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Title: Cultural Resources Review and Protection

Affected Agencies: Executive branch departments, offices, and agencies

Authorities: The King County Code, state and federal preservation regulations

Keywords: historic preservation, cultural resources, archaeological resources, historic resources, historic properties

Sponsoring Agency: DNRP



King County

Executive signature: Dow Constant

Date signed and effective: 1.21.21

## I. Purpose

The purpose of this policy is to ensure that county agencies consider protection and management of cultural resources in project planning and development in compliance with federal, state, and local historic preservation and cultural resources regulations and in accordance with the King County Comprehensive Plan.

Coordinated and systematic review of development proposals and other actions initiated by King County agencies or subject to King County permitting requirements is necessary in order to eliminate, minimize, or mitigate adverse effects to cultural resources. Protecting historic and prehistoric archaeological resources, for example, is particularly challenging because archaeological sites are extremely sensitive and may be unexpectedly encountered and damaged. King County government can protect archaeological sites and above-ground historic resources through careful planning and review of its own undertakings, both directly and in partnership with other agencies and private parties.

This policy requires county departments, offices, and agencies (agencies) to coordinate with the Historic Preservation Program to ensure systematic and consistent review of projects and undertakings for potential effects to cultural resources, and subsequent mitigation if necessary.

This policy advances King County's Equity and Social Justice initiative by requiring agencies to consider potential effects to archaeological and other cultural resources that are of great value to American Indian tribes and other under-represented groups. Coordinated cultural resources review helps agencies and private parties avoid disturbing cherished cultural resources and ensures that tribal outreach and consultation takes place.

This policy diminishes potential risks to the county and costs to taxpayers by helping agencies avoid causing inadvertent damage to cultural resources. It ensures proper treatment of all significant sites, structures, buildings, and landscapes for which the County has ownership or permitting responsibility for the benefit of King County residents, visitors, and future generations.

**Applicability and Audience** This policy applies to all executive branch departments, offices, and agencies.

## II. Definitions

A. "Above-ground resources" include buildings, structures, objects, landscape features, and districts.

B. "Archaeological resource" means "any material remains of human life or activities which are of archaeological interest, including all sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and their habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls, and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material" (WAC 25-48-020).

C. "Archaeological site" is "a geographic locality in Washington that contains archaeological objects" (27.53.030 RCW).

D. "Cultural resources" include archaeological sites and other archaeological resources, historic properties, historic resources, landmarks, and ethnographic resources and are the subject of this policy.

E. "Cultural Resources Procedures" are procedures that provide step-by-step guidance and instruction to agencies on how to comply with the Cultural Resources Review and Protection Policy. Cultural Resources Procedures are maintained by the Department of Natural Resources and Parks (DNRP) and implemented by the Historic Preservation Program (KCHPP) in DNRP.

F. "Department of Archaeology and Historic Preservation" (DAHP) is the Washington State Department responsible for, among other things, reviewing federal, state, and local government projects for effects on cultural resources.

G. "Effects" to archaeological resources usually occur when a project involves ground disturbance. Such disturbance can result from a variety of activities including, but not limited to, construction, landscaping, and modification of existing facilities. Routine maintenance activities must also be considered. Effects to above-ground resources occur when projects involve physical damage to structures from construction (demolition, vibration from heavy truck traffic, dust), indirect physical damage from subsequent increased traffic, adjacent new construction that changes the character of the resource, or obstruction of viewsheds.

H. "Ethnographic resources" are "sites, structures, landscapes, objects or natural features of significance to a traditionally associated group of people."

I. "Ground disturbance" may result from a variety of different activities including but not limited to, new construction, demolition, habitat restoration, planting, timber harvesting, tree cutting, driving heavy vehicles, landscaping, pile driving, geotechnical investigations, or modifications to existing facilities.

J. "Historic" means "peoples and cultures who are known through written documents in their own or other languages" (27.53.030 RCW).

K. "Historic properties" are "all historic buildings, sites, objects, districts, and landscapes, prehistoric and historic archaeological resources, and traditional cultural places" (King County Comprehensive Plan 2010 p. 6-11). As defined in the National

Historic Preservation Act of 1966 (NHPA), “‘Historic property’ or ‘historic resource’ means any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion on the National Register (of Historic Places), including artifacts, records, and material remains related to such a property or resource” (NHPA Section 301[5]).

L. “Historic resource” means “a district, site, building, structure or object significant in national, state or local history, architecture, archaeology, and culture” (KCC 20.62.020).

M. “King County Historic Preservation Program” (KCHPP) is the office responsible for providing staffing support for the Landmarks Commission, maintaining the Historic Resource Inventory, reviewing development proposals for projects on or adjacent to a historic resource listed in the Historic Resource Inventory, representing the County in National Historic Preservation Act Section 106 consultation for projects with a federal nexus, and providing technical assistance for unincorporated areas and in cities that participate in King County’s regional preservation program via interlocal agreements.

N. “Mitigation” is an action taken in response to an adverse effect to a historic property and is intended to avoid or reduce the severity of the effect. Examples of mitigation actions for buildings and structures include project redesign to avoid disturbance or destruction, in rare cases moving the property, screening to minimize visual and auditory effects, partial preservation in place, rehabilitation/restoration, documentation (including photo documentation), supplementary historical research, granting of preservation covenants or easements, and development of interpretive materials. Examples of mitigation actions for archaeological resources include avoidance, preservation in place, data recovery with subsequent archaeological monitoring, and off-site measures. Avoidance of archaeological resources is preferable, and often much less expensive, than mitigation through data recovery.

O. “Prehistoric” means “peoples and cultures who are unknown through contemporaneous written documents in any language” (27.53.030 RCW).

P. “Site” means “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” (KCC 20.62.020).

### **III. Policy**

Treatment of cultural resources in King County is guided by federal, state, and local regulations, including the National Historic Preservation Act of 1966, the State Environmental Policy Act, and King County Code, among others. In addition, the King County Comprehensive Plan provides planning directives related to protection and management cultural resources. Summaries of applicable regulations, among others, and comprehensive plan directives, are included in Appendix A to this policy.

A. Agency staff shall refer public and private development proposals that involve ground disturbance, vegetation modification, or other potential visual or environmental effects to above- or below-ground historic or prehistoric cultural

resources to KCHPP for coordinated review and guidance in accordance with applicable regulations and comprehensive plan citations summarized in Appendix A, among others.

- B. Cultural Resources Procedures shall guide implementation of this policy. KCHPP shall coordinate with agency staff, complete project reviews, and provide guidance on treatment of cultural resources in accordance with Cultural Resources Procedures maintained by KCHPP in the Department of Natural Resources and Parks (DNRP).

#### **IV. Implementation Plan**

- A. This policy becomes effective for Executive Branch agencies on the date that it is signed by the Executive. The Department of Natural Resources and Parks is responsible for implementation of this policy.
- B. The Historic Preservation Program is responsible for communicating this policy to the management structure within their respective agencies and other appropriate parties.

#### **V. Maintenance**

- A. This policy will be maintained by the Department of Natural Resources and Parks.
- B. This policy will automatically expire five (5) years after its effective date. A new, revised, or renewed policy will be initiated by the Department of Natural Resources and Parks or its successor agency prior to the expiration date.

#### **VI. Consequences for Noncompliance**

- A. Referral of a specific project and associated actions to DAHP for additional review and required permits.
- B. Failure to comply with King County, state, and/or federal laws governing treatment of cultural resources may result in damage to or destruction of such resources. Should such damage or destruction occur, agencies may be required to mitigate for the loss by contributing to KCHPP's mitigation fund to support future historic preservation or archaeology projects or by other means, pay for a damage assessment and any fines under state law, and/or follow provisions specified in a Memorandum of Agreement under federal law.

**Appendices:** Appendix A. Regulations and Planning Directives Governing Treatment of Cultural Resources

## **APPENDIX A**

### **REGULATIONS AND PLANNING DIRECTIVES GOVERNING TREATMENT OF CULTURAL RESOURCES**

**National Historic Preservation Act of 1966, Section 106.** Section 106 of the National Historic Preservation Act (NHPA) granted legal status to historic preservation in federal planning, decision-making, and project execution. Section 106 requires all federal agencies to take into account the effects of their actions on historic properties and provide a reasonable opportunity to comment on those actions and the manner in which federal agencies are taking historic properties into account in their decisions. (36 CFR Part 800). The Advisory Council on Historic Preservation (ACHP) is the federal agency charged with overseeing the Section 106 process.

**U.S. Department of Transportation Act of 1966, Section 4(f).** Section 4(f) of the U.S. Department of Transportation (U.S. DOT) Act refers to the original section which provided for consideration of park and recreation lands, wildlife and waterfowl refuges, and historic sites during transportation project development (23 CFR 774). The law is implemented by the Federal Highway Administration (FHWA) and the Federal Transit Administration. Section 4(f) applies to projects that receive funding from or require approval by an agency of the U.S. DOT.

**State Environmental Policy Act.** The State Environmental Policy Act (SEPA) process identifies and analyzes environmental impacts associated with governmental decisions. These decisions may be related to issuing permits for private projects, constructing public facilities, or adopting regulations, policies, and plans. The SEPA review process helps agency decision-makers, applicants, and the public understand how the entire proposal will affect the environment. SEPA can be used to modify or deny a proposal to avoid, reduce, or compensate for probable impacts. (Chapter 43.21C RCW and Chapter 197-11 WAC).

**Governor's Executive Order 05-05.** GEO 05-05 requires all state agencies implementing or assisting capital projects using funds appropriated in the state's biennial capital budget to consider how future proposed projects may impact significant cultural and historic places. To do so, agencies are required to notify the Department of Archaeology and Historic Preservation (DAHP), the Governor's Office of Indian Affairs (GOIA), and concerned tribes and afford them an opportunity to review and provide comments about potential project impacts. (GEO 05-05).

#### **King County Code Section 20.62. Protection and Preservation of Landmarks, Landmark Sites and Districts**

- 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. (K.C.C. 20.62.010)

- 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. (K.C.C. 20.62.010)
- C. 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. (K.C.C. 20.62.150)

### **King County Comprehensive Plan, 2016 Update, Chapter 7. Parks, Open Space and Cultural Resources**

- A. King County shall be a steward of cultural resources under its control. It shall identify and evaluate cultural resources, preserve public art works and significant historic properties, and interpret and provide public access to them whenever appropriate. County departments and divisions shall collaborate with the Historic Preservation Program to nominate eligible properties for landmark designation. (P-201)
- B. King County shall consider equity and social and environmental justice in its promotion and protection of cultural resources. (P-202)
- C. King County shall encourage preserving, reusing and recycling historic buildings in its facilities planning and other relevant actions. (P-203)
- D. The King County Executive and the King County Council shall regularly seek advice from the Landmarks Commission on programs, policies and regulations that support and enhance preservation and protection of significant historic properties. Many municipalities do not have sufficient resources to administer an historic preservation program. As a result, the history of the region is endangered. Comprehensive and coordinated protection of significant historic properties is necessary in order to ensure that King County's history is preserved. (P-215)
- E. King County shall administer a historic preservation program to identify, protect and enhance historic properties throughout the region. Historic preservation is an ongoing process that requires identification, evaluation, designation and protection of significant properties, and attention to long-term enhancement and interpretation. Historic properties are often destroyed through neglect. Regular maintenance and other management practices that protect historic properties are

critical to long-term preservation. King County government can lead by example through stewardship and wise management of its own historic properties. (P-216)

- F. King County shall acquire and preserve historic properties for use by county and other public agencies and shall give priority to occupying historic buildings whenever feasible. Review of development proposals and other actions affecting historic properties resources is necessary in order to eliminate or minimize adverse effects of development or changing land use. Archaeological sites are particularly sensitive and endangered because they are not visible and may be unexpectedly encountered. King County government can also protect historic properties through careful planning and review of its own undertakings, both directly and in partnerships with private parties and other agencies. (P-217)
- G. King County shall establish comprehensive review and protection procedures for historic properties affected by public and private projects. (P-218)
- H. King County may condition public and private projects in order to protect historic properties. King County agencies shall coordinate with the Historic Preservation Program to provide consistent review and mitigation for their projects and undertakings throughout the county. (P-219)
- I. King County shall encourage land uses and development that retain and enhance significant historic properties and sustain historic community character. County building and zoning codes and other regulations and standards should provide flexibility to accommodate preservation and reuse of historic properties. Zoning actions should take into account the effects of zoning on historic properties. (P-220)
- J. King County shall maintain an inventory of historic properties in order to guide its historic preservation decision making. (P-221)