

**ORDINANCE NO. 53**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, RELATING TO THE PROTECTION AND PRESERVATION OF LANDMARKS IN THE CITY, ESTABLISHING PROCEDURES FOR DESIGNATION AND PRESERVATION OF LANDMARKS, AND PROVIDING FOR ENFORCEMENT AND PRESCRIBING PENALTIES FOR VIOLATION.**

WHEREAS, the City of Shoreline entered into an interlocal agreement for Landmark Services with King County on August 21, 1995; and

WHEREAS the Interlocal Agreement calls upon the City to enact an Ordinance regarding Landmark Preservation; NOW, THEREFORE

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Findings and Declaration of Purpose.** The City 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 archeological significance located in the City of Shoreline are necessary for the prosperity, civic pride and general welfare of the residents of the City.

B. Such cultural and historic resources are a significant part of the heritage, education and economic base of the City of Shoreline, and the economic, cultural and aesthetic well-being of the City cannot be maintained or enhanced by disregarding its heritage and by allowing the unnecessary destruction or defacement of such resources.

C. In the absence of an ordinance encouraging historic preservation and an active program to identify and protect buildings, sites and structures of historical and cultural interest, the City will be unable to insure present and future generations of residents and visitors a genuine opportunity to appreciate and enjoy the City's heritage.

D. The purposes of this ordinance are to:

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

2. Redesignate two sites in the City of Shoreline, previously designated as historic landmarks by the King County Historic Preservation Commission, as City of Shoreline Historic Landmarks, thereby entitling them to the same advantages, responsibilities and opportunities under the City of Shoreline Ordinance as were available under the King County Historic Landmark Ordinance and Program. These two sites are Crawford Store, 2411 N.W. 195th Place (Block 11, Lots 5 & 6 of Richmond Beach) and the William E. Boeing House, "Aldarra," Huckleberry Lane, the Highlands.
3. Foster civic pride in the beauty and accomplishments of the past;
4. Stabilize and improve the economic values and vitality of landmarks;
5. Protect and enhance the City's tourist industry by promoting heritage-related tourism;
6. Promote the continued use, exhibition and interpretation of significant sites, districts, buildings, structures, and objects for the education, inspiration and welfare of the people of the City of Shoreline;
7. Promote and continue incentives for ownership and utilization of landmarks;
8. Assist, encourage and provide incentives to public and private owners for preservation, restoration, rehabilitation and use of landmark buildings, sites, districts, structures and objects;
9. Work cooperatively with other jurisdictions to identify, evaluate, and protect historic resources in furtherance of the purposes of this chapter.

**Section 2. Landmarks and Heritage Commission created-Membership and Organization.**

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

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

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

**Section 3. Redesignation.** All County landmarks designated pursuant to the provisions of King County Code 20.62 that are located within the boundaries of Shoreline are hereby designated as City landmarks subject to the provisions of this Ordinance.

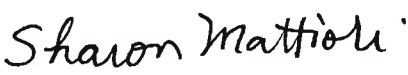
**Section 4. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 5. Effective Date and Publication.** A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five (5) days after the date of publication or the date of publication.

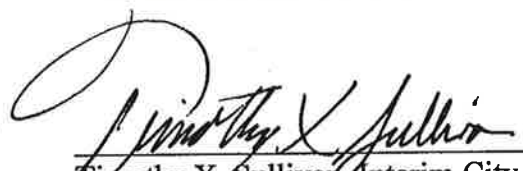
**PASSED BY THE CITY COUNCIL ON SEPTEMBER 11TH, 1995**

  
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Mayor Connie King

**ATTEST:**

  
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Sharon Mattioli, CMC  
City Clerk

**APPROVED AS TO FORM:**

  
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Timothy X. Sullivan, Interim City Attorney

Date of Publication: 9/13/95  
Effective Date: 9/18/95





**RULES AND PROCEDURES  
OF THE  
CITY OF SHORELINE LANDMARKS COMMISSION**  
Rev 10/10

The following Rules and Procedures have been adopted by the City of Shoreline Landmarks Commission pursuant to Shoreline Municipal Code 15.20.

- Part I: Ethics and Conflict of Interest
- Part II: Organization
- Part III: Conduct of Meetings and Hearings
- Part IV: Nomination and Designation of Landmarks
- Part V: Landmark Districts
- Part VI: Certificates of Appropriateness
- Part VII: Evaluation of Economic Impact
- Part VIII: Special Valuation for Historic Properties
- Part IX: Appeals and Reconsideration

**Definitions:** The words and terms, as defined in King County Code (KCC) 20.62.020 A, as adopted by reference in Shoreline Municipal Code (SMC) 15. 20.025 (Ordinance 53), are used in these Rules and Procedures.

**Order of Precedence:** These Rules and Procedures are adopted pursuant to SMC 15. 20.020 C (Ordinance 53). In case of any conflict between these Rules and Procedures and Ordinance 53, the provisions of the Ordinance shall govern.

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

1. The members of the Commission shall be governed by Chapter 42.23 RCW, Code of ethics for municipal officers, Chapter 42.36 RCW, Appearance of fairness, as hereafter amended, and such other rules and regulations as may be adopted from time to time by the city council regulating the conduct of any person holding appointive office within the city. 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 City of Shoreline Landmarks Commission.
2. In their capacity as Commissioners of the City of Shoreline Landmarks Commission, Commissioners will avoid acting in matters in which there exists either a conflict of interest or the appearance of a conflict of interest.
  - A. Conflict of interest or a perceived conflict of interest shall be deemed to exist with respect to any matter:
    1. In which the Commissioner or any member of his or her immediate family<sup>1</sup> has a direct financial interest.
    2. 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.
  - B. No Commissioner shall participate in deliberations or vote on any matter before the Commission in which such Commissioner has a conflict of interest or a perceived conflict of interest.
  - C. 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.
3. Commissioners must decide any quasi-judicial matters<sup>2</sup> brought before the Commission only based on the public record and such things that they may properly take judicial notice. Commissioners should avoid all *ex parte*<sup>3</sup> communications concerning any quasi-judicial proceeding.
  - A. Quasi-judicial matters which may come before the City of Shoreline Landmarks Commission are:
    1. Designation of Landmarks.

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<sup>1</sup>"Immediate family" signifies spouse, dependent children, and other dependent relatives if living in his or her household.

<sup>2</sup>"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.

<sup>3</sup>On one side only; by or for one party; done for, in behalf of, or on application of one party only.

2. Approval or disapproval of Certificates of Appropriateness.
  3. Special valuation for historic properties. (When the Commission sits as a "Local Review Board" in Chapter 221, Laws of Washington)
- B. An "ex parte" communication refers to information received by a Commissioner outside of the official proceeding on the matter.
1. Commissioners are encouraged to view the property that is the subject of the proceeding. The fact of such visit should be reported at the hearing and made a part of the record.
  2. 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.
- C. In their deliberations, Commissioners may take "judicial notice"<sup>4</sup> 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**

1. Membership. The City of Shoreline Landmarks Commission shall consist of standing members of the King County Landmarks Commission and the special member representing the City of Shoreline (SMC 15.20.020 B). The special member shall attend all meetings, and participate in and vote on all matters pertaining to the designation and protection of landmarks, design review, and special valuation applicable to properties within the city.
2. Chair and Vice Chair. The Chair and Vice Chair (of the Commission) shall be the regularly elected Chair and Vice Chair of the King County Landmarks Commission. 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.
3. Standing Committees. Standing committees shall consist of three to five members of the Commission appointed by the Chair, subject to confirmation by the regular and special members of the Commission. Members of standing committees shall be appointed or reappointed in June of each year.
4. 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.

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<sup>4</sup>"Judicial Notice" is that which is so notorious that everybody, including judges, knows about it.



5. Membership on Other Committees. The Chair may from time to time appoint members of the Commission as Commission representatives on joint committees made up of 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.
6. Commission Acts Collectively. The City of Shoreline Landmarks 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.
7. 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**

1. 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 in conflict with Ordinance 53 and these Rules and Procedures.
2. Presiding Officer. The Chair or, in the absence of the Chair, the Vice Chair. In the absence of the Chair and the Vice Chair, the Commissioners present shall elect a member of the Commission to act as Chair Pro Tem.
3. Quorum. A majority of the currently appointed and confirmed 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 city. (KCC 20.62.140, as adopted by reference in SMC 15.20.025). 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.
4. 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 continuation of an adjourned meeting.
5. Scheduling of Meetings. The Commission shall meet as necessary for considering and holding public hearings on nominations for designation, applications for certificates of appropriateness, and determination of the special tax valuation for historic properties.

- A. Notice of the cancellation or rescheduling of a meeting shall be published not less than six days before the scheduled meeting and not less than six days before the changed meeting date.
  - B. Special meetings may be held at the call to the Chair or at the written request of three Commissioners.
    - 1. Notice of a special meeting must be delivered personally or by 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. If a call or request for a special meeting is made at a regular meeting, written notice may be dispensed with as to any Commissioner who is present at that regular meeting or who, prior to the time the special meeting convenes, files with the Historic Preservation Officer a written waiver of notice. Such waiver may be given by email 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.
  - C. Notwithstanding any other notice provision of this Part III, notice of all public hearings shall be published no more than 20 days nor less than 10 days before such hearing and shall state the purpose of the hearing.
  - D. 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. Notice shall be given as provided above.
6. Open Meetings. All meetings of the Commission shall be open to the public.
7. Public participation. Members of the public may speak to matters on the agenda at the invitation of or the approval of the Chair.
8. 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.

- A. Public hearings shall be held prior to a decision of the Commission (i) on the designation of a landmark, including, but not limited to, amendments and terminations of designation; (ii) on 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; (iii) when sitting as a Local Review Board for purposes related to Chapter 221, 1986 Laws of Washington, (Special Valuation for historic property). The Commission may, at its discretion, hold public hearings on other matters on which it desires general public input.
  - B. It is the policy of the City of Shoreline Landmarks 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.
  - C. The Applicant for a landmark designation, amendment or termination, 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.
  - D. The order of speaking at a public hearing shall be:
    - 1. Staff and Commission's experts.
    - 2. The Applicant and Applicant's experts.
    - 3. The Owner and Owner's experts.
    - 4. Members of the public.
    - 5. The Applicant and the Owner will have five minutes at the end of the hearing to summarize and close.
  - E. 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.
  - F. 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.
9. 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 with the City Clerk and shall be public records.
10. 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. A tape-recorded copy of the electronic record of any hearing or part thereof shall be furnished to any person upon request and payment of the reasonable expense thereof.

11. 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.
12. 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.
13. Exempt information. Commission records, maps, or other information identifying the location of archaeological sites and potential sites shall be exempt from public access as specified in RCW 42.56.300 as amended, in order to avoid looting and depredation of such sites.

#### **PART IV: NOMINATION AND DESIGNATION OF LANDMARKS**

1. Nominations shall be made on the Landmarks Commission "City of Shoreline Landmark Registration Form."
2. The Registration Form shall be furnished by the Historic Preservation Officer upon request.
3. Nominations shall be filed with the Historic Preservation Officer and shall include all data required by the Commission. (KCC 20.62.050 A, as adopted by reference in SMC 15.20.025)
4. 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 the SMC 15.20 and the requirements of these Procedures, 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, except as waived in writing by the property owner or provided in Section 5 below. Such notice shall conform to the requirements of KCC 20.62.50 C, as adopted by reference in SMC 15.20.025.
5. 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 Section 4 above, provided that the notice shall so state and shall set forth the reasons for such shortening of time. (KCC 20.62.050 D, as adopted by reference in SMC 15.20.025)
  - A. A special meeting, pursuant to Subsection 5.B. of these Procedures, may be called for the purpose of hearing any such nomination.

- B. 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 shall continue the hearing to a day more than 30 days from such notice to receive further testimony before rejecting or approving the nomination.
6. The Commission's designation report shall be issued within 14 calendar days of the public hearing wherein such decision is made (KCC 20.62.070 B as adopted in SMC 15.20.025) and delivered to the property owner, the City Clerk, and parties of record within five calendar days of issuance. (Interlocal Agreement Section 3.C) A copy of the Commission's decision rejecting a nomination shall be delivered to the property owner and parties of record and filed with the Shoreline City Clerk within five days of the public hearing wherein such decision is made. (KCC 20.62.070 D, as adopted in SMC 15.20.025)

## **PART V: LANDMARK DISTRICTS**

1. Design guidelines shall be prepared for any landmark district designated by the Commission. The Commission shall adopt and follow the design guidelines in considering applications for a Certificate of Appropriateness affecting any property within a designated historic district. Such guidelines shall be prepared and adopted as quickly as is reasonably feasible following designation. Until such time as such guidelines are prepared and adopted, the Commission shall follow the Secretary of Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings, as adopted by the Commission.
2. The design guidelines shall identify levels of significance for contributing and non-contributing resources within the district and shall prescribe procedures and incentives appropriate to those levels of significance. The design guidelines shall also consider compatibility of non-contributing properties and new construction within the district.
3. The design guidelines shall address building orientation and siting, lot coverage, massing and dimensions, materials, forms, fenestration, paint colors, signage, parking, landscaping, street furniture, and/or other aspects of the physical environment that may affect the integrity of the landmark district.
4. Design guidelines shall be developed in consultation with the Shoreline Planning Director.
5. The design guidelines shall be consistent with the Secretary of Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings, as adopted by the Commission.
6. Following adoption of the design guidelines by the Commission, copies shall be provided to the Shoreline Planning Director and to all owners of properties within the landmark district. The Shoreline Planning Director shall make copies of the guidelines available to the public upon request.

## **PART VI: CERTIFICATES OF APPROPRIATENESS**

1. The following procedures shall apply until such time as the City appoints a local design review board as provided by Interlocal Agreement Section 3.B and establishes rules and procedures for its conduct. Such rules and procedures shall be substantially equivalent to these Procedures. The local design review board shall coordinate its review with the Shoreline Planning Director.
2. A Certificate of Appropriateness must be obtained from the Commission before any person may make alterations to the significant features of a landmark which are set forth in the preliminary determination of significance or specified in the designation report. This requirement shall apply whether or not the proposed alteration also requires a building or other permit (KCC 20.62.080 A, as adopted by reference in SMC 15.20.025).
3. Ordinary repairs and maintenance that do not alter the appearance of a significant feature and do not utilize substitute materials, do not require a Certificate of Appropriateness. If there are no interior features of significance, repairs to or replacement of utility systems does not require a Certificate of Appropriateness if such work does not alter a significant feature. (KCC 20.62.080 B, as adopted by reference in SMC 15.20.025)
4. There shall be three types of certificates of appropriateness. Type I for major repairs, replacements in kind and restorations, Type II for alterations in appearance, replacement of historic materials or new construction or additions, and Type III for demolitions or removals of a landmark building or excavations, test boring, site clearing or construction and grading activity on an archaeological site. When a Certificate of Appropriateness is required, the following procedures shall govern according to the type of Certificate of Appropriateness required:
  5. Type I Certificates of Appropriateness: major repairs, replacements in kind and restorations. Major repairs, replacement in kind and restoration of a landmark, or significant features of a structure, building, building, site or object within a landmark district shall require a Type I Certificate of Appropriateness. Type I Certificates of appropriateness may be approved by the Historic Preservation Officer. Applications for the certificate shall be submitted to the Historic Preservation Officer on forms provided by the Commission and in accordance with the following requirements.
    - A. Activities that constitute major repairs, replacements in kind and restorations include, but are not limited to, the following:
      1. Repairs (other than minor repairs) using the same materials and design as the original.
      2. Repainting using the same color of materials as was original.
      3. Re-roofing using the same type and color of material.
      4. Replacement of sidewalks and driveways using the same type and color of materials.

5. Replacement of foundations or major portions thereof, using the same type and color of materials.
  6. Replacement of utility systems if interior features of significance are present.
- B. A clear photograph or photographs of the building, object, site or structure, a brief description of the intended work, and samples of replacement paint or materials for comparison with the existing or the original building or structure must be furnished with the application.
  - C. The decision of the Historic Preservation Officer on the application shall be made within 10 working days from the date on which the Historic Preservation Officer receives the application.
  - D. 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.
  - E. Appeals from the decision of the Historic Preservation Officer regarding the issuance of a Type I Certificate of Appropriateness may be taken by an aggrieved person by filing with the Historic Preservation Officer a notice of appeal, 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 and 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.
6. Type II Certificate of Appropriateness: alterations in appearance, replacement of historic materials or new construction or additions. 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 on an archaeological site requires a Type II Certificate of Appropriateness. The certificate shall be granted in accordance with the following criteria:
    - A. The extent to which the proposed alteration or significant change would adversely affect the specific features or characteristics specified in the latest of the preliminary determination of significance, if any, or the designation report;

- B. The reasonableness or lack thereof of the proposed alteration of significant changes in light of other alternatives available to achieve the objectives of the owner and the applicant.
  - C. The extent to which the proposed alteration or significant change may be necessary to meet the requirements of any other law, statute, ordinance, regulation, code or ordinance; and
  - D. The extent to which the proposed alteration or significant change is necessary or appropriate to achieving for the owner or applicant a reasonable return on the site, improvement or object, taking into consideration factors specified in KCC 20.62.100, as adopted by reference in SMC 15.20.025, and Part VII of these Rules and Procedures and the economic consequences of denial.
7. Type III Certificate of Appropriateness: demolition or removal of a landmark, excavation of a landmark site, test boring, site clearing or construction and grading activity on an archaeological site. The demolition or removal of a landmark, a significant feature of a landmark district, excavation of a landmark site or excavation, test boring, site clearing or construction and grading activity on an archaeological site constitutes an irreplaceable loss to the quality and character of the City of Shoreline, and, therefore, requires a Type III Certificate of Appropriateness. Said certificate shall be granted in accordance with the following procedures and standards.
- A. Type III Certificates of Appropriateness shall be issued by the Commission only when one (1) or both of the following two conditions have been established pursuant to the standards and criteria required below:
    - 1. The requested action is required to alleviate a threat to public health and safety; and/or
    - 2. The requested action is required to rectify a condition of unreasonable economic return.
  - B. The standards and criteria required to be shown in order to establish the existence of the conditions specified in subsection 7.A above shall be as follows:
    - 1. 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:
      - a. That a major and imminent threat to public safety exists as demonstrated by the independent analysis and supporting other information;
      - b. That all available alternatives for rectifying the threat have been considered as demonstrated by analysis of all such alternatives; and,



- c. 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 20.62.100, as adopted by reference in SMC 15.20.025, and Part VII of the Rules and Procedures.
  2. 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 building is incapable of earning a reasonable economic return as described in KCC 20.62.100, as adopted by reference in SMC 15.20.025, and Part VII of these Rules and Procedures.
8. 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 Shoreline Planning Director 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 specifications.
9. Applications for a permit to make alterations or significant changes referred to the Historic Preservation Officer by the Shoreline Planning Director pursuant to KCC 20.62.080 C 2, as adopted by reference in SMC 15.20.025, and Interlocal Agreement Section 2.A.4, shall be deemed an application for a Certificate of Appropriateness if accompanied by the additional information required to apply for such a certificate. (KCC 20.62.080 C.2, as adopted by reference in SMC 15.20.025, and SMC 15.20.026) The Shoreline Planning Director shall not consider such a permit complete unless accompanied by the information necessary to apply for a Certificate of Appropriateness. The Shoreline Planning Director shall refer any such complete applications to the Historic Preservation Officer as promptly as is feasible and reasonable. The Shoreline Planning Director shall not issue any permit until i) a Certificate of Appropriateness has been issued by the Commission or ii) the time has expired for filing a notice of denial of a Certificate of Appropriateness. (KCC 20.62.080 C. 2, as adopted by reference in SMC 15.20.025)
10. After the Commission has commenced proceedings for the consideration of any application for a Certificate of Appropriateness for a particular alteration or significant change by giving notice of a hearing pursuant to Section 10 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 20.62.080 C 3, as adopted by reference in SMC 15.20.025, or this Part VI have been concluded.
11. 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 Shoreline Planning Director pursuant to KCC 20.62.070, as adopted by reference in SMC 15.20.025, the Commission shall hold a public hearing thereon. The Historic Preservation Officer shall mail notice of the hearing to the owner not less than ten calendar days before the date of the hearing. 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 approving the requested alterations or changes or modifications thereof. If the Commission orders 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 Shoreline Planning Director.

12. 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, the Shoreline Planning Director, and interested persons of record setting forth the reasons why approval of the application is not warranted.
13. Any interested person of record may appeal the approval or denial of a Certificate of Appropriateness as provided in KCC 20.62.110, as adopted by reference in SMC 15.20.025.
14. At the public hearing on any 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 or a reasonable economic use of the object, improvement, or site, and there is no available alternative which has less impact on the features of significance or characteristics specified in the preliminary determination of significance or the designation report.

## **PART VII: EVALUATION OF ECONOMIC IMPACT**

1. At the public hearing on any 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 viable and reasonable alternative which would have less impact on the features of significance or characteristics specified in the preliminary determination of significance or the designation report. (K.C.C. 20.62.100 A as adopted by reference in SMC 15.20.025)
2. In considering what constitutes an unreasonable economic return, the Commission will consider the property owners reasonable expectations of economic return on the property, including the following:
  - A. 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.
  - B. Whether the landmark property was purchased for use or for investment.

1. If the landmark property was purchased for use (e.g. as a residence or for business use), does the landmark designation interfere with the property's intended use?
2. If the property 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?
3. To prove the existence of a condition of unreasonable economic return, the applicant must establish and the Commission must find both of the following: (KCC 20.62.100 B, as adopted by reference in SMC 15.20.025)
  - a. That 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 the record and the applicant shall submit to the Commission evidence establishing each of the following factors: (KCC 20.62.100 B.1, as adopted by reference in SMC 15.20.025)
    - (1) The current level of economic return on the property as considered in relation to the following:
      - (a) 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.
      - (b) 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.
      - (c) The remaining balance on any mortgage or other financing secured by the landmark and annual debt service, if any, during the prior five years.
      - (d) The remaining balance on any mortgage or other financing secured by the landmark and annual debt service, if any, during the same period.
      - (e) Real estate taxes for the previous four years and assessed value of the landmark according to the two most recent assessed valuations.
      - (f) 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.
      - (g) 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.

- (h) The form of ownership or operation of the landmark whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or both.
  - (i) Any state or federal income tax returns on or relating to the landmark for the past two years. (KCC 20.62.100 B.1.a, as adopted by reference in SMC 15.20.025)
- (2) That the 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:
- (a) Any real estate broker or firm engaged to sell or lease the landmark.
  - (b) The reasonableness of the price or rent sought by the owner.
  - (c) Any advertisements placed for the sale or lease of the landmark. (KCC 20.62.100 B.1.b as adopted by reference in SMC 15.20.025)
- (3) The unfeasibility of alternative uses that can earn a reasonable economic return for the landmark as considered in relation to the following:
- (a) 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.
  - (b) 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.
  - (c) 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.
  - (d) 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.
  - (e) The unfeasibility of new construction around, above, or below the existing landmark. (KCC 20.62.100 B.1.c, as adopted by reference in SMC 15.20.025)

- (4) The potential economic incentives and/or funding available to the owner through federal, state, county, city or private programs. (KCC 20.62.100 B.1.d, as adopted by reference in SMC 15.20.025)
- b. The owner has the present intent and the secured financial ability, demonstrated by appropriate documentary evidence, to complete the alteration or significant change. (KCC 20.62.100 B.2, as adopted by reference in SMC 15.20.025) In the case of demolition or removal 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.
- c. Upon reasonable notice to the owner, the Commission may appoint an expert or experts to provide advice an/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. (KCC 20.62.100 D, as adopted by reference in SMC 15.20.025)
- d. Any economic impact caused intentionally or by willful neglect shall not constitute a basis for granting a Certificate of Appropriateness.

#### **PART VIII: SPECIAL VALUATION FOR HISTORIC PROPERTY**

This Part incorporates by reference the King County Administrative Policies and Procedures entitled "Procedures for Historic Preservation Special Tax Valuation."

#### **PART IX: APPEALS AND RECONSIDERATION**

1. Appeal. Any person aggrieved by a decision of the Commission (i) designating or rejecting, in whole or in part, a nomination for designation of a landmark or (ii) 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 City Council. Written notice of appeal shall be filed with the Historic Preservation Officer and the City Clerk and shall be accompanied by a statement setting forth the grounds of the appeal, supporting documents and argument. (KCC 20.62.110 A, as adopted by reference in SMC 15.20.025)
2. Reconsideration by the Commission. Any person aggrieved by a decision of the Commission (i) designating or rejecting, in whole or in part, a nomination for designation of a landmark or (ii) 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 ground the decision was based on (i) errors or omissions of fact or (ii) that new information bearing on the decision, and not reasonably available to the petitioner at the time of the decision, is available.

- A. 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.
- B. Within 70 calendar days 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 a public hearing on the matter.