AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, REPEALING TITLE 23 (CODE ENFORCEMENT) AND RE-ADOPTING A NEW TITLE 23 (CIVIL CODE COMPLIANCE) OF THE SAMMAMISH MUNICIPAL CODE

WHEREAS, the City Council of the City of Sammamish values the health, safety, and welfare of the residents of Sammamish and recognizes that violations of the Sammamish Municipal Code ("SMC") provisions related to land use, zoning, building and the environment are nuisances to the community that shall be prioritized based on significance and severity; and

WHEREAS, a centralized process for enforcing and abating violations of the SMC will create efficiencies for City staff to promptly and effectively respond to and enforce violations of the SMC by providing an opportunity for persons to voluntarily correct code violations; assessing monetary penalties rather than criminal penalties for code violations; providing an appeal hearing on alleged violations; and establishing a standard procedure to be used by the City to abate unsafe or unlawful conditions and to recover the City's expenses incurred in these efforts;

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

Section 1. SMC Title 23 (Code Enforcement) Repealed. Title 23 (Code Enforcement) of the Sammamish Municipal Code is hereby repealed in its entirety.

Section 2. SMC Title 23A (Civil Code Compliance), Adopted. A new Title 23 (Civil Code Compliance) of the Sammamish Municipal Code, in the form attached as Attachment "A" to this Ordinance, is hereby adopted.

Section 3. Non-substantive Changes Authorized: The City Council authorizes the Community Development Director and City Clerk to codify Title 23A into the Sammamish Municipal Code for ease of use and reference. In codifying the new Title, the City Council authorizes the Community Development Director to make non-substantive changes to the code to comply with the intent of the City Council.

Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.
Section 5. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 16th DAY OF MAY 2011.

CITY OF SAMMAMISH

[Signature]
Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

[Signature]
Melanie Anderson, City Clerk

Approved as to form:

[Signature]
Bruce L. Disend, City Attorney

Filed with the City Clerk: April 27, 2011
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TITLE 23
CIVIL CODE COMPLIANCE

Chapters:
23.10 Purpose & Scope
23.20 Response Categories
23.30 Declaration of Public Nuisance
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23.10 Purpose & Scope

The purpose of this title is to establish an effective and efficient system to ensure compliance with the City’s adopted building, land development, land use, and related codes. These regulations establish procedures and mechanisms to resolve violations, establish penalties for violations, provide an opportunity for a prompt hearing, decision and appeal as to alleged code violations, provide for abatement when necessary, and provide a mechanism to recover the City’s costs.

23.10.020 Scope

This Chapter shall be applied for the purposes of enforcing Sammamish Municipal Code (SMC) Titles 13, 14, 14A, 15, 16, 21A, 25 and other codes, ordinances, resolutions, or public rules that promote or protect the public health, safety, or welfare and the environment. The provisions of this title are not exclusive and may be used in addition to other applicable provisions of the SMC or other applicable law or regulation.

23.20 Response Categories

23.20.010 Categories of Response
Responses to complaints or evidence of a civil code violation shall be prioritized based on significance and severity. The categories set forth in this subsection are not jurisdictional and failure to meet them in any particular case shall not affect the City’s authority to enforce City code provisions with regard to that case. The following categories serve as guidelines for administering this title:

(1) **High risk** situations need an urgent response. These include an imminent likelihood of/or actual bodily harm or detrimental public health exposure, damage to public resources or facilities, damage to real or personal property, or significant environmental damage or contamination.

(2) **Moderate risk** situations need a prompt response. These include a risk of bodily harm, damage to public resources or facilities, damage to real or personal property, environmental damage or contamination.

(3) **Low risk** situations need response as time permits. These are non-emergent, do not fit within the high risk or moderate risk categories and have only minor public impacts.

### 23.20.020 Incremental Approach

The Director should follow an incremental approach to securing compliance with City codes. This means starting by contacting the person responsible, explaining the violation and requesting voluntary correction. As needed, the Director should secure compliance by proceeding incrementally to higher penalty levels by using the techniques and options in this title. The Director may also determine no violation exists and take no further action, or for Low Risk, “de minimus” violations, decide not to take further action.

### 23.30 Declaration of Public Nuisance

#### 23.30.010 Declaration of Public Nuisance

All code violations are determined to be detrimental to the public health, safety, welfare and environment, and are declared to be public nuisances. All conditions determined to be code violations shall be subject to and enforced pursuant to the provisions of this title, except where specifically excluded by law or regulation.

### 23.40 Right of Entry

#### 23.40.010 Right of Entry

The Director is authorized to enter upon any property or premises at any reasonable time to determine whether a civil violation has occurred or is occurring, or to
enforce any provision of the Sammamish Municipal Code or any City regulation, violation of which is a civil violation under this Title. The Director may make examinations, surveys, and studies as may be necessary in the performance of his or her duties. These may include the taking of photographs, digital images videotapes, video images, audio recordings, samples, or other physical evidence. If the premises is occupied, the Director shall first present credentials and request entry. If an owner, occupant, or agent refuses entry, the City may apply to a court of competent jurisdiction for a search warrant authorizing access.

23.50 Voluntary Compliance Agreements

23.50.010 Timing

A Voluntary Compliance Agreement (VCA) is a preferred mechanism to resolve most code compliance cases, and may be entered into at any time before an administrative appeal is decided.

23.50.020 Contents

A VCA is a written contract between the person responsible for the violation and the City, where such person agrees to abate the violation within a specified time and according to specified conditions. The VCA shall be completed on a form approved by the Director and the City Attorney and shall, at minimum, include the following:

1. The name and address of the person responsible;

2. The street address or other description sufficient for identification of the building, structure, premises, or land upon which the violation has occurred or is occurring;

3. A description of the violation(s) and a reference to the code(s) which has been violated;

4. The necessary corrective action to be taken, and the date by which the correction must be completed;

5. An agreement by the person responsible that the City may inspect the premises as may be necessary to determine compliance with the VCA;

6. The amount of the civil penalty that will be imposed pursuant to this title if the person responsible does not meet his or her obligations under the VCA;

7. A statement that the person responsible waives the right to an administrative or judicial hearing for appeal purposes; and
8. An agreement by the person responsible that if the City determines that such person does not meet his or her obligations specified in the VCA, the City may impose any remedy authorized by this title, including, but not limited to:

a. Assessment of civil penalties as established by resolution or otherwise identified in the VCA;

b. Abatement of the violation;

c. Assessment of all costs and expenses incurred by the City to pursue code enforcement and to abate the violation, including legal and incidental expenses; and

d. Suspension, revocation, or limitation of a permit.

23.50.030 Waiver of Appeal

In consideration of the City's agreement to enter into a VCA, the person responsible shall completely surrender and have no right to an administrative or judicial hearing, under this title or otherwise, regarding the matter of the violation and/or the required corrective action. The VCA is a final, binding agreement, it is not a settlement agreement, and its contents are not subject to appeal.

23.50.040 Amendment

The Director may grant an extension of the time limit for compliance, or a modification of the required corrective action may be granted, if the person responsible has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances or circumstances beyond the control of the person responsible, render full and timely compliance under the original conditions unattainable. Such request shall be made in writing by the person responsible and clearly establish the need for such an extension.

23.60 Notice and Orders

23.60.010 Authority

Whenever the Director has reason to determine that a civil code violation occurred or is occurring, or that the civil code violations cited in an Infraction have not been corrected, or that the terms of a VCA have not been met, or the person responsible has decided not to enter into a VCA, the Director is authorized to issue a Notice and Order to any person responsible for the code violation. Subsequent violations shall be treated as new violations for purposes of this section.
A Notice and Order shall be completed in a form approved by the Director and the City Attorney, and shall be served consistent with SMC Chapter 23A.090 of this title and shall, at minimum, include the following:

1. The tax parcel number(s), address, when available, or description sufficient for identification of the building, structure, premises or land upon which or within the violation has occurred or is occurring;

2. A statement of each ordinance, regulation, code provision or permit requirement violated;

3. The name of the City official issuing the Notice and Order;

4. The required corrective action that is necessary to achieve compliance and a date by which the correction must be completed;

5. An explanation of the appeal process and the specific information required to file an appeal;

6. A statement that if the violation is not corrected and the Notice and Order is not appealed, the determination is final and a monetary penalty shall be assessed according to this title; and

7. A statement advising that, if any of the work is not commenced or completed within the time specified for compliance, the City may proceed to abate the violation, cause work to be done, and assess the costs and expenses of abatement incurred by the City against the person responsible, and that the City may take any other legal action.

23.60.030 Supplementation, Revocation or Modification

A. Whenever there is new information or a change in circumstances, a Director may add to, rescind in whole or in part or otherwise modify a Notice and Order by issuing a Supplemental Notice and Order. The Supplemental Notice and Order shall be governed by the same procedures applicable to all Notice and Orders contained in this title.

B. The Director may revoke or modify a Notice and Order issued under this title if the original Notice and Order was issued in error or if a party to an order was incorrectly named. The revocation or modification shall identify the reason and underlying facts for revocation and may be recorded with the King County Recorder’s Office, or its successor agency, if the underlying Notice and Order was recorded.

23.60.040 Recording
A. Whenever a Notice and Order is served on a person responsible for the code violation, the City may record a copy of the Notice and Order with the King County Recorder's Office, or its successor agency.

B. When all violations specified in the Notice and Order have been corrected or abated, the Director shall record a Release of Notice and Order with the King County Recorder's Office, or its successor agency, if the underlying Notice and Order was recorded. The release shall include a legal description of the property where the violation occurred and shall state, if applicable, that any unpaid civil penalties for which liens have been recorded are still outstanding and continue as liens on the property.

23.60.050 Time Limits

A. Persons receiving a Notice and Order shall rectify the code violations identified within the time period specified by the Director in the Notice and Order issued pursuant to this title.

B. Unless an appeal is filed with the Director for a hearing before the Hearing Examiner in accordance with this title and SMC Chapter 20.10, the Notice and Order shall become the final administrative order of the Director, and the civil penalties assessed shall be immediately due and subject to collection.

23.70 Stop Work Orders

A. Authorization. Whenever a violation of this title threatens the health or safety of the public or materially impairs the Director's ability to secure compliance with the Sammamish Municipal Code, the Director may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. A Stop Work Order shall be served consistent with SMC Chapter 23A.90 of this title. Issuance of a Notice and Order is not a condition precedent to the issuance of a Stop Work Order.

B. Effect. Work or activity may not resume unless specifically authorized in advance by the Director. Any violation of a Stop Work Order is hereby declared to be a nuisance and the Director is authorized to enjoin or abate such nuisance by any legal or equitable means available. The costs, specifically including reasonable attorney and expert witness fees, for the injunction or abatement shall be recovered by the City from the person responsible for the code violation in the manner provided by law. Failure to comply with the terms of a Stop Work Order subjects the person responsible for the code violation to civil penalties and costs as set forth in this title.

C. Appeal. A Stop Work Order may be appealed according to the procedures prescribed by this title and Chapter 20.10 SMC. Failure to appeal the Stop Work Order within the applicable time limits renders the Stop Work Order a final determination that the civil code violation occurred and that work was properly ordered to cease.
23.80 Infractions

Whenever the Director has reason to determine that a civil code violation occurred or is occurring, the Director is authorized to issue an Infraction in accordance with Chapter 7.80 RCW, which is incorporated herein by this reference, upon the person responsible for the condition. Issuance of an Infraction constitutes a civil infraction. The district court shall have jurisdiction over all Infractions issued under this title.

23.90 Service of Written Notice

A. Service of a Notice and Order, Stop Work Order, Infraction or other official written notice of violation issued by the Director shall be made by one or more of the following methods:

1. By personal service to the person responsible for the code violation or by leaving a copy of the written notice at such person's place of residence with a person of suitable age and discretion who resides there.

2. By posting the written notice in a conspicuous place on the property where the violation occurred and concurrently mailing notice as provided for in this subsection.

3. By mailing two copies of the written notice, postage prepaid, one by ordinary first class mail and the other by certified mail, to the person responsible for the code violation at his, her or its last known address, at the address of the violation, or at the address of the place of business of the person responsible for the code violation. The taxpayer's address as shown on the tax records of the county shall be deemed to be the proper address for the purpose of mailing such notice to the landowner of the property where the violation occurred. Service by mail shall be presumed effective upon the third business day following the day upon which the official written notice of violation was placed in the mail.

4. For Notice and Orders only, when the address of the person responsible for the code violation cannot reasonably be determined, service may be made by publication once in the City's official newspaper.

B. The failure of the Director to make or attempt service of written notice shall not invalidate any proceedings as to any other person duly served.
23.100 Civil Penalties

23.100.010 Assessment schedule

Code Enforcement Penalties:
Infraction up to $500
Stop Work Order up to $500

Noncompliance:
1-15 days $100 per day
16-31 days $250 per day
31+ days $500 per day (up to $50,000 maximum)

Environmental Damage/Critical Areas Violations:
Up to $25,000 plus the cost of restoration

A. Civil fines and civil penalties for civil code violations shall be imposed for remedial purposes and shall be assessed for each type of violation identified in a Notice and Order, VCA, Stop Work Order or Infraction pursuant to this chapter.

B. The penalties assessed pursuant to this chapter for failure to comply with the terms of a VCA are based on the number of days of noncompliance, dating back to the date of the initial violation.

C. Penalties based on violation of a Stop Work Order shall be assessed, according to this chapter, for each day the Director determines that work or activity was done in violation of the Stop Work Order.

D. Infractions shall be subject to a one-time civil penalty as set forth in this chapter.

E. Payment of a monetary penalty does not relieve the person responsible to whom the notice was issued of the duty to correct the violation.

F. In addition to the other penalties provided for in this chapter, any person responsible for a violation of SMC Chapter 21A.50 may be jointly and severally liable for site restoration for the redress of ecological, recreation, and economic values lost or damaged and shall pay a civil penalty up to $25,000 plus restoration, based upon the severity of the violation as documented in the city’s file.

For the purposes of this subsection, a violation of the critical areas ordinance means: the violation of any provision of SMC Chapter 21A.50; or the failure to obtain a permit required for work in a critical area; or the failure to comply with the conditions of any permit, approval, terms and conditions of any critical area tract or setback area, easement or other covenant, plat restriction or binding assurance or any Notice and Order, Stop Work Order, mitigation plan, contract or other agreement.
G. The civil penalties in this chapter are in addition to, and not in lieu of, any other penalties, sanctions, restitution or fines provided for in any other provisions of law.

23.100.020 Waivers

A. Civil fines and civil penalties, in whole or in part, may be waived or reimbursed to the payer by the Director, with the concurrence of the Finance Director, under the following circumstances:

1. The Notice and Order, Stop Work Order or Infraction was issued in error;

2. The civil fines or civil penalties were assessed in error;

3. Notice failed to reach the person responsible due to unusual circumstances;

4. The code violations have been corrected under a VCA;

5. The code violations which formed the basis for the civil penalties have been corrected, and the Director finds that compelling reasons justify waiver of all or part of the outstanding civil penalties; or

6. Other extraordinary information warranting waiver has been presented to the Director since the Notice and Order, Stop Work Order or Infraction was issued.

B. The Director shall document the circumstances under which a decision was made to waive penalties.

23.110 Appeal to Hearing Examiner

A. Any person found in violation pursuant to this title may file an appeal within ten calendar days after receiving or otherwise being served with a written notice of a violation. When the last day of the period so computed is a Saturday, Sunday, or a federal or City holiday, the period shall run until 4:30 p.m. on the next business day. The request shall be in writing clearly explaining the basis for the appeal and shall include the applicable appeal fee as established in a fee schedule adopted by the Sammamish City Council.

B. Upon receipt of the appeal, the City shall schedule an appeal hearing before the Hearing Examiner. The hearing shall be conducted in accordance with the procedures set forth in SMC Chapter 20.10 and the rules of procedure of the Hearing Examiner.
C. At the conclusion of the appeal hearing, the Hearing Examiner shall issue an order to the person responsible for the violation which includes the following information:

1. The decision regarding the alleged violation including findings of fact and conclusions based thereon in support of the decision;

2. The required corrective action;

3. The date by which the correction must be completed;

4. The civil penalties assessed based on the provisions of this title and the fee resolution; and

5. The date after which the City may proceed with abatement of the unlawful condition if the required correction is not completed.

D. Judicial Review. The decision of the Hearing Examiner shall be final unless appealed. To appeal the decision of the Hearing Examiner, a person with standing to appeal must file a land use petition, as provided in RCW 36.70C (Land Use Petition Act), within 21 calendar days of issuance of the Hearing Examiner’s decision. The cost for transcription of all records ordered certified by the superior court for such review shall be borne by the appellant and is non-refundable.

E. Effect of Decision. If judicial review is not obtained, the decision of the Hearing Examiner shall constitute the final decision of the City, and the failure to comply with the decision of the Hearing Examiner shall constitute a misdemeanor punishable by a fine of not more than $1,000 or up to 90 days imprisonment, or both. In addition to criminal punishment pursuant to this subsection, the City may pursue collection and abatement as provided in this title.

23.120 Abatement by the City

A. Upon prior approval by the City Manager, the City may abate a condition which was caused by or continues to be a civil violation or civil infraction when:

1. The terms of the VCA pursuant to this Title have not been met; or

2. A Notice and Order or Stop Work Order has been issued, the period for filing an appeal with the Hearing Examiner has expired, and the required correction has not been completed; or

3. A Notice and Order or Stop Work Order has been issued, a timely appeal was filed, the appellant failed to appear at the scheduled hearing or a hearing was held as provided in this Title and the
required correction has not been completed by the date specified by an order of the Hearing Examiner; or

4. The condition is subject to summary abatement as provided for in this Chapter or other provisions of City or State law.

B. Summary Abatement. When a code violation causes a condition, the continued existence of which constitutes an immediate and emergent threat to the public health, safety, or welfare or to the environment, the City may summarily and without prior notice to the person responsible to abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after the abatement.

C. Authorized Action by the City. Using any lawful means, the City may enter upon the subject property and may remove or correct the condition which is subject to abatement. The City may seek judicial process as it deems necessary to effect the removal or correction of such condition.

D. No Cause of Action against City. No cause of action shall lie against the City or its agents, officers, or employees for actions reasonably taken, or not taken, to prevent or cure any immediate threats.

E. Recovery of Expenses. All expenses incurred by the City in correcting the violation shall be billed to the person responsible for the violation and shall become due and payable to the City within 10 calendar days. Such costs may include, but are not limited to, the following:

1. "Legal expenses," which shall include, but are not limited to:

   a. Personnel costs, both direct and indirect, including attorney’s fees and all costs incurred by the City Attorney’s office or its designee;

   b. Actual and incidental expenses and costs incurred by the City in preparing notices, contracts, court pleadings, and all other necessary documents; and

   c. All costs associated with retention and use of expert witnesses or consultants;

2. "Abatement expenses," which shall include, but are not limited to:

   a. Costs incurred by the City for preparation of notices, contracts, and related documents;

   b. All costs associated with inspection of the abated property and monitoring of said property consistent with orders of compliance
issued by the City’s Hearing Examiner or a court of competent jurisdiction;

c. All costs incurred by the City for hauling, storage, disposal, or removal of vegetation, trash, debris, dangerous structures or structures unfit for occupancy, potential vermin habitat or fire hazards, junk vehicles, obstructions to public rights-of-way, and setback obstructions; and

d. All costs incurred by law enforcement or related enforcement agencies.

e. All costs incurred by the City during abatement of nuisance and code violations may include interest in an amount as prescribed by law.

f. The City shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under this chapter, and all other related costs including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the work of abatement was performed. The lien shall be subordinate to all previously existing special assessment liens imposed on the same property and shall be superior to all other liens, except for State and County taxes, with which it shall be on parity.

23.130 Unfit Dwellings, Buildings and Structures

This chapter is intended to comply with state law requirements in order to place a lien on private property with unfit dwellings, buildings and structures.

23.130.010 Additional Enforcement Mechanism. In addition to, and in combination with, the enforcement methods set forth in this Title 23A and elsewhere in the Sammamish Municipal Code, violations of the Sammamish Municipal Code may be enforced under the provisions set forth in SMC 23A.130.010 through 23A.130.120.

23.130.020 Chapter 35.80 RCW Adopted. Chapter 35.80 RCW, “Unfit Dwellings, Buildings and Structures,” as it currently exists or is hereinafter amended, is hereby adopted.

23.130.030 Improvement Officer and Appeals Commission Designated. The Director is designated as the City’s “Improvement Officer,” and shall have the full scope of authority granted to that official under Chapter 35.80 RCW. The City of Sammamish Hearing Examiner is designated as the City’s “Appeals Commission,” and shall have the full scope of authority granted to that commission under Chapter 35.80 RCW.

23.130.040 Improvement Officer Authority – Issuance of Complaint. If, after a preliminary investigation of any dwelling, building, structure or premises, the Improvement Officer finds that it is unfit for human habitation or other use, the
Improvement Officer may issue a complaint conforming to the provisions of RCW 35.80.030, stating in what respects such dwelling, building, structure or premises is unfit for human habitation or other use. In determining whether a dwelling, building, structure or premises should be repaired or demolished, the Improvement Officer shall be guided by the Sammamish Municipal Code 16.25 and such other codes adopted pursuant to the Sammamish Municipal Code as the Improvement Officer deems applicable.

23.130.050 Service of Complaint. A complaint issued under this chapter shall be served on the parties and posted on the subject property pursuant to RCW 35.80.030, and shall also be filed with the King County Auditor. All complaints or other documents posted on the subject property shall remain in place until the complaint has been resolved. For purposes of service, such complaints or other documents are deemed effective on the day of posting.

23.130.060 Complaint Hearing. Not less than 10 days nor more than 30 days after serving a complaint, the Improvement Officer shall hold a hearing conforming to the provisions of RCW 35.80.030, at which all parties in interest shall be given the right to appear in person, to bring witnesses, and to give testimony regarding the complaint. At any time prior to or at the time of the hearing, any party may file an answer to the complaint. The procedural rules adopted by the City’s Hearing Examiner, codified in Chapter 20.10 SMC, shall govern the procedure of such hearing.

23.130.070 Determination, Findings of Fact and Order. Within ten days of the complaint hearing, the Improvement Officer shall issue a Determination, Findings of Fact and Order stating the Improvement Officer's determination as to whether the subject dwelling, building, structure or premises is unfit for human habitation or other use; the findings of fact supporting the determination; and an order specifying the actions necessary to address any unfitness, and a deadline for completing the actions. The Determination, Findings of Fact and Order shall be served and posted as set forth in SMC 23A.130.050, and if no appeal is filed within the deadline specified in SMC 23A.130.080, a copy of the Determination, Findings of Fact, and Order shall be filed with the King County Auditor.

23.130.080 Appeal to Appeals Commission. Within 10 days of service of a Determination, Findings of Fact and Order, any party may file an appeal to the Appeals Commission. Such an appeal shall be governed by the City of Sammamish Hearing Examiner's procedural rules, except that the Appeals Commission shall conduct a hearing on the appeal and issue a ruling within 60 days from the date the appeal is filed; and if the Appeals Commission issues any oral findings of fact, the ruling shall contain a transcript of such findings in addition to any findings issued at the time of the ruling. The ruling shall be served and posted as set forth in SMC 23A.130.050, and if no appeal is filed within the deadline specified in SMC 23A.130.090, a copy of the ruling shall be filed with the King County Auditor.

23.130.090 Appeal to Superior Court. Any person affected by a Determination, Findings of Fact and Order issued by the Improvement Officer, who has brought an
appeal before the Appeals Commission pursuant to SMC 23A.130.080 may, within 30
days after the Appeals Commission's ruling has been served and posted pursuant to SMC
23.130.050, petition the King County Superior Court for an injunction restraining the
Improvement Officer from carrying out the provisions of the Determination, Findings of
Fact and Order. In all such proceedings, the Court is authorized to affirm, reverse or
modify the order, and such trial shall be heard de novo.

23.130.100 Remediation/Penalties. If a party, following exhaustion of the party's
rights to appeal, fails to comply with the Determination, Findings of Fact and Order, the
Improvement Officer may direct or cause the subject dwelling, building, structure or
premises to be repaired, altered, improved, vacated, and closed, removed, or demolished
pursuant to Chapter 35.80 RCW.

23.130.110 Tax Lien. The cost of any action taken by the Improvement Officer under
SMC 23A.130.100 shall be assessed against the subject property pursuant to Chapter
35.80 RCW. Upon certification by the City of Sammamish Finance Director that the
assessment amount is due and owing, the King County Treasurer shall enter the amount
of such assessment upon the tax rolls against the subject property pursuant to the
provisions of RCW 35.80.030.

23.130.120 Salvage. Materials from any dwelling, building, structure or premises
removed or demolished by the Improvement Officer shall, if possible, be salvaged and
sold as if the materials were surplus property of the City of Sammamish, and the funds
received from the sale shall be credited against the cost of the removal or demolitions;
and if there be any balance remaining, it shall be paid to the parties entitled thereto, as
determined by the Improvement Officer, after deducting the costs incident thereto.

23A.140 General Provisions

A. The Director shall have the authority to administer this title and is
authorized to adopt procedures, rules or guidelines for that purpose. The Director may
seek assistance from City departments, other public agencies or private contractors to
resolve code violations.

B. No provision or any term used in this title is intended to impose any duty
upon the City, nor any of its officers, employees or agents, which would subject them to
damages in a civil action.

C. The provisions of this title detailing administration of code compliance
procedures are not to be construed as creating a substantive basis for appeal or a defense
of any kind to an alleged violation.

D. The provisions of this title authorizing the enforcement of non-codified
ordinances are intended to assure compliance with conditions of approval on plats,
conditional use or special use permits, zone reclassifications and other similar permits or
approvals which may have been granted by ordinances which have not been codified, and
to enforce new regulatory ordinances which are not yet codified.

E. The Director may modify or revoke any action under this title taken by the
City if the City action was incomplete or issued in error, or in response to new
information or a change in circumstances.

F. In the event of a conflict between a provision of this title and any other
provision of the SMC or City ordinance, the more restrictive provision shall apply as
determined by the Director.

23.150 Definitions

Except where specifically defined in this section, all words used in this title shall carry
their customary meanings. The word “shall” is always mandatory, and the word “may” denotes
a use of discretion in making a decision. The following words and phrases used in this Title
shall have the following meanings:

“Abate” means to take whatever steps are deemed necessary in the interest of the general
health, safety, and welfare of the City by the Director to return a property to the condition
in which it existed before a civil code violation occurred or to assure that the property
complies with applicable code requirements. Abatement may include, but is not limited
to, rehabilitation, demolition, removal, replacement or repair.

“Appeal hearing” means a hearing requested in response to a Notice and Order, Stop
Work Order, Infraction or other official written notice of violation issued by the Director
to contest the finding that a violation occurred or to contest that the person cited for a
violation is responsible for the violation.

“Civil Code Violation” or “Code Violation” means and includes one or more of the
following:

1. Any act or omission contrary to any ordinance, resolution, regulation or
public rule of the City that regulates or protects public health, the
environment or the use and development of land or water, whether or not the
ordinance, resolution or regulation is codified; and

2. Any act or omission contrary to the conditions of any permit, Notice and
Order or Stop Work or other order issued pursuant to any such an ordinance,
resolution, regulation or public rule.

“Development” means the erection, alteration, enlargement, demolition, maintenance or
use of any structure or the alteration or use of land above, at, or below ground or water
level, and all acts authorized by a City permit or regulation.
“Director” means the Director of the Community Development Department, or his or her designee.

“Found in Violation” means that:

1. A Notice and Order, Stop Work Order or Infraction has been issued and not timely appealed; or

2. The Hearing Examiner has determined that the violation has occurred and the Hearing Examiner’s determination has not been stayed or reversed on appeal.

“Hearing Examiner” means the City of Sammamish Hearing Examiner, as provided in SMC Chapters 23.110 and 20.10.

“Infraction” or “Civil Infraction” means any code violation designated as an infraction or civil infraction by the Director pursuant to Chapter 7.80 RCW, incorporated herein by reference.

“Nuisance” (also referred to herein as “violation” or “nuisance violation”) means:

1. A violation of any City of Sammamish development, land use, or public health ordinance;

2. Doing an act, omitting to perform any act or duty, or permitting or allowing any act or omission that annoys, injures, or endangers the comfort, repose, health, or safety of others, is unreasonably offensive to the senses, or that obstructs or interferes with the free use of property so as to interfere with or disrupt the free use of that property by any lawful owner or occupant;

3. Potential Vermin Habitat or Fire Hazard; or

4. Junk Vehicles: A junk vehicle includes apparent inoperable, immobile, disassembled, or extensively damaged vehicles. In addition, any wrecked inoperable, abandoned, or disassembled trailer, house trailer, boat, tractor, automobile, other vehicle, or any parts thereof.

“Permit” means any form of certificate, approval, registration, license or any other written permission issued by the City of Sammamish. All conditions of approval, and all easements and use limitations shown on the face of an approved final plat which are intended to serve or protect the general public are deemed conditions applicable to all subsequent plat property owners and their tenants and agents as permit requirements enforceable under this title.

“Person responsible” means the owner, occupier, tenant, manager, agent or other person who caused or is causing the civil code violation under this title or other public law.
"Public Nuisance" means a nuisance that affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

"Resolution" means any resolution adopted by the Sammamish City Council.

"Stop Work Order" means a written order specifying code violations and prohibiting any work or other activity at a particular site.

"Voluntary Compliance Agreement" or "VCA" means a written contract between the person responsible for the violation and the City, under which such person agrees to abate the violation within a specified time and according to specified conditions.