

Title 21
Historic Preservation

Chapter 21.10 Protection and Preservation of Landmarks

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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 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. 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 SMC Section 21.10.030, 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 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 [city](#) 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 SMC 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 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.

Comment [r1]: The Planning Commission had a discussion about whether or not to include this sentence since it would not allow citizens to nominate properties without the owners permission. Julie Koler of King County informed you that King County does not have this provision in their code. In your deliberations you need to make a recommendation to the City Council as to whether or not this is appropriate.

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 one year 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 ~~appeal such decision in writing to the City Council (Hearing Examiner?)~~, within ~~thirty-five-twenty-one~~ 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 historic preservation officer and the city clerk and shall be accompanied by a statement setting forth the grounds for the appeal, ~~the~~ appropriate fee, 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,

Comment [r2]: This will make the appeal period consistent with all of the City's other appeal time frames.

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, 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 a~~Upon receipt of an application for a development proposal located on or adjacent to a City of Sammamish historic resource , the application shall be circulated to the historic preservation officer. The City of Sammamish shall not approve any development proposal or otherwise issue any authorization to alter, demolish, or relocate or otherwise adversely affect any historic resource identified in the City of Sammamish Historic Resource Inventory, pursuant to the requirements of this chapter until after the review and recommendation of the historic preservation officer is received.and considered.-~~The standards in the Sammamish Municipal Code Chapters 21A.25 and .35 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.~~

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:~~

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

~~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.—~~1. 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.

~~2. 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.

Interlocal Agreement for Landmark Services

Addendum A: King County Labor Costs

The following hourly rates for services provided by King County Historic Preservation Program staff shall apply in 2008. The hourly figure incorporates wages, benefits, and overhead as set in the indirect cost rate plan for the Office of Business Relations and Economic Development. The figure is adjusted to account for vacation, sick leave and holidays and thus reflects actual working hours.

Historic Preservation Officer: \$76.25 per hour

Preservation Planner: \$70.77 per hour

Landmarks Coordinator: \$59.77 per hour

Addendum B: City of Sammamish Expenditure Maximum

During the calendar year 2008, total reimbursable costs billable to the City for historic preservation services provided by the County under this interlocal agreement shall not exceed \$_____.



Memorandum

Date: June 5, 2008
To: City of Sammamish Planning Commission
From: Kamuron Gurol, Community Development Director
Re: Erosion Hazard Near Sensitive Water Body (EHNSWB) overlay and
Landslide Hazard Area Code Amendments

Background:

In December of 2005, the City Council adopted amendments to the critical areas code that regulated stormwater drainage discharge in the Erosion Hazard Near Sensitive Water Body (EHNSWB) overlay and the Landslide Hazard area. The EHNSWB overlay was formerly known as the Special District Overlay 190 (a.k.a. SO-190). The EHNSWB regulates properties that drain to defined no-disturbance areas and properties located within the no-disturbance area (the slopes on the edge of the plateau where there is not a defined stream channel). The critical areas code also regulates landslide hazards due to geologic conditions and steep slope hazards due to site topography (both are termed "landslide hazard").

In particular, the 2005 code amendments established new drainage requirements for single family homes, single family additions, paving of gravel driveways, new driveways, etc, generating more than 2,000 square feet of total impervious surface, and restricted point discharges in or upstream of the no-disturbance area, erosion, or landslide hazard areas.

Three options are provided in the current code: a) infiltrate 100% of drainage on the site; b) tightline the stormwater drainage to a point below the erosion and/or landslide hazard area; or c) achieve no net increase of existing impervious surface (may need to eliminate some existing impervious surface area). The third option is allowed under the "grandfathering" provisions of the code.

Issue:

Unfortunately much of these areas are unsuitable for infiltration because of poor soil conditions and steep site topography. Consequently the only effective option for proposals generating more than 2,000 square feet is to tightline the drainage to a point below the erosion and/or landslide hazard area. This often requires crossing private property, is technically challenging, and is often cost-prohibitive.

Recently, the City Council directed the staff to investigate potential code amendments to address these concerns. If helpful, staff can bring selected case studies and supporting documentation to the Planning Commission meeting for review.

Proposal:

The proposed amendment requires that new single family homes and additions infiltrate to the maximum extent feasible based upon on-site soil conditions, topography, and confirmed through a geotechnical review. If 100% onsite infiltration is not feasible, drainage is subject individual lot evaluation to determine what methodology will minimize the potential landslides or erosion hazards. A tightline may or pmay not be required.

The amendment also provides a one-time exemption to the these requirements in the Landslide Hazard area and the EHNSWB overlay for additions to existing single family homes adding less than 200 square feet to the existing impervious surface area.

Proposed Sammamish Municipal Code Amendments:

Erosion Hazard near Sensitive Water Body (EHNSWB) and Landslide Hazard Area – Code Amendment

Amendment List:

- SMC 21A.50.225 - Erosion hazards near sensitive water bodies – Special district overlay.
SMC 21A.50.260 - Landslide hazard areas – Development standards and permitted alterations.

The proposed code amendment requires that new single family homes and additions to existing single family homes infiltrate to the maximum extent feasible on the subject site. If 100% onsite infiltration is not feasible, drainage is subject individual lot evaluation to determine what methodology will minimize the potential landslides or erosion hazards, however a tightline is not always required.

The code amendment also provides a one time exemption to the critical area drainage requirements in the Landslide Hazard area and the EHNSWB overlay for additions to existing single family homes adding less than 200 square feet to the existing impervious surface area.

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.50.225 Erosion hazards near sensitive water bodies – Special district overlay.

- (1) The purpose of the erosion hazards near sensitive water bodies special overlay district is to provide a means to designate sloped areas posing erosion hazards that drain directly to lakes or streams of high resource value that are particularly sensitive to the impacts of increased erosion and the resulting sediment loads from development.
- (2) The department of community development shall maintain a map of the boundaries of the erosion hazard near sensitive water bodies overlay district.
- (3) The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the erosion hazards near a sensitive water bodies special district overlay:
 - (a) A no-disturbance area shall be established on the sloped portion of the special district overlay to prevent damage from erosion. The upslope boundary of the no-disturbance area lies at the first obvious break in slope from the upland plateau over onto the steep valley walls. The downslope boundary of the no-disturbance area is the extent of those areas designated as erosion or landslide hazard areas. The department shall maintain maps of the approximate location of the no-disturbance areas, which shall be subject to field verification for new development proposals.
 - (b) Land clearing or development shall not occur in the no-disturbance area, except for the clearing activities listed in subsection (3)(b)(i) of this section. Clearing activities listed in subsection (3)(b)(i) of this section shall only be permitted if they meet the requirements of subsection (3)(b)(ii) of this section.
 - (i) Clearing activities may be permitted as follows:
 - (A) For single-family residences, associated landscaping and appurtenances on pre-existing separate lots;
 - (B) For utility corridors to service existing development along existing rights-of-way including any vacated portions of otherwise contiguous rights-of-way, or for the construction of utility corridors identified within an adopted water, storm water, or sewer comprehensive plan; or
 - (C) For streets providing sole access to buildable property and associated utility facilities within those streets.
 - (ii) The clearing activities listed in subsection (3)(b)(i) of this section may be permitted only if the following requirements are met:
 - (A) A report that meets the requirements of SMC 21A.50.130 shall show that the clearing activities will not subject the area to risk of landslide or erosion and that the purpose of the no-disturbance area is not compromised in any way;
 - (B) The clearing activities shall be mitigated, monitored and bonded consistent with the mitigation requirements applicable to critical areas;
 - (C) The clearing activities are limited to the minimal area and duration necessary for construction; and
 - (D) The clearing activities are consistent with this chapter.
 - (c) New proposed subdivisions, short subdivisions, commercial site development permits, and binding site plans~~development proposals~~ for sites that drained predeveloped runoff to the no-disturbance zone shall evaluate the suitability of on-site soils for infiltration. All runoff from newly constructed impervious surfaces shall be retained on-site unless this requirement precludes a proposed subdivision or short subdivision from achieving 75 percent of the maximum net density as identified in Chapter 21A.25 SMC. When 75 percent of the maximum net density cannot be met, the applicant shall retain runoff on-site and a perforated tightline (Figure C.2.I, Appendix C, of the 1998 KCSWDM, as amended) shall be used to connect each lot to the central drainage system. The following drainage systems shall be evaluated, using the following sequential measures, which appear in order of preference:
 - (i) Infiltration of all site runoff shall be required in granular soils as defined in the King County Surface Water Design Manual (KCSWDM);
 - (ii) Infiltration of downspouts shall be required in granular soils and in soil conditions defined as allowable in the KCSWDM when feasible to fit the required trench lengths on-site. All flows not going to an individual infiltration system shall be detained on-site using the most restrictive flow control standard; and

Section A

Section B

- (iii) When infiltration of downspouts is not feasible, the applicant shall design a drainage system that will detain flows on-site using the applicable flow control standard and shall install an outlet from the drainage system designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; provided, that in no case shall development proposals generating more than 2,000 square feet of impervious surface create point discharges in or upstream of the no-disturbance or landslide hazard areas.

(d) New single family home construction or modifications or additions to existing single family homes on existing legal lots that will result in a total site impervious surface of more than 2,000 square feet shall provide a drainage design, using the following sequential measures, which appear in order of preference:

- (i) Infiltration of all site runoff shall be required to the maximum extent technically feasible in soils conditions, consistent with the infiltration system design requirements of the KCSWDM;
- (ii) For development proposals that cannot infiltrate all site runoff, newly constructed impervious surfaces shall be infiltrated to the maximum extent technically feasible in soil conditions, consistent with the infiltration system design requirements of the KCSWDM;
- (iii) For development proposals that cannot infiltrate all site runoff, the applicant shall design a drainage system that provides a drainage outlet designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; and,
- (iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements that do not increase the existing total footprint of the residence and associated impervious surface by more than 200 square feet shall be exempt from the provisions of this section.

(ed) For the portions of proposed subdivisions, short subdivisions and binding site plans that cannot infiltrate runoff up to the 100-year peak flow, at least 25 percent shall remain undisturbed and set aside in an open space tract consistent with SMC 21A.50.160 through 21A.50.190. The open space tract shall be located adjacent to any required critical area tracts and shall be designed to maximize the amount of separation between the critical area and the proposed development. If no critical areas tracts are required, the open space tract shall be located to provide additional protection to the no-disturbance area.

(fe) For the portions of all subdivisions and short subdivisions that cannot infiltrate runoff up to the 100-year peak flow, no more than 35 percent of the gross site area shall be covered by impervious surfaces. For new subdivisions and short subdivisions, maximum lot coverage should be specified for subsequent residential building permits on individual lots.

(gf) If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to SMC 21A.50.070(2).

(hg) The director may modify the property-specific development standards required by this section when a critical areas study is conducted by the applicant and approved by the director which demonstrates that the proposed development substantially increases water quality by showing the following:

- (i) Water quality on-site is improved through site enhancements and/or other innovative management techniques;
- (ii) The development project will not subject downstream channels to increased risk of landslide or erosion; and
- (iii) The development project will not subject the nearest sensitive water body to additional erosion hazards. (Ord. O2005-193 § 1)

21A.50.260 Landslide hazard areas – Development standards and permitted alterations.

A development proposal containing, or within 50 feet of, a landslide hazard area shall meet the following requirements:

- (1) A minimum buffer of 50 feet shall be established from all edges of the landslide hazard area. The buffer shall be extended as required to mitigate a landslide or erosion hazard or as otherwise necessary to protect the public health, safety, and welfare.

- (2) The buffer may be reduced to a minimum of 15 feet if, based on a critical areas study, the City determines that the reduction will adequately protect the proposed development and other properties, the critical area and other critical areas off-site.
- (a) For single-family residential building permits only, the City may waive the critical areas study requirement if other development in the area has already provided sufficient information or if such information is otherwise readily available.
- (b) In addition to the general requirements for critical areas studies that may be required consistent with SMC 21A.50.130, the critical areas study for a landslide hazard area shall specifically include:
- (i) A description of the extent and type of vegetative cover;
 - (ii) A description of subsurface conditions based on data from site-specific explorations;
 - (iii) Descriptions of surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - (iv) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
 - (v) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
 - (vi) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
 - (vii) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - (viii) Recommendations for building siting limitations; and
 - (ix) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.
- (3) Unless otherwise provided herein or as part of an approved alteration, removal of any vegetation from a landslide hazard area or buffer shall be prohibited, except for limited removal of vegetation necessary for surveying purposes and for the removal of hazard trees determined to be unsafe by the City. The City may require the applicant to submit a report prepared by a certified arborist to confirm hazard tree conditions. Notice to the City shall be provided prior to any vegetation removal permitted by this subsection.
- (4) Vegetation on slopes within a landslide hazard area or buffer that has been damaged by human activity or infested by noxious weeds may be replaced with native vegetation pursuant to an enhancement plan approved by the City. The use of hazardous substances, pesticides, and fertilizers in landslide hazard areas and their buffers may be prohibited by the City.
- (5) Alterations to landslide hazard areas and buffers may be allowed only as follows:
- (a) A landslide hazard area located on a slope 40 percent or steeper may be altered only if the alteration meets the following standards and limitations:
- (i) Approved surface water conveyances, as specified in the applicable City-adopted storm water requirements, may be allowed in a landslide hazard area if they are installed in a manner to minimize disturbance to the slope and vegetation;
 - (ii) Public and private trails may be allowed in a landslide hazard area subject to the standards and mitigations contained in this chapter, development standards in Chapter 21A.30 SMC, and requirements elsewhere in the SMC, when locating outside of the hazard area is not feasible;
 - (iii) Utility corridors may be allowed in a landslide hazard area if a critical areas study shows that such alteration will not subject the area to the risk of landslide or erosion;
 - (iv) Limited trimming and pruning of vegetation may be allowed in a landslide hazard area pursuant to an approved vegetation management plan for the creation and maintenance of views if the soils are not disturbed;
 - (v) Stabilization of sites where erosion or landsliding threatens public or private structures, utilities, roads, driveways or trails, or where erosion and landsliding threaten any lake, stream, wetland, or shoreline. Stabilization work shall be performed in a manner that causes the least possible disturbance to the slope and its vegetative cover; and
 - (vi) Reconstruction, remodeling, or replacement of an existing structure upon another portion of an existing impervious surface that was established pursuant to City ordinances and regulations may be allowed; provided:

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- (A) If within the buffer, the structure is located no closer to the landslide hazard area than the existing structure; and
 - (B) The existing impervious surface within the buffer or landslide hazard area is not expanded as a result of the reconstruction or replacement.
- (b) A landslide hazard area located on a slope less than 40 percent may be altered only if the alteration meets the following requirements:
- (i) The development proposal will not decrease slope stability on contiguous properties; and
 - (ii) Mitigation based on the best available engineering and geological practices is implemented that either eliminates or minimizes the risk of damage, death, or injury resulting from landslides; and
- (c) Neither buffers nor a critical area tract shall be required if the alteration meets the standards of subsection (5)(b) of this section.
- (6) New development proposals that will result in a total site impervious surface of more than 2,000 square feet shall provide a drainage design, using the following sequential measures, which appear in order of preference:
- (a) Infiltration of all site runoff shall be required to the maximum extent technically feasible in soils conditions, consistent with the infiltration system design requirements of the KCSWDM;
 - (b) For development proposals that cannot infiltrate all site runoff, newly constructed impervious surfaces shall be infiltrated to the maximum extent technically feasible in soil conditions, consistent with the infiltration system design requirements of the KCSWDM;
 - (c) For development proposals that cannot infiltrate all site runoff, the applicant shall design a drainage system that provides a drainage outlet designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; and,
 - (d) Structural modification of, addition to or replacement of legally created single detached residences and improvements that do not increase the existing total footprint of the residence and associated impervious surface by more than 200 square feet shall be exempt from the provisions of this section.
- ~~Point discharges from surface water facilities in erosion hazard areas and onto or upstream from landslide hazard areas shall be prohibited for developments generating more than 2,000 square feet of impervious surface area, except if conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas downstream from the discharge.~~
- (7) The following are exempt from the provisions of this section:
- (a) Slopes that are 40 percent or steeper with a vertical elevation change of up to 20 feet if no adverse impact will result from the exemption based on the City's review of and concurrence with a soils report prepared by a geologist or geotechnical engineer; and
 - (b) The approved regrading of any slope that was created through previous legal grading activities. (Ord. O2005-193 § 1; Ord. O99-29 § 1)

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.

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.

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

- (a) SEPA – State Environmental Policy Act.

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- (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):

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

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(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 ~~20~~40 automobiles;

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

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(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.~~

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

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(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.

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(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 ~~may~~ 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 ~~may~~ 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)

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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

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specified in Chapters 24.15 and 24.20 SMC.

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

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(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.

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(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.

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(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).

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(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)