Title 20
ADMINISTRATIVE PROCEDURES/ENVIRONMENTAL POLICY

Chapters:

Chapter 20.05
PROCEDURES FOR LAND USE PERMIT APPLICATIONS, PUBLIC NOTICE, HEARINGS AND APPEALS

Sections:

20.05.010 Chapter purpose.

The purpose of this chapter is to establish standard procedures for land use permit applications, public notice, hearings, and appeals in the City of Sammamish. These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, permit review, hearing and appeal processes; provide for uniformity in public notice procedures; minimize delay and expense; and result in development approvals that implement the policies of the Comprehensive Plan. These procedures also provide for an integrated and consolidated land use permit and environmental review process consistent with Chapter 347, Laws of 1995. (Ord. O2021-533 § 3 (Att. C); Ord. O99-29 § 1)

20.05.020 Classifications of land use decision processes.

(1) Land use permit decisions are classified into four types, based on the amount of discretion associated with each decision. Procedures for the four different types are distinguished according to who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made, and whether administrative appeals are provided. The types of land use decisions are listed in Exhibit A of this section.

(a) Type 1 decisions are made by the director (director) of the department of community development (department). Type 1 decisions are nonappealable administrative decisions that

require the exercise of little or no administrative discretion. For Type 1 decisions for which the department has issued a SEPA threshold determination, the issuance of any subsequent permits shall not occur until any allowed administrative appeal of the SEPA threshold determination is decided.

(b) Type 2 decisions are made by the director, or his or her designee. Type 2 decisions are discretionary decisions that are subject to administrative appeal in accordance with applicable provisions of law or ordinance.

(c) Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to superior court.

(d) Type 4 decisions are quasi-judicial decisions made by the hearing examiner. Type 4 decisions may be appealed to the State Shoreline Hearings Board.

(2) Except as provided in SMC 20.15.130(1)(f) or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application.

(3) Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

(4) Land use permits that are categorically exempt from review under the State Environmental Policy Act (SEPA) will not require a threshold determination (determination of nonsignificance (DNS) or determination of significance (DS)). For all other projects, the SEPA review procedures codified in Chapter 20.15 SMC are supplemental to the procedures set forth in this chapter.

Exhibit A

LAND USE DECISION TYPE

Type 1	Decision by director, no administrative appeal	Building; clearing and grading; boundary line adjustment; temporary use; TDR sending site certification; right-of-way; road variance except those rendered in conjunction with a subdivision or short plat decision[1]; variance from the requirements of Chapter 9.04 KCC as adopted by SMC Title 13; shoreline exemption; approval of a conversion harvest plan; temporary homeless encampment

		permit[2]; wireless communication facility exemption; expedited wireless use permit; standard wireless use permit
Type 2	Decision by director appealable to hearing examiner, no further administrative appeal	Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; procedural and substantive SEPA decision; site development permit; approval of residential density incentives; reuse of public schools; reasonable use exceptions under SMC 21A.50.070(2); preliminary determinations under SMC 20.05.030(3); critical areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based on the requirements of Chapter 21A.50 SMC; binding site plan; unified zone development plan under Chapter 21B.95 SMC[3]; drainage adjustment applications for projects subject to full or large project drainage review[5] under Chapter 13.20 SMC[6] if not already considered with another underlying project permitting process; drainage adjustment applications for any project requiring drainage review located in a critical drainage area under Chapter 13.20 SMC if not already considered with another underlying project permitting process
Type 3	Recommendation by director, hearing and decision by hearing examiner appealable to superior court	Preliminary plat; plat alterations; preliminary plat revisions; plat vacations; zone reclassifications[4]; urban planned development; special use
Type 4	Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board	Shoreline variances; shoreline substantial development permits (SSDPs); shoreline conditional use permits

[1] The road variance process is administered by the City engineer pursuant to the City's street standards as set forth in the public works standards.

[2] Subject to the notice requirements of SMC 21A.70.195(4).

[3] Subject also to the procedural requirements of SMC 20.05.037 and Chapter 21B.95 SMC.

[4] Approvals that are consistent with the Comprehensive Plan may be considered by the examiner at any time. Zone reclassifications that are not consistent with the Comprehensive Plan require a site-specific land use map amendment and the City council's hearing and consideration will be scheduled with the amendment to the Comprehensive Plan pursuant to SMC 24A.10.020.

[5] As defined in Chapter 13.10 SMC for full drainage review (SMC 13.10.300) and large project drainage review (SMC 13.10.390).

[6] Subject to SMC 19A.12.040 for preliminary plat revisions and will need to follow the preliminary short plat or preliminary plat review process accordingly.

(Ord. O2021-533 § 3 (Att. C); Ord. O2021-528 § 4 (Att. C); Ord. O2016-410 § 1 (Att. A); Ord. O2014-372 § 1; Ord. O2011-297 § 1 (Att. A); Ord. O2010-293 § 1 (Att. A); Ord. O2009-249 § 1; Ord. O2004-150 §§ 1 – 4; Ord. O2000-63 §§ 1, 2, 3; Ord. O99-29 § 1)

20.05.030 Feasibility conference – Preapplication conference.

(1) Prior to the filing of a land use application, applicants shall contact the department for a feasibility conference and shall subsequently request a preapplication conference with the department as provided by subsections (2) and (3) of this section.

(a) Feasibility Conference. The purpose of the feasibility conference is to discuss the general scope of the proposed project prior to the preapplication conference. The feasibility conference may be an informal conversation between the department and the applicant.

(b) Preapplication Conference. The purpose of the preapplication conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The preapplication conference shall be scheduled by the department, at the request of an applicant, and shall be held in a timely manner within 30 days from the date of the applicant's request. The director may waive the requirement for a preapplication conference if it is determined to be unnecessary for review of an application. Except as provided in subsection (5) of this section, nothing in this section shall be interpreted to require more than one preapplication conference or to prohibit the applicant from filing an application if the department is unable to schedule a preapplication conference within 30 days following the applicant's request. The provisions of subsections (2) through (5) of this section apply only to

the preapplication conference and not to the feasibility conference.

(2) The applicant shall contact the department to schedule a preapplication conference prior to filing a permit application for a Type 1 decision involving any of the following:

(a) Property that will have 5,000 square feet or greater of development and/or right-of-way improvements; or

(b) Property in a critical drainage area; or

(c) Property that has a wetland, steep slope, landslide hazard, or erosion hazard; or

(d) Single-family residences and accessory buildings directly impacting critical areas and/or their buffers; provided, that the provisions of this subsection shall not apply to structures where all work is in an existing building and no parking is required or added.

(3) Prior to filing a permit application requiring a Type 2, 3 or 4 decision, the applicant shall contact the department to schedule a preapplication conference that shall be held prior to filing the application, except as provided in subsection (1)(b) of this section.

(4) For the purposes of this section, “applicant” means the person(s) with actual or apparent authority to speak for and answer questions about the property or project on behalf of the applicant as defined in SMC 19A.04.030.

(5) Information presented at or required as a result of the preapplication conference shall be valid for a period of 180 days following the preapplication conference. An applicant wishing to submit a permit application more than 180 days following the preapplication conference for that permit must schedule and participate in another preapplication conference prior to submitting the permit application; however, the director may waive this requirement for de minimus deviations or if it is determined to be unnecessary for review of an application.

(6) At or subsequent to a preapplication conference, the department may issue a preliminary determination that a proposed development is not permissible under applicable City policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the hearing examiner in the manner provided for a Type 2 permit, as an alternative to proceeding with a complete application. Mailed and published notice of the appeal shall be provided for as in SMC 20.05.060(7) and (8). (Ord. O2021-533 § 3 (Att. C); Ord. O2016-415 § 2 (Att. A); Ord. O2016-413 § 4 (Att. C))

20.05.035 Neighborhood meetings.

(1) The applicant for a subdivision, short subdivision, or conditional use permit shall conduct and attend a neighborhood meeting within the City limits to discuss the proposed development after the

preapplication conference but prior to submission of the development proposal to the City, at a date and time which shall not be unreasonable. The purpose of the meeting shall be to receive neighborhood input and suggestions prior to submission of the application, and an opportunity for the applicant to amend the proposal to address neighborhood feedback as appropriate. Such a public meeting is not a mediation, and any party who participates in such a meeting may still request mediation in accordance with SMC 20.20.060 and the provisions of the City land use mediation program. For the purposes of this subsection, "applicant" means the person(s) with actual or apparent authority to speak for and answer questions about the property or project on behalf of the applicant as defined in SMC 19A.04.030.

(2) At least 21 days prior to the neighborhood meeting, the applicant shall give notice of the date, time, and location of the meeting to the community development director and to all persons who would be entitled to receive notice of the proposed plat application, short subdivision application or conditional use permit application under the requirements of the Sammamish Municipal Code.

(3) The notice shall be on a form provided by the community development director and shall briefly describe the proposal and its location and shall include the name, address, and telephone number of the applicant or a representative of the applicant who may be contacted for additional information about the proposal. Notice to the community development director shall include a list of the persons and addresses notified of the neighborhood meeting.

(4) Within 30 days following the neighborhood meeting, the applicant shall provide to the community development director, and to all attendees who signed in at the meeting, documentation of the meeting as follows:

(a) The date, time, and location of the meeting;

(b) Contact information for all persons representing the applicant at the meeting;

(c) A summary of comments provided for the meeting attendees by the applicant prior to or during the meeting;

(d) A summary of comments received from meeting attendees or other persons prior to or during the meeting; and

(e) Copies of documents submitted or presented at the meeting.

(5) Complete applications must be received by the City within 120 days of the neighborhood meeting. If an application is not submitted in this time frame, or if the materials submitted with the application do not substantially conform to the materials provided at the meeting, the applicant shall be required to hold a new neighborhood meeting. (Ord. O2021-533 § 3 (Att. C); Ord. O2016-413 § 5 (Att. D); Ord. O2004-151 § 2)

20.05.037 Unified zone development plan process.

Following application submittal and prior to approval of the unified zone development plan, the applicant and City shall conduct an open house. Notice of the open house shall be provided at least 14 days prior to the open house, and shall include the date, time, and location of the meeting and shall be mailed to all persons who would be entitled to receive notice of decision pursuant to SMC 20.05.090. The purpose of this open house is to provide an additional opportunity for the community to review and provide comments on the proposed unified zone development plan. (Ord. O2021-533 § 3 (Att. C); Ord. O2010-293 § 1 (Att. A))

20.05.040 Application requirements.

(1) The department shall not commence review of any application set forth in this chapter until the applicant has submitted the materials and fees specified for complete applications. Applications for land use permits requiring Type 1, 2, 3, or 4 decisions shall be considered complete as of the date of submittal upon determination by the department that the materials submitted meet the requirements of this section. Except as provided in subsection (2) of this section, all land use permit applications described in SMC 20.05.020, Exhibit A, shall include the following:

(a) An application form provided by the department;

(b) Designation of who the applicant is, except that this designation shall not be required as part of a complete application for purposes of this section when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right-of-way and the following three requirements are met:

(i) The name of the agency or private or public utility is shown on the application as the applicant;

(ii) The agency or private or public utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and

(iii) The form designating who the applicant is is submitted to the department prior to permit approval;

(c) A certificate of sewer availability from the Sammamish Plateau Sewer and Water District or site percolation data with preliminary approval by the Seattle-King County department of public health; however, this is not required if applying for a standalone Type 2 drainage adjustment under Chapter 13.20 SMC;

(d) A current certificate of water availability, as required by Chapter 21A.60 SMC; however, this

is not required if applying for a standalone Type 2 drainage adjustment under Chapter 13.20 SMC;

(e) A site plan, prepared in a form prescribed by the director;

(f) Proof that the lot or lots are recognized as separate lots pursuant to the provisions of Chapter 19A.04 SMC; however, this is not required if applying for a standalone Type 2 drainage adjustment under Chapter 13.20 SMC;

(g) A sensitive areas affidavit if required by Chapter 21A.50 SMC;

(h) A completed environmental checklist, if required by Chapter 20.15 SMC, State Environmental Policy Act Procedures;

(i) Payment of any development permit review fees, excluding impact fees, as set forth by resolution;

(j) A list of any permits or decisions applicable to the development proposal that have been obtained prior to filing the application or that are pending before the City or any other governmental entity;

(k) Approved certificate of concurrency from the director or designee, if required by Chapter 14A.10 SMC; however, this is not required if applying for a standalone Type 2 drainage adjustment under Chapter 13.20 SMC;

(l) Certificate of future connection from the appropriate purveyor for lots located within the City that are proposed to be served by on-site or community sewage system and/or group B water systems or private well; however, this is not required if applying for a standalone Type 2 drainage adjustment under Chapter 13.20 SMC;

(m) A determination if drainage review applies to the project pursuant to SMC Title 13, and, if applicable, all drainage plans and documentation required by the Surface Water Design Manual adopted by reference in SMC Title 13;

(n) Current assessor's maps and a list of tax parcels to which public notice must be given as provided in this chapter, for land use permits requiring a Type 2, 3 or 4 decision;

(o) Legal description of the site;

(p) Variances obtained or required under SMC Title 21A to the extent known at the date of application;

(q) Verification that the property affected by the application is in the exclusive ownership of the

applicant, or that the applicant has a right to develop the site and that the application has been submitted with the consent of all owners of the affected property; provided, that compliance with subsection (2)(d) of this section shall satisfy the requirements of this subsection (1)(q);

(r) For commercial site development permits only, a phasing plan and a time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years; and

(s) For any applicant organized as a single-member or multiple-member limited liability company, the designation required by subsection (1)(b) of this section must include the names and addresses of all the applicant's members, including all individuals who hold transferable interests in the applicant or its members.

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the department and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the department from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

(2) Additional complete application requirements apply for the following land use permits:

(a) Clearing and grading permit, as set forth in SMC 16.15.070;

(b) Construction permits as set forth in SMC 16.20.215;

(c) Mobile home permits as set forth in SMC 21A.70.170;

(d) For all applications for land use permits requiring Type 2, 3, or 4 decisions, a title report from a reputable title company indicating that the applicant has either sole marketable title to the development site or has a publicly recorded right to develop the site (such as an easement); if the title report does not clearly indicate that the applicant has such rights, then the applicant shall include the written consent of the record holder(s) of the development site;

(e) Drainage adjustment as set forth in SMC 13.20.030. Standalone drainage adjustment application subject to SMC 20.05.020 Exhibit A – Type 2 is not allowed prior to the primary project permit process occurring.

(3) The director may specify the requirements of the site plan required to be submitted for various permits.

(4) The applicant shall attest by written oath to the accuracy of all information submitted for an

application.

(5) Applications shall be accompanied by the payment of the applicable filing fees, if any, as set forth by resolution. (Ord. O2021-533 § 3 (Att. C); Ord. O2020-523 § 1 (Exh. A); Ord. O2020-513 § 1 (Exh. A); Ord. O2020-503 § 2; Ord. O2018-466 § 1 (Att. A); Ord. O2016-415 § 3 (Att. B); Ord. O99-29 § 1)

20.05.050 Notice of complete application to applicant.

(1) Within 28 days following receipt of a land use permit application, the department shall mail or provide written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete. To the extent known by the department, the notice shall identify other agencies of local, state, regional, or federal governments that may have jurisdiction over some aspects of the development proposal.

(2) An application shall be deemed complete under this section if the department does not provide written notice to the applicant that the application is incomplete within the 28-day period as provided herein.

(3) If the application is incomplete and the applicant submits the additional information requested by the department, the department shall notify the applicant in writing within 14 days whether the application is complete or what additional information specified by the department as provided in subsection (1) of this section is necessary to make the application complete. An application shall be deemed complete if the department fails to provide written notice to the applicant within the 14-day period that the application is incomplete.

(4) The date an application is deemed complete is the date of receipt by the department of all of the information necessary to make the application complete as provided in this chapter. The department's issuance of a notice of complete application as provided in subsections (1) or (3) of this section, or the failure of the department to provide such a notice as provided in subsections (2) or (3) of this section, shall cause an application to be conclusively deemed to be complete and vested as provided in this chapter.

(5) The department may cancel an incomplete application if the applicant fails to submit the additional information required by this chapter within 90 days following notification from the department that the application is incomplete. (Ord. O2021-533 § 3 (Att. C); Ord. O99-29 § 1)

20.05.060 Notice of application.

(1) A notice of application shall be provided to the public for all land use permit applications requiring Type 2, 3 or 4 decisions or Type 1 decisions subject to SEPA pursuant to this section.

(2) Notice of the application shall be provided by the department within 14 days following the

department's determination that the application is complete. A public comment period of at least 21 days shall be provided, except as otherwise provided in Chapter 90.58 RCW.

(3) If the director has made a determination of significance (DS) under Chapter 43.21 RCW prior to the issuance of the notice of application, the notice of the DS shall be combined with the notice of application and the scoping notice.

(4) All required notices of application shall contain the following information:

(a) The file number;

(b) The name of the applicant;

(c) The date of application, the date of the notice of completeness and the date of the notice of application;

(d) A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;

(e) A site plan on eight-and-one-half-by-14-inch paper, if applicable;

(f) The procedures and deadline for filing comments, requesting notice of any required hearings, and any appeal procedure;

(g) The date, time, place, and type of hearing, if applicable and scheduled at the time of notice;

(h) The identification of other permits not included in the application to the extent known;

(i) The identification of existing environmental documents that evaluate the proposed project;

(j) A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and of consistency with applicable City plans and regulations.

(5) Notice shall be provided in the following manner:

(a) Posted at the project site as provided in subsections (6) and (9) of this section;

(b) Mailed by first class mail as provided in subsection (7) of this section; and

(c) Published as provided in subsection (8) of this section.

(6) Posted notice for a proposal shall consist of one or more notice boards posted by the applicant within 14 days following the department's determination of completeness as follows:

(a) A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing and shall be placed by the applicant:

(i) At the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility;

(ii) Five feet inside the street property line except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street property without approval of the department;

(iii) So that the top of the notice board is between seven to nine feet above grade; and

(iv) Where it is completely visible to pedestrians.

(b) Additional notice boards may be required when:

(i) The site does not abut a public road;

(ii) A large site abuts more than one public road; or

(iii) The department determines that additional notice boards are necessary to provide adequate public notice.

(c) Notice boards shall be:

(i) Maintained in good condition by the applicant during the notice period through the time of the final City decision on the proposal, including the expiration of any applicable appeal periods, and for decisions that are appealed, through the time of the final resolution of any appeal;

(ii) In place at least 28 days prior to the date of any required hearing for a Type 3 or 4 decision, or at least 14 days following the department's determination of completeness for any Type 2 decision; and

(iii) Removed within 14 days after the end of the notice period.

(d) Removal of the notice board prior to the end of the notice period may be cause for discontinuance of City review until the notice board is replaced and remains in place for the specified time period.

(e) An affidavit of posting shall be submitted to the department by the applicant within 14 days following the department's determination of completeness to allow continued processing of the application by the department.

(f) Notice boards shall be constructed and installed in accordance with this subsection, and any additional specifications promulgated by the department pursuant to Chapter 2.55 SMC, Rules of City Departments.

(7) Mailed notice for a proposal shall be sent by the department within 14 days after the department's determination of completeness:

(a) By first class mail to owners of record of property in an area within 1,000 feet of the site and, if the site lies within an erosion hazards near sensitive water bodies overlay, to owners of record of property within a 2,000-foot-wide column centered at the site and extending directionally with the natural drainage of the basin to the perimeter of the overlay or to the Lake Sammamish shoreline, as determined by the director; provided, that such area shall be expanded as necessary to send mailed notices to at least 20 different property owners;

(b) To any utility that is intended to serve the site;

(c) To the State Department of Transportation, if the site adjoins a state highway;

(d) To the affected tribes;

(e) To any agency or community group that the department may identify as having an interest in the proposal;

(f) Be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice; and

(g) For preliminary plats only, to all cities within one mile of the proposed preliminary plat.

(8) Notice of a proposed action shall be published by the department within 14 days after the department's determination of completeness in the official City newspaper.

(9) Posted Notice for Approved Formal Subdivision Engineering Plan, Clearing or Grading Permits Subject to SEPA, or Building Permits Subject to SEPA. Posted notice for approved formal subdivision engineering plans, clearing or grading permits subject to SEPA, or building permits subject to SEPA shall be a condition of the plan or permit approval and shall consist of a single notice board posted by the applicant at the project site, prior to construction as follows:

(a) Notice boards shall comport with the size and placement provisions identified for construction signs in SMC 21A.45.070(3);

(b) Notice boards shall include the following information:

(i) Permit number and description of the project;

(ii) Projected completion date of the project;

(iii) A contact name and phone number for both the department and the applicant; and

(iv) Hours of construction, if limited as a condition of the permit;

(c) Notice boards shall be maintained in the same manner as identified in subsection (6) of this section;

(d) Notice boards shall remain in place until final construction approval is granted. Early removal of the notice board may preclude authorization of final construction approval. (Ord. O2021-533 § 3 (Att. C); Ord. O2016-415 § 4 (Att. C); Ord. O2016-413 § 6 (Att. E); Ord. O99-29 § 1)

20.05.070 Vesting.

(1) Applications for Type 1, 2, 3 and 4 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all of the requirements of this chapter. The department's issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

(2) Supplemental information required after vesting of a complete application shall not affect the validity of the vesting for such application.

(3) Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals. (Ord. O2021-533 § 3 (Att. C); Ord. O2009-249 § 1; Ord. O99-29 § 1)

20.05.080 Applications – Modifications to proposal.

(1) Modifications required by the City to a pending application shall not be deemed a new application.

(2) An applicant-requested modification occurring either before or after issuance of the permit shall be deemed a new application when such modification would result in a substantial change in a project's review requirements, as determined by the department. (Ord. O2021-533 § 3 (Att. C); Ord. O99-29 § 1)

20.05.085 Reasonable accommodation.

(1) Purpose and Intent. The Federal Fair Housing Act (FFHA) requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. The

community development director is therefore authorized to make accommodations in the provisions of this code as applied to dwellings occupied or to be occupied by persons with disabilities as defined in the Federal Fair Housing Act, when the director determines that such accommodations reasonably may be necessary in order to comply with such Act.

(2) Applicability. The director may grant reasonable accommodation to individuals with disabilities as defined by the Fair Housing Amendments Act (FHAA), 42 U.S.C. 3602(h), or the Washington Law Against Discrimination (WLAD), Chapter 49.60 RCW.

(3) Procedure. If modification of a standard or regulation in the Sammamish Municipal Code is sought, the director shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the following:

(a) Application. Requests for reasonable accommodation by any eligible person or entity described in subsection (1) of this section shall be submitted on an application form provided by the community development department, or in the form of a letter, to the director of community development and shall contain the following information:

(i) The applicant's name, address, email, and telephone number.

(ii) Address of the property for which the request is being made.

(iii) The property owner's name, address and telephone number and the owner's written consent.

(iv) The current actual use of the property.

(v) The basis for the claim that the individual that resides or will reside at the property is considered disabled under the Acts.

(vi) The provision, regulation or policy from which reasonable accommodation is being requested.

(vii) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

(viii) Copies of emails, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation.

(b) No fee shall be charged to the applicant for a response to a reasonable accommodation request.

(c) The director shall determine what adverse land use impacts, including cumulative impacts, if

any, would result from granting the proposed accommodation. This determination shall take into account the size, shape and location of the dwelling unit and lot; the traffic and parking conditions on adjoining and neighboring streets; vehicle usage to be expected from the residents, staff and visitors; and any other circumstances determined to be relevant.

(d) A grant of reasonable accommodation permits a dwelling to be inhabited only according to the terms and conditions of the applicant's proposal and the director's decision. If it is determined that the accommodation has become unreasonable because circumstances have changed or adverse land use impacts have occurred that were not anticipated, the director shall rescind or modify the decision to grant reasonable accommodation.

(e) Appeals of reasonable accommodation decisions made by the director must be filed within 21 days of the decision issuance date. (Ord. O2021-533 § 3 (Att. C); Ord. O2016-408 § 1 (Att. A))

20.05.090 Notice of decision or recommendation – Appeals.

(1) The department shall provide notice in a timely manner of its final decision or recommendation on permits requiring Type 2, 3 and 4 land use decisions and Type 1 decisions subject to SEPA, including the threshold determination, if any, the dates for any public hearings, and the procedures for administrative appeals, if any. Notice shall be provided to the applicant, to the Department of Ecology, and to agencies with jurisdiction if required by Chapter 20.15 SMC, to the Department of Ecology and Attorney General as provided in Chapter 90.58 RCW, and to any person who, prior to the decision or recommendation, had requested notice of the decision or recommendation or submitted comments. The notice shall also be provided to the public as provided in SMC 20.05.060.

(2) Except for shoreline permits that are appealable to the State Shorelines Hearings Board, all notices of appeal to the hearing examiner of Type 2 land use decisions made by the director shall be filed within 21 calendar days from the date of issuance of the notice of decision as provided in SMC 20.10.080. (Ord. O2021-533 § 3 (Att. C); Ord. O99-29 § 1)

20.05.100 Permit issuance.

(1) Final decisions by the City on all permits and approvals subject to the procedures of this chapter should be issued within 120 days from the date the applicant is notified by the department pursuant to this chapter that the application is complete; provided, that the following shorter time periods should apply for the type of land use permit indicated:

New residential building permits	90 days
Residential remodels	40 days
Residential appurtenances, such as decks and garages	15 days

Residential appurtenances that require substantial site review	40 days
SEPA exempt clearing and grading	45 days
SEPA clearing and grading	90 days
Health department review (for projects pending a final department review and/or permit)	40 days

The following periods shall be excluded from this 120-day period:

(a) Any period of time during which the applicant has been requested by the department, hearing examiner or council to correct plans, perform required studies or provide additional information, including road variances and variances required under Chapter 9.04 KCC as adopted by SMC Title 13. The period shall be calculated from the date of notice to the applicant of the need for additional information ("request for revision") until either the City advises the applicant that the additional information satisfies the City's request or 14 days after the date the information has been provided, whichever is the earlier date. If the City determines that the correction, study, or other information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies, and the procedures of this section shall apply as if a new request for revision had been made.

(i) The department shall set a reasonable deadline for submittal by the applicant of corrections, studies, or other information in response to a request for revision, and shall provide written notification of the deadline to the applicant. The deadline may not exceed 90 days from the date of the request for revision; provided, that an extension of such deadline may be granted upon written request by the applicant providing satisfactory justification for an extension or upon the applicant's agreement to and compliance with an approved schedule with specific target dates for submitting the full revisions, corrections or other information requested.

(ii) Applications may be canceled for inactivity if an applicant fails to provide, by such deadline, an adequate response substantively addressing code requirements identified in the written request for revision.

(iii) When granting a request for a deadline extension, the department shall give consideration to the number of days between receipt by the department of a written request

for a deadline extension and the mailing to the applicant of the department's decision regarding that request.

(b) The period of time, as set forth in SMC 20.15.060, during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW.

(c) A period of no more than 90 days for an open record appeal hearing by the hearing examiner on a Type 2 land use decision, and no more than 60 days for a closed record appeal by the county council on a Type 3 land use decision appealable to the county council, except when the parties to an appeal agree to extend these time periods.

(d) Any period of time during which an applicant fails to post the property, if required by this chapter, following the date notice is required until an affidavit of posting is provided to the department by the applicant.

(e) Any time extension mutually agreed upon by the applicant and the department.

(2) The time limits established in this section shall not apply if a proposed development:

(a) Requires an amendment to the Comprehensive Plan or a development regulation, or modification or waiver of a development regulation as part of a demonstration project;

(b) Requires approval of a new fully contained community as provided in RCW 36.70A.350, master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided for RCW 36.70A.200; or

(c) Is substantially revised by the applicant, when such revisions will result in a substantial change in a project's review requirements, as determined by the department, in which case the time period shall start from the date at which the revised project application is determined to be complete.

(3) Permits or approvals subject to the procedures of this chapter may be denied if the applicant is unable to present satisfactory proof of ownership of the property or development site as required by SMC 20.05.040(1)(r).

(4) If the department is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision. Within 14 days of the date of such notice, a copy of the notice shall be provided to the public in the manner set forth in SMC 20.05.060(5). (Ord. O2021-533 § 3 (Att. C); Ord. O2016-415 § 5 (Att. D); Ord. O2016-413 § 7 (Att. F); Ord. O2009-253 § 1 (Att. A); Ord. O99-29 § 1)

20.05.110 Semi-annual report.

Beginning January 1, 2000, and continuing semi-annually thereafter, the director shall prepare a report to the City council detailing the length of time required to process applications for Type 1, 2, 3, and 4 land use decisions in the previous period, categorized both on average and by type of permit. The report shall provide commentary on department operations and identify any need for clarification of City policy or development regulations or process. (Ord. O2021-533 § 3 (Att. C); Ord. O99-29 § 1)

20.05.120 Citizen's guide.

The director shall issue a citizen's guide to permit processing including making an appeal or participating in a hearing. (Ord. O2021-533 § 3 (Att. C); Ord. O99-29 § 1)

Chapter 20.10
HEARING EXAMINER

Sections:

20.10.010 Chapter purpose.

The purpose of this chapter is to provide a system of considering and applying regulatory devices that will best satisfy the following basic needs:

(1) The need to separate the application of regulatory controls to the land from planning;

(2) The need to better protect and promote the interests of the public and private elements of the community;

(3) The need to expand the principles of fairness and due process in public hearings. (Ord. O99-29 § 1)

20.10.020 Office created.

The office of hearing examiner is created. The examiner shall act on behalf of the City council in considering and applying adopted City policies and regulations as provided herein. (Ord. O99-29 § 1)

20.10.030 Appointment and terms.

The City council shall appoint the examiner to serve in said office for a term of four years. (Ord. O99-29 § 1)

20.10.040 Removal.

The examiner may be removed from office at any time by the affirmative vote of not less than four members of the City council for just cause. (Ord. O99-29 § 1)

20.10.050 Qualifications.

The examiner shall be appointed solely with regard to his or her qualifications for the duties of the office and shall have such training or experience as will qualify him or her to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon him or her, and shall hold no other appointive or elective public office or position in the City government except as provided herein. (Ord. O99-29 § 1)

20.10.060 Pro tem examiners.

The City council may appoint qualified persons to serve as hearing examiner pro tempore, as needed, to expeditiously hear pending applications and appeals. (Ord. O99-29 § 1)

20.10.070 Jurisdiction of the hearing examiner.

(1) The examiner shall receive and examine available information, conduct open record public hearings, prepare records and reports thereof, and issue final decisions, including findings and conclusions, based on the issues and evidence in the record, which shall be appealable to superior court as provided by SMC 20.10.250, in the following cases:

(a) Appeals from the decisions of the director for short subdivisions, including those variance decisions of the City engineer made pursuant to the public works standards as adopted in Chapter 14A.01 SMC with regard to circulation in the subject short subdivisions;

(b) Appeals of all Type 2 land use decisions with the exception of appeals of shoreline permits including shoreline variances and conditional uses that are appealable to the State Shoreline

Hearings Board;

(c) Appeals from notices and orders and stop work orders issued pursuant to SMC Title 23;

(d) Appeals from decisions regarding the abatement of a nonconformance;

(e) Type 3 and Type 4 decisions;

(f) Appeals from public safety seizures and intended forfeitures, when properly designated by the chief law enforcement officer of the department as provided in RCW 69.50.505;

(g) Appeals from the department's final decisions regarding transportation concurrency, mitigation payment system and intersection standards provisions of SMC Title 14A;

(h) Other applications or appeals that the City council may prescribe by ordinance.

(2) The examiner's decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications, and restrictions as the examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including Chapter 43.21C RCW and the regulations, policies, objectives, and goals of the interim comprehensive plan or neighborhood plans, the development code, the subdivision code, and other official laws, policies and objectives of the City of Sammamish. (Ord. O2018-466 § 1 (Att. A); Ord. O2000-63 § 6; Ord. O99-29 § 1)

20.10.080 Appeal to examiner – Filing.

(1) Except as otherwise provided herein, all appeals to the examiner shall be filed with the City department issuing the original decision with a copy provided by the department to the hearing examiner. Except as otherwise provided herein, an appeal, together with the required appeal fee, shall be filed within 21 calendar days from the date of issuance of such decisions.

(2) Department staff shall:

(a) Be available within a reasonable time to persons wishing to file an appeal subsequent to an agency ruling, and to respond to queries concerning the facts and process of the City decision; and

(b) Make available within a reasonable time a complete set of files detailing the facts of the department ruling in question to persons wishing to file an appeal, subsequent to an agency ruling. If a department is unable to comply with these provisions, the hearing examiner may authorize amendments to an appeal to reflect information not made available to an appellant within a reasonable time due to a failure by the department to meet the foregoing requirements. The appeal shall identify the decision being appealed and the alleged errors in that decision.

Further, the appeal shall state specific reasons why the decision should be reversed or modified, the harm suffered or anticipated by the appellant, and the relief sought. The scope of an appeal shall be based principally on matters or issues raised in the appeal. Failure to timely file an appeal or appeal fee deprives the examiner of jurisdiction to consider the appeal. (Ord. O99-29 § 1)

20.10.090 Dismissal of untimely appeals.

On its own motion or on the motion of a party, the examiner shall dismiss an appeal for untimeliness or lack of jurisdiction. (Ord. O99-29 § 1)

20.10.100 Expeditious processing.

(1) Hearings shall be scheduled by the examiner to ensure that final decisions are issued within the time periods provided in SMC 20.05.100. During periods of time when the volume of permit activity is high, the City shall retain one or more pro tem examiners to ensure that the 120-day time period for final decisions is met.

(2) Appeals shall be processed by the examiner as expeditiously as possible, giving appropriate consideration to the procedural due process rights of the parties. Unless a longer period is agreed to by the parties, or the examiner determines that the size and scope of the project is so compelling that a longer period is required, a prehearing conference or a public hearing shall occur within 45 days from the date the office of the hearing examiner is notified that a complete statement of appeal has been filed. In such cases where the examiner has determined that the size and scope warrant such an extension, the reason for the deferral shall be stated in the examiner's recommendation or decision. The time period may be extended by the examiner at the examiner's discretion for not more than 30 days. (Ord. O99-29 § 1)

20.10.110 Time limits.

In all matters where the examiner holds a hearing on applications, the hearing shall be completed and the examiner's written report and recommendations issued within 21 days from the date the hearing opens, excluding any time required by the applicant or the department to obtain and provide additional information requested by the hearing examiner and necessary for final action on the application consistent with applicable laws and regulations. In every appeal heard by the examiner pursuant to SMC 20.10.070, the appeal process, including a written decision, shall be completed within 90 days from the date the examiner's office is notified of the filing of a notice of appeal pursuant to SMC 20.10.080. When reasonably required to enable the attendance of all necessary parties at the hearing, or the production of evidence, or to otherwise assure that due process is afforded and the objectives of this chapter are met, these time periods may be extended by the examiner at the examiner's discretion for an additional 30 days. With the consent of all parties, the time periods may be extended indefinitely. In all such cases, the reason for such deferral shall be stated in the examiner's

recommendation or decision. Failure to complete the hearing process within the stated time shall not terminate the jurisdiction of the examiner.

"Days" shall be calendar days unless specified otherwise. "Days" in SMC 20.10.240 shall be working days. (Ord. O2013-352 § 1 (Att. A); Ord. O99-29 § 1)

20.10.120 Condition, modification and restriction examples.

The examiner is authorized to impose conditions, modifications, and restrictions, including but not limited to setbacks, screenings in the form of landscaping or fencing, covenants, easements, street improvements, dedications of additional street right-of-way, and performance bonds as authorized by City ordinances. (Ord. O99-29 § 1)

20.10.130 Quasi-judicial powers.

The examiner may also exercise administrative powers and such other quasi-judicial powers as may be granted by City ordinance. (Ord. O99-29 § 1)

20.10.140 Freedom from improper influence.

Individual councilmembers, City officials, or any other person shall not interfere with or attempt to interfere with the examiner in the performance of his or her designated duties. (Ord. O99-29 § 1)

20.10.150 Public hearing.

(1) When it is found that an application meets the filing requirements of the responsible City department, it shall be accepted and a date assigned for public hearing.

(2) When it is found that an appeal meets the filing requirements of the responsible City department, it shall be accepted and a date assigned for an appeal hearing. (Ord. O2017-435 § 1 (Att. A); Ord. O99-29 § 1)

20.10.160 Consolidation of hearings.

Whenever a project application includes more than one City permit, approval, or determination for which a public hearing is required or for which an appeal is provided pursuant to this chapter, the hearings and any such appeals may be consolidated into a single proceeding before the hearing examiner pursuant to SMC 20.05.020. (Ord. O99-29 § 1)

20.10.170 Prehearing conference.

(1) A prehearing conference may be called by the examiner pursuant to this chapter upon the request of a party or on the examiner's own motion. A prehearing conference shall be held in every appeal brought pursuant to this chapter if timely requested by any party. The prehearing conference shall be held at such time as ordered by the examiner, but not less than 14 days prior to the scheduled hearing on not less than seven days' notice to those who are then parties of record to the proceeding. The

purpose of a prehearing conference shall be to identify, to the extent possible, the facts in dispute, issues, laws, parties, and witnesses in the case. In addition the prehearing conference is intended to establish a timeline for the presentation of the case. The examiner shall establish rules for the conduct of prehearing conferences.

(2) Any party who does not attend the prehearing conference, or anyone who becomes a party of record after notice of the prehearing conference has been sent to the parties, shall nevertheless be entitled to present testimony and evidence to the examiner at the hearing. (Ord. O99-29 § 1)

20.10.180 Notice.

(1) Notice of the time and place of any hearing on an application before the hearing examiner set pursuant to this chapter shall be provided in the following manner:

(a) Published by the department in the official City newspaper no less than 30 calendar days prior to the scheduled hearing date; and

(b) Posted at the project site as provided in SMC 20.05.060(6) and (9) no less than 30 days prior to the scheduled hearing date; and

(c) Mailed by first class mail at least 14 calendar days prior to the scheduled hearing date to all persons who would be entitled to receive notice under SMC 20.05.060(7) and to all persons who commented or requested notice of the hearing; and

The hearing notice required by this section may be combined with the notice of decision or recommendation required by SMC 20.05.090, as applicable.

(2) Notice of the time and place of any appeal hearing before the hearing examiner pursuant to this chapter shall be mailed to all parties of record by first class mail at least 30 calendar days prior to the scheduled hearing date.

(3) If testimony cannot be completed prior to adjournment on the date set for a public hearing or appeal hearing, the examiner shall announce prior to adjournment the time and place said hearing will be continued. A matter should be heard, to the extent practicable, on consecutive days until it is concluded. (Ord. O2017-435 § 2 (Att. B); Ord. O2016-415 § 6 (Att. E); Ord. O99-29 § 1)

20.10.190 Rules and conduct of hearings.

(1) The examiner shall adopt rules for the conduct of hearings and for any mediation process consistent with this chapter. The rules shall be reviewed by the City council, and remain in effect during this review. Any modifications made by the council by motion shall be incorporated by the hearing examiner, and shall become effective 10 days after adoption of the motion. Such rules shall be published and available upon request to all interested parties. The examiner shall have the power

to issue summons and subpoena to compel the appearance of witnesses and production of documents and materials, to order discovery, to administer oaths, and to preserve order.

(2) To avoid unnecessary delay and to promote efficiency of the hearing process, the examiner shall limit testimony, including cross examination, to that which is relevant to the matter being heard, in light of adopted City policies and regulations, and shall exclude evidence and cross examination that is irrelevant, cumulative or unduly repetitious. The examiner may establish reasonable time limits for the presentation of direct oral testimony, cross examination, and argument. Any written submittals will be admitted only when authorized by the examiner under pertinent and promulgated administrative rules. (Ord. O99-29 § 1)

20.10.200 Examiner findings.

When the examiner renders a decision or recommendation, he or she shall make and enter findings of fact and conclusions from the record that support the decision, said findings and conclusions shall set forth and demonstrate the manner in which the decision or recommendation is consistent with, carries out, and helps implement applicable state laws and regulations and the regulations, policies, objectives, and goals of the interim comprehensive plan, the development code, and other official laws, policies, and objectives of the City of Sammamish, and that the recommendation or decision will not be unreasonably incompatible with or detrimental to affected properties and the general public. (Ord. O99-29 § 1)

20.10.210 Additional examiner findings – Reclassifications.

When the examiner issues a decision regarding an application for a reclassification of property or for a shoreline environment redesignation, the decision shall include additional findings that support the conclusion that at least one of the following circumstances applies:

(1) The property is potentially zoned for the reclassification being requested and conditions have been met that indicate the reclassification is appropriate; or

(2) The adopted interim comprehensive plan or zoning specifies that the property shall be subsequently considered through an individual reclassification application; or

(3) The applicant has demonstrated with substantial evidence that:

(a) Since the last previous area zoning of the subject property, authorized public improvements, permitted private development or other conditions or circumstances affecting the subject property have undergone substantial and material change not anticipated or contemplated in the plan or zoning;

(b) The impacts from the changed conditions or circumstances affect the subject property in a manner and to a degree different than other properties in the vicinity such that area rezoning is

not appropriate; and

(c) The requested reclassification is required in the public interest. (Ord. O99-29 § 1)

20.10.220 Additional examiner findings – Preliminary plats.

When the examiner makes a decision regarding an application for a proposed preliminary plat, the decision shall include additional findings as to whether:

(1) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

(2) The public use and interest will be served by the platting of such subdivision and dedication. (Ord. O99-29 § 1)

20.10.230 Additional examiner findings and recommendations – School capacities.

Whenever the examiner in the course of conducting hearings or reviewing preliminary plat applications or actualization of potential multifamily zoning, receives documentation that the public schools in the district where the development is proposed would not meet the standards set out in SMC 21A.60.140 if the development were approved, the examiner shall remand to the department to require or recommend phasing or provision of the needed facilities and sites as appropriate to address the deficiency, or deny the proposal if required by the provisions of this chapter. The examiner shall prepare findings to document the facts that support the action taken. The examiner shall recommend such phasing as may be necessary to coordinate the development of the housing with the provision of sufficient school facilities, or in the alternative shall require the provision of the needed facilities. An offer of payment of a school impact fee as required by ordinance shall not be a substitute for such phasing, but the fee is still assessable. The examiner shall recommend a payment schedule for the fee to coordinate the payment with the phasing of an impact mitigation fee if such provision or payment is satisfactory to the district. The examiner must determine independently that the conditions of approval and assessable fees will provide for adequate schools. (Ord. O99-29 § 1)

20.10.240 Written recommendation or decision.

(1) Within 10 days of the conclusion of a hearing or rehearing, the examiner shall render a written recommendation or decision and shall transmit a copy thereof to all persons of record. The examiner's decision shall identify the applicant and/or the owner by name and address.

(2) Decisions of the examiner in cases identified in SMC 20.10.070 shall be final and reviewable pursuant to SMC 20.10.250(1). (Ord. O2009-249 § 1; Ord. O99-29 § 1)

20.10.250 Judicial review of final decisions of the hearing examiner.

(1) Decisions of the examiner in cases identified in SMC 20.10.070 shall be a final and conclusive action unless within 21 calendar days from the date of issuance of the examiner's decision an aggrieved person files an appeal in superior court, state of Washington, for the purpose of review of the action taken; provided, no development or related action may occur during the 21-day appeal period; provided further, that the 21-day appeal period from examiner decisions on appeals of threshold determinations or the adequacy of a final EIS shall not commence until final action on the underlying proposal.

(2) Prior to filing an appeal of a final decision for a conditional use permit or special use permit, requested by a party that is licensed or certified by the Washington State Department of Social and Health Services or the Washington State Department of Corrections, an aggrieved party (other than a county, city or town) must comply with the mediation requirements of Chapter 35.63 RCW (Chapter 119, Laws of 1998). The time limits for appealing a final decision are tolled during the mediation process. (Ord. O99-29 § 1)

20.10.260 Reconsideration of final action.

(1) Any final action by the hearing examiner may be reconsidered by the examiner, if:

(a) The action was based in whole or in part on erroneous facts or information;

(b) The action when taken failed to comply with existing laws or regulations applicable thereto; or

(c) An error of procedure occurred that prevented consideration of the interests of persons directly affected by the action.

(2) The examiner shall reconsider a final decision pursuant to the rules of the hearing examiner.

(3) Authority of the examiner to reconsider does not affect the finality of a decision when made. (Ord. O99-29 § 1)

20.10.270 Citizen's guide.

The department shall issue a citizen's guide on the office of hearing examiner including making an appeal or participating in a hearing. (Ord. O99-29 § 1)

20.10.280 Semi-annual report.

The hearing examiner shall prepare a semi-annual report to the City council detailing the length of time required for hearings in the previous six months, categorized both on average and by type of proceeding. The report shall provide commentary on examiner operations and identify any need for clarification of City policy or development regulations. The semi-annual report shall be presented to the council by March 1st and September 1st of each year. (Ord. O99-29 § 1)

20.10.290 Site-specific land use map amendment.

Upon initiation of a site-specific land use map amendment to the interim comprehensive plan pursuant to SMC 20.30.050, the hearing examiner shall conduct a public hearing to consider the report and recommendation of the department and to take testimony and evidence relating to the proposed amendment. The hearing examiner may consolidate hearings pursuant to SMC 20.10.160 to the extent practical. Following the public hearing, the hearing examiner shall complete a report within 30 days that contains written findings and conclusions regarding the proposed amendment's qualification for annual review consideration and consistency or lack of consistency with the applicable review criteria. An annual report containing all site specific land use map amendment reports that have been completed shall be compiled by the hearing examiner and submitted to the council by January 15th of the following year. (Ord. O99-29 § 1)

Chapter 20.15
STATE ENVIRONMENTAL POLICY ACT PROCEDURES

Sections:

20.15.010 Definitions and abbreviations.

(1) The City of Sammamish adopts by reference the definitions contained in WAC 197-11-700 through 197-11-799. In addition, the following definitions are adopted for this chapter:

(a) “City council” means the Sammamish City council.

(b) “Department” means the City of Sammamish department of community development.

(c) “Director” means the director of the department of community development.

(2) The following abbreviations are used in this chapter:

(a) SEPA – State Environmental Policy Act.

(b) DNS – Determination of nonsignificance.

(c) DS – Determination of significance.

(d) EIS – Environmental impact statement. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.020 Lead agency.

The procedures and standards regarding lead agency responsibility contained in WAC 197-11-050 and 197-11-922 through 197-11-948 are adopted, subject to the following:

(1) The department shall serve as the lead agency and the director shall serve as the responsible official for all SEPA activity by the City of

Sammamish. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.030 Purpose and general requirements.

The procedures and standards regarding the timing and content of environmental review specified in WAC 197-11-055 through 197-11-100 are adopted subject to the following:

(1) Pursuant to WAC 197-11-055(4), the department shall adopt rules and regulations pursuant to Chapter 2.55 SMC establishing a process for environmental review at the conceptual stage of permit applications that require detailed project plans and specifications (i.e., building permits and PUDs). This process shall not become effective until it has been reviewed by the council.

(2) The optional provision of WAC 197-11-060(3)(c) is adopted.

(3) Under WAC 197-11-100, the applicant shall prepare the initial environmental checklist, unless the lead agency specifically elects to prepare the checklist. The lead agency shall make a reasonable effort to verify the information in the environmental checklist and shall have the authority to determine the final content of the environmental checklist.

(4) The director may set reasonable deadlines for the submittal of information, studies, or documents necessary for, or subsequent to, threshold determinations. Failure to meet such deadlines shall cause the application to be deemed withdrawn, and plans or other data previously submitted for review may be returned to the applicant together with any unexpended portion of the application review fees. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.040 Categorical exemptions and threshold determinations.

(1) The City of Sammamish adopts the standards and procedures specified in WAC 197-11-300 through 197-11-390 and 197-11-800 through 197-11-890 for determining categorical exemptions and making threshold determinations subject to the following:

(a) The following exempt threshold levels are hereby established pursuant to WAC 197-11-800(1)(c) for the exemptions in WAC 197-11-800(1)(b):

(i) The construction or location of any residential structures of up to 20 dwelling units;

(ii) The construction of an office, school, commercial, recreational, service, or storage building with up to 12,000 square feet of gross floor area, and with associated parking facilities designed for up to 40 automobiles;

(iii) The construction of a parking lot designed for up to 20 automobiles;

(iv) Any fill or excavation of up to 500 cubic yards throughout the total lifetime of the fill or excavation.

(b) The determination of whether a proposal is categorically exempt shall be made by the department.

(c) The construction of an individual battery charging station or an individual battery exchange station.

(2) The mitigated DNS provision of WAC 197-11-350 shall be enforced as follows:

(a) If the department issues a mitigated DNS, conditions requiring compliance with the mitigation measures that were specified in the application and environmental checklist shall be deemed conditions of any decision or recommendation of approval of the action.

(b) If at any time the proposed mitigation measures are withdrawn or substantially changed, the responsible official shall review the threshold determination and, if necessary, may withdraw the mitigated DNS and issue a DS. (Ord. O2016-408 § 1 (Att. A); Ord. O2011-300 § 1 (Att. A); Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.050 Planned actions.

The procedures and standards of WAC 197-11-164 through 197-11-172 are adopted regarding the designation of planned actions. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.060 Environmental impact statements and other environmental documents.

The procedures and standards for preparation of environmental impact statements and other environmental documents pursuant to WAC 197-11-400 through 197-11-460 and 197-11-600 through 197-11-640 are adopted, subject to the following:

(1) Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).

(2) Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the department shall be responsible for preparation and content of EISs and other environmental documents. The department shall contract with consultants as necessary for the preparation of environmental documents. The department may consider the opinion of the applicant regarding the qualifications of the consultant but the department shall retain sole authority for selecting persons or firms to author, co-author, provide special services, or otherwise participate in the preparation of required environmental documents.

(3) Consultants or subconsultants selected by the City to prepare environmental documents for a private development proposal shall not: act as agents for the applicant in preparation or acquisition of associated underlying permits; have a financial interest in the proposal for which the environmental document is being prepared; perform any work or provide any services for the applicant in connection with or related to the proposal.

(4) The department may establish and maintain one or more lists of qualified consultants who are eligible to receive contracts for preparation of environmental documents. Separate lists may be maintained to reflect specialized qualifications or expertise. When the department requires consultant services to prepare environmental documents, the department shall select a consultant from the lists and negotiate a contract for such services. Pursuant to Chapter 2.55 SMC, the department shall promulgate administrative rules that establish processes to: create and maintain a qualified consultant list; select consultants from the list; remove consultants from the list; provide a method by which applicants may request a reconsideration of selected consultants based upon costs, qualifications, or timely production of the environmental document; and waive the consultant selection requirements of this chapter.

(5) All costs of preparing the environmental document shall be borne by the applicant. Pursuant to Chapter 2.55 SMC, the department may promulgate administrative rules that establish a deposit mechanism for consultant payment purposes, define consultant payment schedules, prescribe procedures for treating interest from deposited funds, and develop other procedures necessary to implement this chapter.

(6) In the event an applicant decides to suspend or abandon the project, the applicant must provide formal written notice to the department and consultant. The applicant shall continue to be responsible for all monies expended by the division or consultants to the point of receipt of notification to suspend or abandon, or other obligations or penalties under the terms of any contract let for preparation of the environmental documents.

(7) The department shall only publish an environmental impact statement (EIS) when it believes that the EIS adequately discloses: the significant direct, indirect, and cumulative adverse impacts of the proposal and its alternatives; mitigation measures proposed and committed to by the applicant, and their effectiveness in significantly mitigating impacts; mitigation measures that could be implemented or required; and unavoidable significant adverse impacts. Unless otherwise agreed to by the applicant, a final environmental impact statement shall be issued by the department within 270 days following the issuance of a DS for the proposal, except for public projects and nonproject actions, unless the department determines at the time of issuance of the DS that a longer time period will be required because of the extraordinary size of the proposal or the scope of the environmental impacts resulting therefrom; provided, that the additional time shall not exceed 90 days unless agreed to by the applicant.

(8) The following periods shall be excluded from the 270-day time period for issuing a final environmental impact statement:

(a) Any time period during which the applicant has failed to pay required environmental review fees to the department;

(b) Any period of time during which the applicant has been requested to provide additional information required for preparation of the environmental impact statement; and

(c) Any period of time during which the applicant has not authorized the department to proceed with preparation of the environmental impact statement. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.070 Comments and public notice.

(1) The procedures and standards of WAC 197-11-500 through 197-11-570 are adopted regarding public notice and comments.

(2) For purposes of WAC 197-11-510, public notice shall be required as provided in this title. Publication of notice in a newspaper of general circulation in the area where the proposal is located also shall be required for all nonproject actions and for all other proposals that are subject to the provisions of this chapter but are not classified as land use permit decisions in this title.

(3) The responsible official may require further notice if deemed necessary to provide adequate public notice of a pending action. Failure to require further or alternative notice shall not be a violation of any notice procedure. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.080 Use of existing environmental documents.

The procedures and standards of WAC 197-11-600 through 197-11-640 are adopted regarding use of existing environmental documents. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.090 Substantive authority.

(1) The procedures and standards of WAC 197-11-650 through 197-11-660 regarding substantive authority and mitigation, and WAC 197-11-158, regarding reliance on existing plans, laws and regulations, are adopted.

(2) For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following policies, plans, rules and regulations, and all amendments thereto, are designated as potential bases for the exercise of the City of Sammamish's substantive authority under SEPA, subject to the provisions of RCW 43.21C.240 and subsection (3) of this section:

(a) The policies of the State Environmental Policy Act, RCW 43.21C.020.

(b) The City's comprehensive plan, and surface water management program basin plans, as specified in Chapters 24.15 and 24.20 SMC.

(c) The Sammamish development code, as adopted in SMC Title 21A.

(d) The City's shoreline management master plan, as adopted in SMC Title 25.

(e) The King County surface water runoff policy, as adopted by reference in Chapter 9.04 KCC as adopted by SMC Title 13.

(f) The City's public works standards and transportation regulations, as adopted in SMC Title 14A.

(g) The City's noise ordinance, Chapter 8.15 SMC.

(3) Substantive SEPA authority to condition or deny new development proposals or other actions shall be used only in cases where specific adverse environmental impacts are not addressed by regulations as set forth below, or unusual circumstances exist. In cases where the City has adopted the following regulations to systematically avoid or mitigate adverse impacts (Chapter 21A.25 SMC, Development Standards – Density and Dimensions; Chapter 21A.30 SMC, Development Standards – Design Requirements; Chapter 21A.35 SMC, Development Standards – Landscaping and Irrigation; Chapter 21A.40 SMC, Development Standards – Parking and Circulation; Chapter 21A.45 SMC, Development Standards – Signs; Chapter 21A.50 SMC, Environmentally Sensitive Areas; Chapter 21A.55 SMC, Development Standards – Communication Facilities; Chapter 21A.60 SMC, Development Standards – Adequacy of Public Facilities and Services), those standards and regulations will normally constitute adequate mitigation of the impacts of new development. Unusual circumstances related to a site or to a proposal, as well as environmental impacts not mitigated by the foregoing regulations, will be subject to site-specific or project-specific SEPA mitigation.

(4) Any decision to approve, deny, or approve with conditions pursuant to RCW 43.21C.060 shall be contained in the responsible official's decision document. The written decision shall contain facts and conclusions based on the proposal's specific adverse environmental impacts (or lack thereof) as identified in an environmental checklist, EIS, threshold determination, other environmental document including a department's staff report and recommendation to a decision maker, or findings made pursuant to a public hearing authorized or required by law or ordinance. The decision document shall state the specific plan, policy or regulation that supports the SEPA decision and, if mitigation beyond existing development regulations is required, the specific adverse environmental impacts and the reasons why additional mitigation is needed to comply with SEPA.

(5) This chapter shall not be construed as a limitation on the authority of the City to approve, deny, or condition a proposal for reasons based upon other statutes, ordinances, or regulations. (Ord. O2018-

466 § 1 (Att. A); Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.100 SEPA/GMA integration.

The procedures and standards regarding the timing and content of environmental review specified in WAC 197-11-210 through 197-11-235 are hereby adopted. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.110 Ongoing actions.

Unless otherwise provided herein, the provisions of Chapter 197-11 WAC shall be applicable to all elements of SEPA compliance, including the modification or supplementation of an EIS, initiated after the effective date of the ordinance codified in this chapter. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.120 Responsibility as consulted agency.

All requests from other agencies that the City of Sammamish consult on threshold investigations, the scope process, EISs, or other environmental documents shall be submitted to the department. The department shall be responsible for coordination with other affected City officials and for compiling and transmitting the City's response to such requests for consultation. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.130 Appeals.

(1) Appeals of threshold determinations or the adequacy of a final EIS are procedural SEPA appeals that are conducted by the hearing examiner pursuant to the provisions of SMC 20.10.070, subject to the following:

(a) Only one appeal of each threshold determination shall be allowed on a proposal.

(b) As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight.

(c) An appeal of a DS must be filed within 14 calendar days following issuance of the DS.

(d) An appeal of a DNS for actions classified as land use permit decisions in SMC 20.05.020 must be filed within 21 calendar days following notice of the decision as provided in SMC 20.05.090. For actions not classified as land use permit decisions in SMC 20.05.020, no administrative appeal of a DNS is permitted.

(e) Administrative appeals of the adequacy of a final EIS are permitted for actions classified as Type 2, 3 or 4 land use permit decisions in SMC 20.05.020, except Type 1 decisions for which the department has issued a threshold determination. Such appeals must be filed within 21 calendar days following notice of the decision or recommendation as provided in SMC 20.05.090.

(f) The hearing examiner shall make a final decision on all procedural SEPA determinations. The

hearing examiner's decision may be appealed to superior court as provided in SMC 20.10.250(1).

(2) The hearing examiner's consideration of procedural SEPA appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.

(3) Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the merits of a proposal.

(4) Notwithstanding the provisions of subsections (1) through (3) of this section, the department may adopt procedures under which an administrative appeal shall not be provided if the director finds that consideration of an appeal would be likely to cause the department to violate a compliance, enforcement, or other specific mandatory order or specific legal obligation. The director's determination shall be included in the notice of the SEPA determination, and the director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

20.15.140 Department procedural rules.

(1) The department may prepare rules and regulations pursuant to Chapter 2.55 SMC for the implementation of SEPA, Chapter 197-11 WAC, and this chapter.

(2) The rules and regulations prepared by the department shall not become effective until approved by council motion. (Ord. O2009-251 § 1; Ord. O2003-132 § 9)

Chapter 20.20
LAND USE MEDIATION PROGRAM

Sections:

20.20.010 Introduction.

(1) Purpose. Mediation is an entirely voluntary process by which two or more parties and/or interested persons, with the assistance of an impartial person (the mediator), attempt to reach a full or partial agreement on a disputed matter. Persons participate in the mediation process only if, and only to the extent, they choose to do so. A participant is bound by the outcome of the mediation process only if that person, or his or her duly authorized representative, approves the mediated agreement (see SMC 20.20.170).

In appropriate cases, mediation may assist in the resolution of land use issues at a substantial savings in time and money to the parties, interested persons, the City of Sammamish, and the general public. Mediation is also available as an alternative to a formal appeal hearing to resolve other disputes between individuals and the City of Sammamish.

(2) Interpretation. These rules shall be interpreted to facilitate and encourage use of the mediation process at the earliest practical time following the identification of a conflict or dispute that the affected parties or persons are unable to resolve through direct negotiation. (Ord. O2000-72 § 1(A))

20.20.020 Definitions.

(1) “Interested person” is any person who receives written notice of a proposed land use action under the requirements of the SMC, or has requested of the responsible City official or the community development director notification of proceedings or copies of orders, reports, recommendations, or decisions issued in the particular case, or who participates in a hearing by providing evidence, comment, or argument, or who participates in a neighborhood meeting (see SMC 20.20.050). The term does not include a person whose only communication is a signature on a petition or a mechanically or electronically reproduced form, or who has made a standing request for notices or documents encompassing a type of case or hearings that relate to a geographic area.

(2) “Party” means the applicant, proponent, or petitioner; the owner(s) of property subject to a hearing; the responsible City official; or any other City official with jurisdiction or review authority over a proposal or proceeding who has notified the community development director in writing requesting to be a party to the proceeding.

A property owner who has authorized another individual to act as an agent for the development of a parcel of property is not a party unless he or she requests the community development director to be designated as such. Persons joining in or concurring with an appeal or petition are not parties unless they have separately filed the requisite documents and fees for an appeal or petition.

(3) “Person” includes individuals, corporations, partnerships, other formal associations, and governmental agencies.

(4) “Responsible City official” means the City of Sammamish official who has primary responsibility for coordinating the review of an application or appeal, or who issued the decision or recommendation, or took the action, which is the subject of the proceeding. (Ord. O2000-72 § 1(B))

20.20.030 When mediation is available.

(1) As to any application for a land use permit or an appeal of a land use action that is or could become the subject of a public hearing, the responsible City official, the City council, or the community development director may at their own discretion or at the request of any party or interested person request mediation (see SMC 20.20.060). Mediation shall occur only when it is requested or accepted by at least one party and by one additional party or interested person with an opposing position. When the issue proposed for mediation involves the disposition or other action to be taken on an application, mediation shall occur only if the affected applicant agrees to be a participant in the mediation process.

(2) Any objection to an inconsistency between a mediation proposed to be conducted pursuant to these rules and a procedural requirement of the Sammamish Municipal Code shall be raised with the community development director within 10 calendar days of the receipt of information that would apprise a reasonable person of such inconsistency. Objections not raised within 10 calendar days shall be deemed waived. (Ord. O2000-72 § 1(C))

20.20.040 Notice of availability of mediation.

The City of Sammamish shall take reasonable steps to advise all persons who file applications or appeals that are within the jurisdiction of the hearing examiner that mediation of disputes is available. A "notice of availability of mediation" shall be contained in or attached to application and appeal forms that are provided by the City of Sammamish and shall be contained in the initial mailing to surrounding property owners and the posted notice of every land use application within the jurisdiction of the City. A similar notice also shall be incorporated in the first notice issued by the responsible City official announcing the scheduled date of any public hearing for which mediation is available to resolve disputed issues. (Ord. O2000-72 § 1(D))

20.20.050 Neighborhood meetings for plat applications.

Repealed by Ord. O2004-151. (Ord. O2000-72 § 1(E))

20.20.060 Request for mediation – Responses.

(1) Request.

(a) Method. Any party or interested person may request mediation. The request shall be in writing, unless made orally at a prehearing conference or hearing. A request for mediation should be made promptly following the determination that the disputed issues for which mediation is proposed cannot be resolved by direct negotiation between or among the affected parties and interested persons. A request for mediation made after a hearing has commenced will normally be granted only if all parties to the proceeding agree to participate in the mediation.

(b) Cost Allocation and Tender. Unless otherwise agreed by the parties to the mediation, the opposing sides to a dispute shall each pay an equal share of the cost of mediation. A request for mediation shall be accompanied by a tender to the City of Sammamish of not less than one-third of the anticipated cost for a half-day mediation. Until such time as mediation costs may be set by ordinance, it is expected that the cost of a half-day mediation will be $450.00. Therefore, the minimum amount required to be tendered with a request for mediation shall be $150.00.

The cost of mediation is not a fee to be paid to the City of Sammamish. The tender shall be delivered to the City of Sammamish solely for transmittal to the mediator if the request for mediation is accepted. The funds tendered, or any unexpended balance thereof, shall be returned in proportionate shares to the person(s) from whom received if the request for mediation is not accepted or if the full amount tendered is not expended.

A request for mediation may propose an alternative allocation of the cost of mediation. If an alternative cost allocation is accepted, any excess of the mediation cost tendered will be promptly returned to the party making the request for mediation.

(c) Substance of Request. The request for mediation shall identify with reasonable specificity the application or appeal to which it applies, the scope of the mediation proposed (including a statement of the particular issues or questions to be addressed), and an estimate of the time likely to be required to conduct and complete the mediation proposed. The request for mediation may propose inclusion of matters or issues that are beyond the scope of the pending hearing, so long as those additional matters are reasonably related to the matters in dispute and are within the control of the parties who will participate in the mediation.

(d) To Whom Transmitted. If made in writing, the request shall be transmitted to all other parties to the proceeding, and also may be addressed to any current or prospective interested persons known to the party making the request. A copy of the request shall also be filed with the community development director.

(2) Response to Request for Mediation.

(a) Substance of Response. A response to a request for mediation may be made in the form of an agreement to participate in the mediation as proposed, or may propose either a more limited or an expanded mediation. The response may also propose a different allocation of the expense of mediation, time limits for the conduct of mediation, or other conditions.

(b) Counter-Proposals. Any response other than an agreement to participate in the mediation substantially as proposed by the person making the request shall be considered a counter-proposal and responded to in the same manner as an initial request for mediation.

(c) Tender of Cost. A positive response to a request for mediation shall be accompanied by a tender to the City of Sammamish of the respondent's share, if any, of the cost of a half-day mediation.

(d) Response Not Required. No party or interested person is obliged to respond to a request for mediation. If there is no response made to a request for mediation within seven calendar days, the request shall be deemed refused. No inferences shall be drawn from a refusal to participate in mediation or a failure to respond to a request for mediation. Requests to mediate and responses thereto shall be privileged and not admissible into evidence under the same rules as apply to settlement negotiations.

(e) To Whom Transmitted. Any response to a request for mediation shall be transmitted to the person who requested the mediation, to any other persons to whom that request was addressed, and to any other persons the respondent proposes to be a participant in the mediation. A copy of the response shall also be filed with the office of the hearing examiner.

(f) Technical Deficiencies Not a Bar. Failure of a request for mediation or a response to strictly

comply with this rule shall not be a bar to mediation if the intent of the affected persons is clear and the costs of mediation are provided for adequately. (Ord. O2000-72 § 1(F))

20.20.070 Attendance – Representation.

(1) A party to the mediation shall be present in person or represented by a person or persons who have the requisite authority to enter into an agreement that implements or binds the party to the results of the mediation. A request to mediate, or acceptance of such request, shall constitute an agreement to attend in person or be represented at the mediation by an individual or individuals who shall possess the authority to enter into a binding agreement with respect to any matters within the scope of the issues agreed to be mediated.

(2) Parties to a mediation may participate directly or through a designated representative. Two or more parties or interested persons who share substantially similar interests or concerns with respect to the matter being mediated may participate through a single representative designated or approved by them unless the mediator determines that individual participation will facilitate the making of a mediated agreement. (Ord. O2000-72 § 1(G))

20.20.080 When mediation may occur.

(1) As a Matter of Right. Mediation is available as a matter of right upon agreement by all parties to the proceeding to address through mediation all issues in dispute. Mediation shall also be approved as a matter of right upon agreement by all parties to mediate any one or more (but not all) issues in dispute; provided, that the agreement to engage in mediation is executed and filed with the community development director 14 or more days prior to the scheduled opening of the hearing.

(2) At the Community Development Director's Discretion. Mediation may be approved by the community development director if any party, and any one or more other parties or interested persons with an opposing position, agree to mediate any substantial issue in dispute. In acting upon a request to approve a partial mediation, the community development director shall consider, to the extent applicable, the following factors:

(a) Whether the issue(s) to be mediated affects primarily the private interests of the parties to the proposed mediation or is a matter of public interest;

(b) If the persons seeking mediation appear to represent substantially all of the persons likely to be affected by or interested in the matters proposed for mediation;

(c) Will the proposed mediation, if successful, be likely to expedite final action on the underlying application or appeal;

(d) Are the costs to the proposed parties to the mediation, as well as to other parties and interested persons, likely to be reduced if the mediation occurs;

(e) The timeliness of the request for mediation and the effect that granting the request would have on previously established schedules of other parties, interested persons, and the office of the hearing examiner;

(f) The probability of participation by City staff in the mediation process, if such participation appears necessary to accomplish the purpose of the proposed mediation; and

(g) Such other facts or circumstances as bear upon the purposes and objectives of the office of the hearing examiner and these rules. (Ord. O2000-72 § 1(H))

20.20.090 Time of mediation.

Mediation should normally be accomplished within a half day, and rarely exceed a full day, unless additional information or expertise that is not available that day is identified by the mediator as necessary to a successful mediation. Unless otherwise agreed by all parties to the mediation, as well as all parties to the pending proceeding and the community development director, the mediation session shall occur within 21 calendar days of the execution of the agreement to mediate or the date of approval of the mediation by the community development director, whichever is later, and the entire process shall be concluded within 30 calendar days of its commencement. (Ord. O2000-72 § 1(I))

20.20.100 Waiver of hearing and review time limits.

A request by a party for mediation, or agreement by a party to participate in mediation, shall constitute an agreement by such party (or parties) to stay all time limits applicable to the affected permit review and hearing processes from the date of the first proposal to mediate until the first business day following the receipt by the community development director of the mediator's report. If any party to the proceeding, who is not a participant in the proposed mediation, does not agree to a similar waiver of time limits, the community development director may deny or limit the proposed mediation to assure that applicable time limits for action on the affected application or appeal are not exceeded. (Ord. O2000-72 § 1(J))

20.20.110 Selection of mediator.

(1) Selection by the Parties. A mediator shall be selected by the parties to the mediation.

(2) List of Available Mediators. Solely as a convenience to the public at large, the community development director will maintain a list of mediators who appear to be qualified by training or experience to conduct mediation of matters that are within the jurisdiction of the hearing examiner. Any person who desires to be on the list shall submit a resume or other statement of qualifications to the community development director. Inclusion of a person on the list of mediators maintained by the community development director shall not constitute a warranty or representation by the City of Sammamish that such person is in fact qualified to conduct mediation in a particular proceeding or type of proceeding. The parties to the mediation shall be the sole judges of the qualifications of the

person whom they select as a mediator, whether that person is or is not on the list maintained by the community development director.

The approval of the person selected as a mediator by the community development director is not required. In no event, however, shall a current employee of the City of Sammamish or any person who is currently or contemporaneously acting as an agent or contractor for the City be designated as a mediator. (Ord. O2000-72 § 1(K))

20.20.120 Costs of mediation.

The City of Sammamish shall have no responsibility for the payment of the costs of mediation, except for the transfer of funds deposited with the City of Sammamish with a request for mediation or a response. The City of Sammamish shall pay the costs, if any, allocable to a responsible City official that participates in the mediation and has agreed, in writing, to pay a specified proportion or amount of the costs of mediation. (Ord. O2000-72 § 1(L))

20.20.130 Notice of mediation.

(1) Notice to Parties to the Mediation. It is the responsibility of the parties to the mediation and the mediator to assure that all parties to the mediation and the community development director have reasonable notice of the time and place of the mediation session.

(2) Notice to All Other Parties and Interested Persons. Upon receipt of notice by the community development director that a mediator has been selected and of the time and place set for the mediation session, the community development director shall give notice to all other parties and known interested persons, if any, that a mediation session has been scheduled. The notice by the community development director shall give the names of the parties to the mediation.

(3) Notice of Outcome. At the conclusion of the mediation, the community development director shall give notice to all parties and known interested persons of the outcome of the mediation. (Ord. O2000-72 § 1(M))

20.20.140 Authority of the mediator.

(1) The mediator shall have the authority to:

(a) Schedule, recess, adjourn, and terminate mediation sessions;

(b) Keep order;

(c) Request information of the parties, experts or other persons who are present, and ask questions to clarify issues and positions;

(d) Request the presence of additional persons; and

(e) Generally conduct the mediation in a manner designed to resolve the controverted matters.

(2) Resolutions to the matters in controversy may be proposed by the mediator, but no decision may be imposed by the mediator on participants. (Ord. O2000-72 § 1(N))

20.20.150 Use of experts.

The mediator may determine, with or without request by a party, that a mediated agreement would be facilitated by the receipt of expert information during the mediation process. If requested by the mediator, the parties to the mediation shall make available expert reports, or arrange for the attendance of their anticipated expert witnesses to provide information at the mediation. Alternatively, one or more independent experts on issues relevant to the mediation may be identified by the mediator for that purpose. Experts provided by a party shall be compensated by that party; responsibility for payment of any independent experts shall be assigned in a manner determined by the mediator and agreed to by those parties to the mediation who will be obliged by that determination to contribute to the cost. No expert, whether provided by a party or independent, shall participate in the mediation with respect to any matter outside the scope of his or her expertise. (Ord. O2000-72 § 1(O))

20.20.160 General order of mediation.

(1) Unless otherwise determined by the mediator, the order of proceedings at the mediation shall be:

(a) Introduction by mediator.

(b) Introduction of participants.

(c) Opening statements of interest and position by each participant. After hearing initial statements of the interests of all parties to the mediation, the mediator may encourage the designation of a single representative by parties who share substantially similar interests or concerns (see SMC 20.20.070).

(d) Questions by the mediator to clarify issues, interests, and positions.

(e) Identification of issues to be discussed.

(f) Discussion of identified issues and other efforts to reach agreement. This may include individual caucuses by the mediator with the parties to the mediation in separate sessions, the written or oral conveyance of proposals by the mediator to other parties to the mediation, the transmittal of responses, and the making of suggestions or proposals by the mediator to the parties separately or jointly.

(g) Identification of matters agreed upon.

(h) Clarification of agreement by mediator.

(i) Written documentation of agreement prepared by the mediator.

(j) Signature to agreement by the parties to the mediation who agree thereto.

(k) Transmittal of report by the mediator to the community development director and responsible City official.

(2) The foregoing order of proceedings may be modified at any time by agreement of the parties or order of the mediator. (Ord. O2000-72 § 1(P))

20.20.170 Agreements resulting from mediation.

(1) Execution and Notice. All agreements resulting from mediation shall be reduced to writing by the mediator and signed by the persons who have agreed thereto or their authorized representatives. Fully executed copies shall be filed by the mediator with the responsible City official and the community development director.

(2) Effect of Agreement.

(a) Appeals. If the mediated agreement resolves all issues of all parties to an appeal, the mediated agreement shall include a stipulation and waiver of notice authorizing entry of an order dismissing the appeal. An order of dismissal incorporating the mediated agreement shall be promptly entered by the hearing examiner.

If the agreement is not executed by all parties to an appeal, the agreement shall be binding only upon those parties who have agreed thereto. For appeals not fully resolved, the mediator may, with the consent of the parties to the mediation, prepare and file a recommended prehearing order that may be adopted or modified by the hearing examiner to govern future proceedings.

(b) Applications and Other Matters. With respect to matters other than appeals for which a hearing examiner is required to make findings and conclusions concerning the public health, safety, and welfare as defined by applicable laws and ordinances, the mediated agreement shall be considered as a joint recommendation to the community development director by the parties to the mediation. The mediated agreement shall be accorded substantial weight in resolving issues between or among the parties to the mediated agreement, and shall be applied to the agreeing parties unless it would be clearly erroneous to do so.

Except for an agreement by an applicant to withdraw or modify an application, a mediated agreement shall not be used to obviate the need for, nor limit the scope of, any public hearing required by law. Mediation is not a substitute for the lawful exercise of discretion by the City council in performing its legislative and quasi-judicial responsibilities, nor for the performance of

the duties and responsibilities of the City of Sammamish hearing examiner and responsible City officials.

(c) Effect on Other Parties and Persons. An agreement arrived at through mediation may be considered by a hearing examiner with respect to parties or persons who did not agree to the mediated agreement only as evidence that the mediated resolution of the disputed matter may be feasible or reasonable. The evidentiary use of the agreement does not preclude any party or interested person who is not bound by the agreement from introducing other evidence and argument that disputes the reasonableness or feasibility of the agreement or supports an alternative resolution of the dispute. (Ord. O2000-72 § 1(Q))