

**RULES AND REGULATIONS
OF THE
KING COUNTY LANDMARKS COMMISSION**

The following Rules and Regulations have been adopted by the King County Landmarks Commission pursuant to Paragraph D of Section 3 of King County Code (KCC) 20.62 (Ordinance 10474).

- Part I: Ethics, Conflict of Interest, and Appearance of Fairness
- Part II: Organization
- Part III: Conduct of Meetings and Hearings
- Part IV: Nomination and Designation of Landmarks
- Part V: Design Review Guidelines
- Part VI: Certificates of Appropriateness
- Part VII: Evaluation of Economic Impact
- Part VIII: Incentives for Landmark Property Owners
- Part IX: Appeals and Reconsideration

Definitions: The words and terms, as defined in KCC 20.62.020 (Ordinance 10474) are used in these Rules and Regulations.

Order of Precedence: These Rules and Regulations are adopted pursuant to Ordinance 10474, KCC 20.62.030 D. In the event of any conflict between these Rules and Regulations and Ordinance 10474 the provisions of the Ordinance shall govern.

PART I: ETHICS, CONFLICT OF INTEREST AND APPEARANCE OF FAIRNESS

- A. The members of the King County Landmarks Commission (Commission) shall be governed by the King County Code of Ethics, KCC Chapter 3.04 as hereafter amended (KCC 20.62.030D). The purpose of this Part I is to provide specific guidance to commissioners in the application of the Code of Ethics to the business of the Commission.
- B. In their capacity as members of the Commission, commissioners will avoid participating in deliberations or acting on any matter in which there exists either a conflict of interest or the appearance of a conflict of interest.
1. Conflict of interest or a perceived conflict of interest shall be deemed to exist with respect to any matter:
 - a. In which the commissioner or any member of his or her immediate family¹ has a direct financial interest.
 - b. Which will directly involve (e.g. grants, contracts, landmark designation, Certificate of Appropriateness, special tax valuation) any organization in which the Commissioner is a director or officer or has within one year been a director or officer.
 2. No commissioner shall communicate with or attempt to influence any other commissioner concerning any matter before the Commission, or which may reasonably be expected to come before the Commission, in which such commissioner has a conflict of interest or a perceived conflict of interest.
- C. Commissioners must decide any quasi-judicial matters¹ brought before the Commission only on the basis of the public record and such things on which they may properly take judicial notice. Commissioners should avoid all ex parte² communications concerning any quasi-judicial proceeding.
1. Quasi-judicial matters which may come before the Commission are:
 - a. Landmark nominations
 - b. Certificate of Appropriateness applications

¹ "Immediate family" spouse, dependent children, and other dependent relatives if living in his or her household. (K.C.C. 3.04.17H)

² "Quasi-judicial" is a term applied to the action of public administrative officers who are required to investigate facts or ascertain the existence of facts and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature.

- c. Special valuation for historic property applications. (When the Commission sits as a “Local Review Board” under 84.26 RCW)
2. An "ex parte" communication refers to information received by a commissioner outside of the official proceeding on the matter.
 - a. Commissioners are encouraged to view the property which is the subject of the proceeding. The fact of such visit should be reported at the hearing and made a part of the record.
 - b. If a commissioner receives information outside of the public proceeding he or she should report the receipt of such information and the nature of such information for the record. If the information was received in tangible form it should be made a part of the record.
3. In their deliberations commissioners may take "judicial notice"³ of any commonly known fact even if not made a part of the record. (e.g. the laws of the state, historical events, the constitution, the course of nature, geographical features, etc.)

PART II: ORGANIZATION

- A. Chair and Vice Chair. The Chair of the Commission shall be a member of the Commission and shall be elected annually by the regular commission members. At its regular meeting in the month of January of each year the regular members of the Commission shall elect from among members of the Commission a Chair and a Vice Chair. The Vice Chair shall act for the Chair in his or her absence or unavailability and shall perform such additional duties as may be delegated to him or her by the Chair.
- B. Standing Committees. Standing committees shall consist of three to five members of the Commission appointed by the Chair.
- C. Ad Hoc Committees. From time to time the Chair may appoint or the Commission may establish committees for special purposes. Such committees may include members of the Commission and non members, provided however, the Commission shall not delegate any of its powers to any Committee which includes non members of the Commission.
- D. Membership on Other Committees. The Chair may from time to time appoint members of the Commission as Commission representatives to joint committees made up of

³"Judicial Notice" is that which is so notorious that everybody, including judges, knows about it.

representatives of other public and private organizations. If any member so appointed is authorized to make commitments on behalf of the Commission such appointment and the extent of his or her authority shall be subject to confirmation by the Commission.

- E. Commission Acts Collectively. The Commission acts as a body. No individual commissioner has authority to act in his or her individual capacity. Individual commissioners may, from time to time, be delegated specific authority to act for and on behalf of the Commission. The Chair is the official spokesperson for the Commission, except to the extent he or she may delegate specific matters to other commissioners.
- F. Correspondence. Under the direction of the Commission, the Historic Preservation Officer or his or her designee shall conduct all official correspondence. Correspondence with elected public officials will be signed by the Chair, or his or her designee.

PART III: CONDUCT OF MEETINGS AND HEARINGS

- A. Procedures. Meetings will be conducted in accordance with the Procedures of Small Boards in Robert's Rules of Order, Newly Revised, except to the extent that they are in conflict with Ordinance 10474 and these Rules and Regulations.
- B. Presiding Officer. The Chair of the Commission shall act as presiding officer, or, in the absence of the Chair, the Vice Chair. In the absence of both the Chair and the Vice Chair, the Commission shall elect one of its members to act as presiding officer. During the course of quasi-judicial proceedings, the Chair of the Commission shall act as presiding officer and rule on all procedural matters, including objections, requests, and motions brought by participants in the quasi-judicial proceeding, and shall regulate the course of the hearing and the admission of evidence. In the absence of the Chair, the Vice-Chair shall perform these duties, and in the absence of both the Chair and the Vice-Chair, the Commission shall select one of its members to act as presiding officer.
- C. Quorum. A majority of the currently appointed and confirmed regular members of the Commission shall constitute a quorum for the transaction of business. A special member of the Commission shall be counted in determining the number required for a quorum and shall be counted as a part of a quorum for the vote on any matter involving the designation or control of landmarks and in determination of the special tax valuation for historic properties within the municipality from which such special member was appointed.
- D. Absence of a Quorum. No official business shall be conducted by the Commission in the absence of a quorum. However, the commissioners present may, if the meeting agenda has not been completed, establish a time and place for an adjourned meeting.

- E. Attendance. Commissioners shall notify the Historic Preservation Officer or the Chair if they are unable to attend a meeting. Such notice shall be made as far in advance of the meeting as possible. Three or more unexcused absences within a 12 month period shall constitute grounds for dismissal from the Commission.
- F. Scheduling of Meetings.
1. The Commission shall hold regular monthly meetings on the fourth Thursday of each month.
 2. 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.
 3. The Chair may change the date, time and location of the regular monthly meeting not less than seven days before the scheduled monthly meeting and not less than seven days before the changed meeting date.
 4. Notice of the cancellation or rescheduling of a regular meeting shall be published not less than six days before the scheduled meeting and not less than six days before the changed meeting date.
- G. Special Meetings. A special meeting may be held at the call of the Chair or at the written request of three commissioners.
1. Notice of a special meeting must be delivered personally or by regular or e-mail, at least 24 hours before the time of such meeting as specified in the notice, to each commissioner; and to each local newspaper of general circulation and to each local radio or television station which has on file with the Commission a written request to be notified of such special meeting or of all special meetings.
 2. The call and notice of the special meeting shall specify the time and place of the meeting and the business to be transacted. The Commission shall not take final action on any matter not specified in such notice.
 3. Written notice may be dispensed with as to any commissioner who is actually present at the meeting at the time it convenes or who, prior to the time the meeting convenes, files with the Historic Preservation Officer a written waiver of notice. Such waiver may be given by e-mail or FAX.
 4. Notices provided in this Section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

- H. Notification of Meetings. The Historic Preservation Officer shall cause notice of any meeting or hearing or of the cancellation, rescheduling, or adjournment of any meeting or hearing to be mailed to any persons or organizations who have requested in writing that they be notified. Such request may be for all meetings of the Commission or for only those meetings with certain subjects on the agenda.
- I. Open Meetings. All meetings of the Commission shall be open to the public
- J. Public Hearings. A public hearing is a meeting or part of a meeting of the Commission held for the purpose of receiving information from the public on a matter on the Commission agenda.
1. A public hearing shall be held prior to a decision of the Commission on: the designation of a landmark, including, but not limited to, amendments and terminations of designation; a request for a Certificate of Appropriateness, except requests for a Type I Certificate, unless referred to the Commission by the Historic Preservation Officer or on an appeal by the applicant from an adverse decision of the Historic Preservation Officer; and, when sitting as a Local Review Board for purposes related to 84.26 RCW , (Special Valuation for Historic Properties). The Commission may, at its discretion, hold public hearings on other matters on which it desires general public input.
 2. It is the policy of the Commission, to the extent practicable, to conduct public hearings concerning the designation of property as a landmark, Certificates of Appropriateness and the Special Valuation of Historic Properties in the community in which the property is located.
 3. The Applicant for a landmark designation, amendment or termination, Certificate of Appropriateness, or Special Valuation, and the owner, if not the applicant, will be allotted reasonable time to present their case. Applicants or owners may speak through a personal representative.
 4. The order of speaking at a public hearing may be determined at the discretion of the Chair, however the following order shall generally apply:
 - a. Staff and Commission's experts
 - b. Applicant and Applicant's experts
 - c. Owner and Owner's experts
 - d. Members of the public

- e. Applicant and Owner have five minutes at the end of the hearing to summarize and close
- 5. The Chair may limit the time for public comment (e.g. three minutes per speaker) but may not prevent relevant public comment by any person making a timely request to speak unless such person is disorderly or attempts to disrupt the meeting.
- 6. The Chair shall maintain order at all public hearings. The Chair may request any persons who are disorderly or attempt to disrupt the meeting to leave the meeting and may, if necessary, adjourn the meeting until order can be restored.
- K. Minutes. The Historic Preservation Officer shall keep, or cause to be kept, minutes of all meetings of the Commission, showing the actions of the Commission on each question. The minutes shall be filed in the office of the Historic Preservation Officer and shall be public records.
- L. Electronic Recording of Proceedings. At all public meetings of and hearings before the Commission, all oral proceedings shall be electronically recorded. Such recordings shall be filed with the minutes of the meeting.
- M. Training Sessions. The Commission may, from time to time, hold training sessions or workshops for the purpose of training or education at which no minutes need be kept or electronic recordings made. Such meetings are open to the public but no notice need be made.
- N. Executive Session. At the request of any commissioner, the Commission may go into executive session to discuss personnel matters or matters pertaining to potential or actual litigation.

PART IV: NOMINATION AND DESIGNATION OF LANDMARKS

- A. Nominations shall be made on the King County Landmark Registration Form which shall be furnished by the Historic Preservation Officer upon request.
- B. National Park Service Bulletin #16A, *How to Complete the National Register Registration National Form*, and related NPS bulletins on specific property types as appropriate, shall serve as technical guidance in the preparation of King County Landmark Registration Forms.

- C. National Park Service Bulletin #15, *How to Apply National Register Criteria for Evaluation*, shall serve as technical guidance for interpreting the landmark designation criteria contained in KCC 20.6B.070.
- D. Landmark Registration Forms for Historic Districts shall contain a brief description and identify specific features of significance for all contributing properties within the district. Contributing properties are defined as historic resources that are directly associated with the period of historic significance with which the district is associated, and which possess strong historic association and/or continue to exhibit good integrity of design, materials, association, setting, feeling, and location. All other properties in the district shall be considered non-contributing properties, and are defined as those properties which are not associated with the period of significance or, if historic, have been substantially altered and do not possess physical integrity. A non-contributing property shall not be considered a feature of significance pursuant to the provisions of KCC 20.62.070, however, such property may be subject to voluntary provisions of any district design guidelines that are adopted by the Commission pursuant to Part V below.
- E. All nominations shall be filed with the Historic Preservation Officer and shall include all data required by the Commission.
- F. The Historic Preservation Officer shall review all nominations submitted. When the Historic Preservation Officer is satisfied that the nomination contains sufficient information and complies with KCC 20.62 and the requirements of these Rules and Regulations, the Historic Preservation Officer shall notify the owner of the property, the person submitting the nomination and any interested persons of record, and set a date for a public hearing on the nomination not less than 30 or more than 45 days from the date of such notice.. Such notice shall conform to the requirements of KCC 20.62.50C.
- G. In the event the Historic Preservation Officer or any member of the Commission has reason to believe that immediate action is necessary to prevent destruction, demolition or defacing of an historic resource, the public hearing on a nomination may be held less than 30 days from the day of the notice to the owner provided in **Part III** above, provided that the notice shall so state and shall set forth the reasons for such shortening of time.
- H. A special meeting, pursuant to **Part III. G.** above of these Rules and Regulations, may be called for the purpose of hearing any such nomination.
- I. In order to give all interested persons an opportunity to be heard, the Commission may, at the hearing held less than 30 days from the date of notice to the owner, make a preliminary determination of significance and continue the hearing to a date more than 30 days from such notice to receive further testimony before rejecting or approving the nomination.

- J. Landmark designations may be terminated if a property meets one of the following grounds for termination, provided these grounds are not the result of intentional or willful neglect:
 - 1. The property has ceased to meet the criteria originally used for designation because the qualities which caused it to be designated have been lost or destroyed; or
 - 2. Additional information shows that the property does not meet any criteria for designation.

- K. Requests for termination of landmark designation shall be filed with the Historic Preservation Officer and may only be submitted with the permission of the owner of the landmark. The request shall include the grounds for termination. The Historic Preservation Officer shall review all termination requests submitted. When the Historic Preservation Officer is satisfied that the request contains sufficient information and complies with KCC 20.62 and the requirements of these Rules and Regulations, the Historic Preservation Officer shall notify the owner of the property, the person submitting the original nomination and any interested persons of record, and set a date for a public hearing on the termination not less than 30 or more than 45 days from the date of such notice. Such notice shall conform to the requirements of KCC 20.62.50C.

- L. Whenever the commission approves the termination of landmark designation, it shall, within fourteen calendar days of the public meeting at which the decision is made, issue a written termination 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; and
 - 2. Findings of fact and reasons supporting the termination with specific reference to the criteria for designation in K.C.C. 20.62.040.

- M. Whenever the commission rejects the termination of a landmark designation, 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 landmark continues to meet criteria in K.C.C. 20.62.040.

- N. A copy of the commission's termination report or decision rejecting a termination 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 approves a termination, 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.

- O. If the commission approves a landmark termination, a copy of the commission's termination report shall be recorded with the records and licensing services division, or its successor agency, together with a legal description of the previously designated resource and notification that K.C.C. 20.62.080 and 20.62.130 no longer apply.

PART V: DESIGN REVIEW GUIDELINES

- A. *The Secretary of the Interior's Standards for the Treatment of Historic Properties* (as amended 1996), and supplemental National Park Service and Advisory Council on Historic Preservation standards and guidelines that address specific property types where appropriate, shall serve as the guidelines for review of applications for Certificates of Appropriateness by the Commission, unless specific design guidelines have been otherwise adopted by the Commission.
- B. The Commission may adopt specific design guidelines for review of applications for Certificates of Appropriateness in historic districts at its discretion. The design guidelines shall be consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (as amended 1996). The Commission shall adopt and follow the design guidelines in considering Certificates of Appropriateness applications affecting features of significance within an historic district.
1. The design guidelines may address building orientation and siting, lot coverage, massing and dimensions, materials, building forms, fenestration, paint colors, signage, parking, landscaping, street furniture, new construction, and other aspects of the physical environment that may affect the integrity of the historic district, as consistent with the features of significance identified in the preliminary determination of significance or the designation report.
 2. Development of design guidelines shall be conducted in consultation with property owners in the district. Specific procedures for development of the guidelines shall be established on a case by case basis for each historic district.
 3. Following adoption of the design guidelines by the Commission, copies shall be provided to owners of all properties within the historic district.

PART VI: CERTIFICATES OF APPROPRIATENESS

- A. A Certificate of Appropriateness must be obtained from the Commission before any alterations can be made to the features of significance of a landmark as set forth in the preliminary determination of significance or as specified in the designation report. This requirement shall apply whether or not the proposed alteration requires a building or other permit. A Certificate of Appropriateness shall be valid for three years from the date of issuance unless the Commission grants an extension; provided however that Certificates of Appropriateness for actions subject to permits issued by the local permitting agency shall be valid for the life of the permit issued by that agency.

- B. The review of applications for Certificates of Appropriateness in cities which have established their own design review board pursuant to an interlocal agreement with King County, shall be conducted by the local review board. However, for projects which utilize the King County Landmarks incentive programs (low interest loan program, special valuation, landmark rehabilitation grant program) the Applicant must obtain a Certificate of Appropriateness from the Commission in addition to the local review board. Where incentive programs are involved, design review and issuance of the Certificate may be undertaken independently by both the local design review board and the Commission, through a joint meeting of both bodies, or the local board may refer the application to the Commission for a decision.
- C. *The Secretary of the Interior's Standards for the Treatment of Historic Properties* (as amended 1996) and supplemental National Park Service and Advisory Council on Historic Preservation standards and guidelines that address specific property types, including but not limited to cultural landscapes, shall serve as the guidelines for review of Certificates of Appropriateness by the Commission, unless specific design guidelines have been otherwise adopted by the Commission.
- D. Ordinary repairs and routine maintenance that 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 or mechanical systems do not require a Certificate of Appropriateness unless such work will alter a feature of significance.
- E. There are three types of Certificates of Appropriateness: *Type I* for major repairs, in-kind replacement, and restoration work; *Type II* for alterations in appearance, replacement of historic materials or new construction or additions; and, *Type III* for demolition or relocation of a landmark building, object, structure or site. Type III also includes excavations, test boring, site clearing or construction and grading activity on a landmark archaeological site.
- F. Type I Certificates of Appropriateness: Major repairs, in-kind replacement, or restoration of any feature of significance of a landmark property, shall require a Type I Certificate of Appropriateness. Type I Certificates of Appropriateness applications may be approved administratively by the Historic Preservation Officer. Applications for a Type I Certificate of Appropriateness shall be submitted to the Historic Preservation Officer on forms and according to instructions provided by the Historic Preservation Officer, and in accordance with the following provisions:
 - 1. Construction activities which constitute major repairs, in-kind replacement, and restoration include, but are not limited to, the following:
 - a. Repairs (minor repairs are exempted) using the exact same materials and design as the original feature

- b. Repainting using the existing color or the same color that was originally used based on a professional paint analysis
 - c. Reroofing using the same type and color of roofing material
 - d. Replacement of sidewalks and driveways using the same type and color of materials
 - e. Replacement of foundations or major portions thereof, using the same type and color of materials
 - f. Replacement of utility systems if features of significance are affected
2. A clear photograph or photographs of the portion(s) of the building, object, site or structure that will be affected by the project, project drawings or documents, and a brief written description of the intended work. Samples of proposed paint colors or construction materials for comparison with the existing or the original materials must be submitted with the application.
3. The decision of the Historic Preservation Officer on the application shall be made within ten working days from the date on which the Historic Preservation Officer receives the application.
4. The Historic Preservation Officer may on his or her own motion refer the application to the Commission for a decision in accordance with the procedures set forth for a Type II Certificate of Appropriateness. The time for a decision of the Commission on the application shall run from the date that the application is referred to the Commission by the Historic Preservation Officer.
5. Appeals from the decision of the Historic Preservation Officer regarding the issuance of a Type I Certificate of Appropriateness may be made by an aggrieved person by filing a notice of appeal with the Historic Preservation Officer, specifying the grounds thereof, within five working days after the action appealed from was taken. An appeal stays all legal proceedings in furtherance of the action appealed from. The Commission shall hear the appeal within 45 days after the notice of appeal is received by the Historic Preservation Officer. The Historic Preservation Officer shall give notice of the hearing and due notice to the parties of record. At the hearing before the Commission any party may appear in person or by agent or by an attorney. The Commission shall decide the appeal within 45 days of the hearing. An appeal shall be sustained upon an expressed finding by the Commission that the Historic Preservation Officer's action was based on an error in a material fact or that the decision of the Historic Preservation Officer was based on an error in judgment or conclusion. In exercising its powers the Commission

may reverse or affirm in whole or in part or may remand to the Historic Preservation Officer with direction.

- G. Type II Certificate of Appropriateness: Alterations in the appearance of a significant feature, the replacement of historic material in a significant feature, additions to a landmark or new construction on a landmark site or in a landmark district, or any excavation of an archaeological site requires a Type II Certificate of Appropriateness. Applications for a Type II Certificate of Appropriateness shall be submitted to the Historic Preservation Officer on forms and according to instructions provided by the Historic Preservation Officer, and in accordance with the following provisions:
1. A clear photograph or photographs of the portion(s) of the property that will be affected by the project, project drawings or documents and a brief written description of the intended work. Samples of paint colors or construction materials for comparison with the existing or the original materials must also be furnished as part of the application.
 2. The Certificate of Appropriateness shall be reviewed in accordance with the following criteria:
 - a. The degree to which the proposed project complies with *The Secretary of the Interior's Standards for the Treatment of Historic Properties (as amended 1996)*
 - b. The extent to which the proposed project would adversely affect the features of significance identified in the latest of the preliminary determination of significance, if any, or the designation report
 - c. The reasonableness or lack thereof of the proposed project in light of other alternatives available to achieve the objectives of the owner and the applicant
 - d. The extent to which the proposed project may be necessary to meet the requirements of any other law, statute, ordinance, regulation, code or ordinance
 - e. The extent to which the proposed project is necessary or appropriate to achieving for the owner or applicant a reasonable return on the landmark property taking into consideration factors specified in KCC 20.62.080 and Part VII of these Rules and Regulations and the economic consequences of denial.
- H. Type III Certificate of Appropriateness: Demolition or relocation of a landmark or a significant feature of a landmark district, excavation of a landmark site, or excavation, test boring, site clearing or construction and grading activity on a landmark archaeological site require a Type III Certificate of Appropriateness.

1. Type III Certificates of Appropriateness shall be approved by the Commission only when one or both of the following two conditions have been established pursuant to the following standards and criteria:
 - a. The requested action is required to alleviate a threat to public health and safety; and/or
 - b. The requested action is required to rectify a condition of unreasonable economic return.
2. The standards and criteria required in order to establish the existence of the conditions specified in subsection H.1. above shall be as follows:
 - a. Threats to public health and safety. To prove the existence of a threat to public health and safety the applicant must establish and the Commission must find:
 - 1) That a major and imminent threat to public safety exists as demonstrated by an independent analysis and supporting other information
 - 2) That all available alternatives for rectifying the threat have been considered as demonstrated by analysis of all such alternatives
 - 3) That the costs associated with rectifying the threat would create a condition whereby the investments in the project are incapable of earning a reasonable economic return as described in KCC 20.62.080 and Part VII of the Rules and Regulations.
 - b. Unreasonable economic return. To prove the existence of a condition of unreasonable economic return the applicant must establish and the Commission must find that the landmark is incapable of earning a reasonable economic return as described in K.C.C 20.62.080 and Part VII of these Rules and Regulations.
- I. Application for a Certificate of Appropriateness may be made by filing an application with the Historic Preservation Officer on forms provided by the Commission, or by filing with the Director of the Department of Development and Environmental Services an application for a permit to make alterations or significant changes for which a Certificate of Appropriateness is required. The application for a Certificate of Appropriateness shall include all information and materials deemed necessary by the Commission. The Commission may consider or issue a Certificate of Appropriateness without the submission of final drawings, plans and specification.

- J. Applications for a permit to make alterations or significant changes referred to the Historic Preservation Officer by the Director of the Department of Development and Environmental Services pursuant to KCC 20.62.070 shall be deemed an application for a Certificate of Appropriateness.
- K. Upon receipt of a complete application for a Type II Certificate of Appropriateness, the Historic Preservation Officer shall refer the application to the Design Review Committee for consideration at its next regular meeting. The owner and/or applicant and any interested person of record shall be provided with the agenda and invited to participate in the meeting. At the meeting the Committee shall review the application according to the criteria contained in Section G.2 of this Part and prepare a formal recommendation that shall be presented to the Commission at its next regular meeting.
- L. No hearing shall be required for a Type II Certificate of Appropriateness if the Commission and the owner and the applicant, if the applicant is not the owner, agree in writing to a stipulated Certificate of Appropriateness approving the requested alterations or changes or modifications thereof. If the Commission approves a Certificate of Appropriateness application, such Certificate shall be issued forthwith and the Historic Preservation Officer shall promptly file a copy of such Certificate with the Director of the Department of Development and Environmental Services. If necessary, within 45 calendar days after the filing of an application for Certificate of Appropriateness with the Commission or referral of an application to the Commission by the Director of the Department of Development and Environmental Services, the Commission shall hold a public hearing thereon. The Historic Preservation Officer shall mail notice of the hearing to the owner and interested persons of record not less than ten (10) calendar days before the date of the hearing.
- M. 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 Section L. of this Part, no other application for the same or a similar alteration or significant change may be made until such proceedings and all administrative appeals therefrom pursuant to KCC 20.62 or this Part VI have been concluded.
- N. At the public hearing on an application for a Certificate of Appropriateness 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 available alternative which has less impact on the features of significance specified in the preliminary determination of significance or the designation report.
- O. If the Commission denies the application for a Certificate of Appropriateness, in whole or in part, it shall promptly 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.

- P. Any interested person of record may appeal the approval or denial of a Certificate of Appropriateness application as provided in KCC 20.62.090.

PART VII: EVALUATION OF ECONOMIC IMPACT

- A. At the public hearing on an application for a Certificate of Appropriateness 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 of Appropriateness. 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 of significance or the designation report.
- B. In considering what constitutes an unreasonable economic return, the Commission shall consider the property owners reasonable expectations of economic return on the property, including the following:
1. The owner's knowledge of the preliminary determination of significance or the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition. Owners are presumed to have constructive notice of preliminary determinations and designations of landmarks filed with the Division of Records and Elections and of zoning codes affecting the property and indicating its historic significance.
 2. Whether the landmark was purchased for use or for investment.
 - a. If the landmark was purchased for use (e.g. as a residence or for business use), does the landmark designation interfere with the property's intended use.
 - b. If the landmark was purchased as an investment (e.g. rental income) does the landmark designation adversely affect the return on the investment considering alternatives and incentives available to the owner.
- C. 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 or significant changes 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 property 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 property was purchased.
 - 2) The annual gross and net income, if any, from the landmark for the previous five years; itemized operating and maintenance expenses for the previous five years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.
 - 3) Remaining balance on any mortgage or other financing secured by the landmark and annual debt service, if any, during the prior five years.
 - 4) The remaining balance on any mortgage or other financing secured by the landmark and annual debt service, if any, during the same period.
 - 5) Real estate taxes for the previous four years and assessed value of the landmark according to the two most recent assessed valuations.
 - 6) All appraisals obtained within the previous three years by the owner in connection with the purchase, financing or ownership of the landmark and all other applicable appraisals to the extent available.
 - 7) The fair market value of the landmark immediately prior to its designation and the fair market value of the landmark at the time the Certificate of Appropriateness application is filed.
 - 8) Form of ownership or operation of the landmark whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other.
 - 9) Any state or federal income tax returns on or relating to the landmark for the past two years.
- b. That landmark is not marketable or able to be sold or leased when listed. The sales price or rent asked and offers received, if any, sale or rent, price asked, and offers received if any within the previous two years, including testimony and

relevant documents shall be submitted by the property owner. The following shall also be considered:

- 1) Any real estate broker or firm engaged to sell or lease the landmark.
 - 2) Reasonableness of the price or rent sought by the owner.
 - 3) Any advertisements placed for the sale or lease of the landmark.
- c. The infeasibility 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 rehabilitation/restoration as to the structural soundness of the landmark and its suitability for rehabilitation/restoration.
 - 2) Estimates of the cost of the proposed alteration or significant change 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 or significant change.
 - 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 rehabilitation as to the economic feasibility of rehabilitation/restoration of historic buildings or reuse of the landmark.
 - 5) The infeasibility of new construction around, above, or below the existing landmark.
- 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 or significant change. In the case of demolition or relocation of the landmark, the owner has the present intent and secured financial ability, demonstrated by appropriate documentary evidence to complete the building or structure proposed to replace the landmark.

- 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 property, the availability of incentives and the economic impacts of approval, denial or partial denial of a Certificate of Appropriateness.
- E. Any economic impact caused intentionally or by willful neglect shall not constitute a basis for granting a Certificate of Appropriateness.

PART VIII: INCENTIVE PROGRAMS FOR LANDMARK PROPERTY OWNERS

- A. This Part incorporates by reference the King County Administrative Policies and Procedures entitled "Regulations for Historic Preservation Special Tax Valuation." (KCC 20.62.140)
- B. All King County landmarks and landmarks located in cities which are designated and protected pursuant to KCC 20.62 shall be eligible for Special Valuation as set forth in Chapter 221, 1986 Laws of Washington and chapter 84.26 RCW and 254.20 WAC. The Commission shall act as the "Local Review Board" for the purposes of this program pursuant to KCC 20.62.140.
- C. All landmark rehabilitation projects that may utilize any of the incentive programs (including but not limited to Special Valuation for Historic Properties; Current Use Taxation; Landmark Rehabilitation Grants; and Landmark Loan Program) offered through or adjunct to the King County Historic Preservation Program must be reviewed and approved by the Commission and receive a Certificate of Appropriateness pursuant to the procedures contained in Part VI of these Rules and Regulations.

PART IX: APPEALS AND RECONSIDERATION

- A. Appeal. Any person aggrieved by a decision of the Commission designating or rejecting, in whole or in part, a landmark nomination, or issuing or denying, in whole or in part, a Type II or III Certificate of Appropriateness may, within 35 calendar days of mailing of notice of any such action appeal such decision to the King County Council. Written notice of appeal shall be filed with the Historic Preservation Officer and the Clerk of the Council and shall be accompanied by a statement setting forth the grounds of the appeal, supporting documents and argument.
- B. Reconsideration by the Commission. Any person aggrieved by a decision of the Commission designating or rejecting, in whole or in part, a nomination for designation of a landmark or issuing or denying, in whole or in part, a Certificate of Appropriateness may, within 20 calendar days of mailing of notice of any decision, petition the

Commission for reconsideration on the grounds the decision was based on errors or omissions of fact or that new information bearing on the decision, and not reasonably available to the petitioner at the time of the decision, is available.

1. The written petition shall be filed with the Historic Preservation Officer and shall be accompanied by a statement setting forth the grounds for the petition, and any supporting documents.
2. Within 70 calendar days of filing of a petition for reconsideration, the Commission shall review the record, and may, at its discretion, modify or reverse its prior decision and render a revised decision. The Commission may hold another public hearing on the matter.