



Planning Commission

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MEMO

Date: May 13, 2008

To: The Planning Commission

From: Rob Garwood, Senior Planner

RE: Proposed Historic Preservation Municipal Code (SMC) amendments

The City Council has expressed an interest in preserving buildings and landmarks of historic and cultural significance in the City of Sammamish. In order to institute this program the City would enter into an Interlocal Agreement with the King County Historic Preservation Program. The King County Historic Preservation Program was established in 1978.

The services available through an interlocal agreement are:

- Designation and protection of significant historic and cultural properties.
- Review of applications to the City to determine if the site contains any known historic or cultural resources.
- Maintaining and updating historic inventory data within the City.

The ordinance would:

- Establish a process for citizens to nominate potential historic sites, buildings etc for listing on the Federal, State, King County or City of Sammamish Community Register. These designations would then be processed by the King County Landmarks Board, which will have one appointed representative from the City of Sammamish on its board to consider the nomination. This board with the advice of the King County Historic Preservation Officer will either approve or reject a nomination for listing on the local or county register.
- Provides for an appeal process to the Sammamish City Council by any person aggrieved by the Landmark Board's decision on any specific nomination heard by the Landmark Commission.
- Provide for the review of additions, modifications, etc. to buildings that are placed on the local or county register as well as penalties for unauthorized modifications of historic structures or sites.
- Make provision for properties placed on the historic register to be eligible for special tax valuations related to improvements made to the structure/property if approved by the Landmark Commission.

**Title 21
Historic Preservation**

Chapter 21.10 Protection and Preservation of Landmarks

Sections:

- 21.10.010 Purpose**
- 21.10.020 Definitions**
- 21.10.030 Designation Criteria**
- 21.10.040 Nomination procedure**
- 21.10.050 Designation procedure**
- 21.10.060 Certificate of appropriateness procedure.**
- 21.10.070 Evaluation of economic impact.**
- 21.10.080 Appeal procedure.**
- 21.10.090 Penalty for violation of Section 21.10.060.**
- 21.10.100 Special valuation for historic properties.**
- 21.10.110 Administrative rules**
- 21.10.120 Severability**

21.10.010 Findings and declaration of purpose.

A. The Sammamish City Council finds that:

1. The protection, enhancement, perpetuation and use of buildings, sites, districts, structures and objects of historical, cultural, architectural, engineering, geographic, ethnic and archaeological significance located in the City of Sammamish, and the collection, preservation, exhibition and interpretation of historic and prehistoric materials, artifacts, records and information pertaining to historic preservation and archaeological resource management are necessary in the interest of the prosperity, promote civic pride and benefit the general welfare of the residents of the City of Sammamish.
2. Such cultural and historic resources are a significant part of the heritage, education and economic base of the City of Sammamish, and the economic, cultural and aesthetic well-being of the county cannot be maintained or enhanced by disregarding its heritage and by allowing the unnecessary destruction or defacement of such resources.
3. Present heritage and preservation programs and activities are inadequate for insuring present and future generations of the City of Sammamish residents and visitors a genuine opportunity to appreciate and enjoy our heritage.
4. That the COUNTY has the experience and personnel qualified to administer a heritage and preservation program and that the City desires to make use of the County's expertise by delegating certain administrative responsibilities to their Landmarks Commission and Historic Preservation Officer.

B. The purposes of this chapter are to:

1. Designate, preserve, protect, enhance and perpetuate those sites, buildings, districts, structures and objects which reflect significant elements of the county's,

- state's and nation's cultural, aesthetic, social, economic, political, architectural, ethnic, archaeological, engineering, historic and other heritage;
2. Foster civic pride in the beauty and accomplishments of the past;
 3. Stabilize and improve the economic values and vitality of landmarks;
 4. Protect and enhance the county's tourist industry by promoting heritage-related tourism;
 5. Promote the continued use, exhibition and interpretation of significant historical or archaeological sites, districts, buildings, structures, objects, artifacts, materials and records for the education, inspiration and welfare of the people of the City of Sammamish;
 6. Promote and continue incentives for ownership and utilization of landmarks;
 7. Assist, encourage and provide incentives to public and private owners for preservation, restoration, rehabilitation and use of landmark buildings, sites, districts, structures and objects;
 8. Assist, encourage and provide technical assistance to public agencies, public and private museums, archives and historic preservation associations and other organizations involved in historic preservation and archaeological resource management; and
 9. Work cooperatively with all local jurisdictions to identify, evaluate, and protect historic resources in furtherance of the purposes of this chapter.

21.10.020 Definitions. The following words and terms shall, when used in this chapter, be defined as follows unless a different meaning clearly appears from the context:

- A. "Alteration" is any construction, demolition, removal, modification, excavation, restoration or remodeling of a landmark.
- B. "Building" is a structure created to shelter any form of human activity, such as a house, barn, church, hotel or similar structure. Building may refer to an historically related complex, such as a courthouse and jail or a house and barn.
- C. "Certificate of appropriateness" is written authorization issued by the commission or its designee permitting an alteration to a significant feature of a designated landmark.
- D. "Commission" is the King County Landmarks Commission acting on behalf of the City of Sammamish.
- E. "Community landmark" is an historic resource which has been designated pursuant to SMC21.10.030, but which may be altered or changed without application for or approval of a certificate of appropriateness.
- F. "Council" is the Sammamish City Council.
- F. "Designation" is the act of the commission determining that an historic resource meets the criteria established by this chapter.
- G. "Designation report" is a report issued by the commission after a public hearing setting forth its determination to designate a landmark and specifying the significant feature or features thereof.
- H. "Director" is the director of the Sammamish Department of Community Department his or her designee.
- I. "District" is a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects

united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

J. “Heritage” is a discipline relating to historic preservation and archaeology, history, ethnic history, traditional cultures and folklore.

K. “Historic preservation officer” is the King County Historic Preservation Officer or his or her designee; or, the City of Sammamish Historic Preservation Officer if such a position shall be created by the City..

L. “Historic resource” is a district, site, building, structure or object significant in national, state or local history, architecture, archaeology, and culture.

M. “Historic resource inventory” is an organized compilation of information on historic resources considered to be significant according to the criteria listed 21.10.040 of this chapter. The historic resource inventory is kept on file by the historic preservation officer and is updated from time to time to include newly eligible resources and to reflect changes to resources.

N. “Incentives” are such compensation, rights or privileges or combination thereof, which the council, or other local, state or federal public body or agency, by virtue of applicable present or future legislation, may be authorized to grant to or obtain for the owner or owners of designated landmarks. Examples of economic incentives include but are not limited to tax relief, conditional use permits, rezoning, street vacation, planned unit development, transfer of development rights, facade easements, gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements, or amenities, or the like.

O. “Interested person of record” is any individual, corporation, partnership or association which notifies the commission or the council in writing of its interest in any matter before the commission.

P. “Landmark” is an historic resource designated as a landmark pursuant to SMC. Section 21.10.50

Q. “Nomination” is a proposal that an historic resource be designated a landmark.

R. “Object” is a material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

S. “Owner” is a person having a fee simple interest, a substantial beneficial interest of record or a substantial beneficial interest known to the commission in an historic resource. Where the owner is a public agency or government, that agency shall specify the person or persons to receive notices under this chapter.

T. “Person” is any individual, partnership, corporation, group or association.

U. “Person in charge” is the person or persons in possession of a landmark including, but not limited to, a mortgagee or vendee in possession, an assignee of rents, a receiver, executor, trustee, lessee, tenant, agent, or any other person directly or indirectly in control of the landmark.

V. “Preliminary determination” is a decision of the commission determining that an historic resource which has been nominated for designation is of significant value and is likely to satisfy the criteria for designation.

W. “Significant feature” is any element of a landmark which the commission has designated pursuant to this chapter as of importance to the historic, architectural or archaeological value of the landmark.

X. “Site” is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains an historical or archaeological value regardless of the value of any existing structures.

Y. “Structure” is any functional construction made usually for purposes other than creating human shelter.

21.10.030 Designation criteria.

A. An historic resource may be designated as a City of Sammamish landmark if it is more than forty years old or, in the case of a landmark district, contains resources that are more than forty years old, and possesses integrity of location, design, setting, materials, workmanship, feeling and association, and:

1. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history; or
2. Is associated with the lives of persons significant in national, state or local history; or
3. Embodies the distinctive characteristics of a type, period, style or method of design or construction, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
4. Has yielded or may be likely to yield, information important in prehistory or history; or
5. Is an outstanding work of a designer or builder who has made a substantial contribution to the field of construction or design.

B. An historic resource may be designated a community landmark because it is an easily identifiable visual feature of a neighborhood or the county and contributes to the distinctive quality or identity of such neighborhood or City or because of its association with significant historical events or historic themes, association with important or prominent persons, or recognition by local citizens for substantial contribution to the community. An improvement or site qualifying for designation solely by virtue of satisfying criteria set out in this section shall be designated a community landmark and shall not be subject to the provisions of 21.10.060.

C. Cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past forty years shall not be considered eligible for designation. However, such a property shall be eligible for designation if they are:

1. An integral part of districts that meet the criteria set out in SMC 21.10.030 of this chapter or if it is:
2. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or

3. A building or structure removed from its original location but which is significant primarily for its architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
4. A birthplace, grave or residence of a historical figure of importance if there is no other appropriate site or building directly associated with his or her life; or
5. A cemetery that derives its primary significance from graves of persons of importance, from age, from distinctive design features, or from association with historic events; or
6. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner or as part of a restoration master plan, and when no other building or structure with the same association has survived; or
7. A property commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
8. A property achieving significance within the past forty years is of exceptional importance.

21.10.040 Nomination procedure.

A. Any person, including the historic preservation officer and any member of the commission, may nominate an historic resource for designation as a landmark or community landmark. The procedures set forth in Sections SMC 21.10.050 and 21.10.060 may be used to amend existing designations or to terminate an existing designation based on changes which affect the applicability of the criteria for designation set forth in Section 21.10.030 of this chapter. The nomination or designation of an historic resource as a landmark shall constitute nomination or designation of the land which is occupied by the historic resource unless the nomination provides otherwise. Nominations shall be made on official nomination forms provided by the Department, shall be filed with the Department, and shall include all data required by the City. The City's Community Development Department shall provide a nomination form to the applicant. The application must be approved by and bear the signature of the property owner(s).

B. Upon receipt by the Department of any nomination for designation, the Department shall review the nomination, consult with the person or persons submitting the nomination, and the owner, and prepare any amendments to or additional information on the nomination deemed necessary by the Department. The Department may refuse to accept any nomination for which inadequate information is provided by the person or persons submitting the nomination. It is the responsibility of the person or persons submitting the nomination to perform such research as is necessary for consideration by the King County Landmarks Commission. The Department may assume responsibility for gathering the required information or appoint an expert or experts to carry out this research in the interest of expediting the consideration.

C. When the Department is satisfied that the nomination contains sufficient information and complies with the commission's regulations for nomination, the Department shall forward the nomination to the historic preservation officer and the King

County Landmarks Commission for consideration. The officer shall give notice in writing, certified mail/return receipt requested, to the owner of the property or object, to the person submitting the nomination and interested persons of record that a preliminary or a designation determination on the nomination will be made by the commission. The notice shall include:

1. The date, time, and place of hearing;
2. The address and description of the historic resource and the boundaries of the nominated resource;
3. A statement that, upon a designation or upon a preliminary determination of significance, the certificate of appropriateness procedure set out in Section Section 21.10.060 of this chapter will apply;
4. A statement that, upon a designation or a preliminary determination of significance, no significant feature may be changed without first obtaining a certificate of appropriateness from the commission, whether or not a building or other permit is required. A copy of the provisions of Section 21.10.060 of this chapter shall be included with the notice;
5. A statement that all proceedings to review the action of the commission at the hearing on a preliminary determination or a designation will be based on the record made at such hearing and that no further right to present evidence on the issue of preliminary determination or designation is afforded pursuant to this chapter.

D. The historic preservation officer shall, after mailing the notice required herein, promptly provide the commission with copies of the nomination and all supporting information to the commission. No nomination shall be considered by the commission less than thirty nor more than forty five calendar days after notice setting the hearing date has been mailed except where the historic preservation officer or members of the commission have reason to believe that immediate action is necessary to prevent destruction, demolition or defacing of an historic resource, in which case the notice setting the hearing shall so state.

21.10.050 Designation procedure.

A. The King County Landmarks Commission may approve, deny, amend or terminate the designation of a historic resource as a landmark or community landmark only after a public hearing. At the designation hearing the commission shall receive evidence and hear argument only on the issues of whether the historic resource meets the criteria for designation of landmarks or community landmarks as specified in SMC21.10.030 and merits designation as a landmark or community landmark; and the significant features of the landmark. The hearing may be continued from time to time at the discretion of the commission. If the hearing is continued, the commission may make a preliminary determination of significance if the commission determines, based on the record before it that the historic resource is of significant value and likely to satisfy the criteria for designation in SMC21.10.030. The preliminary determination shall be effective as of the date of the public hearing at which it is made. Where the commission makes a preliminary determination it shall specify the boundaries of the nominated resource, the significant features thereof and such other description of the historic resource as it deems

appropriate. Within five working days after the commission has made a preliminary determination, the historic preservation officer shall file a written notice of the action with the director and mail copies of the notice, certified mail, return receipt requested, to the owner, the person submitting the nomination and interested persons of record.

The notice shall include:

1. A copy of the commission's preliminary determination; and
2. A statement that while proceedings pursuant to this chapter are pending, or six months from the date of the notice, whichever is shorter, the certificate of appropriateness procedures in SMC21.10.060, shall apply to the described historic resource. A copy of SMC 21.10.060 shall be enclosed with the notice.
whether or not a building or other permit is required.
3. The final decision of the commission shall be made after the close of the public hearing or at the .

B. Whenever the commission approves the designation of a historic resource under consideration for designation as a landmark, it shall, within fourteen calendar days of the public meeting at which the decision is made, issue a written designation report, which shall include:

1. The boundaries of the nominated resource and such other description of the resource sufficient to identify its ownership and location;
2. The significant features and such other information concerning the historic resource as the commission deems appropriate;
3. Findings of fact and reasons supporting the designation with specific reference to the criteria for designation in SMC21.10.030; and
4. A statement that no significant feature may be changed, whether or not a building or other permit is required, without first obtaining a certificate of appropriateness from the commission in accordance with SMC21.10.060, a copy of which shall be included in the designation report. The requirements of this subsection B.4. shall not apply to historic resources designated as community landmarks.

C. Whenever the commission rejects the nomination of a historic resource under consideration for designation as a landmark, it shall, within fourteen calendar days of the public meeting at which the decision is made, issue a written decision including findings of fact and reasons supporting its determination that the criteria in SMC21.10.030 have not been met. If a historic resource has been nominated as a landmark and the commission designates the historic resource as a community landmark, the designation shall be treated as a rejection of the nomination for Sammamish landmark status and the foregoing requirement for a written decision shall apply. Nothing contained herein shall prevent renominating any historic resource that is rejected under this subsection as a King County landmark at a future time ; provided, no renomination shall occur unless a minimum of five years have passed since the prior commission decision..

D. A copy of the commission's designation report or decision rejecting a nomination shall be delivered or mailed to the owner, to interested persons of record and to the director within five working days after it is issued. If the commission rejects the

nomination and it has made a preliminary determination of significance with respect to the nomination, it shall include in the notice to the director a statement that SMC21.10.060 no longer applies to the subject historic resources.

E. If the commission approves, or amends a landmark designation, the provisions of SMC21.10.060 shall apply as approved or amended. A copy of the commission's designation report or designation amendment shall be recorded with the King County Records, Elections and Licensing Services Division, or its successor agency, together with a legal description of the designated resource and notification that SMC21.10.060 and SMC 21.10.090 apply. If the commission terminates the designation of a historic resource, 21.10.060 shall no longer apply to the historic resource. (

21.10.060 Certificate of appropriateness procedure.

A. At any time after a designation report and notice has been filed with the director and for a period of six months after notice of a preliminary determination of significance has been mailed to the owner and filed with the director, a certificate of appropriateness must be obtained from the commission before any alterations may be made to the significant features of the landmark identified in the preliminary determination report or thereafter in the designation report. This requirement shall apply whether or not the proposed alteration requires a building or other permit. The designation report shall supersede the preliminary determination report upon issuance.

B. Ordinary repairs and maintenance which do not alter the appearance of a significant feature and do not utilize substitute materials do not require a certificate of appropriateness. Repairs to or replacement of utility systems do not require a certificate of appropriateness provided that such work does not alter an exterior significant feature.

- C. 1. There shall be three types of certificates of appropriateness, as follows:
- a. Type I, for restorations and major repairs which utilize in-kind materials.
 - b. Type II, for alterations in appearance, replacement of historic materials and new construction.
 - c. Type III, for demolition, moving and excavation of archaeological sites.
2. The historic preservation officer may approve Type I certificates of appropriateness administratively without public hearing, subject to procedures adopted by the commission. Alternatively the historic preservation officer may refer applications for Type I certificates of appropriateness to the commission for decision. The commission shall establish and adopt an appeals procedure concerning Type 1 decisions made by the historic preservation officer.
3. Type II and III certificates of appropriateness shall be decided by the commission and the following general procedures shall apply to such commission actions:

a. Application for a certificate of appropriateness shall be made by filing an application for such certificate with the historic preservation officer on forms provided by the commission.

b. If an application is made to the director for a permit for any action which affects a landmark, the director shall promptly refer such application to the historic preservation officer, and such application shall be deemed an application for a certificate of appropriateness if accompanied by the additional information required to apply for such certificate. The director may continue to process such permit application, but shall not issue any such permit until the time has expired for filing with the director the notice of denial of a certificate of appropriateness or a certificate of appropriateness has been issued pursuant to this chapter.

c. After the commission has commenced proceedings for the consideration of any application for a certificate of appropriateness by giving notice of a hearing pursuant to subsection d of this section, no other application for the same or a similar alteration may be made until such proceedings and all administrative appeals therefrom pursuant to this chapter have been concluded.

d. Within forty five calendar days after the filing of an application for a certificate of appropriateness with the commission or the referral of an application to the commission by the director except those decided administratively by the historic preservation officer pursuant to subsection 2 of this section, the commission shall hold a public hearing thereon. The historic preservation officer shall mail notice of the hearing to the owner, the applicant, if the applicant is not the owner, and parties of record at the designation proceedings, not less than ten calendar days before the date of the hearing. No hearing shall be required if the commission, the owner and the applicant, if the applicant is not the owner, agree in writing to a stipulated certificate approving the requested alterations thereof. This agreement shall be ratified by the commission in a public meeting and reflected in the commission meeting minutes. If the commission grants a certificate of appropriateness, such certificate shall be issued forthwith and the historic preservation officer shall promptly file a copy of such certificate with the director.

e. If the commission denies the application for a certificate of appropriateness, in whole or in part, it shall so notify the owner, the person submitting the application and interested persons of record setting forth the reasons why approval of the application is not warranted.

21.10.070 Evaluation of economic impact.

A. At the public hearing on any application for a Type II or Type III certificate of appropriateness, or Type I if referred to the commission by the historic preservation

officer, the commission shall, when requested by the property owner, consider evidence of the economic impact on the owner of the denial or partial denial of a certificate. In no case may a certificate be denied, in whole or in part, when it is established that the denial or partial denial will, when available incentives are utilized, deprive the owner of a reasonable economic use of the landmark and there is no viable and reasonable alternative which would have less impact on the features of significance specified in the preliminary determination report or the designation report.

B. To prove the existence of a condition of unreasonable economic return, the applicant must establish and the commission must find both of the following:

1. The landmark is incapable of earning a reasonable economic return without making the alterations proposed. This finding shall be made by considering and the applicant shall submit to the commission evidence establishing each of the following factors: a. The current level of economic return on the landmark as considered in relation to the following:

- a. The amount paid for the landmark, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the landmark was purchased;
- b. The annual gross and net income, if any, from the landmark for the previous five (5) years; itemized operating and maintenance expenses for the previous five (5) years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
- c. The remaining balance on any mortgage or other financing secured by the landmark and annual debt service, if any, during the prior five (5) years;
- d. Real estate taxes for the previous four (4) years and assessed value of the landmark according to the two (2) most recent assessed valuations;
- e. All appraisals obtained within the previous three (3) years by the owner in connection with the purchase, financing or ownership of the landmark;
- f. The fair market value of the landmark immediately prior to its designation and the fair market value of the landmark (in its protected status as a designated landmark) at the time the application is filed;
- g. Form of ownership or operation of the landmark, whether sole proprietorship, for profit or not for-profit corporation, limited partnership, joint venture, or both;
- h. Any state or federal income tax returns on or relating to the landmark for the past two (2) years.

2. The landmark is not marketable or able to be sold when listed for sale or lease. The sale price asked, and offers received, if any, within the previous two (2) years, including testimony and relevant documents shall be submitted by the property owner. The following also shall be considered:

- a. Any real estate broker or firm engaged to sell or lease the landmark;
- b. Reasonableness of the price or lease sought by the owner;
- c. Any advertisements placed for the sale or lease of the landmark.

3. The unfeasibility of alternative uses that can earn a reasonable economic return for the landmark as considered in relation to the following:

- a. A report from a licensed engineer or architect with experience in historic restoration or rehabilitation as to the structural soundness of the landmark and its suitability for restoration or rehabilitation;
- b. Estimates of the proposed cost of the proposed alteration and an estimate of any additional cost that would be incurred to comply with the recommendation and decision of the commission concerning the appropriateness of the proposed alteration;
- c. Estimated market value of the landmark in the current condition after completion of the proposed alteration; and, in the case of proposed demolition, after renovation of the landmark for continued use;
- d. In the case of proposed demolition, the testimony of an architect, developer, real estate consultant, appraiser or other real estate professional experienced in historic restoration or rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing landmark;
- e. The unfeasibility of new construction around, above, or below the historic resource.
- d. Potential economic incentives and/or funding available to the owner through federal, state, county, city or private programs.
- f. The owner has the present intent and the secured financial ability, demonstrated by appropriate documentary evidence to complete the alteration.

C. Notwithstanding the foregoing enumerated factors, the property owner may demonstrate other appropriate factors applicable to economic return.

D. Upon reasonable notice to the owner, the commission may appoint an expert or experts to provide advice and/or testimony concerning the value of the landmark, the availability of incentives and the economic impacts of approval, denial or partial denial of a certificate of appropriateness.

E. Any adverse economic impact caused intentionally or by willful neglect shall not constitute a basis for granting a certificate of appropriateness.

20.10.080 Appeal procedure.

A. Any person aggrieved by a decision of the commission designating or rejecting a nomination for designation of a landmark or issuing or denying a certificate of appropriateness may, within thirty-five calendar days of mailing of notice of such designation or rejection of nomination, or of such issuance or denial or approval of a certificate of appropriateness appeal such decision in writing to the council. The written notice of appeal shall be filed with the King County Historic Preservation officer and the clerk of the city council and shall be accompanied by a statement setting forth the grounds for the appeal, supporting documents, and argument.

B. If, after examination of the written appeal and the record, the City Council determines that:

- 1. An error in fact may exist in the record, it shall remand the proceeding to the commission for reconsideration or,

2. If the council determines that: the decision of the commission is based on an error in law , it may modify or reverse the decision of the commission.

C. The council’s decision shall be based solely upon the record of the proceedings.

D. The council shall take final action on any appeal from a decision of the commission by adoption of a resolution, and shall enter findings of fact and conclusions of law based upon the record which support its action. The council may adopt all or portions of the commission’s findings and conclusions.

E. The action of the council sustaining, reversing, modifying or remanding a decision of the commission shall be final unless within twenty calendar days from the date of the action an aggrieved person obtains a writ of certiorari from the superior court of King County, state of Washington, for the purpose of review of the action taken.

21.10.090 Penalty for violation of Section 21.10.060.

Any person violating or failing to comply with the provisions of Section SMC 21.10.060 of this chapter shall incur a civil penalty of up to five hundred dollars per day and each day’s violation or failure to comply shall constitute a separate offense; provided, however, that no penalty shall be imposed for any violation or failure to comply which occurs during the pendency of legal proceedings filed in any court challenging the validity of the provision or provisions of this chapter, as to which such violations or failure to comply is charged.

21.10.100 Special valuation for historic properties.

A. There is hereby established and implemented a special valuation for historic properties as provided in chapter 84.26 RCW.

B. The King County landmarks commission is hereby designated as the City of Sammamish review board for the purposes related to chapter 84.26 RCW, and is authorized to perform all functions required by chapter 84.16 RCW and chapter 254-20 WAC.

C. All City of Sammamish landmarks designated and protected under this chapter shall be eligible for special valuation in accordance with chapter 84.26 RCW

21.10.110 Historic Resources - review process.

A. The City of Sammamish shall not approve any development proposal or otherwise issue any authorization to alter, demolish, or relocate any historic resource identified in the King County Historic Resource Inventory, pursuant to the requirements of this chapter.

B. Upon receipt of an application for a development proposal located on or adjacent to a historic resource listed in the King County Historic Resource Inventory, the director shall follow the following procedure:

1. The development proposal application shall be circulated to the King County historic preservation officer for comment on the impact of the project on historic resources and for recommendation on mitigation. This includes all permits for alterations to historic buildings, alteration to landscape elements, new construction on

the same or abutting lots, or any other action requiring a permit which might affect the historic character of the resource. Information required for a complete permit application to be circulated to the historic preservation officer shall include:

- a. a vicinity map;
 - b. a site plan showing the location of all buildings, structures, and landscape features;
 - c. a brief description of the proposed project together with architectural drawings showing the existing condition of all buildings, structures, landscape features and any proposed alteration to them;
 - d. photographs of all buildings, structures, or landscape features on the site; and
 - e. an environmental checklist, except where categorically exempt under City of Sammamish SEPA guidelines.
2. Upon request, the historic preservation officer shall provide information about available grant assistance and tax incentives for historic preservation. The officer may also provide the owner, developer, or other interested party with examples of comparable projects where historic resources have been restored or rehabilitated.
3. In the event of a conflict between the development proposal and preservation of an historic resource, the historic preservation officer shall:
- a. suggest appropriate alternatives to the owner/developer which achieve the goals of historic preservation.
 - b. recommend approval, or approval with conditions to the director of the department of community development; or
 - c. propose that a resource be nominated for county landmark designation according to procedures established in the landmarks preservation ordinance (SMC21.10.040).
4. The Historic Preservation Officer may recommend that the director continue to process the development proposal application, but not issue any development permits or issue a SEPA threshold determination until receiving a recommendation from the historic preservation officer. In no event shall review of the proposal by the historic preservation officer delay permit processing beyond any period required by law. Permit applications for changes to landmark properties shall not be considered complete unless accompanied by a certificate of appropriateness pursuant to SMC21.10.060.
5. On known archaeological sites, before any disturbance of the site, including, but not limited to test boring, site clearing, construction, grading or revegetation, the State Office of Archaeology and Historic Preservation (OAHP), and the King County historic preservation officer, and appropriate Native American tribal organizations must be notified and state permits obtained, if required by law. The officer may recommend that a professional archaeological survey be conducted to identify site boundaries, resources and mitigation alternatives prior to any site disturbance and that a technical report be provided to the officer, OAHP and appropriate tribal organizations. The officer may recommend approval, disapproval or permit conditions, including professional archeological surveys, to mitigate adverse impacts to known archeological sites.

C. Upon receipt of an application for a development proposal which affects a City of Sammamish landmark or an historic resource that has received a preliminary determination of significance as defined by SMC21.10.020 v., the application circulated to the King County historic preservation officer shall be deemed an application for a certificate of appropriateness pursuant to SMC21.10.060 if accompanied by the additional information required to apply for such certificate.

21.10.120 Administrative rules. The director may promulgate administrative rules and regulations pursuant to SMC 20.05, to implement the provisions and requirements of this chapter.

21.10.130 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

INTERLOCAL AGREEMENT FOR LANDMARK SERVICES**AN AGREEMENT BETWEEN KING COUNTY AND THE CITY OF SAMMAMISH
RELATING TO LANDMARK DESIGNATION AND PROTECTION SERVICES**

THIS IS AN AGREEMENT between King County, a home rule charter county and a political subdivision of the State of Washington, hereinafter referred to as the "County," and the City of Sammamish, a municipal corporation of the State of Washington, hereinafter referred to as the "City".

WHEREAS, the City is incorporated; and

WHEREAS, local governmental authority and jurisdiction with respect to the designation and protection of landmarks within the city limits resides with the City; and

WHEREAS, the City desires to protect and preserve the historic buildings, structures, districts, sites, objects, and archaeological sites within the city for the benefit of present and future generations; and

WHEREAS, the County is able to provide landmark designation and protection services for the City; and

WHEREAS, the City has elected to contract with the County to provide such services; and

WHEREAS, it is in the public interest that the jurisdictions cooperate to provide efficient and cost effective landmark designation and protection; and

WHEREAS, pursuant to R.C.W. 39.34, the Interlocal Cooperation Act, the parties are each authorized to enter into an agreement for cooperative action;

NOW THEREFORE, the County and the City hereby agree:

1. Services. At the request of the City, the County shall provide landmark designation and protection services using the criteria and procedures adopted in King County Ordinance 10474, King County Code (K.C.C.), Chapter 20.62 within the City limits.
2. City's Responsibilities
 - A. Adopt an ordinance establishing regulations and procedures for the designation of historic buildings, structures, objects, districts, sites, objects, and archaeological sites as landmarks and for the protection of landmarks. Regulations and procedures shall be substantially the same as the regulations and procedures set forth in K.C.C. Chapter 20.62. The ordinance shall provide that the King County Landmarks Commission, with

the addition of a special member, acting as the City of Sammamish Landmarks Commission (Commission) shall have the authority to designate and protect landmarks within the City limits in accordance with the City ordinance. The ordinance shall include:

- 1) Provision for the appointment of a special member to the Commission as provided by K.C.C. Chapter 20.62.030.
- 2) A provision that appeals from decisions of the Commission pertaining to real property within the City limits shall be taken to the City Council.
- 3) A provision for penalties for violation of the certificate of appropriateness procedures (K.C.C. Chapter 20.62.080).
- 4) A provision that the official responsible for the issuance of building and related permits shall promptly refer applications for permits which affect historic buildings, structures, objects, sites, districts, or archaeological sites to the King County Historic Preservation Officer (HPO) for review and comment. The responsible official shall seek and take into consideration the comments of the HPO regarding mitigation of any adverse effects affecting historic buildings, structures, objects, sites or districts.

B. Appoint a Special Member to the Commission in accordance with the ordinance adopted by the City. Pursuant to K.C.C. Chapter 20.62 such Special Member shall be a voting member of the Commission on all matters relating to or affecting landmarks within the City, except review of applications to the Special Valuation Tax Program, and the Current Use Taxation Program.

C. Except as to Section 5, the services provided by the County pursuant to this agreement do not include legal services.

3. County Responsibilities

- A. Process all landmark nomination applications and conduct planning, training, and public information tasks necessary to support landmarking activities in the City. Such tasks shall be defined by mutual agreement of both parties on an annual basis.
- B. Process all Certificate of Appropriateness applications to alter, demolish, or move any significant feature of a landmark property within the City limits.
- C. Act as the "Local Review Board" for the purposes related to Chapter 221, 1986 Laws of Washington, (R.C.W. 84.26 and WAC 254.20) for the special valuation of historic properties within the city limits.
- D. Review and approve all applications to the King County Landmark Loan Program.
- E. Review and comment on applications for permits which affect historic buildings, structures, objects, sites, districts, and archaeological sites. Comments shall be

forwarded to the city official responsible for the issuance of building and related permits

4. Compensation

- A. **Costs.** The City shall reimburse the County fully for all costs incurred in providing services under this contract, including overhead and indirect administrative costs. Costs charged to the City may be reduced by special appropriations, grants, or other supplemental funds, by mutual agreement of both parties. The rate of reimbursement to the County for labor costs shall be revised annually. Addendum A contains 2003 labor costs. Maximum total cost to the City shall be revised annually. Addendum B contains the 2003 maximum cost to the City for reimbursable services.
- B. **Billing.** The County shall bill the City quarterly. The quarterly bill shall reflect actual costs plus the annual administrative overhead rate. Payments are due within 30 days of invoicing by the County.

5. Indemnification.

- A. The County shall indemnify and hold harmless the City and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent act or omission of the County, its officers, agents, and employees, or any of them, in providing services pursuant to this agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense; provided, that the City retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the City and its officers, agents, employees, or any of them, or jointly against the City and the County and their respective officers, agents and employees, or any of them, the County shall satisfy the same.
- B. In executing this agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules or regulations, policies or procedures. If any cause, claim, suit, actions or administrative proceeding is commenced in the enforceability and/or validity of any City ordinance, rule or regulation is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorneys' fees.
- C. The City shall indemnify and hold harmless the County and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, by reason of or arising out of any negligent act or omission of the City, its officers, agents, and employees, or any of them. In the event that any suit based upon such a claim, action, loss or damage is brought against the County, the City shall defend the same at its sole cost and expense; provided that the County retains the right to participate in said suit if any principle of governmental

or public laws is involved; and if final judgment be rendered against the County, and its officers, agents, and employees, or any of them, the City shall satisfy the same.

D. The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this Article shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.

- 6. Duration. This agreement is effective beginning upon execution, and shall be reviewed annually.
- 7. Termination. Either party may terminate this agreement by forty-five (45) days written notice from one party to the other.
- 8. Administration. This agreement shall be administered for the County by the Director of Business Relations and Economic Development, or the director's designee, and for the City by the City Manager or the manager's designee.
- 9. Amendments. This Agreement may be amended at any time by mutual agreement of the parties.

IN WITNESS WHEREOF, the parties have executed this agreement this 2nd day of April, 2008.

CITY OF SAMMAMISH

By: _____

Title: City Manager _____

KING COUNTY

By: _____
King County Executive

Approved as to form:

By: _____
King County Prosecutor