




**King County  
Administrative Policies and Procedures**

**Executive Policies**

**King County**

Title  <b>Cultural Resources Procedures</b>	Document Code No.  LUD 16-1 (AEP) RW
Department/Issuing Agency <b>King County Executive: Historic Preservation Program</b>	Date <b>10.15.12</b>
Approved 	

**1.0 SUBJECT TITLE:** Cultural Resources Procedures

**1.1 EFFECTIVE DATE:**

**1.2 TYPE OF ACTION:** New Procedures

**1.3 KEYWORDS:** Archaeology; Compliance; Cultural Resources; Historic Preservation; Historic Properties; Historic Resource Inventory; Landmarks

**2.0 PURPOSE:** To develop consistent procedures for considering and protecting cultural resources affected by County projects.

**3.0 ORGANIZATIONS AFFECTED:** Applicable to all Executive Branch Departments, Offices, and Agencies.

**4.0 REFERENCES:**

- 4.1 King County Code Chapter 20.62 - Landmarks.** Directs the King County Historic Preservation Officer (HPO) to maintain a compilation of information on significant historic resources known as the Historic Resource Inventory (HRI). Requires that all development proposals for projects on or adjacent to a resource listed in the HRI be reviewed by the King County HPO prior to approval. Ground disturbance on parcels with known archaeological sites may require archaeological survey and mitigation. Alterations to identified features of significance of designated landmarks must be approved by the Landmarks Commission (KCC 20.62.150).
- 4.2 King County 2008 Budget Ordinance (Ordinance 15975) - Section 19 (Office of Management and Budget), P6 and Section 120 (Facilities Management Internal Service), P1.** The "facilities management division, in collaboration with the historic preservation program staff and landmarks commission, shall submit to the council for its review and approval by ordinance a detailed action plan for county stewardship of historic structures including, at a minimum, policies and procedures that ensure that either the historic preservation office or the landmarks commission, or both review and give technical expertise and guidance before proposed action, such as the sale, remodel or demolition of any county property over 40 years of age or that possess archaeological value take place".

- 4.3 King County Ordinance 16271 - Stewardship of Historic Resources. Adopts Historic Resources Action Plan submitted in response to Ordinance 15975 provisos. Directs the King County Historic Preservation Program to “develop and implement programmatic guidelines for treatment of buildings and structures” and “develop and implement guidelines for addressing identification and evaluation of archaeological properties.” Also specifies procedures for review of buildings and structures” and review for archaeological properties and traditional cultural properties that shall be incorporated in Executive policies and procedures.
- 4.4 Indian Graves and Records (27.44 RCW). This law describes the procedures that must be followed upon discovery of human skeletal remains and states that “Any person who knowingly removes, mutilates, defaces, injures, or destroys any cairn or grave of any native Indian, or any glyptic or painted record of any tribe or peoples is guilty of a class C felony”.
- 4.5 Archaeological Sites and Resources (27.53 RCW) defines archaeological sites, states that it is a Class C felony to knowingly disturb an archaeological site, and discusses procedures for obtaining a permit for excavation of an archaeological site. Archaeological Excavation and Removal Permit (WAC 25-48) specifies the requirements for obtaining an excavation permit.
- 4.6 State Environmental Policy Act (SEPA) (43.21C RCW). “[I]t is the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may: (d) Preserve important historic, cultural, and natural aspects of our national heritage”. The regulations that implement SEPA are found in SEPA Rules (WAC 197-11). These regulations describe the environmental review process (WAC 197-11-60) and the role of the environmental checklist in it (WAC 197-11-315). WAC 197-11-330 includes cultural resources in SEPA review: “(3) In determining an impact’s significance (WAC 197-11-794), the responsible official shall take into account the following, that: (e) A proposal may to a significant degree: (i) Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources...”. Question 13 on the environmental checklist (WAC 197-11-960) addresses “historic and cultural preservation”.
- 4.7 Human Remains (68.50 RCW) requires that anyone who knows of the existence and location of a dead body to notify the King County Medical Examiner in the most expeditious manner possible.
- 4.8 Washington State Executive Order 05-05 requires all state agencies to review capital construction projects and land acquisitions for the purpose of a capital construction project, not undergoing Section 106 review under the National Historic Preservation Act of 1966, with the Department of Archaeology and Historic Preservation and affected Tribes to determine potential impacts to cultural resources.
- 4.9 National Historic Preservation Act (NHPA) of 1966 (16 USC 470 et seq). All projects that

require a permit from a federal agency or that are funded fully or in part by federal money are considered federal undertakings and are subject to NHPA. Section 106 of the NHPA requires the lead federal agency to “take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register [of Historic Places].” The regulations that implement Section 106 are found in Protection of Historic Properties (36 CFR § 800); they require the lead federal agency to identify significant archaeological or historic sites, determine if a project will disturb them, and mitigate any disturbance. Section 101(d)(6)(B) of the NHPA requires that “in carrying out its responsibilities under section 106, a Federal agency shall consult with any Indian tribe ... that attaches religious and cultural significance to [historic properties that may be affected by the undertaking].”

- 4.10 National Environmental Policy Act of 1969 (42 USC 4231, 4331-4335). Section 101(b) states that “...it is the continuing responsibility of the Federal government to use all practicable means...to improve and coordinate Federal plans, functions, programs and resources to the end that the Nation may: (4) preserve important historic, cultural, and natural aspects of our national heritage...” Consideration of cultural resources under NEPA usually follows and is coordinated with the Section 106 process (see NHPA above).
- 4.11 Department of Transportation Act, Section 4(f) (49 USC 303). “It is...the policy of the United States Government that special effort should be made to preserve...historic sites.” “The Secretary may approve a transportation program or project...requiring the use of...land of an historic site of national, State, or local significance...only if (1) there is no prudent and feasible alternative to using that land; and (2) the program or project includes all possible planning to minimize harm to the...historic site resulting from the use.”

## 5.0 DEFINITIONS

- 5.1 “Above-ground resources” include buildings, structures, objects, and districts.
- 5.2 “Archaeological object” is “an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products” (27.53.030 RCW).
- 5.3 “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).
- 5.4 “Archaeological site” is “a geographic locality in Washington that contains archaeological objects” (27.53.030 RCW).

- 5.5 “Area of Potential Effects” (APE) means “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking” (36 CFR § 800.16(d)). The physical APE is bounded both horizontally and vertically and includes off-site borrow pits, associated utilities, ground improvement, laydown areas, road improvements, etc. In defining the APE the lead agency must consider direct, indirect, and cumulative effects. Direct effects are those caused by the project, at the same time, and in the same place. Direct effects include physical (project footprint), visual (view shed), auditory (noise), sociocultural (land use), and effects on culturally significant natural resources (plants and animals used for religious purposes). Indirect effects are effects that are related to project activities, but occur later in time or at some distance from the project; an example of an indirect effect is construction truck traffic. Cumulative effects are the incremental impacts that the project’s direct or indirect effects have on a resource; an example of a cumulative effect is increased erosion caused by project. A project can have multiple APEs if it has multiple effects or if it affects different types of cultural resources. Changes in project design may require changes to the APE. Area of Potential Effects is similar to “affected environment” under SEPA.
- 5.6 “Certificate of Appropriateness” (COA) is “written authorization issued by the [King County Landmarks] commission or its designee permitting an alteration to a significant feature of a designated [King County] landmark (KCC 20.62.020).
- 5.7 “City of Seattle Landmark” is “An object, site or improvement which is more than twenty-five (25) years old may be designated for preservation as a landmark site or landmark if it has significant character, interest or value as part of the development, heritage or cultural characteristics of the City, state, or nation, if it has integrity or the ability to convey its significance, and if it falls into one (1) of the following categories:
- A. It is the location of, or is associated in a significant way with, an historic event with a significant effect upon the community, City, state, or nation; or
  - B. It is associated in a significant way with the life of a person important in the history of the City, state, or nation; or
  - C. It is associated in a significant way with a significant aspect of the cultural, political, or economic heritage of the community, City, state or nation; or
  - D. It embodies the distinctive visible characteristics of an architectural style, or period, or of a method of construction; or
  - E. It is an outstanding work of a designer or builder; or
  - F. Because of its prominence of spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the City and contributes to the distinctive quality or identity of such neighborhood or the City (SMC 25.12.350).
- 5.8 “Consultation” is the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 process (36 CFR § 800.16(f)). Other participants include Indian tribes.
- 5.9 “Cultural Resources” include archaeological sites and other archaeological resources, historic properties, historic resources, and landmarks and are the subject of these procedures.

- 5.10 “Cultural Resources Consultant” (Consultant) is a professional archaeologist, architect, or historical architect who is qualified to provide cultural resources services to satisfy regulatory requirements. King County departments should follow County procurement procedures in selecting and hiring a Consultant on either an on-call or project-by-project basis.
- 5.11 “Cultural Resources Coordinator” is the professional archaeologist in the King County Road Services Division (KCRSD) who reviews all projects for potential impacts to cultural resources.
- 5.12 “Cultural Resources Liaison” is the person designated by each department/division to be responsible for cultural resources review.
- 5.13 “Cultural Resource Protection Project” (CRPP) is a multi-phase project intended to provide an informational and conceptual basis for improved cultural resource identification, evaluation, and management, and to create tools for more effective compliance with federal, state, and local regulations addressing archaeological resources. Completed tools include a database and GIS of cultural resources throughout the County; the King County Historic Preservation program (KCHPP) and KCRSD use these tools to review County construction projects for impacts to cultural resources. Tools still in development consist of a background document about King County archaeology and a GIS-based sensitivity model that will assist County departments/divisions in project planning.
- 5.14 “Data recovery” is a mitigation measure for archaeological sites that seeks to recover the information a site contains through controlled archaeological excavation and the subsequent analysis and reporting of recovered material. It often serves as mitigation in instances where a significant site cannot be avoided or preserved. Excavation is a destructive process; preparing a final record of the excavation following professional standards is a critical element of this type of mitigation. The Advisory Council on Historic Preservation’s Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites (64 FR 27085-87, 18 May 1999) provides guidance on this issue.
- 5.15 “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.
- 5.16 “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, or obstruction of viewsheds.
- 5.17 “Eligible” means eligible for listing in a government register of historic properties. Eligible for listing in the National Register of Historic Places means that a district, site,

building, structure, or object “possesses integrity of location, design, setting, materials, workmanship, feeling, and association and (a) [is] associated with events that have made a significant contribution to the broad patterns of our history; or (b) [is] associated with the lives of persons significant in our past; or (c) [embodies] the distinctive characteristics of a type, period, or method of construction, or [represents] the work of a master, or [possesses] high artistic values, or [represents] a significant and distinguishable entity whose components may lack individual distinction; or (d) [has] yielded, or may be likely to yield, information important in prehistory or history” (36 CFR § 60.4). The district, site, building, structure, or object must also be 50 years old or older. Eligible for listing in the Washington Heritage Register means a building, site, structure, or object must be at least 50 years old. The resource should have a high to medium level of integrity, i.e., it should retain important character defining features from its historic period of construction. The resource should have documented historical significance at the local, state, or federal level.

- 5.18 “Exempt activities” are those activities agreed to in writing by KCHPP and department/division Cultural Resources Liaisons as not requiring review for effects on cultural resources. They are not the same as SEPA categorical exemptions.
- 5.19 “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.
- 5.20 “Historic” “means peoples and cultures who are known through written documents in their own or other languages” (27.53.030 RCW).
- 5.21 “Historic archaeological resources” means “those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended” (27.53.030 RCW).
- 5.22 “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 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]).
- 5.23 “Historic Property Inventory Database” is a database developed and maintained by DAHP that contains records, such as inventory forms, survey reports, maps, photographs, and sketches, that document historic properties across the state (from DAHP web site).
- 5.24 “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).

- 5.25 “Historic Resource Inventory” (HRI) is “an organized compilation of information on historic resources considered to be significant according to the criteria listed in K.C.C. 20.62.040A. The historic resource inventory is kept on file by the historic preservation officer and is updated from time to time to include newly eligible resources and to reflect changes to resources” (KCC 20.62.020).
- 5.26 “King County Landmarks Commission” is the commission that advises the Executive on matters pertaining to King County’s cultural resources, designates and protects significant landmark properties in unincorporated King County; and acts as the Landmarks Board for suburban cities that have entered into interlocal agreements with the County for preservation services.
- 5.27 “King County Historic Preservation Program” (KCHPP) is the office responsible for providing staffing support for the Landmarks Commission, maintaining the Historic Resource Inventory, administering the Cultural Resource Protection Project, reviewing development proposals for projects on or adjacent to a historic resource listed in the Historic Resource Inventory, representing the County in Section 106 consultation for federal projects, and providing technical assistance for unincorporated King County and 18 cities within the County.
- 5.28 “King County Landmark” means a historic resource that is more than forty years old and possesses integrity of location, design, setting, materials, workmanship, feeling and association, and:
1. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history; or
  2. Is associated with the lives of persons significant in national, state or local history; or
  3. Embodies the distinctive characteristics of a type, period, style or method of design or construction, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
  4. Has yielded or may be likely to yield, information important in prehistory or history; or
  5. Is an outstanding work of a designer or builder who has made a substantial contribution to the art (KCC 20.62.040).
- 5.29 “Lead Federal Agency” is the federal agency (usually the funding source or the permitting agency) responsible for conducting historic property review pursuant to Section 106 of the National Historic Preservation Act. If multiple federal agencies are involved in permitting, licensing and/or funding a project, one will assume the lead agency role in conducting review and tribal consultation.
- 5.30 “Memorandum of Agreement” (MOA) means a “document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties” (36 CFR § 800.16(o)).
- 5.31 “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.

- 5.32 "Monitoring" (also construction monitoring or archaeological monitoring) means observation of construction activities by a professional archaeologist. It is intended to allow for discovery, evaluation, and decision making on the treatment of discovered archaeological deposits prior to their destruction. Monitoring is usually conducted in situations where prior archaeological survey cannot be done, although it is also usually conducted after data recovery.
- 5.33 "Monitoring Plan" is a document that describes monitoring procedures, including actions to be taken upon discovery of archaeological resources or human remains during construction.
- 5.34 "National Historic Landmarks" are "buildings, sites, districts, structures, and objects that have been determined by the Secretary of the Interior to be nationally significant in American history and culture. Ordinarily, cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings and properties that have achieved significance within the past 50 years are not eligible for designation. The quality of national significance is ascribed to districts, sites, buildings, structures and objects that possess exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, technology and culture; and that possess a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association, and:
- (1) That is associated with events that have made a significant contribution to, and are identified with, or that outstandingly represents, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained; or
  - (2) That are associated importantly with the lives of persons nationally significant in the history of the United States; or
  - (3) That represent some great idea or ideal of the American people; or
  - (4) That embody the distinguishing characteristics of an architectural type specimen exceptionally valuable for the study of a period, style or method of construction, or that represent a significant, distinctive and exceptional entity whose components may lack individual distinction; or
  - (5) That are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture; or
  - (6) That have yielded or may be likely to yield information of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation over large areas of the United States. Such sites are those which have yielded, or which may reasonably be expected to yield, data affecting theories, concepts and ideas to a major degree.
- 5.35 "National Register of Historic Places" (NRHP) is a federal list of "districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology,



engineering, and culture” (NHPA Section 101(a)(1)(A)).

- 5.36 “Prehistoric” “means peoples and cultures who are unknown through contemporaneous written documents in any language” (27.53.030 RCW).
- 5.37 “Professional archaeologist” is defined by the state of Washington as “a person with qualifications meeting the federal secretary of the interior’s standards for a professional archaeologist” (27.53.030 RCW) and as “a person who: (a) Has designed and executed an archaeological study as evidenced by a thesis or dissertation and been awarded an advanced degree such as an M.A., M.S., or Ph.D. in archaeology, anthropology, history or other germane discipline with a specialization in archaeology from an accredited institution of higher education; and (b) Has a minimum of one year of field experience with at least twenty-four weeks of field work under the supervision of a professional archaeologist, including no less than twelve weeks of survey or reconnaissance work and at least eight weeks of supervised laboratory experience. Twenty weeks of field work in a supervisory capacity must be documentable with a report on the field work produced by the individual” (WAC 25-48-020).
- 5.38 “Programmatic agreement” (PA) means “a document that records the terms and conditions agreed upon to resolve the potential adverse effects of a Federal agency program, complex undertaking or other situations in accordance with §800.14(b) (36 CFR § 800.16(t)).
- 5.39 “State Historic Preservation Officer” (SHPO) means “the official appointed or designated pursuant to section 101(b)(1) of the [NHPA] to administer the State historic preservation program or a representative designated to act for the State historic preservation officer” (36 CFR § 800.16(v)).
- 5.40 “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).
- 5.41 “Treatment Plan” (or Archaeological Treatment Plan) is a formal, written document specifying the procedures to be followed when conducting cultural resources investigations at archaeological sites.
- 5.42 “Washington Heritage Register” is “an official listing of historically significant sites and properties found throughout the state. The list is maintained by the Department of Archaeology & Historic Preservation (DAHP) and includes districts, sites, buildings, structures, and objects that have been identified and documented as being significant in local or state history, architecture, archaeology, engineering or culture” (from DAHP web page at <http://www.dahp.wa.gov/washington-heritage-register>).
- 5.43 “Washington Information System for Architectural and Archaeological Records Data (WISAARD)” is an online GIS map tool for locating 1) archaeological sites and 2) historical sites that are listed on the Washington Heritage Register and the National Register of Historic Places..

## 6.0 POLICIES

- 6.1 King County Comprehensive Plan (2010) - Historic Preservation, P-208. "King County shall administer a regional historic preservation program to identify, evaluate, protect and enhance, historic properties."
- 6.2 King County Comprehensive Plan (2010) - Historic Preservation, P-209. "The Landmarks Commission shall advise the King County Executive and the Council on programs, policies and regulations that support and enhance preservation and protection of significant historic properties."
- 6.3 King County Comprehensive Plan (2010) - Stewardship of Cultural Resources, P-218. "King County shall review public and private projects and may condition them in order to protect historic properties. King County agencies shall coordinate with the Historic Preservation Program to provide consistent review and mitigation for projects within unincorporated areas and for county undertakings within cities."
- 6.4 King County Comprehensive Plan (2010) - Stewardship of Cultural Resources, P-220. "Archaeological properties shall be identified, evaluated and protected in a consistent and coordinated manner. King County shall establish consistent review and protection procedures and develop centralized professional archaeological staffing."
- 6.5 King County Comprehensive Plan (2010) - Stewardship of Cultural Resources, P-221. "All King County agencies shall be stewards of cultural resources under their direct control. Agencies shall identify and assess cultural resources, preserve significant historic properties and public art, and provide public access to them whenever appropriate. Agencies shall collaborate with the Historic Preservation Program to nominate eligible properties for landmark designation."
- 6.6 In order to protect cultural resources effectively and avoid delays in projects all King County departments shall address cultural resources early in the planning process.
- 6.7 King County has a government-to-government relationship with all Indian tribes and will work directly with tribes during projects that have the potential to impact cultural resources.
- 6.8 All King County departments should take measures to educate the public about the importance of cultural resources and the extent to which the departments consider them in the planning process.

## 7.0 PROCEDURES

### 7.1 Agency-level Review:

- (A) The Cultural Resources Liaison (Liaison) for each County department/division will hold an annual meeting to discuss workload planning and cultural resources concerns with work group managers. These meetings will be scheduled in relation to each department/division's

annual cycle for work planning and budgeting. The meetings will be used to review implementation of cultural resources management measures during the past year and solicit information from work group managers regarding anticipated projects that have the potential to affect cultural resources. The King County Roads Services Division (KCRSD) Cultural Resources Coordinator shall serve as the Cultural Resources Liaison for KCRSD. KCRSD will continue to utilize internal cultural resources professional staff to review all projects for potential impacts and regulatory needs. KCRSD will continue to coordinate with KCHPP for potential impacts to HRI or Landmark properties and for review of archaeological data recovery. Review procedures for KCRSD projects may be further streamlined by mutual agreement.

- (B) The Liaison will also work with KCHPP staff to develop a mutually acceptable list of exempt activities that will not require review for effects on cultural resources. Each list of exempt activities will be agreed upon in writing. Each department/division Liaison will complete the list as soon as possible after implementation of these procedures in order to expedite KCHPP project review.
- (C) In order to determine whether a project has the potential to affect cultural resources, the department/division must first define the horizontal and vertical boundaries of the area in which cultural resources may be adversely affected by the project. This is the same as the "area of potential effects" (APE) as defined in 36 CFR § 800.16(d).
- (D) Following the annual meeting the Liaison will prepare, and provide to the meeting's participants, a memorandum summarizing the discussions. The Liaison will conduct follow-up discussions as necessary with any representative who describes an activity that could affect cultural resources; discussion will include identification of regulatory context (NEPA, NHPA, EO 05-05, SEPA, and/or King County permits).
- (E) The Liaison will then compile a list of activities planned for the coming year that department/division management expects to have the potential to affect cultural resources. In addition to construction and other ground-disturbing projects, the list shall include proposed build/lease/purchase, sale, lease, surplus, transfer or other property custody actions that have the potential to change physical management or use of a property and thus affect any historic properties that may be present. The list will be distributed to DAHP, KCHPP, and the appropriate Indian tribes; it will include the following information for each activity: department/division; dates/schedule; detailed information (to the extent available) on the nature and location of proposed activities including project boundaries and the likely extent of above-ground and subsurface disturbance; a brief summary of relevant environmental conditions associated with the project such as watercourses, wetlands, or vegetation; and potential state or federal funding sources and permit requirements. Included with the document should be a concise summary of cultural resources management activities undertaken the previous year.
- (F) Department/division staff will make themselves available for follow up meetings with DAHP, KCHPP, and tribal representatives to discuss cultural resources issues, if requested.
- (G) The Liaison will be kept informed by appropriate personnel on a regular basis, regarding

updated information on changes to the initial list of activities, including new actions, changes in scope of any of the projects on the initial list, and cancellation of proposed actions. A list of revised projects will be distributed to DAHP and KCHPP on a quarterly basis, and to appropriate Indian tribes on a quarterly or, at their discretion, a less frequent basis.

- (H) Department/division staff will make themselves available for quarterly update meetings with DAHP, KCHPP, and tribal representatives to discuss cultural resources issues, if requested.
- (I) For projects that are time-sensitive and do not fit in the quarterly department/division planning schedule, the same procedures outlined above will be followed. This information shall be provided as early as possible in the planning process to allow for identification of significant resources and to factor their locations into final planning and design.
- (J) For changes to projects already reviewed by KCHPP, the same procedures outlined above will be followed.
- (K) Nondestructive activities needed for planning (such as studies, survey work, and analyses) may be carried out prior to completion of the process if they do not limit consideration of alternatives.

#### **7.2 KCHPP-level Review:**

- (A) KCHPP staff will review the proposed actions and will check the King County HRI to determine if the APE is within the boundaries of a recorded archaeological site, if it is in or adjacent to a parcel that contains a cultural resource that is recorded in the HRI, or if the area is sensitive for archaeological resources. KCHPP will coordinate review with the KCRSD Archaeologist to avoid duplication of effort. KCHPP will work with County departments/divisions to integrate these new procedures into their existing cultural resources procedures. In most cases, KCHPP review will obviate the need for similar review by private consulting archaeologists.
- (B) KCHPP staff will make recommendations on the need for above-ground and archaeological surveying, testing, mitigation, and other appropriate measures. If the proposed project will not involve ground disturbance, modification of buildings or structures over 35 years old, is not within the boundary of a recorded archaeological site, is not in or adjacent to a parcel that contains inventoried cultural resources that would be adversely affected, or is not in an archaeologically sensitive area, the project will be considered to not have the potential to affect cultural resources and cultural resources need not be considered further in project planning unless the project is changed. If the proposed project will involve ground disturbance, modification of vegetation, modification of buildings or structures over 35 years old, is within the boundary of a recorded archaeological site, is in or adjacent to a parcel that contains inventoried cultural resources that would be adversely affected, or is in an archaeologically sensitive area, the project will be considered to have the potential to affect cultural resources. KCHPP will work with County departments/divisions to quickly review low-impact activities, such as planting projects, and will develop training and field protocols for work crews in lieu of recommending archaeological surveys when warranted.

- (C) KCHPP will assist the department/division, as needed, in developing a scope of work for any needed building, structure, or archaeological investigations. KCHPP will also advise and assist the department/division, as needed, with consultation and compliance with applicable regulations, including County standards for consultants and reporting. When avoidance is not possible, the department/division shall mitigate adverse effects of the project based on the results of the review and consultation.
- (D) Pursuant to KCC 20.62.150, KCHPP conducts review of all permit applications received by the Department of Development and Environmental Services (DDES), including those submitted by or for County departments/divisions, that affect parcels listed in or adjacent to those listed in the King County HRI. When proposed County department/division projects have already been reviewed under these procedures, KCHPP will avoid duplication of effort and expedite any additional needed review for applications submitted by or for County departments/divisions.

**7.3 Coordinated Review:** Depending on funding and permitting, the specifics of the cultural resources management procedures may vary.

- (A) For projects with a state or federal nexus (involvement in funding, permitting, licensing or other significant role), the lead state or federal agency is responsible for ensuring that the requirements of EO 05-05 or Section 106 are met. King County is the lead agency for SEPA compliance for projects it regulates, funds, or sponsors. KCHPP staff will advise and assist, as appropriate, the County departments/divisions with consultation and compliance with applicable regulations, including County standards, and will participate in the Section 106 process as a consulting or concurring party. County requirements can typically be met while meeting state or federal requirements. In most cases, when both state and federal regulations apply, state requirements are waived in lieu of meeting federal requirements.
- (B) For all projects without a federal nexus, if the proposed project will involve ground disturbance or modification of vegetation and is within the boundary of a recorded archaeological site, the lead state agency or county department/division is responsible for ensuring compliance with 27.53 RCW.
- (C) When proposed actions affect a designated landmark in unincorporated King County or in a city with a landmarks ordinance, a landmark Certificate of Approval (COA) is required prior to any disturbance of identified features of significance of the landmark. The design review process which precedes issuance of a COA typically requires several weeks. KCHPP staff can assist with informal review and recommendations prior to the mandatory formal COA process.
- (D) In situations where federal or state agency requirements are less rigorous than County requirements, KCHPP may require work or impose conditions in addition to those required by lead federal or state agencies.

**7.4** King County departments/divisions are encouraged to seek KCHPP review in advance of property acquisitions in order to ascertain whether or not any cultural resources or management issues or requirements may exist.

- 7.5 Investigations such as above-ground and archaeological surveying, testing, and mitigation that are required for regulatory compliance will typically be conducted by private cultural resources consultants, except for investigations for Department of Transportation projects, which may be conducted by the RSD Archaeologist. King County departments/divisions will provide copies of the products (e.g., reports) of these investigations directly to KCHPP.
- 7.6 Records pertaining to the locations of archaeological sites or the sites of traditional religious, ceremonial, or social uses and activities of Indian tribes shall not be released to the public and shall not be retained in records accessible to the public. Such records are exempt from public disclosure requests in order to prevent the looting or depredation of them (42.56.300 RCW).

## 8.0 RESPONSIBILITIES

- 8.1 Cultural resources management requires coordination with County planning and operations staff to assure that cultural resources are considered both as a part of routine operations and as a critical consideration early in the planning process for new projects.
- 8.2 All County departments/divisions are required to consider protection and management of cultural resources in project planning, especially for projects that may involve ground disturbance or vegetation modification.

## 9.0 APPENDICES

- 9.1 **Section 106 Procedures:** All projects that require a permit from a federal agency or that are funded fully or in part by federal money are considered federal undertakings and are subject to Section 106. The lead federal agency (usually the funding source or the permitting agency) is required to do the following:
- (A) Determine if project has the potential to affect significant cultural resources.
  - (B) If project may affect significant cultural resources, identify those resources.
    - Identify consulting parties (Tribes, community groups, etc.).
    - In consultation with the State Historic Preservation Officer (SHPO) and consulting parties define the APE, determine whether significant cultural resources are already known to exist within the APE, and determine what should be done to identify potentially significant cultural resources (archaeological and/or historic building and structure survey, documentary research, etc.).
    - Identify potentially significant cultural resources.
    - In consultation with SHPO and consulting parties, evaluate potentially significant cultural resources in terms of the NRHP criteria of eligibility. For archaeological sites this usually involves "testing excavations".
  - (C) If significant cultural resources exist within the APE, determine if they will be affected by the project.
  - (D) If significant cultural resources will be affected by the project, determine whether the effects will diminish the resource's integrity of location, design, setting, materials, workmanship,

feeling, or association through:

- physical destruction or damage,
- inappropriate alterations,
- removal from the historic setting,
- change in use or setting when use or setting is significant,
- visual, atmospheric, or audible intrusions,
- demolition by neglect, and
- unrestricted transfer from federal ownership.
- If significant cultural resources will be adversely affected, continue consultation about how to avoid, minimize, or mitigate adverse effects.

(E) If consulting parties agree on mitigation measures, develop and sign a Memorandum of Agreement (MOA) that specifies those measures in a Treatment Plan.

(F) Execute the MOA and its stipulations.

**9.2 State Environmental Policy Act Procedures:** Projects requiring SEPA review must follow the following procedures:

(A) If the project will require environmental review, complete the SEPA Checklist (Questions 13a, 13b, 13c - Historic and Cultural Preservation are the only questions that address cultural resources) following the guidance provided by the Washington State Department of Ecology at [www.ecy.wa.gov/programs/sea/sepa/hcp\\_guidance13.html](http://www.ecy.wa.gov/programs/sea/sepa/hcp_guidance13.html) and <http://www.ecy.wa.gov/programs/sea/sepa/apguide/apguide1.htm>.

(B) 13a asks “Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.”

- Identify any places or objects on or adjacent to the project site that are listed or proposed for listing on a historic register by doing the following:
  - Contact KCHPP, tribal cultural resources staff, the local historic preservation office (if available), a local historical organization (i.e., museum, society, etc.), or a nearby university program (i.e., archaeology or anthropology) to determine whether there are already known historic properties in, on, or adjacent to the project area.
  - Log on to [www.dahp.wa.gov](http://www.dahp.wa.gov) and use the WISAARD search engine to see if there are national or state Register properties in, on, or adjacent to the project area.
  - Select a qualified cultural resources consultant to conduct cultural resources field investigations if there is the potential that there are properties over 50 years of age in, on, or adjacent to the project area. If there are properties over 50 years of age present, but they are not currently on or proposed for a national, state or local preservation register, then a determination of eligibility must be conducted with DAHP at this time.
  - If there are no properties over 50 years of age in, on, or adjacent to the project area, proceed to 13C.

(C) 13b states “Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.”

- Identify any places or objects on or adjacent to the project site that are of archeological, scientific or cultural importance. Contact the local jurisdiction, DAHP, KCHPP, use the TRAX system (regional Department of Natural Resources offices), or tribal sources for information.
  - If there are structures or cultural resources, located in, on, or adjacent to the project area, be specific as possible in describing them. For properties over 50 years of age, describe them,

including any obvious changes that have occurred in recent years (i.e., new windows, remodeling, etc.).

- If there are landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be in, on, or adjacent to the project area, proceed to 13C.

(D) 13C reads as follows: “Proposed measures to reduce or control impacts, if any”. For historic and archaeological resources that are in, on, or adjacent to the project area, impacts can be mitigated through avoidance, maintenance or restoration of the resource’s integrity to the extent possible, re-location of the resources, or meeting tribal needs for the sanctity of the location.

- What measures do you propose to avoid, minimize or mitigate for deliberate impacts to historic structures or cultural resources?
- What measures do you proposed to avoid, minimize or mitigate for the impacts to inadvertent discoveries?
- Contact and work with interested tribes, historic preservation organizations, or advocacy groups for recommendations on mitigation.
- Review DAHP’s and KCHPP’s recordation guidelines if documentation is proposed to serve as a mitigation measure.

(E) Submit the checklist to the Lead Agency if the agency’s Lead Agency status is based on its regulatory authority. If a King County department/division is sponsoring a project it is the Lead Agency and thus conducts the SEPA review.

(F) The Lead Agency will determine whether the project will have any likely significant adverse environmental impacts.

- If no, the Lead Agency will issue a determination of non-significance (DNS) or a mitigated DNS that specifies mitigation conditions that must be satisfied to reduce likely significant adverse impacts to a non-significant level.
  - If the Lead Agency issues a DNS, then no further consideration of cultural resources is required.
  - If the Lead Agency issues a mitigated DNS, the specified conditions must be satisfied with no additional consideration of cultural resources required.
- If yes, the Lead Agency will issue a determination of significance/scoping notice (DS/Scoping), thereby initiating the Environmental Impact Statement (EIS) process. The EIS will analyze alternatives and possible mitigation measures to reduce the environmental impacts of the project.

9.3 **Washington State Executive Order 05-05 Procedures:** All state agencies must review capital construction projects and land acquisitions for the purpose of a capital construction project, not undergoing Section 106 review, with DAHP and affected Tribes to determine potential impacts to cultural resources. State agencies must meet with DAHP or submit EZ1 form to DAHP for all capital construction projects and must consult with tribes.

9.4 **Department of Archaeology and Historic Preservation Archaeological Excavation Permit Procedures:** The requirements for completing a DAHP permit application are found at WAC 25-48. DAHP typically consults with KCHPP regarding archaeological excavation permits within King County.

9.5 **Protocol for the Unanticipated Discovery of Cultural Materials:** Despite review of existing databases and other materials, and sometimes archaeological survey, it is possible



for archaeological materials to be discovered during routine maintenance or project activities.

- (A) King County departments/divisions will ensure that all construction personnel are familiar with the following protocol, both in contract documents and in briefings prior to field work. Contact arrangements will be made in advance to ensure that there is no delay in implementing a stop-work order in a given area in the event that potentially significant archaeological resources are identified. Contact information for all affected parties shall be compiled in advance of project work. When contractors are doing the work, contract specifications must include language regarding the following procedures.
- (B) If cultural materials that appear to be older than fifty years of age are encountered by County staff or contractors in any bucket load, stratigraphic profile, or other exposure, construction activity that may cause further disturbance to the remains (in area approximately 100 ft in all directions) must be stopped and the department's/division's on-call archaeologist must be notified. The archaeologist must be allowed to assess the cultural remains and determine whether they represent an archaeological site. If the archaeologist determines that the remains are not an archaeological site, then work may resume. If the archaeologist determines that the remains are an archaeological site, the department/division will contact KCHPP and DAHP to discuss appropriate procedures; work in that area may not resume until KCHPP/DAHP gives approval.
- (C) If work on a project is proceeding under a specific treatment or monitoring plan and/or if an archaeologist is on site monitoring construction work, then procedures outlined in that plan will be followed.

**9.6 Protocol for the Unanticipated Discovery of Human Remains:** State law is explicit regarding the actions that must be taken if human remains are discovered during excavation or other work (27.44; 68.50; 68.60 RCW).

- (A) King County departments/divisions will ensure that all construction personnel are familiar with the following protocol, both in contract documents and in briefings prior to field work. Contact arrangements will be made in advance to ensure that there is no delay in implementing a stop work order in a given area in the event that human remains are identified. Contact information for all affected parties shall be compiled in advance of project work. When contractors are doing the work, contract specifications must include language regarding the following procedures.
- (B) Any County employee or contractor who encounters skeletal human remains must cease all activity which may cause further disturbance to the remains (in an area approximately 100 feet in all directions), make a reasonable effort to protect the area from further disturbance, and report the presence and location of those remains to the King County Medical Examiner (206 731-3232) and local law enforcement. The employee or contractor shall also notify the designated department/division contact and KCHPP (206 296-8673 or 206 296-5217). Work may continue elsewhere on the project.
- (C) The King County Medical Examiner will assume jurisdiction over the human skeletal

remains and make a determination of whether those remains are forensic or non-forensic.

- (D) If the County Medical Examiner determines the remains are non-forensic, then DAHP will take jurisdiction over those remains from non-Federal and Non-Tribal land and report them to any appropriate cemeteries and affected tribes.
- (E) The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to the any appropriate cemeteries and affected tribes.
- (F) DAHP will handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.
- (G) Work in the area of discovery of human remains may resume upon approval from DAHP.