AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, AMENDING CHAPTER 21A.50 (ENVIRONMENTALLY CRITICAL AREAS), OF THE SAMMAMISH MUNICIPAL CODE

WHEREAS, the City Council adopted the City’s Comprehensive Plan on September 16, 2003, and the City has enacted zoning consistent with the comprehensive plan; and

WHEREAS, the City Council adopted the Sammamish Municipal Code on October 7, 2003 and subsequent revisions have been made since that time; and

WHEREAS, the adopted City of Sammamish Comprehensive Land Use Plan supports the protection of environmentally critical areas through the adoption of development regulations; and

WHEREAS, the City Council adopted Ordinance O2005-193, which amended the Sammamish Municipal Code to update the City’s environmentally critical area regulations to meet the requirements of RCW 36.70A.020, RCW 36.70A.172, and WAC 365-195-900 through 925; and

WHEREAS, prior to adopting Ordinance O2005-193, the City Council undertook an extensive Best Available Science (BAS) review and public process in accordance with the requirements of the GMA, developed Sammamish Municipal Code amendment drafts, prepared environmental documents in accordance with the requirements of the State Environmental Policy Act (SEPA), and held meetings and hearings throughout the code development process; and

WHEREAS, the City Council intends to adopt a new Shoreline Master Program on September 15, 2009, consistent with the requirements of RCW 90.58, WAC 173-26, and WAC 173-27; and

WHEREAS, the new Shoreline Master Program provides for protection and development standards on Lake Sammamish, Pine Lake, and Beaver Lake that are equivalent to, or provide greater protection than, the protection and development standards contained within Ordinance O2005-193; and

WHEREAS, a State Environmental Policy Act (SEPA) Determination of Non Significance for the proposed 2009 Shoreline Master Program and associated SMC 21A.50 (Critical Areas) amendments was issued on August 26, 2009; and
WHEREAS, in accordance with WAC 365-195-620, a notice of intent to adopt the proposed Sammamish Shoreline Master Program was received by the State of Washington Department of Community, Trade and Economic Development on August 18, 2009; and

WHEREAS, development applications are reviewed for compliance with these regulations; and

WHEREAS, the public process for the proposed amendments has provided for public participation opportunities; and

WHEREAS, the City Council considered the proposed amendments at a City Council public hearing conducted on September 1, 2009.

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

Section 1. Amendments to the Municipal Code. The municipal code amendments set forth in Attachment “A” to this ordinance are hereby adopted.

Section 2. 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 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall be transmitted to the Washington State Department of Ecology for review and approval. This ordinance shall become effective on the date that the Department of Ecology issues formal approval of the ordinance.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 6th DAY OF OCTOBER 2009.

CITY OF SAMMAMISH

[Signature]
Mayor Donald Gerend

ATTEST/AUTHENTICATED:
Approved as to form:

Bruce L. Disend, City Attorney

Filed with the City Clerk: August 26, 2009
Public Hearing: September 1, 2009
First Reading: September 1, 2009
Public Hearing: September 8, 2009
Second Reading: September 15, 2009
Passed by the City Council: October 6, 2009
Date of Publication: October 12, 2009
Effective Date: TBD
ATTACHMENT A

SMC 21A.50.060(1) - Partial Exemptions.
SMC 21A.50.210 - Building Setbacks.
SMC 21A.50.290(2) - Wetlands – Development Standards.

“Plain Text” is existing code language
“Strikethrough Text” is existing language that will be deleted
“Underline Text” is code language that will be added
21A.50.060 Partial exemptions-Critical Areas.

(1) The following developments, activities and uses are exempt from the review process of this chapter, except for the notice on title provisions, SMC 21A.50.180 and 21A.50.190, and the frequently flooded areas provisions, SMC 21A.50.230, and provided such exempt activities are otherwise consistent with the purpose of this chapter and other applicable regulations. The director may apply conditions to an underlying permit or approval to ensure that the activities are consistent with the provisions of this chapter.

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

(b) Structural modification of, addition to or replacement of legally created single detached residences and improvements constructed on existing associated legally created impervious surfaces in existence before November 27, 1990, which do not meet the building setback or buffer requirements for wetlands, streams, lakes, ponds or landslide hazard areas if the modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the above-described buffer or building setback area by more than 1,000 square feet over that existing before November 27, 1990, and no portion of the modification, addition or replacement is located closer to the critical area or, if the existing residence is in the critical area, extends farther into the critical area.

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

(d) Select Vegetation Removal Activities. The removal of the following invasive vegetation is allowed with hand labor and/or light equipment; provided, that the appropriate erosion-control measures are used and the area is replanted with native vegetation according to a restoration or enhancement plan that has been approved by the City of Sammamish:

(i) Noxious weeds as identified by Washington State or King County noxious weed lists;

(ii) Himalayan blackberry (Rubus discolor, R. procerus);

(iii) Evergreen blackberry (R. laciniatus);

(iv) Ivy (Hedera spp.); and

(v) Holly (Ilex spp.), laurel, Japanese knotweed (Polygonum cuspidatum), or any other species on the King County noxious weed list.

Removal of any native vegetation or woody debris from a critical area is prohibited unless the action is part of an approved alteration.

(e) Conservation, Preservation, Restoration and/or Enhancement.
(i) Conservation and preservation of soil, water, vegetation, fish and other
wildlife that does not entail alteration of the location, size, dimensions or
functions of an existing critical area or buffer; and

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

21A.50.210 Building setbacks.
Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet
from the edges of a critical area buffer. The setback from the Lake Sammamish buffer shall be
five feet; provided, that the setback shall not be less than required by this chapter or the shoreline
master program, whichever is greater. The following may be allowed in the building setback
area:
(1) Landscaping;
(2) Uncovered decks;
(3) Building overhangs if such overhangs do not extend more than 18 inches into the setback
area;
(4) Impervious ground surfaces, such as driveways and patios; provided, that such
improvements may be subject to special drainage provisions adopted for the various
critical areas; and
(5) Trails.

21A.50.290 Wetlands – Development standards.
Wetlands located entirely waterward of the ordinary high water mark of a lake or pond
shall be regulated by the buffer and development standards provided for lakes and ponds
in SMC 21A.50.351 and 21A.50.352, and by the adopted shoreline master program.

21A.50.351 Lakes and ponds – Development standards.
A development proposal on a parcel or parcels containing a lake, pond or associated buffer or
setback shall meet the following requirements:
(1) Lake Sammamish Buffer. A 45-foot standard buffer shall be established from the
ordinary high water mark, as defined by the Shoreline Management Act, of Lake
Sammamish; provided, that up to 25 percent, or no less than 15 feet, of the lake frontage
may be used for shoreline access.
(2) Increased Lake Sammamish Buffers. The department may require the Lake Sammamish
buffer to be increased when necessary to protect other fish and wildlife habitat
conservation areas. Where the lake exists adjacent to a stream or wetland located
(3) Lake Sammamish Buffer Reduction. The Lake Sammamish buffer may be reduced when buffer reduction impacts are mitigated using any combination of the following mitigation options and result in equal or greater protection of lake functions. In no case shall the buffer be less than 15 feet. The Lake Sammamish buffer may be reduced by:
(a) Fifteen feet for:
   (i) Removal of an existing bulkhead located at, below, or within five feet
       landward of the lake's ordinary high water mark (OHWM) and subsequent
       restoration of the shoreline to a natural or seminatural state, including restoration
       of topography, soil composition, and vegetation;
   (ii) Restoration of shoreline to a natural or seminatural state if no bulkhead is
        present, but other existing unnatural shoreline contours are present; or
   (iii) Preservation of existing natural shoreline conditions if no bulkhead or
        other unnatural shoreline features are present;
(b) Ten feet for preservation of existing trees and native vegetation or restoration of
    native vegetation, as necessary, in the remaining Lake Sammamish buffer to be
    retained along at least 75 percent of the site's lake frontage. Up to 25 percent by
    area of preserved and/or restored vegetation can be comprised of noninvasive;
    nonnative vegetation. Up to 25 percent, or no less than 15 feet, of the lake
    frontage may be used for shoreline access; provided, that access areas are located
    to avoid areas of greater sensitivity and habitat value. Restoration of native
    vegetation shall consist of a mixture of trees, shrubs and groundcover and be
    designed to improve habitat functions;
(c) Five feet for preservation of existing native vegetation or restoration of native
    vegetation, as necessary, in the minimum five-foot-wide nearshore area below the
    lake's ordinary high water mark (OHWM);
(d) Five feet for preparation of, and agreement to adhere to, a shoreline vegetation
    management plan that includes appropriate limitations on the use of fertilizer,
    herbicides, and pesticides as needed to protect lake water quality; and
(e) Five feet for limiting lawn area to no greater than 20 percent of the lot area.
    Landscaped areas outside of the lawn and buffer areas shall be maintained or
    planted in noninvasive vegetation.
(4) Other Lakes and Naturally Occurring Ponds – New Residence Setback and Tree
    Retention.
(a) A 50-foot building setback for new residences shall be established from the
    ordinary high water mark (OHWM), as defined by the Shoreline Management
    Act, for lakes and naturally occurring ponds, that are and is other than Lake
    Sammamish not otherwise regulated by the Sammamish Shoreline Master
    Program.
(b) On lots abutting a lake or pond or containing the 50-foot setback area, 25 percent
    of existing significant trees shall be retained on-site. Half of the significant trees
    to be retained shall be located within the 50-foot building setback area.
half of the trees to be retained are not present within the setback area, the remaining number may be retained elsewhere on-site.

21A.50.352 Lake Sammamish buffer—Permitted alterations.
Alterations to the Lake Sammamish buffers are not allowed, except as provided for by complete exemptions, partial exemptions and exceptions in this chapter or as allowed for by this section.
(1) New development and uses shall be prohibited from the Lake Sammamish buffer, except as provided for in this chapter. Developments associated with water-dependent and water-enjoyment uses allowed by the shoreline master program are not required to meet the required buffer; provided, that the placement of structures, storage, and hard surfaces within the buffer shall be limited to the minimum necessary for the successful operation of the use. In no case shall surface parking be allowed within the lake buffer;
(2) Surface water management activity or facility, such as an energy dissipater and associated pipes, is allowed in the Lake Sammamish buffer only if the applicant demonstrates, to the satisfaction of the department, that:
(a) No reasonable alternative exists; and
(b) The functions of the lake and related buffer are not adversely affected;
(3) Public and private trails are allowed in the Lake Sammamish buffer consistent with the standards and requirements in this chapter, development standards in Chapter 21A.30 SMC, and requirements elsewhere in the SMC. Proposals for constructing viewing platforms, associated access trails, and spur trails must be reviewed by a qualified professional and a critical areas study may be required;
(4) A dock, pier, moorage, float, or launch facility may be allowed, subject to the provisions of SMC Title 25;
(5) Enhancement and Restoration—Lake buffer enhancement or restoration not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by and carried out under the direction of a qualified professional. Restoration or enhancement must result in a net improvement to the functions of the lake ecosystem;
(6) Restoration Required. Restoration shall be required when the lake buffer is altered in violation of law or without any specific permission or approval by the City. A mitigation plan for the restoration shall conform to the requirements of this chapter, and
(7) Development may be further regulated by the adopted shoreline master program. (Ord. 02005-193 § 1)