

# City of Sammamish Planning Commission



## **Regular Meeting**

October 5, 2017

6:30 – 8:30 pm

### **Location:**

Planning Commission meetings are held at City Hall in Council Chambers unless otherwise posted.

### **Public Access:**

All meetings are open to the public and include opportunities for public comment.



**PLANNING COMMISSION REGULAR MEETING**  
**October 5, 2017 6:30 – 8:30 PM**  
**SAMMAMISH CITY HALL 801-228<sup>TH</sup> AVE SE**

**AGENDA**

	<i>Approx. start time</i>
<b>CALL TO ORDER</b>	<b>6:30 pm</b>
<b>ROLL CALL</b>	
<b>APPROVAL OF THE AGENDA</b>	
<b>APPROVAL OF THE MINUTES:</b> September 21, 2017	
<b>PUBLIC COMMENT:</b> Non Agenda (3 minutes per person / 5 minutes if representing an organization)	
<b><u>OLD BUSINESS</u></b>	<b>6:45 pm</b>
Stormwater Code Updates	
<ul style="list-style-type: none"><li>• Public Hearing</li><li>• Deliberation</li></ul>	
<b><u>NEW BUSINESS</u></b>	<b>7:40 pm</b>
Erosion Hazards Near Sensitive Water Bodies Overlay No-Disturbance Area Code	
<ul style="list-style-type: none"><li>• Work Session</li></ul>	
<b>PUBLIC COMMENT:</b> Agenda (7 minutes per person)	<b>8:10 pm</b>
<b><u>REPORTS</u></b>	<b>8:25 pm</b>
Director Report	
Chair Report	
<b>ADJOURN</b>	<b>8:30 pm</b>

Note: This is an opportunity for the public to address the Planning Commission. For non-agenda items, three (3) minutes are granted per person, or five (5) minutes if representing the official position of a recognized community organization. Seven (7) minutes are granted per person for agenda items.

If you are submitting written material, please supply 8 copies (7 for Planning Commission; 1 for the record). If you would like to show a video or PowerPoint, it must be submitted or emailed by 5pm the day of the meeting to Kevin Johnson at [kjohnson@sammamish.us](mailto:kjohnson@sammamish.us). Please be aware that Planning Commission meetings are videotaped and available to the public.

The City of Sammamish Planning Commission is appointed and is the advisory board to the City Council on the preparation and amendment of land use plans and implementing ordinances such as zoning. Planning Commissioners are selected to represent all areas of the City and as many "walks of life" as possible. The actions of the Planning Commission are not final decisions; they are in the form of recommendations to City Council who must ultimately make the final decision.

***THE COMMISSION MAY ADD OR TAKE ACTIONS ON ITEMS NOT LISTED ON THIS AGENDA.***

Planning Commission 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.

# PLANNING COMMISSION AGENDA CALENDAR

Date	Time	Type	Staff	Topics
<b>October 5</b>	6:30 PM	Regular Meeting	PW Staff David Pyle	Deliberation: Storm Water Code Updates Work Session: Erosion Hazards Near Sensitive Water Bodies Overlay No-Disturbance Area Code
<b>October 19</b>	6:30 PM	Regular Meeting	David Pyle  Ryan Harriman	Public Hearing / Deliberation: Erosion Hazards Near Sensitive Water Bodies Overlay No-Disturbance Area Code Work Session: Application of Current Density to Land Division Code
<b>November 2</b>	6:30 PM	Regular Meeting	Ryan Harriman  David Goodman	Public Hearing / Deliberation: Application of Current Density to Land Division Code Work Session: 2018 Comprehensive Plan Amendments – Docket Requests
<b>November 16</b>	6:30 PM	Regular Meeting	David Goodman	Public Hearing / Deliberation: 2018 Comprehensive Plan Amendments – Docket Requests
<b>December 7</b>	6:30 PM	Regular Meeting	Doug McIntyre ARCH Staff	Work Session: Housing Strategy Update
<b>December 14</b>	6:30 PM	Special Meeting	Kellye Hilde  Parks Staff	Work Session: Overview of Town Center Sub-Area Plan and SMC 21.B – Town Center Regulations Work Session: Overview of the Parks, Recreation and Open Space (PRO) Plan
<b>December 21</b>	Cancelled	Regular Meeting		



## MINUTES OF THE MEETING

### MEETING SUMMARY

Regular Bi-monthly Meeting  
Thursday, September 21, 2017, 6:30 PM  
City of Sammamish Council Chambers

### COMMISSIONERS PRESENT

Eric Brooks, Pos. 1  
Shanna Collins, Pos. 3, Chair  
Larry Crandall, Pos. 4, Vice-Chair  
Jane Garrison, Pos. 5  
Matthew Petrich, Pos. 6  
Nancy Anderson, Pos. 7

### COMMISSIONERS ABSENT

Roisin O'Farrell, Pos. 2

### STAFF PRESENT

David Pyle, Deputy Director of Community Development  
Kellye Hilde, Planning Manager  
Tawni Dalziel, Senior Stormwater Program Manager

### CALL TO ORDER

Chair Collins called the Sammamish Planning Commission meeting to order at 6:31 PM

### APPROVAL OF AGENDA

Commissioner Petrich moved to approve the agenda; seconded - **Approved 6:0**. The Agenda was approved as read.

### APPROVAL OF THE MINUTES

Commissioner Petrich moved to approve the September 6, 2017 minutes as corrected; seconded - **Approved 6:0**

### **Public Comment: Non-Agenda: (3 Min Individual / 5 Min Representative)**

Jeffery Weems – 941 206<sup>th</sup> PL NE  
Topic: Standalone Sammamish School District

Mary Wictor – 408 208<sup>th</sup> Ave NE  
Topic: Critical Area Maps

### **Public Comment Closed**

### **OLD BUSINESS 6:43 PM** ([Bookmarked Video Link](#))

## **Storm Water Code Update – Work Session**

Staff commenced presentation:

### **Overview:**

The Department of Public Works staff is proposing code amendments to Chapters 13.10, 13.20, 13.30, 21A.15 SMC, and Sammamish Addendum to the 2016 King County Surface Water Design Manual (KCSWDM) for review and discussion, public hearing, and deliberation at the September 21, 2017 Planning Commission meeting. Link to packet material can be found [here](#)

### **Commission and Staff commenced discussion:**

Commissioner Petrich asked staff to clarify the definition of a “redevelopment project” and if the Sammamish Municipal Code explains that a single family residential home is not defined as a redevelopment project.

Staff responded by reading the definition as noted in Exhibit 8, Change Summary Matrix and PC Comment Response. Staff further clarified that this code section only applies to commercial and industrial uses.

Chair Collins purposed that language be added to the definition that states *for purposes other than a residential development* to help clarify any confusion.

Staff agreed with this recommendation.

Commissioner Garrison stated that lots in the Inglewood Historical Plat are sized at 25 feet by 100 feet and asked if this zoning still exists today.

Staff responded that the zoning for the Inglewood Historical Plat is R-4.

Commissioner Petrich asked if the 25 feet by 100 feet lots as shown on Exhibit 5, Schematic of Inglewood Hill Stormwater Retrofit and Non-Motorized Improvement Project, were considered legal lots.

Staff responded that the 25 feet by 100 feet lots in the Inglewood Historic Plat are legal lots.

Chair Collins asked if a 1,000 SF single family residential home could be built on these lots.

Staff responded that a single family residential home could not be built on these types of lots because the lot width does not meet the minimum 30’ width requirement pursuant to city code unless the property owner applies for reasonable use to build a very small home with appropriate building setbacks.

Commissioner Brooks commented on the Inglewood Historical Plat and referenced that this neighborhood is considered a paper plat.

Staff responded and confirmed that the Inglewood neighborhood was platted as a paper plat. This resulted in infrastructure not being built at the time the neighborhood was platted unlike today when a property is subdivided and infrastructure is required to be constructed. This becomes challenging for property owners who want to build a single family residential home and are required to meet stormwater regulations such as installing a tightline system. As in most cases, the tightline requirement may necessitate an easement over neighboring private property for the system to work.

Staff further explained that the 1,000 SF code amendment recommendation would allow property owners to build a very small single family residential home without the tightline requirement. This is recommended by the City’s legal counsel as it allows for reasonable use of the property.

Commissioner Garrison asked if it makes sense to have a moratorium on development in the hazardous areas until the City moves forward with its storm water drainage improvements in these areas.

Staff responded that the existing code is in effect acting as a moratorium as the tightline requirement is limiting development.

Commissioner Garrison asked if a percentage of lot size restriction that is based on the recommendation of a qualified professional could be considered as an alternative to the square footage limitation recommended by staff and the City's legal counsel.

Staff responded that they do not see much of a difference between the two methods, and that the restriction would still need to be low enough to allow for reasonable use of the lot.

Commissioner Brooks asked if public sewer is available in the Inglewood and Tamarack neighborhoods and is it possible for stormwater to be conveyed using existing sanitary systems.

Staff responded that the utility districts will not consider this option.

Commissioner Petrich referenced formatting errors in Exhibit 2, Strikethrough/Underline Version of Chapter 13.15 SMC – Definitions, on pages 32-33.

Staff responded that they will correct the formatting errors.

Chair Collins asked staff to clarify that replacing an existing roof is not a replaced impervious surface.

Staff responded that reroofing a home is not new or replaced impervious surface and that they can add language to the definition to further clarify.

**Commission Opened Public Hearing – 7:33 PM ([Bookmarked Video Link](#))**

Tom Keogh – 231 211<sup>th</sup> PI NE

Topic: Tightline infeasibility

Molly Keogh - 231 211<sup>th</sup> PI NE

Topic: Reasonable use and equity

Scott Sanford – 2112 227<sup>th</sup> AVE NE

Topic: Impervious surface limit

Mary Wictor – 408 208<sup>th</sup> AVE NE

Topic: Overlapping Critical Areas / Drainage

Jeffery Weems – 941 206<sup>th</sup> PL NE

Topic: Inglewood Historic Plat History

Paul Stickney – 504 228<sup>th</sup> AVE SE

Topic: Septic / Drainage

**Public Comment Closed**

**Commission and Staff commenced discussion:**

Chair Collins recused herself from deliberation and voting as she has a perceived conflict of interest due to owning a property in the Landslide Hazard Drainage area.

Vice Chair Crandall moved to approve the proposed amendments to Chapters 13.10, 13.20, 13.30, 21A.15 SMC, and the Sammamish Addendum to the 2016 King County Surface Design Manual, Commissioner Garrison Seconded, discussion began.

Commissioner Garrison prefers that they lean on the side of caution and that safety outweighs the legal implications of staff's concerns about creating over burdensome limits on impervious surfaces per lot. The limits should be based on a scientific approach per lot where a certain amount of impervious surface is allowed based on the ability to drain or convey stormwater safely off site.

Commissioner Anderson commented that she would consider staff's recommended code amendments.

Commissioner Petrich asked why the City hasn't considered the percentage of a lot as a limit for review threshold.

Staff responded that the City had looked at the possibility but by having a set percentage limit could mean that many developed lots may already be at this limit and could restrict additional development such as an addition.

Commissioner Petrich asked staff for clarification on what they propose the Commission does in regards to amending the restrictions in the Inglewood plat.

Staff responded that they recommend the code amendments be consistent throughout the city and that the drainage review threshold be reduced to 1,000 SF.

Commissioner Garrison believes it's devious and disingenuous to base a drainage review on a project valuation such as the \$100,000 threshold for drainage review and not on if the project will actually have an impact on water quality.

Staff responded that staff has pointed out that the valuation threshold does not include residential development and that it is focused on large commercial and infrastructure related projects.

Vice-Chair Crandall called for any amendments to the main motion as read.

Commissioner Garrison motions to amend the main motion to withdraw the 1,000 SF threshold requirement and replace it with a percentage of the lot area that is field verified by a professional, no second, amendment Motion **FAILS**.

Vice-Chair Crandall motioned to approve the main motion proposed to chapter 13.10, 13.20, 13.30, 21A.15, and the Sammamish Addendum to the 2016 King County Surface Design Manual, **FAILED 0:3** with Commissioners Anderson and Crandall Abstaining.

Vice-Chair Crandall closed the Public Hearing

Commissioner Brooks motioned to extend the meeting until 9:00 PM, Seconded, **PASSED 5:0**

Chair Collins rejoined deliberation

Chair Collins motioned to approve the changes to SMC 13.30, seconded, **PASSED 5:0**, Commissioner Garrison Abstains.

Chair Collins motioned to continue the Public Hearing to October 5<sup>th</sup>, seconded, **PASSED 6:0**

**NEW BUSINESS 8:44 PM** ([Bookmarked Video Link](#))

**Overview of Chapter 21A.50 SMC – Environmentally Critical Areas Regulations – Work Session**

Staff commenced presentation:

**Overview:**

This presentation will include a summary of critical areas requirements enacted by the Washington State Growth Management Act, direction established by the City of Sammamish Comprehensive Plan, the structure of the Sammamish Municipal Code with regard to Environmentally Critical Areas regulations, and the different tools used to regulate these resources. Link to packet material can be found [here](#)

**Commission and Staff commenced discussion:**

Vice-Chair Crandall motioned to extend the meeting to 9:20 PM, Seconded, **APPROVED 6:0**

Vice-Chair Crandall motioned to extend the meeting to 9:30 PM, Seconded, **APPROVED 6:0**

**Public Comment: (7 Min) 9:21 PM ([Bookmarked Video Link](#))**

Riley Parker – 1818 193<sup>rd</sup> AVE SE

Topic: Erosion Hazard Near Sensitive Water Body Development

Mary Wictor – 408 208<sup>th</sup> AVE NE

Topic: Hazard Maps and Critical Areas

**Public Comment Closed**

**Motion to Adjourn:** Co-Chair Crandall motioned to adjourn; seconded. **Approved 6:0**

Meeting adjourned at 9:33 PM.

Chair: Shanna Collins

PC Coordinator: Kevin Johnson

[Video Audio Record 07/06/2017](#)

*Roberts Rules of Order applied: [RONR (10<sup>TH</sup> ed.), p. 451, 1. 25-28]*



## PLANNING COMMISSION AGENDA ITEM

October 5, 2017

### SUBJECT

Proposed amendments to:

- Chapters 13.10 SMC – Definitions
- Chapter 13.20 SMC – Surface Water Runoff Regulations
- Chapter 21A.15 SMC - Technical Terms and Land Use Definitions of the Sammamish Municipal Code, and
- Sammamish Addendum to the 2016 King County Surface Water Design Manual

### STAFF CONTACTS

Tawni Dalziel, Sr. Stormwater Program Manager, Public Works  
425-295-0567, [tdalziel@sammamish.us](mailto:tdalziel@sammamish.us)

Kellye Hilde, Planning Manager, Community Development  
425-295-0582, [khilde@sammamish.us](mailto:khilde@sammamish.us)

### DIRECTION NEEDED FROM PLANNING COMMISSION

- Action
- Discussion
- Information

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### SUMMARY STATEMENT

The Department of Public Works staff is proposing code amendments to Chapters 13.10, 13.20, 21A.15 SMC, and Sammamish Addendum to the 2016 King County Surface Water Design Manual (KCSWDM) for deliberation at the October 5, 2017 Planning Commission meeting, leading to a recommendation for approval by the City Council.

### PROCESS AND BACKGROUND

On September 6, 2017 Public Works staff presented an overview of the project background and information on the proposed amendments to the Planning Commission. On September 21, 2017 the public hearing was opened and closed. Planning Commission deliberation resulted in the following recommendations and actions:

1. Public Works staff proposed amendments to SMC Chapters 13.10, 13.20, 13.30, 21A.15 SMC, and Sammamish Addendum to the 2016 KCSWDM was not recommended by the Planning Commission by a vote of 3:2.
2. Public Works staff proposed amendments to SMC Chapter 13.30 was recommended by the Planning Commission by a vote of 5:1.
3. The Planning Commission voted unanimously to continue the public hearing to October 5, 2017.

## PROJECT OVERVIEW

The following is an explanation of why Public Works staff is proposing code amendments to Chapters 13.10, 13.20, 21A.15 SMC, and Sammamish Addendum to the 2016 KCSWDM (see Exhibit 1).

Drainage Review Threshold - Exhibit 1, SMC 13.20.020, page 5.

The current code requires drainage review inconsistently through the Inglewood Historic Plat Area, the landslide hazard drainage area, and critical drainage areas. Staff proposes to make consistent drainage review in all critical drainage areas with the threshold of 500 SF of new impervious surface. **This is a new, revised threshold from Staff's original recommendation.** It is based on feedback from the Planning Commission that drainage review is still a necessary tool to ensure protections against unmitigated stormwater runoff.

Tightline Exemption - Exhibit 1, SMC 13.20.040, page 11 and Exhibit 1, Sammamish Addendum to the 2016 KCSWDM, page 32-33.

The current code requires inconsistent mitigation for stormwater discharges. Staff proposes to make consistent the requirement for a stormwater tightline in developments located in Landslide Hazard Drainage Areas unless the following conditions are met:

1. Public Works approves an alternative system based on a geotechnical evaluation/recommendation from a licensed geotechnical engineer; AND
2. The alternate system must consider cumulative impacts on the hazard area under built out conditions; AND
3. The development proposes less than 1,000 SF of new impervious surface, OR when City determines that a tightline system is not physically feasible or will create significant adverse impact based on a soils report prepared by a qualified professional;

For example, if a developer proposes 999 SF of new impervious surface, then drainage review and Core Requirements 1-9 would be required, and the developer would have to show that all of the above conditions have been met to exempt from building a tightline system. Staff recommends this threshold due to the following considerations:

- The current threshold of no exceptions to a tightline system may limit the reasonable use of a legal lot to build a single family residential home when easements through offsite private property cannot be obtained.
- An alternate system and its consideration of cumulative impacts is still required.
- A builder has the option to construct a small home without tightline if they can meet the exception criteria above.

Flow Control and Water Quality Exemption – Exhibit 1, SMC 13.20.040, page 11.

The current code requires inconsistent flow control and water quality facilities. Staff proposes to make consistent the ability of developments located in Critical Drainage Areas to apply for exemptions from formal flow control and water quality facilities. For example, this would allow a new addition or new single family residential to be exempted from requirements to install a sand filter or water quality pond for a 20x20 (400 SF) pollution

generating impervious driveway. It would also not require a detention pond or vault for development generating less than 5000 SF of new impervious surface. The following rationale should be considered:

- Critical Drainage Areas, including areas that drain to Pine and Beaver Lake, would still be required to provide low impact development to reduce stormwater volume, replenish stream base flows, and provide water quality treatment through filtration through vegetation and soils.
- Large detention and water quality ponds or vaults most times cannot be sited on a single family residential lot due to the size.
- Excavation for and construction of detention and water quality ponds or vaults may cause unintended environmental impact.
- Maintenance of detention and water quality facilities would be the responsibility of the homeowner leading to potential lack of maintenance.
- Inspection of such facilities would be the responsibility of the City, the number of which would require additional City resources.

## **RECOMMENDATION**

Public Works staff recommend that the Planning Commission continue deliberation on the proposed code amendments to Chapters 13.10, 13.20, 21A.15 SMC, and Sammamish Addendum to the 2016 KCSWDM Surface Water Runoff Code at the October 5, 2017 meeting. The Planning Commission should consider the following staff recommended motions:

1. Move to recommend to the City Council staff proposed amendments to SMC 13.10 which includes adding a new definition for Municipal Separate Storm Sewer Systems (MS4).
2. Move to recommend to the City Council staff proposed amendments to SMC 21A.15 which revises the definition of Critical Drainage Area to reference “city-wide” standards.
3. Move to recommend to the City Council staff proposed amendments to SMC 13.20 which removes duplicate language for Core Requirements, Special Requirements, and Drainage Adjustments already found in the adopted Surface Water Design Manual.
4. Move to recommend to the City Council staff proposed amendments to SMC 13.20 which requires development subdivisions to provide low impact development education and outreach to new single family residential homeowners.
5. Move to recommend to the City Council staff proposed amendments to SMC 13.20.040 which allows exemptions in Critical Drainage Areas from Core Requirements 3 through 8. This recommendation would allow developments that propose less than 5000 SF of new impervious or new pollution generating impervious surface to be exempt from the requirement to construct a formal flow control or water quality facility. Off-site Analysis (Core Requirement 2) and Low Impact Development (Core Requirement No 9) would still be required with no exemptions.
6. Move to recommend to the City Council that Inglewood Historic Plat Ordinance 2015-389 be repealed to allow consistent requirements in all landslide hazard drainage areas. Repeal of this ordinance is not acceptance of Motion 7 or Motion 8.
7. Move to recommend to the City Council staff proposed amendments to SMC 13.20.020 which would:
  - Revise the threshold for drainage review in critical drainage areas to 500 SF of new impervious surface.

No support of this recommendation would maintain the existing inconsistent thresholds for drainage review.

8. Move to recommend to the City Council staff proposed amendments to SMC 13.20.040 and the Sammamish Addendum to the 2016 King County Surface Water Design Manual (KCSWDM) which would:

Require a tightline system in areas located in a Landslide Hazard Drainage Area unless exemptions can be met in accordance to Core Requirement No. 1 in the 2016 KCSWDM including an approved alternate drainage system that considers cumulative impacts and less than 1000 SF of new impervious surface is proposed.

No support of this recommendation would maintain the existing inconsistent thresholds for tightline requirements and potential reasonable use litigation.

## **EXHIBITS**

1. Strikethrough/Underline Version of Chapter 13.15 SMC - Definitions, Chapter 13.20 SMC - Surface Water Runoff Regulations, Chapter 21A.15 SMC - Technical Terms and Land Use Definitions, and the Sammamish Addendum to the 2016 KCSWDM (redline).
2. Summary Matrix

## Chapter 13.10 DEFINITIONS

Sections:

- 13.10.010 Scope of chapter.
- 13.10.020 Adjustment.
- 13.10.030 AKART.
- 13.10.040 Applicant.
- 13.10.050 Basin.
- 13.10.060 Basin plan.
- 13.10.070 Best management practices.
- 13.10.080 City.
- 13.10.090 Closed depression.
- 13.10.100 Clean Water Act.
- 13.10.110 Construct or modify.
- 13.10.120 Conveyance system.
- 13.10.130 Department.
- 13.10.140 Development.
- 13.10.150 Developed parcel.
- 13.10.160 Director.
- 13.10.170 Division.
- 13.10.180 Discharge.
- 13.10.190 Drainage.
- 13.10.200 Drainage facility.
- 13.10.210 Drainage review.
- 13.10.220 Effective impervious surface.
- 13.10.230 Erosion and sediment control.
- 13.10.240 Farm management plan.
- 13.10.250 Financial guarantee.
- 13.10.260 Flood hazard reduction plan.
- 13.10.270 Flow control best management practice.
- 13.10.280 Flow control facility.
- 13.10.290 Forest practices.
- 13.10.300 Full drainage review.

- 13.10.310 Groundwater.
- 13.10.320 High-use site.
- 13.10.330 Hydraulically connected.
- 13.10.340 Impervious surface.
- 13.10.350 Improvement.
- 13.10.360 Land disturbing activity.
- 13.10.370 Land use code.
- 13.10.380 Lake management plan.
- 13.10.390 Large project drainage review.
- 13.10.400 Licensed civil engineer.
- 13.10.410 Maintenance.
- 13.10.420 Master drainage plan.
- 13.10.421 Municipal Separate Storm Sewer Systems (MS4).**
- 13.10.430 National Pollutant Discharge Elimination System.
- 13.10.440 National Pollutant Discharge Elimination System permit.
- 13.10.450 Native vegetated surface.
- 13.10.460 Natural discharge location.
- 13.10.470 Natural surface water drainage system.
- 13.10.480 New impervious surface.
- 13.10.490 New pervious surface.
- 13.10.500 Open space.
- 13.10.510 Parcel.
- 13.10.520 Person.
- 13.10.525 Pervious surface.
- 13.10.530 Pollution-generating impervious surface.
- 13.10.540 Pollution-generating pervious surface.
- 13.10.550 Project.
- 13.10.560 Project site.
- 13.10.570 Rate category.
- 13.10.580 Redevelopment project.
- 13.10.590 Replaced impervious surface.
- 13.10.600 Residence.
- 13.10.610 Residential parcel.

- 13.10.620 Runoff.
- 13.10.630 Salmon conservation plan.
- 13.10.640 Shared facility.
- 13.10.650 Service area.
- 13.10.655 Simplified drainage review.
- 13.10.660 Site.
- 13.10.670 *Repealed.*
- 13.10.680 Source control BMP.
- 13.10.690 State Waste Discharge Permit.
- 13.10.700 Stormwater compliance plan.
- 13.10.710 Stormwater plan.
- 13.10.720 Stormwater Pollution Prevention Manual.
- 13.10.730 Subbasin.
- 13.10.740 Surface and stormwater.
- 13.10.750 Surface and stormwater management services.
- 13.10.760 Surface and stormwater management system.
- 13.10.770 Surface Water Design Manual.
- 13.10.780 Surface water management fee protocols.
- 13.10.790 Treatment BMP.
- 13.10.800 Targeted drainage review.
- 13.10.810 Undeveloped parcel.
- 13.10.820 Water quality facility.

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**13.10.421 Municipal Separate Storm Sewer Systems.**

“Municipal Separate Storm Sewer Systems” or “MS4” is a conveyance or system of conveyances that is owned by the City of Sammamish that discharges to waters of the U.S., designed or used to collect or convey stormwater (e.g., storm drains, pipes, ditches), not a combined sewer, and not part of a sewage treatment plant, or publicly owned treatment works.

## Chapter 13.20 SURFACE WATER RUNOFF REGULATIONS

### Sections:

- 13.20.010 Purpose.
- 13.20.020 Drainage review – When required – Type.
- 13.20.030 Drainage review – Requirements.
- 13.20.040 Critical drainage and/or critical erosion areas.
- 13.20.050 Engineering plans for the purposes of drainage review.
- 13.20.060 Construction timing and final approval.
- 13.20.070 Liability insurance required.
- 13.20.080 Financial guarantees authorized.
- 13.20.090 Drainage facilities accepted by Sammamish for maintenance.
- 13.20.100 Drainage facilities not accepted by Sammamish for maintenance.
- 13.20.110 Hazards.
- 13.20.120 Administration.
- 13.20.130 Enforcement.
- 13.20.140 Implementation, review and revision.
- 13.20.150 Severability.

### **13.20.010 Purpose.**

The purpose of this chapter is to promote the public health, safety and welfare by providing for the comprehensive management of surface and stormwaters and erosion control, especially that which preserves and utilizes the many values of the City's natural drainage system including open space, fish and wildlife habitat, recreation, and education. By conducting programs to reduce flooding, erosion, and sedimentation; prevent and mitigate habitat loss; enhance groundwater recharge; and prevent water quality degradation through the implementation of comprehensive and thorough permit review, construction inspection, enforcement, and maintenance, the effectiveness of the requirements contained in this chapter will be promoted. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

### **13.20.020 Drainage review – When required – Type.**

(1) Drainage review is required when any proposed project is subject to a City of Sammamish development permit or approval and:

(a) Would result in 2,000 square feet or more of new impervious surface, replaced impervious surface or new plus replaced impervious surface. **Replacement of existing roofs shall not be considered new impervious nor replaced impervious surface;** or:

~~(i) Would result in 500 square feet or more of new impervious surface, replaced impervious surface or new plus replaced impervious surface within an historic plat as defined and mapped in Attachment B at the end of this section; or~~

~~(ii) Would result in 500 square feet or more of new impervious surface within a landslide hazard drainage area as defined in the adopted Sammamish Addendum to the Surface Water Design Manual; or~~

(b) Would involve 7,000 square feet or more of land disturbing activity; or

(c) Would construct or modify a drainage pipe or ditch that is 12 inches or more in size or depth or receives surface and stormwater runoff from a drainage pipe or ditch that is 12 inches or more in size or depth; or

(d) Contains or is adjacent to a flood hazard area as defined in SMC Title 15 or 21A; or

(e) **Would result in 500 square feet of new impervious surface when ~~is~~ located within a critical drainage area;** or

(f) Is a redevelopment project proposing \$100,000 or more of improvements to an existing high-use site. **High use sites are only commercial, industrial, or road sites as defined under SMC 13.10.320.**

(2) The drainage review for any proposed project shall be scaled to the scope of the project's size, type of development and potential for impacts to the regional surface water system to facilitate preparation and review of project applications. If drainage review for a proposed project is required under subsection (1) of this section, the City shall determine which of the following drainage reviews apply as specified in the Surface Water Design Manual:

(a) Simplified drainage review;

(b) Targeted drainage review;

- (c) Directed drainage review;
- (d) Full drainage review; or
- (e) Large project drainage review.

(Ord. O2016-428 § 5 (Att. C); Ord. O2015-389 § 1 (Att. A); Ord. O2011-304 § 1 (Att. A))

### 13.20.030 Drainage review – Requirements.

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(1) A proposed project required to have drainage review by this chapter must meet each of the following Core Requirements which are described in detail in the Surface Water Design Manual and as amended by the Sammamish Addendum to the Surface Water Design Manual. : ~~Projects subject only to simplified drainage review that meet the simplified drainage requirements specified in the Surface Water Design Manual, including flow control best management practices, erosion and sediment control measures and drainage plan submittal requirements are deemed to comply with the following core requirements:~~

~~(a) Core Requirement 1 – Discharge at the Natural Location. All surface and stormwater runoff from a project shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which runoff is discharged from the project site shall not create a significant adverse impact to downhill properties or drainage systems as specified in the discharge requirements of the Surface Water Design Manual;~~

~~(b) Core Requirement 2 – Off-Site Analysis. The initial application submittal for proposed projects shall include an off-site analysis report that assesses potential off-site drainage and water quality impacts associated with development of the proposed site and proposes appropriate mitigations to those impacts. This initial submittal shall include, at minimum, a level one downstream analysis as described in the Surface Water Design Manual. If impacts are identified, the proposed projects shall meet any applicable problem-specific requirements as specified in the Surface Water Design Manual;~~

~~(c) Core Requirement 3 – Flow Control. Proposed projects that would result in 5,000 square feet or more of new plus replaced impervious surface or three-quarters acre or more of new pervious surface shall provide flow control facilities or flow control BMPs, or both, to control surface and stormwater runoff generated by new impervious surface, new pervious surface, replaced impervious surface and any existing impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. Flow control facilities shall meet the area specific~~

~~flow control facility requirements and the flow control facility implementation requirements applicable to the project site as specified in the Surface Water Design Manual. Flow control BMPs shall also be applied as specified in the Surface Water Design Manual. Projects subject to area-specific flow control facility requirements shall meet one of the flow control facility performance criteria listed in subsections (1)(c)(i) and (ii) of this section, as directed by the Surface Water Design Manual. The Inglewood, Thompson and Pine Lake Creek basins, and areas draining to the Beaver Lake basin, require level three flow control. The remainder of the City requires level two flow control unless downstream problems, as determined by the City of Sammamish, dictate the higher level of protection of level three flow control.~~

~~(i) Level two shall meet level one criteria and also match the predeveloped site's discharge durations for the predeveloped peak discharge rates between the 50 percent of the two-year peak flow through the 50-year peak flow; or~~

~~(ii) Level three shall meet level two criteria and also match the predeveloped site's peak discharge rate for the 100-year return period;~~

~~(d) Core Requirement 4—Conveyance System. All engineered conveyance system elements for proposed projects shall be analyzed, designed and constructed to provide the minimum level of protection against overtopping, flooding, erosion and structural failure as specified by the conveyance requirements for new and existing systems and conveyance implementation requirements described in the Surface Water Design Manual;~~

~~(e) Core Requirement 5—Erosion and Sediment Control. All proposed projects that will clear, grade or otherwise disturb the site shall provide erosion and sediment control that prevents, to the maximum extent practicable, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied in accordance with SMC Title 16 as specified by the temporary erosion and sediment control measures and performance criteria and implementation requirements in the City of Sammamish Surface Water Design Manual;~~

~~(f) Core Requirement 6—Maintenance and Operation. Maintenance of all drainage facilities in compliance with Sammamish maintenance standards is the responsibility of the applicant or property owner as described in the Surface Water Design Manual, except those facilities for~~

~~which Sammamish assumes maintenance and operation as described in this chapter and the Surface Water Design Manual;~~

~~(g) Core Requirement 7—Financial Guarantees and Liability. All drainage facilities constructed or modified for projects, except downspout infiltration and dispersion systems for single-family residential lots, must comply with the liability requirements of this chapter and the financial guarantee requirements of SMC Title 27A;~~

~~(h) Core Requirement 8—Water Quality. Proposed projects that would result in 5,000 square feet or more of new plus replaced pollution-generating impervious surface or three-quarters acre or more of new pollution-generating pervious surface shall provide water quality treatment facilities to treat polluted surface and stormwater runoff generated by new or replaced pollution-generating impervious surface, new pollution-generating pervious surface and any existing pollution-generating impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. However, pervious surfaces are specifically excluded if there is a good faith agreement with the King Conservation District to implement a farm management plan for agricultural uses, and pervious areas for other uses are specifically excluded if the City of Sammamish approves a landscape management plan that controls pesticides and fertilizers leaving the site. Water quality treatment facilities shall meet the area-specific water quality treatment requirements and the water quality implementation requirements applicable to the project site as specified in the Surface Water Design Manual. The facilities specified by these requirements are designed to reduce pollutant loads according to the applicable annual average performance goals listed in subsections (1)(h)(i) through (iv) of this section for 95 percent of the annual average runoff volume:~~

~~(i) For basic water quality: remove 80 percent of the total suspended solids;~~

~~(ii) For enhanced basic water quality: remove 50 percent of the total zinc;~~

~~(iii) For sensitive lake protection: remove 50 percent of the total phosphorus; and~~

~~(iv) For sphagnum bog protection: remove 50 percent of the total phosphorus and 40 percent of the total nitrate plus nitrite. The discharge shall maintain a pH of less than 6.5 and an alkalinity of less than 10 milligrams per liter;~~

~~(i) Core Requirement 9—Flow Control BMPs. Proposed projects that would result in 2,000 square feet or more of new plus replaced impervious surface or 7,000 square feet or more of land disturbing activity shall provide on-site flow control BMPs to mitigate the impacts of surface and stormwater runoff generated by new impervious surface, new pervious surface, existing impervious surfaces, and replaced impervious surface targeted for mitigation as specified in the Surface Water Design Manual.~~

(2) A proposed project required by this chapter to have drainage review shall meet ~~any of the following~~ ~~Special Requirements~~ which apply to the site and which are described in detail in the Surface Water Design Manual. ~~The City shall verify if a proposed project is subject to and must meet any of the following special requirements.~~

~~(a) Special Requirement 1—Other Adopted Area Specific Requirements. If a proposed project is in a designated critical drainage area, or is in an area included in an adopted master drainage plan, basin plan, salmon conservation plan, stormwater compliance plan, flood hazard reduction plan, lake management plan or shared facility plan, then the proposed project shall meet the applicable drainage requirements of the critical drainage area, master drainage plan, basin plan, salmon conservation plan, stormwater compliance plan, flood hazard reduction plan, lake management plan or shared facility plan;~~

~~(b) Special Requirement 2—Floodplain/Floodway Delineation. If a proposed project contains or is adjacent to a stream, lake, wetland or closed depression, or if other City regulations require study of flood hazards relating to the proposed project, the 100-year floodplain boundaries and floodway shall be determined and delineated on the site improvement plans and profiles and any final maps prepared for the proposed project. The flood hazard study shall be prepared for as specified in the Surface Water Design Manual;~~

~~(c) Special Requirement 3—Flood Protection Facilities. If a proposed project contains or is adjacent to a stream that has an existing flood protection facility, such as a levee, revetment or berm, or proposes to either construct a new or modify an existing flood protection facility, then the flood protection facilities shall be analyzed and designed as specified in the Surface Water Design Manual to conform with the Federal Emergency Management Agency regulations as found in 44 C.F.R.;~~

~~(d) Special Requirement 4—Source Control. If a proposed project requires a commercial building or commercial site development permit, then water quality source controls shall be~~

~~applied to prevent rainfall and runoff from coming into contact with pollutants to the maximum extent practicable. Water quality source controls shall be applied in accordance with this chapter, the Stormwater Pollution Prevention Manual and the Surface Water Design Manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project; and~~

~~(e) Special Requirement 5— Oil Control. If a proposed project is a high use site or is a redevelopment project proposing \$100,000 or more of improvements to an existing high use site, then oil control shall be applied to all runoff from the high use portion of the site as specified in the Surface Water Design Manual.~~

(3)(a) An adjustment to the requirements contained ~~in this section or other requirements~~ in the Surface Water Design Manual may be proposed **in accordance to the terms and conditions for Drainage Adjustment in the Surface Water Design Manual.** ~~The resulting development shall be subject to all of the remaining terms and conditions of this chapter and the adjustment shall:~~

~~(i) Produce a compensating or comparable result in the public interest; and~~

~~(ii) Meet this chapter's objectives of safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment.~~

~~(b) If complying with subsection (3)(a)(i) of this section will deny all reasonable use of a property, the best practicable alternative shall be obtained as determined by the director according to the adjustment process defined in the Surface Water Design Manual.~~

~~(c) Requests for adjustments that may conflict with any other City requirement shall require review and concurrence by the applicable City department.~~

~~(d) A request for an adjustment is a Type 1 land use decision as provided for in SMC Title 20 and shall be processed in accordance with the procedures specified in the Surface Water Design Manual.~~

~~(e) The City may require monitoring of experimental designs and technology or untested applications proposed by the applicant in order to determine compliance with subsection (3)(a) of this section and the approved plans and conditions.~~

~~(f) An adjustment decision may be appealed by following the appeal procedures as specified in the Surface Water Design Manual.~~ (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

(4) Proposed subdivision projects shall include outreach and education materials to support the continued maintenance and operation of low impact development best management practices. Such materials shall include an on-site educational kiosk located in a high foot traffic area of the development, educational brochures and handouts, noticing on title, noticing on the final plat of maintenance and operations responsibility, and noticing in the Covenants, Conditions, and Restrictions, when any are applicable.

### 13.20.040 Critical drainage ~~and/or critical erosion~~ areas.

Development in areas where the department has determined that the existing flooding, drainage and/or erosion conditions present an imminent likelihood of harm to the welfare and safety of the surrounding community shall meet special drainage requirements set by the director until such time as the community hazard is alleviated.

Such conditions may include the limitation of the volume of discharge from the subject property to predevelopment levels, preservation of wetlands or other natural drainage features or other controls necessary to protect against community hazard. **Critical Drainage Areas are defined in Chapter 21A.15 SMC.**

Development proposed in critical drainage areas requiring drainage review shall not qualify for any exemptions or exceptions from **Core Requirements 2 or 9** ~~core or special requirements~~ in the Surface Water Design Manual unless approved by the director. Where alternate facility designs or methods will produce a compensating or comparable result in the public interest and which will meet this section's objectives of safety, function, appearance, environmental protection and maintainability, based upon sound engineering judgment, an adjustment to the special drainage requirements promulgated under this section may be proposed; provided, that the resulting development shall be subject to all of the remaining terms and conditions of this chapter.

Where application of this section will deny all reasonable use of a property and a facility or design that produces a compensating or comparable result cannot be obtained, then **an adjustment criterion exception may be approved in accordance to the process as required in the Surface Water Design Manual. This process includes, but is not limited to, legal noticing, public comment period, and reconsideration request.** ~~a best practicable alternative may be approved by the director according to the adjustment process defined in the Surface Water Design Manual.~~ These standards are in addition to the applicable standards of Chapter **21A.50** SMC. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

### 13.20.050 Engineering plans for the purposes of drainage review.

(1) These requirements are in addition to the submittal requirements established by Chapter **20.05** SMC.

(a) All engineering plans shall be submitted to the City for review in accordance with the Surface Water Design Manual except those drainage plans developed by, or under the review of, the City of Sammamish department of public works for either surface and stormwater capital improvement, repair, maintenance or restoration projects or other linear government agency projects, such as roadways, railways, pipelines, utility lines and trails.

(b) If engineering plans are returned for any reason, they shall be returned to the applicant.

(c) All master drainage plans, if required, shall be submitted to the City for review in accordance with the specifications in the Surface Water Design Manual. The master drainage plan process should commence at the same time as the State Environmental Policy Act (SEPA) process.

(d) Drainage plans not subject to review by the City under subsection (1)(a) of this section shall be reviewed by the department of public works in accordance with this chapter. Project applicability and compliance with this chapter shall be documented in writing and available for review.

(2) The expiration time frames as specified in the Surface Water Design Manual shall apply to all permit and approval applications.

(3) All plans shall be processed in accordance with the review procedures specified in the Surface Water Design Manual.

(4) Submittal procedures, definitions and specifications for the required contents of engineering plans are presented in the Surface Water Design Manual. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

**13.20.060 Construction timing and final approval.** 

(1) No work related to permanent or temporary storm drainage control for a permitted development may proceed without the approval of the director.

(2) Erosion and sediment control measures associated with both the interim and permanent drainage systems shall be:

(a) Constructed in accordance with the approved plan prior to any grading or land clearing other than that associated with an approved erosion and sediment control plan; and

(b) Satisfactorily sequenced and maintained until all improvements, restoration, and landscaping associated with the permit and approvals for the project are completed and the potential for on-site erosion has passed.

(3) The applicant shall have constructed and have in operation those portions of the drainage facilities necessary to accommodate the control of surface and stormwater runoff discharging from the site before the construction of any other improvements or buildings on the site, or in accordance with SMC Title 19A. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

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**13.20.070 Liability insurance required.** 

The applicant required to construct the drainage facility pursuant to this chapter shall maintain a combined single limit per occurrence liability policy in the amount established annually by the City, which shall name City as an additional insured and protect the City from liability relating to the construction or maintenance of the facility until construction approval or acceptance for maintenance, whichever is last. Proof of this required liability policy shall be provided to the director prior to commencing construction of any drainage facility. If this liability insurance is not kept in effect as required, the City may initiate enforcement action pursuant to SMC Title 23. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

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**13.20.080 Financial guarantees authorized.** 

The City is authorized to require all applicants issued permits or approvals under the provisions of this title to post financial guarantees consistent with the provisions of SMC Title 27A. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

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**13.20.090 Drainage facilities accepted by Sammamish for maintenance.**



(1) The City is responsible for the maintenance, including performance and operation, of drainage facilities which have formally been accepted for maintenance by the director.

(2) The City may assume maintenance of privately maintained drainage facilities only if (a) the City first determines that a clear public benefit will result, greater in scope than the public cost, from the use of public resources to participate wholly or partially in the maintenance of a private storm or surface water drainage system component, and (b) all of the following conditions have been met:

(a) All necessary easements or dedications entitling the City to properly maintain the drainage facility have been conveyed to the City;

(b) The director has determined that the facility is in the dedicated public road right-of-way or that maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:

- (i) Flooding,
- (ii) Downstream erosion,
- (iii) Property damage due to improper function of the facility,
- (iv) Safety hazard associated with the facility,
- (v) Degradation of water quality or in-stream resources, or
- (vi) Degradation to the general welfare of the community; and

(c) The director has declared in writing acceptance of maintenance responsibility by the City. Copies of this document will be kept on file in the department of public works.

(3) The director may terminate the department's assumption of maintenance responsibilities in writing after determining that continued maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:

- (a) Flooding;
- (b) Downstream erosion;
- (c) Property damage due to improper function of the facility;
- (d) Safety hazard associated with the facility;
- (e) Degradation of water quality or in-stream resources; or
- (f) Degradation to the general welfare of the community.

Copies of this document will be kept on file in the department of public works.

(4) A drainage facility which does not meet the criteria of this section shall remain the responsibility of the applicant required to construct the facility and persons holding title to the property for which the facility was required. (Ord. O2017-432 § 1 (Att. A); Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

### **13.20.100 Drainage facilities not accepted by Sammamish for maintenance.**



(1) The person or persons holding title to the property and the applicant required to construct a drainage facility shall remain responsible for the facility's continual performance, operation and maintenance in accordance with the standards and requirements of the department and remain responsible for any liability as a result of these duties. This responsibility includes maintenance of a drainage facility which is:

- (a) Under a maintenance guarantee or defect guarantee;
- (b) A private road conveyance system;
- (c) Released from all required financial guarantees prior to July 7, 1980;
- (d) Located within and serving only one single-family residential lot;
- (e) Located within and serving a multifamily or commercial site unless the facility is part of an approved shared facility plan;
- (f) Located within or associated with a short subdivision or subdivision which handles runoff from an area of which less than two-thirds is designated for detached or townhouse dwelling units located on individual lots unless the facility is part of an approved shared facility plan;
- (g) Previously terminated for assumption of maintenance responsibilities by the department in accordance with this chapter; or
- (h) Not otherwise accepted by the City for maintenance.

(2) Prior to the issuance of any of the permits for any multifamily or commercial project required to have a flow control or water quality treatment facility, the applicant shall record a declaration of covenant as specified in the Surface Water Design Manual. The restrictions set forth in such covenant shall include, but not be limited to, provisions for notice to the persons holding title to the property of a City determination that maintenance and/or repairs are necessary to the facility and a reasonable time limit in which such work is to be completed.

(a) In the event that the titleholders do not effect such maintenance and/or repairs, the City may perform such work upon due notice. The titleholders are required to reimburse the City for any such work. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the records and licensing services division of King County.

(b) The City may enforce the restrictions set forth in the declaration of covenant provided in the Surface Water Design Manual.

(3) Prior to the issuance of any of the permits and/or approvals for the project or the release of financial guarantees posted to guarantee satisfactory completion, the person or persons holding title to the subject property for which a drainage facility was required shall pay a fee established by the director as set forth in the City resolution to reasonably compensate the City for costs relating to inspection of the facility to ensure that it has been constructed according to plan and applicable specifications and standards.

(4) The duties specified in this section with regard to payment of inspection fees and reimbursement of maintenance costs shall be enforced against the person or persons holding title to the property for which the drainage facility was required.

(5) Where not specifically defined in this section, the responsibility for performance, operation and maintenance of drainage facilities and conveyance systems, both natural and constructed, shall be determined on a case-by-case basis. In any such case-by-case analyses, the City shall only be responsible for the performance, operation and maintenance of drainage facilities and conveyance systems if a determination is first made pursuant to the criteria set forth in SMC [13.20.090\(2\)](#) as now in effect or as may be subsequently amended. (Ord. O2017-432 § 1 (Att. A); Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

### 13.20.110 Hazards.

Whenever the director determines that any existing construction site, erosion and sedimentation problem and/or drainage facility poses a hazard to life and limb, endangers any property, and/or adversely affects the condition or capacity of other drainage facilities, the safety and operation of City right-of-way, utilities, and/or other property owned or maintained by the City, the applicant/person to whom the permit was issued pursuant to this chapter, the owner of the property within which the drainage facility is located, the applicant/person responsible for maintenance of the facility, and/or other person or agent in control of said property, upon receipt of notice in writing from the director, shall within the period specified therein repair or otherwise address the cause of the hazardous situation in conformance with the requirements of this chapter.

Should the director have reasonable cause to believe that the situation is so adverse as to preclude written notice, the director may take the measures necessary to eliminate the hazardous situation; provided, that the director shall first make a reasonable effort to locate the owner before acting. In such instances the applicant of whom a drainage plan was required pursuant to this chapter, the owner of the property and/or the person responsible for the maintenance of the facility shall be obligated for the payment of all costs incurred. If costs are incurred and a financial guarantee pursuant to this chapter or other City requirement has been posted, the director shall have the authority to collect against the financial guarantee to cover costs incurred. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

### 13.20.120 Administration.

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#### (1) Administration.

(a) The director is authorized to promulgate and adopt administrative rules under the procedures specified in Chapter 2.55 SMC, for the purpose of implementing and enforcing the provisions of this chapter. Adopted administrative rules are available to the public from the department of public works. This includes, but is not limited to, the Surface Water Design Manual.

(b) The director is authorized to develop procedures for applying adopted rules and regulations during the review of permit applications for the development of land. These procedures may also be contained in the Surface Water Design Manual.

(2) Inspections. The director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(3) Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, monitor for proper function of drainage facilities or whenever the director has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the director may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the director by this chapter; provided, that if such premises or portion thereof is occupied, the director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and demand entry.

(4) Access. Proper ingress and egress shall be provided to the director to inspect, monitor or perform any duty imposed upon the director by this chapter. The director shall notify the responsible party in writing of failure to

comply with this access requirement. Failing to obtain a response within seven days from the receipt of notification, the director may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs that may be incurred or expended by the City in causing such work to be done shall thereby be imposed on the person holding title to the subject property. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

**13.20.130 Enforcement.** 

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The City is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of SMC Title [23](#). (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

**13.20.140 Implementation, review and revision.** 

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The department may administer a training program for users of the Surface Water Design Manual. The department may also conduct an ongoing research program to evaluate the effectiveness of the requirements in meeting the purpose of this chapter. This research program may examine, but not be limited to, hydrologic and hydraulic analysis methods, stream geomorphologic analysis methods, water quality, best management practices and erosion and sediment control measures. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

**13.20.150 Severability.** 

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If any provision of this chapter or its application to any person or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. (Ord. O2016-428 § 5 (Att. C); Ord. O2011-304 § 1 (Att. A))

## Chapter 13.30 WATER QUALITY

### Sections:

- 13.30.010 Purpose.
- 13.30.020 Discharges into waters.
- 13.30.030 Stormwater Pollution Prevention Manual.
- 13.30.040 Enforcement.
- 13.30.050 Hazards.
- 13.30.060 Criminal penalty.
- 13.30.070 Civil penalties for water quality.
- 13.30.080 Construction – Intent.

### **13.30.010 Purpose.**

The purpose of this chapter is to protect the City’s surface and groundwater quality by providing minimum requirements for reducing and controlling the discharge of contaminants. The City council recognizes that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, this chapter prohibits the discharge of contaminants into surface and stormwater and groundwater, and outlines preventive measures to restrict contaminants from entering such waters. These measures include the implementation of best management practices (BMPs) by the residents of the City of Sammamish.

The City council finds this chapter is necessary to protect the health, safety and welfare of the residents of Sammamish and the integrity of the City’s resources for the benefit of all by: minimizing or eliminating water quality degradation; preserving and enhancing the suitability of waters for recreation, fishing, and other beneficial uses; and preserving and enhancing the aesthetic quality and biotic integrity of the water. The City council recognizes that implementation of this chapter is required under the federal Clean Water Act, 33 U.S.C. 1251 et seq. In meeting the intent of the Clean Water Act the City council also recognizes the importance of maintaining economic viability while providing necessary environmental protection and believes this chapter helps achieve both goals. (Ord. O2011-304 § 1 (Att. A))

### **13.30.020 Discharges into waters.**

(1)(a) It is unlawful for any person to discharge any contaminants into surface and stormwater, groundwater or Puget Sound. Contaminants include, but are not limited to, the following:

- (i) Trash or debris;
- (ii) Construction materials;
- (iii) Petroleum products including but not limited to oil, gasoline, grease, fuel oil, heating oil;
- (iv) Antifreeze and other automotive products;
- (v) Metals in either particulate or dissolved form;
- (vi) Flammable or explosive materials;
- (vii) Radioactive material;
- (viii) Batteries;
- (ix) Acids, alkalis, or bases;
- (x) Paints, stains, resins, lacquers or varnishes;
- (xi) Degreasers and solvents;
- (xii) Drain cleaners;
- (xiii) Pesticides, herbicides or fertilizers;
- (xiv) Steam cleaning wastes;
- (xv) Soaps, detergents or ammonia;
- (xvi) Swimming pool backwash;
- (xvii) Chlorine, bromine and other disinfectants;
- (xviii) Heated water;
- (xix) Domestic animal wastes;
- (xx) Sewage;

- (xxi) Recreational vehicle waste;
- (xxii) Animal carcasses;
- (xxiii) Food wastes;
- (xxiv) Bark and other fibrous materials;
- (xxv) Collected lawn clippings, leaves or branches;
- (xxvi) Silt, sediment or gravel;
- (xxvii) Dyes, except as stated in subsection (4)(a) of this section;
- (xxviii) Chemicals not normally found in uncontaminated water;
- (xxix) Any hazardous material or waste not listed above.

(b) Illicit Connections. Any connection identified by the director that could convey anything not composed entirely of surface and stormwater directly to surface and stormwater or groundwater is considered an illicit connection and is prohibited with the following exceptions:

- (i) Connections conveying allowable discharges;
- (ii) Connections conveying discharges pursuant to an NPDES permit, other than an NPDES stormwater permit, or a State Waste Discharge Permit; and
- (iii) Connections conveying effluent from on-site sewage disposal systems to subsurface soils.

(2) BMPs shall be applied to any business or residential activity that might result in prohibited discharges as specified in the Stormwater Pollution Prevention Manual or as determined necessary by the director. Activities that might result in prohibited discharges include but are not limited to the following:

- (a) Potable water line flushing;
- (b) Lawn watering with potable water;
- (c) Dust control with potable water;

- (d) Automobile and boat washing;
- (e) Pavement and building washing;
- (f) Swimming pool and hot tub maintenance;
- (g) Auto repair and maintenance;
- (h) Building repair and maintenance;
- (i) Landscape maintenance;
- (j) Hazardous waste handling;
- (k) Solid and food waste handling; and
- (l) Application of pesticides.

(3) The following types of discharges shall not be considered prohibited discharges for the purpose of this chapter unless the director determines that the type of discharge, whether singly or in combination with other discharges, is causing significant contamination of surface and stormwater or groundwater:

- ~~(a) Spring water;~~
- ~~(b) Diverted stream flows;~~
- ~~(c) Uncontaminated water from crawl space pumps, foundation drains or footing drains;~~
- ~~(d) Lawn watering with potable water or collected rainwater;~~
- ~~(e) Pumped groundwater flows that are uncontaminated;~~
- ~~(f) Materials placed as part of an approved habitat restoration or bank stabilization project;~~
- ~~(g) Natural uncontaminated surface water or groundwater;~~
- ~~(h) Flows from riparian habitats and wetlands;~~

~~(i) The following discharges from boats: engine exhaust; cooling waters; effluent from sinks; showers and laundry facilities; and treated sewage from Type I and Type II marine sanitation devices;~~

~~(j) Collected rainwater that is uncontaminated;~~

~~(k) Uncontaminated groundwater that seeps into or otherwise enters stormwater conveyance systems;~~

~~(l) Air conditioning condensation;~~

~~(m) Irrigation water from agricultural sources that is commingled with stormwater runoff; and~~

~~(n) Other types of discharges as determined by the director.~~

- a) Diverted stream flows
- b) Rising ground waters
- c) Uncontaminated ground water infiltration other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes.
- d) Uncontaminated pumped ground water
- e) Foundation drains
- f) Air conditioning condensation
- g) Irrigation water from agricultural sources that is commingled with urban stormwater
- h) Springs
- i) Uncontaminated water from crawl space pumps
- j) Footing drains
- k) Flows from riparian habitats and wetlands
- l) Non-stormwater discharges authorized by another NPDES or state waste discharge permit
- m) Discharges from emergency fire fighting activities in accordance with Washington State Department of Ecology NPDES Permit Authorized Discharges
- n) Discharges from potable water sources, including but not limited to water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4.

- o) Discharges from lawn watering and other irrigation runoff. These discharges shall be minimized through water conservation efforts.
- p) Dechlorinated swimming pool, spa and hot tub discharges. The discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4.
- q) Street and sidewalk wash water, water used to control dust, and routine external building washdown that does not use detergents. These discharges shall minimize the amount of street wash and dust control water used.
- r) Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a pollution prevention plan reviewed by the City, which addresses control of such discharges.

(4)(a) Dye testing is allowable but requires verbal notification to the City at least one day prior to the date of test. The City is exempt from this requirement.

(b) A person does not violate subsection (1) of this section if:

(i) That person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART as required by this chapter, but contaminants continue to enter surface and stormwater or groundwater; or

(ii) That person can demonstrate that there are no additional contaminants being discharged from the site above the background conditions of the water entering the site.

(c) A person who, under subsection (4)(b) of this section, is not in violation of subsection (1) of this section is liable for any prohibited discharges through illicit connections, dumping, spills, improper maintenance of BMPs or other discharges that allow contaminants to enter surface and stormwater or groundwater.

(d) Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter in order to avoid an imminent threat to public health or safety shall be exempt from this section. The director by public rule may specify actions that qualify for this exception in City procedures. A person undertaking

emergency response activities shall take steps to ensure that the discharges resulting from such activities are minimized. In addition, this person shall evaluate BMPs and the site plan, where applicable, to restrict recurrence. (Ord. O2011-304 § 1 (Att. A))

### 13.30.030 Stormwater Pollution Prevention Manual.

(1) Compliance with this chapter shall be achieved through the use of the best management practices described in the Stormwater Pollution Prevention Manual in effect on May 24, 2011 (effective date of the ordinance codified in this chapter). In applying the Stormwater Pollution Prevention Manual, the director shall first require the implementation of source control BMPs. If these are not sufficient to prevent contaminants from entering surface and stormwater or groundwater, the director may require implementation of treatment BMPs as set forth in AKART. The City will provide, upon reasonable request, available technical assistance materials and information, and information on outside financial assistance options to persons required to comply with this chapter.

(2) In applying the Stormwater Pollution Prevention Manual to prohibited discharges from normal single-family residential activities, the director shall use public education and warnings as the primary method of gaining compliance with this chapter and shall not use citations, notice and orders, assessment of civil penalties and fines, or other compliance actions as authorized in SMC Title 23, unless the director determines:

(a) The discharge from a normal single-family residential activity, whether singly or in combination with other discharges, is causing a significant contribution of contaminants to surface and stormwater or groundwater; or

(b) The discharge from a normal single-family residential activity poses a hazard to the public health, safety or welfare, endangers any property or adversely affects the safety and operation of City right-of-way, utilities or other City-owned or maintained property.

(3) Persons implementing BMPs through another federal, state or local program will not be required to implement the BMPs prescribed in the City's Stormwater Pollution Prevention Manual, unless the director determines the alternative BMPs are ineffective at reducing the discharge of contaminants. If the other program requires the development of a stormwater pollution prevention plan or other best management practices plan, the person shall make the plan available to the City upon request. Persons who qualify for exemptions include, but are not limited to, persons:

- (a) Required to obtain a general or individual NPDES permit from the Washington State Department of Ecology;
- (b) Implementing and maintaining, as scheduled, a King Conservation District-approved farm management plan;
- (c) Implementing BMPs in compliance with the management program of the City's municipal NPDES permit;
- (d) Engaged in forest practices, with the exception of forest practices occurring on lands platted after January 1, 1960, or on lands being converted to another use or when regulatory authority is otherwise provided to local government by RCW 76.09.240; or
- (e) Identified by the director as being exempt from this section. (Ord. O2011-304 § 1 (Att. A))

**13.30.040 Enforcement.** 

(1) The director is authorized to carry out enforcement actions pursuant to the enforcement and penalty provisions of SMC Title 23 and other enforcement provisions adopted by rule under the procedures of Chapter 2.55 SMC.

(2) The director shall gain compliance with this chapter by requiring the implementation of **operational and/or source control BMPs and, when necessary, AKART. Source control BMPs are in Volume IV of the Stormwater Management Manual for Western Washington. The director may also require maintenance of stormwater facilities which discharge into the MS4 in accordance with maintenance standards established in the Surface Water Design Manual.** The director shall initially rely on education and informational assistance as much as possible to gain compliance with this chapter, unless the director determines a violation is a result of a flagrant act that should be addressed through immediate penalties or poses a hazard as defined in the hazards section (SMC 13.30.050).

(3) The director, in consultation with other departments of the City government, shall develop and implement additional enforcement procedures. These procedures shall indicate how the City will investigate and respond to reports or instances of noncompliance with this chapter and shall identify by title the official(s) responsible for implementing the enforcement procedures.

(4) The director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter. Such inspections shall be made in accordance with SMC Title 23.

(a) The director may observe best management practices or examine or sample surface and stormwater or groundwater as often as may be necessary to determine compliance with this chapter. Whenever an inspection of a property is made, the findings shall be recorded and a copy of the inspection findings shall be furnished to the owner or the person in charge of the property after the conclusion of the investigation and completion of the inspection findings.

(b) When the director has made a determination under subsection (4)(a) of this section that any person is violating this chapter, the director may require the violator to sample and analyze any discharge, surface and stormwater, groundwater, and/or sediment, in accordance with sampling and analytical procedures or requirements determined by the director. If the violator is required to complete this sampling and analysis, a copy of the analysis shall be provided to the City of Sammamish department of public works.

(5) In addition to any other penalty or method of enforcement, the prosecuting attorney may bring actions for injunctive or other relief to enforce this chapter. (Ord. O2011-304 § 1 (Att. A))

### **13.30.050 Hazards.**

Whenever the director determines that any violation of this chapter poses a hazard to public health, safety, or welfare; endangers any property; or adversely affects the safety and operation of City right-of-way, utilities, and/or other property owned or maintained by the City; the person holding title to the subject property, and/or other person or agent in control of said property, upon receipt of notice in writing from the director shall within the period specified therein address the cause of the hazardous situation in conformance with the requirements of this chapter.

Notwithstanding any other provisions of this chapter, whenever it appears to the director that conditions covered by this chapter exist requiring immediate action to protect the public health and/or safety, the director is authorized to enter at all times in or upon any such property, public or private, for the purpose of inspecting and investigating such emergency conditions. The director may without prior notice order the immediate discontinuance of any activity leading to the emergency condition. Failure to comply with such order shall constitute a misdemeanor as specified in SMC Title 23. (Ord. O2011-304 § 1 (Att. A))

### **13.30.060 Criminal penalty.**

Any willful violation of an order issued pursuant to SMC 13.30.040 or 13.30.050 for which a criminal penalty is not prescribed by state law is a misdemeanor. (Ord. O2011-304 § 1 (Att. A))

### 13.30.070 Civil penalties for water quality.

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The enforcement provisions for water quality are intended to encourage compliance with this chapter. To achieve this, violators will be required to take corrective action and comply with the requirements of this chapter, and may be required to pay a civil penalty for the redress of ecological, recreational, and economic values lost or damaged due to their unlawful action.

(1) The provisions in this section are in addition to and not in lieu of any other penalty, sanction or right of action provided by law.

(2) Any person in violation of this chapter shall be subject to civil penalties assessed as follows:

(a) An amount reasonably determined by the director to be equivalent to the economic benefit the violator derives from the violation as measured by: the greater of the resulting increase in market value of the property or business value received by the violator, or savings of construction or retrofitting costs realized by the violator performing any act in violation of this chapter; and

(b) An amount, not to exceed \$25,000, that is reasonably based upon the nature and gravity of the violation and the cost to the City of enforcing this chapter against the violator.

(3) Any person who, through an act of commission or omission, aids or abets in a violation shall be considered to have committed the violation for the purposes of the civil penalty.

(4) Each violator is jointly and severally liable for a violation of this chapter. The director may take enforcement action, in whole or in part, against any violator. The decisions whether to take enforcement action, what type of action to take, and which person to take action against, are all entirely within the director's discretion. Factors to be used in taking such enforcement actions shall be:

(a) Awareness of the violation;

(b) Ability to correct the violation;

(c) Cooperation with government agencies;

(d) Degree of impact or potential threat to water or sediment quality, human health, or the environment.

In the event more than one person is determined to have violated the provisions of this chapter, all applicable civil penalties may be imposed against each person, and recoverable damages, costs, and expenses may be allocated among the persons on any equitable basis. Factors that may be considered in determining an equitable allocation include:

- (e) Awareness of the violation;
- (f) Ability to correct the violation;
- (g) Ability to pay damages, costs, and expenses;
- (h) Cooperation with government agencies;
- (i) Degree of impact or potential threat to water or sediment quality, human health, or the environment.

(5) The director or the director's designee may engage in mitigation discussions with the violator. The director or the director's designee may reduce the penalties based upon one or more of the following mitigating factors:

- (a) The person responded to City attempts to contact the person and cooperated with efforts to correct the violation;
- (b) The person showed due diligence and/or substantial progress in correcting the violation; or
- (c) An unknown person was the primary cause of the violation.

Payment of a monetary penalty pursuant to this chapter does not relieve the person of the duty to correct the violation. (Ord. O2011-304 § 1 (Att. A))

### **13.30.080 Construction – Intent.**

This chapter is enacted as an exercise of the City's power to protect and preserve the public health, safety and welfare. Its provision shall be exempted from the rule of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. This chapter is not enacted to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

The primary obligation of compliance with this chapter is placed upon the person holding title to the property. Nothing contained in this chapter is intended to be or shall be construed to create or form a basis for liability for

the City, the department, its officers, employees or agents for any injury or damage resulting from the failure of the person holding title to the property to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter by the City, department, its officers, employees or agents. (Ord. O2011-304 § 1 (Att. A))

**Title 21A**  
**DEVELOPMENT CODE**

**21A.15.255 Critical drainage area.** 

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“Critical drainage area” means an area that requires more restrictive regulation than ~~City~~countywide standards afford in order to mitigate severe flooding, drainage, erosion, or sedimentation problems that result from the cumulative impacts of development and urbanization. Critical drainage areas include areas that drain to Pine Lake and Beaver Lake and all landslide hazard drainage areas. (Ord. O2016-429 § 2 (Att. B); Ord. O2013-350 § 1 (Att. A); Ord. O2003-132 § 10)

CITY OF SAMMAMISH  
SAMMAMISH ADDENDUM TO THE  
2016 KING COUNTY SURFACE WATER DESIGN MANUAL

13.10.580 Redevelopment project.

“Redevelopment project” means a project that proposes to add, replace or modify impervious surface for purposes other than a residential ~~development subdivision~~ or maintenance on a site that:

(1) Is already substantially developed in a manner that is consistent with its current zoning or with a legal nonconforming use; or

(2) Has an existing impervious surface coverage of 35 percent or more. (Ord. O2016-428 § 4 (Att. B); Ord. O2011-304 § 1 (Att. A))

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## CHAPTER 1 – Drainage Review and Requirements

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- **Section 1.1.1 PROJECTS REQUIRING DRAINAGE REVIEW (page 1-12 of the 2016 KCSWDM) — Delete numbers 1 through 6 and replace with the following: Replace the “King County Permits and Approvals” table with the following table and adding new numbers 7 and 8.**

~~7. Projects located in landslide hazard drainage areas that will result in 500 square feet or more of new impervious surface.~~

~~8. Projects as listed in SMC 13.20.020.~~

### 1.2.1 CORE REQUIREMENT #1: DISCHARGE AT THE NATURAL LOCATION

2. IF a proposed project, or any *natural discharge area* within a project, is located within a *Landslide Hazard Drainage Area* and drains over the erodible soils of a *landslide hazard area* with slopes

steeper than 15%, THEN a **tightline system must be provided** through the *landslide hazard area* to an acceptable discharge point unless one of the following exceptions applies. The tightline system must comply with the design requirements in Core Requirement #4 and in Section 4.2.2 unless otherwise approved by ~~DPER~~ **Public Works**. Drainage easements for this system must be secured from downstream property owners and recorded prior to engineering plan approval.

**Exceptions:** A tightline is not required for any *natural discharge location* where ~~DPER~~ **Public Works** approves an alternative system based on a geotechnical evaluation/recommendation from a licensed geotechnical engineer that considers cumulative impacts on the hazard area under built out conditions AND one of the following conditions can be met:

a) Less than ~~1,000~~ **2,000** square feet of *new impervious surface*-will be added within the *natural discharge area*, OR

~~b) The developed conditions runoff from the *natural discharge area* is less than 0.1 cfs for the 100-year runoff event and will be infiltrated for runoff events up to and including the 100-year event, OR~~

~~c) The developed conditions runoff volume<sup>43</sup> from the *natural discharge area* is less than 50% of the existing conditions runoff volume from other areas draining to the location where runoff from the *natural discharge area* enters the *landslide hazard area* onto slopes steeper than 15%, AND the provisions of Discharge Requirement 1 are met, OR~~

~~bd) ~~DPER~~ **Public Works** determines that a tightline system is not physically feasible or will create a significant adverse impact based on a soils report by a geotechnical engineer.~~

PAGE #*	SECTION	EXPLANATION OF CHANGE: October 5, 2017
Exh 1 Page 5	SMC 13.20.020 (1) (a)	As requested for clarification, added under "Replacement of existing roofs shall not be considered new impervious nor replaced impervious surface."
Exh 1 Page 5	SMC 13.20.020 (1) (e)	Modified when drainage review would be required based on failed motions of the Planning Commission to recommend staff's proposed 9-21-17 amendments. Modified to the following: "Would result in <b>500 square feet of new impervious surface</b> when located within a critical drainage area." This change would require building permits to meet Core Requirements 1-9 under consistent thresholds for Critical Drainage Areas.
Exh 1 Page 5	SMC 13.20.020 (1) (f)	As requested for clarification, added "High use sites are only commercial, industrial, or road sites as defined under SMC 13.10.320." On 9-21-17, Staff incorrectly advised the Planning Commission that the definition of redevelopment did not include residential development. Revising the definition of redevelopment sites to exclude residential development is not consistent with the stormwater manual. However, clarifying the definition of high use site for purposes of drainage review clearly shows that residential development is not include in this threshold.
Exh 1 Page 32	Samamish Addendum to the 2016 KCSWDM Chapter 1 Drainage Review	Corrected formatting as follows: Section 1.1.1 PROJECTS REQUIRING DRAINAGE REVIEW (page 1-12 of the 2016 KCSWDM) — Delete numbers 1 through 6 and replace with the following: Projects as listed in SMC 13.20.020.
Exh 1 Page 32-33	Samamish Addendum to the 2016 KCSWDM Section 1.2.1 Core Requirement No 1 - Discharge at the Natural Location	Fixed formatting errors and modified exception. Tightline condition only applies to areas within Landslide Hazard Drainage Areas. Modified exception to tightline requirement as follows:  <b>Exceptions:</b> A tightline is not required for any <b>natural discharge location</b> where Public Works approves an alternative system based on a geotechnical evaluation/recommendation from a licensed geotechnical engineer that considers cumulative impacts on the hazard area under built out conditions AND one of the following conditions can be met:  a) Less than <b>1,000 square feet of new impervious surface</b> will be added within the natural discharge area, OR  b) Public Works determines that a tightline system is not physically feasible or will create a significant adverse impact based on a soils report by a geotechnical engineer.

\*Note: Page numbers will be finalized at adoption

No.	Planning Commission Question	Staff Response
1	Consider setting thresholds based on maximum impervious lot percentage or based on engineer's recommendation.	Parcel Percentage Threshold Staff does not recommend the use of a percentage of the parcel size to set threshold for drainage review, tightline, or flow control/water quality requirements. Since legal parcel sizes range from 2500 SF to 5 acres or more in Critical Drainage Areas, setting a threshold percentage would need to be set by range of percentages based on parcel area. This does not simplify code. Additionally, allowing developer engineers to recommend this percentage would open the City staff up to challenges even before a permit is submitted.

PAGE #*	SECTION	EXPLANATION OF CHANGE: October 5, 2017
2	Can a developer use Transfer of Density Rights to gain back their property value?	<p>The link to the City's TDR webpage is as follows:  <a href="https://www.sammamish.us/government/departments/community-development/current-projects/transfer-of-development-rights/">https://www.sammamish.us/government/departments/community-development/current-projects/transfer-of-development-rights/</a></p> <p>Per our TDR code (21A.80), properties located in the Inglewood Basin, Thompson Basin, Erosion Hazard Special Overlay District or Wetland Management Special Overlay Area, can qualify as a sending site, meaning property owners can sell their development rights to be used in the Town Center subarea (receiving site). TDR's could result in more pervious area IF property owners utilize this program. TDRs can also provide a financial incentive as long as there is a market for them.</p>
3	The City should consider the formation of Local Improvement Districts as an option to provide infrastructure improvements in these Landslide Hazard Drainage Areas.	<p>The City Council has discussed this option for the Tamarack neighborhood and has instructed staff to work on the Zackuse Creek Basin Plan which will inform the Council on options for Capital Improvement Projects. The Council will consider how these projects will be funded. The formation of a Local Improvement District is one option for funding.</p>



## PLANNING COMMISSION AGENDA ITEM

October 5, 2017

### SUBJECT

Code Amendments to Sammamish Municipal Code [SMC] 21A.50.225 addressing Erosion Hazard Near Sensitive Waterbodies – No Disturbance Areas – Pilot Program regulations

### STAFF CONTACTS

David Pyle, Deputy Director, Community Development  
425-295-0521, [dpyle@sammamish.us](mailto:dpyle@sammamish.us)

### DIRECTION NEEDED FROM PLANNING COMMISSION

- Action
- Discussion
- Information

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### SUMMARY STATEMENT

The Planning Commission will consider changes to the City's Erosion Hazard Near Sensitive Waterbodies overlay (SMC 21A.50.225) to address program concerns. To prepare the Commission for this discussion, staff provided an overview of the City's Environmentally Critical Areas section of the SMC (Chapter 21A.50 SMC) at the September 21, 2017 meeting. The presentation included a summary of critical areas regulations enacted by the Washington State Growth Management Act (GMA), direction established by the Sammamish Comprehensive Plan, the structure of the SMC with regard to Environmentally Critical Areas regulations (Chapter 21A.50 SMC), and the different tools used to regulate these resources.

During the October 5, 2017 meeting, the Commission will begin a discussion regarding permanent regulations associated with the Erosion Hazard Near Sensitive Waterbodies Overlay (EHNSWB) No Disturbance Area (NDA). To support this conversation, Department of Community Development staff have assembled background information related to this topic.

### ACTION REQUIRED

No formal action is required although Commission feedback to staff is needed to guide preparation of draft regulations on this subject. This meeting is intended to provide an opportunity for the Commission to consider the direction given by the City Council during their discussions on this topic, to build an understanding of the purpose of the Erosion Hazard Near Sensitive Waterbodies Overlay (SMC 21A.15.417 and SMC 21A.225), and for the Commission to discuss different options regarding permanent regulations associated with the Erosion Hazard Near Sensitive Waterbodies Overlay No Disturbance Area Pilot Program (SMC 21A.225[5]).

There will be time provided for questions to staff and discussion by the Commission. As this is the last item on the Commissions' agenda for the evening, staff are requesting the meeting end with specific direction on changes to SMC 21A.50.225(5).

### BACKGROUND

The EHNSWB NDA Pilot Program - SMC 21A.50.225(5) - was added to the SMC in 2013 through adoption of the City's updated Environmentally Critical Areas (ECA) regulations under Ordinance O2013-350. Although the Pilot Program was incorporated into the SMC with the passing of Ordinance O2013-350, use of the program remained restricted until the content of the updated Critical Areas regulations were integrated into a Washington State Department of Ecology (DOE) approved update to the City's Shoreline Master Program (SMP). The required update to the City's SMP was not adopted by DOE and made effective until March of 2017. The Pilot Program therefore opened for application in March 2017.

Following the March 2017 activation of the Pilot Program, the City Council began discussion on Program adequacy during its May 2017 meetings (relevant excerpts from Council meeting minutes are included as **Exhibit 1**). On May 16, 2017, the Council, citing concerns that the requirements and development regulations of the Pilot Program are inadequate to protect against potentially significant adverse impacts within the NDA, requested Staff prepare interim development regulations removing the Pilot Program from the SMC while the content of the Program is evaluated.

On May 22, 2017 the Council declared an emergency and adopted interim development regulations under Ordinance O2017-438 (**Exhibit 2**). Ordinance O2017-438 removed the Pilot Program from SMC 21A.50.225 as an interim measure. In accordance with RCW 35A.63.220, on July 18, 2017 a public hearing was held within 60 days of passing of the interim development regulations ordinance. Following the public hearing Council directed staff to evaluate the components of the Pilot Program as previously found in SMC 21A.50.225 and engage the Planning Commission in consideration of potential permanent changes to this section of the City's ECA regulations.

#### **DEVELOPMENT ACTIVITY AND THE EROSION HAZARDS NEAR SENSITIVE WATER BODIES OVERLAY (EHNSWB)**

The purpose of the EHNSWB overlay is to protect sloped areas posing erosion hazards that drain directly to waterbodies particularly sensitive to increased erosion and sediment loads from development. The EHNSWB is broken into two areas, those Properties Draining to the No-Disturbance Areas (PDNDA) and the NDA. The NDA is intended to restrict activity within the most crucial (sloped) portion of the EHNSWB overlay to prevent damage from erosion and the PDNDA is intended to limit surface water flowing into the NDA from uphill properties. Similar to other ECAs, only specific and necessary activities are allowed in the NDA, although activities are generally unrestricted in the PDNDA. The SMC definition of the EHNSWB overlay and corresponding NDA and PDNDA are included as **Exhibit 3**. A copy of SMC 21A.50.225 (EHNSWB, PDNDA, and NDA regulations) is included as **Exhibit 4**.

To better comprehend application of EHNSWB, PDNDA, and NDA restrictions, understanding of the phases of development with regard to surface impacts is required. With a typical development project where an undeveloped vegetated site is developed, we first see site clearing, then site grading and utility installation, then interim finished conditions are applied, and finally finished surface conditions are provided and the site is 'finished.'

The most susceptible stage in development to erosion in the EHNSWB overlay is within the first two phases of development. During the first phase, clearing and grading activity is managed by construction crews on a macro site scale. During the second phase, as utilities, roads, and other amenities are constructed, significant earthwork is still ongoing, presenting a high risk of erosion due to exposed soils. During these first two phases clearing and grading is restricted under Federal, State, and local rules and each project must have an appropriate Temporary Erosion and Sedimentation Control Plan (TESC), Construction Stormwater Pollution Prevention Plan (CSWPPP), and Wet Season work permit if work is proposed to occur during the rainy season. The City has recently updated and augmented these regulations through the National Pollution and Discharge Elimination System permit (NPDES) as required by the Federal Clean Water Act.

The third phase of development is less susceptible to erosion as areas of exposed soils have been reduced, interim surface conditions have been set, and the site is able to withstand weather events that would cause erosion. This typically comes in the form of surface treatments such as placement of compost, bond matrix, hydro-seeding, gravel, or other more durable erosion control measures. Areas of excavation or open earthwork are also more limited in scope and the site is managed on a micro scale. Often these surface treatments and construction

activities are still accompanied by a TESC or CSWPPP. Stormwater facilities are also typically complete and operational with this phase of development and the development site has the capacity to handle stormwater, effectively limiting site runoff.

The fourth and final phase of development is when the final surface condition is applied and represents the lowest risk of all of the phases (aside from the no-action original condition). This typically includes the placement of compost, topsoil, mulch, landscaping, concrete, pavement, etc. as the final designed condition. The surface treatments applied with this phase of the development are very durable and are able to withstand large weather events. This phase is considered low risk as a final surface treatment has been applied and there is a low risk of erosion with a sizeable weather event.

The phases of a development are important to understand when considering the purpose of the EHNSWB and NDA regulations. As the fourth phase of development and the final built condition represent a low risk of erosion (exposed soils have been eliminated), and any development project is required to meet applicable stormwater regulations, the purpose of the EHNSWB overlay and the NDA appear to directly address the earlier phases of construction when erosion risk is high due to the presence of exposed soils. The purpose of the EHNSWB overlay and NDA is not to govern long term operation of facilities within development, but rather to address construction activity and the potential impacts it represents.

#### **EROSION HAZARD NEAR SENSITIVE WATERBODIES (EHNSWB) GENERAL DEVELOPMENT REGULATIONS**

All land development activity within the EHNSWB is regulated by general development standards that are oriented at enhanced surface and stormwater management during and after construction. The general focus of these standards is that the development project will not subject downstream channels to increased risk of landslide or erosion and the development project will not subject the nearest sensitive water body to additional hazards resulting from erosion. See SMC 21A.225(2) – **Exhibit 4. General development standards applicable to the EHNSWB are not proposed to be changed.**

#### **PROPERTIES DRAINING TO THE NO DISTURBANCE AREA (PDNDA)**

The purpose of the PDNDA is to protect the NDA from erosion risks caused by subdivision development generated surface water to reduce erosion risk uphill of the NDA. The PDNDA only regulates new subdivision development. See SMC 21A.225(4) – **Exhibit 4. Development standards applicable to the PDNDA are not proposed to be changed.**

#### **NO DISTURBANCE AREA (NDA)**

As stated above, the NDA is intended to restrict activity within the most crucial (sloped) portion of the EHNSWB overlay to prevent erosion. There are currently 1,171 parcels located within the NDA. 886 of those are considered developed and 285 are considered undeveloped. Of the 285 undeveloped parcels, a majority (82%) are located within the R-4 zone where the median parcel size is 9,914. Further, of the 285 undeveloped parcels located in the NDA, only 84 can be potentially subdivided (the actual number is likely much smaller after other constraints are considered). 86% of the undeveloped parcels in the NDA are also restricted by Landslide Hazard regulations. A full reporting on the characteristics of the EHNSWB and NDA will be provided at the October 5, 2017 meeting.

While necessary development activities (e.g. utilities, access drives, public facilities) are allowed within the NDA, and construction of a new single-family home on an existing parcel is also allowed, subdivision of land is not permitted. The NDA Pilot Program (currently suspended under interim regulations) was intended to allow for four (4) subdivisions to occur within the NDA. See SMC 21A.225(3) – **Exhibit 4. General development standards applicable to the NDA are not proposed to be changed.**

#### **PILOT PROGRAM**

The Pilot Program was designed to address both construction activity during development and the final built condition. The stated purpose of the program is to allow for and evaluate limited development within the NDA without affecting the water quality of Lake Sammamish. The components of the program include limitations on clearing and requirements related to managing stormwater. A total of four (4) projects were allowed under the

Pilot Program. Two (2) of the subdivision projects would be served by a tight-line drainage system (pipe conveying water to Lake Sammamish), and two (2) would require strict application of Low Impact Development (LID) practices. Further, all four (4) projects would be subject to restrictive construction windows, restrictive clearing limits, and comprehensive monitoring requirements. See SMC 21A.225(5) – **Exhibit 4**.

Under either scenario (tight-line or LID) the cost of subdivision development within the NDA is high, indirectly limiting these projects to larger subdivisions where the cost of compliance with development requirements is absorbed by the size of the project. This is counterintuitive to the intent of the EHNSWB, PDNDA, and NDA rules in that a larger project is required to make the project financially viable and larger projects are also more prone to causing erosion impacts. Smaller projects with limited impact are more appropriate in the NDA as they can be managed at the level necessary to meet the objectives of the EHNSWB. A large scale subdivision within the NDA is not appropriate and presents a high level of erosion risk and is contrary to the intent of the EHNSWB overlay.

### **DEVELOPABLE PARCELS**

If a parcel is located within the NDA it is developable in accordance with SMC 21A.225(3). A new single family home may be constructed on an existing residentially zoned parcel within the NDA. Different than other ECAs, the NDA does not detract from available density (pursuant to SMC 21A.25.080). Further, that portion of a parcel that is not within the NDA is eligible for subdivision development (unless there are other site constraints that restrict development). Parcels with surplus units of density may also be eligible to participate in the City's Transfer of Density Rights (TDR) program (Chapter 21A.80 SMC).

For clarity, the EHNSWB NDA prohibits subdivision development. There are approximately 285 undeveloped lots in the NDA, of which 84 can potentially be subdivided. The Pilot Program only allowed for 4 subdivision projects. Removal of the Pilot Program from the SMC will not cause a change to the general developability of parcels within the NDA. Property owners will retain the right to develop existing parcels located within the NDA with new single family residences, although subdivision within the NDA would remain prohibited.

### **CONCLUSION**

The EHNSWB NDA Pilot Program artificially increases risk of erosion and degraded water quality within the NDA by indirectly promoting larger subdivision projects contradicting the intent of the EHNSWB overlay. Subdivision within the EHNSWB NDA is prohibited. The EHNSWB NDA Pilot Program only allowed four (4) projects, did not provide for an appropriate method to facilitate subdivision, and should be discontinued.

### **RECOMMENDATION**

Staff recommend the Planning Commission permanently remove the EHNSWB NDA Pilot Program from the SMC.

### **NEXT STEPS**

Following Commission consideration and discussion regarding appropriateness of the EHNSWB NDA Pilot Program, the Commission will provide direction to staff. A Public Hearing regarding the permanent changes to the Pilot Program is scheduled for October 19, 2017.

### **EXHIBITS**

1. Relevant Excerpts from Council meeting minutes
2. Ordinance O2017-438 – Emergency Declaration and Interim Regulations
3. SMC 21A.15.417 – EHNSWB, PDNA, and NDA Definitions
4. SMC 21A.50.225 - Erosion Hazard Near Sensitive Waterbodies Overlay Regulations

EHNSWB No Disturbance Area Pilot Program City Council Meeting MinutesMay 16

Update: Pilot Project Program – Mr. Thomas and Mr. Pyle gave the staff report. Mr. Thomas explained that there is not an application for the Parker Plat (as mentioned in public comment) at this time. He said he will not know if the neighborhood meeting was noticed properly until after the meeting occurs and the applicant turns in the mailing list. If the mailing list is incorrect, they will have to re-notice the meeting.

Mr. Pyle explained the Pilot Program. As part of their review of the update of the critical areas codes in 2012, the Planning Commission recommended a Pilot Program to allow for more flexibility for properties that would be severely affected by the new codes. The Council approved the Pilot Program with restriction for one application for subdivision using tightlines for drainage and one project using Low Impact Development. The program did not become effective until March 1, 2017. The program can only occur in the No Disturbance Area in the Erosion Hazard Areas Near Sensitive Water Bodies area. The Parker Plat meets these requirements.

MOTION: Councilmember Hornish moved to direct staff to prepare an interim development regulation ordinance to eliminate the Pilot Program from the Environmentally Critical Areas regulations for the next Council meeting. Councilmember Huckabay seconded. Motion carried unanimously 6-0.

May 22

Ordinance: Adopting Interim Development Regulations As Authorized By The Growth Management Act Relating To The Pilot Program In The Erosion Hazards Near Sensitive Water Bodies Overlay; Providing For Severability; And Declaring An Emergency

Jeff Thomas, Director of Community Development and David Pyle, Deputy Director of Community Development, gave the staff report. Mr. Thomas explained that the Pilot Program was adopted as part of the Shoreline Master Plan, which became effective March 1, 2017. The program has not been used. Based on Council direction at the May 16, 2017, Council meeting, staff developed the proposed ordinance that would impose interim regulations on the Pilot Project for six months. Adoption of the emergency ordinance will require a public hearing. Staff is suggesting that the public hearing occur on July 18, 2017.

Councilmember Valderrama would like to see a two-step process for application for development in this area; first determine what types of projects should be done and then, perhaps, a lottery method for allotting the permits. Councilmember Hornish would like to see how NPDES regulations would affect development in the overlay area. How do Low Impact Development regulations affect this type of development and how are other cities dealing with this? The zoning of these areas should be reevaluated based on newer science.

MOTION: Deputy Mayor Keller to approve the proposed ordinance, as amended by the City Attorney and sent to the City Council earlier today, declaring an emergency, adopting interim development regulations removing the Erosion Hazards Near Sensitive Water Bodies Overlay No Disturbance Area Pilot Program from Sammamish Municipal Code 21A50.225 as detailed in Attached A of the ordinance and setting the matter for further discussion at a public hearing on July 18, 2017. Councilmember Malchow seconded. Motion carried unanimously 6-1 with Mayor Gerend dissenting (O2017-438). As part of the full legislative review of this matter to adopt permanent regulations, the City Council

directs staff, during the next six months, to research and evaluate other possible examples, metrics and/or standards which may assist staff in drafting proposed permanent regulations, the Planning Commission in formulating recommendations and City Council in making a final decision.

Mayor Gerend feels that the pilot program was thoroughly vetted previously. He thinks that this would be an unwise use of staff, Council and Planning Commission when there is probably only one project that would be permitted under the Pilot Program.

Deputy Mayor Keller feels that the staff should develop the framework of what should be sent to the Planning Commission to reassess.

### July 18

Ordinance: An Ordinance Of The City Of Sammamish, Washington, Adopting Interim Development Regulations As Authorized By The Growth Management Act Relating To The Pilot Program In The Erosion Hazards Near Sensitive Water Bodies Overlay; Providing For Severability; And Declaring An Emergency - Previously adopted (O2017- 438)

Jeff Thomas, Director of Community Development and David Pyle, Deputy Director of Community Development spoke regarding the previously adopted ordinance O2017-438. Staff is not asking for any action from Council at this time.

Public Hearing opened at 8:30 pm and closed at 9:16 pm.

Riley M. Parker, PO Box 638, Quilcene, WA, spoke about property at 1818 & 1820 193<sup>rd</sup> Ave SE property that he and his brother own and would like to be able to subdivide into 30 lots on 15 acres.

Panfilo Morelli, 11911 NE 1st Street, Suite 101, Bellevue, WA, showed a presentation and submitted a written report. (available upon request to the City Clerk, [manderson@sammamish.us](mailto:manderson@sammamish.us) )

James Eastman, 15544 SE 169th Street, Renton WA, showed a presentation and submitted a written report. (available upon request to the City Clerk, [manderson@sammamish.us](mailto:manderson@sammamish.us) )

Debbie Treen, 1825 E Lk Sammamish Pkwy SE, spoke regarding her property and the emergency moratorium has affected her. She is concerned about the landslide potential from the lands above her property. She is concerned about the Director's ability to modify application requests.

April Stevens and Denise Darnell, Sammamish Woods representatives, spoke in favor of the moratorium and they are concerned with the issues with erosion control and sensitive area overlays.

Mary Wictor, 408 208th Ave NE, spoke in regards to the no disturbance zone and maps. Suggested hiring/working with King county maps to update the Sammamish maps. She would like to see the latest maps added to the Sammamish website.

Deputy Mayor Malchow asked about the maps Ms. Wictor has referenced, that should be added to the City website. Mr. Howard will check with staff and get back to Council at the next Council meeting. It was suggested to change the colors on the Sammamish maps to match King County maps.

City Manager Howard encouraged Citizens to continue to be involved in the Planning Commission process.

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO. O2017-438**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON, ADOPTING INTERIM DEVELOPMENT  
REGULATIONS AS AUTHORIZED BY THE GROWTH  
MANAGEMENT ACT RELATING TO THE PILOT PROGRAM  
IN THE EROSION HAZARDS NEAR SENSITIVE WATER  
BODIES OVERLAY; PROVIDING FOR SEVERABILITY; AND  
DECLARING AN EMERGENCY**

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

WHEREAS, to promote the public health, safety, aesthetics, and welfare, the City of Sammamish ("City") adopted an erosion hazard near sensitive water bodies overlay 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 impact of increased erosion and the resulting sediment loads from development. Sammamish Municipal Code (SMC) section 21A.50.225; and

WHEREAS, the City Council has established a pilot program in section 21A.50.225(5) SMC to allow pilot project subdivisions within the erosion hazard near sensitive water body overlay allowing limited development in the no-disturbance area; and

WHEREAS, the City Council has determined that the requirements and development regulations of the pilot program may be inadequate to protect against potentially significant adverse impacts within the no-disturbance area, and that further analysis of those issues should be undertaken; and

WHEREAS, amendments to the pilot program development regulations may be required, and the City is interested in preventing the approval of pilot program applications until such time as the pilot program regulations can be thoroughly reviewed and amended; and

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

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

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

**Section 2. Adoption of Interim Zoning Regulations.** The City Council hereby adopts the interim development regulations amending Sammamish Municipal Code Chapter 21A.50 to delete the pilot program as set forth in Attachment A to this Ordinance.

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

**Section 4. Public Hearing.** The City Council will hold a public hearing at the City Council's regular meeting beginning at 6:30 p.m. on July 18, 2017 or as soon thereafter as the business of the City Council shall permit, in order to take public testimony and to consider adopting further findings of fact.

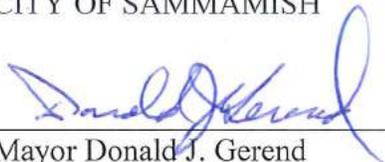
**Section 5. Referral to the City Manager.** The City Council requests that the City Manager and his staff work diligently with the Planning Commission and City Council to formulate and adopt permanent regulations.

**Section 6. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

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

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 22<sup>ND</sup> DAY OF MAY, 2017.**

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:	May 19, 2017
First Reading:	May 22, 2017
Passed by the City Council:	May 22, 2017
Date of Publication:	May 26, 2017
Effective Date:	May 22, 2017

## Attachment A – Interim Development Regulations

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

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

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

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

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

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

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

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

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

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

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

(i) Development activities may be permitted as follows:

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

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

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

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

~~(E) Work authorized pursuant to the pilot program.~~[DP1]

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

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

## Attachment A – Interim Development Regulations

- (B) The development activities shall be mitigated, monitored and bonded consistent with the mitigation requirements applicable to environmentally critical areas;
  - (C) The development activities are limited to the minimal area and duration necessary for construction; and
  - (D) The development activities are consistent with this chapter.
- (b) New single-family home construction or modifications or additions to existing single-family homes on existing legal lots that will result in a total site impervious surface of more than 2,000 square feet shall provide a drainage design, using the following sequential measures, which appear in order of preference:
- (i) Infiltration of all site runoff shall be required to the maximum extent technically feasible in existing soil conditions, consistent with the infiltration system design requirements of the KCSWDM;
  - (ii) Development proposals that meet the goals of low impact development, as follows:
    - (A) Sixty-five percent of the site shall remain as open space.
    - (B) No more than 10 percent of the gross site area may be covered with impervious surface.
    - (C) The development proposal's storm water system shall limit storm water discharge volumes to match the average annual volume discharged from the predeveloped forested site conditions as determined using a calibrated continuous simulation hydrologic model based on the EPA's HSPF program or an approved equivalent model. The City may modify these requirements based upon site-specific analysis of the feasibility of required improvements, standards and specifications. Such analysis shall include evaluation of site and vicinity soils, hydrology, and other factors, as determined by the City, affecting the successful design of the storm water or low impact development improvements. The City shall consider purpose, effectiveness, engineering feasibility, commercial availability of technology, best management practices, safety and cost of the proposal when evaluating a waiver or modification request. The applicant shall bear the burden of proof that a waiver or modification is warranted;
    - (iii) For development proposals that cannot infiltrate all site runoff, the applicant shall design a drainage system that provides a drainage outlet designed using the best available science techniques in addition to the applicable flow control and water quality treatment standards of the adopted surface water design manual to minimize the risk of landslide or erosion within the no-disturbance area and minimize the risk of water quality impacts to any sensitive water body located downstream of the no disturbance area; and
    - (iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements in existence before January 1, 2006, that do not increase the existing total footprint of the residence and associated impervious surface by more than 400 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this subsection.

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

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

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

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

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

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

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

~~(5) Pilot Program.~~[DP2]

~~(a) Establishment of Pilot Program. A pilot program is hereby established to allow pilot project subdivision, including clearing and development projects within the no-disturbance area as set forth herein, on land that has slopes of less than 40 percent grade and that is located outside of environmentally critical area buffers. The provisions of this pilot program shall not apply, and pilot projects shall not be authorized, within the mapped Ebright Creek, Pine Lake Creek, Zaccuse Creek, and “mid-Monohon” sub-basins.~~

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

~~(c) Purpose. The purpose of this pilot program is to allow for limited development within the no-disturbance area under strict limitations in order to evaluate the ability to allow increased development within the no-disturbance area without adversely affecting the water quality of Lake Sammamish. Projects qualifying for this pilot program are subject to the requirements below, and are not subject to the preceding subsections of this section.~~

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

~~(i) Tightline Drainage Design. Where direct access to Lake Sammamish is available, the applicant shall install permanent water quality treatment per the adopted surface water design manual and a tightline storm drain system discharging directly into Lake Sammamish designed by a professional engineer using the adopted surface water design manual and technologies. The applicant shall also install temporary erosion sediment control improvements, including active water quality treatment. The tightline system shall extend through the property and be available by extension or easement upstream to properties that naturally drain to the subject property; or~~

## Attachment A – Interim Development Regulations

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

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

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

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

~~(e) Pilot Program Administration:~~

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

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

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

~~(C) In the event that an application for a project accepted into the pilot program is withdrawn by the applicant or cancelled by the City prior to the expiration of the pilot program, the next submitted application for the same development type shall be accepted into the pilot program.~~

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

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

~~(ii) Pilot Program Expiration. The pilot program shall expire and no further applications shall be accepted after the period established in subsection (5)(e)(i) of this section. Projects for which applications are accepted into the pilot program may be reviewed, approved and constructed under the terms of the pilot program, even if such review, approval, or construction occurs after the pilot program has expired.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Attachment A – Interim Development Regulations

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

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

~~(xiii) Construction Season Work Limit Implementation. City approval of a temporary erosion and sediment control plan consistent with this section, SMC 21A.50.220, and other laws and regulations is required prior to any site work. The temporary erosion and sediment control plan shall comply with grading limits, shall include construction season work limits that comply with the construction season limitations, and shall include a close out plan identifying the actions that will be taken to ready the site for winter weather. The close out plan shall include the following:~~

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

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

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

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

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

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

~~(A) Temporary water quality treatment facilities shall be sized to treat runoff generated by cleared areas during the 10 year storm event during May through September and the 25 year storm event for the remainder of the year and release treated runoff with a measured turbidity of no more than 25 NTU.~~

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

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

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

~~(A) Turbidity;~~

~~(B) Total phosphorous;~~

~~(C) Total suspended solids;~~

~~(D) Temperature;~~

~~(E) Flow rate; and~~

~~(F) Volume.~~

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

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

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

~~(iv) Following Construction. Following the final inspection of the last house built, the project applicant shall be responsible for collecting monitoring data for five years. Data collection shall occur at a frequency of seven times a year between the months of October and June. Monitoring shall not be required following construction if the pilot program is adopted as a permanent amendment to the erosion hazard near sensitive water body overlay.~~

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

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

~~(h) Pilot Program Evaluation. The City shall monitor the pilot program through the submitted annual reports and shall summarize the report findings in a report evaluating how well each project achieved the pilot program's purpose and goals and present the report to the City council along with a recommended legislative action. (Ord. O2016-410 § 1 (Att. A); Ord. O2013-350 § 1 (Att. A); Ord. O2009-250 § 1; Ord. O2005-193 § 1)~~

**21A.15.417 Erosion hazard near sensitive water body overlay.**

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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:

(1) 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.

(2) 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. (Ord. O2013-350 § 1 (Att. A))

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

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

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

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

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

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

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

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

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

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

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

(i) Development activities may be permitted as follows:

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

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

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

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

(E) Work authorized pursuant to the pilot program.

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements in existence before January 1, 2006, that do not increase the existing total footprint of the residence and associated impervious surface by more than 400 square feet over that existing before January 1, 2006, shall be exempt from the provisions of this subsection.

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

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

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

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

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

(b) For the portions of proposed subdivisions, short subdivisions and binding site plans that cannot infiltrate runoff up to the 100-year peak flow, at least 25 percent of the portion of the site that cannot infiltrate shall remain undisturbed and set aside in an open space tract consistent with SMC [21A.50.160](#) through [21A.50.190](#). The open space tract shall be located adjacent to any required critical area tracts and shall be designed to maximize the amount of separation between the critical area

and the proposed development. If no critical areas tracts are required, the open space tract shall be located to provide additional protection to the no-disturbance area.

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

(5) Pilot Program.

(a) Establishment of Pilot Program. A pilot program is hereby established to allow pilot project subdivision, including clearing and development projects within the no-disturbance area as set forth herein, on land that has slopes of less than 40 percent grade and that is located outside of environmentally critical area buffers. The provisions of this pilot program shall not apply, and pilot projects shall not be authorized, within the mapped Ebright Creek, Pine Lake Creek, Zaccuse Creek, and "mid-Monohon" sub-basins.

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

(c) Purpose. The purpose of this pilot program is to allow for limited development within the no-disturbance area under strict limitations in order to evaluate the ability to allow increased development within the no-disturbance area without adversely affecting the water quality of Lake Sammamish. Projects qualifying for this pilot program are subject to the requirements below, and are not subject to the preceding subsections of this section.

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

(i) Tightline Drainage Design. Where direct access to Lake Sammamish is available, the applicant shall install permanent water quality treatment per the adopted surface water design manual and a tightline storm drain system discharging directly into Lake Sammamish designed by a professional

engineer using the adopted surface water design manual and technologies. The applicant shall also install temporary erosion sediment control improvements, including active water quality treatment. The tightline system shall extend through the property and be available by extension or easement upstream to properties that naturally drain to the subject property; or

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

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

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

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

(e) Pilot Program Administration.

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

(A) Within two years of the effective date of this subsection, a maximum of one project eligible for the pilot program under subsection (5)(d)(i) of this section and a maximum of one project eligible for the pilot program under subsection (5)(d)(ii) of this section may be accepted subject to the provisions of subsection (5) of this section. Following completion and acceptance of all required infrastructure necessary to support the proposed project, and

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

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

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

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

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

(ii) Pilot Program Expiration. The pilot program shall expire and no further applications shall be accepted after the period established in subsection (5)(e)(i) of this section. Projects for which applications are accepted into the pilot program may be reviewed, approved and constructed under the terms of the pilot program, even if such review, approval, or construction occurs after the pilot program has expired.

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

as projects accepted under this pilot program and associated clearing and development meet the following requirements:

- (i) The development shall comply with the adopted surface water design manual and SMC Title [13](#), Surface Water Management;
- (ii) The total project area shall be limited to 30 acres per project. For the purposes of this subsection, pilot projects on adjoining lots shall be considered one project;
- (iii) Pilot projects proposed pursuant to subsection (5)(d)(ii) of this section, Low Impact Design, shall incorporate Level 3 flow control, or equivalent, as approved by the director, in addition to the volume control standard specified in subsection (5)(d)(ii) of this section;
- (iv) Pilot projects proposed pursuant to subsection (5)(d)(i) of this section, Tightline Drainage Design, shall incorporate an energy dissipater in the tightline system, or equivalent, as approved by the director;
- (v) Clearing of the site shall be limited based on the treatment capacity designed into the permanent and temporary water quality treatment systems installed;
- (vi) Post Development Phosphorous Control. The proposed storm water facilities shall be designed to remove 80 percent of all new total phosphorus loading on an annual basis due to new development (and associated storm water discharges) where feasible or utilize AKART if infeasible. At a minimum, post development water quality treatment shall be designed to achieve a goal of 60 percent total phosphorus (TP) removal for the water quality design flow or volume (defined in Section 6.2.1, p. 6-17 of the adopted KCSWDM);
- (vii) Drainage systems shall be designed to accommodate the 100-year storm, consistent with the requirements of the adopted surface water design manual;
- (viii) Low impact design techniques shall be incorporated into the design of homes constructed on the resultant lots to the maximum extent practically feasible; provided, that infiltration of storm water shall be prohibited except where there are no erosion hazard areas located downslope of the infiltration system;
- (ix) Pilot projects shall set aside 50 percent of the gross site area as a permanent open space tract. Revegetation shall be required to convert nonforested open space to forest as part of the project

approval. For the purposes of this subsection, the gross site area shall be the entire area of a property associated with a pilot project participating in the pilot program;

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

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

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

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

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

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

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

(xiii) Construction Season Work Limit Implementation. City approval of a temporary erosion and sediment control plan consistent with this section, SMC [21A.50.220](#), and other laws and regulations is required prior to any site work. The temporary erosion and sediment control plan shall comply with grading limits, shall include construction season work limits that comply with the construction season limitations, and shall include a close out plan identifying the actions that will be taken to ready the site for winter weather. The close out plan shall include the following:

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

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

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

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

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

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

(A) Temporary water quality treatment facilities shall be sized to treat runoff generated by cleared areas during the 10-year storm event during May through September and the 25-year storm event for the remainder of the year and release treated runoff with a measured turbidity of no more than 25 NTU.

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

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

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

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

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

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

(iii) During Construction. During any site construction activity the project applicant shall be responsible for collecting monitoring data in accordance with the frequency established by the

NPDES permit at the natural discharge location. Monitoring data shall be collected prior to the start of construction, through the construction period and until the last house has been built on the site.

(iv) Following Construction. Following the final inspection of the last house built, the project applicant shall be responsible for collecting monitoring data for five years. Data collection shall occur at a frequency of seven times a year between the months of October and June. Monitoring shall not be required following construction if the pilot program is adopted as a permanent amendment to the erosion hazard near sensitive water body overlay.

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

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

(h) Pilot Program Evaluation. The City shall monitor the pilot program through the submitted annual reports and shall summarize the report findings in a report evaluating how well each project achieved the pilot program's purpose and goals and present the report to the City council along with a recommended legislative action. (Ord. O2016-410 § 1 (Att. A); Ord. O2013-350 § 1 (Att. A); Ord. O2009-250 § 1; Ord. O2005-193 § 1)