CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO. O2004-139  

AN ORDINANCE OF THE CITY OF SAMMAMISH  
ADDING CHAPTER 14A.10 TO REQUIRE ADEQUATE  
PUBLIC FACILITIES CONCURRENT WITH  
DEVELOPMENT; PROVIDING AN EFFECTIVE DATE  

WHEREAS, the State of Washington Growth Management Act, RCW Chapter 36.70A  
and related sections, (the "GMA"), requires the City to adopt a Comprehensive Plan that  
provides adequate public facilities to serve development; and  

WHEREAS, the City adopted a Comprehensive Plan effective September 25, 2003, that  
includes a capital facilities plan and other elements that plan for adequate public facilities; and.  

WHEREAS, RCW 36.70A.070(6) specifically requires adoption of an ordinance which  
prohibits development approval if the development causes the level of service on a transportation  
facility to decline below the standards adopted in the transportation element of the  
comprehensive plan unless transportation improvements or strategies to accommodate the  
impacts of development are made concurrent with the development; and  

WHEREAS, the GMA requires that regulations be adopted to implement the  
Comprehensive Plan.  

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

Section 1. The following new Chapter 14A.10 is added to Title 14A of the Sammamish  
Municipal Code:  

Chapter 14A.10 Concurrency  

14A.10.010 Concurrency Requirement.  

A. The City shall not issue a Development Permit until:  

1. A Concurrency Test has been conducted and a Certificate of Concurrency  
has been issued, or  

2. The Applicant has executed a Concurrency Test Deferral Affidavit where  
specifically allowed, or  

3. The Applicant has been determined to be exempt from the Concurrency  
Test as provided in 14A.10.030 (A).

A. Each Applicant for a comprehensive plan amendment requesting property redesignation or zone reclassification, except as provided in 14A.10.030 (A), shall elect one of the following options:

1. apply for a Certificate of Concurrency, or

2. execute a Concurrency Test Deferral Affidavit.

B. Each Applicant for a Planned Action, subdivision (including a preliminary plat, short plat, or binding site plan and revisions or alterations which increase the number of Dwelling Units or trip generation), mobile home park, a master site plan, urban planned development, conditional use permit, or site development permit, shall apply for a Certificate of Concurrency, unless a Certificate has been issued for the same parcel in conjunction with a comprehensive plan amendment or zone reclassification, or except as provided in 14A.10.030 (A).

C. Each Applicant for a Building Permit or certificate of occupancy for a change in use shall apply for a Certificate of Concurrency, unless a Certificate has been issued for the same parcel in conjunction with Sections A or B, above, or except as provided in 14A.10.030 (A).

D. Applicants for a Certificate of Concurrency may designate the density and intensity of Development to be tested for Concurrency, provided such density and intensity shall not exceed the maximum allowed for the parcel. If the Applicant designates the density and intensity of Development, the Concurrency Test will be based on, and applicable to only the Applicant's designated density and intensity. If the Applicant does not designate density and intensity, the Concurrency Test will be based on the maximum allowable density and intensity.

14A.10.030 Exemptions from Concurrency Test.

A. The following Developments are exempt from this Chapter, and Applicants may submit applications, obtain Development Permits and commence Development without a Certificate of Concurrency:

1. Any Development Permit for the following Development because it creates insignificant and/or temporary additional impacts on any Public Facility:

   a. Right of Way Use;

   b. Street improvements, including new streets constructed by the City of Sammamish; or

   c. Street use permits;
d. Utility facilities, which do not impact Public Facilities, such as, pump stations, transmission or collection systems, and reservoirs.

2. Any Development by the City of Sammamish.

3. Public schools.

B. Exemptions from the Concurrency Test on the capacity of Public Facilities shall be entered in the City’s records in the same manner as though a Concurrency Test had been performed for the exempt Development Permits.

14A.10.040 Concurrency Test.

A. The City shall perform a Concurrency Test for each application for a Certificate of Concurrency, except as provided in Sec. 14A.10.030. The Public Works Director, or his/her designee, shall use the following methods to conduct the Concurrency Test for each type of Public Facility:

1. For single family Residential Development, annual certification that the capacity of Public Facilities is sufficient to maintain the City’s Level of Service Standard for single family Residential Development that is estimated to occur during the following year; or

2. For all other Development, review of each application compared to the capacity of the Public Facilities in accordance with the provisions of this Chapter.

B. The City may enter into an agreement with each public or private entity that provides Public Facilities in the City to establish the responsibilities of the City and the provider of Public Facilities in providing data for, or conducting a Concurrency Test.

C. If the capacity of available Public Facilities is equal to or greater than the capacity required to maintain the Level of Service Standard for the impact of the Development, the Concurrency Test is passed, and the Applicant shall receive a Certificate of Concurrency.

D. If the capacity of available Public Facilities is less than the capacity required to maintain the Level of Service Standard for the impact of the Development, or the impact of the Development will cause the level of service to decline below the Standard set forth in Sec. 14A.10.050, the Concurrency Test is not passed, and the Applicant may select one of the following options:

1. Accept a 90-day Reservation of Public Facilities that are available, and within the same 90-day period amend the application to reduce the need for Public Facilities to not exceed the capacity that is available, or arrange to provide for Public Facilities that are not otherwise available, or

2. Appeal the denial of the application for a Certificate of Concurrency, pursuant to the provisions of Sec. 14A.10.080.

E. The City shall conduct the Concurrency Test first in the order that completed applications are received by the City.
F. A Concurrency Test, and any resulting Certificate of Concurrency, shall be administrative actions of the City that are categorically exempt from the State Environmental Policy Act.

14A.10.050 Level of Service Standards.

A. In conducting the Concurrency Test, the Level of Service Standards for Road and street segments are based on allowable Average Weekday Daily Traffic (AWDT) volumes, as a function of each roadway’s characteristics described and listed in the Transportation Element of the adopted Comprehensive Plan. For intersections, the City standard is LOS D for intersections that include principal arterials and LOS C for intersections that include minor arterial or collector roadways. The intersection standards shall be applied to the p.m. Peak Hour.

B. In conducting the Concurrency Test, the City shall apply the Level of Service Standards for Roads, streets, and intersections Citywide. If no Road, street or intersection operates below the Level of Service standard, Development may occur anywhere within the City. If any Road, street or intersection operates below the Level of Service standard, Development may not be approved anywhere within the City until the Level of Service is achieved, or transportation improvements or strategies to accommodate the impacts of Development will be completed within six years.

C. In conducting the Concurrency Test, the City shall find that the impact of Development occurs, and therefore the Level of Service Standards for Roads, streets and intersections shall be achieved and maintained, no later than six (6) years from the date of occupancy of the Development, or each phase of a Development.

D. In the event that the Applicant is required to provide a Public Facility, the Development cannot be occupied until the Public Facility is completed, or the Applicant provides the City with a performance bond that is acceptable to the City.

E. In conducting the Concurrency Test, the City shall determine that additional Public Facilities that are needed to achieve the Level of Service Standards are included in the Capital Facilities Plan element of the City’s comprehensive plan. Such additional Public Facilities shall be underwritten by one or more of the following financial commitment specific to the additional Public Facility needed to achieve the Level of Service Standard:

1. Grants from Federal, State or private sources if the grant has been awarded for specific projects.

2. Appropriations in State biennial budget for specific projects.

3. Revenues that can be imposed or expended at the discretion of the City of Sammamish, including, but not limited to, Impact Fees, SEPA Mitigation Payments, property taxes, real estate excise taxes, user fees, charges, intergovernmental entitlements, and bonds.

4. Revenue from special assessment districts created by the City.

5. Irrevocable commitments from developers in a form acceptable to the City including:
a. performance or surety bonds from Washington financial institutions;

b. letters of credit from Washington financial institutions; or

c. assignments of assets in Washington (i.e., interests in real property, savings certificates, bank accounts, or negotiable securities).

6. Payments by special districts if such payments are similar in character and reliability to those listed in sections 1-5, above.

7. All Development Permits that require one or more Public Facilities provided by entities other than the City shall condition the issuance of the Development Permit for the same parcel on the availability of such Public Facilities. The City may enter into an agreement with each public or private entity that provides Public Facilities in the City to establish the responsibilities of the City and the provider of Public Facilities in providing data for, or conducting a Concurrency Test.

14A.10.060 Certificate of Concurrency.

A. A Certificate of Concurrency shall be issued by the Public Works Director, or his/her designee after the Concurrency Test is passed.

B. Upon issuance of a Certificate of Concurrency, the City shall Reserve capacity on behalf of the Applicant, and indicate the reservation on the Certificate of Concurrency.

C. A Certificate of Concurrency shall expire if the Development Permit for which the Concurrency is Reserved is not applied for within one hundred and eighty (180) days of issuance of the Certificate of Concurrency.

D. A Certificate of Concurrency shall be valid for the Development Permit application period and subsequently for the same period of time as the Development Permit for which it was issued expires.

E. A Certificate of Concurrency may be extended according to the same terms and conditions as the underlying Development Permit. If a Development Permit is granted an extension, the Certificate of Concurrency, if any, shall also be extended. Certificates of Concurrency shall not be extended beyond the expiration of the underlying Development Permit, or any extensions thereof.

F. A Certificate of Concurrency is valid only for the uses and intensities authorized for the Development Permit with which it is issued. Any change in use or intensity that increases the impact of Development on Public Facilities is subject to an additional Concurrency Test of the incremental increase in impact on Public Facilities. Any change in use or intensity that decreases the impact of Development on Public Facilities is not subject to an additional Concurrency Test and any capacity that is not required as a result of the decrease in impact shall be available for other Applications.

G. A Certificate of Concurrency is valid only for the Development Permit with which it is issued, and for subsequent Development Permits for the same parcel, as long as the Applicant obtains the subsequent Development Permit prior to the expiration of the earlier Development Permit. A Certificate of Concurrency transfers automatically to subsequent Development Permits for the parcel for which the Certificate was issued provided that the use or
intensity has not changed, and the previous Development Permit has not expired. The transfer of validity of a Certificate of Concurrency from one Development Permit to a subsequent Development Permit shall not extend or otherwise change the expiration of the Certificate of Concurrency.

H. A Certificate of Concurrency runs with the land, and cannot be transferred to a different parcel. A Certificate of Concurrency transfers automatically with ownership of the parcel for which the Certificate was issued. Upon final subdivision of a parcel that has obtained a Certificate of Concurrency, the City shall replace the Certificate of Concurrency by issuing a separate Certificate of Concurrency to each subdivided parcel, assigning to each a pro rata portion of the Public Facility capacity or other measure that was Reserved for the original Certificate. The issuance of pro rata Certificates of Concurrency to subdivided parcels shall not extend or otherwise change the expiration of the Certificates of Concurrency.

14A.10.070 Fees.

A. The City shall charge each Applicant a Concurrency Test fee in an amount to be established by resolution by the City Council. The Concurrency Test fee shall not be refundable.

B. The City shall charge a processing fee to any individual that requests an informal analysis of capacity if the requested analysis requires substantially the same research as a Concurrency Test. The processing fee shall be non-refundable and non-assignable to Concurrency Tests. The amount of the processing fee shall be the same as the Concurrency Test fee authorized by Section 14A.10.070 (A).

C. When a Certificate of Concurrency is issued, the City shall charge a deposit towards future Impact Fees and SEPA Mitigation Payments that will be due upon issuance of the Building Permit. The deposits shall be paid according to the following schedule in an amount equal to the percentages listed below of the amount of Impact Fees and SEPA Mitigation Payments for the capacity being Reserved, using the rates in effect at the time the deposit is paid.

1. At the time the Certificate of Concurrency is issued, the deposit amount shall equal ten percent (10%) of the rates in effect at that time for Impact Fees and SEPA Mitigation Payments.

2. At the time a Preliminary Plat is approved, the deposit amount shall equal fifty percent (50%) of the rates in effect at that time for Impact Fees and SEPA Mitigation Payments, less a credit for any deposit paid pursuant to Section 1.

3. At the time the engineering plan is approved, the deposit amount shall equal seventy-five percent (75%) of the rates in effect at that time for Impact Fees and SEPA Mitigation Payments, less a credit for any deposits paid pursuant to Sections 1 and 2.

4. At the time a Final Plat, Site Development Permit, Conditional Use Permit, Building Permit or Certificate of Occupancy is approved, a final payment shall be made equal to one hundred percent (100%) of the rates in effect at that time for Impact Fees and SEPA Mitigation Payments, less a credit for any deposits paid pursuant to Sections 1-3.
The City Council may waive payment of deposits by Planned Actions, and require
instead that the Planned Action shall pay the Impact Fees and SEPA Mitigation Payments that
are in effect at the time each Building Permit is issued.

D. If the City has not expended a deposit, it is refundable without Interest, less the
cost of processing the refund. If the City has expended a deposit in good faith in order to provide
Public Facilities anticipated to be needed by a proposed Development, the deposit is not
refundable, but it can be credited against Impact Fees and SEPA Mitigation Payments at the time
it becomes due, and it runs with the land and is transferred automatically to new Owners of the
same parcel. The City may, at its sole discretion, collect Impact Fees or SEPA Mitigation
Payments from another party for the capacity of Public Facilities that was subject to a deposit.
The City may use the proceeds to refund the original deposit. The Applicant’s payment of a
deposit towards Impact Fees in exchange for the Certificate of Concurrency from the City
constitutes a waiver by the Applicant of the right to obtain a refund of an Impact Fee in the event
the Development does not proceed.

14A.10.080 Appeals.

A. An Applicant may appeal a denial of a Certificate of Concurrency on the
following grounds:

1. A technical or mathematical error;

2. The Applicant provided alternative data that was rejected by the City; or

3. Unwarranted delay in review of the application that allowed capacity to be
given to another Applicant.

B. Appeal of denial of a Certificate of Concurrency shall be to the Hearing Examiner
in accordance with procedures in Sammamish Municipal Code Title 20.

Section 2. Captions. The Chapter and Section captions used in this title are for convenience
only and shall not control or affect the meaning or construction of any of the provisions of this
title.

Section 3. 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 or
enforceability of the remaining portions of this ordinance or its application to other persons or
circumstances.

Section 4. Effective date. This ordinance shall be published in the official newspaper of the
City, and shall take effect and be in full force five (5) days after the date of publication.

CITY OF SAMMAMISH

[Signature]
Mayor Kathleen Hackabay

ATTEST:

Melanie Anderson
Melanie Anderson, City Clerk

APPROVED AS TO FORM:

Bruce L. Disend, City Attorney

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