *DISCUSSION/RATIONALE*
3	**25.01.080**	Effective Date	25.01.080 *Effective Date* This Program and all amendments thereto shall become effective ~~immediately upon~~ fourteen days from the date of the Department of Ecology's written notice of final approval ~~by the Department of Ecology~~.	*Required for consistency with RCW 90.58.090 (7).*

Exhibit 2

The following changes are recommended to the City pursuant to WAC 173-26-120 (7)

<table>
<tr><th>ITEM</th><th>PROVISION</th><th>TOPIC</th><th>BILL FORMAT CHANGES [underline-additions; ~~strikethrough-deletions~~]</th><th>ECOLOGY - DISCUSSION/RATIONALE</th></tr>
<tr><td>A</td><td>21A.50.290 (1) & (2)</td><td>Revised Wetland Rating System</td><td>(1) Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington (Department of Ecology, ~~2004~~ 2014, 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 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 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 based on functions.
(d) Category 4. Category 4 wetlands score less than ~~30~~ 9-15 points based on functions.
(2) The following standard buffers shall be established from the wetland edge
<table>
<tr><th colspan="2">Wetland Category</th><th>Standard Buffer Width (ft)</th></tr>
<tr><td rowspan="4">Category I:</td><td>Natural Heritage or bog wetland</td><td>215</td></tr>
<tr><td>Habitat score ~~29-36~~ 8-9</td><td>200</td></tr>
<tr><td>Habitat score ~~20-28~~ 5-7</td><td>150</td></tr>
<tr><td>Not meeting above criteria</td><td>125</td></tr>
<tr><td rowspan="3">Category II:</td><td>Habitat score ~~29-36~~ 8-9</td><td>150</td></tr>
<tr><td>Habitat score ~~20-28~~ 5-7</td><td>100</td></tr>
<tr><td>Not meeting above criteria</td><td>75</td></tr>
<tr><td rowspan="2">Category III:</td><td>Habitat score ~~20-28~~ 5-7</td><td>75</td></tr>
<tr><td>Not meeting above criteria</td><td>50</td></tr>
<tr><td>Category IV:</td><td>Habitat score ~~20-28~~ 5-7</td><td>All Land Use Types - 50</td></tr>
<tr><td>Category III and IV:</td><td colspan="2">Subject to SMC 21A.50.320</td></tr>
</table></td><td>The recommended changes reflect the new scoring system used in the revised 2014 Wetland Rating System. The City has already adopted an automatic update provision and is using the latest manual – these changes clarify areas where the code will be implemented consistent with the latest version of the manual and will ensure ensure consistency with SMP-Guideline requirements under WAC 173-26-221 (2) (c) (i) (B).</td></tr>
<tr><td>B</td><td>21A.50.290 (7) (c)</td><td>Buffer averaging</td><td>(c) The buffer width is not reduced to less than ~~50~~75 percent of the standard buffer width at any location;</td><td>The identified change reducing administrative buffer reductions to less than 25-percent is intended to ensure consistency with scientific documentation related to protection of shoreline ecological functions.</td></tr>
<tr><td>C</td><td>21A.50.290 (7) (f)</td><td>Buffer averaging</td><td>(~~d~~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~~75 percent of the standard buffer width at any location;</td><td>Same rationale as item “B” above.</td></tr>
<tr><td>D</td><td>21A.50.290 (8) (a)</td><td>Increased buffers</td><td>(a) When a Category 1 or 2 wetland with a habitat score of greater than ~~29~~ 8-9 points [...]</td><td>Same rationale as item “A” above.</td></tr>
</table>

Exhibit 2

ITEM	PROVISION	TOPIC	BILL FORMAT CHANGES [underline-additions; ~~strikethrough-deletions~~]	ECOLOGY - DISCUSSION/RATIONALE
E	**21A.50.290 (9)**	Buffer reduction	(~~8~~9)Buffer Reduction. Buffers may be reduced when buffer reductionimpacts 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~~25 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.	*Same rationale as item "B" above.*
F	**21A.50.290 (9) (i)**	Buffer reduction	(~~h~~i) Percentages listed above may be added together to create a total buffer reduction; provided, that the total reduction does not exceed ~~50~~ 25 percent of the standard buffer width; the remaining buffer shall be no less than 75% of the standard buffer.	*Same rationale as item "B" above.*
G	**21A.50.320 (1)**	Isolated wetlands	(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.0.130, 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~~.	*Ecology recommends that the city amend this critical area code provision, which authorizes a qualified professional to "designate" isolated wetlands, which is a jurisdictional determination affecting implementation of the Clean Water Act (CWA). This appears to be inconsistent with a 2001 US Supreme Court decision (Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers et al., 531 U.S. 159). As established by the Court, the United States Army Corps of Engineers (USACOE) are provided authority to determine CWA jurisdiction, including the authority to designate a wetland as "isolated" or not a jurisdictional water of the United States.* *Further, as described in previous communication to the City (letters dated October 3, 2012 and April 23, 2013), the wetland rating system is not an appropriate tool for determining hydrological isolation or regulatory authority of isolated wetlands. A qualified professional can assess the likelihood of jurisdiction, but lacks the authority to make a regulatory decision affecting the jurisdiction of the CWA.* *Further confirmation of "isolated" wetland determination from state and/or federal agencies is a listed recommendation in the City's Cumulative Impact Analysis (ESA, 2013; 22).* *Note: See required changes to SMP Section 25.01.070 in Attachment B. Ecology has required changes to clarify that isolated wetlands within shoreline jurisdiction shall be determined by the USACOE.*
H	**21A.50.320 (2) (a)**	Small Cat. III & IV wetlands	(a) The wetland does not score ~~15~~ 4 points or ~~greater~~less for habitat in the adopted Western Washington Rating System; and .... [...]	*Same rationale as item "A" above.*

Exhibit 2

ITEM	PROVISION	TOPIC	BILL FORMAT CHANGES [underline-additions; ~~strikethrough-deletions~~]	ECOLOGY - DISCUSSION/RATIONALE
I	**21A.50.320 (3)**	Isolated Category III & IV wetland Pilot Program	(3) Pilot Program. (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 approval of a shoreline conditional use permit if located within shoreline jurisdiction and 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 (d) through (g) below 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 (3) projects associated with the construction of a single family home are authorized by this pilot project, subject to the provisions of this section. (i) 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 SMC 20.05, and completed any necessary preliminary steps prior to application as set forth in SMC 20.05. (ii) 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. (iii) 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 (d) above, 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~~ 4 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 Washington Department of Fish and Wildlife~~.~~; and (vi) The applicant shall obtain all necessary state and federal authorizations for isolated wetland impacts prior to	*See required changes to SMP Section 25.01.070 in Attachment B. Ecology has required a CUP for pilot program projects within shoreline jurisdiction. The cross-reference to that requirement is intended to prevent confusion over permit requirements under the Pilot Program.* *In addition, Ecology recommends the following amendment to the city's critical area code to improve clarity and reduce potential for confusion.* *Recommended changes to provision (3) (e) (iv) will ensure consistency with the revised 2014 Wetland Rating System, similar to item "A" above.* *As Ecology commented during the SMP Update Review Process, riparian wetlands within the City's shorelands cannot be considered to be isolated wetlands, because they are considered associated wetlands (October 3, 2012). This change would provide clarity in the city's Critical Areas code.* *The change to provision (3) (e) (vi) reflects a recommendation from the City's CIA (ESA, 2013;22) and will help to ensure consistency with the changes in item #3 (above) and item #7 (below) in defining "isolated wetlands" and reliance on the appropriate authority in determining regulatory jurisdiction.*

Exhibit 2

ITEM	PROVISION	TOPIC	BILL FORMAT CHANGES [underline-additions; ~~strikethrough-deletions~~]	ECOLOGY - DISCUSSION/RATIONALE
			beginning any ground disturbing activities or timber harvest. Isolated wetlands are those wetlands as defined consistent with SMC 21A.15.1410 (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,	
J	**21A.50.330 (4) (c)**	Stream buffer averaging	(c) The buffer is not reduced to less than ~~50~~75 percent of the standard buffer; ~~and~~	*Same rationale as item "B" above.*
K	**21A.50.330 (4) (e)**	Stream buffer averaging	(~~e~~d)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~~75 percent of the standard buffer width at any location.	*Same rationale as item "B" above.*
L	**21A.50.330 (6)**	Stream buffer reduction	(6) Buffer Reduction. Buffers may be reduced when buffer-reduction impacts are mitigated and result in equal or great 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~~25 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.	*Same rationale as item "B" above.*
M	**21A.50.330 (6) (e) (ii)**	Stream buffer reduction	(~~d~~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~~25 percent reduction in standard buffer width for improving fish passage and/or creation of side channel or backwater areas.	*Same rationale as item "B" above.*
N	**21A.50.13[…]**	New validity of wetland delineation standard	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 may need to be performed to determine whether the delineation is still accurate or whether it needs to be redone based on existing conditions.	*Wetlands can change significantly in a five-year period, due to changes in hydrology, adjacent land uses, and plant species composition. Approved jurisdictional determinations by the U.S. Army Corps of Engineers expire after five years. The 1987 wetland delineation manual by the U.S. Army Corps of Engineers has a requirement for comprehensive determinations to "quantitatively describe the vegetation in the past 5 years" (page 41, step 5).*

The City of Sammamish (City) adopted Ordinance #02013-350 on July 9, 2014 authorizing submittal of the updated Shoreline Master Program (SMP) to the Department of Ecology (Ecology) for review. Ecology notified the City of a complete submittal in a letter dated January 17, 2014, initiating formal review of the updated SMP. The Department of Ecology accepted public comments on the City's updated SMP between September 12, 2014 and October 13, 2014. Notice of the comment period was provided to over 100 individuals listed as regional or local interested parties. Ecology received written comments from three individuals as summarized below.

Please note, the statements below are <u>not</u> the opinions or comments of Ecology, but rather summary of issues raised in comments submitted to Ecology.

Item No.	Comment Topic	Name of Commenter	Comment (Ecology Summary)	*Local Government Response (City of Sammamish Response)*
W-1	**Revisions to ECA** Wetland and other critical area buffers	Save Lake Sammamish (SLS) prepared by Erica Tiliacos	The commenter suggests that the proposed amendments would "roll back important protections from the 2005 code…" and result in increased encroachments into wetland (and critical area) buffers, clearing without the need for a permit and piping of stormwater directly to Lake Sammamish.	***City of Sammamish Response:*** The City Council, in adopting the amendments to the Environmentally Critical Areas regulations, adopted regulations that were informed by the Best Available Science. The regulations, as amended, ensure environmental protection and provide flexibility for property owners on sites constrained by environmentally critical areas. Clearing is allowed only (SMC 21A.50.060) for the limited removal of non-native or invasive noxious weeds in limited circumstances with appropriate controls to avoid impacts to critical areas or buffers. The amendments to the Environmentally Critical Areas regulations also reflect an update in the terminology used to reference the current wetland delineation and categorization methodology recommended by the Department of Ecology. The City recognizes that this change may appear to be a "roll back" by the commenter; however the proposed change is supported by Best Available Science and is consistent with past Ecology guidance. The proposed allowance for direct discharge of stormwater from subdivisions located in the Erosion Hazard Near Sensitive Water Bodies (EHNSWB) overlay (SMC 21A.50.225(5)) mischaracterizes the amendment. Under the adopted amendment, direct discharge of treated stormwater to a receiving water body, in this case Lake Sammamish, may only be authorized under the Ecology compliant King County Surface Water Design Manual (SWDM), which the City of Sammamish has adopted. The proposed pilot program within the EHNSWB overlay allows for direct discharge of clean water, fully compliant with the adopted SWDM. The substantive change is the authorization of subdivision in the no-disturbance area, where subdivision has previously been prohibited. However, the proposed pilot program allowing subdivision would require a significant increase in water quality control and

Item No.	Comment Topic	Name of Commenter	Comment (Ecology Summary)	*Local Government Response (City of Sammamish Response)*
				construction monitoring than would be otherwise required by the SWDM.
W-2	**Revisions to ECA** Exemptions	Save Lake Sammamish (SLS)	The commenter suggests that the proposed amendments would allow for one time exemptions that are excessive and would be allowed for accessory dwelling units as well as primary structures.	***City of Sammamish Response:*** The City Council, in adopting the amendments to the Environmentally Critical Areas regulations, adopted regulations that were informed by the Best Available Science. The regulations, as amended, ensure environmental protection and provide flexibility for property owners on sites constrained by environmentally critical areas. Accessory dwelling units are encouraged by the City and must meet all applicable environmental regulations.
W-3	**Revisions to ECA** Variance	Save Lake Sammamish (SLS)	The commenter argues that the SMP amendment will allow the City to consider shoreline variance requests to further reduce critical area protections below minimum standards provided in the 2005 CAO. Citing the result of shoreline variance requests since 2005, comments suggest that the proposed amendment will result in reduction of resource protection and will enable more inappropriate development along the City's shoreline.	***City of Sammamish Response:*** In 2009, with the adoption of the Sammamish Shoreline Master Program, the Department of Ecology affirmed that the appropriate approach in requesting a "modification" to the ECA regulations within the shoreline jurisdiction is through a shoreline variance. The proposed amendments to the ECA regulations do not reflect a change to this requirement. The approach used for considering such modifications outside of the shoreline jurisdiction is the Reasonable Use Exception process – which is considered under a similar set of criteria. Shoreline Variances allow the City (and other jurisdictions) to evaluate, on a case-by-case basis, the appropriate balance of environmental protection and property rights, in those cases where ECA regulations would otherwise prevent reasonable use of a property. Generally, the City has issued more decisions approving shoreline variances than denying shoreline variances. The approvals are a result of the City's collaborative approach to land use review with an applicant before a decision is made, and often before an application is submitted. The City is able to illustrate the challenges in a shoreline variance such that un-approvable shoreline variances are not normally received. Shoreline variance proposals that move forward to submittal reflect efforts by the City to guide the applicant in their application to minimize and mitigate impacts to the maximum extent feasible.

Item No.	Comment Topic	Name of Commenter	Comment (Ecology Summary)	*Local Government Response (City of Sammamish Response)*
W-4	**Revisions to ECA** Small Cities Guidance inappropriate	Save Lake Sammamish (SLS)	The commenter notes that the 2005 ECA was based on Best Available Science (BAS). However, they argue that the proposed changes disregard the previous BAS as they only draw from the Small Cities Guidance and do not consider other relevant sources. Therefore, they conclude that the amendment is inconsistent in that the City has not considered all the scientific data/resources available.	***City of Sammamish Response:*** The City considered other Best Available Science sources in crafting the proposed revisions. The record reflects that the City Council and Planning Commission reviewed the East Sammamish Basin and Non Point Action Plan, along with other Best Available Science material prepared by the City's consultant AMEC Environment & Infrastructure. A copy of the Best Available Science material considered was submitted to Ecology for review along with the Shoreline Master Program amendment.
W-5	**Revisions to ECA** Procedural concerns in review and adoption	Save Lake Sammamish (SLS)	Comments state that the review conducted by the Planning Commission was "flawed procedurally" as they focused too heavily on property rights and ease of administering new codes elements. SLS suggest that the Planning Commission did not adequately consider the City's updated Best Available Science review as a part of their recommendation on the SMP amendment. In addition, SLS suggests that individual property owners had excessive influence in the development of the amendment outside of the public's view.	***City of Sammamish Response:*** The review and recommendation by the Planning Commission to the City Council was procedurally consistent with the requirements of WAC 365-195 and 365-196. The record does not support the commenter's assertions. The Planning Commission's recommendation was widely informed by the Best Available Science material and public comment. As potential amendments were evaluated, additional Best Available Science documents were generated by the consultant, AMEC, to further inform the Planning Commission's recommendation process. The Planning Commission held over 25 public meetings, several open houses and roundtable discussions, and received 280 written comments and more than 165 verbal comments. All public comments were accepted and reviewed by the Planning Commission. To aid in deliberations, the Planning Commission developed an evaluation form, which considered the effects of a given amendment in the context of the amendments effects on the environment, on the property owner, and in "administrative" terms. These effects were evaluated as to their qualitative positive or negative result – any amendment that resulted in a qualitatively significant environmental impact was generally not supported. The City Council thoroughly reviewed the Planning Commission recommended amendments over 5 study sessions, held a public hearing on 3 different dates, and deliberated for 4 City Council meetings thereafter.
W-6	**Revisions to ECA** Mitigation banking	Save Lake Sammamish (SLS)	SLS argues that the City does not currently have a mitigation bank and therefore using King County's In-	***City of Sammamish Response:*** The use of wetland mitigation banking is generally supported by Best Available

Item No.	Comment Topic	Name of Commenter	Comment (Ecology Summary)	*Local Government Response (City of Sammamish Response)*
			Lieu-Fee Program would likely not replace lost resources within City limits and thus would not satisfy the no-net loss criteria.	Science. However, off-site wetland mitigation banking is generally the least preferred mitigation approach (ref. SMC 21A.50.310(4) and SMC 21A.50.315) under the City's mitigation sequencing approach. Therefore, it is expected that a qualifying use of mitigation bank credits will be very infrequent. The proposed ECA amendments require that any wetland mitigation bank used, be certified pursuant to WAC 173-700, and would be subject to specific City review and approval on a case-by-case basis to ensure that appropriate mitigation for unavoidable impacts is provided.
W-7	**Revisions to ECA** Increased impacts to critical area buffers	Save Lake Sammamish (SLS)	SLS argue that more encroachments into buffers will be allowed through exemptions allowed by the SMP amendment, which will produce negative cumulative impacts within the shoreline jurisdiction. They note that this will be especially true on small lots in the City.	***City of Sammamish Response:*** The Sammamish October 2013 Cumulative Impact Analysis (CIA) prepared by ESA, addresses the concerns over negative cumulative impacts in general (section 4), and as specifically related to this comment. The City understands that this comment is intended to address the provisions for "Existing Urban Development", which is specifically discussed in sections 4.3 of the CIA document. The proposed amendments require the mitigation, consistent with Best Available Science, of lost functions and values resulting from the expanded exemptions.
W-8	**Revisions to ECA** Exemptions to small isolated wetlands	Save Lake Sammamish (SLS)	SLS does not support increasing the exemption of isolated wetlands to greater than 1,000 sq. ft., as they argue the change would have a detrimental effect upon amphibians and storm flow attenuation.	***City of Sammamish Response:*** The Sammamish October 2013 Cumulative Impact Analysis (CIA) prepared by ESA, addresses the concerns over negative cumulative impacts in general (section 4), and as specifically related to this comment. The City understands that this comment related to the provisions for "Small Isolated Wetlands", which is specifically addressed under sections 4.5 of the CIA document. The proposed amendments that allow for impacts to small isolated wetlands do require mitigation consistent with Best Available Science.
W-9	**Revisions to ECA** Proposed use of 1987 Army Corps Delineation Manual	Save Lake Sammamish (SLS) and Ilene Stahl for Friends of Pine Lake	Commenter's suggest that the City continue to use the 1997 Ecology Wetland Delineation Manual and not switch to the 1987 Army Corps Manual.	***City of Sammamish Response:*** This comment appears to be inconsistent with the Best Available Science recommendations provided by AMEC Environment and Infrastructure and relevant state guidance and law. The 1987 Army Corps Manual and the United States Army Corps of Engineers (USACE) Interim Regional Supplement for Western Mountains,

Item No.	Comment Topic	Name of Commenter	Comment (Ecology Summary)	*Local Government Response (City of Sammamish Response)*
				Valleys, and Coast Region (USACE, 2010) is used to conduct wetland delineation; the Washington State Wetland Rating System for Western Washington (Department of Ecology, 2004, or as may be amended or revised by the Department from time to time) is used for wetland categorizations. The City understands that this approach is effectively required by the Department of Ecology.
W-10	**Revisions to ECA** Pilot programs in Erosion and LHA near Lake Sammamish	Save Lake Sammamish (SLS)	SLS opposes exemptions and/or a pilot program that would allow new development within areas delineated as "Special Overlay Zones". As a part of their opposition, they argue that the pilot program would be inappropriate since existing studies show that allowing development in these sensitive areas will increase erosion, phosphorous loading and potential landslides. Further they state that pipes and associated infrastructure to service development will destabilize slopes and potentially impact downslope properties and the lake. In conclusion they are concerned that piping storm water directly into Lake Sammamish will lead to water quality degradation and create flashier lake levels. The comments also reference findings from a related Shoreline Hearings Board Case (SHB no. 93-40), supporting many of their water quality concerns.	***City of Sammamish Response:*** This comment appears to focus primarily on the pilot program created for the Erosion Hazard Near Sensitive Water Body (EHNSWB) overlay. As noted above, the regulations adopted by the City Council ensure environmental protection and provide flexibility for property owners on sites constrained by environmentally critical areas. The BAS documentation generally supports allowing for limited development, subject to increased erosion and sediment control. Concerns over impacts to Lake Sammamish were prominent in the City Council review – consequently the City Council determined that a pilot program to "try out" the proposed amendments to the EHNSWB overlay would be appropriate. The pilot program requires full compliance with the adopted SWDM and the NPDES permits issued by Ecology. In addition, the pilot program incorporates a number of different Low Impact Development techniques that are intended to further reduce the risk of erosion and sediment into Lake Sammamish. In particular, the pilot program requires the removal of 80% of all new total phosphorous using all known and reasonable techniques, a requirement for 50% open space, and a limit in overall site impervious surface of 30%.

Exhibit 2

Exhibit 2

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

March 9, 2016

The Honorable Don Gerend
City of Sammamish
801 – 228th Avenue SE
Sammamish, WA 98075

Re: City of Sammamish Limited Shoreline Master Program Amendment – Conditional Approval

Dear Mayor Gerend:

Thank you for submitting to Ecology the city of Sammamish (City) limited Shoreline Master Program (SMP) amendment. We have completed our review of the proposal for consistency with the Shoreline Management Act and implementing guidelines.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) identified specific changes necessary to make the proposal approvable. These changes are detailed in Attachment B. Recommended changes are included in Attachment C. Ecology's findings and conclusions related to the City's proposed SMP amendment are contained in Attachment A.

Pursuant to RCW 90.58.090 (2)(e), at this point, the City may:

- Agree to the proposed changes, or
- Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally submitted by Ecology and with the Shoreline Management Act.

Final Ecology approval will occur when the City and Ecology agree on language that meets statutory and Guidelines requirements.

Please provide your written response within 30 days to the Director's Office at the following address:

WA State Department of Ecology
Attention: Director's Office
PO Box 47600
Olympia, WA 98504-6700

Exhibit 2

Ecology appreciates the dedicated work that you, the City Council, the Planning Commission and engaged interested parties have put into this amendment.

Thank you again for your efforts. We look forward to concluding the SMP amendment review process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Joe Burcar at Joe.Burcar@ecy.wa.gov or (425) 649-7145.

Sincerely,

Maia D. Bellon
Director

Enclosures (4)

By Certified Mail [7012 1010 0003 3028 4291]

cc: Evan Maxim, City of Sammamish
Joe Burcar, Ecology
Tim Gates, Ecology
Erik Stockdale, Ecology

Exhibit 3

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

Summary of amendments proposed through April 27, 2016

"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

#	Commenter	Code Section	Current Regulation	Proposed Amendment
1	Ecology **Required** Amendment (Attachment B)	25.01.060	(5) The following provisions of the Sammamish Municipal Code are adopted as part of this SMP, and attached herein: SMC 13 (Surface Water Management, adopted by Ord 2011-304, on May 16, 2011), SMC 21.10.120 (Historic Resources, adopted by Ord 2008-240, on Dec 16, 2008) and sections of the City's Critical Areas Ordinance as described within this program 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).	(5) The following provisions of the Sammamish Municipal Code are adopted as part of this SMP, and attached herein: SMC 13 (Surface Water Management, adopted by Ord 2011-304, on May 16, 2011), SMC 21.10.120 (Historic Resources, adopted by Ord 2008-240, on Dec 16, 2008) and sections of the City's Critical Areas Ordinance as described within this program 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).
2a	Ecology **Required** Amendment (Attachment B)	25.01.070	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.50.400 (Sunset provisions) are considered part of this SMP.	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.50.400 (Sunset provisions) are considered part of this SMP. In shoreline jurisdictions, the environmentally critical area regulations shall be implemented consistent with the following:

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
				1. Under 21A.50.320(1) and 21A.15.1410, isolated wetlands shall be determined by the United States Army Corps of Engineers. ~~1.~~2. Pilot projects under 21A.50.320(3) shall require approval of a shoreline conditional use permit if located within the shoreline jurisdiction. The applicant shall obtain all necessary state and federal authorizations for isolated wetland impacts prior to beginning any ground disturbing activities or timber harvest.
2b	Staff Recommended Alternative Amendment	21A.50.320(3)	(3) Pilot Program. (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.	~~(3) Pilot Program.~~ ~~(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.~~

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
			(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	~~(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~~

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
			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	~~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~~

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
			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.	~~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.~~
3	Ecology **Required** Amendment (Attachment B)	25.01.080	This program and all amendments thereto shall become effective immediately upon final approval by the Department of Ecology.	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~~.
4	Ecology **Recommended** Amendment (Attachment C)	21A.50.290(1) & (2)	(1) Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington (Department of Ecology, 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 based on functions, or those that are rated	(1) Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington (Department of Ecology, ~~2004~~2014, 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 based on functions, or those that are rated

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

<table>
<tr><th>#</th><th>Commenter</th><th>Code Section</th><th>Current Regulation</th><th>Proposed Amendment</th></tr>
<tr>
<td></td><td></td><td></td>
<td>
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 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 based on functions.

(d) Category 4. Category 4 wetlands score less than 30 points based on functions.

(2) The following standard buffers shall be established from the wetland edge:
<table>
<tr><th colspan="2">Wetland Category</th><th>Standard Buffer Width (ft)</th></tr>
<tr><td>Category I:</td><td>Natural Heritage or bog wetlands</td><td>215</td></tr>
</table>
</td>
<td>
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 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 based on functions.

(d) Category 4. Category 4 wetlands ~~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:
</td>
</tr>
</table>

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation			Proposed Amendment		
				Habitat score 29 – 36	200	**Wetland Category**		**Standard Buffer Width (ft)**
				Habitat score 20 – 28	150	Category I:	Natural Heritage or bog wetlands	215
				Not meeting above criteria	125		Habitat score ~~29~~ ~~– 36~~8-9	200
			Category II:	Habitat score 29 – 36	150		Habitat score ~~20~~ ~~– 28~~5-7	150
				Habitat score 20 – 28	100		Not meeting above criteria	125
				Not meeting above criteria	75	Category II:	Habitat score ~~29~~ ~~– 36~~8-9	150
			Category III:	Habitat score 20 – 28	75		Habitat score ~~20~~ ~~– 28~~5-7	100
				Not meeting above criteria	50		Not meeting above criteria	75
			Category IV:		All land use types – 50	Category III:	Habitat score ~~20~~ ~~– 28~~8-9	75

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
			Category III and IV: — Subject to SMC 21A.50.320	Not meeting above criteria — 50 Category IV: — All land use types – 50 Category III and IV: — Subject to SMC 21A.50.320
5	Ecology **Recommended** Amendment (Attachment C)	21A.50.290 (7) (c)	The buffer width is not reduced to less than 50 percent of the standard buffer width at any location	The buffer width is not reduced to less than ~~50~~ 75 percent of the standard buffer width at any location
6	Ecology **Recommended** Amendment (Attachment C)	21A.50.290 (7) (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.	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~~ 75 percent of standard buffer width at any location.
7	Ecology **Recommended** Amendment (Attachment C)	21A.50.290 (8) (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;	When a Category 1 or 2 wetland with a habitat score of greater than ~~29~~ 8 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;
8	Ecology **Recommended** Amendment (Attachment C)	21A.50.290 (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	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

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
			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.	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~~ 25 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.
9	Ecology **Recommended** Amendment (Attachment C)	21A.50.290 (9) (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.	Percentages listed above may be added together to create a total buffer reduction; provided, that the total reduction does not exceed ~~50~~ 25 percent of the standard buffer width; the remaining buffer shall be no less than 75% of the standard buffer.
10	Ecology **Recommended** Amendment (Attachment C)	21A.50.320 (1)	Isolated wetlands, as designated by a qualified professional using the adopted Washington State Wetland Rating System for Western Washington 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.	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~~.
11	Ecology **Recommended** Amendment (Attachment C)	21A.50.320 (2) (a)	(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 points or greater for habitat in the adopted Western Washington rating system; and	(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
12	Ecology	21A.50.320 (3)	(3) Pilot Program.	(3) Pilot Program.

Exhibit 3

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
	Recommended Amendment (Attachment C)		(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. … (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.	(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 approval of a shoreline conditional use permit if located within shoreline jurisdictions and the provisions of this section. … (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~~ 4 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

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
				Washington Department of Fish and Wildlife; and. (vi) The applicant shall obtain all necessary state and federal authorizations for isolated wetland impacts prior to beginning any ground disturbing activities or timber harvest. Isolated wetlands are those wetlands as defined consistent with SMC 21A.50.1410.
13	Ecology **Recommended** Amendment (Attachment C)	21A.50.330 (4) (c)	The buffer width is not reduced to less than 50 percent of the standard buffer;	The buffer width is not reduced to less than ~~50~~ 75 percent of the standard buffer;
14	Ecology **Recommended** Amendment (Attachment C)	21A.50.330 (4) (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.	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~~ 75 percent of the standard buffer width at any location.
15	Ecology **Recommended** Amendment (Attachment C)	21A.50.330 (6)	(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	(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~~ 25 percent of the standard buffer width. In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
			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.	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.
16	Ecology **Recommended** Amendment (Attachment C)	21A.50.330 (6) (e) (ii)	Up to 30 percent reduction in standard buffer width for improving fish passage and/or creation of side channel or backwater areas.	Up to ~~30~~ 25 percent reduction in standard buffer width for improving fish passage and/or creation of side channel or backwater areas.
17	Ecology **Recommended** Amendment (Attachment C)	21A.50.13XX	No current limit on the wetland delineation.	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 may need to be performed to determine whether the delineation is still accurate or whether it needs to be redone based on existing conditions.
18	Staff Recommended Amendment	21A.50.327	On development proposal sites that contain Type F or Np streams and/or wetlands with a high habitat score greater than or equal to 29, that are also located within 200 feet of an on-site or off-site Type F or Np stream and/or wetland with a high habitat score greater than or equal to 29, a fish and wildlife habitat corridor shall be set aside and protected as follows:	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:
19	Staff Recommended Amendment	21A.15.469	"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 on the Washington State Wetland Rating System for Western Washington (Department of Ecology 2004 or as revised) that are located within 200 feet of an on-site or off-site Type	"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-

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
			F or Np stream and/or wetland with a high habitat score greater than or equal to 29 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.	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.
20	Staff Recommended Amendment	21A.50.060 and 25.08.100(2)	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) 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. (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	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 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,

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#	Commenter	Code Section	Current Regulation	Proposed Amendment
			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: …	(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~~1~~) 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

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

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				maintained and no critical areas study or review is required. (~~2~~3) 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

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation	Proposed Amendment
				impervious surface areas lying within the buffer or building setback subject to the following: …
21	Staff Recommended Amendment	25.07.010-2	Impervious surface (max.) R-4, no additional % for lots under 9,076 square feet 40% R-4, no additional % for lots under 9,076 square feet 40%	~~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%
22	Staff Recommended Amendment	25.07.080(2)(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).	For shoreline residential areas, 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. ~~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).~~
23	Staff Recommended Amendment	25.07.080(2)(d)	For urban conservancy areas, the maximum amount of impervious surface shall not exceed 40 percent of the lot area above OHWM.	For urban conservancy areas, the ~~maximum~~ minimum amount ~~of impervious surface shall not~~ yard area shall be ~~exceed 4~~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

Proposed Amendments to the Environmentally Critical Area / SMP Regulations

<table>
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<tr><td>24</td><td>Staff Recommended Amendment</td><td>20.05.020(4)</td><td>LAND USE DECISION TYPE
…
<table><tr><td>Type 2</td><td>Decision by director appealable to hearing examiner, no further administrative appeal</td><td>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; 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</td></tr></table></td><td>LAND USE DECISION TYPE
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Proposed Amendments to the Environmentally Critical Area / SMP Regulations

#	Commenter	Code Section	Current Regulation			Proposed Amendment		
					development proposal based on the requirements of Chapter 21A.50 SMC; binding site plan; unified zone development plan under Chapter 21B.95 SMC[3]			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 4	Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board	Shoreline variances; shoreline conditional use permits	**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

City Council Agenda Bill

Meeting Date: **May 24, 2016** Date Submitted: 5/17/2016

Originating Department: City Manager

Clearances:

☐	Attorney	☑	Community Development	☐	Public Safety
☐	Admin Services	☐	Finance & IT	☐	Public Works
☑	City Manager	☑	Parks & Recreation		

Subject: Additional Staff Resources to support Town Center Development

Action Required: Authorize a Limited-Term Associate Planner and Associate Park Planner position and reclassify a full time Senior Planner to a Planning Manager to support the Town Center Project.

Exhibits: N/A

Budget: Cost for the remainder of 2016 will be funded by the General Fund operating contingency. Appropriation for the ongoing costs will be part of the 2017-18 budget.

Summary Statement:
Authorize the addition of a Limited-Term Associate Planner and an Associate Park Planner to replace staff re-allocated to the Town Center Team. These are limited term positions through the end of 2018. The need to continue these positions beyond 2018 will be evaluated in preparation for the 2019-20 biennial budget based on the status of Town Center development.

Additionally, authorize the reclassification of a Senior Planner to a Planning Manager to work specifically on the Town Center Project. This position is intended to co-lead Town Center development review and planning management and ensure that implementation goals are met. This is a full time position. One of the Park Project Managers will also be re-assigned to the Town Center Team as the co-lead, but this reassignment will not involve a reclassification.

Background:
The Town Center plan was adopted in 2008, with implementing regulations adopted in late 2010 and early 2011. During the Town Center planning process, there was extensive public outreach and participation, including more than 30 public meetings, open houses, surveys, design charrettes, and other public input opportunities.

In late March and early April of 2016, the staff met with the City Council in small groups to provide an update on Town Center development. The intent of these meetings was to discuss the current "opportunities and challenges" facing the City as Town Center development progresses.

As an outcome of these meetings, a list of short, moderate and long term strategies was identified. City Council directed staff to proceed with implementation of the short term strategies; the first strategy requiring implementation is the internal resource allocation.

Internal Resource Allocation:
Re-allocation of a Planning Manager (reclassified from a Senior Planner) and a Parks Project Manager from their current roles and responsibilities to the Town Center Team is a necessary first step. This team will be responsible for managing and overseeing the implementation of the Town Center strategies outlined and discussed at the May 10, 2016 City Council meeting. Backfilling both positions is essential to ensure staffing resources are available to meet existing workload priorities in both the Community Development and Parks and Recreation Departments.

The Town Center staff team will serve the following functions:

- Provide high-level project management services in overseeing the implementation of the Town Center plan.
- Represent the City as project managers and respond to developer, design and engineering consultants, City staff and the public.
- Procure and manage consultant planning and design contracts for Town Center projects.
- Review Town Center development proposals for plan and regulation compliance.
- Lead the Transfer of Development Rights strategy and explore alternate strategies.
- Lead and manage Town Center design standards and communication strategy.
- Coordinate and oversee non-motorized connectivity within the Town Center boundary and linkages to the rest of the City.
- Provide updates and project information to City Council, Planning and Parks Commission, public and staff on Town Center development and progress.

The Limited-Term Associate Planner position (temporary backfill position) will continue to serve the Community Development Department. Some of the duties of this position include:

- Review of development proposals for compliance with applicable land use, environmental, zoning, and design regulations; and issues correction requests, approves plans, certifies compliance, and conducts follow-up inspections.
- Prepare staff reports and recommendations for a variety of land use permits.
- Review EIS documents, State Environmental Policy Act checklists, and technical reports and provide recommendations to the Director on environmental issues and mitigation.
- Provide information to the public, including architects, engineers, planners, builders, contractors, real estate representatives, and home owners, regarding land use, zoning, planning activities, and community development projects.

The Limited-Term Associate Park Planner (temporary backfill position) will work in the Parks and Recreation Department. Currently, the Parks and Recreation Department employees a Park Planning Assistant. To accommodate the additional management and technical support needed, the Park Planning Assistant position will be reclassified to an Associate Park Planner with increased responsibilities as summarized below.

- Provide technical support to the Park Project Management team for design and construction of capital development and major maintenance projects.
- Develop and support design and construction plans and specifications for parks capital development and major maintenance projects.

- Provide administrative support and field inspections for project construction, to ensure compliance with construction documents; applicable laws; and adherence to the project budget.
- Provide support in the preparation of a variety of permit and environmental review documents such as Environmental Impact Statements, SEPA checklists and technical reports as required by regulatory agencies.
- Design, develop, and maintain parks maps, wayfinding and informational signage standards.
- Design, create, and develop project graphics and presentations for the planning updates.

Financial Impact:
Cost for the remainder of 2016 (likely 5 to 6 months of employment for the temporary positions) will be funded by the General Fund operating contingency. Appropriation for the ongoing cost of the temporary positions will be included in the 2017-2018 annual budget.

The estimated financial impact through 2018 is approximately $475,000. This is based on a mid-range hire at Grade L for the Associate Planner, a starting-range hire at Grade K for the Associate Park Planner and the reclassification of a Senior Planner to a Planning Manager (Grade N). All positions are full-time and include benefits.

Recommended Motion:
Authorize the City Manager to recruit and hire an Associate Planner an Associate Park Planner and reclassify a full time Senior Planner to a Planning Manager.