

Chapter 1.45

LANDMARKS AND DESIGN

Sections:

1.45.04	SHORT TITLE.
1.45.08	DECLARATION OF PURPOSE.
1.45.12	DEFINITIONS.
1.45.16	CREATION OF ELLENSBURG LANDMARKS AND DESIGN COMMISSION.
1.45.20	MEMBERS, QUALIFICATIONS AND TERMS.
1.45.24	POWERS AND DUTIES.
1.45.28	RULES, OFFICERS AND RECORDS.
1.45.32	COMMISSION STAFF.
1.45.36	ELLENSBURG LANDMARKS REGISTER.
1.45.38	REVIEW OF CHANGES TO LANDMARKS REGISTER PROPERTIES.
1.45.42	EVALUATION OF ECONOMIC IMPACT.
1.45.46	NON-LANDMARK REGISTER PROJECTS REQUIRING DESIGN APPROVAL.
1.45.50	GENERAL NON-LANDMARK REGISTER DESIGN REQUIREMENTS.
1.45.54	DESIGN STANDARDS.
1.45.58	NON-LANDMARK REGISTER DESIGN REVIEW PROCEDURE.
1.45.62	APPLICATION FEE.
1.45.66	APPEALS.
1.45.68	VIOLATIONS - PENALTIES AND REMEDIES.
1.45.70	SPECIAL VALUATION FOR HISTORIC PROPERTIES

Section 1.45.04 SHORT TITLE.

The following sections shall be known and may be cited as the "Landmarks and Design Ordinance" of the City of Ellensburg."
(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.08 DECLARATION OF PURPOSE.

This Chapter is intended to implement and further the Comprehensive Plan of the City of Ellensburg in relation to historic landmarks preservation and design review.

(A) Historic Landmarks Preservation. The historic landmarks preservation purpose of this Chapter is to identify, evaluate, designate, protect, enhance, and perpetuate historic places within the City of Ellensburg in order to:

- (1) Safeguard the heritage of the city as represented by those buildings, districts, objects, sites, and structures which reflect significant elements of Ellensburg's history;
- (2) Foster civic pride in the beauty and accomplishments of the past;
- (3) Stabilize and improve the economic vitality of buildings, neighborhoods, and the community as a whole;
- (4) Strengthen the city's tourism industry by enhancing it historic character;

(5) Facilitate early resolution of conflicts between preservation of historic resources and alternative land uses;

(6) Protect property values and public and private investment in the existing built environment;

(7) Provide incentives to property owners for the acquisition, preservation, restoration, redevelopment, and continued use of outstanding historic properties;

(8) Encourage the rehabilitation of eligible historic properties through the "Special Valuation for Improvements to Historic Property" program, a property tax incentive, as provided in Chapter 84.26 RCW.

(B) Design Review. The design review purpose of this Chapter is to utilize established design review techniques:

(1) To promote the public health, safety, and general welfare of the citizens of the city;

(2) To recognize that land use regulations aimed at the orderliness of community growth, the protection and enhancement of property values, the minimization of discordant and unsightly surroundings, the avoidance of inappropriateness and poor quality of design and other environmental and aesthetic objectives provide not only for the health, safety and general welfare of the citizens, but also for their comfort and prosperity and the beauty and balance of the community, and as such, are the proper and necessary concerns of local government;

(3) To recognize the significant role of the city and its pioneer residents of Washington's history and development as a territory and state;

(4) To protect, preserve, and enhance the social, cultural, economic, environmental, aesthetic, and natural values that have established the desirable quality and unique character of the City of Ellensburg;

(5) To promote and enhance the construction and maintenance practices that will tend to promote visual quality throughout the City of Ellensburg;

(6) To recognize environmental and aesthetic design as an integral part of the planning process;

(7) To promote and perpetuate educational, cultural, aesthetic, and social values by preserving and protecting structures and places of historic interest; and

(8) To assist proper, orderly, and aesthetic development.
(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.12 DEFINITIONS.

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

"Alter" or "alteration" means any and all modification which changes the exterior appearance of a building, structure, or site, including but not limited to addition, removal, or replacement of architectural features; re-design of building components; change or substitution

of existing materials; new signage or change of signage; change of paint color; and site improvements.

“Administrator” means the City of Ellensburg Director of Community Development.

"Building official" means the City of Ellensburg Building Inspector.

-- "Certificate of Approval" or "COA" means the approval issued by the Commission for alterations to a designated landmark, or to a property located within a landmark historic district, certifying the changes as having no adverse affect on the significant features of the property that contributed to its designation.

"Certified Local Government" or "CLG" means a local government certified by the Washington State Historic Preservation Officer as having established its own historic preservation commission and a program meeting Federal and State standards.

"Class of Properties Eligible to apply for Special Valuation in the City of Ellensburg" means only those properties listed on the Ellensburg Landmarks Register, or properties contributing to an Ellensburg Landmarks 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.

"Ellensburg Historic Resource Inventory" or "inventory" means the comprehensive inventory of historic properties within the boundaries of the city.

“Ellensburg Landmarks and Design Commission” or “ Commission” means the Commission created in Section 1.45.16 of this Chapter.

"Ellensburg Landmarks Register", "landmarks register", or "register" means the local listing of historic properties designated as landmarks, landmarks sites, or landmark districts pursuant to criteria set forth in Section 1.45.36 of this Chapter.

"Improvement" is any building, structure, or object constituting a physical improvement of real property.

"Incentives" are such compensation, rights, privileges, or combinations thereof, which the Ellensburg City Council or other county, state, or federal public agencies, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner(s) of designated landmarks, landmarks sites, or landmark districts.

Examples of economic incentives include, but are not limited to, tax relief, conditional use permits, rezones, street vacation, transfer of development rights, facade easements, gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements or amenities, or the like.

“Landmark" is any historic property and the improvement(s) thereon designated as a landmark pursuant to this Chapter.

"Landmark District" is a contiguous geographic area of multiple properties and/or improvements thereon designated as a landmark district pursuant to this Chapter.

"Landmark site" is a property, with or without improvements or above-ground features, designated as a landmark site pursuant to this Chapter.

Non-Landmark Register "major project" is:

The construction of any new non-residential building with a gross floor area of 4,000 square feet or more;

The construction of any new residential building which contains five or more living units; or

All construction activity requiring a building permit that will result in any new structure or alter the exterior appearance of an existing building on property that abuts the Landmark Districts as established in Section 1.45.36(C) of this Chapter.

All landscaping required by Section 4.38 of the Ellensburg City Code for commercial, industrial, Public Reserve (PR) zoned and multi-family residential projects consisting of five or more dwelling units. If a commercial, industrial or Public Reserve (PR) zoned project does not contain the minimum building square footage or residential units to qualify as a major project subject to design review, only the minimum landscaping required in the landscaping plan shall be subject to review and approval by the Ellensburg Landmarks and Design Commission. If a multi-family residential project contains four or less dwelling units, the required landscaping for the project shall be reviewed and approved by staff as part of the development permit review process.

Construction of a parking lot resulting in eight new parking spaces not previously in use prior to the construction. Such parking lot construction is meant to include any parking lots not otherwise connected to a building permit.

All major projects involving Landmarks Register properties are exempt from the Design Review Non-Landmark Register major project review requirements but are required to undergo the Landmarks Review set forth in section 1.45.38 and 1.45.42 of this Chapter.

Non-Landmark Register "minor project" means:

Landscaping for any proposed parking lot which has seven or fewer spaces and is not associated with any other building permit or site development otherwise subjected to design review as a non-Landmark Register major project.

"Maintenance and repair in-kind" means work whose purpose and effect is to prevent or correct deterioration or damage to real property and the improvements thereon, using like materials, and returning the property to the condition and appearance that existed prior to the deterioration or damage.

"National Register of Historic Places" means the national listing of properties significant to the cultural heritage of the country.

"Owner" of property is the fee simple owner of record as exists in the Kittitas County Assessor's records.

"Preservation planner" means the Department of Community Development employee or consultant assigned to staff the Ellensburg Landmarks and Design Commission and administer the historic preservation program.

"Significant feature" is any physical characteristic of a landmark, landmark site, or landmark district which the Commission has stipulated in the designation as important to the historic value of the property, and for which a certificate of approval is required prior to alteration.

"Special Valuation for Improvements to Historic Property" or "special valuation" means the local option program established under the authority of Chapter 84.26 RCW which, once 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.

"Washington Heritage Register" means the state listing of properties significant to the cultural heritage of the state.

"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 Ellensburg Landmarks and Design Commission as minimum requirements for determining whether 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.

(Ord. 4323, Amended, 07/22/2002; 4245, Repealed and Replaced, 06/05/2000)

Section 1.45.16 CREATION OF ELLENSBURG LANDMARKS AND DESIGN COMMISSION.

There is hereby created an Ellensburg Landmarks and Design Commission which shall have the powers, duties and functions provided in this Chapter.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.20 MEMBERS, QUALIFICATIONS AND TERMS.

(A) The Ellensburg Landmarks and Design Commission shall consist of seven members appointed by a majority of the Ellensburg City Council. A majority of members so appointed shall be residents of the City of Ellensburg.

(B) All members of the Commission shall have demonstrated an active interest in historic preservation and design review.

(C) The Commission shall include at least two owners of property from within the Downtown and First Railroad Addition Historic Districts, as defined in Chapter 1.45.36 (C)(1) of the Ellensburg City Code. One member shall be a member of the City's Downtown Task Force and shall be designated by the Downtown Task Force for a term of four years or until no longer a Downtown Task Force member. One member shall be a general at-large position. The Commission shall include at least three (3) professionals who are selected from among the related fields of history, architecture, construction, landscape design, historic preservation, planning, anthropology, archaeology, cultural geography, American studies, land use law, or real estate.

(D) A 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 Ellensburg City Council and the State Historic Preservation Officer.

(E) The initial Commission shall be composed of the then appointed members of the Design Review Board who shall fulfill the terms of their original appointment. Appointment of new members to the Commission shall be for a period of four (4) years. Vacancies shall be filled by the Ellensburg City Council for any unexpired term in the same manner as the original appointment.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.24 POWERS AND DUTIES.

The primary role of the Ellensburg Landmarks and Design Commission is twofold: historic landmarks preservation and design review.

(A) Historic Landmarks Preservation. In the area of historic landmarks preservation, the primary role of the Ellensburg Landmarks and Design Commission is to identify and actively encourage the conservation of Ellensburg's historic resources through a register of landmarks and a review of proposed changes to landmarks; to raise community awareness of Ellensburg's history and built environment; and to serve as the City's primary resource in matters of heritage, historic planning, and preservation. In carrying out these responsibilities, the Ellensburg Landmarks and Design Commission shall engage in the following:

(1) Conduct and maintain a comprehensive inventory of historic places within the boundaries of the City of Ellensburg; publicize and periodically update inventory findings. Properties included in the inventory shall be noted on official zoning records with an "HI" (for historic inventory). This notation shall not modify the underlying zone classification.

(2) Initiate and maintain the Ellensburg Landmarks Register. This official register shall be compiled of buildings, structures, sites, objects, and districts evaluated by the Commission as possessing historic significance worthy of recognition by the City of Ellensburg and worthy of preservation.

(3) Review citizen nominations to the Ellensburg Landmarks Register according to evaluation criteria set forth in Section 1.45.36 of this Chapter, and adopt standards in its rules to guide this review.

(4) Develop incentive programs to assist landmark owners with the use, re-use, and re-development of historic buildings. Such incentives may include, facade design assistance, revolving loan funds, tax or building code relief.

(5) Review proposals to alter or demolish landmarks, landmark sites, or landmark districts listed in the register as provided in Section 1.45.38 of this Chapter; and adopt standards in its rules to guide this review and the issuance of certificates of approval.

(6) Conduct all Commission meetings in compliance with Chapter 42.30 RCW, Open Public Meetings Act; provide for adequate public participation; and adopt standards in its rules to guide this action.

(7) Submit nominations to the Washington Heritage Register and the National Register of Historic Places, and adopt standards in its rules to guide this action.

(8) Through staff, provide review and comment to the Department of Community Development on development proposals affecting historic resources within the boundaries of the City of Ellensburg.

(9) Provide review and comment to the Ellensburg City Council on land use planning, housing, transportation, municipal improvements, and other activities proposed by any agency of the City of Ellensburg, Kittitas County, Washington State, or the federal government, as they relate to the historic resources of Ellensburg.

(10) Advise the Ellensburg City Council generally on matters of historic preservation and heritage tourism, and perform other related functions as assigned by the Ellensburg City Council.

(11) Investigate and report to the Ellensburg City Council on current federal, state, local and private funding sources available to promote public and private historic preservation projects and heritage tourism in the City of Ellensburg.

(12) Establish working liaisons with existing non-profit organizations and with federal, state, and local government entities to further historic preservation objectives in Ellensburg.

(13) Provide current information to property owners on techniques and appropriate treatments for maintaining and rehabilitating historic properties. This may take the form of pamphlets, newsletters, workshops, or similar activities.

(14) Conduct educational, and interpretive programs pertaining to Ellensburg's historic resources.

(15) Serve as the local review board for Special Valuation as provided under Chapter 84.26 RCW.

(B) Design Review

In the area of Design Review the primary role of the Ellensburg Landmarks and Design Commission is to review and approve non-Landmarks Register major and minor projects to ensure appropriateness of project design and the relationship of the project to its surroundings based on a prescribed set of community design standards.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.28 RULES, OFFICERS AND RECORDS.

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. A majority of the membership will constitute a quorum for the purpose of transacting business. Action by the Commission shall be by majority vote. A tie vote on a motion to approve shall constitute a failure of the motion and denial of the application. All meetings shall be open to the public and the Commission shall keep minutes of its proceedings, and the minutes and a copy of its adopted rules shall be kept on file in the office of the City Clerk and be open to inspection by the public.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.32 COMMISSION STAFF.

Assistance to the Commission shall be provided by the Department of Community Development, which shall assign a professionally-qualified member of the Department's staff, or a qualified consultant, to act as a preservation planner to assist the Commission in fulfilling its historic landmarks preservation duties. Under direction of the Commission, the preservation planner shall be the custodian of the Commission's historic landmarks records. The preservation planner shall conduct official correspondence, assist in organizing the Commission, and carry out the technical work of the Commission in all historic landmarks preservation activities.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.36 ELLENSBURG LANDMARKS REGISTER.

There is hereby created an Ellensburg Landmarks Register.

(A) Criteria for Eligibility to the Register.

Any building, structure, site, object, or district may be designated for listing in the Ellensburg Landmarks Register if it is significantly associated with the settlement, development, architecture, politics, economy, social history, archaeology, or cultural heritage of the community; retains integrity of location, setting, design, materials, workmanship, feeling, and association; is at least fifty (50) years old; AND if it meets at least one of the following criteria:

(1) Is associated with events that have made a significant contribution to the broad patterns of local, state, or national history.

(2) Is closely linked with the life of a person important in the history of the city, state, or nation.

(3) Embodies the distinctive visual characteristics of an architectural type, period, style, or method of construction.

(4) Is an outstanding work of a designer, builder, or architect.

(5) Has yielded, or may be likely to yield, important archaeological information related to history or prehistory.

(6) Because of prominent spatial location, contrasts of siting, age, or scale, is an easily identifiable visual feature of its neighborhood, and contributes to the distinctive identity of that neighborhood.

(B) Process for Designating Properties to the Landmarks Register

(1) Any person may nominate a building, structure, site, object, or district for inclusion in the Ellensburg Landmarks Register. Members of the Commission or the Commission as a whole may generate nominations. In its designation program, the Commission shall consider the Ellensburg Historic Resource Inventory, and the Ellensburg Comprehensive Plan. Owner(s) consent is required before the Commission's consideration of the nomination.

(2) Nominations shall be made on forms provided by the Commission. Completed nominations received by the Commission will be scheduled for review within fifteen (15) working days of receipt.

(3) The Commission shall consider the merits of the nomination at a public meeting, in accordance with the criteria for eligibility set forth in Section 1.4536(A) above, and according to the nomination review standards established in rules.

(4) Adequate notice shall be given to the general public, the property owner(s), the author of the nomination, and lessees, if any, 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 Ellensburg and posting of the property.

(5) Whenever the Commission finds that a nominated property meets the criteria set forth in Section 1.45.36(A) of this Chapter, the property shall be officially listed as a landmark, landmark site, or landmark district. Within ten (10) working days, notice of the designation shall be sent to the property owner(s), the author of the nomination, any lessees, the Department of Community Development, and the Ellensburg City Council.

(6) For individual landmark designations, the Commission shall include in its designation report the applicable criteria, a legal description of the property, and a list of all significant features that contribute to its historic character.

(7) For Landmark District designations, the Commission shall include in its designation report the applicable criteria, a description of the boundaries of the district, and a list of all buildings, structures, sites, and objects which contribute to its historic character.

(8) Whenever the Commission rejects the nomination of all or any part of property it shall, within ten (10) working days, issue a written decision including reasons supporting the determination that the criteria set forth in Section 1.45.36(A) of this Chapter have not been met. Notice of the decision shall be sent to the property owner(s), author of the nomination, any lessees, the Department of Community Development, and the Ellensburg City Council.

(9) Properties listed in the Ellensburg Landmarks Register shall be recorded on official zoning records with an "LR" (for landmark register) This designation shall not change or modify the underlying zone classification.

(C) Downtown and Residential Historic Districts

(1) The existing downtown historic district, defined in Chapter 13.37 of the Ellensburg City Code and hereafter known as the "Downtown Historic District", and the existing residential historic district, defined in Chapter 13.41 of the Ellensburg City Code and hereafter known as the "First Railroad Addition Historic District", are hereby designated as Ellensburg Landmark Districts. The geographic area encompassed by each district is identified on the map attached to and made a part of this Chapter.

(2) The Commission shall compile existing historical data and property records, prepare Ellensburg Landmarks Register nomination forms, and create complete landmark files for each of the Landmark Districts.

(3) The provisions of Sections 1.45.38 and 1.45.42 of this Chapter shall hereafter apply to the Downtown Historic District and the First Railroad Addition Historic District.

(D) Removal of Properties from the Register

In the event that any designated landmark property is no longer deemed eligible for inclusion in the Register owing to loss of historic integrity, the Commission may initiate removal of such designation by the same procedure as provided for in establishing the designation in Section 1.45.36(B) above.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.38 REVIEW OF CHANGES TO LANDMARKS REGISTER PROPERTIES.

(A) Review Required

(1) No person shall alter, repair, enlarge, newly construct, relocate, or demolish any registered landmark, or any property located within a Landmark District, without review by the Commission. For projects that require a building permit, compliance with any Landmarks and Design Commission decision is mandatory. For projects that do not require a building permit, compliance with any Landmarks and Design Commission decision is voluntary.

(2) This review shall apply to all exterior features of the property visible from a public right-of-way. This review applies whether or not a permit from the City of Ellensburg is required.

(3) Review of alterations to Ellensburg Landmarks Register properties under this Chapter is in lieu of design review required for both major and minor projects under Section 1.45.46 of this Chapter, and in lieu of sign review required under Chapter 3.13.20 of the Ellensburg City Code.

(B) Exemptions

The following activities are exempted from Landmarks review by the Commission and do not require a COA: maintenance and repairs in-kind which do not alter the appearance of exterior features visible from a public right-of-way and do not utilize substitute materials; repairs to or replacement of utility systems which do not alter exterior features visible from a public right-of-way; and all interior work. Changes to existing owner-occupied single-family homes, both exterior and interior, are exempted from Landmarks review by the Commission, and do not require a COA. Single-family homes applying for incentives are not exempt.

(C) Review Process

(1) Requests for Review and Issuance of a Certificate of Approval

(a) Application for a COA shall be made by filing an application for such certificate with the preservation planner on forms provided by the Commission. A written description of materials required for the Commission's review, including but not limited to site plans, elevations, and material samples, shall be provided to the applicant. Preliminary plans may be submitted to the preservation planner for review and an advisory opinion.

(b) If an application is made to the Department of Community Development for any permit which affects a designated landmark, or a property located in a Landmark District, the building official shall promptly refer such application to the preservation planner, and such shall be deemed an application for a COA if accompanied by the additional materials required for

COA review. No City permit shall be issued, nor work begun, until the Landmarks and Design Commission has issued a COA pursuant to this Chapter.

(2) Commission Review

(a) At a regularly-scheduled public meeting, the Commission shall review the proposed work according to the design standards and guidelines set forth in Section 1.45.54 of this Chapter. Approval of projects shall be based upon appropriateness of design as reflected in said standards and guidelines.

(b) The Commission may approve with or without conditions, or disapprove an application. The decision of the Commission shall be rendered within fifteen (15) working days of the date of receipt of a completed application. The Commission's findings shall be in writing and shall cite the applicable design standards.

(c) If the Commission grants a COA, such certificate shall be issued to the applicant forthwith and the preservation planner shall promptly transmit a copy of such certificate to the building official.

(d) If the Commission denies the application, it shall so notify the applicant setting forth the reasons why approval of the application is not warranted.

(D) Demolition

Application for a COA for whole or partial demolition of a property listed in the Ellensburg Landmarks Register, or located in an Ellensburg Landmark District, shall be reviewed by the Commission in accordance with the procedures set forth in Sections 1.45.38(C) and 1.45.42 of this Chapter, with the following exceptions:

(1) The Commission shall meet initially with the applicant to consider alternatives to demolition, including available incentives for preservation. These negotiations may last no longer than ninety (90) days from the first meeting of the Commission, unless either party requests an extension.

(2) If no request for an extension is made and the existence of a condition of unreasonable economic return, as set forth in section 1.45.42 below, has been proven and no alternative to demolition has been agreed to, the Commission shall issue a COA to the applicant. The preservation planner shall promptly transmit a copy of such certificate to the building official.

(3) The Commission may issue conditions of approval including, but not limited to, mitigation measures to be determined by the Commission.

(4) Any person aggrieved by any action of the Commission in denying or approving a demolition request may file a notice of appeal with the City of Ellensburg City Council setting forth the reasons for such appeal. Appeals must be filed with the City Clerk within ten (10) days from the date of formal action by the Commission. Further, such appeals shall be accompanied by a non-refundable fee of twenty-five (25) dollars in order for the appeal to be deemed complete.

(5) The filing of an appeal shall suspend the issuance of any building or other required permit until the City Council has taken final action on the appeal.

(6) The City Council shall consider the appeal at a scheduled public hearing. Notice of the hearing shall be published at least ten (10) days prior to the hearing and further as provided in Ellensburg City Code 1.42.64(a)(2), (3), and (4).

(7) Review by City Council shall be confined to the decision and record of proceedings before the Ellensburg Landmarks Commission, except that the City Council may elect to take additional testimony bearing on the issue of alleged procedural irregularities in the proceedings before the Commission not shown in the record. The City Council shall, upon request, consider oral and written arguments.

(8) The City Council may affirm the decision of the Commission, remand to the Commission for further proceedings, or reverse the decision of the Commission if it finds that the substantial rights of the appellant have been prejudiced because the findings, conclusions or decision of the Commission were in violation of, or in excess of, its authority or jurisdiction, made upon unlawful procedure, clearly erroneous in view of the entire record as submitted and the public policy contained in this Chapter, or arbitrary or capricious.
(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.42 EVALUATION OF ECONOMIC IMPACT.

(A) The Commission shall, when requested by the property owner, consider evidence of economic impact on the owner of the denial or partial denial of a COA. In no case may a COA be denied, in whole or in part, when it is established that the denial will, when available economic incentives are utilized, deprive the owner of a reasonable economic use of the property, and there is no viable and reasonable alternative which would have less impact on the significant features specified in the designation.

(B) To prove the existence of a condition of unreasonable economic return, the applicant must establish, and the Commission must find, both of the following:

(1) The landmark is incapable of earning a reasonable economic return without completing the alterations or demolition proposed.

(2) The owner has the present intent and the secured financial ability, demonstrated by appropriate documentary evidence, to complete the proposed alteration or, in the case of demolition, to complete any proposed new construction.

(C) The applicant shall establish a condition of unreasonable economic return with appropriate documentation that may include:

(1) Proof of current level of economic return, including: amount paid for landmark; annual gross and net income from the property for last five years; remaining balance on mortgage and annual debt service; real estate taxes for previous four years and most recent assessed valuation; appraisals obtained during last three years; fair market value immediately prior to and after landmark designation; form of ownership; or federal income returns relating to the landmark for last two years.

(2) Proof of lack of marketability, including: reasonableness of asking sales price; offers received within previous two years; real estate broker or firm engaged to sell or lease property; or advertisements placed for sale or lease.

(3) Proof of no feasible alternative uses that could earn a reasonable economic return, including: report from a licensed engineer or architect with historic preservation experience attesting to landmark's structural soundness and suitability for rehabilitation; cost estimates for proposed alteration and for compliance with Commission's decision; estimated market value of property after proposed alteration and, in the case of proposed demolition, after renovation of landmark for continued use; testimony of an architect, developer, or real estate professional with experience in historic preservation as to economic feasibility of rehabilitation or reuse of landmark; unfeasibility of new construction around, above, or below landmark.

(4) Proof of lack of available and applicable economic incentives.

(D) Upon reasonable notice to the owner, the Commission may appoint an expert to provide advice and testimony concerning the value of the landmark, the availability of incentives, and the economic impacts of approval, denial, or partial denial of a COA.

(E) Any adverse economic impact caused intentionally or by willful neglect shall not constitute a basis for granting a COA.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.46 NON-LANDMARK REGISTER PROJECTS REQUIRING DESIGN APPROVAL.

Eligible non-Landmark Register projects in the City are subject to one of two different types of design requirements, depending upon the project type and location:

(A) Major Projects.

Major projects on non-Landmark Register properties require a review and approval of site, landscaping, sign and architectural design by the Ellensburg Landmarks and Design Commission. No City permit shall be issued, nor work begun, until the Commission has approved the proposed applicable project design. All physical construction for such major projects shall conform with the elements approved by the Commission. The following are deemed to be "major" projects for purposes of this Chapter:

(1) The construction of any new non-residential building with a gross floor area of 4,000 square feet or more;

(2) The construction of any new residential building which contains five or more living units.

(3) All construction activity requiring a building permit which will result in any new structure or alter the exterior appearance of an existing building in Landmarks District as established in 1.45.36(C) of this Chapter

(4) All landscaping required by Section 4.38 of the Ellensburg City Code for commercial, industrial, Public Reserve (PR) zoned and multi-family residential projects consisting of five or more dwelling units. If a commercial, industrial or Public Reserve (PR) zoned project does not contain the minimum building square footage or residential units to qualify as a major project subject to design review, only the minimum landscaping required in the landscaping plan shall be subject to review and approval by the Ellensburg Landmarks and Design Commission. If a multi-family residential project contains four or less dwelling units, the required landscaping for the project shall be reviewed and approved by staff as part of the development permit review process.

(5) Construction of a parking lot resulting in eight new parking spaces not previously in use prior to the construction. Such parking lot construction is meant to include any parking lots not otherwise connected to a building permit.

All major projects involving Landmarks Register properties are exempt from the Design Review major project review requirements but are required to undergo the Landmarks Review set forth in section 1.45.38 and 1.45.42 of this Chapter.

(B) Minor Projects

Minor Projects involving alterations to non-Landmark Register properties require staff review prior to the initiation of work or issuance of applicable city permits, depending upon the project type and location. While the review process of a minor project is mandatory, there is no requirement for compliance with any recommendations made as a result of the review. Staff review of such minor projects shall use the design standards contained in this Chapter. No City permit shall be issued nor work begun until the required staff review has been completed.

A "minor project" is defined as:

(1) Landscaping for any proposed parking lot which has seven or fewer spaces and is not associated with any other building permit or site development otherwise subjected to design review as a major project.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.50 GENERAL NON-LANDMARK REGISTER DESIGN REQUIREMENTS.

(A) No building or other required permit, except a demolition permit, shall be issued by the City for any non-Landmark Register major project, except after approval of the Ellensburg Landmarks and Design Commission.

(B) If the applicant for a non-Landmark Register major project requests an occupancy permit prior to completion of all site and building exterior features subject to Ellensburg Landmarks and Design Commission approval, he or she may offer and the administrator may accept a bond equal to the dollar amount necessary for the city to secure the installation of those features not completed. The dollar amount of the bond shall be mutually agreed to by the applicant and the City and shall be in an amount sufficient to pay all city administrative and contingent costs incurred as a result of the construction deferral. At a minimum this amount shall be set at one and one half times the estimated costs of construction at the time of the deferral consideration.

(C) Approval of the deferral by the administrator shall be based upon the completion of sufficient improvements to guarantee the safe and convenient use of the site by the general public; statement by the building inspector that the granting of a temporary occupancy permit would not cause any major problems or concerns with regard to compliance with the Uniform Building Code or safety of the premises; condition of weather or other major obstacle to completion of the features in a timely manner; mutual agreement with the applicant on a revised timetable for completion of the features requested for deferral.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.54 DESIGN STANDARDS.

This section establishes design standards for site improvements, landscaping, and architectural improvements to be used as the criteria for the preparation, review and action on applications. Architectural style is not restricted. Approval of projects shall be based upon the appropriateness of project's design and its relationship to its surroundings, as reflected in the language and direction contained in the these standards. The following design standards shall serve as the criteria for the submittal, approval and construction of all reviewable Landmarks and Design projects:

I. MULTI-FAMILY RESIDENTIAL DEVELOPMENT

SITE PLANNING

- A-1 Integrate the site plan of the multi-family residential development with the surrounding neighborhood.
- A-2 Design the project in response to specific site conditions, including trees, streams, and other significant natural features.
- A-3 Provide for a network of open spaces to accommodate a variety of activities.
- A-4 Set back buildings in conformance with requirements for residential zones R-S, R-L, R-M, and R-O.
- A-5 Maintain residential character in the height, bulk, and scale of the multi-family development.
- A-6 Orient residential developments to the street, and make primary building entrances visible from the street.
- A-7 Locate parking lots to the side or rear of buildings to minimize their visual impact on the site.
- A-8 Locate dumpsters and mechanical equipment away from the street front, or screen them from view.

LANDSCAPING

- A-9 Use landscaping to integrate the multi-family development with the surrounding community along public rights-of-way.
- A-10 Provide landscaping of appropriate scale in the area of required setbacks, in conformance with City Code.
- A-11 Enhance the site's interior network of open space with landscaping.
- A-12 Provide for the enhancement of parking and utility areas with landscaping.
- A-13 Select plant materials which are suitable for Ellensburg's climate zone, and provide them with a viable irrigation system.

ARCHITECTURAL DESIGN

- A-14 Design with building forms that echo the residential scale and rhythm of the community's single-family neighborhoods.
- A-15 Use roof forms and detailing traditional to the residential character of the community.

- A-16 Design street facades with entries, windows, and/or detailing: avoid blank walls facing the street.
- A-17 Provide some form of useable exterior living space, such as courtyards, porches, patios, or balconies.
- A-18 Design building entrances that offer attractive, convenient, and safe access to the interior.
- A-19 Provide windows that allow maximum interior light, privacy, and exterior rhythm and interest.
- A-20 Use exterior building materials that are typically residential in character.
- A-21 Use exterior color schemes that fall within a traditional range of basic colors and are respectful of the surrounding neighborhood.
- A-22 Install signage which meets minimum sign code requirements, is residential in scale and design, and uses materials consistent with the architectural fabric of the development.

II. COMMERCIAL DEVELOPMENT

SITE PLANNING

- B-1 Develop the site plan in response to specific site characteristics, including natural features and location within the community.
- B-2 Limit the depth of front setbacks to encourage pedestrian activity and strengthen the sense of enclosure along commercial streets.
- B-2a Commercial projects with associated parking which are a minimum of one City block (78,000 square feet) or larger in the C-C, C-C II, T-C and C-H Zones may use the established setbacks for that zone.
- B-3 Conform building height to applicable zoning standards. In the Downtown Historical District, limit building height to the predominant height of other buildings along the block.
- B-4 Ensure that building massing, height, and scale provide sensitive transition to adjoining residential neighborhoods.
- B-5 Orient the building toward the principal street frontage, and face the primary entrance toward that frontage.
- B-6 Design the project to encourage human activity along the street. Provide for sidewalks and clear pedestrian access to the building.
- B-7 Locate off-street parking to the rear or side of the building, whenever possible.
- B-8 Treat a corner site as an opportunity for visual focus.

- B-9 Locate trash dumpsters, mechanical equipment, and utilities to the rear of the building, or screen them from view.

LANDSCAPING

- B-10 Use landscaping along the street frontages to integrate the commercial development with the community.
- B-11 In areas visible to the general public, provide site landscaping of appropriate scale in relationship to the building.
- B-12 Give special landscape treatment to corner sites whether on private property or in the public right-of-way.
- B-13 Provide for the enhancement of off-street parking lots with landscaping.
- B-13a Screen parking lots associated with a commercial project one City block (78,000 square feet) or larger in the C-C, C-C II, T-C and C-H Zones from the public right-of-way and residential property with landscaping. Plant a continuous vegetative mixture of deciduous and evergreen trees and bushes in a low, midrange and high sized variety. For safe pedestrian access to the building from the parking lot, provide a 5 foot wide pedestrian pathway, with tree planters planted with deciduous trees every 20 to 25 feet, every other double row of parking spaces. Or provide landscape nodes equal in size with one parking space every eight (8) spaces in a single row or two landscape nodes every sixteen (16) parking spaces in a double row with clear and safe pedestrian pathways from the parking lot to the building.
- B-14 Screen dumpsters, utilities, and service areas from view with landscaping.
- B-15 Select plant materials that are suitable to the site and to Ellensburg's climate zone; and provide a viable irrigation system.

ARCHITECTURAL DESIGN

- B-16 Design rooflines to reflect traditional commercial roof configurations.
- B-17 Organize commercial building facades with three-part horizontal division and vertical column division.
- B-18 Use traditional storefront components and proportions on the ground-floor levels of street-facing facades.
- B-19 Modulate, or break up, blank street-facing walls over 20 feet in width with recesses, columns, bands, or textural treatment.
- B-20 Give special architectural treatment to primary building entrances.
- B-21 Provide special emphasis to corner entrances.

- B-22 Employ exterior finishes that are durable and typically commercial in character.
- B-23 Detail the building with diverse materials and forms.
- B-24 Select exterior color schemes that fall within a traditional commercial range.
- B-25 Integrate all commercial signage with the architectural design of the building.

III. INDUSTRIAL DEVELOPMENT

SITE PLANNING

- C-1 Design the project in response to existing site conditions and environmental constraints.
- C-2 Mitigate the impacts of bulk, height, and scale by providing sensitive transition to neighboring, less-intensive uses.
- C-3 Orient industrial buildings to the street with a clearly distinguishable front elevation.
- C-4 Local industrial functions involving loading, delivery, or other exterior activity to the rear or side of the building whenever possible.

LANDSCAPING

- C-5 Provide street trees proportional to the scale of the building, and natural ground cover, along the public right-of-way.
- C-6 Utilize landscaping of appropriate scale in the area of the required setbacks, in conformance with City Code.
- C-7 Screen property boundaries adjoining non-industrial uses with vegetation, and fencing or berming.
- C-8 Use landscaping to soften the visual impact of the building along all elevations visible from public rights-of-way.
- C-9 Provide for the enhancement of off-street parking lots with landscaping.
- C-10 Select plant materials which are suitable to the site and to Ellensburg's climate zone, and provide a viable irrigation system.

ARCHITECTURAL DESIGN

- C-11 Design rooflines that reflect traditional industrial configurations.
- C-12 Provide exterior street-facing elevations with horizontal and vertical articulation.
- C-13 Give primary street-facing facades a clear sense of entry, whether human or industrial in scale.

- C-14 Relate windows to the industrial size and scale of the building.
- C-15 Fit offices within the envelope of the building, or design them as exterior additions compatible in massing and scale.
- C-16 Use exterior color schemes that fall within a traditional industrial range, and respectful of the surrounding neighborhood.
- C-17 Select exterior color schemes that fall within a traditional industrial range, and are respectful of the surrounding neighborhood.
- C-18 Integrate all industrial signage with the architectural design of the building.

IV. PUBLIC AND INSTITUTIONAL DEVELOPMENT

SITE PLANNING

- D-1 Develop the site plan in response to specific site conditions, including trees, streams, and other significant natural features.
- D-2 Incorporate the maximum possible setback into the site plan as a means of expressing the building's functional significance.
- D-3 Locate parking and service areas to the rear or sides of the building, whenever possible, so as not to visually dominate the site.
- D-4 Provide for safe and convenient pedestrian access to the building, both from parking lots and from the public right-of-way.

LANDSCAPING

- D-5 Integrate the development with the surrounding community through landscaping along the public right-of-way.
- D-6 Enhance the building's street-facing elevations with formal landscaping.
- D-7 Provide for the enhancement of parking lots and utility areas in the landscape plan.

ARCHITECTURAL DESIGN

- D-8 Give functional one-story buildings the appearance of a two-story structure.
- D-9 Express a clear overall architectural concept or style in the building's exterior design.
- D-10 Orient primary entrances toward the street, and highlight them with special detailing and strong architectural forms.

- D-11 Include windows as an integral element of exterior facade design.
- D-12 Give the roofline visual distinction through the use of architectural focal points.
- D-13 Select exterior finish materials that provide a sense of permanence and fall within the range of the community's traditional public building fabric.
- D-14 Choose exterior color schemes that fall within a traditional range for public/institutional buildings, and are respectful of the surrounding neighborhood.

V. DESIGN STANDARDS FOR REHABILITATION OF EXISTING BUILDINGS

- E-1 Retain and preserve the overall historic character of the building.
- E-2 Ensure that proposed alterations are compatible with the building's own architectural character, and do not create a false historical appearance.
- E-3 Retain and preserve early alterations which have architectural significance in their own right.
- E-4 Treat distinctive original features, finishes, and examples of skilled craftsmanship with sensitivity.
- E-5 Repair rather than replace deteriorated architectural features whenever possible.
- E-6 Use the gentlest means possible when surface cleaning exterior masonry.
- E-7 Protect and preserve significant archaeological sites affected by the project, or provide mitigation for their disturbance.
- E-8 Design new additions to existing buildings, and new infill construction, to be compatible with the massing, scale, materials, and architectural features of adjacent historic structures.

These standards are supplemented and further defined or explained by that document entitled "Design Standards for the City of Ellensburg" a copy of which is attached and, by this reference, is incorporated herein as if set out in full. A copy of this referenced and adopted document shall be maintained in the office of the City Clerk for use and examination by the public. (4245, Repealed and Replaced, 06/05/2000)

Section 1.45.58 NON-LANDMARK REGISTER DESIGN REVIEW PROCEDURE.

An applicant seeking Ellensburg Landmarks and Design Commission approval for a non-Landmark Register major project shall submit relevant site plans, landscape plans, sign and architectural elevations and other such data as will assist the Commission in evaluating the proposed project to the Department of Community Development. Preliminary drawings may be submitted to department staff for review and an advisory opinion. No formal Ellensburg Landmarks and Design Commission action shall be taken except upon final plans and elevations. Final plans and elevations shall conform to the specific scale and detail requirements determined by the Design Standards. For those landscape plans and parking lots which are subject to this review, but are not otherwise connected to a large building or development project which must

obtain SEPA checklist review, public notice shall be provided prior to consideration by the Commission in a manner consistent with the provisions of Section 1.42.64 (4) of this code.

The Ellensburg Landmarks and Design Commission may approve, approve with conditions, or disapprove an application. The Commission's decision shall be rendered within fifteen (15) working days of the submittal of a complete set of final plans and elevations to the City.

An applicant seeking staff approval for a non-Landmark Register minor project shall submit relevant plans or elevations to the Community Development Department for staff review and comment. Community Development staff shall have a total of ten (10) working days to complete its review after the applicant's submittal of a complete set of plans or elevations.

If the Ellensburg Landmarks and Design Commission has not rendered its decision within 60 days, or if staff review of a minor project has not been completed within ten days, the project shall be deemed approved, unless an extension of time has been agreed to by the applicant.
(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.62 APPLICATION FEE.

Each non-Landmark Register major project or site landscaping application for design review shall be accompanied by the payment of a two hundred dollar (\$200.00) fee by the applicant, and no review shall be undertaken until payment is made.
(4245, Added, 06/05/2000)

Section 1.45.66 APPEALS.

(A) Any person aggrieved by any action of the Commission relating to demolition requests may file an appeal with City Council as set forth in Section 1.45.38(D). Any person aggrieved by any other action of the Commission may file a notice of appeal with the City of Ellensburg Hearings Examiner setting forth the reasons for such appeal. Appeals must be filed with the City Clerk within ten (10) days from the date of formal action by the Commission. Further, such appeals shall be accompanied by a non-refundable fee of twenty five (25) dollars in order for the appeal to be deemed complete.

(B) The filing of an appeal shall suspend the issuance of any building or other required permit until the Hearings Examiner has taken final action on the appeal.

(C) The Hearings Examiner shall consider the appeal at a scheduled public hearing. Notice of the hearing shall be published at least ten (10) days prior to the hearing and further as provided in Ellensburg City Code 1.42.64(a)(2), (3), and (4).

(D) Review by the Hearings Examiner shall be confined to the decision and record of proceedings before the Ellensburg Landmarks Commission, except that the Hearings Examiner may elect to take additional testimony bearing on the issue of alleged procedural irregularities in the proceedings before the Commission not shown in the record. The Hearings Examiner shall, upon request, consider oral and written arguments.

(E) The Hearings Examiner may affirm the decision of the Commission, remand to the Commission for further proceedings, or reverse the decision of the Commission if it finds that the substantial rights of the appellant have been prejudiced because the findings, conclusions or decision of the Commission were in violation of, or in excess of, its authority or jurisdiction, made upon unlawful procedure, clearly erroneous in view of the

entire record as submitted and the public policy contained in this Chapter, or arbitrary or capricious.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.68 VIOLATIONS - PENALTIES AND REMEDIES.

(A) It is unlawful for any person, firm, or corporation, to alter, repair, enlarge, newly construct, change the use of, relocate, or demolish any site, building, or structure in the City of Ellensburg contrary to or in violation of the provisions of this Chapter. Any such person, firm, or corporation is guilty of a misdemeanor who so violates the provisions of this Chapter.

(B) Any site, structure, or building improved, altered, restored, erected, or reconditioned in violation of the terms of this Chapter shall be deemed a public nuisance and such violation may be abated upon suit of the City in the Superior Court of the State of Washington for Kittitas County.

(C) Non-Landmarks Register Design Review approval of a project by the Ellensburg Landmarks and Design Commission shall be in effect for a period of 12 months after the date final approval of all building and site elements is given. Unless commencement of development of the physical improvements occurs within this 12 month period, the design review permit shall be void. Commencement of development shall be considered to occur upon the issuance of a building permit for the principle structure(s) included in the design review permit. An extension of the effective period of the design review permit may be granted by the Ellensburg Landmarks and Design Commission.

(4245, Repealed and Replaced, 06/05/2000)

Section 1.45.70 SPECIAL VALUATION FOR HISTORIC PROPERTIES

(A) There is hereby established and implemented a special valuation program for historic properties as provided in Chapter 84.26 RCW and Chapter 254.20 WAC.

(B) The Ellensburg Landmarks and Design Commission is hereby designated as the Local Review Board for the purposes set forth in Chapter 84.26 RCW, and is authorized to perform all functions of a Local Review Board authorized by Chapter 84.26 RCW and Chapter 254.20 WAC.

(C) The class of properties eligible to apply for special valuation in the City of Ellensburg means all properties listed on the Ellensburg Landmarks Register, or properties contributing to an Ellensburg Landmarks 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.

(D) The Commission shall adopt administrative rules for implementing special valuation and shall comply with all other local review board responsibilities identified in Chapter 84.26 RCW and Chapter 254.20 WAC.

(E) Each application for Special Valuation for Improvements to Historic Property shall be accompanied by the payment of a two hundred fifty dollar (\$250.00) fee for residential single-family building applicants and a three hundred fifty dollar (\$350.00) fee for commercial and multi-family building applicants. No review shall be undertaken until payment is made.

(F) Any decision of the Commission acting on any application for classification as

Ellensburg Municipal Code – 1.45 Landmarks And Design

historic property eligible for special valuation may be appealed to Superior Court under RCW sections 34.05.510 through 34.05.598 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.

(Ord. 4323, Add, 07/22/2002)

