

**Title 21
Historic Preservation**

Chapter 21.10 Protection and Preservation of Landmarks

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Comment [r1]: This section was added by King County during their review which will create a local Landmarkd commission made up of one local member and the King County Landmarks Commission. The City will in effect borrow their commission

Comment [r2]: This section was added by King County during their review.

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 historic 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 King County has the experience and personnel qualified to administer a preservation program and that the City desires to make use of the County's expertise.

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 city'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 city'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

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 City of Sammamish Landmarks Commission.
- 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.
- G. "Designation" is the act of the commission determining that an historic resource meets the criteria established by this chapter.
- H. "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.
- I. "Director" is the director of the Sammamish Department of Community Development or his or her designee.
- J. "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.

- K. "Historic preservation officer" is the King County Historic Preservation Officer or his or her designee
- 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 in SMC Section 21.10.040. The historic resource inventory is maintained 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 21.10.060
- 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, such as a bridge or trestle, made usually for purposes other than creating human shelter.

21.10.030 Landmarks Commission created – Membership and organization.

A. The King County Landmarks Commission established pursuant to King County Code, Chapter 20.62 is hereby designated and empowered to act as the Landmarks Commission for the City of Sammamish pursuant to the provisions of this ordinance.

B. The Special Member of the King County Landmarks Commission provided for in Section 20.60.030 of the King County Code shall be appointed by the mayor subject to confirmation of the council. Such special member shall have a demonstrated interest and competence in historic preservation. Such appointment shall be made for a three-year term. Such special member shall serve until his or her successor is duly appointed and confirmed. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner and with the same qualifications as if at the beginning of the term, and the person appointed to fill the vacancy shall hold the position for the remainder of the unexpired term. Such special member may be reappointed, but may not serve more than two consecutive three-year terms. Such special member shall be deemed to have served ne full term if such special member resigns as any time after appointment or if such special member serves more than two years of an expired term. The special members of the commission shall serve without compensation except for out-of-pocket expenses incurred connected with commission meetings or programs. The City of Sammamish shall reimburse such expenses incurred by such special member.

C. The commission shall not conduct any public hearings required under this ordinance with respect to properties located within the City of Sammamish until its rules and regulations, including procedures consistent with this ordinance, have been filed with the city clerk.

21.10.040 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 city 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 SMC Section 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 Section 21.10.030 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 productive 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, if it is of exceptional importance.

21.10.050 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 SMC Sections 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 City of Sammamish Department of Community Development or the historic preservation officer, shall be filed with the Department, and shall include all data required by the historic preservation officer. 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 forward the nomination to the historic preservation officer, who shall 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 historic preservation officer. The historic preservation officer 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 Commission. The historic preservation officer 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 historic preservation officer is satisfied that the nomination contains sufficient information and complies with the commission's regulations for nomination, the historic preservation officer shall forward the nomination to the historic preservation officer and the Landmarks Commission for consideration. The historic preservation 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 SMC Section 21.10.060 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 SMC Section 21.10.060 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.

21.10.060 Designation procedure.

A. The 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 SMC Section 21.10.040 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 SMC Section 21.10.040. 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, and thereafter if the designation is approved by the commission, the certificate of appropriateness procedures in SMC Section 21.10.070, shall apply to the described historic resource whether or not a building or other permit is required. A copy of SMC Section 21.10.070 shall be enclosed with the notice.
3. The final decision of the commission shall be made after the close of the public hearing or at the next regularly scheduled public meeting of the commission thereafter..

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 designated 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 SMC Section 21.10.040; 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 SMC Section 21.10.070, 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 SMC Section 21.10.040 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 City of 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 City landmark at a future time ~~provided that no renomination shall occur unless a minimum of five-one years has passed since the prior decision of the commission.~~

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 SMC Section 21.10.070 no longer applies to the subject historic resources.

E. If the commission approves, or amends a landmark designation, the provisions of SMC Section 21.10.070 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 SMC 21.10.070 and SMC Section 21.10.100 apply. If the commission terminates the designation of a historic resource, SMC Section 21.10.070 shall no longer apply to the historic resource. ~~←~~

21.10.070 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 I 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.

21.10.080 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:

- (1). 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;
- (2). 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;
- (3). 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;
- (4). Real estate taxes for the previous four (4) years and assessed value of the landmark according to the two (2) most recent assessed valuations;
- (5). All appraisals obtained within the previous three (3) years by the owner in connection with the purchase, financing or ownership of the landmark;
- (6). 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;
- (7). Form of ownership or operation of the landmark, whether sole proprietorship, for profit or not for-profit corporation, limited partnership, joint venture, or both;
- (8). Any state or federal income tax returns on or relating to the landmark for the past two (2) years.

b. 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:

1. Any real estate broker or firm engaged to sell or lease the landmark;
2. Reasonableness of the price or lease sought by the owner;
3. Any advertisements placed for the sale or lease of the landmark.

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

- (1) 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;
- (2) 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;
- (3) 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;
- (4) 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;
- (5) The unfeasibility of new construction around, above, or below the historic resource.

~~(6)~~ Potential economic incentives and/or funding available to the owner through federal, state, county, city or private programs.

2. 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.

20.10.090 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 ~~city clerk~~ city clerk. The written notice of appeal shall be filed with the historic preservation officer and the city clerk 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 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.

21.10.100 Penalty for violation of Section 21.10.060.

Any person violating or failing to comply with the provisions of SMC Section 21.10.060 of this chapter shall incur a civil penalty consistent with SMC Title 23 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.

21.10.110 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 local 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

21.10.120 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 City of Sammamish Historic Resource Inventory, pursuant to the requirements of this chapter. Standards in the zoning code Chapter SMC 21A shall be expanded when necessary, to preserve the esthetic, visual and historic integrity of the historic resource from the impacts of development on the same or adjacent properties.

Comment [r3]: King County wants this language in the document.

- B. Upon receipt of an application for a development proposal located on or adjacent to a historic resource listed in the City of Sammamish Historic Resource Inventory, the director shall follow the following procedure:
 1. The development proposal application shall be circulated to the 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 historic preservation 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 city landmark designation according to procedures established in the landmarks preservation ordinance (SMC Section 21.10.060).
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 SMC Section 21.10.070.
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 Washington State Department of Archaeology and Historic Preservation (DAHP), and the historic preservation officer, and appropriate Native American tribal organizations must be notified and state permits obtained, if required by law. The historic preservation 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 historic preservation officer, DAHP and appropriate tribal organizations. The historic preservation 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 as defined by SMC Section 21.10.020 v., the application circulated to the historic preservation officer shall be deemed an application for a certificate of appropriateness pursuant to SMC Section 21.10.070 if accompanied by the additional information required to apply for such certificate.

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

21.10.140 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.

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Attachment A

Chapter 20.15

STATE ENVIRONMENTAL POLICY ACT PROCEDURES

Sections:

- 20.15.010 Definitions and abbreviations.
- 20.15.020 Lead agency.
- 20.15.030 Purpose and general requirements.
- 20.15.040 Categorical exemptions and threshold determinations.
- 20.15.050 Planned actions.
- 20.15.060 Environmental impact statements and other environmental documents.
- 20.15.070 Comments and public notice.
- 20.15.080 Use of existing environmental documents.
- 20.15.090 Substantive authority.
- 20.15.100 SEPA/GMA integration.
- 20.15.110 Ongoing actions.
- 20.15.120 Responsibility as consulted agency.
- 20.15.130 Appeals.
- 20.15.140 Department procedural rules.
- 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. 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. 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. 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 ~~four~~twenty dwelling units;

(ii) The construction of an office, school, commercial, recreational, service, or storage building with up to ~~4,000~~12,000 square feet of gross floor area, and with associated parking facilities designed for up to ~~2040~~ automobiles;

(iii) The construction of a parking lot designed for up to ~~20~~40 automobiles;

(iv) Any fill or excavation of up to ~~100~~500 cubic yards throughout the total lifetime of the fill or excavation; provided, however, that if the proposed action is to remove from or replace fill in a sensitive area to correct a violation, the threshold shall be 500 cubic yards.

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

(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. 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. 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 ~~mays~~ shall 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 ~~mays~~ shall promulgate administrative rules that establish a ~~deposit mechanism trust fund~~ 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. 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. 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. 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 Chapter 15.05 SMC.

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

(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. 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 WAC 197-11-235 are hereby adopted. (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. (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. 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. 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. O2003-132 § 9)

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SEPA Categorical Exemptions

Q: What is a "categorical exemption"?

A: A categorical exemption is a type of government action that is specifically designated as being exempt from SEPA compliance because it is unlikely to have a significant adverse environmental impact. The categorical exemptions are found in Part Nine of the SEPA Rules, and in RCW 43.21C.035, .037, and .0384.

Q: What types of proposals are categorically exempt?

A: Certain proposals are exempt because they are of the size or type to be unlikely to cause a significant adverse environmental impact. Examples include minor new construction, such as, four dwelling units or less, commercial buildings with 4,000 square feet or less, and minor road and street improvements. Other exemptions include enforcement and inspection activities, issuing business licenses, storm/water/sewer lines eight inches or less, etc. Some proposals are exempt by statute, regardless of environmental impact.

Q: What are "flexible thresholds"?

A: The SEPA Rules allow the counties and cities to raise the exemption levels to the maximum specified in the SEPA Rules. These flexible threshold levels allow the counties and cities to determine what level of exemption is appropriate for their jurisdiction. For example, 20 dwelling units in a large city would not have the same impact as they would in a rural community. So the large city may set the exemption at the maximum level of 20 units, and the rural community may set it at the minimum level at 4 units.

Q: When do categorical exemptions not apply?

A: Some exemptions contain conditions under which they do not apply, such as projects undertaken wholly or partly on lands covered by water; projects requiring a license to discharge to the air or water; or projects requiring a rezone. A city or county may also eliminate some exemptions if the project is located within a designated critical area. WAC 197-11-305 outlines further instances where an exempt action must be reviewed under SEPA.

Q: If a county or city has raised the categorical exemption level for minor new construction activities, or eliminated some of the categorical exemptions in critical areas, do these decisions apply when a state agency or special district is lead agency (for example, the state Department of Transportation, a port district, or school district)?

A: Yes, before deciding if a proposal is categorically exempt, state agencies and special districts should consult with the city or county with jurisdiction to determine the exemption level for that area, or whether an exemption has been eliminated within a particular critical area.

Q: When are annexations exempt? Are annexations to a district exempt?

A: The 1994 Legislature specifically exempted annexations to cities or towns [RCW 43.21C.222], although the adoption of zoning pursuant to the annexation is not exempt. Annexations to districts are specifically identified as agency actions [WAC 197-11-704(2)(b)(iv)] and are not exempt.

Q: When would it be appropriate to use the emergency exemption?

A: Emergency exemptions apply to actions that must be undertaken immediately or within a time too short to allow full compliance with SEPA to:

1. Avoid an imminent threat to public health or safety,
2. Prevent an imminent danger to public or private property, or
3. Prevent an imminent threat of serious environmental degradation.

Q: Can an emergency exemption be used for part of a project and SEPA review be required for other parts of the project?

A: If portions of the project meet the definition of emergency, those portions can be done immediately without SEPA environmental review. Other portions may require SEPA review. For example, if a marina collapses in a storm, cleanup may need to occur immediately to prevent a threat to the public or the environment. This would probably be considered an emergency exemption. However, the additional reconstruction/repair that can be done over a longer period of time would require SEPA review.

Proposed Sammamish Municipal Code Amendments:

Property Split by Zone Boundary – Code Amendment

Amendment List:

SMC 21A.25.210 - Lot divided by zone boundary.

Plain text in the following pages represents existing regulatory language.

~~Strikethrough~~ text in the following pages represents the deletion of existing regulatory language.

Underlined text in the following pages represents the addition of new regulatory language.

21A.25.210 Lot divided by zone boundary.

When a lot or development proposal site is divided by a zone boundary, the following rules shall apply:

- (1) When a lot contains both residential and nonresidential zoning, the zone boundary between the zones shall be considered a lot line for determining permitted building height and required setbacks on the site;
- (2) When a lot or development proposal site contains residential zones of varying density:
 - (a) Any residential density transfer within ~~the~~ a lot or development proposal site shall be allowed from the portion with the lesser residential density to that of the greater residential density;
 - (b) Residential density transfer from the higher density zone to the lower density zone may be allowed only when:
 - (i) The units transferred from any R-12 or R-18 zoned portion of the lot or development proposal site are maintained in an attached dwelling unit configuration on the lower density portion receiving such units;
 - (ii) The transfer does not reduce the minimum density achievable on the lot or development proposal site;
 - (iii) The transfer enhances the efficient use of needed infrastructure;
 - (iv) The transfer does not result in significant adverse impacts to the low density portion of the lot or development proposal site;
 - (v) The transfer contributes to preservation of environmentally sensitive areas, wildlife corridors, or other natural features; and
 - (vi) The transfer does not result in significant adverse impacts to adjoining lower density properties;
 - (c) Compliance with these criteria shall be evaluated during review of any development proposals in which such a transfer is proposed; and
- (3) Uses on each portion of the lot shall only be those permitted in each zone pursuant to Chapter 21A.20 SMC.

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