

CITY OF SALINA, KANSAS

PRESERVATION ORDINANCE, ADOPTED JUNE 25, 1990

ARTICLE IX. HERITAGE CONSERVATION DISTRICT

DIVISION 1. GENERALLY¹

Sec. 42-456. Purpose.

The heritage conservation district is designed to be used in conjunction with any existing zoning district. The purposes of this district are:

- (1) To identify, safeguard and preserve the city's historic and cultural heritage;
- (2) To protect and enhance historic landmarks and districts which represent distinctive and important elements of the city's cultural, social, economic, political, archaeological and/or architectural history;
- (3) To stabilize and improve property values in areas designated as historically and/or architecturally significant; and
- (4) To enhance the attractiveness of the city to home buyers, visitors and shoppers and thereby promote business and tourism.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-457. Permitted uses.

Permitted and conditional uses in the heritage conservation district shall be the same as those otherwise allowed in the underlying zoning district and all other requirements of that district shall apply.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-458. Definitions.

For the purpose of administration of this article, the following words or terms are hereby defined. Unless specifically defined below, words or terms in this article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this article its most reasonable application.

Administrator. The designated individual assigned to administer, interpret and enforce the provisions of this division; also known as the secretary for the heritage commission.

Alteration. Any act or process that changes one (1) or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction or removal of any structure.

¹ **Editor's note:** Section 2 of Ord. No. 90-9387, adopted June 25, 1990, amended Ch. 42 by repealing provisions designated as Div. 1 of Art. IX, §§ 42-456--42-461, containing general provisions relative to the Heritage Conservation District and derived from Code 1966, §§ 36-8A00, 36-8A01, and 36-8A07--36-8A10. Section 1 of Ord. No. 90-9387, enacted provisions designated and incorporated as a new Civ. 1, §§ 42-456--42-468.

Area. Properties, near to or adjacent to one another, capable of being described with such definiteness that their collective location may be established and boundaries definitely ascertained.

Building. A structure, such as a house, barn, church, hotel, courthouse, city hall, social hall, commercial structure, library, factory, mill, train depot, theater, school, store or similar construction, created to shelter any form of human activity. The term also may refer to a small group of buildings which constitute an historically and functionally related unit such as a courthouse and jail, house and barn, mansion and carriage house, church and rectory, and farmhouse and related outbuildings.

Certificate of appropriateness. A certificate issued by the commission indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within an historic district based primarily on design consideration.

Certificate of economic hardship. A certificate issued by the commission indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within an historic district based primarily on economic considerations.

City commission. The government body of the City of Salina, Kansas.

Commission. The Heritage Commission of the City of Salina, Kansas.

Construction. The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

Contributing. A significant building, site, structure or object which adds to the architectural qualities, historic association or archaeological values of an historic district because:

- (1) It was present during the pertinent historic time;
- (2) It possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period; or
- (3) It independently meets the standards and criteria of this division.

Demolition. Any act or process that destroys in part or in whole a landmark or a structure within an historic district.

Design guideline. A standard of appropriate activity that will preserve the historic and architectural character of a structure or area.

Exterior architectural appearance. The architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.

Historic district. An area designated as an historic district by ordinance of the city commission and which may contain within definable geographic boundaries one (1) or more significant sites, structures or objects and which may have within its boundaries other properties or structures that, while not of such historic, archeological

and/or architectural significance to be designated as landmarks, nevertheless, contribute to the overall visual characteristics of the significant sites, structure or objects located within the historic district.

Landmark. A site, structure or object designated as a landmark by ordinance of the city commission, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration and preservation because of its historic, archeological and/or architectural significance to the City of Salina, Kansas.

Object. Those physical items that have functional; aesthetic, cultural, historical or scientific value and are relatively small in scale and simply constructed. While an object may be, by nature or design, movable, it should be located in a specific setting or environment appropriate to its significant historic use, role or character. Objects include sculptures, monuments, street signs, fence posts, hitching posts, mileposts, boundary markers, statuary and fountains.

Owner of record. Those individuals, partnerships, firms, corporations, public agencies or any other legal entities holding title to property but not including legal entities holding mere easements or leasehold interests; may also be referred to as property owner(s). Current owner(s) of record are those listed as owners on the records of the register of deeds. For the purposes of this article, the vote of owner(s) of record shall require the complete signature(s) of the listed owner(s) on the records of the register of deeds. For example, deeds designating joint ownership by two (2) individuals shall require the signature of both individuals for a single vote to be recorded.

Property. An area of land, undivided by a street, alley, railroad, stream or similar physical feature, under common ownership or control, which is or will be occupied by one (1) structure or land use, and any accessory structures and uses. A property could be made up of one (1) or more lots or record, one (1) or more portions of a lot or lots of record, or any combination thereof. The term shall include landscape features.

Removal. Any relocation of a structure in whole or in part on its site or to another site.

Repair. Any change to a structure or object that is not construction, removal, alteration or demolition.

Site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archeological value regardless of the value of any existing structure. Examples of sites include habitation sites, burial sites, village sites, hunting and fishing sites, ceremonial sites, battlefields, ruins of historic buildings and structures, campsites, designed landscapes, natural features, springs and landscapes having cultural significance.

Structure. Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to, the following: buildings, walls, gazebos, signs, towers and swimming pools.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-459. Heritage conservation survey.

(a) The heritage commission shall cause and commit to be undertaken a historical

resources survey of the City of Salina to identify buildings, structures, sites, neighborhoods and areas that may have historical, cultural or architectural importance or value to the community. As a part of the survey, the heritage commission shall review and evaluate any prior surveys and studies by any public or private organization and compile appropriate descriptions, facts and photographs. All new surveys and inventories shall utilize the inventory form and survey manual prepared by the Kansas Historic Preservation Department.

- (b) Upon completion of the survey for all or a portion of the city, the heritage commission shall:
- (1) Identify the most significant resources with potential for designation as a landmark or historic district;
 - (2) Devise and adopt procedures to initiate and consider the nomination of these potential landmarks and historic districts;
 - (3) Prepare and adopt a heritage conservation plan containing goals, objectives and policies to guide decision-makers in preserving the community's historic resources.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-460. Salina Register of Historic Places.

- (a) There is hereby established a Salina Register of Historic Places, which shall include:
- (1) A description of all buildings, structures, sites and objects designated as landmarks pursuant to this article.
 - (2) A description of the boundaries of each area designated as an historic district pursuant to this article.

The boundaries of landmarks and historic districts shall be recorded on the zoning map of the city. A current copy of the Salina Register of Historic Places and zoning map shall be kept on file in the office of the zoning administrator.

- (b) Landmarks may include any:
- (1) Exterior of a structure;
 - (2) Property or part thereof;
 - (3) Landscape feature or object.
- (c) Historic districts may include two (2) or more structures and/or properties. Individual buildings, sites, structures and objects within designated historic districts shall be classified as contributing or noncontributing.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-461. Nomination of landmarks and historic districts.

Nomination may be made only by application. Application for nomination of a site, structure or object for designation as a landmark or of an area for designation as an historic district may be made by motion of the heritage commission or city commission; or in the case of a landmark, by the owner of record of the nominated property or

structure; or in the case of an historic district, by twenty-five (25) percent or more of the owners of record of property in a proposed historic district.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-462. Criteria for designation.

(a) The heritage commission shall, upon such investigation as it deems necessary, make a determination as to whether a nominated site, structure, object or area possesses significant historical, archeological and/or architectural qualities and thus qualifies for designation pursuant to one (1) or more of the following criteria:

- (1) Its character, interest or value as part of the development, heritage or cultural characteristics of the community, county, state or nation;
- (2) Its location as a site of a significant local, county, state or national event;
- (3) Its identification with a person or persons who significantly contributed to the development of the community, county, state or nation;
- (4) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction or use of indigenous materials;
- (5) Its identification as a work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the community, county, state or nation;
- (6) Its embodiment of elements of design, detailing, materials or craftsmanship that render it architecturally significant;
- (7) Its embodiment of design elements that make it structurally or architecturally innovative;
- (8) Its unique location or singular physical characteristics that make it an established or familiar visual feature;
- (9) Its character as a particularly fine or unique example of a utilitarian structure, including, but not limited to, farmhouses, gas stations or other commercial structures, with a high level of integrity or architectural significance;
- (10) Its location as a site of prehistoric or historic occupation or activity possessing significant archeological value.

(b) Any site, structure, object or area that meets one (1) or more of the above criteria shall also have sufficient integrity of location, design, materials and workmanship to make it worthy of preservation or restoration.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-463. Public hearing and designation.

(a) *Generally.* The heritage commission shall hold at least one (1) public hearing on each property to be designated as a landmark or historic district at a reasonable time and place as established by the heritage commission. It shall hold such hearing no later than forty-five (45) days from the date the application is filed.

(b) *Notice of hearing.* At least twenty (20) days in advance of the public hearing on the proposed designation, notice of same shall be published in the official city newspaper.

The notice shall state the date, time and place of the hearing and contain a street address and legal description of the nominated property. The heritage commission shall also send by regular mail a written notice of the public hearing, containing the same information as the published notice, to the owners of record and all property owners within two hundred (200) feet of the nominated landmark or historic district at least twenty (20) days prior to the hearing. From time to time, as provided by its rules, the heritage commission may give such additional notice to other persons as it desires.

- (c) *Conduct of hearing.* The hearing, which may be continued, shall be conducted and a record of the proceedings shall be preserved and filed in the office of the city clerk. Any person or party may appear and be heard at the hearing in person, by agent or by attorney. The heritage commission may request a report from any government official or agency or any other person, firm or corporation. If such report is made, a copy thereof shall be made available by the secretary of the heritage commission to the owner(s) of the affected property and any other interested person.
- (d) *Report and recommendation.* Within thirty (30) days after the close of the public hearing, the heritage commission shall adopt a recommendation to be submitted to the city commission that the nominated landmark or historic district does or does not meet the criteria for designation. The recommendation shall be accompanied by the following information:
 - (1) Explanation of the significance or lack of significance of the nominated landmark or historic district as it relates to the criteria for designation as set forth in section 42-462;
 - (2) Explanation of the integrity or lack of integrity of the nominated landmark or historic district;
 - (3) In the case of a nominated landmark found to meet the criteria for designation:
 - a. The significant exterior architectural features of the nominated landmark that should be protected; and
 - b. The types of construction, alteration, demolition and removal, other than those requiring a building or demolition permit, that cannot be undertaken without obtaining a certificate of appropriateness.
 - (4) In the case of a nominated historic district found to meet the criteria for designation:
 - a. The types of significant exterior architectural features of the structures within the nominated historic district that should be protected;
 - b. The types of construction, alteration, demolition and removal, other than those requiring a building or demolition permit, that cannot be undertaken without obtaining a certificate of appropriateness; and
 - c. A list of all contributing sites, structures and objects within the historic district.
 - (5) A map showing the location of the nominated landmark or the boundaries of the nominated historic district.
- (e) *City commission designation:*

- (1) The city commission shall consider the application at a public hearing, which may be during a regularly scheduled meeting. The city commission shall not consider the application until the period for the filing of written protests has lapsed. Prior to that hearing, the city commission shall be provided with the recommendations and record of the proceedings before the heritage commission. At the conclusion of the public hearing, the city commission may approve an ordinance designating a nominated site, structure or object as a landmark or designating an area as an historic district.
- (2) The heritage commission may recommend and the city commission may designate a landmark or historic district which includes a portion of the structures and/or properties under consideration and described in any notice.
- (3) The heritage commission may recommend and the city commission may amend or rescind designation of a landmark or historic district in the same manner and procedure as is followed in a designation of a landmark or historic district.
- (4) In the case of a denial of landmark nomination, subsequent nomination attempts shall not occur within one (1) year or without a change of ownership of the property, whichever occurs first. A subsequent nomination of an historic district may not be made within one (1) year unless there has been a substantial reconfiguration of the proposed nominated district.

(f) *Notice of designation:*

- (1) The administrator shall forward notice of designation of any landmark or historic district approved by the city commission to the Kansas State Historical Society.
- (2) Within seven (7) days after approval of such an ordinance, the administrator shall notify in writing the owner of each structure or property designated as a landmark or included within an historic district. The administrator shall also notify the city building official of the designation.
- (3) The designation of a landmark or historic district shall in no way alter the uses permitted by the existing zoning classification or district of the properties so designated. A desire to change permitted uses shall require the filing of an application requesting a zoning change as provided by the Zoning Ordinance of the City of Salina.

(f) *Designation protest procedures:*

- (1) *Protest of landmark designation.* A protest of any landmark nomination may be filed with the city clerk any time within fourteen (14) days following the conclusion of the heritage commission's public hearing on the nomination. The protest shall be executed in writing by the owner(s) of record of the nominated landmark. The city clerk shall provide a protest form upon request. Upon submittal of a valid protest petition, it shall be forwarded to the city commission. Such property may be designated a landmark only by a three-fourths favorable vote of all the members of the city commission.
- (2) *Protest of historic district designation by property owner within proposed district.* The consent of a majority of the owners within a proposed historic district shall be required for the city to designate an historic district. Owners of a

property within a proposed district shall be given thirty (30) days within which to file written consents or objections to the inclusion of their property in the proposed district. Said thirty (30) days shall commence upon the conclusion of the public hearing before the heritage commission. Owners of property shall be entitled to one (1) vote for each taxable property of which they are the owner of record as acknowledged by the records of the Register of Deeds of Saline County, Kansas. If property owners fail to respond as set forth herein, they shall be deemed to have consented to the inclusion of their property in the proposed district. If a majority (fifty-one (51) percent or more) of the owners within a proposed historic district file a written protest against the inclusion of their property in the proposed historic district, then the city commission shall deny the application nominating the area as an historic district. If thirty-five (35) percent or more of the owners of property within a proposed historic district file a written protest against the inclusion of their property in the proposed historic district, then the city commission may adopt an ordinance designating the proposed area as an historic district only upon the affirmative vote of three-fourths of all the members of the city commission.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-464. Certificate of appropriateness.

(a) *When certificate required.* A certificate of appropriateness shall be required before the following actions affecting the exterior architectural appearance of any landmark or property within an historic district may be undertaken:

- (1) Any construction, alteration or removal requiring a building permit from the City of Salina;
- (2) Any demolition in whole or in part requiring a demolition permit from the city;
- (3) Any construction, alteration, demolition or removal affecting a significant exterior architectural or historical feature as specified in the ordinance designating the landmark or historic district. However, such requirement shall not apply to such repairs and maintenance measures minimally required to prevent additional loss or harm to the structure resulting from accidental or natural causes.

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of a structure or building.

(b) *Application for certificate of appropriateness.* A copy of every application for a demolition permit or a building permit, including any accompanying plans and specifications, affecting the exterior architectural appearance of a landmark or of a property within an historic district will be forwarded to the heritage commission and shall initiate an application for a certificate of appropriateness. The building inspection department shall not issue the demolition or building permit until a certificate of appropriateness has been issued by the heritage commission. Application for review of construction, alteration, demolition or removal not requiring a building permit for which a certificate of appropriateness is required shall be initiated on a form prepared by the heritage commission.

(c) *Determination by heritage commission:*

- (1) Any applicant may request a meeting with the heritage commission before the application is received or during the review of the application. The commission shall consider the completed application at a regular or special meeting. To prevent unnecessary delay in construction, the administrator may issued certificates of appropriateness for the renovation or reconstruction of any structure when such work substantially reproduces the existing design and is performed in the existing material. The chairman or vice-chairman shall cosign any certificates of appropriateness issued in this manner.
- (2) The chairman of the commission may appoint a subcommittee of four (4) of its members to review applications for a certificate of appropriateness for all types of actions except demolitions when delay to the next regular meeting would create an unnecessary inconvenience to the applicant. A certificate of appropriateness may be issued prior to the next regular meeting upon the signatures of all but one (1) of the members of that subcommittee.
- (3) The commission shall review the application and issue or deny the certificate of appropriateness within forty-five (45) days of receipt of the application. Written notice of the decision shall be provided to the applicant and the building inspection department within seven (7) days following the determination and shall be accompanied by a certificate of appropriateness in the case of approval.

(d) *Denial of certificate of appropriateness:*

- (1) A denial of a certificate of appropriateness shall be accompanied by a statement of the reasons for the denial. The heritage commission shall make recommendations to the applicant concerning changes, if any, in the proposed project that would cause the commission to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the commission. The applicant may resubmit an amended application or reapply for a building or demolition permit that takes into consideration the recommendations of the commission.
- (2) Any person dissatisfied with a determination by the heritage commission concerning a certificate of appropriateness may file an appeal to the city commission within fourteen (14) days of the date of notification of that determination. The city commission must act on this request within thirty (30) days of receipt and must hold a public hearing on the appeal.

(e) *Standards for review:*

- (1) An application for a certificate of appropriateness shall be evaluated on a sliding scale, depending upon the designation of the building, structure, site or object in question. The certificate shall be evaluated upon the following criteria:
 - a. Most careful scrutiny and consideration shall be given to applications for designated landmarks;
 - b. Slightly less scrutiny shall be applied to properties designated as "contributory" within an historic district;

- c. The least stringent evaluation is applied to "noncontributory" properties of a landmark or historic district. There shall be a presumption that a certificate of appropriateness should be approved in this category unless the proposed construction or demolition would significantly encroach upon, damage or destroy the landmark or historic district. If the heritage commission denies a certificate of appropriateness in this category, and the owner appeals to the city commission, the burden to affirm said denial shall be upon the heritage commission and the city commission.
- (2) In considering an application for a certificate of appropriateness, the heritage commission shall be guided by the following general standards in addition to any design criteria in this article and in the ordinance designating the landmark or historic district:
- a. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of a building, structure, site or object and its environment, or to use a property for its originally intended purpose.
 - b. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
 - c. All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
 - d. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.
 - e. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure or site shall be treated with sensitivity.
 - f. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - g. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - h. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

- i. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property or neighborhood.

(f) *Design criteria:*

- (1) The purpose of the following design criteria is to encourage preservation of intact significant properties, restoration of significant properties, restoration of significant properties that have already undergone insensitive alterations, and new construction, as long as such complements existing buildings and streetscapes. It is not the intention of these criteria to discourage new architectural styles.
- (2) In considering any application for a certificate of appropriateness, the commission shall consider the standards for review listed in paragraph (e) above and the following design criteria:
 - a. Alterations. Specific design criteria for exterior alterations of landmarks and contributing properties within historic districts shall be based on the U.S. Secretary of the Interior's Standards for Rehabilitation, as published in section 36, Code of Federal Regulation, part 67, and as revised from time to time, and by further reference to such specific design criteria as the commission may require for the designation of the landmark or historic district.
 - b. New construction and additions to existing buildings:
 1. The design for new construction shall be sensitive to and take into account the special characteristics that the district is established to protect. Such consideration may include, but should not be limited to, building scale, height, orientation, site coverage, spatial separation from other buildings, facade and window patterns, entrance and porch size and general design, materials, textures, color, architectural details, roof forms, emphasis on horizontal or vertical elements, walls, fences, landscaping and other features deemed appropriate by the commission.
 2. New buildings need not duplicate older styles of architecture but must be compatible with the architecture within the district. Styles of architecture will be controlled only to ensure that their exterior design, materials and color are in harmony with neighboring structures.
 - c. Demolition, relocation and land surface change:
 1. Demolition in whole or in part of individual landmarks or any contributory structure within an historic district shall ordinarily not be permitted. Exceptions are allowed only if a structure has been substantially damaged through fire, windstorm, flood or deterioration, and if there is reasonable proof that it would not be economically or physically feasible to rehabilitate. Other exceptions may be allowed if a structure does not possess the integrity, originality, craftsmanship,

age or historical significance to merit preservation. However, demolition of past additions which have not gained historical significance and which have disguised or sheathed original elements or facades are encouraged, as long as the intention is to restore such elements or facades.

2. Structures should not be removed from their original site. Exceptions will be allowed only if there is substantial evidence that it would not be practical or economical to utilize the building on its present site. If a structure lies in the path of a public improvement project involving the City of Salina, and if the building is worthy of preservation by virtue of its integrity, originality, craftsmanship, age or historical significance, relocation may be considered as an alternative.
 3. Substantial change of land surface within the boundaries of a landmark or historic district should not be permitted. Exceptions will be allowed only if there is substantial evidence that the change would not be detrimental to the historical and architectural character of surrounding structures or landscaping.
- d. Signage guidelines. The heritage commission shall receive copies of any request for permit, appeal or variance regarding a sign to be located on a landmark or within an historic district. The commission shall review and approve such requests under the procedures set forth within this section for other permits, subject to the following guidelines:
1. Signs should be designed and placed so as to appear an integral part of the building design, in proportion to the structure and environment and to respect neighboring properties within historic districts.
 2. Obscuring or disrupting important design elements is discouraged. Signs should be designed with appropriateness relative to the services of the establishment served.
 3. Signs should be maintained if they are determined to be an original part of the building or if they have acquired significance by virtue of their age, design, materials, craftsmanship or historical significance.
 4. Illumination of signs should be properly shielded or diffused so as to eliminate glare and be of a low enough wattage to not detract from or set apart the structure.
 5. Descriptive signs as an integral part of the structure are encouraged. Such signs could include building dates, historic descriptions, commemorations, etc.
 6. Freestanding signs may be considered, if appropriate and necessary to preserve the character of the landmark or historic district.
- e. Accessory structures and landscaping:
1. Existing characteristics such as trees, walls, stairs, paving materials, fencing, walkways and other similar structures or site

features that reflect the landmark or historic district's history and development shall be retained.

2. Landscaping should be appropriate to the scale and the unique features of the landmark or historic district.
3. Accessory structures to a designated landmark or within the boundaries of a designated historic district shall be appropriate to and compatible with the architectural features of the primary structures. Structures accessory to noncontributory buildings within a designated historic district shall be so designed as to not detract from the historical or architectural character of the district.

- (3) Within each of the designated categories, the design criteria will be applied more stringently to properties of greater significance than those with lesser significance as determined by their respective designation. The heritage commission may prepare and adopt more specific design guidelines as it deems necessary to supplement the provisions of this division for the review of certificates of appropriateness. The city commission must first approve such additional design guidelines before said guidelines shall become effective.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-465. Certificate of economic hardship.

- (a) *Purpose.* A certificate of economic hardship serves as an alternative to and wherever a certificate of appropriateness would otherwise be required. The purpose of the certificate of economic hardship is to provide relief where the application of this article would otherwise impose undue hardship.
- (b) *Application for certificate.* Application for a certificate of economic hardship shall be made on a form prepared by the heritage commission. Such application may be made in conjunction with or separately from an application for, or upon the denial of, a certificate of appropriateness. The commission shall hold a public hearing concerning such applications within thirty (30) days of receipt of application.

The administrator shall assist all applicants in the preparation of applications for certificates of economic hardship. Every reasonable effort shall be made to limit the costs to the applicant and to assure efficient processing of the application. The commission shall require the submission of financial documents, professional reports and expert testimony only when they are necessary to review an application.

The commission may solicit expert testimony or request that the applicant for a certificate of economic hardship make submissions concerning any or all of the following information before it makes a determination on the application:

- (1) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the recommendations of the commission for changes for the issuance of a certificate of appropriateness.
- (2) A report from qualified or bonded persons with experience in rehabilitation as to the structural soundness of any structures on the property and their

suitability for rehabilitation.

- (3) Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; and after any changes recommended by the commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use.
 - (4) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
 - (5) If the property is income-producing, the annual gross income from the property for the previous two (2) years; itemized operating and maintenance expenses for the previous two (2) years; and depreciation, deduction and annual cash flow before and after debt service, if any, during the same period.
 - (6) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two (2) years.
 - (7) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property.
 - (8) Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years.
 - (9) Assessed value of the property according to the two (2) most-recent assessments.
 - (10) Real estate taxes for the previous two (2) years.
 - (11) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other.
 - (12) Any other information considered necessary by the commission to a determination as to whether the property does yield or may yield a reasonable return to the owners.
- (c) *Determination.* The commission shall review all the evidence and information required of an applicant for a certificate of economic hardship and make a determination within forty-five (45) days of receipt of the application whether the denial of the application will deprive the owner of the property of reasonable use of, or reasonable economic return on, the property. Written notice of the determination shall be provided in the same manner as notification of a determination concerning a certificate of appropriateness.
- (d) *Appeal.* Any person dissatisfied with a determination by the heritage commission concerning a certificate of economic hardship may file an appeal to the city commission within fourteen (14) days of the date of notification of that determination. The city commission must act on this request within thirty (30) days of receipt and must hold a public hearing on the matter.

Sec. 42-466. Property owned by public agencies.

In the City of Salina many of the historically and architecturally significant buildings, sites, structures and objects are owned by government entities. The preservation of such buildings, sites, structures and objects is established as national policy in the National Historic Preservation Act of 1966, as amended. The Kansas Historic Preservation Act, as amended, declares that the historical, architectural, archeological and cultural heritage of Kansas is an important asset of the state and that its preservation and maintenance should be among the highest priorities of government. To accomplish the adopted policies of the federal and state governments and to accomplish the purposes of this chapter, the following regulations promote the preservation of publicly owned historically and architecturally significant buildings, sites, structures and objects:

- (1) For properties in the City of Salina, the city commission may authorize the submittal of an application to list a building, site, structure, object or district owned by a unit of government on the Kansas or the National Register of Historic Places. The authorization of the pertinent unit of government, if other than the City of Salina, should be obtained before submittal of such an application if required by applicable state or federal law and regulations.
- (2) To further the purposes of this chapter, the city may enter into agreements with other units of government. The city shall specifically seek to negotiate an agreement with the state historic preservation officer whereby the state delegates certain responsibilities to the city, including, but not limited to, the review of building and/or demolition permit applications. The commission may recommend, and the city commission shall authorize in behalf of the city, entering into such agreements. Such agreements may address:
 - a. Designation of landmarks and historic districts;
 - b. Administration or the use of preservation fund resources;
 - c. Improvements to landmarks or properties in historic districts, and properties adjacent to landmarks or historic districts;
 - d. Demolition and clearance of all or a portion of landmarks, properties in historic districts, and properties adjacent to landmarks or historic districts;
 - e. Efforts to encourage the maintenance of landmarks and properties in historic districts; and
 - f. Other mutually acceptable provisions.
- (3) Proposed improvements to a building, site, structure or object owned by the city (designated as a landmark or located in an historic district) shall be reviewed and approved according to the procedures and regulations listed herein. Proposed demolition and/or clearance of a building, site, structure or object owned by the City of Salina (designated as a landmark or located in an historic district) shall be reviewed and approved according to the procedures and regulations listed herein.

Sec. 42-467. Exceptions.

Exceptions to the building code of the City of Salina may be available to owners of landmarks and buildings within historic districts as set forth in section 104 of the building code.

(Ord. No. 90-9387, § 1, 6-25-90)

Sec. 42-468. Minimum maintenance requirement.

All real property, and any building, structure or utility thereon, designated as an historic landmark or located within a historic district, whether owned or controlled privately or by any public body, shall receive reasonable care, maintenance and upkeep appropriate for its protection, preservation, enhancement, perpetuation or use in compliance with the terms of this article and the applicable codes of the city.

(Ord. No. 90-9387, § 1, 6-25-90)

CONSERVATION PROPERTIES ORDINANCE
ADOPTED FEBRUARY 21, 1997

Sec. 42-469. Purpose.

The conservation district is designed as an overlay district to supplement designated historic landmarks and districts and may be used in conjunction with any existing zoning district. The purpose of the conservation district is to:

- (1) Develop and maintain the appropriate environment for buildings, structures, sites and areas that reflect varied planning and architectural styles and distinguished phases of Salina's history;
- (2) Maintain and enhance the many private and public elements that are unique to the fabric, theme and character of each neighborhood and area, including but not limited to, lighting, pathways, street trees, natural areas and other features that may, from time to time, be identified by the citizens and property owners of neighborhoods, areas and subsections thereof;
- (3) Abate the removal and demolition of historic structures, and cultivate civic pride in the accomplishments of the past; and
- (4) Retain and enhance those properties which contribute to the character of the conservation district and to encourage their adaptation for appropriate use.

(Ord. No. 97-9789, § 1, 2-17-97)

Sec. 42-469.1. Definitions.

[The following words, terms or phrases, as used in this division, shall have their given meanings:]

Conservation district. An area designated as a conservation district by ordinance of the city commission which may contain within definable geographic boundaries,

significant sites, structures or objects that, while not of such historic, archeological and/or architectural significance to be designated landmarks or in combination designated an historic district, nevertheless contribute to the overall visual characteristics of the significant sites, structures or objects located within the conservation district.

Significant resource; A site, building, structure, or object identified as possessing historic, archeological and/or architectural significance in the Salina, Kansas, Historic Resources Survey Part II, published June 30, 1985, for the Salina City Heritage Commission.

Sec. 42-469.2. Heritage commission powers and duties within conservation districts.

It is intended that the heritage commission will review development within the conservation district in order to maintain underlying and desirable characteristics of structures and areas within such districts, while recognizing the need for innovation and individual expression in the development of these districts. In carrying out this mission, the commission shall have the following powers and duties within conservation districts:

- (1) To review applications for demolition or relocation of identified significant resources contained within the conservation district(s);
- (2) Approve, conditionally approve or deny demolition or relocation of identified significant resources contained within the conservation district(s) requiring a building permit through the issuance or denial of certificates of appropriateness; or
- (3) To review any programs being considered by the city commission that are designed to stimulate preservation and rehabilitation of structures and properties, and to review any proposed action or development utilizing these programs.

(Ord. No. 97-9789, § 1, 2-17-97)

Sec. 42-469.3. Conservation district designation or rescission.

An area may be designated or rescinded as a conservation district by the city commission upon recommendation of the heritage commission.

Criteria and procedures for nomination and designation of a conservation district are as described in sections 42-461 thru 42-463, Heritage Conservation District Ordinance 90-9387, adopted June 1990.

(Ord. No. 97-9789, § 1, 2-17-97)

Sec. 42-469.4. Certificate of appropriateness.

A certificate of appropriateness shall be required before any demolition or relocation is undertaken upon any identified significant resource in the conservation district. Application procedures are as follows:

- (1) No demolition or moving permit shall be issued within the conservation district, affecting an identified significant resource, until a certificate of appropriateness has been issued by the heritage commission.
- (2) Application and review procedures for proposals affecting identified significant

resources located within the conservation district are set forth in section 42-464, Certificate of Appropriateness.

Sec. 42-469.5. Standards for certificates of appropriateness.

- (a) In considering an application for a certificate of appropriateness the heritage commission shall be guided by the criteria set forth in section 42-464 and the following criteria:
- (b) *Relocation.* In considering an application for a certificate of appropriateness for relocation of an identified significant building or structure, the heritage commission shall determine whether the project substantially complies with the following standards:
 - (1) The proposed relocation will avoid demolition of the building or structure;
 - (2) The proposed relocation will not diminish the historical or architectural significance of the building or structure or the physical integrity and historical associations of the conservation district;
 - (3) The proposed relocation will not have a detrimental effect on the structural soundness of the building or structure;
 - (4) The relocation will be performed by a professional building mover and the project complies with existing city ordinances for moving a building or structure.
- (c) *Demolition.* In considering an application for certificate of appropriateness for demolition of an identified significant building or structure, the heritage commission shall determine whether the project substantially complies with the following standards:
 - (1) The demolition is required to alleviate a threat to public health and safety;
 - (2) The architectural integrity of the building or structure is no longer evident;
 - (3) The streetscape within the context of the conservation district would not be negatively affected;
 - (4) The demolition would not adversely affect the conservation district in relation to remaining surrounding buildings or structure;
 - (5) The base zoning of the site is incompatible with reuse of the building or structure;
 - (6) The reuse plan is consistent with existing codes and ordinances for replacement and new construction;
 - (7) The property has not suffered from willful neglect, as evidenced by the following:
 - a. Willful or negligent acts by the owner or tenant that leads to deterioration of the building or structure;
 - b. Failure to perform normal maintenance and repairs;
 - c. Failure to diligently solicit and retain tenants; and
 - d. Failure to secure and board the building or structure if vacant

- (8) The denial of a certificate of appropriateness for demolition would cause an economic hardship as defined and determined pursuant to the provisions of section 42-465, Certificate of Economic Hardship.
- (d) Upon making findings that the standards set out above are not sufficiently met, the heritage commission may deny the certificate of appropriateness or defer a decision for relocation or demolition for up to one (1) year during which the applicant must conduct a bona fide effort to preserve the building or structure. The one-year period shall begin only when the bona fide effort has commenced. A bona fide effort shall consist of all of the following actions:
- (1) Marketing the property for sale or lease;
 - (2) Filing an application for alternative funding sources for preservation, such as Neighborhood Revitalization Act, etc;
 - (3) Filing an application for alternative uses if available or feasible, such as rezoning or conditional uses, etc.; and
 - (4) Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.

Upon the completion of the one (1) year period and if the applicant provides evidence of a bona fide preservation effort, the heritage commission shall make a final decision for a certificate of appropriateness for relocation or demolition.

(Ord. No. 97-9789, § 1, 2-17-97)

Sec. 42-469.6. Exceptions of certificate of appropriateness for demolition of hazardous structures.

A hazardous structure shall be exempt from the provisions governing demolition if the building official determines, in writing, that the structure currently is an imminent hazard to public safety.

(Ord. No. 97-9789, § 1, 2-17-97)

Sec. 42-469.7. Application requirements for certificates of appropriateness in conservation districts.

Applications for certificates of appropriateness shall be made on a form provided by the city planning office, and shall include the information and material as set forth in section 42-464.

(Ord. No. 97-9789, § 1, 2-17-97)

Sec. 42-469.8. Appeals.

All decisions of the heritage commission including deferrals may be appealed to the city commission pursuant to the provisions of section 42-464.

(Ord. No. 97-9789, § 1, 2-17-97)

Sec. 42-470. Reserved.

DIVISION 2. HERITAGE COMMISSION²

Sec. 42-471. Created; purposes.

The heritage commission is hereby created, whose purposes will be to inventory, promote, list, record, protect, preserve and enhance places, areas, features or sites within the city that have special significance in the architectural, archaeological, cultural or historical sense. The commission shall also advise the board of commissioners and other groups concerning preservation of the city's historic and cultural heritage.

(Code 1966, § 36-8A02)

Sec. 42-472. Membership.

The heritage commission shall consist of seven (7) members, all of whom must reside within the city limits, to be appointed by the board of commissioners. The membership of the commission shall include, but not be limited to, one (1) architect, one (1) historian, one (1) archeologist, landscape architect, architectural historian, or urban planner, one (1) city planning commissioner, one (1) member of the real estate or legal profession, and two (2) other individuals that the board of commissioners may wish to consider.

(Code 1966, § 36-8A02; Ord. No. 91-9433, § 1, 3-25-91)

Sec. 42-473. Terms of office.

Appointments to the heritage commission shall be for a term of three (3) years. Three (3) members of the first commission shall serve for three (3) years, two (2) members shall serve for two (2) years and two (2) members shall serve for one (1) year. Thereafter, all members shall serve for three (3) years.

(Code 1966, § 36-8A04)

Sec. 42-474. Compensation; expenses.

The members of the heritage commission shall serve without compensation except for necessary expenses sustained in carrying out their official duties. Such expenses shall be paid by the city as authorized by the board of commissioners.

(Code 1966, § 36-8A04)

Sec. 42-475. Officers.

The heritage commission shall annually elect, from its membership a chairman and vice-chairman, whose terms of office shall be one (1) year. The heritage commission shall appoint a secretary from the city planning department, who shall keep a record of all minutes, resolutions and proceedings and other actions of the commission.

(Code 1966, § 36-8A05)

Sec. 42-476. Vacancies.

All vacancies on the heritage commission shall be filled by the board of commissioners.

(Code 1966, § 36-8A05)

Sec. 42-477. Quorum; voting; minutes.

² **Cross references:** Administration, Ch. 2; boards and commissions generally, § 2-136 et seq.

The presence of four (4) members of the heritage commission shall constitute a quorum, and issues shall be decided by a majority vote of the members present. The minutes of each meeting shall be filed in the office of the city clerk.

(Code 1966, § 36-8A05)

Sec. 42-478. Financial support.

The heritage commission may accept donations, grants and other financial assistance from any public body or any agency, including but not limited to, the city, the county, the state, and any of its agencies, and from any private individual or groups for the purpose of carrying out the functions, powers and duties of the heritage commission, including property acquisition and renovation. These funds shall be utilized exclusively for heritage conservation purposes and shall be kept in a separate account requiring heritage commission and city approval for utilization. The heritage commission may, with the approval of the board of commissioners, enter into agreements and contracts with the public or private consultants for the purpose of assisting the heritage commission in carrying out its functions, duties and powers.

(Code 1966, § 36-8A06)

Secs. 42-479--42-500. Reserved.