20.62 PROTECTION AND PRESERVATION OF LANDMARKS, LANDMARK SITES AND DISTRICTS

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20.62.010 Findings and declaration of purpose. The King County council finds that:

A. 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 King County, 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, civic pride and general welfare of the people of King County.

B. Such cultural and historic resources are a significant part of the heritage, education and economic base of King County, 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.

C. Present heritage and preservation programs and activities are inadequate for insuring present and future generations of King County residents and visitors a genuine opportunity to appreciate and enjoy our heritage.

D. The purposes of this chapter are to:

1. Designate, preserve, protect, enhance and perpetuate those sites, buildings, districts, structures and objects which reflect significant elements of the county's, state's and nation's cultural, aesthetic, social, economic, political, architectural, ethnic, archaeological, engineering, historic and other heritage;

2. Foster civic pride in the beauty and accomplishments of the past;

3. Stabilize and improve the economic values and vitality of landmarks;

4. Protect and enhance the county's tourist industry by promoting heritage-related tourism;

5. Promote the continued use, exhibition and interpretation of significant historical or archaeological sites, districts, buildings, structures, objects, artifacts, materials and records for the education, inspiration and welfare of the people of King County;

6. Promote and continue incentives for ownership and utilization of landmarks;

7. Assist, encourage and provide incentives to public and private owners for preservation, restoration, rehabilitation and use of landmark buildings, sites, districts, structures and objects;

8. Assist, encourage and provide technical assistance to public agencies, public and private museums, archives and historic preservation associations and other organizations involved in historic preservation and archaeological resource management; and

9. Work cooperatively with all local jurisdictions to identify, evaluate, and protect historic resources in furtherance of the purposes of this chapter. (Ord. 14482 § 68, 2002: Ord. 10474 § 1, 1992: Ord. 4828 § 1, 1980).

20.62.020 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 landmarks commission created by this chapter.

E. "Community landmark" is an historic resource which has been designated pursuant to K.C.C. 20.62.040 but which may be altered or changed without application for or approval of a certificate of appropriateness.

F. "Designation" is the act of the commission determining that an historic resource meets the criteria established by this chapter.

G. "Designation report" is a report issued by the commission after a public hearing setting forth its determination to designate a landmark and specifying the significant feature or features thereof.

H. "Director" is the director of the King County department of permitting and environmental review or his or her designee.

I. "District" is a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

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

K. "Historic preservation officer" is the King County historic preservation officer or his or her designee.

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 K.C.C. 20.62.040.A. The historic resource inventory is kept on file by the historic preservation officer and is updated from time to time to include newly eligible resources and to reflect changes to resources.

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

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

P. "Landmark" is an historic resource designated as a landmark pursuant to K.C.C. 20.62.070.

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

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

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

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

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

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

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

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

Y. "Structure" is any functional construction made usually for purposes other than creating human shelter. (Ord. 17635 §, 1, 2013: Ord. 17420 § 95, 2012: Ord. 14482 § 69, 2002: Ord. 11620 § 13, 1994: Ord. 10474 § 2, 1992: Ord. 4828 § 2, 1980).

20.62.030 Landmarks commission created - membership and organization.

A. There is created the King County landmarks commission which shall consist of nine regular members and special members selected as follows:

1. Of the nine regular members of the commission at least three shall be professionals who have experience in identification, evaluation, and protection of historic resources and have been selected from among the fields of history, architecture, architectural history, historic preservation, planning, cultural anthropology, archaeology, cultural geography, landscape architecture, American studies, law, or other historic preservation related disciplines. The nine regular members of the commission shall be appointed by the county executive, subject to confirmation by the council, provided that no more than four members shall reside within any one municipal jurisdiction. All regular members shall have a demonstrated interest and competence in historic preservation.

2. The county executive may solicit nominations for persons to serve as regular members of the commission from the Association of King County Historical Organizations, the American Institute of Architects (Seattle Chapter), the Seattle King County Bar Association, the Seattle Master Builders, the chambers of commerce, and other professional and civic organizations familiar with historic preservation.

3. One special member shall be appointed from each municipality within King County which has entered into an interlocal agreement with King County providing for the designation by the commission of landmarks within such municipality in accordance with the terms of such interlocal agreement and this chapter. Each such appointment shall be in accordance with the enabling ordinance adopted by such municipality.

B. Appointments of regular members, except as provided in subsection C of this section, shall be made for a three-year term. Each regular member shall serve until his or her successor is duly appointed and confirmed. Appointments shall be effective on June 1st of each year. 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. Any member may be reappointed, but may not serve more than two consecutive three-year terms. A member shall be deemed to have served one full term if such member resigns at any time after appointment or if such member serves more than two years of an unexpired term. The members of the commission shall serve without compensation except for out-of-pocket expenses incurred in connection with commission meetings or programs.

C. After May 4, 1992, the term of office of members becomes effective on the date the council confirms the appointment of commission members and the county executive shall appoint or reappoint three members for a three-year term, three members for a two-year term, and three members for a one-year term. For purposes of the limitation on consecutive terms in subsection B of this section an appointment for a one-or a two-year term shall be deemed an appointment for an unexpired term.

D. The chair shall be a member of the commission and shall be elected annually by the regular commission members. The commission shall adopt, in accordance with K.C.C. chapter 2.98, rules and regulations, including procedures, consistent with this chapter. The members of the commission shall be governed by the King County code of ethics, K.C.C. chapter 3.04. The commission shall not conduct any public hearing required

under this chapter until rules and regulations have been filed as required by K.C.C. chapter 2.98.

E. A special member of the commission shall be a voting member solely on matters before the commission involving the designation of landmarks within the municipality from which such special member was appointed.

F. A majority of the current appointed and confirmed members of the commission shall constitute a quorum for the transaction of business. A special member shall count as part of a quorum for the vote on any matter involving the designation or control of landmarks within the municipality from which such special member was appointed. All official actions of the commission shall require a majority vote of the members present and eligible to vote on the action voted upon. No member shall be eligible to vote upon any matter required by this chapter to be determined after a hearing unless that member has attended the hearing or familiarized him or herself with the record.

G. The commission may from time to time establish one or more committees to further the policies of the commission, each with such powers as may be lawfully delegated to it by the commission.

H. The county executive shall provide staff support to the commission and shall assign a professionally qualified county employee to serve as a full-time historic preservation officer. Under the direction of the commission, the historic preservation officer shall be the custodian of the commission's records. The historic preservation officer or his or her designee shall conduct official correspondence, assist in organizing the commission and organize and supervise the commission staff and the clerical and technical work of the commission to the extent required to administer this chapter.

I. The commission shall meet at least once each month for the purpose of considering and holding public hearings on nominations for designation and applications for certificates of appropriateness. Where no business is scheduled to come before the commission seven days before the scheduled monthly meeting, the chair of the commission may cancel the meeting. All meetings of the commission shall be open to the public. The commission shall keep minutes of its proceedings, showing the action of the commission upon each question, and shall keep records of all official actions taken by it, all of which shall be filed in the office of the historic preservation officer and shall be public records.

J. At all hearings before and meetings of the commission, all oral proceedings shall be electronically recorded. The proceedings may also be recorded by a court reporter if any interested person at his or her expense shall provide a court reporter for that purpose. A tape recorded copy of the electronic record of any hearing or part of a hearing shall be furnished to any person upon request and payment of the reasonable expense of the copy.

K. The commission is authorized, subject to the availability of funds for that purpose, to expend moneys to compensate experts, in whole or in part, to provide technical assistance to property owners in connection with requests for certificates of appropriateness upon a showing by the property owner that the need for the technical assistance imposes an unreasonable financial hardship on the property owner.

L. Commission records, maps or other information identifying the location of archaeological sites and potential sites shall be exempt from public disclosure as specified

in RCW 42.17.310 in order to avoid looting and depredation of the sites. (Ord. 14482 § 70, 2002: Ord. 10474 § 3, 1992: Ord. 10371 § 1, 1992: Ord. 4828 § 3, 1980).

20.62.040 Designation criteria.

A. An historic resource may be designated as a King County 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, or association, or any combination of the foregoing aspects of integrity, sufficient to convey its historic character, and:

1. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history;

2. Is associated with the lives of persons significant in national, state or local history;

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;

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 art.

B. An historic resource may be designated a community landmark because it is an easily identifiable visual feature of a neighborhood or the county and contributes to the distinctive quality or identity of such neighborhood or county or because of its association with significant historical events or historic themes, association with important or prominent persons in the community or county or recognition by local citizens for substantial contribution to the neighborhood or 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 K.C.C. 20.62.080.

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 subsection A. of this section or if it is:

2. A religious property deriving primary significance from architectural or artistic distinction or historical importance;

3. A building or structure removed from its original location but that is significant primarily for its architectural value, or which is the surviving structure most importantly associated with a historic person or event;

4. A birthplace, grave or residence of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his or her productive life;

5. A cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features or from association with historic events;

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;

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. (Ord. 17635 § 2, 2013: Ord. 10474 § 4, 1992: Ord. 4828 § 4, 1980).

20.62.050 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 Sections 20.62.050 and 20.62.080 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 20.62.040. 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 historic preservation officer, shall be filed with the historic preservation officer, and shall include all data required by the commission.

B. Upon receipt by the historic preservation officer of any nomination for designation, the officer shall review the nomination, consult with the person or persons submitting the nomination, and the owner, and prepare any amendments to or additional information on the nomination deemed necessary by the 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 officer shall give notice in writing, certified mail/return receipt requested, to the owner of the property or object, to the person submitting the nomination and interested persons of record that a preliminary or a designation determination on the nomination will be made by the commission. The notice shall include:

1. The date, time, and place of hearing;

2. The address and description of the historic resource and the boundaries of the nominated resource;

3. A statement that, upon a designation or upon a preliminary determination of significance, the certificate of appropriateness procedure set out in Section 20.62.080 will apply;

4. A statement that, upon a designation or a preliminary determination of significance, no significant feature may be changed without first obtaining a certificate of

appropriateness from the commission, whether or not a building or other permit is required. A copy of the provisions of Section 20.62.080 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, refer the nomination and all supporting information to the commission for consideration on the date specified in the notice. 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. (Ord. 10474 § 5, 1992: Ord. 4828 § 5, 1980).

20.62.070 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 K.C.C. 20.62.040 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 K.C.C. 20.62.040. 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 K.C.C. 20.62.080, a copy of which shall be enclosed, shall apply to the described historic resource whether or not a building or other permit is required. The 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 nominated resource and such other description of the resource sufficient to identify its ownership and location;

2. The significant features and such other information concerning the historic resource as the commission deems appropriate;

3. Findings of fact and reasons supporting the designation with specific reference to the criteria for designation in K.C.C. 20.62.040; 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 K.C.C. 20.62.080, a copy of which shall be included in the designation report. 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 K.C.C. 20.62.040 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 King County landmark status and the foregoing requirement for a written decision shall apply. Nothing contained herein shall prevent renominating any historic resource rejected under this subsection as a King County landmark at a future time.

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 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 K.C.C. 20.62.080 no longer applies to the subject historic resources.

E. If the commission approves, or amends a landmark designation, K.C.C. 20.62.080 shall apply as approved or amended. A copy of the commission's designation report or designation amendment shall be recorded with the records and licensing services division, or its successor agency, together with a legal description of the designated resource and notification that K.C.C. 20.62.080 and 20.62.130 apply. If the commission terminates the designation of a historic resource, K.C.C. 20.62.080 shall no longer apply to the historic resource. (Ord. 15971 § 92, 2007: Ord. 14482 § 71, 2002: Ord. 14176 § 4, 2001: Ord. 11620 § 14, 1994: Ord. 10474 § 6, 1992: Ord. 4828 § 7, 1980).

20.62.080 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. The designation report shall supersede the preliminary determination report. This requirement shall apply whether or not the proposed alteration also requires a building or other permit. The requirements of this

section shall not apply to any historic resource located within incorporated cities or towns in King County, except as provided by applicable interlocal agreement.

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. There shall be three types of certificates of appropriateness, as follows:

1. Type I, for restorations and major repairs which utilize in-kind materials.

2. Type II, for alterations in appearance, replacement of historic materials and new construction.

3. Type III, for demolition, moving and excavation of archaeological sites.

In addition, the commission shall establish and adopt an appeals process concerning Type I decisions made by the historic preservation officer with respect to the applications for certificates of appropriateness.

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 adopt an appeals procedure concerning Type I decisions made by the historic preservation officer.

Type II and III certificates of appropriateness shall be decided by the commission and the following general procedures shall apply to such commission actions:

1. 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.

2. 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.

3. 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 3 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.

4. 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.

5. 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.

D. The commission shall adopt such other supplementary procedures consistent with K.C.C. 2.98 as it determines are required to carry out the intent of this section. (Ord. 11620 § 15, 1994: Ord. 10474 § 7, 1992: Ord. 4828 § 8, 1980).

20.62.100 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.

d. 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. (Ord. 10474 § 8, 1992: Ord. 4828 § 10, 1980).

20.62.110 Appeal procedure. 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 [file a statement of appeal, with the historic preservation officer, in accordance with K.C.C.]* 20.22.080. (Ord. 18230 § 123, 2016: Ord. 10474 § 9, 1992: Ord. 4828 § 11, 1980).

***Reviser's note: Added but not underlined in Ordinance 18230. See K.C.C. 1.24.075.**

20.62.120 Funding.

A. The commission shall have the power to make and administer grants of funds received by it from private sources and from local, state and federal programs for purposes of:

1. Maintaining, purchasing or restoring historic resources located within King County which it deems significant pursuant to the goals, objectives and criteria set forth in this chapter if such historic resources have been nominated or designated as landmarks pursuant to this chapter or have been designated as landmarks by municipalities within King County or by the State of Washington, or are listed on the National Historic Landmarks Register, the National Register of Historic Places; and

2. Developing and conducting programs relating to historic preservation and archaeological resource management. The commission shall establish rules and regulations consistent with K.C.C. chapter 2.98 governing procedures for applying for and awarding of grant moneys pursuant to this section.

B. The commission may, at the request of the historic preservation officer, review proposals submitted by county agencies to fund historic preservation and archaeological projects through the Housing and Community Development Act of 1974 (42 U.S.C. Secs. 5301 et seq.), the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. Secs. 1221 et seq.) and other applicable local, state and federal funding programs. Upon review of such grant proposals, the commission may make recommendations to the county executive and county council concerning which proposals should be funded, the amount of the grants that should be awarded, the conditions that should be placed on the grant, and such other matters as the commission deems appropriate. The historic preservation officer shall keep the commission apprised of the status of grant proposals, deadlines for submission of proposals and the recipients of grant funds. (Ord. 14482 § 72, 2002: Ord. 10474 § 10, 1992: Ord. 4828 § 12, 1980).

20.62.130 Penalty for violation of Section 20.62.080. Any person violating or failing to comply with the provisions of Section 20.62.080 of this chapter shall incur a civil penalty of up to five hundred dollars per day and each day's violation or failure to comply shall constitute a separate offense; provided, however, that no penalty shall be imposed for any violation or failure to comply which occurs during the pendency of legal proceedings filed in any court challenging the validity of the provision or provisions of this chapter, as to which such violations or failure to comply is charged. (Ord. 4828 § 13, 1980).

20.62.140 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 King County landmarks designated and protected under this chapter shall be eligible for special valuation in accordance with chapter 84.26 RCW. (Ord. 14482 § 73, 2002: Ord. 10474 § 12, 1992: Ord. 9237 §§ 1-3, 1989).

20.62.150 Historic Resources - review process.

A. King County shall not approve any development proposal or otherwise issue any authorization to alter, demolish, or relocate any historic resource identified in the King County Historic Resource Inventory, pursuant to the requirements of this chapter. The standards contained in K.C.C. 21A.12, Development Standards - Density and Dimensions and K.C.C. 21A.16, Development Standards - Landscaping and Water Use shall be expanded, when necessary, to preserve the aesthetic, visual and historic integrity of the historic resource from the impacts of development on adjacent properties.

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

1. The development proposal application shall be circulated to the King County historic preservation officer for comment on the impact of the project on historic resources and for recommendation on mitigation. This includes all permits for alterations to historic buildings, alteration to landscape elements, new construction on the same or abutting lots, or any other action requiring a permit which might affect the historic character of the resource. Information required for a complete permit application to be circulated to the historic preservation officer shall include:

a. a vicinity map;

b. a site plan showing the location of all buildings, structures, and landscape features;

c. a brief description of the proposed project together with architectural drawings showing the existing condition of all buildings, structures, landscape features and any proposed alteration to them;

d. photographs of all buildings, structures, or landscape features on the site; and

e. an environmental checklist, except where categorically exempt under King County SEPA guidelines.

2. Upon request, the historic preservation officer shall provide information about available grant assistance and tax incentives for historic preservation. The officer may also provide the owner, developer, or other interested party with examples of comparable projects where historic resources have been restored or rehabilitated.

3. In the event of a conflict between the development proposal and preservation of an historic resource, the historic preservation officer shall:

a. suggest appropriate alternatives to the owner/developer which achieve the goals of historic preservation;

b. recommend approval, or approval with conditions to the director of the department of development and environmental services; or

c. propose that a resource be nominated for county landmark designation according to procedures established in the landmarks preservation ordinance (K.C.C. 20.62).

4. The director may continue to process the development proposal application, but shall 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 K.C.C. 20.62.080.

5. On known archaeological sites, before any disturbance of the site, including, but not limited to test boring, site clearing, construction, grading or revegetation, the State Office of Archaeology and Historic Preservation (OAHP), and the King County historic preservation officer, and appropriate Native American tribal organizations must be notified and state permits obtained, if required by law. The officer may require that a professional archaeological survey be conducted to identify site boundaries, resources and mitigation alternatives prior to any site disturbance and that a technical report be provided to the officer, OAHP and appropriate tribal organizations. The officer may approve, disapprove or require permits 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 King County landmark or an historic resource that has received a preliminary determination of significance as defined by K.C.C. 20.62.020V, the application circulated to the King County historic preservation officer shall be deemed an application for a certificate of appropriateness pursuant to K.C.C. 20.62.080 if accompanied by the additional information required to apply for such certificate. (Ord. 11620 § 12, 1994).

20.62.160 Administrative rules. The director may promulgate administrative rules and regulations pursuant to K.C.C. 2.98, to implement the provisions and requirements of this chapter. (Ord. 11620 § 16, 1994).