

# WOODLAND PLANNING COMMISSION

Planning Commission Regular Meeting  
7:00 p.m.  
**Wednesday, May 11, 2011**

Woodland Community Center  
782 Park Street, Woodland, Washington

## CALL TO ORDER

## APPROVAL OF MINUTES

- April 13, 2011 Meeting

## PUBLIC HEARING

- 1) Home Occupation Review Criteria in Low Density Residential (LDR) Zoning Districts, Land Use Application No. 210-926

## PUBLIC WORKSHOP

- 1) Commercial Public Card Rooms, Land Use Application No. 210-928
- 2) Historic Preservation Ordinance

## REPORT / PROJECT UPDATE

- 1) Planning Commission Calendar
- 2) Project Updates

## ADJOURN

cc: City Hall Annex  
Library  
Post Office  
City Hall  
City of Woodland website  
Planning Commission (5)  
City Council (7)  
Mayor  
Department Heads (5)

# WOODLAND PLANNING COMMISSION MINUTES

Planning Commission Regular Meeting  
Woodland Community Center  
782 Park Street, Woodland, Washington

## CALL TO ORDER

**Present:** Commissioner Murali Amirineni  
Commissioner Nancy Trevena  
Commissioner Jim Yount  
Commissioner Sharon Watt

**Absent:** Chair David Simpson

**Also Present:** Planning Commission Secretary JoAnn Heinrichs  
Community Development Planner Carolyn Johnson

## APPROVAL OF MINUTES

- March 9, 2011 Meeting

Commissioner Trevena moved to accept March 9, 2011 minutes as written, Commissioner Watt seconded the motion. Passed unanimously.

## PUBLIC HEARING

- 1) Commercial Vehicle Parking in Low Density Residential (LDR) Zoning Districts, Land Use Application No. 210-924
  - Carolyn Johnson gave Staff Report.
  - There have been 3 workshops held prior to this one.
  - Public Works Director said that while we do not have the equipment to test the roads, he assumes it will not strongly affect the roads.

## PUBLIC TESTIMONY OPEN:

- Kira Dominique: Concerns about deliveries, is there going to be enforcement regarding deliveries?

## PUBLIC TESTIMONY CLOSED:

- Murali Amirineni: 2B, vehicles parked in front setbacks... 3 vehicles total are allowed. 30 days per year means 30 days consecutively or 1week + 1 week + 1 week, etc.

Commissioner Trevena moved to forward to City Council as written, Commissioner Watt seconded the motion. Passed unanimously.

2) Home Occupation Review Criteria in Low Density Residential (LDR) Zoning Districts, Land Use Application No. 210-926

- Carolyn Johnson gave Staff Report.
- The PC have had 3 workshops on this.
- 2 questions were asked by the City Council and Planning Commission:
  1. How many vehicle trips for a typical household? According to the trip Generation Manual, approximately 10 one-way trips.
  2. How many licensed home occupations are there currently in the residential zones? Approximately 45.

PUBLIC TESTAMONY OPEN

Question addressing signage for home occupations

- Kira Dominique: Signage code. Personally don't need signage, but it is a concern. The home occupation section and the sign section of the code conflict.
- Nancy Trevena: A small sign should be allowable.
- Nancy Trevena: Could have sign brought in at night so it is not permanent.
- Kira Dominique: Would like name and phone number on signs, with sign above door or in window.
- Murali Amirineni: Wouldn't like signs on front lawn, it would spoil the look of the neighborhood.
- Jim Yount: Concern about deliveries. What about FedEx, post office, Schwan, etc?

Question addressing customer vehicles.

- Kira Dominique: Would like to see no more than 2 customer vehicles written in the code. This would not include owner and 1 employee. This would mean 4 parking spaces on and/or off site, as long as it does not infringe on the neighbors
- Jim Yount: Concern about on-street excessive parking. Daycares are addressed differently.
- Murali/Nancy: Day cares and adult foster homes are addressed by the State. They are considered to serve a need and are essential services for the community. They have more stringent rules.

PUBLIC TESTAMONY CLOSED

We will need to work on sign code to make it consistent with other sections.

This is what was decided:

- ▶ 7. *Traffic generated which exceeds the following standards shall be prima facie evidence that the activity is a primary business and not a home occupation:*
  - a. *The parking of more than **two (2)** customer vehicles at any one time, so long as customer parking does not displace or impede the use of off-street parking spaces for neighboring dwelling units.*
  - b. *More than **eight (8)** clients or customers coming to the site each day, except that home day cares may have as many trips as required for the number of allowed children per the State Department of Social and Health Services (DSHS) requirements.*
  - c. *No customer visits or workers arriving or departing before 7:00 a.m. or after 8:00 p.m., with the exception of home day cares.*
  - d. *The use of loading docks or other mechanical loading devices;*
  - e. *Home occupations shall have no more than **one** delivery per week by commercial motor vehicles, excluding courier and mail services.*
- ▶ 8. *Materials, goods or commodities shall be delivered to or from the home occupation only from 8:00 a.m. to 6:00 p.m. Monday through Friday.*

Commissioner Trevena moved to have Home Occupation Review Criteria in Low Density Residential (LDR) Zoning Districts begin SEPA process and schedule Public Hearing, Commissioner Yount seconded the motion. Passed unanimously

### PUBLIC WORKSHOP

- 1) SEPA Administrative and Appeal Processes, Land Use Application No. 210-912.  
(No handout materials, PowerPoint presentation only)

There was some concern about the cost of sending items to a Hearing Examiner. Looking at three pieces tonight:

1. Conditional Uses
2. Variances
3. Shoreline development permit, conditional use permits and variances.

A Hearings Examiner is a trained individual making objective quasi-judicial decision that are free from political influences. The trend in the state is to give more authority to the Hearing Examiner in quasi-judicial project permit applications.

Type 1 and 2 (up to 25% variance) minor variances should be less expensive Generally it is more costly for the applicant to go before a Hearing Examiner rather than staff, or City Council.

Will bring information to the Planning Commission throughout the year, there are too many to address in one meeting.

## **REPORT / PROJECT UPDATE**

### **1) Amendment of Resolution 548.**

Need to amend this resolution because Woodland wants to purchase hilltop portion for a park (Meriwether Hilltop). Current Resolution has attached conditions; some of them need to be stricken. The Purchase and Sale Agreement references this resolution.

Nancy Trevena: #20, who would be responsible for cost of sewer line?

### **2) Planning Commission Goals and Priorities**

### **3) Planning Commission Calendar**

### **4) Project Updates**

#### **Walmart**

Have applied for a sign Variance.

#### **Sidewalk Reconstruction Project**

City wide project to fill in gaps in the City's sidewalk network in 2011.

#### **Old Apostolic Lutheran Church (1500 Dike Access Road)**

Have postponed street work until Fall.

#### **Woodland Swimming Pool**

No new developments.

#### **Historic Downtown District Zoning and Design Standards**

Revised DNS issued. First reading before City Council has not been scheduled.

#### **Commercial Vehicle Parking in Residential Districts**

Planning Commission to hold Public Hearing during April 13<sup>th</sup> meeting.

#### **Home Occupations in Residential Districts**

Planning Commission to hold Public Hearing during April 13<sup>th</sup> meeting.

#### **Industrial Setback Standards**

Will go to Planning Commission in May.

#### **Variance Expirations and Site Plan Approvals**

Bill Eling to review SEPA comments from attorney.

**ADJOURN:**

Commissioner Trevena moved to adjourn to our next regularly scheduled meeting on May 11, 2011, Commissioner Watt seconded the motion. Passed unanimously.

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JoAnn Heinrichs, Planning Commission Secretary

Date

These minutes are not a verbatim record of the proceedings.  
A recording is available in the office of the Clerk-Treasurer.

DRAFT

# STAFF REPORT

**DATE: May 11, 2011**

**TO: Planning Commission**

**FROM: Carolyn Johnson, Community Development Planner**

**RE: Home Occupation Review Criteria, LU No. 210-926**

## **BACKGROUND**

Per WMC 17.16.030.F, a Home Occupation, as defined in WMC 17.08.357, can be permitted as an Accessory Use in LDR zoning districts (LDR-6, LDR-7.2, and LDR-8.5) as long as they meet all applicable development standards including the Home Occupation Review Criteria, WMC 17.16.100.

At the September 20, 2010 regular meeting, the City Council passed a motion to initiate a code amendment concerning the Home Occupation Review Criteria, WMC 17.16.100.E. This action was prompted by a recent concern raised by a business owner regarding the City Development Review Committee's (DRC) interpretation of a Home Occupation criterion, WMC 17.16.100.E.7, which states "a home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located."

The DRC's interpretation of this criterion is that a home occupation is prohibited from having on-site customers while the DRC acknowledges that WMC 17.16.100.E.7 may not be enforceable due to the ambiguous wording such as "normal" for the district.

The Planning Commission is working to amend WMC 17.16.100.E.7 to provide clearly measurable standard to replace the current language, "shall not create greater vehicle or pedestrian traffic than normal for the district."

## **FOLLOW UP**

During the Planning Commission's April 13<sup>th</sup> meeting, members heard from a Woodland resident who operates a home occupation business, discussed ordinances from other cities, and drafted proposed code language. The Commission approved staff to undertake SEPA.

## **SEPA**

City staff issued a SEPA Notice of Application (NOA) and Determination of Non-Significance (DNS) in December 2010 and January 2011. Subsequently, the Planning Commission revised the proposed code and staff issued a new SEPA NOA and DNS. The second NOA and DNS were issued April 20, 2011 with the comment period ending May 4, 2011. The SEPA appeals period ended May 10, 2011 with the required public hearing on May 11, 2011.

Attachment: Draft Ordinance

ORDINANCE NO. XXXX

THE CITY OF WOODLAND, WASHINGTON

AN ORDINANCE AMENDING WMC 17.16.100(E) TO REDEFINE HOME OCCUPATION REVIEW CRITERIA RELATED TO TRAFFIC GENERATION AND TO MAKE CONSISTENT WITH WMC 17.52 REGARDING SIGN REQUIREMENTS.

WHEREAS, pursuant to RCW 35A.11.020 and the Constitution of the State of Washington, Article 11, Section 11, cities have the power to enact regulations in the interest of the health, safety and welfare of their residents;

WHEREAS, all procedural requirements of the Woodland Municipal Code (WMC) for these amendments have been met;

NOW THEREFORE, be it hereby ordained by the City Council of the City of Woodland as follows:

*Highlighted and italicized text is proposed to be added to the current code, while text that is struck through is proposed to be eliminated from the current code.*

**WMC 17.16.100: Criteria and standards for accessory uses.**

E. Home occupations which meet the following criteria:

1. The resident operator shall obtain a business license, which shall be renewed annually;
2. The home occupation shall employ no more than one person in addition to those who are residents of the dwelling;
3. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, exhausts, or vibrations that carry beyond the premises;
4. ~~The home occupation shall have no advertising, display, or other indications of a home occupation on the premises;~~ *Signs indicating the presence of a home occupation must meet standards set forth in WMC Chapter 17.52;*
5. No storage or display of goods shall be visible from the outside of the structure;
6. No highly explosive or combustible material shall be used or stored on the premises. No activity shall be allowed that would interfere with radio or television transmission in the area, nor

shall there be any offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line;

~~7. A home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located;~~

*7. Traffic generated which exceeds the following standards shall be prima facie evidence that the activity is a primary business and not a home occupation:*

- a. The parking of more than two (2) customer vehicles at any one time, so long as customer parking does not displace or impede the use of off-street parking spaces for neighboring dwelling units.*
- b. More than eight (8) clients or customers coming to the site each day, except that home day cares may have as many trips as required for the number of allowed children per the State Department of Social and Health Services (DSHS) requirements.*
- c. No customer visits or workers arriving or departing before 7:00 a.m. or after 8:00 p.m., with the exception of home day cares.*
- d. The use of loading docks or other mechanical loading devices.*
- e. Home occupations shall have no more than one (1) delivery per week by commercial motor vehicle, excluding courier and mail services;*

*8. Materials, goods or commodities shall be delivered to or from the home occupation only from 8:00 a.m. to 6:00 p.m. Monday through Friday.*

~~9.~~ Merchandise shall not be offered for direct sale within the residence, accessory structure, or on-site;

~~10.~~ No commercially licensed vehicles over ten thousand pounds gross weight capacity shall be utilized in the business. No more than one type of commercially licensed vehicle under ten thousand pounds gross weight capacity shall be utilized in the business on the premises;

# STAFF REPORT

**Subject: Card Room Ordinance**

**Date: May 11, 2011**

**To: City of Woodland Planning Commission**

**From: Carolyn Johnson, Community Development Planner**

Developing a permanent zoning ordinance that addresses commercial card rooms is back before the Planning Commission. The interim card room zoning ordinance is set to expire June 20, 2011. At the March 16<sup>th</sup> joint City Council/Planning Commission meeting, both bodies heard a presentation from Amy Hunter of the Washington State Gambling Commission (Gambling Commission). Ms. Hunter explained the Gambling Commission's perspective that local jurisdictions cannot use zoning to regulate gambling. After passing the interim zoning ordinance, the City Council asked staff and the Planning Commission to review and edit the applicable provisions of WMC 17. After Ms. Hunter's presentation, the Planning Commission asked the City Council to provide further direction.

Subsequently, the City Council held a workshop on the zoning issues surrounding card rooms. An interest was expressed in permitting gambling in the C-2 (Highway Commercial) district but no decision was made. At the City Council's regularly scheduled April 18<sup>th</sup> meeting, the Council approved a motion to authorize staff to initiate the planning process to allow commercial card rooms in the C-2 district. While not part of the motion, some City Council members have expressed an interest in setting parking standards particular to card rooms.

The State clearly grants cities the authority to either absolutely prohibit or allow gambling. Additionally, cities may prohibit some classes of gambling and not other, as long as the particular form falls within a license type. Broadly speaking, these license types are: 1) Charitable/nonprofit organizations, 2) Non-House banked games, and 3) House-banked games and non-house banked games. A jurisdiction's ability to regulate gambling through zoning is less clear. While MRSC contends that local jurisdictions have the right to zone for gambling, the Gambling Commission disagrees.

The Gambling Commission grants licenses to eating and/or drinking establishment that meet State requirements regardless of local zoning. When issuing a license to a business in a jurisdiction that does not have an absolute prohibition, the Gambling Commission notifies the applicant that they may face a legal challenge from the City or County. ***In Woodland, eating and drinking establishments are permitted uses in the Central Business District (C-1), the Highway Commercial District (C-2), and the Heavy Industrial District (I-2).***

On December 6, 2010, the City of Woodland adopted Ordinances Nos. 1188 and 1195 concerning commercial public card rooms. Both ordinances have been effective since December 20, 2010. Ordinance No. 1188:

1. Places a six (6) month prohibition of and moratorium on Commercial Public Card Rooms
2. Sets parking requirements at one parking space per 200 square feet of floor area, one parking space for each Commercial Public Card Room chair, and one parking space for each two on-site employees
3. Prohibits commercial card rooms within 300 feet of schools, churches, parks, or residentially-zoned areas.

# STAFF REPORT

**Subject: Card Room Ordinance**

**Date: May 11, 2011**

**To: City of Woodland Planning Commission**

**From: Carolyn Johnson, Community Development Planner**

4. Establishes a card room overlay district that encompasses those properties fronting Atlantic and located north of SR 503 and south of East Scott Avenue.

A motion to extend the gambling moratorium another 6 (six) months will go before the City Council at their May 16<sup>th</sup> meeting.

## Attachments:

1. Draft Zoning Code Text Changes
2. Examples of Parking Requirements from other Jurisdictions
3. Table of City Options and Risks
4. Questions and Answers to April 11<sup>th</sup> Card Room Zoning Workshop
5. April 8, 2011 City Attorney's Memo
6. Ordinance No. 1195
7. Ordinance No. 1188

# DRAFT ZONING CODE TEXT CHANGES

## LU No. 210-928

### Chapter 17.08 – Definitions

#### **17.08.186 – Social Card Game.**

*"Social card game" means a card game that constitutes gambling and is authorized by the Washington State Gambling Commission under RCW 9.46.070. Authorized card games may include a house-banked or a player-funded banked card game. The card game must be played in accordance with the rules adopted by the Washington State Gambling Commission, which shall include but not be limited to rules for the collection of fees, limitation of wagers, and management of player funds. The number of tables authorized shall be set by the Gambling Commission.*

#### **17.36.020 – Permitted uses.**

The following uses only are permitted in the C-2 districts; all other uses are not permitted or are permitted as a conditional use pursuant to this chapter.

1. Automobile and truck tire sales and repair;
2. Automobile diagnostic and repair facilities, major and minor repairs;
3. Automobile service stations and car washes;
4. Automobile, truck, motorcycle, bicycle, recreational boat, recreational vehicle, and mobile home sales dealerships with related equipment, services, repair and parts facilities;
5. Commercial parking lots and garages;
6. Commercial recreation and entertainment facilities;
7. Drive-in and fast food restaurants;
8. Dry cleaning and pressing, except those using volatile or combustible materials and chemicals or using high pressure steam tanks or boilers;
9. Farm machinery sales and service;
10. Feed and seed stores;
11. Food lockers, primarily retail;
12. Funeral homes, mortuaries and living quarters for owners or a resident manager only (living quarters are to be within the funeral home or mortuary);
13. Furniture and home furnishing establishments;
14. Grocery stores;
15. Lumber and building supply yards;
16. Motels, hotels and living quarters for owners or a resident manager only (living quarters are to be within the hotel or motel);
17. Nurseries, greenhouses, yard and garden supplies;
18. Pet stores;
19. Police and fire stations;
20. Public parks and recreation facilities;
21. Public transportation system terminals;
22. Real estate offices;
23. Restaurant and hotel supply;

# DRAFT ZONING CODE TEXT CHANGES

## LU No. 210-928

24. Restaurants, cafes, drinking establishments pursuant to state law;
25. Retail stores;
26. Shopping centers;
27. Signs pursuant to [Chapter 17.52](#)
28. Storage buildings for household goods and property only, i.e., mini-storage and living quarters for resident watchmen or custodian (living quarters are to be within the storage buildings);
29. Uses permitted in the C-3 neighborhood commercial district;
30. Veterinary offices and clinics with no outside animal runs; dog grooming facilities;
31. Professional and business offices;
32. Churches;
33. Bed and breakfast inns;
34. On-site hazardous waste treatment and storage facilities as an accessory use to any activity generating hazardous waste and lawfully permitted in this zone, provided that such facilities must meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210 as now or hereafter amended; and
35. Banks and financial services.

### **17.36.030 – Accessory uses.**

*The following accessory uses permitted in the C-2 district are uses and structures customarily appurtenant to the principally permitted uses, such as:*

- 1. Card rooms for social card games as accessory to commercial eating and/or drinking businesses.*

### **17.56.050 – Off-street parking – Requirements for designated uses.**

The following uses, wherever located, shall provide off-street parking facilities as follows:

A. Bowling alleys	Five parking spaces per alley.
B. Churches	One parking space for each five seats in the principal place of assembly or worship, including balconies, and choir loft. Where fixed seats consist of pews or benches, the seating capacity shall be computed upon not less than twenty lineal inches of pew or bench length per seat. If there is no fixed seats, then one parking space for each forty square feet of gross floor area in such principal place of assembly or worship shall be provided.
C. Commercial recreation excluding floor area bowling alleys; community clubs and community recreation centers	One parking space for every four hundred square feet of gross facilities.
D. Dance halls	One parking space for every forty square feet of gross floor

## DRAFT ZONING CODE TEXT CHANGES

### LU No. 210-928

	area.
E. Dwellings 1. Single-family dwellings and duplex dwellings	Two parking spaces per unit including the garage or carport space.
2. Multifamily dwellings	One and one-half parking spaces per one and two-bedroom apartment/condominium unit; two parking spaces per three or more bedroom apartment/condominium unit.
3. Mobile home dwellings	Two parking spaces per unit, including the garage or carport space.
F. Hotels/Motels	One parking space for each sleeping or dwelling unit.
G. Hospitals, sanitariums	One parking space for every three patient beds, plus one space for each staff doctor and one space for every three employees.
H. Libraries	One parking space for each two hundred fifty square feet of gross floor area.
I. Lodges, rooming houses and boarding houses containing sleeping quarters; fraternities; sorority and group student housing	One parking space for each two sleeping rooms or one parking space for each four beds, whichever is greater.
J. Medical-dental offices and clinics	One parking space for each two hundred square feet of gross floor area.
K. Mortuaries	One parking space for each forty square feet of floor area within the chapel.
L. Museums	One parking space for each two hundred fifty square feet of gross floor area.
M. Pleasure craft moorage	One parking space for each two moorage stalls.
1. Boat launching facilities	Area and design for vehicle and boat trailer parking shall be reviewed and determined by the planning commission on a case-by-case basis; in no case shall there be fewer than six parking spaces per launch site.
N. Rest homes, nursing and convalescent homes; homes for the retired; children's institutions	One parking space for each four beds, plus one space for every three employees.
O. Schools: day care centers, preschools, elementary and junior high, public and/or parochial	One parking space for each employee and each faculty member plus one space for each twenty students of design capacity with a minimum of two parking spaces.
P. Schools: high schools, public, private or parochial	One parking space for every five students and one parking space for each employee. Where parochial schools and churches are

**DRAFT ZONING CODE TEXT CHANGES**

**LU No. 210-928**

	on the same site, the required church parking facilities shall be considered as contributing to the school parking requirement.
Q. Stadiums, sports arenas, auditoriums (including school auditoriums) and other places of public assembly (other than churches) and clubs and lodges having no sleeping quarters	One parking space for each three fixed seats in all parking-generating areas used simultaneously for assembly purposes. Where fixed seats consist of pews or benches, the seating capacity shall be computed upon not less than twenty lineal inches per pew or bench length per seat. If there are no fixed seats, there shall be provided one parking space for each forty square feet of gross floor area used for assembly purposes. For school facilities, parking spaces needed to meet the number for subsections O and P of this section can also be used to meet with requirement provided they are on the same school grounds.
R. Storage and warehousing, comprising employees on maximum working shift only activity on premises	One parking space for each terminals: (freight) One parking space for each two employees on maximum working shift. (passenger) One parking space for each one hundred square feet of waiting room.
S. Theaters	One parking space for each three seats.
T. Bed and breakfast inns	For establishments with three or fewer sleeping units, no off-street parking space. For establishments with four sleeping units, one parking space for the fourth sleeping unit in addition to those parking spaces otherwise required for primary use of the structure.
<b>U. Card Rooms</b>	<b>Do we want to regulate parking?</b>
<b>V.⊕. Unspecified uses</b>	The parking requirements for a use not provided for in this section shall be determined by the city's development review committee to be the requirements for the most comparable use specified in this section. In the case of conflicting use determinations by the applicant and development review committee, or if the use is to be allowed by rezone procedure, the planning commission shall determine what use and their requirements are most similar.

City Council members have expressed an interest in regulating the parking associated with card rooms. While some cities in WA have done so, the Gambling Commission holds that jurisdictions can only regulate the underlying, permitted use.

## Parking Requirements for Card Rooms

Entity	Parking Requirements
City of Walla Walla	1 space for each playing table, or each 3 machines whichever is greater.
City of Kalama	1 space per 200 sq. ft of floor area plus 1 space for each card room chair.
City of Yakama	1 space for each playing table, for every 3 seats or every 3 machines, whichever is greater.
Douglas County	1 space for each 400 sq ft of gross floor area.
City of LaCenter	1 space per 200 square feet of floor area, plus one space for each card room chair.
City of Shoreline	Minimum off-street parking for gambling establishments shall be at a minimum one parking space per 75 square feet of net usable area (excludes walls, corridors, lobbies, and bathrooms), plus five parking spaces per card table, plus one parking space per every three seats (not associated with a gaming/card table) available for gambling or viewing gambling activities.
City of Pasco	1 space for each playing table or one space for each machine.
City of Oceanside, CA	1 space per chair, plus additional spaces for ancillary uses, as required by this article.
City of Benicia, CA	1 per 25 sq. ft. of card-playing floor area.
City of Gilroy, CA	Two (2) stalls per table or one-half (1/2) stall for each seat, whichever is greater.

## City Options and Associated Risks

Option	Legal Risk	Associated Risk
Allow gambling in all zones where eating and drinking establishments are permitted uses.	No Risk	NA
Ban gambling.	Low	Claims from business owners moving forward with card room opportunities based on the interim zoning ordinance
Make the interim zoning ordinance permanent.	Medium-High	Claims of spot zoning  Claims from eating and drinking establishments outside overlay zone
Make gambling a permitted use in the C-2 zone.	Medium	Claims from eating and drinking establishments in C-1 and I-2.
Develop a new zoning overlay that encompasses more commercial land and includes grandfathering provision.	Medium-High	Claims from eating and drinking establishments outside overlay zone
Pass a resolution amendment to allow a binding public vote on whether to allow or prohibit gambling.	Low	Claims from business owners moving forward with card room opportunities based on the interim zoning ordinance

The City Council was presented with this table at their April 11th workshop. Then, during their regular April 18th meeting, the Council approved a motion to have the Planning Department begin the planning process for permitting card rooms in C-2 districts.

# Q&A: April 11<sup>th</sup> Card Room Zoning Workshop

To: City Council  
From: Carolyn Johnson, Community Development Planner  
RE: Questions & Answers from the April 11<sup>th</sup> Card Room Zoning Workshop  
Date: April 12, 2011

**1. Can the City regulate parking requirements for card rooms specifically or only for the underlying use i.e. eating and/or drinking establishments?**

*According to the Washington State Gambling Commission, parking regulations can only be set for the underlying use – eating and/or drinking establishments. Despite this, LaCenter and Yakima have set parking regulations specific to card rooms. The City of LaCenter sets space requirements at one space per 200 square feet of floor area, plus one space for each card room chair, plus one space for each two employees. Yakima requires one space for each playing table, each three seats or each three machines, whichever is greater. In Woodland's Highway Commercial District (C-2), parking requirements for eating and drinking establishments are as follows:*

- *One parking space for each three hundred square feet of gross floor area with a minimum of four customer parking spaces per use (WMC 17.56.030).*

**2. What are the ramifications of increasing parking requirements by requiring more parking spaces per square foot?**

*There is general agreement in planning literature that when the supply of parking exceeds typical demand, the results are detrimental to a range of stakeholders. Currently, eating and/or drinking establishments in Woodland's C-2 (Highway Commercial) district must meet parking minimums based on square footage. Putting heavier parking requirements on all eating and/or drinking establishments in an attempt to restrict where gambling can and will occur may have unintended consequences. These could include:*

- *Increasing the cost of development*
- *Increasing impervious surfaces and thus stormwater*
- *Negatively impacting urban character*

*If heavier parking requirements were placed on eating and drinking establishments, new businesses could seek variances from parking requirements. Currently, variances cost between \$600 and \$1,500 and are determined by the Hearing Examiner, not staff. The burden of proof is on the proponent to show why they should be exempt from requirements. As such, applicants are asked to detail the special circumstances related to the size, shape, topography, location, etc. that warrants a variance.*

**3. If the City allowed card rooms in the C-2 zone, could the City also grandfather in existing businesses in the C-1 zone?**

*Mr. Eling will look into the legal issues surrounding this question.*

# **Law Office of William J. Eling**

**9401 N.E. Covington Road, No. 102  
Vancouver, Washington 98662**

**[360] 260-1189  
[360] 213-0770 fax**

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TO: City of Woodland

FROM: Bill Eling 

RE: Cardrooms

DATE: April 8, 2011

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The purpose of this memo is provide the Mayor and City Council additional information regarding the interaction of Washington municipal law and the Washington State Gambling Act, particularly in the area of zoning and taxation. This is also a follow up to the remarks Gambling Commission representative Amy Hunter made to the City Council and Planning Commission. Given the tight time constraints, this memo is not comprehensive.

## **Present Status – Action Required**

The City Council must make two decisions. First the Council must decide whether to [1] adopt and finalize a zoning ordinance or [2] extend the moratorium until a final ordinance can be adopted. Second, the City Council must make a decision to amend its gambling ordinance and establish a tax rate for card rooms. Washington law allows a tax on card rooms up to 20% of gross receipts.

## **Review of Planning Commission Presentation from Gambling Commission**

Based on Ms. Hunter's comments it appears the Gambling Commission believes that it is not empowered to adjudicate local decisions regarding where the State's pre-emptive powers regarding gambling end and where the City's zoning authority begins. In short, the Gambling Commission will neither bless nor curse a zoning overlay and will not take action against the City should it enact an overlay. Woodland will be on its own.

It is important to remember that simply because an ordinance of another City has not been challenged does not mean that Woodland will be spared a court challenge if it adopted a similar ordinance. Based on both statutory ambiguity and the interaction of complex constitutional questions, you cannot assume that the other city's rule is legally valid.

## Basic Legal Background – Issues

Although the City of Kenmore Federal case was referenced in the Gambling Commission materials, our research showed that there was an ongoing lawsuit in state court that had reached the Washington Court of Appeals. The Court released a decision this week [April 4, 2011], affirming the trial court's decision in favor of Kenmore. The decision is "unpublished" which means that it cannot be cited as precedent. A copy of the court's opinion is attached. Also attached is a copy of news article from a local Kenmore newspaper explaining the plaintiff's decision to discontinue gambling.

### Zoning

There is no consensus regarding the extent that Washington cities can use zoning laws to regulate establishments with card rooms. See attached MRSC, *Zoning of Gambling Activities*. However, given the statutory purpose set forth in the State Gambling Act, RCW 9.46.010, zoning laws which unreasonably differentiate among eligible business establishments may be outside municipal authority and vulnerable to challenge.

Based on the Gambling Commission presentation, it appears the Commission does not believe that cities have the right to "regulate" gambling through zoning. While an argument can be made about the practical limitations of municipal regulatory authority in this area, I disagree with the Commission's conclusion because it is contrary to the law of statutory interpretation. Simply because bills have been *introduced* in the Legislature to grant municipalities the authority to regulate gambling by zoning authority does not mean that municipalities do not currently have some authority under zoning.

Under the rules of statutory construction, the mere introduction of a bill is not used to determine the scope of a law on the same subject. We can make multiple inferences about why a bill is offered. One reasonable inference is that the current law is not clear on the issue and that municipalities are simply asking the Legislature to repair this gray area in the law so that there is no longer a reason to question the scope of the pre-emptive power.

### Gambling Tax

The City of Woodland currently taxes gambling. Woodland Municipal Code 3.04, copy attached. The statutory authority for municipal taxation is found in RCW 9.46.113. The Legislature amended this statute in 2010. Included are the Session Law and Bill Report. The amendment modifies prior language and states that tax revenue can be used for public safety purposes. The prior statute had limited revenue to law enforcement. However, the Washington appellate courts have reviewed challenges to municipal appropriations and have allowed the

application of excess funds to other projects. It is not certain how this amendment affects the prior court decisions.

Attached is a copy of the La Center gambling tax ordinance. Also attached is an MRSC publication for counties setting forth the tax rates a municipality is authorized to impose on gambling activities. The city range of tax rates is the same as the counties.

### Spot Zoning

A zoning overlay, depending on its scope and justification, is vulnerable to a claim of illegal spot zoning. Spot zoning is "zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from and inconsistent with the classification of surrounding land and is not in accordance with the comprehensive plan." *Smith v. Skagit County*, 75 Wn.2d 715, 743, 453 P.2d 832 (1969); *Lutz v. Longview*, 83 Wn.2d 566, 573-74, 520 P.2d 1374 (1974); *Chrobuck v. Snohomish County*, 78 Wn.2d 858, 872, 480 P.2d 489 (1971). The main inquiry is whether the zoning action bears a substantial relationship to the general welfare of the affected community. See *Parkridge v. City of Seattle*, 89 Wn.2d 454, 460, 573 P.2d 359 (1978). Only where the spot zone grants a discriminatory benefit to one or a group of owners to the detriment of their neighbors or the community at large without adequate public advantage or justification will the county's or city's rezone be overturned. See *Anderson v. Island County*, 81 Wn.2d 312, 325, 501 P.2d 594 (1972).

The test applied to the Courts is found in *Cathcart-Maltby-Clearview Community Council v. Snohomish County*, 96 Wn.2d 201, 634 P.2d 853 (1981).

"All zoning actions must bear a substantial relation to the public welfare. *Duckworth v. Bonney Lake*, 91 Wn.2d 19, 586 P.2d 860 (1978); *Parkridge v. Seattle*, 89 Wn.2d 454, 573 P.2d 359 (1978). Comprehensive land use plans and promulgatory zoning regulations are presumed valid and are invalid only for manifest abuse of discretion. ...Rezoning actions, on the other hand, are not given that presumption and will be upheld only if there is substantial evidence indicating that the rezone furthers the public welfare and that changed circumstances warranted its passage. *Hayden v. Port Townsend*, 93 Wn.2d 870, 613 P.2d 1164 (1980)."

Any final zoning ordinance must be capable of passing this legal test.

### **Reflection on Risk of Litigation and Risk of Liability**

Even knowing that recent Court decisions have been decided in favor of cities does not mean that a Woodland ordinance would not be challenged. In fact, the

Kenmore plaintiff's claims were similar claims that had been rejected by the Washington courts in prior decisions. Thus, for policy purposes, the Council should not only weigh the risk of liability, but the risk of litigation and the costs associated with it. We were unable to speak with Kenmore officials before completing this memo, but Kenmore had reduced its legal services budget for 2011 by approximately \$93,000 due to the fact that gambling litigation was winding down. In the federal litigation, a request for attorneys fees exceeded \$150,000. With respect to the zoning overlay and gambling, there is no controlling Washington court decision.

One part of Ms. Hunter's presentation I found interesting was the history of the Washington gambling statute, specifically, that it was enacted in part to prevent corruption by removing municipal officials from the licensing process. In other words, the impetus behind the State law was the removal from municipal officials the power to give preferential treatment to specific parties. I believe the City should view its zoning authority in that context. If the zoning ordinance distinguishes between eligible businesses, prohibiting some from establishing card rooms while allowing others, I think a court might find that municipal officials had exceeded their authority and had usurped the basic licensing power.

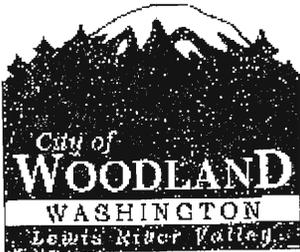
### **Other Unanswered Questions**

There are several legal questions that remain unanswered. We have addressed some of them. The fact that they remain unanswered is that the questions are unanswerable to any degree of certainty. Another issue that should be reviewed is the impact of gambling on Woodland's non-conforming use ordinance. I think the City would be well-served to re-examine whether the zoning overlay is the most practical policy to adopt given that the conflict between zoning authority and gambling pre-emption is not resolved. The approach most likely to avoid litigation is a policy that simply allows card rooms in those zones where gambling eligible businesses can be located.

When discussing a zoning overlay which includes development standards, the City should review the implications for other businesses in those zones. While it may make sense to apply a certain development standard for gambling eligible businesses, what is the impact on eligible businesses that don't chose to establish gambling as part of their business and what is the impact on other types of businesses allowed in that zone.

### **Conclusion**

The law is seldom perfectly clear and the law in this area is murky at best in an economic activity that is historically litigious and controversial. If the choice is either to implement an overlay or to place no additional restrictions, the choice least likely to increase the risk of litigation is "no additional restrictions."



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Woodland, WA 98674  
www.ci.woodland.wa.us

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FAX: (360) 225-1201

Fire  
(360) 225-7076

Police  
(360) 225-6965

219 Davidson Avenue  
FAX: (360) 225-7467

Public Works  
(360) 225-7999

230 Davidson Avenue  
FAX: (360) 225-7336

Building  
(360) 225-7299

Clerk-Treasurer  
(360) 225-8281

Planning  
(360) 225-1048

February 8, 2011

Washington State Gambling Commission  
Rick Day, Director  
P.O. Box 42400  
Olympia, Washington 98504-2400

**RE: Commercial Public Card Rooms**

Dear sir or madam,

This letter is to inform you that on December 6, 2010 the City of Woodland adopted the attached Ordinances Nos. 1188 and 1195 concerning commercial public card rooms. These were published and became become effective on December 20, 2010.

Please contact me at (360) 225-8281 or [blumc@ci.woodland.wa.us](mailto:blumc@ci.woodland.wa.us) should you have any questions regarding this letter.

Sincerely,

Charles E. Blum  
Mayor

cc: Mari Ripp, Clerk Treasurer  
Steve Branz, Public Works Director  
Carolyn Johnson, Community Development Planner  
Andrea Isom  
Cameron Baker, Research Analyst, Gambling Commission  
Dave Trujillo, Deputy Director, Gambling Commission  
Lynn Clevinger, Licensing Technician, Gambling Commission  
Roger Suave, Special Agent, Gambling Commission

**COPY**

**ORDINANCE NO. 1195**

***CITY OF WOODLAND, WASHINGTON***

**AN ORDINANCE IMPOSING AN INTERIM ZONING CONTROL TO: 1) PERMIT COMMERCIAL PUBLIC CARD ROOMS AS DEFINED BELOW IN THE HIGHWAY COMMERCIAL (C-2) ZONING DISTRICT WITHIN THE CITY LIMIT, FOR A PERIOD NOT LONGER THAN SIX (6) MONTHS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, OR UNTIL THE AMENDED ZONING CODE IS ADOPTED, WHICHEVER OCCURS FIRST; AND 2) AUTHORIZE PUBLICATION BY SUMMARY**

**WHEREAS**, pursuant to RCW 35A.11.020 and the Constitution of the State of Washington, Article 11, Section 11, cities have the power to enact regulations in the interest of the health, safety, and welfare of their residents;

**WHEREAS**, pursuant to the State Growth Management Act (GMA) Planning Goal, RCW 36.70A.020 (5), cities subject to the GMA should encourage economic development throughout the state that is consistent with adopted Comprehensive Plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities;

**WHEREAS**, pursuant to the State Growth Management Act (GMA) Planning Goals, RCW 36.70A.020 (6), states that private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions;

**WHEREAS**, pursuant to RCW 36.70A.390, part of the State Growth Management Act (GMA), a city governing body is authorized to adopt moratoria or interim zoning controls;

**WHEREAS**, pursuant to Woodland Comprehensive Plan Land Use Goal E (Page 1-47), the City should ensure that incompatible land uses are separated to enhance the security, value and stability of land uses and improvements and provide for the general health, safety, and welfare of the community;

**WHEREAS**, pursuant to Woodland Comprehensive Plan Land Use Goal II (Page 1-47), the City should develop and secure Woodland's position as the commercial center serving southern Cowlitz County and the recreation trade of the upper Lewis River and Mount Saint Helens area;

**WHEREAS**, pursuant to Woodland Comprehensive Plan Land Use Goal H (Page 1-47), the City should work in partnership with downtown businesses, property owners, and community interest groups to maintain and enhance the downtown area as a retail trade, service, professional office, financial office, governmental office, and cultural center of the city;

**WHEREAS**, on Monday, September 20, 2010 City Council held a regular public meeting and passed the first reading for Ordinance No. 1188 repealing WMC 3.04.020, which prohibits commercial public card rooms within the City Limit;

**WHEREAS**, on Monday, October 4, 2010, the City Council held a regularly held public meeting and passed a motion to hold a public hearing to adopt an Interim Zoning Control to prohibit commercial public card rooms in all zoning districts except for the Highway Commercial (C-2) zoning district within the City Limit pursuant to RCW 36.70A.390;

**WHEREAS**, on Monday, November 1, 2010, the City Council held a public hearing concerning the proposed Interim Zoning Control and directed staff to prepare a report on the City of La Center's process and timeline regarding placement of a Comprehensive Plan overlay zoning district;

**AND, WHEREAS**, concurrently with the passage of this Ordinance the City Council intends to approve the final reading for Ordinance No. 1188 repealing WMC 3.04.020, which prohibits Commercial Public Card Rooms within the City Limit.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODLAND, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Definitions.** For the purpose of this Ordinance, the following definitions shall apply:

A. **Commercial Public Card Rooms:** "Commercial Public Card Room" means a commercial business licensed by the State of Washington for on premises gambling, to wit: the playing of said card games as described by the Revised Code of Washington and applicable Washington Administrative Code.

**Section 2. Purpose.** The purpose of this Interim Zoning Control is to encourage economic development consistent with the City's Comprehensive Plan and at the same time allow the City adequate time to complete a thorough review of WMC 17, the Zoning Code, to determine in which zoning district(s) commercial public card rooms should be permitted and develop any necessary development standards with which commercial public card rooms should comply. It is the intent of the City Council to treat the applicants of commercial public card

rooms in a manner consistent with the vested rights doctrine and any other applicable laws of the State of Washington; that the Interim Zoning Control is good for no longer than six (6) months; that it is necessary to address significant issues concerning zoning and development standards applicable to commercial public card rooms.

**Section 3. Findings of Fact.** Based on the motion to establish a six (6) month Interim Zoning Control, the Council makes the following Findings of Fact:

1. The City of Woodland is a city subject to the State Growth Management Act (GMA), RCW 36.70A;
2. Pursuant to its authority, the City has promulgated Chapter 17 of the Woodland Municipal Code (WMC), which the City Council believes allows commercial public card rooms under a category of "commercial recreation and entertainment facilities" in the Central Business District (C-1) and Highway Commercial (C-2) per 17.32.020.21 and 17.36.020.6 respectively.
3. The City Council finds commercial public card rooms can be permitted in the Heavy Industrial (I-2) zoning district per WMC 17.46.030.2.
4. The City Council believes commercial public card rooms can be permitted under a category of "recreational uses requiring extensive covered facilities such as for indoor tennis, roller or ice skating, or swimming" in the Light Industrial (I-1) zoning district per WMC 17.44.020.22 and as a Conditional Use under a category of "public parks and public recreation facilities" in the Low Density Residential (LDR-6, LDR-7.2, and LDR8.5) zoning districts per WMC 17.16.040.M and the Medium Density Multifamily Residential (MDR) and High Density Multifamily Residential (HDR) zoning districts per WMC 17.20.040.Q;
5. Repeal of WMC 3.04.020, which prohibits commercial public card rooms within the City, without amending WMC 17, the Zoning Code, would result in commercial public card rooms being permitted in the majority of the area within the City Limit;
6. The State GMA requires the City's Zoning Code be consistent with the Comprehensive Plan. Amending WMC 17, the Zoning Code, in a way that it would allow commercial public card rooms in the Highway Commercial (C-2) zoning district would not result in the Zoning Code being inconsistent with the Comprehensive Plan;
7. The Council finds the Highway Commercial (C-2) zoning district is the only desirable zoning district in which commercial public card rooms can be located given the public comments submitted, current development standards, the intent of each zoning

district outlined in pages 1-40 through 1-42 of the City's Comprehensive Plan, and the above Land Use Goals in the Comprehensive Plan. The City's Comprehensive Plan on page 1-41 states "the Highway Commercial District is mostly oriented to automobile access and convenience. It is intended to accommodate automobile oriented and land-consumptive commercial needs. A wide range of commercial uses and activities are encouraged";

8. The Council desires review by the staff and the Planning Commission as to in which zoning districts in the City Limit public commercial card rooms should be permitted and concerning any necessary zoning standards applicable to commercial public card rooms; and,
9. Inasmuch as the public demands appropriate consideration for Commercial Public Card Rooms, the City Council finds that the present code does not afford exaction of appropriate consideration. Failure to immediately establish a procedure whereby the citizens may receive appropriate consideration for Commercial Public Card Rooms creates an emergent situation contrary to the health, safety, and welfare of the public.

**Section 4. Staff and Planning Commission Review and Recommendations.** The Council hereby directs staff to review and edit the applicable provisions of WMC 17, and present an Ordinance addressing the proposed revisions before the Planning Commission for its review and recommendation in a manner consistent with the foregoing; that upon completion, the Ordinance be presented to the Council for adoption.

**Section 5. Effects of the Interim Zoning Control on land use permit or building permit application acceptance and permit issuance.** There shall be a six (6) month prohibition of and moratorium on Commercial Public Card Rooms located within the City Limit including the acceptance or issuance of any land use permit or building permit applications concerning Commercial Public Card Rooms and the City shall not issue permits based thereon during this time period. This Interim Zoning Control shall expire exactly six (6) months from the effective date of this Ordinance, unless otherwise extended pursuant to Washington law, or upon adoption of the revised zoning codes, whichever comes first.

**Section 6. Interim Zoning Policies.**

a) A minimum of one (1) parking space per 200 square feet of floor area used for gambling or gaming activity, one (1) parking space for each Commercial Public Card Room chair (as defined by the Washington State Gambling Commission), and one (1) parking space for each two on-site employees shall be provided.

b) No Commercial Public Card Room shall be permitted within three hundred feet of any public school, a piece of property owned by the School District, private school (meeting requirements for private schools under Title 28A RCW), church, park, or residential-zoned area as measured according to RCW 66.24.010(9), or as the same may be hereafter amended.

c) A Commercial Public Card Room shall comply with all applicable Building Code provisions and requirements from the City Fire Department.

(d) Any Commercial Public Card Room shall not be exempt from any other provisions in the City's zoning code, Comprehensive Plan, and other adopted plans, and city, state and federal laws deemed appropriate by the DRS.

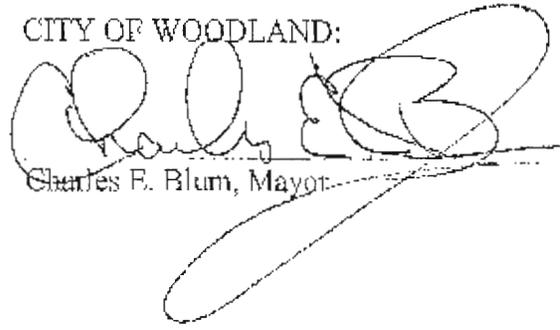
**Section 7. Geographic Area of the Card Room Overlay (C-4) Zoning District.** The Card Room Overlay (C-4) Zoning District shall be placed on all properties fronting Atlantic and located north of SR 503 and south of East Scott Avenue.

**Section 8. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or constitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 9. Effective Date.** This ordinance shall become effective five (5) days after its publication in the media or paper of record as required by law.

ADOPTED this 6<sup>th</sup> day of December, 2010.

CITY OF WOODLAND:



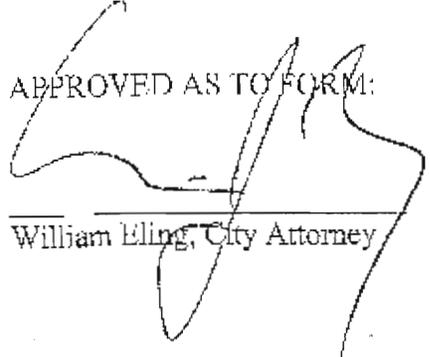
Charles F. Blum, Mayor

ATTEST:



Mari E. Ripp, Clerk/Treasurer

APPROVED AS TO FORM:



William Eling, City Attorney

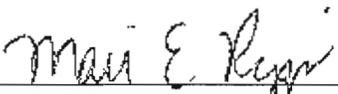
**SUMMARY OF ORDINANCE NO. 1195  
OF THE CITY OF WOODLAND, WASHINGTON**

On December 6, 2010, the City Council of the City of Woodland, Washington, approved Ordinance No. 1195 the main point which may be summarized by its title as follows:

**AN ORDINANCE IMPOSING AN INTERIM ZONING CONTROL TO: 1) PERMIT COMMERCIAL PUBLIC CARD ROOMS AS DEFINED BELOW IN THE HIGHWAY COMMERCIAL (C-2) ZONING DISTRICT WITHIN THE CITY LIMIT, FOR A PERIOD NOT LONGER THAN SIX (6) MONTHS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, OR UNTIL THE AMENDED ZONING CODE IS ADOPTED, WHICHEVER OCCURS FIRST; AND 2) AUTHORIZE PUBLICATION BY SUMMARY**

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their meeting on the 6<sup>th</sup> day of December, 2010.

  
\_\_\_\_\_  
Mari E. Ripp, Clerk-Treasurer

Published: December 15, 2010  
Effective: December 20, 2010

**ORDINANCE NO. 1188**

***THE CITY OF WOODLAND, WASHINGTON***

**AN ORDINANCE REPEALING WMC 3.04.020 COMMERCIAL PUBLIC  
CARDROOMS AND APPROVING AN ORDINANCE SUMMARY FOR PUBLICATION  
AS MORE PARTICULARLY SET FORTH HEREIN**

**WHEREAS**, after consideration of public comment in support and in opposition to repealing the prohibition of card rooms in the City of Woodland;

**WHEREAS**, the City Council finds that repeal of the prohibition will allow local business to apply a hybrid business model and encourage economic development consistent with the City's comprehensive plan;

**AND WHEREAS**, all procedural requirements of the Woodland Municipal Code (WMC) for an interim zoning ordinance designating commercial locations for card rooms and permit moratorium have been met;

**NOW THEREFORE**, be it hereby ordained by the City Council of the City of Woodland as follows:

**SECTION 1. WMC 3.04.020**

Woodland Municipal Code Section 3.04.020 is repealed in its entirety.

**3.04.020 Commercial Public Card Rooms--Prohibited.**

Pursuant to the authority granted by RCW 9.46.295 public card rooms, as defined in WAC 230-02-410, are prohibited from being located in the incorporated area of the City. (Ord. 879 §1 (part), 1997)

**SECTION 2. SUMMARY**

A summary of this ordinance shall be published as required by law.

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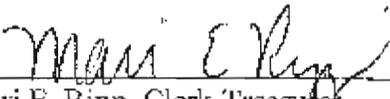
**SUMMARY OF ORDINANCE NO. 1188  
OF THE CITY OF WOODLAND, WASHINGTON**

On December 6, 2010 the City Council of the City of Woodland, Washington, approved Ordinance No. 1188 the main point which may be summarized by its title as follows:

**AN ORDINANCE REPEALING WMC 3.04.020 COMMERCIAL PUBLIC CARDROOMS AND APPROVING AN ORDINANCE SUMMARY FOR PUBLICATION AS MORE PARTICULARLY SET FORTH HEREIN.**

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their meeting on 6<sup>th</sup> day of December, 2010.

  
\_\_\_\_\_  
Mari E. Ripp, Clerk-Treasurer

Published: December 15, 2010  
Effective: December 20, 2010

# STAFF REPORT

**Subject: Historic Preservation Ordinance**

**Date: May 11, 2011**

**To: Planning Commission**

**From: Carolyn Johnson, Community Development Planner**

Enacting a Historic Preservation Ordinance is a 2011 priority for the Planning Commission and the Planning Department. For many Washington communities, a goal of establishing a historic preservation program is becoming a Certified Local Government (CLG). For this reason, the Washington State model ordinance is tailored around CLG language.

Responsibilities of a CLG include:

- Maintaining a historic preservation commission,
- Surveying local historic properties,
- Enforcing state or local preservation laws,
- Reviewing National Register Nominations, and
- Providing for public participation.

Moving forward, we will work through the following steps:

- STEP 1** Planning Commission, City attorney, and staff review model ordinance and background documents
- STEP 2** If desirable, Planning Commission adapts language to meet the unique needs of our community
- STEP 3** NOA + SEPA + Public Comment Period + Public Hearing
- STEP 4** Changes to model ordinance sent to the Dept. of Archaeology and Historic Preservation for review and comments
- STEP 5** Draft ordinance sent to City Council for readings and adoption (August)
- STEP 6** If desired, City applies to become a Certified Local Government

Attachments:

1. Historic Preservation: A Tool for Managing Growth
2. Model Historic Preservation Ordinance from the Washington Department of Archaeology and Historic Preservation
3. White Sheet on Certified Local Government
4. Information on Special Valuation: A Local Tax Incentive Program

# WOODLAND HISTORIC PRESERVATION ORDINANCE

Section 1	Purpose
Section 2	Title
Section 3	Definitions
Section 4	Woodland Historic Commission
Section 5	City of Woodland Register of Historic Places
Section 6	Review of Changes to City of Woodland Register Properties
Section 7	Review and Monitoring of Properties for Special Property Tax Valuation

## SECTION 1. PURPOSE

The purpose of this ordinance is to provide for the identification, evaluation, designation, and protection of designated historic and prehistoric resources within the boundaries of the City of Woodland and preserve and rehabilitate eligible historic properties within the City of Woodland for future generations through special valuation, a property tax incentive, as provided in Chapter 84.26 RCW in order to:

- A. Safeguard the heritage of the City as represented by those buildings, districts, objects, sites and structures which reflect significant elements of the City of Woodland's history;
- B. Foster civic and neighborhood pride in the beauty and accomplishments of the past, and a sense of identity based on the City of Woodland's history;
- C. Stabilize or improve the aesthetic and economic vitality and values of such sites, improvements and objects;
- D. Assist, encourage and provide incentives to private owners for preservation, restoration, redevelopment and use of outstanding historic buildings, districts, objects, sites and structures;
- E. Promote and facilitate the early identification and resolution of conflicts between preservation of historic resources and alternative land uses; and,
- F. Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

## SECTION 2. SHORT TITLE

The following sections shall be known and may be cited as the "historic preservation ordinance of the City of Woodland."

## SECTION 3. DEFINITIONS

The following words and terms when used in this ordinance shall mean as follows, unless a different meaning clearly appears from the context:

- A. "City of Woodland Historic Inventory" or "Inventory" means the comprehensive inventory of historic and prehistoric resources within the boundaries of the City of Woodland.
- B. "City of Woodland Historic Preservation Commission" or "Commission" means the commission created by Section \_\_\_ herein.
- C. "City of Woodland Register of Historic Places", "Local Register", or "Register" means the listing of locally designated properties provided for in Section \_\_\_ herein.
- D. "Actual Cost of Rehabilitation" means costs incurred within twenty-four months prior to the date of application and directly resulting from one or more of the following: a) improvements to an existing

building located on or within the perimeters of the original structure; or b) improvements outside of but directly attached to the original structure which are necessary to make the building fully useable but shall not include rentable/habitable floor-space attributable to new construction; or c) architectural and engineering services attributable to the design of the improvements; or d) all costs defined as “qualified rehabilitation expenditures” for purposes of the federal historic preservation investment tax credit.

- E. A “building” is a structure constructed by human beings. This includes both residential and nonresidential buildings, main and accessory buildings.
- F. “Certificate of Appropriateness” means the document indicating that the commission has reviewed the proposed changes to a local register property or within a local register historic district and certified the changes as not adversely affecting the historic characteristics of the property which contribute to its designation.
- G. “Certified Local Government” or “CLG” means the designation reflecting that the local government has been jointly certified by the State Historic Preservation Officer and the National Park Service as having established its own historic preservation commission and a program meeting Federal and State standards.
- H. “Class of properties eligible to apply for Special Valuation in the City of Woodland” means \_\_\_\_\_ [ALL/IDENTIFY SELECTED TYPES] properties listed on the National Register of Historic Places or certified as contributing to a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW, until the City of Woodland becomes a Certified Local Government (CLG). Once a CLG, the class of properties eligible to apply for Special Valuation in the City of Woodland means only \_\_\_\_\_ [ALL/IDENTIFY SELECTED TYPES] properties listed on the \_\_\_\_\_ [LOCAL/LOCAL AND NATIONAL/NATIONAL] Register of Historic Places or properties certified as contributing to an \_\_\_\_\_ [LOCAL/LOCAL AND NATIONAL/NATIONAL] Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.
- I. “Cost” means the actual cost of rehabilitation, which cost shall be at least twenty-five percent of the assessed valuation of the historic property, exclusive of the assessed value attributable to the land, prior to rehabilitation.
- J. A “district” is a geographically definable area urban or rural, small or large—possessing a significant concentration, linkage, or continuity of sites buildings, structures, and/or objects united by past events or aesthetically by plan or physical development.
- K. “Emergency repair” means work necessary to prevent destruction or dilapidation to real property or structural appurtenances thereto immediately threatened or damaged by fire, flood, earthquake or other disaster.
- L. “Historic property” means real property together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is listed in a local register of a Certified Local Government or the National Register of Historic Places.
- M. “Incentives” are such rights or privileges or combination thereof which the City Council, or other local, state, or federal public body or agency, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner(s) of Register properties. Examples of economic incentives include but are not limited to tax relief, conditional use permits, rezoning, street vacation, planned unit development, transfer of development rights, facade easements, gifts, preferential leasing policies, beneficial placement of public improvements or amenities, or the like.
- N. “Local Review Board”, or “Board” used in Chapter 84.26 RCW and Chapter 254-20 WAC for the special valuation of historic properties means the commission created in Section \_\_\_ herein.
- O. “National Register of Historic Places” means the national listing of properties significant to our cultural

history because of their documented importance to our history, architectural history, engineering, or cultural heritage.

- P. An “object” is a thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.
- Q. “Ordinary repair and maintenance” means work for which a permit issued by the City of Woodland is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real property or structure appurtenance therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage.
- R. “Owner” of property is the fee simple owner of record as exists on the Cowlitz or Clark County Assessor’s records.
- S. “Significance” or “significant” used in the context of historic significance means the following: a property with local, state, or national significance is one which helps in the understanding of the history or prehistory of the local area, state, or nation (whichever is applicable) by illuminating the local, statewide, or nationwide impact of the events or persons associated with the property, or its architectural type or style in information potential. The local area can include the City of Woodland, Cowlitz County, Clark County, or Southwest Washington, or a modest geographic or cultural area, such as a neighborhood. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.
- T. A “site” is a place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupation or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may be the location of ruined or now non-extant building or structure of the location itself possesses historic cultural or archaeological significance.
- U. “Special Valuation for Historic Properties” or “Special Valuation” means the local option program which when implemented makes available to property owners a special tax valuation for rehabilitation of historic properties under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of the rehabilitation. (Chapter 84.26 RCW).
- V. “State Register of Historic Places” means the state listing of properties significant to the community, state, or nation but which may or may not meet the criteria of the National Register.
- W. A “structure” is a work made up of interdependent and interrelated parts in a definite pattern of organization. Generally constructed by man, it is often an engineering project.
- X. “Universal Transverse Mercator” or “UTM” means the grid zone in metric measurement providing for an exact point of numerical reference.
- Y. “Waiver of a Certificate of Appropriateness” or “Waiver” means the document indicating that the commission has reviewed the proposed whole or partial demolition of a local register property or in a local register historic district and failing to find alternatives to demolition has issued a waiver of a Certificate of Appropriateness which allows the building or zoning official to issue a permit for demolition.
- Z. “Washington State Advisory Council’s Standards for the Rehabilitation and Maintenance of Historic Properties” or “State Advisory’s Council’s Standards” means the rehabilitation and maintenance standards used by the City of Woodland Historic Preservation Commission as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not

the property continues to be eligible for special valuation once it has been so classified.

## **SECTION 4. WOODLAND HISTORIC COMMISSION**

### **A. Creation and Size**

There is hereby established a Woodland Historic Preservation Commission, consisting of \_\_\_\_\_ [5 - 15] members, as provided in subsection \_\_\_\_ below. Members of the Woodland Historic Preservation Commission shall be appointed by the Mayor and approved by the City Council and shall be residents of the City, except as provided in subsection \_\_\_\_ below.

### **B. Composition of the Commission**

1. All members of the commission must have a demonstrated interest and competence in historic preservation and possess qualities of impartiality and broad judgement.
2. The commission shall always include at least \_\_\_\_\_ [INDICATE NUMBER] professionals who have experience in identifying, evaluating, and protecting historic resources and are selected from among the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines [CHOOSE ONE, SEVERAL, OR ALL DISCIPLINES]. The commission action that would otherwise be valid shall not be rendered invalid by the temporary vacancy of one or all of the professional positions, unless the commission action is related to meeting Certified Local Government (CLG) responsibilities cited in the Certification Agreement between the Mayor and the State Historic Preservation Officer on behalf of the State. Furthermore, exception to the residency requirement of commission members may be granted by the Mayor and City Council in order to obtain representatives from these disciplines.
3. In making appointments, the Mayor may consider names submitted from any source, but the Mayor shall notify history and city development related organizations of vacancies so that names of interested and qualified individuals may be submitted by such organizations for consideration along with names from any other source.

### **C. Terms**

The original appointment of members to the commission shall be as follows (this example is for a commission of seven): three (3) for two (2) years, two (2) for three (3) years; and two (2) for four (4) years. Thereafter, appointments shall be made for a three (3) year term. Vacancies shall be filled by the Mayor for the unexpired term in the same manner as the original appointment.

### **D. Powers and Duties**

The major responsibility of the Historic Preservation Commission is to identify and actively encourage the conservation of the city's historic resources by initiating and maintaining a register of historic places and reviewing proposed changes to register properties; to raise community awareness of the city's history and historic resources; and to serve as the city's primary resource in matters of history, historic planning, and preservation.

In carrying out these responsibilities, the Historic Preservation Commission shall engage in the following:

1. Conduct and maintain a comprehensive inventory of historic resources within the boundaries of the City of Woodland and known as the Woodland Historic Inventory, and publicize and periodically update inventory results. Properties listed on the inventory shall be recorded on official zoning records with an "HI" (for historic inventory designation). This designation shall not change or modify the underlying zone classification.
2. Initiate and maintain the City of Woodland Register of Historic Places. This official register shall be compiled of buildings, structures, sites, objects, and districts identified by the commission as having historic significance worthy of recognition and protection by the City of Woodland and encouragement of efforts by owners to maintain, rehabilitate, and preserve properties.

3. Review nominations to the **City of Woodland** Register of Historic Places according to criteria in Section \_\_\_\_ of this ordinance and adopt standards in its rules to be used to guide this review.
4. Review proposals to construct, change, alter, modify, remodel, move, demolish, or significantly affect properties or districts on the register as provided in Section \_\_\_\_; and adopt standards in its rules to be used to guide this review and the issuance of a certificate of appropriateness or waiver.
5. Provide for the review either by the commission or its staff of all applications for approvals, permits, environmental assessments or impact statements, and other similar documents pertaining to identified historic resources or adjacent properties.
6. Conduct all commission meetings in compliance with Chapter 42.30 RCW, Open Public Meetings Act, to provide for adequate public participation and adopt standards in its rules to guide this action.
7. Participate in, promote and conduct public information, educational and interpretive programs pertaining to historic and pre-historic resources.
8. Establish liaison support, communication and cooperation with federal, state, and other local government entities which will further historic preservation objectives, including public education, within the **Woodland** area.
9. Review and comment to the **City** Council on land use, housing and redevelopment, municipal improvement and other types of planning and programs undertaken by any agency of the **City of Woodland**, other neighboring communities, the **counties**, the state or federal governments, as they relate to historic resources of the **City of Woodland**.
10. Advise the **City** Council and the Chief Local Elected Official generally on matters of **city** history and historic preservation.
11. Perform other related functions assigned to the Commission by the **City** Council or the Chief Local Elected Official.
12. Provide information to the public on methods of maintaining and rehabilitating historic properties. This may take the form of pamphlets, newsletters, workshops, or similar activities.
13. Officially recognize excellence in the rehabilitation of historic buildings, structures, sites and districts, and new construction in historic areas; and encourage appropriate measures for such recognition.
14. Be informed about and provide information to the public and **City** departments on incentives for preservation of historic resources including legislation, regulations and codes which encourage the use and adaptive reuse of historic properties.
15. Review nominations to the State and National Registers of Historic Places.
16. Investigate and report to the **City** Council on the use of various federal, state, local or private funding sources available to promote historic resource preservation in the **City of Woodland**.
17. Serve as the local review board for Special Valuation and:
  - a) Make determination concerning the eligibility of historic properties for special valuation;
  - b) Verify that the improvements are consistent with the Washington State Advisory Council's Standards for Rehabilitation and Maintenance;
  - c) Enter into agreements with property owners for the duration of the special valuation period as required under WAC 254-20-070(2);
  - d) Approve or deny applications for special valuation;
  - e) Monitor the property for continued compliance with the agreement and statutory eligibility requirements during the 10 year special valuation period; and
  - f) Adopt bylaws and/or administrative rules and comply with all other local review board responsibilities identified in Chapter 84.26 RCW.
18. The commission shall adopt rules of procedure to address items 3, 4, 6, and 18 inclusive.

## **E. Compensation**

All members shall serve **without** compensation.

## **F. Rules and Officers**

The commission shall establish and adopt its own rules of procedure, and shall select from among its membership a chairperson and such other officers as may be necessary to conduct the commission's business.

## G. Commission Staff

Commission and professional staff assistance shall be provided by the Woodland Building and Planning Department with additional assistance and information to be provided by other City departments as may be necessary to aid the commission in carrying out its duties and responsibilities under this ordinance.

## SECTION 5. CITY OF WOODLAND REGISTER OF HISTORIC PLACES

### A. Criteria for Determining Designation in the Register

Any building, structure, site, object, or district may be designated for inclusion in the Woodland Register of Historic Places if it is significantly associated with the history, architecture, archaeology, engineering, or cultural heritage of the community; if it has integrity; is at least 50 years old, or is of lesser age and has exceptional importance; and if it falls in at least one of the following categories. [SELECT ANY OR ALL OF THE CATEGORIES AND INCLUDE ADDITIONAL CATEGORIES IF DESIRED]

1. Is associated with events that have made a significant contribution to the broad patterns of national, state, or local history.
2. Embodies the distinctive architectural characteristics of a type, period, style, or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction.
3. Is an outstanding work of a designer, builder, or architect who has made a substantial contribution to the art.
4. Exemplifies or reflects special elements of the city's cultural, special, economic, political, aesthetic, engineering, or architectural history.
5. Is associated with the lives of persons significant in national, state, or local history.
6. Has yielded or may be likely to yield important archaeological information related to history or prehistory.
7. Is a building or structure removed from its original location but which is significant primarily for architectural value, or which is the only surviving structure significantly associated with an historic person or event.
8. Is a birthplace or grave of an historical figure of outstanding importance and is the only surviving structure or site associated with that person.
9. Is a cemetery which derives its primary significance from age, from distinctive design features, or from association with historic events, or cultural patterns.
10. Is a reconstructed building that has been executed in an historically accurate manner on the original site.
11. Is a creative and unique example of folk architecture and design created by persons not formally trained in the architectural or design professions, and which does not fit into formal architectural or historical categories.

### B. Process for Designating Properties or Districts to the City of Woodland Register of Historic Places

1. \_\_\_\_\_ [ONLY PROPERTY OWNERS/ COMMISSION MEMBERS/ANY PERSON] may nominate a building, structure, site, object, or district for inclusion in the Woodland Historic Register. Members of the Historic Preservation Commission or the commission as a whole may generate nominations. In its designation decision, the commission shall consider the Cowlitz County Historical Structures Inventory and the City Comprehensive Plan.
2. In the case of individual properties, the designation shall include the UTM reference and all features—interior and exterior—and outbuildings that contribute to its designation.
3. In the case of districts, the designation shall include description of the boundaries of the district; the characteristics of the district justifying its designation; and a list of all properties

- including features, structures, sites, and objects contributing to the designation of the district.
4. The Historic Preservation Commission shall consider the merits of the nomination, according to the criteria in Section \_\_\_\_ and according to the nomination review standards established in rules, at a public meeting. Adequate notice will be given to the public, the owner(s) and the authors of the nomination, if different, and lessees, if any, of the subject property prior to the public meeting according to standards for public meetings established in rules and in compliance with Chapter 42.30 RCW, Open Public Meetings Act. Such notice shall include publication in a newspaper of general circulation in the City of Woodland, and any other form of notification deemed appropriate by the City. If the commission finds that the nominated property is eligible for the City of Woodland Register of Historic Places, the commission \_\_\_\_\_ [SHALL LIST THE PROPERTY IN THE REGISTER/SHALL LIST THE PROPERTY IN THE REGISTER WITH OWNER'S CONSENT/MAKE RECOMMENDATION TO THE \_\_\_\_\_ (City/County) COUNCIL THAT THE PROPERTY BE LISTED IN THE REGISTER/MAKE RECOMMENDATION TO THE \_\_\_\_\_ (City/County) THAT THE PROPERTY BE LISTED IN THE REGISTER WITH OWNER'S CONSENT.] In the case of historic districts, the commission shall consider [A SIMPLE MAJORITY OF PROPERTY OWNERS/\_\_\_\_PERCENTAGE OF PROPERTY OWNERS] to be adequate for owner consent. Owner consent and notification procedures in the case of districts shall be further defined in rules. The public, property owner(s) and the authors of the nomination, if different, and lessees, if any, shall be notified of the listing.
  5. Properties listed on the City of Woodland Register of Historic Places shall be recorded on official zoning records with an "HR" (for Historic Register) designation. This designation shall not change or modify the underlying zone classification.

### C. Removal of Properties from the Register

In the event that any property is no longer deemed appropriate for designation to the City of Woodland Register of Historic Places, the commission may initiate removal from such designation by the same procedure as provided for in establishing the designation, Section \_\_\_\_\_. A property \_\_\_\_\_ [MAY/MAY NOT] be removed from the City of Woodland Register of Historic Places without the owner's consent.

### D. Effects of Listing on the Register

1. Listing on the City of Woodland Register of Historic Places is an honorary designation denoting significant association with the historic, archaeological, engineering, or cultural heritage of the community. Properties are listed individually or as contributing properties to an historic district.
2. Prior to the commencement of any work on a register property, excluding ordinary repair and maintenance and emergency measures defined in Section \_\_\_\_, the owner must request and receive a Certificate of Appropriateness from the commission for the proposed work. Violation of this rule shall be grounds for the commission to review the property for removal from the register.
3. Prior to whole or partial demolition of a register property, the owner must request and receive a waiver of a Certificate of Appropriateness.
4. Once the City of Woodland is certified as a Certified Local Government (CLG), \_\_\_\_\_ [ALL/IDENTIFY SELECTED TYPES] properties listed on the City of Woodland Register of Historic Places may be eligible for Special Tax Valuation on their rehabilitation (Section \_\_\_\_).

## SECTION 6. REVIEW OF CHANGES TO THE CITY OF WOODLAND REGISTER OF HISTORIC PLACES PROPERTIES

### A. Review Required

No person shall change the use, construct any new building or structure, or reconstruct, alter, restore,

remodel, repair, move, or demolish any existing property on the City of Woodland Register of Historic Places or within an historic district on the City of Woodland Register of Historic Places without review by the commission and without receipt of a Certificate of Appropriateness, or in the case of demolition, a waiver, as a result of the review.

The review shall apply to all features of the property, interior and exterior, that contribute to its designation and are listed on the nomination form. Information required by the commission to review the proposed changes are established in rules.

## **B. Exemptions**

The following activities do not require a Certificate of Appropriateness or review by the commission: ordinary repair and maintenance—which includes painting—or emergency measures defined in Section \_\_\_\_.

## **C. Review Process**

### **1. Requests for Review and Issuance of a Certificate of Appropriateness or Waiver**

The building or zoning official shall report any application for a permit to work on a designated Woodland Historic Register property or in a Woodland historic district to the commission. If the activity is not exempt from review, the commission or professional staff shall notify the applicant of the review requirements. The building or zoning official shall not issue any such permit until a Certificate of Appropriateness or a waiver is received from the commission but shall work with the commission in considering building and fire code requirements.

### **2. Commission Review**

The owner or his/her agent (architect, contractor, lessee, etc.) shall apply to the commission for a review of proposed changes on a Woodland Historic Register property or within a Woodland Historic Register historic district and request a Certificate of Appropriateness or, in the case of demolition, a waiver. Each application for review of proposed changes shall be accompanied by such information as is required by the commission established in its rules for the proper review of the proposed project.

The commission shall meet with the applicant and review the proposed work according to the design review criteria established in rules. Unless legally required, there shall be no notice, posting, or publication requirements for action on the application, but all such actions shall be made at regular meetings of the commission. The commission shall complete its review and make its recommendations within thirty (30) calendar days of the date of receipt of the application. If the commission is unable to process the request, the commission may ask for an extension of time.

The commission's recommendations shall be in writing and shall state the findings of fact and reasons relied upon in reaching its decision. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. If the owner agrees to the commission's recommendations, a Certificate of Appropriateness shall be awarded by the commission according to standards established in the commission's rules.

The commission's recommendations and, if awarded, the Certificate of Appropriateness shall be transmitted to the building or zoning official. If a Certificate of Appropriateness is awarded, the building or zoning official may then issue the permit.

### **3. Demolition**

A waiver of the Certificate of Appropriateness is required before a permit may be issued to allow whole or partial demolition of a designated Woodland Historic Register property or in a Woodland Historic Register historic district. The owner or his/her agent shall apply to the commission for a review of the proposed demolition and request a waiver. The applicant shall meet with the commission in an attempt to find alternatives to demolition. These negotiations may last no longer than 45 calendar days from the initial meeting of the commission, unless either party requests an extension. If no request for an extension is made and no alternative to demolition has been agreed to, the commission shall act and advise the official in charge of issuing a demolition permit of the approval or denial of the waiver of a Certificate of Appropriateness. Conditions in the case of granting a demolition permit may include allowing the commission up to 45 additional calendar days to develop alternatives to demolition. When

issuing a waiver the board may require the owner to mitigate the loss of the Woodland Historic Register property by means determined by the commission at the meeting. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. After the property is demolished, the commission shall initiate removal of the property from the register.

4. **Appeal of Approval or Denial of a Waiver of a Certificate of Appropriateness.**

The commission's decision regarding a waiver of a Certificate of Appropriateness may be appealed to the City Council within ten days. The appeal must state the grounds upon which the appeal is based.

The appeal shall be reviewed by the council only on the records of the commission. Appeal of Council's decision regarding a waiver of a Certificate of Appropriateness may be appealed to Superior Court.

## **SECTION 7. REVIEW AND MONITORING OF PROPERTIES FOR SPECIAL PROPERTY TAX VALUATION**

### **A. Time Lines**

1. Applications shall be forwarded to the commission by the assessor within 10 calendar days of filing.
2. Applications shall be reviewed by the commission before December 31 of the calendar year in which the application is made.
3. Commission decisions regarding the applications shall be certified in writing and filed with the assessor within 10 calendar days of issuance.

### **B. Procedure**

1. The assessor forwards the application(s) to the commission.
2. The commission reviews the application(s), consistent with its rules of procedure, and determines if the application(s) are complete and if the properties meet the criteria set forth in WAC 254-20-070(1) and listed in Section \_\_\_ of this ordinance.
  - a. If the commission finds the properties meet all the criteria, then, on behalf of the City of Woodland, it enters into an Historic Preservation Special Valuation Agreement (set forth in WAC 254-20-120 and in Section \_\_\_ of this ordinance) with the owner. Upon execution of the agreement between the owner and commission, the commission approves the application(s).
  - b. If the commission determines the properties do not meet all the criteria, then it shall deny the application(s).
3. The commission certifies its decisions in writing and states the facts upon which the approvals or denials are based and files copies of the certifications with the assessor.
4. For approved applications:
  - a. The commission forwards copies of the agreements, applications, and supporting documentation (as required by WAC 254-20-090 (4) and identified in Section \_\_\_ of this ordinance) to the assessor,
  - b. Notifies the state review board that the properties have been approved for special valuation, and
  - c. Monitors the properties for continued compliance with the agreements throughout the 10-year special valuation period.
5. The commission determines, in a manner consistent with its rules of procedure, whether or not properties are disqualified from special valuation either because of
  - a. The owner's failure to comply with the terms of the agreement or
  - b. Because of a loss of historic value resulting from physical changes to the building or site.
6. For disqualified properties, in the event that the commission concludes that a property is no longer qualified for special valuation, the commission shall notify the owner, assessor, and state review board in writing and state the facts supporting its findings.

## C. Criteria

### 1. Historic Property Criteria:

The class of historic property eligible to apply for Special Valuation in the City of Woodland means \_\_\_\_\_ [ALL/IDENTIFY SELECTED TYPES] properties listed on the National Register of Historic Places or certified as contributing to a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW, until the City of Woodland becomes a Certified Local Government (CLG). Once a CLG, the class of property eligible to apply for Special Valuation in Woodland means [ONLY] \_\_\_\_\_ [ALL/IDENTIFY SELECTED TYPES] properties listed on the \_\_\_\_\_ [LOCAL/LOCAL AND NATIONAL/NATIONAL] Register of Historic Places or properties certified as contributing to an \_\_\_\_\_ [LOCAL/LOCAL AND NATIONAL/NATIONAL] Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

### 2. Application Criteria:

Complete applications shall consist of the following documentation:

- a. A legal description of the historic property,
- b. Comprehensive exterior and interior photographs of the historic property before and after rehabilitation,
- c. Architectural plans or other legible drawings depicting the completed rehabilitation work, and
- d. A notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed and documentation of both to be made available to the commission upon request, and
- e. For properties located within historic districts, in addition to the standard application documentation, a statement from the secretary of the interior or appropriate local official, as specified in local administrative rules or by the local government, indicating the property is a certified historic structure is required.

### 3. Property Review Criteria:

In its review the commission shall determine if the properties meet all the following criteria:

- a. The property is historic property;
- b. The property is included within a class of historic property determined eligible for Special Valuation by the City of Woodland under Section \_\_\_ of this ordinance;
- c. The property has been rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) (and identified in Section \_\_\_ of this ordinance) within twenty-four months prior to the date of application; and d. The property has not been altered in any way which adversely affects those elements which qualify it as historically significant as determined by applying the Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties (WAC 254-20-100(1) and listed in Section \_\_\_ of this ordinance).

### 4. Rehabilitation and Maintenance Criteria:

The Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties in WAC 254-20-100 shall be used by the commission as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.

## D. Agreement:

The historic preservation special valuation agreement in WAC 254-20-120 shall be used by the commission as the minimum agreement necessary to comply with the requirements of RCW 84.26.050(2).

## E. Appeals:

Any decision of the commission acting on any application for classification as historic property, eligible for special valuation, may be appealed to Superior Court under Chapter 34.05.510 -34.05.598 RCW in addition to any other remedy of law. Any decision on the disqualification of historic property

eligible for special valuation, or any other dispute, may be appealed to the County Board of Equalization.

# Historic Preservation: A Tool for Managing Growth

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## Introduction

The spirit of the 1990 Growth Management Act (GMA) encourages the preservation and protection of Washington's cultural resources, a community's character, and quality of life. Historic preservation is an important tool aiding the protection and enhancement of a community's special attributes. Whether the planning context is a rural town seeking to stimulate development, a rapidly developing suburban county looking to manage growth, or a mature metropolitan center striving to transform its existing built environment, historic preservation is effective in achieving local growth management goals. Protecting cultural resources is relevant to, and should be integrated with, GMA issues of land use, sprawl, housing, sustainable economic development, recreation opportunities, plus public facilities and services. Early and continuous public participation in identifying, evaluating, and preserving cultural resources will help build and maintain thriving communities.

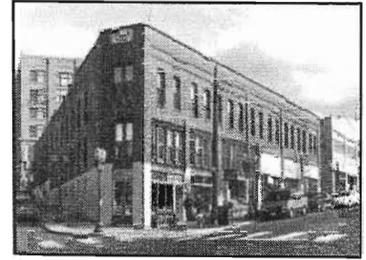
The GMA identifies 14 planning goals for communities. One goal is to "Identify and encourage the preservation of lands, sites, and structures that have historical, cultural, and archaeological significance." To assist communities in reaching this goal, this technical guide provides:

- A rationale for including a Historic Preservation Element in the local comprehensive planning framework.
- Background information on historic preservation.
- A model local historic preservation plan outline, and examples of goals, policies, and action steps.
- A sampling of historic preservation programs and plan implementation tools.
- Contact information for related organizations and agencies. (See Appendix 1.)

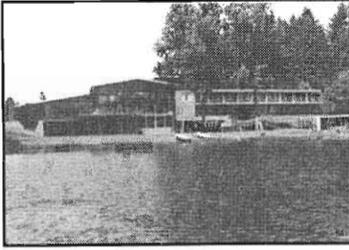
Many individuals, organizations, and agencies are active in heritage protection and are able to provide assistance on historic preservation matters. More than 30 Washington towns, cities, and counties have created local historic preservation programs with citizen commissions and professional preservation planners. These offices play a pivotal role in local preservation actions and are an excellent source of expertise.

At the state level, the Department of Archaeology and Historic Preservation (DAHP) serves as the state historic preservation office. For information about programs offered by DAHP, visit their Web site at [www.dahp.wa.gov](http://www.dahp.wa.gov) or contact:

Department of Archaeology and Historic Preservation  
 PO Box 48343  
 Olympia, WA 98504-8343  
 (360) 586-3065



Recent rehabilitation of Bellingham's Oakland Block illustrates how historic preservation principles can be used to achieve multiple growth management goals. New housing units provide needed affordable housing and increase density. First floor retail space brings pedestrian design scale and activity to downtown streets, not to mention tax revenues for local coffers. Built in 1890 and now listed in the National Register of Historic Places, the Oakland Block once served as the City Hall for New Whatcom.



Maple Valley in King County is home to one of Washington state's prime examples of the growing recognition and awareness of historic properties from the "recent past."

Constructed by the Gaffney family in 1950, the Lake Wilderness Lodge is listed in the National Register of Historic Places as an excellent example of post World War II modern architecture. A northwest regional variation of modernism is well exemplified in this building by a carved cedar pole inspired by Northwest Native American art forms.

Recognition and preservation of places such as the Lake Wilderness lodge comes as a surprise to many people who grew up when these buildings were new. However, these comparatively recent historic properties are key in representing social, cultural, economic, and architectural trends of the mid-20<sup>th</sup> Century.

## Why Plan for Historic Preservation

Historic preservation is a proven, time-tested, and cost effective community development tool. In many ways, Washington's historic and archaeological resources (herein, these resource types are referred to as "cultural resources") are similar to our state's rich natural resources. Like wetlands, forestlands, agricultural lands, and other natural resource lands addressed by the GMA, cultural resources are a finite and endangered resource. Once destroyed, they are lost forever. Another parallel between our natural and cultural resources is that both contribute to and enhance quality of life. To successfully address cultural resource protection, it is recommended that communities develop and implement historic preservation elements in local comprehensive plans. In essence, preservation planning supports GMA goals and helps sustain Washington's quality of life.

### Historic Preservation and Concentrated Growth – A GMA Goal

In recent years there has been a great deal of discussion about how to create livable and sustainable communities in the United States through compact, mixed land use patterns. This discussion includes the concepts of new urbanism, transit-oriented design, and traditional neighborhood design, among others. A consistent theme in these dialogues is the goal of attaining a community core that has a human scale, a pedestrian orientation, and an area of mixed uses including retail, business, residential, and civic. This pattern has existed historically in cities of all sizes for hundreds of years, and can be seen today in the core of virtually every community. It concentrates people close to many of their daily needs, promotes a mix of transportation modes, and offers alternatives to sprawl. Furthermore, concentrating growth in existing areas conserves resources and maximizes public investment in infrastructure.

### Historic Preservation and Affordable Housing – A GMA Goal

Affordable housing is a complex and far-reaching issue that is relevant to a diverse range of residents, not just the very poorest of the population. In efforts to increase the number of affordable housing units, rehabilitation of historic housing can be less costly than building new housing. Plus, reinvesting in historic buildings serves to combat blight and maintain the character of neighborhoods. It is interesting to note that more than 40 percent of housing units in historic buildings results from the adaptive reuse of structures such as factories, warehouses, office buildings, and stores (Rypkema, 2002). These conversions effectively increase the supply of housing units. Historic neighborhoods provide a mix of housing that fits a wide range of income levels and needs. One measure of diversity is economic, and it is rare to find mixed income housing in newly built developments though it is more common in older neighborhoods.

### Historic Preservation and Economic Development – A GMA Goal

Historic preservation makes economic sense. Although not an overnight fix, many communities have successfully embraced preservation as an important component of an economic development strategy. Historic preservation can help achieve a positive image of a community, perhaps one of the most effective means for retaining existing and attracting new economic activity. Today, more than ever, businesses and individuals place a high priority on quality of life when making locational decisions. Communities are now measured for livability by the availability of attractive housing; a vibrant downtown; stable neighborhoods; diverse cultural, recreational, and entertainment opportunities; accessible open spaces; and other quality of life factors. Re-invigorated historic downtowns and neighborhoods have stimulated local economies, sparked new businesses, generated additional tax revenues, created new jobs, and conserved scarce financial and material resources.

The state historic preservation plan *Strengthening Communities Through Historic Preservation* (see page 7) calls for implementation of a study to document the economic

impact of historic preservation on the state's economy (see Goal I Objective IA). With completion anticipated in 2006, the study will focus on quantifying increased property values, tax revenues, and economic activity derived from heritage tourism. With this information preservationists will be able to make a strong case for the economic benefits of historic preservation.

Heritage and cultural tourism are rapidly gaining recognition as important drivers in local economic development and community revitalization. Travel industry studies consistently demonstrate that visiting historic places is one of the top reasons for travel. Data also supports the contention that tourists interested in visiting heritage sites are typically from households with higher incomes, stay longer, spend more, like to become involved in wide range of activities, and seek-out "real" or authentic experiences and places. All this evidence points to the recognition that preservation of a community's cultural resources can result in a big payoff through increased tourism expenditures.

## Historic Preservation and Local Quality of Life

The identity of a place consists of many elements including its natural and built environments; commerce and industry; as well as public spaces and civic structures. To retain and foster civic identity means managing these elements as growth and change occur.

Decades of experience in communities across the nation demonstrate that historic preservation is good public policy, strengthens identity of place, and enhances quality of life. For any community, preservation of cultural resources:

- Teaches about the diversity of cultures in our communities.
- Provides a sense of place.
- Defines and protects local character, lifestyle, and identity.
- Enhances a community's image for residents, tourists, and business recruitment efforts.
- Reflects local values about a community's past, present, and future.
- Conveys community pride, well-being, and stability.
- Conserves resources (natural and manmade).
- Strengthens neighborhoods.
- Encourages civic pride and stewardship.
- Provides an innovative approach to increase densities and serves as an alternative to sprawling development.
- Revitalizes central business districts.



Since archaeological sites are typically below the ground surface, archaeological survey work is often needed to make sure that proposed construction work avoids disturbing cultural resources at a property. Thousands of years before the arrival of Europeans, Native Americans inhabited and used lands and waterways in what is now Washington state. The archaeological record suggests that Native Americans sought the same locational advantages we do today: proximity to resources, safe and sheltered building sites, and easy access to transportation routes.

Planners increasingly recognize the benefits of checking on the possibility of finding archaeological resources early in the development process. By using computer predictive models and data from DAHP's inventory records and keeping in touch with tribal cultural resource staff, planners find that costly delays and controversies are avoided.



Built in 1912, Centralia Union Depot has been rehabilitated by the city following a three-phase restoration effort with expenditures of more than \$4.8 million that included federal and state funds. This investment created 4,000 square feet of commercial space, and enhanced the appearance of this community gateway for thousands of visitors arriving by Amtrak.

The depot project is part of a larger historic preservation commitment made by the City of Centralia that includes a 12-block downtown streetscape project. The purchase of the Fox Theater and the Wilson Hotel have sparked additional activity magnets, and the establishment of a historic district listed in the National Register of Historic Places. These historic preservation planning achievements are rounded out with investment by Portland's McMenamin Brothers who purchased the storied Olympic Club tavern and adjacent Oxford Hotel.

## A Historic Preservation Primer

Historic preservation has come into the mainstream of local decision-making by means of legislation, court decisions, and widespread popular support. The following is a description of several fundamental elements of the historic preservation movement, both nationwide and in Washington state.

### Native American Cultural Resources

Native Americans have deep-rooted pride in their heritage, and constitute an important segment of the state's heritage constituency. Tribal governments have a keen interest in the treatment of properties and sites that represent their heritage. Tribal members also represent another body of expertise, particularly in regard to archaeological sites and traditional cultural places. Tribal governments or their designated representatives should be consulted not only in regard to historic preservation questions, but also routinely in all planning matters that may affect resources of interest to a tribe. Consultation with an affected tribe may require contacting more than one department within the tribal governmental structure.

Presently, there are 29 federally recognized tribes within Washington, with approximately nine additional tribes actively seeking federal recognition. (See Appendix 2 for a list of tribes and contact information.) There are approximately five federally recognized tribes who no longer reside in Washington state, but have reservations in other states or in Canada. With federal recognition, tribes attain status as distinct sovereign nations that have reserved rights, powers, and functions outside the state GMA guidelines. Many tribal governments maintain planning offices and cultural committees that represent tribal heritage interests. Contact the respective planning office and/or the tribal cultural committee for assistance when needing to address tribal cultural resource issues. It is important to remember that cultural resource interests are not limited to reservation boundaries. Tribal interests often extend over much larger areas, which are frequently referred to as "usual and accustomed areas" or "Traditional Territories." These are lands that were traditionally used by the tribes for resource gathering and habitation. Some tribes now residing in other states have traditional use areas in Washington.

### National Historic Preservation Act

Passed by Congress in 1966, the National Historic Preservation Act (NHPA) has defined and shaped national historic preservation policies and the federal government's response. Generally, the act defines historic preservation as: the active process of protecting and preserving our built environment for study, use, and enjoyment by present and future generations. Historic preservation efforts are applied to buildings, structures, districts, sites, or objects. The terms "historic preservation," "historic resources," and "historic properties," when used in the context of the act, apply to historic buildings, structures, and archaeological sites dating from both before and after European-American contact with Native Americans (generally about 1790 in what is now Washington state). These encompass the same property types that are considered to be eligible for listing in the National Register of Historic Places (see the following section). For sake of clarity and convenience, the term "cultural resources" is used in this publication to refer to the broad range of resource types that represent our cultural heritage.

### National Register of Historic Places

A cornerstone element of the historic preservation movement and of the NHPA is the National Register of Historic Places. The National Register is the nation's listing of properties that have historic, architectural, archaeological, engineering, or cultural significance. A property nominated to the National Register can attain significance at a national, state, or local level, but must meet defined criteria to be listed in the National Register.

Listing of cultural resources (buildings, sites, structures, districts, and objects) in the National Register is an honorary designation. Designation of a property by the National Register is intended to encourage the owner, and the community at large, to be stewards of National Register properties because they significantly represent our nation's heritage. Along with the prestige and special recognition that goes along with National Register listing, designated properties that are income producing (such as stores, hotels, offices, apartments, etc.) are eligible for federal tax incentives. When funding is available, National Register listed properties are also eligible for federal historic preservation grants. Design standards outlined in the *Secretary of the Interior's Standards for Rehabilitation* are always recommended for rehabilitation work performed on historic structures.

Another important clarification that needs to be made is the fact that National Register listing of a property does not restrict the owners of privately held properties. Those property owners are free to manage a National Register listed property as they wish. A caveat to this previous statement is when a National Register listed (or eligible) property is affected in some way by a federal action (i.e., the recipient of a federal license, permit, or project funding). When a federal action may affect a significant cultural resource, the responsible federal agency must consult with the state historic preservation officer, tribal representatives, and interested members of the public to assess how the action will affect the property's National Register eligibility status. This consultation process includes publicly owned (including state, county, city, or special district) properties that may be National Register listed or eligible.

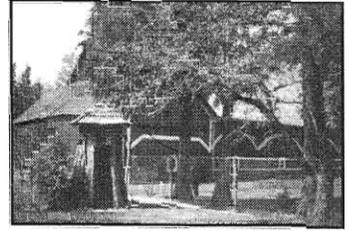
Another key point for decision makers to keep in mind is that the National Register can serve as a database that is an aid in planning. The National Register provides information on properties that land use managers (be they public or private) should consider when making land use decisions. The Washington Heritage Register and the Washington State Inventory of Cultural Resources are two additional databases providing information on historic properties.

## Washington State Governor's Advisory Council on Historic Preservation

The Advisory Council on Historic Preservation (ACHP) is a seven-member panel of citizens with expertise and/or training in historic preservation and related fields. Members are appointed by the Governor in order to advise on state government policy matters affecting preservation of cultural resources. The ACHP devotes much of its time to reviewing documents nominating Washington state properties for listing in the National Register of Historic Places. First, nomination documents are submitted to the state historic preservation office for review and editing. In Washington, the state historic preservation office is formally named the Department of Archaeology and Historic Preservation (DAHP). Once deemed complete by DAHP staff, the nominations are brought before the council for formal review and comment in a public forum. If ACHP members determine that nominated properties meet National Register criteria (see above), a vote is taken to recommend those properties to the state historic preservation officer (see below) for forwarding to the Keeper of the National Register in Washington, D.C. The ACHP meets three times each year in locations around the state. For more information about the ACHP, check the DAHP Web site at [www.dahp.wa.gov](http://www.dahp.wa.gov) to view meeting dates and deadlines for submitting nominations for review. Note that the Washington State ACHP should not be confused with the federal Advisory Council on Historic Preservation. The federal ACHP is an independent panel appointed by the President plus their staff that help administer provisions of Section 106 of the NHPA. See page 31 for more information about this federal entity.

## State Historic Preservation Officer

The NHPA and corresponding state enabling legislation sets forth the responsibilities of the state historic preservation officer (SHPO). The SHPO is responsible for carrying out the federal historic preservation programs and policies as identified in the NHPA. Under



The rich, well-watered soils of Western Washington river valleys were magnets for 19th century immigrant settlers who eventually started successful dairy and produce farms. This attraction boosted efforts of Hans and Lida Berthusen to establish a successful farming operation in the Lynden vicinity of Whatcom County in the 1880s. Well into the 20<sup>th</sup> Century, the farm was widely known for the Berthusen's hospitality and their barn was a community-gathering place.

In addition to its huge scale and craftsmanship, the Berthusen Barn is significant as a rare Washington example of "bank" barns typically found in the Eastern United States. Whatcom County was also famous for its concentration of "stump" architecture, the novel adaptation of hollow tree stumps into homes, post offices, and whatever else could fit into extremely tight spaces. The Berthusen privy is a rare survivor of this "folk" building type peculiar to the northwest. Both structures are listed in the National Register of Historic Places and now preserved by the City of Lynden as part of Berthusen Memorial Park.

## THE NATIONAL REGISTER OF HISTORIC PLACES CRITERIA FOR EVALUATION

The criteria are designed to guide state historic preservation agencies and the Secretary of the Interior in evaluating potential entries to the National Register.

The quality of significance in American history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history;

or  
B. That are associated with the lives of persons significant in our past;

or  
C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;

or  
D. That have yielded, or may be likely to yield, information important in prehistory or history.

the SHPO's direction, staff at DAHP implements federal historic preservation programs and policies in Washington. The SHPO and DAHP staff perform a number of tasks including:

- Developing a statewide historic preservation plan.
- Surveying communities to identify cultural resources.
- Maintaining the statewide Inventory of Cultural Resources.
- Administering the National Register of Historic Places program.
- Providing technical assistance to federal, state, and local agencies, as well as the public at large.
- Reviewing and commenting on federal undertakings in fulfillment of Section 106 of the NHPA.
- Participating in the review of projects benefiting from federal tax incentives and historic preservation grants.
- Administering the Certified Local Government program in Washington.

DAHP, with the SHPO as its director, is a department of Washington state government.

## State Historic Preservation Plan

In fulfillment of its responsibilities under the NHPA to develop and implement a state historic preservation plan, in 2004 DAHP completed updating and revising its first plan with a new document entitled *Strengthening Communities Through Historic Preservation: The Washington State Historic Preservation Plan*. This document addresses issues regarding preservation in Washington and provides goals, objectives, and specific tasks for strengthening communities by capitalizing on their cultural resources.

The new five-year goals for historic preservation spanning the 2004-09 planning timeframe were arrived at through public meetings plus insight from tribal representatives. As a result of the planning process, six goals were identified for incorporation into the plan. These goals are as follows:

- Goal I. Increase use of historic preservation as an economic development and community revitalization tool.
- Goal II. Advocate to protect our heritage.
- Goal III. Strengthen connections inside and outside the preservation community.
- Goal IV. Integrate preservation principles into local land use decisions, regulations, and development processes.
- Goal V. Expand efforts to identify and preserve cultural and historic resources.
- Goal VI. Effectively increase knowledge of historic preservation and its importance to Washington.

Another useful section of *Strengthening Communities* is an overview of the many types of cultural resources that can be found in Washington. When historic preservation is mentioned, people often think of the obvious architectural examples from the built environment such as Craftsman homes, movie theaters, or train depots. Several other types of properties that are considered cultural resources are briefly described in an overview section that includes narratives explaining archeological resources, cultural landscapes, and traditional cultural places.

## Historic Preservation at the Local Level

One critical player in the actual protection of cultural resources is local government. Local land use processes (such as zoning, capital improvement plans, annexations, etc.) impact both the long- and short-term preservation of cultural resources. Therefore, actions and policies of local government have a direct effect on whether cultural resources have a future in the community.

In many instances, local units of government actually own historic properties. Fire stations, city halls, park properties, hospitals, jails, and others may have historic and cultural significance. County courthouses represent a good example of publicly owned

local landmarks. A 2003 study by DAHP identified 28 of the state's 39 functioning courthouses as being of historic significance. The study also documented a huge backlog of rehabilitation needs to restore these gems of architecture and history to their former luster.

Private individuals, businesses, and organizations form a second critical factor. Collectively, the economy, development patterns, land use changes, and public attitudes are crucial in setting the stage for preservation action. Close cooperation and understanding between public and private sector decision makers fosters positive local preservation efforts.

## Local Historic Preservation Programs

Local governments (towns, cities, counties, and special districts) can tailor a historic preservation program that responds to particular community needs. These needs are usually addressed through the enactment of a historic preservation ordinance.

As the foundation of a local program, the ordinance needs to be carefully crafted to achieve preservation goals. Frequently, such an ordinance establishes a historic preservation commission. The ordinance may also give the commission charge to carry out a slate of preservation activities. The following is a sample of some of the tasks a local preservation commission might pursue:

- Designate properties to a local register of historic places.
- Undertake public education/awareness efforts.
- Review, comment upon, and approve changes to designated properties.
- Administer preservation incentives.
- Provide technical assistance on recommended rehabilitation techniques.
- Survey local historic properties and manage databases.
- Provide expertise on preservation matters to elected officials and public agencies.
- Fulfill policies of the local preservation plan.

## Historic Preservation Constituency

Important contributors to the historic preservation movement are the many individuals and organizations with an interest in protecting our heritage. The number and diversity of these individuals and organizations is surprising. They range from broad-based statewide organizations such as the Association for Washington Archaeology and the Washington Trust for Historic Preservation, to local historical societies or advocacy groups that may focus on the protection of a specific property or geographic area. Two examples include the Ezra Meeker Historical Society in Puyallup that focuses on restoration of the Ezra Meeker Mansion, or Spokane Preservation Advocates, a group of preservation activists who work and speak for protection of cultural resources in the Spokane region.

## Cultural Resource Management Consultants

Also important to include in this discussion are the numerous professionals who provide expertise in historic preservation matters. Typically composed of small businesses operating cultural resource management services, these professionals include archaeologists, anthropologists, architects, landscape architects, historians, craftsmen, attorneys, planners, archivists, educators, and many others. These professionals bring valuable expertise to historic preservation projects, but are increasingly recognized as being a critical part of any environmental analysis or project planning. DAHP maintains a list of qualified historic preservation consultants that may be obtained by contacting the agency or visiting its Web site.



A cultural resource type that has assumed greater recognition and appreciation in recent years is the culturally modified tree (CMT). Native cultures typically used living cedar trees to harvest bark for use in making baskets and clothing. In more recent years, trees were used by explorers, settlers, land surveyors, and shepherds as a medium to record events, mark trails and survey boundaries, or, as in the example pictured above, to pass the time of day while creating a living piece of art. In a few instances, CMTs with these documented historical associations are considered to be eligible for listing in the National Register of Historic Places.

THE U.S. SECRETARY OF  
THE INTERIOR'S  
DEFINITIONS OF HISTORIC  
LANDSCAPES

**Historic designed landscape** – A landscape that was consciously designed or laid out by a landscape architect, master gardener, architect, or horticulturist according to design principles, or an amateur gardener working in a recognized style or tradition. The landscape may be associated with a significant person(s), trend, or event in landscape architecture; or illustrate an important development in the theory and practice of landscape architecture. Aesthetic values play a significant role in designed landscapes. Examples include parks, campuses, and estates.

**Historic vernacular landscape** – A landscape that evolved through use by the people whose activities or occupancy shaped that landscape. Through social or cultural attitudes of an individual, family, or a community, the landscape reflects the physical, biological, and cultural character of those everyday lives. Function plays a significant role in vernacular landscapes. They can be a single property such as a farm or a collection of properties such as a district of historic farms along a river valley. Examples include rural villages, industrial complexes, and agricultural landscapes.

## What Is a Historic Preservation Plan?

A historic preservation plan is a document setting forth policies and a course of action for treatment of cultural resources within a community. It is often, but not always, an element of a comprehensive plan. Creation of such a plan reflects local attitudes toward historic preservation, establishes preservation as public policy, and importantly, puts these values into writing. Typically included within the preservation plan are goals, policy statements, and an action agenda. (See page 12 for an outline of a model preservation plan.)

## What Does a Historic Preservation Plan Look Like and How Does it Coordinate With Other Local Plans?

Before delving into the nuts and bolts of developing a preservation plan, it is helpful to first identify how the plan fits into local comprehensive planning efforts. A jurisdiction needs to decide whether it will be addressing historic preservation issues by means of a “stand alone” document or incorporated as an “element” or “chapter” within the local comprehensive plan.

In the past, most local historic preservation plans have been developed as separate, stand-alone documents. A preferable strategy (particularly for communities planning under the GMA) is incorporation of a preservation plan as an element within the city and county comprehensive plan. Including the Historic Preservation Element within the comprehensive plan offers four advantages:

- It responds directly to the GMA goal on historic preservation (Goal 13).
- It acknowledges the linkages and overlap of historic preservation with other planning elements.
- It fosters greater consistency among all policies within the comprehensive plan.
- It elevates the status and visibility of preservation goals and policies to that of other planning policies.

In a majority of instances, it is recommended that a Historic Preservation Element be incorporated as an element of the comprehensive plan. Incorporation into the comprehensive plan document recognizes that historic preservation affects, and is in turn affected by, the broad spectrum of other planning issues and elements addressed by the plan. Therefore, policies, goals, and objectives in other planning elements should be correlated and directly tied to policies, goals, and objectives as set forth in the preservation element. Not only will this approach or format foster enhanced protection of cultural resources in planning processes, it sets the stage for more efficient implementation of the comprehensive plan by maximizing consistency and minimizing conflicting or contradictory policies. The same recommendation is made for subarea planning documents.

Several communities have taken the approach of consolidating the Historic Preservation Element with another related planning topic. For example, the City of Tacoma merged its preservation element into one chapter that also addresses the arts, culture, and history. Other topics with which preservation has been combined include urban design, downtown revitalization, tourism development, plus parks and recreation. This approach may make sense from a logistical or formatting standpoint. However, caution is made that there be policies, goals, and objectives contained in these combined elements that are specific to historic preservation needs and pertain to the entire jurisdiction or planning area.

A separate and distinct historic preservation plan may be an appropriate approach in some circumstances. Such circumstances would occur when a plan is needed for a distinctive historic property, neighborhood, or subarea. For example, a preservation plan was developed for the Vancouver National Historic Reserve in recognition of the special character of this historic place and the need for a comprehensive approach to its preservation and future development. Also, a separate preservation-planning document may be appropriate when such a document will serve to raise awareness and visibility of a specific preservation need or issue. However, in all cases where a separate historic

preservation plan is warranted, it is important to link this document with a community's overall comprehensive planning effort through references in related planning documents, consistency reviews, plus review and adoption by all appropriate decision-making bodies.

## Preservation Planning: Bringing Predictability to Development Processes

When a change in land use is proposed for a site where cultural resources may be present, a historic preservation plan brings predictability and consistency to the development process. Goals, policies, and action statements regarding cultural resources serve notice to everyone as to the local priorities and public intentions toward these resources.

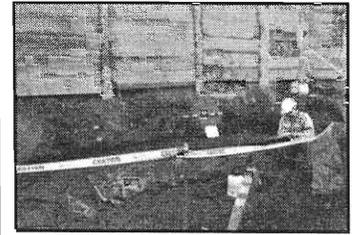
A plan that identifies and evaluates properties or districts as historically significant provides specific direction for appropriate development. For local elected officials, planners, developers, property owners, and other interested citizens, there is immense value in having this predictability built into the development process. As a result, possible delays, surprises, and controversies can be identified early and avoided.

Historic buildings, structures, districts, and objects are clearly visible as elements of our communities' built environments. However, archaeological resources are not as readily apparent. This type of resource is usually located below the ground surface and is, therefore, largely invisible to our daily experience. Nevertheless, archaeological properties have potential for conveying information about our heritage and contributing to a special sense of place. Some archaeological sites can be considered to represent the "historic" era – that is, sites representing human occupation since European-American contact with Native American cultures in the area that is now Washington state. Examples of such sites include: foundations or basements of buildings or structures; former trails or railroad grades; lumber or mining camps; not to mention remnants of forts or battlefields.

Archaeological sites also represent Washington's past before the arrival of European-American cultures. Typically referred to as "pre-contact," these sites are associated with Native American people who have lived on the land for thousands of years. Examples of Native American archaeological resources include village sites; food gathering and preparation sites; fishing sites; shell middens; tool making sites; petroglyphs and pictographs, among others. The key message to keep in mind is that there is *potential* to find all of these and other archaeological resource types in all parts of the state.

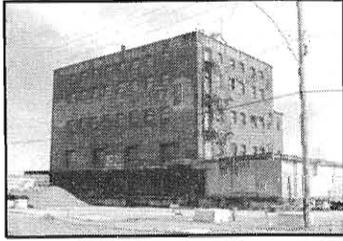
Traditional cultural places or traditional cultural properties (TCPs) are perhaps even more difficult to identify than archaeological sites. This is because TCPs do not necessarily have any man-made manifestation as is true of archaeological resources. Rather, TCPs are spiritual or ceremonial sites of importance to a culture, frequently, but not exclusively, Native American. Examples of TCPs include sites that are sources of powers or visions; or places associated with myths, creation, or important ceremonies. The specific location of these sites is often very sensitive in nature. Therefore, when necessary, the gathering of information about these properties needs to be undertaken with care and patience, working closely with the group(s) that attach cultural significance to such a place.

For planning, it should be kept in mind that archaeological sites and TCPs are particularly sensitive to physical disturbance as well as to recognize that these resources are as significant to our heritage as historic buildings or structures. Their sensitivity comes from the fact that they are non-renewable resources; once they are physically destroyed or damaged, they cannot be repaired or reconstituted. Several archaeological sites and districts are listed in the National Register of Historic Places. They are also afforded legal protection under federal and state law. Therefore, it is important for communities to be aware of the potential for archaeological resources and TCPs to exist within their jurisdictions. In the event that a proposed action would affect such sites, DAHP recommends (in order of preference): (1) avoidance; (2) protection in place; and (3) data recovery as mitigation.



Archaeology can be found anywhere. Remnants of a blacksmith shop dating to the 1880s were uncovered in 2003 during construction of the Tacoma Convention Center. Once excavators discovered that intact floorboards from the blacksmith shop and other 19th Century household artifacts provided information about an early working-class neighborhood, City of Tacoma officials executed a "discovery plan." The plan provided for archaeologists to conduct site data recovery work as construction crews continued work elsewhere on the site.

The Department of Archaeology and Historic Preservation processes permit applications for excavation work at all known archaeological sites. Affected tribes are also notified of excavation permit applications. In addition to permit processing, DAHP maintains records on archaeological sites identified from across the state. This database is shared with federal, state, and local planning agencies. Although DAHP makes this information available to appropriate parties, access to the records is closely scrutinized as a result of looting and vandalism to such sites. Ongoing education efforts are seen as the most effective way to combat vandalism that is recognized as a major threat to Washington's cultural resources.



Before

Located on Tacoma's Thea Foss Waterway and adjacent to the Museum of Glass, the historic Albers Mill had been sitting vacant until 2000 when the Tacoma City Council approved its sale to a developer of historic properties. This adaptive reuse project faced a number of hurdles including designation as a "brownfield" site and years of decay. Despite these difficulties, the property developer saw in the old mill an opportunity to rehabilitate the last industrial building on the city's old working waterfront. Since that time, Albers Mill was listed in the National Register of Historic Places and adapted into 36 loft apartments with bottom floor retail space for an art gallery. The rehabilitation of Albers Mill includes a modern addition on the water-side of the building, innovative steel reinforcing on the outside, and a glass canopy on the first floor. The apartments have 13-foot ceilings, brick interior walls, some with the old graffiti still visible, and unique floor plans that make each space distinctive. In essence, the Albers Mill project demonstrates that a community's industrial heritage can be successfully preserved and adaptively reused to fulfill local planning and design goals.



After

## Preservation Planning: Making the Connections

The historic preservation goal of the GMA can be linked with the 13 other goals to benefit the quality of life in a community. A local historic preservation strategy should recognize that important links exist between historic preservation and other elements of the comprehensive plan. To varying degrees, historic preservation affects, and is affected by: land use, economic development, recreation, housing, transportation, capital facilities planning, and other growth management issues. The following are a few examples in which historic preservation has demonstrated effectiveness in achieving local goals:

- Historic buildings can be successfully adapted to provide needed affordable housing units. Hotels, office buildings, stores, schools, even warehouses have been adapted for low- and moderate-income housing, live-work space for artists, or housing for senior citizens. Historic preservation tax incentives can be combined with housing tax credits and grant programs to package financially successful housing projects. A good example of this is the historic Oakland Block in Bellingham where the local Housing Authority provides housing units for low- and moderate-income households.
- Historic buildings have also been successfully adapted for market-rate housing in the form of apartments and condominiums. Property developers are noticing the steady demand for converted loft and apartment space that contributes significantly to the tax base of the area, increases densities, and generates a market for other uses.
- Archaeologically sensitive areas serve as justification for protection of open space, resource lands, and critical areas, including agricultural land. The state Open Space Taxation Act incentive may be applied to include historic and archaeological properties.
- Historic trails, roads, bridges, and rail lines are ideal for implementing recreation and/or transportation plans for bicycle or hiking paths or perhaps new transit corridors. Interpretive signs or displays explaining historic and archaeological properties serve to enrich the experience of trail users. The Centennial Trail in Spokane County, John Wayne Trail stretching from King through Kittitas counties, and Interurban Trail in the Puget Sound region are excellent examples of the rich recreation experience heritage sites provide.
- Many types of historic properties can be adapted for recreational, entertainment, and cultural uses. Popular state parks incorporate historic lighthouses, military installations, and Civilian Conservation Corps structures. Historic theaters have been adapted as community centers or arts facilities in Longview, Raymond, Spokane, Yakima, Centralia, and other cities across the state.
- Citizen participation is often the driving force behind historic preservation projects. Communities frequently identify places they consider important to preserve. This process fits well with the intention of Goal 11 of the GMA of early and continuous citizen participation.
- Historic preservation should be a major component of an overall economic development plan for revitalization of downtowns and older neighborhoods. Rehabilitation of historic buildings generates new tax revenues, increases employment, and provides upgraded spaces for retail, offices, housing, lodging, and entertainment. Examples of this activity include the Steamplant Square project in Spokane where a mothballed power generating facility has been adaptively reused for offices, restaurant, and retail. Beginning in the 1970s, the Pioneer Square Historic District in Seattle has become a nationally recognized example of a forgotten neighborhood targeted for the bulldozer that has been revitalized as a vibrant mixed-use community of offices, retail, housing, entertainment, and culture.

- Transportation corridor planning needs to assess impacts on significant cultural resources. These planning efforts can interface with strategies to stimulate tourism and recreation plus protect and enhance scenic views and natural resource values.
- Zoning, shoreline management rules, critical areas ordinances, and other planning tools all have direct and/or indirect impact on preservation of cultural resources. For example, shoreline areas across the state are considered archaeologically sensitive lands. As a result, any development that involves ground-disturbing activities near a shoreline has potential to affect archaeological resources. Therefore, it is important that land use goals, policies, and objectives recognize this linkage through appropriate language and implementation.

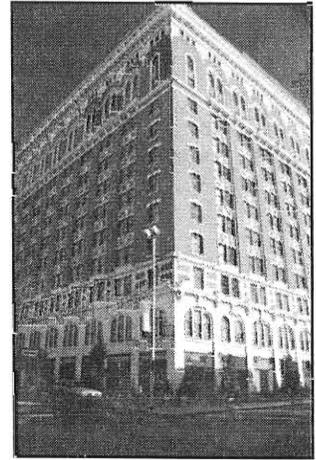
## Preservation Planning: Ensuring Consistency

In addition to identifying the linkages between historic preservation with other comprehensive planning elements, it is important to ensure that policies, goals, and objectives throughout the document are consistent with historic preservation policies, goals, and objectives. To use a hypothetical example to illustrate this point, a local land use plan may call for increasing densities in a residential neighborhood that the preservation plan recommends for designation as a historic district. Likewise, the Transportation Element might forecast major expansion of highways in the same areas where the preservation plan indicates a high probability of encountering archaeological sites. These examples serve to illustrate the point that the comprehensive plan in its entirety should be reviewed and monitored for consistency to avoid contradictory or conflicting language. When such contradictions or inconsistencies become apparent, the jurisdiction needs to identify and work to reconcile conflicting language.

## Preservation Planning: Involving Your Constituency

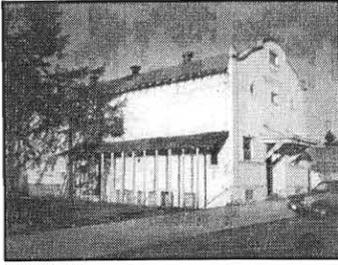
Like all comprehensive planning processes, historic preservation planning is successful when members of the public are informed and invited to participate. Although opinion polls typically reflect broad public interest in heritage and support for preserving cultural resources, communities across the state vary in the degree of preservation advocacy. In some jurisdictions more outreach is needed to gain the public's perspective on historic preservation. Whatever the particular situation, begin your preservation planning work with a visit to your local historic preservation office and/or local historic preservation commission. In communities that do not have a preservation commission, the next step is to talk to local historical societies, museum staff, and board members; downtown revitalization partners; and any known historians and archaeologists. It is also important to contact representatives of tribal governments that may have an interest in planning within your jurisdiction. In regard to tribal cultural resources, contact should be made with a museum staff member, then work to meet with the cultural resource committee and staff.

One tip for working on a local preservation plan is to contact nearby college and university programs in fields related to historic preservation for assistance in public participation, data collection, and brainstorming ideas for preservation initiatives. Several institutions of higher education in Washington and the Northwest (including British Columbia) offer coursework specifically in historic preservation or related fields such as anthropology, architecture, geography, planning, public history, and others. In some instances, faculty and students can be tasked with discrete preservation planning projects such as conducting a neighborhood survey and inventory; designing infill structures or additions to historic buildings; preparing a plan for preserving a property; or drafting a feasibility study for an adaptive reuse.



In a city long noted for its rich architectural heritage, the Davenport Hotel is frequently thought of as Spokane's crown jewel. Designed by notable architect Kirtland Cutter, the massive red-brick and terra-cotta building occupies most of a block in the heart of downtown. With hints of a Venetian palazzo and lavish interior spaces, the Davenport's opening in 1914 solidified Spokane's image as the economic, social, and cultural hub of the Inland Northwest.

Following World War II and Louis Davenport's departure, the hotel faced challenges in a new era. Traveler preferences changed after the war with automobile ownership, interstate highways, and dispersed urban development. The convenience and informality afforded by highway lodging sapped business from downtown hotels and the Davenport's luster gradually faded until closure in the 1980's. However, Spokane without the Davenport was unimaginable to many people throughout the region. Soon, a non-profit organization called Friends of the Davenport worked through the 1990s with the property owner to generate awareness of the building's plight and the hotel underwent an extraordinary restoration.



Built in 1918, Waterville's Nifty Theater is one of the oldest surviving and functioning movie theaters in Washington. Now listed in the National Register of Historic Places, the theater was built and operated by Mr. and Mrs. W.P. Brown who lived in the building's basement apartment from 1919 to 1959. Throughout its heyday, the family-run Nifty brought the best of Hollywood entertainment to residents of the rolling wheat fields of Douglas County. But the Nifty offered more than films, bringing vaudeville acts, newsreels, and entertainers to remote Waterville. Local high school plays and community events also were mounted on the Nifty stage. Following a decline with the advent of television, the theater was purchased in 1997 by local preservationists who cleaned and repaired the building after years of neglect. New owners Jim and Jenna Dixon brought back movies, traveling shows, and local productions, once again making the Nifty as much a community center as a movie theater.

## A Model Historic Preservation Plan Outline

Decades of experience in preparing preservation plans in communities across the nation provide direction for Washington cities and counties when considering their own historic preservation elements. The outline below is based on this collective experience. This model is intended to provide a foundation to begin framing preservation issues in the context of a comprehensive planning effort. When communities develop a preservation plan, it is important to remember that resources are available to assist in this effort. These resources include DAHP, Growth Management Services, the Municipal Research & Services Center, the National Park Service, preservation professionals, and interested organizations and individuals.

### Introduction

The introduction should be brief. Topics to touch upon may include the need and importance of a historic preservation plan, linkages with other elements of the comprehensive plan, and ties to growth management goal 13 on historic preservation.

### Historical Background

This section should not be an exhaustive account of local history. Rather, a general overview of community change and development is appropriate. Topics should cover:

#### Native American Presence

A brief overview of what is known about the region's history before contact with European-American cultures. This overview should include identification of Native American tribes in the planning area, their historic use of regional resources, and general characterization of any popularly known sites associated with these tribes. *Caution:* avoid disclosure of specific locations of archaeological sites or locations that are considered sensitive by tribal contacts.

#### Overview of Local History

Provide a brief overview of the region's history after contact with European-American cultures. Include a general discussion of settlement and development patterns.

#### Identification of Historical Trends

Discuss important growth cycles and architectural trends, defining events, important industries, agricultural products, and other distinctive aspects of local history that have shaped the visual and social character of the community.

### Resources, Status, Issues, and Needs

This portion of the plan is intended to portray the current status of preservation efforts in the community through narrative on the following topics:

#### Types of Resources

This section should summarize the types of cultural resources found in the community, including archaeological and architectural sites and neighborhoods. This discussion should also identify the status and location of cultural resource inventory data in the community. Information to convey should include an assessment of how up-to-date the inventory is, plus where it is housed and how it is used.

#### Status of Local Historic Preservation

This section should include discussion of current preservation activities in the community. Topics to cover here include: identification of preservation organizations – historical societies, preservation commission, etc. – local preservation activities, and other important resources associated with preservation. This includes museums, school curriculum, library collections, a Main Street™ program, Certified Local Government status, current preservation plans, ordinances and regulations, as well as any funding mechanisms for preservation activities.

## Issues Affecting Local Historic Properties in the Future

This discussion should touch upon projects, trends, and issues affecting historic preservation policy direction and affected cultural resources in the community. This may include threats to such resources (short and long term), notable preservation efforts, plus identification of special opportunities for preservation projects in the community.

## Assessment of Local Historic Preservation Needs

In this section, be sure to obtain, synthesize, and report on public input on local historic preservation issues and needs.

## **Goals and Policies for Local Historic Preservation**

This section is the heart of the preservation plan because it sets forth the public's intent and vision of how cultural resources in the community are to be treated. This vision is translated into goals and policies that are identified in the following sections:

### Historic Preservation Goals

Local historic preservation goals establish what the community wants to achieve for its cultural resources within the planning period.

### Preservation Policies

Like other planning policies in the comprehensive plan, preservation policies set forth how the community intends to achieve its goals.

### Implementation or Action Statements

This section provides an opportunity to identify specific tasks for the community to achieve in reaching preservation goals. This section may also identify priorities (including timelines) for tasks to achieve and assign responsibilities for carrying out tasks.

## **Mechanisms to Achieve Goals**

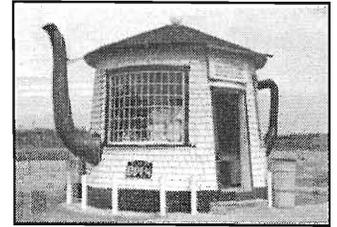
This section of the plan sets forth and assesses specific tools for achieving preservation goals. A number of tools or preservation mechanisms are briefly described in the section Historic Preservation Plan Implementation: Achieving Goals, beginning on page 15 of this guide. These tools might include implementing tax incentives, surveying cultural resources, establishing public education programs, becoming a Certified Local Government, etc.

## **Linkages With Other Elements**

This section of the plan discusses how the preservation plan and policies interact, affect, and are affected by other planning policies. For example, preservation policies and tasks can affect other policies and actions on recreation, housing, transportation, economic development, etc. Successful communities are achieving multiple goals simultaneously.

## **Appendices**

Items to include in the appendices may include a glossary of terms, resource lists, and other supporting materials.



Historic preservationists work to identify and protect a wide range of property types that embody the broad spectrum of our nation's heritage, not just the homes of the rich and famous. Properties listed in the National Register of Historic Places include ornate theatres, dazzling hotels, and lavish residences. More often, however, National Register listings include modest bungalows, hard-working farms, gritty industrial sites, purely functional bridges, and sometimes, quirky one-of-a-kind places such as Zillah's famous Tea Pot Dome service station.

A full-scale political commentary on the oil reserve scandal of President Harding's Administration, rare examples of "thematic" architecture such as the Tea Pot Dome were created by entrepreneurs cashing-in on roadside commerce spawned by massive highway construction in the 1920s. Ironically, the station was threatened with demolition in the 1980s from construction of nearby Interstate 82. Fortunately, National Register designation and Section 106 consultation resulted in the building being saved and moved a short distance from its original site. Today, the operation struggles as a result of dramatically changing market forces and marketing strategies.

## Examples of Historic Preservation Goals, Policies, and Action Steps

The following excerpted statements are just a few examples of historic preservation goals, policies, and objectives (action statements) that have been adopted in various Washington communities. These examples were randomly selected to convey the breadth of subject matter covered by these statements.

### **GOALS**

Goals are typically broad statements that define the vision that citizens and decision-makers have identified for the preferred future of their community. Goals are important in translating community visions and intentions into succinct statements adopted by local governments.

#### **City of Tenino**

Preserve, maintain, and use historic attributes of Tenino and encourage new development that will enhance and reinforce the historic community identity.

#### **City of Spokane**

Promote the recognition and preservation of unique or outstanding landmark structures, buildings, and sites. Landmarks provide focal points of historic or cultural interest. Preservation of them, even when not located within historic districts, celebrates the uniqueness of the particular area. Development that is compatible with and respects the architecture of these landmarks enhances the richness and diversity of the built and natural environments while reinforcing the landmark structures and sites.

#### **Swinomish Nation**

To preserve the history and traditional culture of the Swinomish Tribe. Cultural and historic sites that have historical significance or are used for tribal cultural activities should be designated. Designated or established sites of cultural value should be protected, maintained, and enhanced.

#### **City of Snohomish**

To preserve and enhance the historic character and heritage of Snohomish.

#### **City of Vancouver**

To identify and promote the protection of historically and architecturally significant structures and sites.

### **POLICIES**

Policies are statements intended to guide the actions of governments and citizens in reaching stated goals. A sample of preservation planning policy statements follows:

#### **City of Spokane**

The qualities that make Spokane unique, including the historic and cultural fabric, neighborhoods, downtown area, parks and green spaces, and tree-lined streets, will be maintained and improved.

#### **City of Olympia**

New developments should complement and not detract from historic structures, by use of compatible mass, scale, materials, setting, setback, etc.

#### **City of Bothell**

In the review process for proposed developments, the city will address the historic context in which a property may exist, especially with regard to scale, bulk, and neighborhood compatibility.

#### **City of Snohomish**

The city will encourage and support all efforts of local groups and citizens directed toward preserving and enhancing Snohomish's historic heritage and character.

#### **King County**

All jurisdictions shall encourage land use patterns and implement regulations that protect and enhance historic resources, and sustain historic community character.

#### **Swinomish Nation**

Valuable cultural and historical lands should be acquired by the tribe when available.

### **ACTION STATEMENTS**

Action or implementation statements identify specific steps or tasks that need to take place to reach goals. Often, action statements identify time frames within which tasks should be completed and identify entities responsible for implementation.

#### **City of Bothell**

Staff will investigate and bring forth for landmark preservation board, planning commission, and city council consideration the comparative merits of applying different levels of review or regulation based on different classes of historic significance.

#### **City of Tenino**

The city will identify and protect significant views in the city, particularly to the sandstone quarries.

#### **City of Spokane**

The city will encourage the neighborhoods to participate in the city's design review process.

#### **City of Vancouver**

The city council shall authorize creation of a special historic preservation program, which recognizes activity sites that have historic significance. Rehabilitation of such properties would draw visitors to the downtown and increase the linkage between Central Park, the Columbia River waterfront, and the downtown.

#### **City of Everett**

The city will revise the Zoning Code text and map to establish boundaries and regulations concerning development within historical districts and to provide incentives, which encourage reuse and renovation of historic buildings.

## Historic Preservation Plan Implementation: Achieving Goals

### Preservation Programs



### The Certified Local Government Program: Forging partnerships for historic preservation

The Certified Local Government (CLG) program was intended by Congress to forge a preservation partnership between local governments, the state historic preservation office, and the federal government. In essence, local jurisdictions (cities and counties), which elect to apply for CLG status, are charged with administering a local historic preservation program meeting federal and state standards.

In Washington, local governments apply for certification through DAHP. Local governments with “certified” historic preservation programs enter into an agreement with the SHPO to identify, evaluate, and protect historic resources within their jurisdiction according to accepted Washington Certified Local Government Requirements and Procedures.

Local historic preservation programs are established through ordinance or resolution. At minimum, a certified local historic preservation program includes a body of expertise, such as a board or commission, and staff charged with carrying out basic preservation responsibilities. These responsibilities include: maintaining a local register of historic places, conducting surveys of local historic properties, nominating properties for listing in the local register and National Register, and preservation planning. In effect, the local historic preservation commission is well suited to assume some of the responsibilities of fulfilling the goals of the preservation plan.

Note should be made that matching grants are available from DAHP to CLGs to assist in implementation of local preservation projects. Awarded annually, grant funds can be used for:

- Developing local historic preservation plans.
- Conducting surveys of cultural resources.
- Preparing nomination documents for National Register of Historic Places listing.
- Performing public education activities.

Jurisdictions interested in more information about CLGs and the certification process are encouraged to contact DAHP’s local preservation programs coordinator. See Appendix 3 for a list of contact information for *designated* CLGs. Please note that some jurisdictions have initiated a connection to the CLG program through an interlocal agreement with existing historic preservation programs, most frequently the King County Historic Preservation Program. Those communities having enacted an interlocal agreement are also listed.



Walla Walla has become a poster child for nationwide efforts to successfully revive historic downtown business districts. For years, outlying shopping centers attracted shoppers away from downtown stores and offices. Businesses soon followed leaving vacant storefronts and empty sidewalks. To combat the decline, the Downtown Walla Foundation was established to use the National Trust for Historic Preservation "Main Street" approach to revitalization. Taking advantage of its historic building stock, marketing strategies, and targeted business recruitment, downtown Walla Walla is now thriving, enjoying multimillion dollar investments in building rehabilitation and new businesses.

## The Washington State Downtown Revitalization Program: Maximizing Local Historic Assets

In the mid-seventies, the National Trust for Historic Preservation developed the Main Street Approach™ as a way to effectively maintain and strengthen our country's vital historic commercial districts. This four-point approach looks at preservation and economic development from a physical, social, cultural, and economic standpoint, while strengthening both public and private participation in the process. The four points of the Main Street™ approach are:

1. Organization helps everyone work towards the same goals and maximizes involvement of public and private leaders within the community.
2. Promotion brings people back downtown by helping to attract visitors, shoppers, and investors.
3. Design enhances a district's appearance and pedestrian amenities while preserving its historic features.
4. Economic restructuring stimulates business development and helps strengthen the district's economic base.

Since 1984, the Washington State Downtown Revitalization Program has been helping communities revitalize the economy, appearance, and image of their downtown commercial districts using the Main Street Approach™. Main Street is a comprehensive, incremental approach to revitalization built around a community's unique heritage and attributes. Using local resources and initiative, the state program helps communities develop their own strategies to stimulate long-term economic growth and pride in the heart of the community – downtown.

There are currently nine certified Main Street™ communities in Washington using this methodology as a catalyst for economic growth. Three of them are Great American Main Street Award winners: Port Townsend, Walla Walla, and Wenatchee. This is significant because only five such awards are given out nationally each year.

## Preserve America Initiative

Preserve America is a Presidential initiative that encourages and supports community efforts to preserve and enjoy our priceless cultural and natural heritage. The goals of the initiative include a greater shared knowledge about the nation's past, strengthened regional identities and local pride, increased local participation in preserving the country's cultural and natural heritage assets, and support for the economic vitality of our communities. This program recognizes and designates communities that protect and celebrate their heritage and use their historic assets for economic development and community revitalization. It also encourages people to experience and appreciate local historic resources through education and heritage tourism programs. Nationally, the program is administered by the federal Advisory Council on Historic Preservation and maintains a Web site at [www.preserveamerica.gov](http://www.preserveamerica.gov). As of this writing, several Washington communities have achieved Preserve America designation including Dayton, Edmonds, Ritzville, Roslyn, and Spokane.

## Preservation Partnerships

Implementation of common goals can be achieved by building connections with other entities, developing processes for sharing tools and information, and agreeing to policies to guide the partnership.

Involving partners early can achieve multiple goals simultaneously in one project or program. For example, trail corridors, which provide other values such as habitat protection, historic resource preservation, and recreation, can be mutually beneficial projects. The addition of interpretive signage can create an educational experience at the same time.

Implementation of awards or recognition programs is an effective means of developing and solidifying partnerships. In Washington, the state historic preservation officer and local historic preservation programs and organizations have successfully implemented annual awards programs that recognize achievements in preservation efforts. Other communities have also found success with plaque programs. For designated properties or outstanding rehabilitation projects, the bestowing of a plaque or award certificate engenders a great deal of goodwill for a relatively modest monetary investment.

## Preservation Incentives

Incentives offer encouragement for owners to preserve cultural resources located on their properties. As funding resources change frequently, it is a good idea to contact DAHP, or a historic preservation organization for up-to-date information. The following list briefly describes several incentives.

### Federal Investment Tax Credit

A property owner who undertakes rehabilitation of their historic building may take advantage of a 20 percent tax credit on their income tax. Properties must be listed in, or eligible for listing in, the National Register of Historic Places, and rehabilitation work must conform to the *Secretary of Interior's Standards for Rehabilitation*. This incentive is applicable to income producing properties only (i.e., retail, offices, apartments, inns, etc.). Also attractive to investors is the ability to take advantage of the historic preservation tax credits simultaneous with federal housing tax credits as well as the Special Valuation for Historic Properties program (see below).

### Special Valuation

This local option state property tax program, Special Valuation, is authorized by RCW 84.26, Historic Property. For property owners, this incentive subtracts qualified rehabilitation expenditures from the reassessed property value every year for a ten-year period on National Register listed properties. In CLGs, locally designated properties may also be identified as eligible to apply for the special valuation. For property owners to



Once a sleepy backwater port, Port Townsend has emerged in recent decades as a nationally recognized example of a community that has capitalized on its rich heritage. Zoning, building codes, and design guidelines have been implemented that match the needs and interests of this community that has a large stake in the arts, tourism, and preserving its colorful past. Port Townsend encompasses two commercial historic districts, as well as a scattering of residential properties individually listed in the National Register of Historic Places. Fort Worden and Point Wilson Lighthouse, both now part of Fort Worden State Park, are also designated historic.



For decades, a broad based group of volunteers, public agencies, and businesses have come together to transform the old Great Northern Railroad route to The Iron Goat recreational trail. Coordinated by Volunteers for Outdoor Washington and the Skykomish Ranger District of the Mt. Baker-Snoqualmie National Forest, workers have labored to reclaim the abandoned railroad bed from years of erosion, landslides, and deterioration. Funding for work on the trail has been derived from both public and private sources. "Transportation enhancement" grants have also helped support this project. Enhancement funds are derived from the Federal Highway Administration then passed through the Washington State Department of Transportation and finally to the appropriate regional transportation planning organization (RTPO).

Old tunnel portals, snowsheds, switchbacks, and other fixtures of the old line over Stevens Pass have been stabilized and interpreted for trail users. Archaeological surveys conducted ahead of trail work have revealed a rich trove of cultural resources including remains of construction camps from the early 20th century. Completion of the Iron Goat Trail demonstrates a successful marriage of recreation, historic preservation, natural resource protection, and education.

qualify for special valuation, rehabilitation work must be in accord with the *Secretary of the Interior's Standards for Rehabilitation*, conducted within a 24-month period prior to application, and at a minimum dollar amount equal to 25 percent of the adjusted base value of the property.

### Development Grants

On occasion, matching grant funds are appropriated by Congress or the state Legislature for rehabilitation of designated historic properties. Usually, these grants are made on a dollar-for-dollar matching basis and used to pay for preservation tasks, such as new roofing, paint, window repair, and others. In King County, owners of historic properties may take advantage of a special revolving loan fund. This fund offers low-interest loans through a commercial bank for rehabilitation, or acquisition and rehabilitation, of county-designated landmarks.

### Historic Preservation Easements

Preservation easements are authorized by RCW 64.04. Interest in property may be held by certain entities for purposes of conservation, protection, or preservation. The value of a donated easement to a qualified organization can be deducted from a property owner's income tax obligation, subject to Internal Revenue Service approval.

### Open Space Taxation Act

Open Space Taxation is authorized by RCW 84.34. This state legislation allows counties to assess qualified rural properties at current use rather than potential use levels. In addition to preservation of agricultural and other resource lands, current use taxation can also be applied to historic and archaeological properties. Clark County's Current Use Tax Reduction Program rewards property owners who dedicate their property to agriculture, forestry, or historic preservation.

### Lodging Tax

Funds made available from a county levied lodging tax may be applied to historic preservation projects. Each county is able to determine how the revenue from the lodging tax is to be divided and spent. Typically a locally appointed committee is convened to review applications and make recommendations to county authorities. Projects usually have some relationship to tourism development or promotion and include funding for visitor centers, information kiosks, publications, and events. Often historic preservation projects are the recipients of such funds providing for rehabilitation of museums or historic tourist attractions. The Lodging Tax is authorized by RCW 67.28.

### Transportation Enhancement Funds

Since passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1992 and its successor legislation the Transportation Efficiency Act for the 21st Century (TEA-21), Congress has provided funding for "enhancement" projects related to transportation. Historic preservation activities are eligible for funding through the enhancement program along with bicycle, pedestrian, conservation, and other public efforts that enhance local quality of life. For more information about potential funding for preservation projects using the transportation enhancement funds, contact the appropriate regional transportation planning organization to assess availability of enhancement funds and application procedures.

### Community Development Block Grant

Community Development Block Grant (CDBG) funds and other programs supported by the U.S. Department of Housing and Urban Development can be applied to support historic preservation projects meeting specific parameters. For more information, contact should be made with local CDBG fund administrators or the Community Development Program at the Washington State Department of Community, Trade and Economic Development (CTED). Keep in mind that use of CDBG funds for any purpose will trigger project review and comment in adherence to regulations defining Section 106 of the NHPA. See page 19 for more details about Section 106 consultations.

### Other Public Agency Grant Programs

Several federal and state agencies maintain pools of money specifically devoted to assisting projects that provide a public service or product. These grant pools address a myriad of issues such as environmental protection, economic development, and housing weatherization. In specific instances, these program grant funds may be used to achieve historic preservation purposes. Direct contact should be made with the pertinent agency to determine grant program eligibility requirements and other parameters.

### Foundation/Corporate Giving

Many private, corporate, and community foundations provide support for historic preservation and related projects. Research into the funding criteria and parameters of a specific foundation is essential to assess applicability to a preservation project.

### **Preservation Regulations**

In addition to tax incentives and funding sources, a number of federal, state, and local processes provide an avenue for consultation and consideration of cultural resources as a part of the environmental review of project planning and land use developments. The most prominent of these regulatory measures is described below. Again, contact DAHP for more details.

#### Section 106 of the National Historic Preservation Act

Section 106 requires federal agencies to consult with the state historic preservation office regarding the effect of federally funded, licensed, or permitted actions on cultural resources listed in, or eligible for listing in, the National Register of Historic Places. Visit the federal Advisory Council on Historic Preservation (ACHP) Web site at [www.achp.gov](http://www.achp.gov) for more information about the Section 106 process.

#### Section 4(f) of the Transportation Act

This statute prevents the displacement of cultural and recreational resources by a federally assisted transportation facility unless there is no other feasible or prudent alternative. This law is administered by the U.S. Department of Transportation and its affiliated agencies such as the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA).

#### Indian Graves and Records Act (RCW 27.44)

This act protects Native American burials, cairns, petroglyphs, and pictographs from any disturbance without a permit from the DAHP. Under this statute, it is a Class C felony to knowingly remove, deface, injure, or destroy these resources. Criminal prosecution and/or civil penalties can be assessed. In addition, the affected tribe can bring civil action against a person alleged to have violated this act.

#### Archaeological Sites and Resources (RCW 27.53)

This statute protects archaeological sites on both public and private lands in Washington state from unauthorized excavation or disturbance. A permit from the SHPO is required to excavate or affect an archaeological site. The act requires DAHP to conduct consultation with the affected tribal nations prior to issuing an excavation permit. The statute also gives DAHP the ability to issue civil penalties for violations of the statute, or violations of a permit issued under the statute. DAHP can also deny a permit based on past performance.

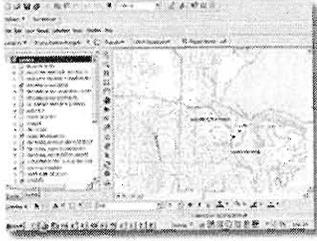
#### Abandoned and Historic Cemeteries and Historic Graves Act (RCW 68.60)

This statute protects historic graves and cemeteries from unlawful destruction, mutilation, injury, or removal. Deliberate desecration of any historic grave, grave marker, tomb, monument, or cemetery is a Class C felony.



Both federal and state laws protect archaeological sites. Property owners, developers, and planners should be up-to-date on the presence or potential of archaeological sites on specific parcels. They should also be aware of steps needed to protect those sites in the event of proposed development.

Clark and Whatcom counties have formal procedures in place that incorporate an archaeological assessment of properties going through the permitting process. These procedures take into consideration data on known sites in addition to factors such as location near archaeologically sensitive areas such as shorelines. Coordination with tribal cultural resource authorities is another important aspect of the planning process for archaeological sites. DAHP administers a permitting process that provides for identifying and mitigating for sites that could be disturbed by land-use proposals.



The computer screen pictured above serves to illustrate how technology has become an indispensable tool in cultural resource protection. Cultural resource managers can rapidly retrieve electronic data on historic properties for environmental review and project planning purposes. With assistance from several federal and state agencies, DAHP has worked to increase the efficiency of data storage and retrieval of its Inventory of Cultural Resources. Inventory data is the "foundation" of cultural resource management because it provides needed information on which informed decisions can be made about how properties will be treated in the future.

### State Environmental Policy Act (RCW 34.21)

The State Environmental Policy Act (SEPA) requires government decision makers to consider likely environmental consequences of a proposal. Consideration of cultural resources occurs in the SEPA checklist alongside other environmental elements including noise, air quality, traffic, water, earth, plants, animals, energy, natural resources, environmental health, land and shoreline use, housing, aesthetics, light and glare, recreation, etc. SEPA review is the first, and sometimes the only, opportunity for project proponents and local governments to identify the presence of historic properties and archaeological sites, and require mitigation measures, if appropriate.

### Shoreline Management Act (RCW 90.58)

The Shoreline Management Act (SMA) has archaeological protections built into it. Local shoreline master programs must include policies and regulations to protect historic, archaeological, and cultural features. It requires that development permits issued by local governments, in areas with archaeological sites, include a site inspection or evaluation by a professional archaeologist in coordination with affected tribes.

### Washington State Historic Building Code

The Washington State Historic Building Code (HBC), when authorized by the appropriate building official, controls and allows alternatives to the International Building Code when dealing with historic buildings or sites. The HBC is adopted at local option and can be used to encourage appropriate rehabilitation of historic buildings while meeting necessary safety and health standards. Contact the Washington State Building Code Council or DAHP for more information.

### Americans with Disabilities Act

Buildings or structures listed or eligible for listing in the National Register, or locally designated sites, must comply with accessibility standards as outlined in the Americans With Disabilities Act (ADA). If, however, consultation with the SHPO determines that compliance with the full accessibility requirements would "threaten or destroy" the significance of the designated historic property, alternative minimum requirements or methods of access may be used.

### Certificate of Appropriateness/Design Review

A growing number of communities have established a process for reviewing and approving changes to designated properties, or properties in local historic districts. Standards and guidelines assist property owners through the process. The review process protects property values, stabilizes neighborhoods, supports appropriate changes to historic buildings, and helps retain important architectural features. Contact should be made with the local historic preservation program (if one exists) for information or applicability of a local design review process.

### Geographic Information Systems and DAHP Data Sharing Agreements

Cultural resource data can be gathered, analyzed, and mapped for land use planning and for implementing historic preservation goals and policies using geographic information systems (GIS). Coordination with DAHP and other agencies can provide for exchange of GIS data, while ensuring protection of sensitive cultural information. The DAHP GIS Initiative is a set of geographic information system based tools that help public agencies design projects to avoid damage to archaeological and historic sites during the environmental planning process.

These digital maps and associated information represent the next generation of computerized cultural resource management. Because of the potential for vandalism and looting, archaeological site locations are not publicly available. However, buffered site data information is shared with a variety of local governments, agencies, tribal governments, and academic institutions by means of a memorandum of understanding (MOU) to ensure that state and federal laws regarding security and use are followed. Contact DAHP for more information about executing a MOU for data exchange.

## Preservation and Land Use Planning: Be Creative

Historic preservation incentives, regulations, and land use planning techniques can be used in any number of combinations to achieve local historic preservation goals. Local governments can shape local land use planning techniques to fit preservation needs. Techniques that have been used successfully include:

- Historic property overlay zoning.
- Transfer of development rights (TDR)/ density bonuses.
- Cluster development.
- Greenbelts or open space provisions.
- Historic districts (urban and rural).
- Adaptive reuse of historic structures.
- Special purpose districts or development authorities.
- Mixed-use or multipurpose development.
- Design review and design guidelines.
- Regional planning.

Other innovative preservation planning techniques have been tried in communities across the state and nation. Communities are encouraged to be creative in identifying and developing other incentives, planning, and development techniques to encourage historic preservation.

## **U.S. SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION**

Rehabilitation is the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those features that convey its historical, cultural, or architectural values. <http://www2.cr.nps.gov/tps/tax/rehabstandards.htm>

- A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
- Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
- Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a building shall be preserved.
- Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires placement of a distinctive features, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
- Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**Local Government:**

## Certified Local Government Overview

Washington State's Certified Local Government (CLG) Program helps local governments to actively participate in preserving Washington's irreplaceable historic and cultural resources as assets for the future. This unique nationwide program of financial and technical assistance was established by the National Historic Preservation Act. In Washington, it is implemented and administered by the Department of Archaeology and Historic Preservation (DAHP).



Sweatt House, Spokane

Local governments that establish a historic preservation program meeting federal and state standards are eligible to apply to the State Historic Preservation Officer (SHPO) and the National Park Service for certification. A local government that receives such certification is known as a "Certified Local Government" or "CLG." [Please click here for a list of program participants.](#)

Responsibilities of a CLG include maintaining a historic preservation commission, surveying local historic properties, enforcing state or local preservation laws, reviewing National Register Nominations, and providing for public participation.

Obtaining status as a CLG may help a local government encourage, develop, and maintain its local preservation efforts in coordination with its development plans. In addition, CLG's may apply for special grants from the SHPO; receive recognition for their preservation expertise by local, state, and federal agencies; obtain technical assistance and training from the SHPO; participate in the review of nominations to the National Register of Historic Places; participate in the national historic preservation assistance network; regularly exchange information with the SHPO; and participate in statewide preservation programs and planning.

Certified Local Governments and DAHP share in the role as primary agencies with knowledge and expertise in historic preservation. Together, CLG's and DAHP advocate for the preservation of historically significant buildings, structures, sites, objects, and districts. Through education and information, these programs provide leadership for the protection of shared heritage. For more information contact Megan Duvall, Certified Local Government Coordinator at (360) 586-3074 or email: [Megan.Duvall@dahp.wa.gov](mailto:Megan.Duvall@dahp.wa.gov).

**The CLG Program's Purpose and Objectives:**

- Encourage historic preservation at the local level through local governmental sponsorship;
- Encourage local governments to follow the *Secretary of the Interior's Standards & Guidelines for Archaeology and Historic Preservation* in their historic preservation programs;
- Provide training and technical assistance through the State's historic preservation office;
- Provide funding to underwrite various historic preservation activities.
- Create a federal, state, and local governmental partnership in historic preservation
- Each state's historic preservation office administers a Certified Local Government Program on behalf of the National Park Service.

# Special Valuation: A Local Tax Incentive Program

## BACKGROUND

During its 1985 session, the Washington State Legislature determined that as the state approached its centennial year, the preservation of a lasting legacy of historic resources was an important goal. In order to reach this goal, the legislature passed a law which allows a "special valuation" for certain historic properties within the state. The primary benefit of the law is that during the ten year special valuation period, property taxes will not reflect substantial improvements made to the

### Definition:

*"Special Valuation" is the revision of the assessed value of a historic property which subtracts, for up to ten years, such rehabilitation costs as are approved by a local review board.*

property.

Prior to the passage of this law, owners restoring historic buildings were subject to increased property taxes once the improvements were made. This had the effect of discouraging some owners from rehabilitating their historically significant structures. The Legislature decided that restoration of these properties would be encouraged if tax relief were available. Property tax relief was selected as a tool which could provide the financial incentives necessary to promote rehabilitation of eligible historic properties. Since passage of this law, over thirty-five local governments have implemented programs which allow their constituents to take advantage of this tax relief.

## IMPLEMENTATION

Only local governments which implement the law are eligible to pass

on the tax relief to the public. The local government identifies the types of properties that are eligible for special valuation, and designates a local review board that will review applications.

## ELIGIBILITY

To be classified as eligible for special valuation, a property must first meet the following criteria:

**1.** It must be listed in the National Register of Historic Places, individually, or certified as contributing to the significance of a National Register Historic District, in order to receive a statement that a property is certified as contributing to the significance of a National Register Historic District, a property owner should contact their local government, or the Washington State Office of Archaeology and Historic Preservation,

**OR 2.** It must be listed in the Local Register of Historic Places established by a Certified Local Government,

**AND 3.** It must be of a class of properties approved by the local government.

Eligible properties which undergo substantial rehabilitation may receive special valuation if the rehabilitation

work is approved by the local review board. The work must have been conducted within two years prior to application, and must be equal in cost to at least 25% of the assessed value of the structure prior to rehabilitation.

## REQUIREMENTS

### Protection of the Property

Property owners who want to take advantage of special valuation must sign an agreement with the local review board that guarantees they will meet the following standards during the ten-year property tax exemption period:

- The property must be maintained in good condition.
- The owner must obtain approval from the local review board prior to making further improvements.
- The property must be visible from a public right-of-way, or otherwise be made available for public view once every year.

The penalty for violating the agreement or other program requirements is substantial. All back taxes which would otherwise have been owed, interest on back taxes, and a penalty equal to 12% of back taxes

*(Continued on page 4)*



The One Pacific Building, 7th & Pacific, Tacoma, WA  
The One Pacific Building

# How the Application Process Works:

**APPLICANT:** • Submits application to the assessor no later than 24 months after beginning date of rehabilitation work.

**ASSESSOR:** • Reviews application for completeness.  
• Verifies legal owner, legal description, etc.  
• Submits application to local review board within ten working days.

**LOCAL REVIEW BOARD:** • Reviews application and attachments.  
• Determines approval or denial of application no later than December 31st of application year.  
• If application is approved, notifies applicant, assessor, and State Advisory Council within ten days.  
• Executes agreement with applicant.  
• Returns application to assessor.

**ASSESSOR:** • Records agreement.  
• Files application, agreement and certification statement (if applicable) with the county recording authority.  
• Determines special valuation and enters in tax roles separately from the normal assessed value.

## HOW ELIGIBLE PROPERTIES ARE DEFINED

To be eligible for special valuation, a property must be:

**1.** Listed in the National Register of Historic Places, individually or certified as contributing to the significance of a National Register Historic District.

**OR**

**2.** Listed in the Local Register of Historic Places established by a Certified Local Government (for more information about the Certified Local Government Program, contact the CLG Coordinator at 360-586-3074).

**AND**

**3.** It must be of a class of historic properties approved by the local government.

Note: The local government in each community determines which classes of historic properties are eligible for special valuation, and may elect to exclude some classes of property from the program.

# The Timetable

**WITHIN 2 YEARS PRIOR TO  
DATE OF APPLICATION:**

- Rehabilitation work begun and completed.

**BEFORE OCTOBER 1 (IF  
SPECIAL VALUATION IS  
DESIRED FOR FOLLOWING  
YEAR):**

- Applicant submits application.

**WITHIN 10 WORKING DAYS:**

- Assessor completes review and submits application to local review board.

**BEFORE DECEMBER 31:**

- Local Review Board approves (or denies) application and executes agreement.

**WITHIN 10 DAYS OF ISSUING  
THEIR DECISION:**

- Local Review Board submits approved application and agreement to assessor; assessor records documents.

**FIRST YEAR - JANUARY 1:**

- Special valuation effective.

**SECOND YEAR THROUGH  
ELEVENTH YEAR:**

- Taxes reflect special valuation.

**TENTH YEAR:**

- Special valuation ends.

**TWELFTH YEAR:**

- Taxes reflect revaluation of property following end of special valuation.

## **DETERMINING SPECIAL VALUATION**

The amount of property tax you will pay is based on the special valuation of your property. Special valuation is simply a value, for property tax purposes, which is calculated by subtracting qualified rehabilitation expenditures from the total assessed value of the property. Your property tax may change from year to year because of changes in the assessed value, but the qualified rehabilitation expenditures will continue to be deducted from the new assessment for the full ten-year period of special valuation.

(Continued from page 1)  
and interest may be due.

If the property is sold, the new owner must sign an agreement with the local review board ensuring that program requirements will be satisfied for the duration of the special valuation period, or the seller may be subject to the penalties discussed above.

### Qualified Rehabilitation Expenditures

The total cost of the rehabilitation must be equal to at least 25% of the assessed value of the property, exclusive of land value, prior to rehabilitation. "Qualified rehabilitation expenditures" are expenses chargeable to the project and include improvements made to the building within its original perimeter, architectural and engineering fees, permit and development fees, loan interest, state sales tax and other expenses incurred during the rehabilitation period. Not included are costs associated with acquisition of the property, or the enlargement of the building. The local review board in each jurisdiction determines which expenditures are qualified. Qualified rehabilitation expenditures for special valuation are the same as those for the federal Investment Tax Credits. (For a detailed explanation, see 26 CFR 1.48-12(c).)

### Rehabilitation Standards

In order to be eligible for special valuation, properties must retain their historic character after rehabilitation. The standards used by the local review board in their review and approval of the rehabilitation work are *The Washington State Advisory Council's Standards for Rehabilitation*. The State Advisory Council adopted *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* as their standards.

### THE APPLICATION PROCESS

An interested property owner files an application with the assessor's office

after the rehabilitation work is completed. The assessor transmits the application to the local review board, which schedules a public meeting to discuss the application.

The board may determine the approval or denial of the application at this meeting, or may request additional information. Once the board has made its determination, the applicant and the assessor will be notified within ten days.

If the application is filed with the assessor's office before October 1 and approved by the board, special valuation goes into effect the following year.

### DEADLINES TO REMEMBER

Application for special valuation must be made no later than 24 months after the beginning of the rehabilitation work.

**October 1** is the deadline for applications when special valuation is desired for the following year.

### PARTICIPATING JURISDICTIONS

At the time of this publication, the following cities and counties have implemented the special valuation program:

Auburn	Newcastle
Bellingham	North Bend
Black Diamond	Olympia
Bothell	Pierce County
Camas	Port Townsend
Carnation	Puyallup
Centralia	Ritzville
Chehalis	Seattle
Cheney	Shelton
Clark County	Shoreline
Dayton	Skykomish
Everett	Snohomish County
Issaquah	Snoqualmie
Kenmore	Spokane City/County
Kennewick	Steilacoom
King County	Tacoma
Kirkland	Thurston County
La Center	Tumwater
Lacey	Vancouver
Longview	Walla Walla
Marysville	Wenatchee

Technical assistance in implementing the special valuation program is available to local governments from OAHF.

### IMPORTANT CONSIDERATIONS

- In order for a historic property to be eligible for special valuation, it must have been substantially rehabilitated within 24 months prior to the date of application.
- In order for a phased rehabilitation to be eligible, each phase of the rehabilitation must cost at least 25% of the assessed value of the property, exclusive of land value, prior to commencing that phase of work. Work on each phase must have been completed within 24 months prior to the date of application for special valuation for that phase.
- Improvements must be consistent with the historic character of the building. During the ten-year period of special valuation, additional improvements to the property are also subject to compliance with the *Washington State Advisory Council's Standards for Rehabilitation*.
- The property must be maintained in good condition as long as the special valuation is in effect.
- Special valuation may apply to a wide range of properties, at the discretion of the local government in each jurisdiction.
- Applications may be submitted at any time, however the deadline is October 1 when special valuation is desired for the following year. Reduction in property taxes appears one year after special valuation designation and applies until the year following the end of the ten-year period of special valuation.
- Property owners who receive special valuation for a rehabilitation project may also apply for the federal Investment Tax Credits for the same project.

### FOR INFORMATION

For further information about the special valuation program, contact:

Office of Archaeology and Historic Preservation  
1063 S. Capitol Way, Suite 106  
PO Box 48343  
Olympia, Washington 98504-8343  
360-586-3074  
www.oahp.wa.gov

# Special Valuation: For the Assessor

The assessor's role in the special valuation program is limited to processing the application forms and maintaining records of special valuation assessments for properties approved by the local review board. The assessor maintains two separate values on the tax rolls - the special valuation and the normal assessed value - for affected properties.

## RESPONSIBILITIES

1. **UPON RECEIPT OF AN APPLICATION**, the assessor must:
  - a. **RECORD** the date of receipt
  - b. **REVIEW** the application for completeness:
    - Verify the legal owner
    - Verify the legal description
    - Verify the legal description and parcel or tax account number
  - c. **TRANSMIT** the application and attachments to the local review board within 10 days of receipt
  
2. **UPON RECEIPT OF AN APPROVED APPLICATION** and agreement from the local review board, the assessor must:
  - a. **RECORD** the application, agreement, and certification statement (if applicable)
  - b. **TRANSMIT** copies to the county recording authority
  - c. **DETERMINE** the special valuation:
    - The total assessed value of the property (including improvements and land), minus the qualified rehabilitation expenditures, equals the special valuation. This special valuation will change to reflect changes in the total assessed value, and will be in effect for 10 years.
  - d. **ENTER** the determined special valuation on the tax rolls separately from the normal assessed value
  - e. **CHARGE** processing fees to the applicant, as necessary, in addition to any fees associated with a title search (these fees shall be payable to the county auditor or county recorder)
  - f. **INDICATE** the special valuation on the yearly tax statement
  - g. **RETAIN** copies of all documents
  - h. **REVALUE** properties on the regular revaluation cycle, deducting the cost therefrom to determine the taxable value
  
3. **UPON TERMINATION** of the 10-year special valuation period, the assessor must:
  - a. **REVALUE** the property without consideration for special valuation
  - b. **ENTER** the new value on the tax roles
  
4. **IF THE TERMS OF THE AGREEMENT** are violated, **OR** the property ownership changes without indication that the new owner will sign an agreement to meet the program requirements for the duration of the special valuation period, **OR** the property is disqualified for special valuation, the assessor must:
  - a. **LEVY** the back taxes (which otherwise would have been due) plus interest and penalty:
    - Rehabilitation costs times the levy rate for the elapsed portion of the year,
    - Plus interest (from April 30) normally charged on delinquent tax bills

## THE APPLICATION PROCESS

<b>Applicant</b>	<ul style="list-style-type: none"> <li>• Submits application to assessor no later than 24 months after beginning date of rehab work</li> </ul>
<b>Assessor</b>	<ul style="list-style-type: none"> <li>• Reviews application for completeness</li> <li>• Verifies legal owner and legal description</li> <li>• Submits application to local review board within 10 working days</li> </ul>
<b>Local Review Board</b>	<ul style="list-style-type: none"> <li>• Reviews application and attachments</li> <li>• Determines approval or denial of application no later than December 31 of application year</li> <li>• If application is approved, notifies applicant, assessor, and State Advisory Council within ten days</li> <li>• Executes agreement with applicant</li> <li>• Returns application to assessor</li> </ul>
<b>Assessor</b>	<ul style="list-style-type: none"> <li>• Records agreement</li> <li>• Files agreement and application with county recording authority</li> <li>• Determines special valuation and enters</li> </ul>

- Plus an additional 12% penalty.

(For additional information, see WAC 458-15-090)

### THE TIME LAG

Due to the lag in property tax payments, special valuation status will precede, by one year, the reduction of taxes due on affected properties. Thus the reduced tax will apply until the year following the end of the 10-year special valuation period.

### IMPORTANT DEADLINES

- Application for special valuation must be made no later than 24 months after the beginning date of the rehabilitation work.
- October 1 is the deadline for applications when special valuation is desired for the following year.

### PHASED PROJECTS

Properties which are rehabilitated in phases may receive special valuation for each phase, provided that qualified rehabilitation expenditures for each phase exceed 25% of the assessed value of the property, exclusive of land value, at the time that phase began. Each phase is treated as though it were a separate project, and is subject to all requirements of the special valuation program.

# Special Valuation: For the Local Review Board

It is helpful for the local review board to meet with an applicant for special valuation **before** the rehabilitation work begins, and to review their project to ensure that it complies with *The Washington State Advisory Council's Standards for Rehabilitation*, as well as any additional local standards. This preliminary meeting is mandatory in some communities, and is suggested as a first step in the special valuation process which may avoid conflicts later on.

## RESPONSIBILITIES

**1. UPON RECEIPT OF AN APPLICATION** from the assessor, the local review board must:

- a. **SCHEDULE** a public meeting at which the application will be approved or denied
- b. **DETERMINE** eligibility of the property for special valuation based on the following criteria:
  - Is the property historic?
  - Is it included within a class of historic properties determined eligible for special valuation by the local government?
  - Will the rehabilitation work comply with the State Advisory Council's Standards by not adversely affecting those elements qualifying the property as historically significant?
- c. **REVIEW** the applicant's documentation of qualified rehabilitation expenditures to assure that they were at least 25% of the assessed value of the property, exclusive of land value, prior to rehabilitation

**2. IF THE PROPERTY IS DETERMINED ELIGIBLE** for special valuation, the local review board must:

- a. **PREPARE** and enter into an agreement (on behalf of the local government) with the applicant. The agreement must guarantee that certain minimum standards (listed below) were met during the 10-year period of special valuation
- b. **APPROVE** the application upon execution of the agreement with the applicant
- c. **TRANSMIT** copies of the application, agreement and certification statement (if applicable) to the assessor's office for recording
- d. **NOTIFY** the Washington State Advisory Council of the application approval
- e. **MONITOR** the property during the 10-year special valuation period to assure continued compliance with the requirements of the special valuation program

**3. IF THE PROPERTY IS DETERMINED INELIGIBLE** for special valuation, the local review board must:

- a. **ADVISE** the applicant of the reason(s) for denial
- b. **EXPLAIN** that the applicant may appeal the decision to Superior Court

**4. IF AN APPROVED PROPERTY IS LATER DISQUALIFIED**, due to either the owner's failure to comply with the terms of the agreement, **OR** to a loss of historic value due to alterations, the local review board must **NOTIFY** the owner, the assessor and the Washington State Advisory Council of the disqualification.

## MINIMUM STANDARDS FOR A SPECIAL VALUATION AGREEMENT

During the 10-year period of special valuation, the property owner shall:

- a. **MAINTAIN** the property in safe and sound condition and

## THE APPLICATION PROCESS

**Applicant** • Submits application to assessor no later than 24 months after beginning date of rehab work

**Assessor** • Reviews application for completeness  
 • Verifies legal owner and legal description  
 • Submits application to local review board within 10 working days

**Local Review Board** • Reviews application and attachments  
 • Determines approval or denial of application no later than December 31 of application year  
 • If application is approved, notifies applicant, assessor, and State Advisory Council within ten days  
 • Executes agreement with applicant  
 • Returns application to assessor

**Assessor** • Records agreement  
 • Files agreement and application with county recording authority

protect it from the elements, and repair deteriorated or broken exterior features, in compliance with *The Washington State Advisory Council's Standards for Rehabilitation*

- b. **OBTAIN** written consent of the local review board prior to making further improvements or alterations to the property
- c. **MAKE** the property accessible to the public once each year if it is not normally visible from a public right-of-way
- d. **OBTAIN** written consent of the local review board prior to demolishing the property
- e. **NOTIFY** the assessor within 30 days if the property becomes disqualified for special valuation, e.g. if the terms of the agreement are violated

## IF THE PROPERTY IS SOLD

If an approved property is sold, and the new owner desires continuation for the special valuation, he must **SIGN** an agreement with the local review board ensuring that program requirements will be satisfied for the duration of the special valuation period.

## IMPORTANT DEADLINES

- An application for special valuation must be approved or denied before December 31 of the year in which the application is made.
- Within 10 days of approving an application for special valuation, the local review board must notify the applicant and the assessor of their decision and must transmit copies of the application and its attachments, and the agreement, to the assessor's office.

## PHASED PROJECTS

Properties which are rehabilitated in phases may receive special valuation for each phase, provided that qualified rehab expenditures for each phase exceed 25% of the assessed value of the property, exclusive of land value, at the time that phase began. Each phase is treated as though it were a separate project, and is subject to all requirements of the special valuation program.

# Special Valuation: For the Local Government

The action of the local government is the first step in implementing the special valuation program in each jurisdiction, thus allowing its constituents the potential to realize substantial tax savings. Since passage of the law, approximately thirty-five local governments have implemented the special valuation program.

## RESPONSIBILITIES

**WHEN ESTABLISHING THE SPECIAL VALUATION PROGRAM** for the jurisdiction, the local government must:

1. **IMPLEMENT** the special valuation law through ordinance or administrative rule
2. **IDENTIFY** one or more classes of historic properties in the community which are eligible for special valuation
3. **DESIGNATE** a local review board to review application, and approve or deny properties for special valuation
4. **APPOINT** members to the local review board

## IMPORTANT CONSIDERATIONS

- Once the local government has identified a class of eligible historic properties, it may amend the criteria defining the class at any time. However, if the new criteria are more restrictive than the previous criteria, the new criteria may not take effect for a period of two years following October 1 of the year in which the change is made. Amendments to the criteria will not disqualify properties already subject to special valuation.
- The law permits multiple local governments within the same county to jointly designate, under an interlocal agreement, a single local review board to administrate the program.

## THE APPLICATION PROCESS

- |                           |   |
|---------------------------|---|
| <b>Applicant</b>          | <ul style="list-style-type: none"><li>• Submits application to assessor no later than 24 months after beginning date of rehab work</li></ul>  |
| <b>Assessor</b>           | <ul style="list-style-type: none"><li>• Reviews application for completeness</li><li>• Verifies legal owner and legal description</li><li>• Submits application to local review board within 10 working days</li></ul>  |
| <b>Local Review Board</b> | <ul style="list-style-type: none"><li>• Reviews application and attachments</li><li>• Determines approval or denial of application no later than December 31 of application year</li><li>• If application is approved, notifies applicant, assessor, and State Advisory Council within ten days</li><li>• Executes agreement with applicant</li><li>• Returns application to assessor</li></ul> |
| <b>Assessor</b>           | <ul style="list-style-type: none"><li>• Records agreement</li><li>• Files agreement and application with county recording authority</li><li>• Determines special valuation and enters</li></ul>   |

# Special Valuation: For the Applicant

Applications for special valuation will be reviewed, and approved or denied, by a local review board designated by the local government. The board will make their determination at a public meeting, during which the applicant may be present.

It is advisable (and in some communities it is mandatory) for the applicant to consult with the local review board before beginning the rehabilitation work, to ensure that the project will comply with the board's standards.

## RESPONSIBILITIES

**1. WHILE CONDUCTING THE REHABILITATION**, the applicant must:

- a. **MONITOR** rehabilitation work to ensure that it conforms with *The Washington State Advisory Council's Standards for Rehabilitation*
- b. **MAINTAIN** accurate records of project costs, and dates of project work

**2. WHEN APPLYING FOR SPECIAL VALUATION**, the applicant must **FILE** an application for special valuation with the assessor's office (on the Department of Revenue form) no later than two years after beginning the rehabilitation project. The application must include as attachments:

- a. The legal description of the property
- b. Comprehensive exterior and interior photographs of the property before and after rehabilitation
- c. Architectural plans or other legible drawings depicting the completed project
- d. A notarized affidavit attesting to the actual cost of rehabilitation work
- e. A statement from (the appropriate local official) indicating that the property is a certified historic structure if it is located in an historic district

**3. IF A PROJECT IS APPROVED**, the applicant must:

- a. **SIGN** an agreement with the local review board guaranteeing that during the 10-year period of special valuation he or she shall:

- **MAINTAIN** the property in safe and sound condition and protect it from the elements, and repair deteriorated or broken exterior features, in compliance with *The Washington State Advisory Council's Standards for Rehabilitation*
- **OBTAIN** written consent of the local review board prior to making further improvements or alterations to the property
- **MAKE** the property accessible to the public once each year if it is not normally visible from a public right-of-way
- **OBTAIN** written consent of the local review board prior to demolishing the property
- **NOTIFY** the assessor within 30 days if the property becomes disqualified for special valuation, e.g. if the terms of the agreement are violated

- b. **PAY** processing fees (and title search fees, if required) charged by the assessor's office

**4. IF THE PROJECT IS DENIED**, because the property is determined ineligible for special valuation, the applicant may **APPEAL** to the decision of the Local Review Board to Superior Court, or the County Board of Equalization.

## THE APPLICATION PROCESS

**Applicant**

- Submits application to assessor no later than 24 months after beginning date of rehab work

**Assessor**

- Reviews application for completeness
- Verifies legal owner and legal description
- Submits application to local review board within 10 working days

**Local Review Board**

- Reviews application and attachments
- Determines approval or denial of application no later than December 31 of application year
- If application is approved, notifies applicant, assessor, and State Advisory Council within ten days
- Executes agreement with applicant
- Returns application to assessor

**Assessor**

- Records agreement
- Files agreement and application with county recording authority
- Determines special valuation and enters

**5. IF THE PROJECT IS LATER DISQUALIFIED** for special valuation, or in the event of any dispute, the applicant may **APPEAL** to the County Board of Equalization.

**6. IF THE PROPERTY IS SOLD**, and the new owner desires continuation of the special valuation, her or she must **SIGN** an agreement with the local review board ensuring that the program requirements will be satisfied for the duration of the special valuation period.

## IMPORTANT DEADLINES

- Application for special valuation must be made no later than 24 months after the beginning date of the rehabilitation work.
- October 1 is the deadline for applications when special valuation is desired for the following year. NOTE: due to the lag in property tax payments, the tax reduction will appear one-year after special valuation designation, and it applies until the year following the end of the 10-year special valuation period.

## PHASED PROJECTS

Properties which are rehabilitated in phases may receive special valuation for each phase, provided that qualified rehabilitation expenditures for each phase exceed 25% of the assessed value of the property, exclusive of land value, at the time that phase began. Each phase is treated as though it were a separate project, and is subject to all requirements of the special valuation program.

# PC Workshops and Public Hearings – 2011 Work Projection

March	April	May
Workshop – Commercial Vehicle Parking (LU 210-024)	Public Hearing – Commercial Vehicle Parking (LU 210-024)	Public Hearing – Home Occupations (LU 210-926)
Workshop – Home Occupations (LU 210-926)	Workshop – Home Occupations (LU 210-926)	Workshop – New Card Room Zoning Ordinance (LU 210-928)
Workshop – Administrative Appeal Procedures (LU 210-917)	Workshop – Administrative Appeal Procedures (LU 210-917)	Workshop – Historic Preservation Ordinance (LU 211-906)
2011 PC Goals and Priorities		
June	July	August
Public Hearing – New Card Room Zoning Ordinance (LU 210-928)	Public Hearing – Historic Preservation Ordinance (LU 211-906)	Public Hearing – Non-Conforming Use Standards
Public Hearing – Review Procedures and Criteria for Variances and Minor Modifications to Approved Conditional Uses (LU 210-919)	Workshop – Non-Conforming Use Standards	Public Hearing – Clarification of Pet/Domestic Animal Code
Workshop – Administrative Appeal Procedures (LU 210-917)	Workshop – Administrative Appeal Procedures (LU 210-917)	Public Hearing – Administrative Appeal Procedures (LU 210-917)
Workshop – Historic Preservation Ordinance (LU 211-906)		Workshop – Non-Conforming Use Standards
September	October	November
Workshop – Amend Off-Site Improvement Standards for Commercial and Residential Zoning Districts	Public Hearing – Amend Off-Site Improvement Standards for Commercial and Residential Zoning Districts	Public Hearing – Standards for Soar Panels and Wind Turbines
Workshop – Make Water and Sewer Late-comer Fees Consistent with State Statute	Public Hearing – Make Water and Sewer Late-comer Fees Consistent with State Statute	Workshop – Clarification of Pet/Domestic Animal Code
Workshop – Standards for Soar Panels and Wind Turbines	Workshop – Clarification of Pet/Domestic Animal Code	
Workshop – Standards for Soar Panels and Wind Turbines	Workshop – Standards for Soar Panels and Wind Turbines	
December		
Public Hearing – Clarification of Pet/Domestic Animal Code		
Workshops - TBD		

Planning Project Updates  
Wednesday, May 11, 2011

**Les Schwab**

Permit to be issued in mid-May

**Woodland Swimming Pool**

No change - third Notice of Incomplete application issued February 25<sup>th</sup>, 2011

**Wal-Mart Sign Variance**

Application Complete (April 27), Notice of Application Issued May 4, Public Hearing scheduled for June 7<sup>th</sup> at 3pm

**Commercial Vehicle Parking in Residential Zones**

To go before CC May 16 (First Reading)

**Home Occupation Review Criteria**

To go before CC May 16 (First Reading)

**Mixed Use Downtown & Gateway Districts**

To go before CC May 16 (First Reading)