

1 (PUBLISHED IN THE GARDEN CITY TELEGRAM ON THIS ____ DAY OF JANUARY, 2002)

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3
4 **ORDINANCE NO. 2179**
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7 **AN ORDINANCE WHICH PROVIDES FOR A HISTORIC PRESERVATION ZONING**
8 **DESIGNATION, FOR PREPARING AND MAINTENANCE OF A HISTORIC**
9 **PRESERVATION PLAN, AND CREATION OF A LANDMARKS COMMISSION TO**
10 **ADMINISTER THE SAME; AMENDING CHAPTER 70 OF THE CODE OF**
11 **ORDINANCES BY ADDING ARTICLE III AND SECTIONS 70-50 THROUGH AND**
12 **INCLUSIVE OF 70-67 ALL TO THE CODE OF ORDINANCES OF THE CITY OF**
13 **GARDEN CITY, KANSAS.**

14
15 **BE IT ORDAINED** by the Governing Body of the City of Garden City, Kansas:

16
17 **SECTION 1** that the Code of Ordinances of the City of Garden City, Kansas, is hereby
18 amended by adding Article III to Chapter 70 and sections 70-50 through and inclusive of 70-67
19 and which said Article and sections shall read as follows:

20
21 **SECTION 70-50. ARTICLE III. HISTORIC PRESERVATION**
22 **DECLARATION OF POLICY.** The City Commission find and declare as a matter of public
23 policy that the identification, designation, protection, enhancement, preservation and use of
24 historic resources is a public interest and is desirable in the interest of the culture, prosperity,
25 education and welfare of the public. Preservation of historic resources will:

- 26 (a) Protect, enhance, and perpetuate historic, distinctive and important elements of the
27 City's cultural, social, economic, political, archaeological and architectural history;
28 (b) Safeguard the City's historic and cultural heritage as embodied and reflected in such
29 historic resources;
30 (c) Stabilize and improve property values in such locations of historic resources;
31 (d) Promote and encourage restoration, rehabilitation and maintenance of historic
32 properties, neighborhoods and district;
33 (e) Foster civic pride in the beauty and noble accomplishments of the past;
34 (f) Protect and enhance the City's attractions to tourists and visitors and provide support
35 and stimulus to business and industry; and
36 (g) Promote the use and adaptive reuse of historic resources for the culture, education,
37 enjoyment and economic welfare of the City's citizens and visitors.

38
39 **SECTION 70-51. DEFINITIONS.** For the purpose of this ordinance, certain terms
40 and words are hereby defined. Words used in the present tense include the future; words in the

1singular include the plural. The word “shall” is mandatory while “should” and “may” are
2permissive. Any words not defined herein shall carry and convey the meaning ascribed by a
3common English language dictionary.

4

5 **Adaptive Use:** Changing the use of a structure or property to a use other than that for
6 which the structure or property was originally designed.

7

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

11

12 **Applicant:** The owner (or duly designated representative) of a structure or property
13 nominated for local, state, or national registry; or group of owners in a proposed historic
14 district; or the owner or duly designated representative who has applied for a
15 development permit, demolition or clearance permit involving a registered state/national
16 historic property or property within 500 feet of a state/national historic property.

17

18 **Appurtenances and environmental setting** is the parcel, as of the date of “Historic
19 District” or “Historic Landmark” designation, on which is located a historic resource.
20 Appurtenances and environmental setting includes walkways and driveways (whether
21 paved or not) fences, gateways open space and waterways. Interiors of structures are
22 included only when a historic resource is designated a historic landmark and the owner
23 consent to the addition of the interior of the structure.

24

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

31

32 **Certificate of Appropriateness (C of A):** A certificate issued by the commission
33 indicating its approval of plans for alternation, construction, removal or demolition of a
34 landmark or of a structure located in a historic district based primarily in design
35 consideration.

36

37 **C of A Major:** A Certificate of Appropriateness, which may only be granted by the
38 Landmarks Commission or, on appeal, by the City Commission.

39

40 **C of A Minor:** A Certificate of Appropriateness, which may be granted by certain
41 designated staff for non-exterior repairs or for non-registered properties, which have no
42 adverse impact on historic properties.

43

44 **Certificate of Economic Hardship:** A certificate issued by the Landmarks Commission
45 indicating its approval of plans for alteration, construction, removal or demolition of a

1 local landmark or of a structure located in a historic district based primarily on economic
2 considerations.

3
4 **Construction:** The act of adding to an existing structure or the erection of a new
5 principal or accessory structure on a lot or property.

6
7 **Contributing:** A significant building, site, structure, or object which adds to the
8 architectural qualities, historic association, or archeological values of an historic district
9 because:

- 10 (a) It was present during the period of significance;
11 (b) It possesses integrity and reflects its significant historic character or is capable of
12 yielding important information about the pertinent historic period; or
13 (c) It independently meets the standards and criteria of this ordinance.

14
15 **Demolition:** Any act or process that destroys in part or in whole a landmark or a
16 structure within a designated tract.

17
18 **Demolition by Neglect** is the failure to provide ordinary and necessary maintenance and
19 repair to a structure resulting in the deterioration of the structure or resulting in permanent
20 damage, injury or loss to exterior features.

21
22 **Design Guideline/Standard:** The standards set forth by the Secretary of the U.S.
23 Department of the Interior for the preservation of historic places. In addition, the
24 Landmarks Commission shall develop policies to further interpret The Secretary of the
25 Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic
26 Buildings, which shall be adopted by the City Commission.

27
28 **District:** An area that possesses a significant concentration, relationship among, or
29 continuity of sites, buildings, structures, or objects united historically or architecturally by
30 plan or physical development. Districts include college campuses, downtown areas,
31 residential areas, industrial complexes, civic centers, government reservations, planned
32 street systems, and parks. The term may also be applied to individual associated or
33 functionally related sites, buildings, structures, or objects that are geographically
34 separated. In such cases, visual continuity should not be necessary to convey the historic
35 relationship or a goal of related resources.

36
37 **Environs:** An area referred to when discussing any historic property included in the
38 national register of historic places or the state register of historic places, or the *environs*
39 of such property. State statute requires the State Historic Preservation Officer (SHPO)
40 review any project *that requires a building permit* within 500 feet of a listed historic
41 property located within the corporate limits of a city or within 1000 feet of a listed
42 historic property located in the unincorporated portion of a county.

43
44 **Exterior Architecture/Feature:** The character and composition of the exterior of the
45 structure, including but not limited to the kind, color, and texture of the building material,
46 and the type, the elements and components of the outer surface of a structure including
47 windows, doors, light fixtures, signs, fences, hitching posts, decorations, chimneys, false
48 fronts, parapets, flag poles, landscaping, retaining walls, and related materials.

1 **Historic District** is a group of historic resources, consisting of three (3) or more principal
2 use structures or appropriately zoned tract of ground five (5) acres or larger which are
3 significant as a cohesive unit and contribute to the historical, architectural, archaeological
4 or cultural values of the city, county, state, or nation which is so designated by the City
5 Commission. Historic district includes all state and national registered districts provided
6 the owner(s) of record consents in writing to the inclusion.

7
8 **Historic Landmark** is a historic resource that has been designated, with the written
9 consent of the owner(s) of record, as having historical, architectural, archaeological, or
10 cultural importance or value which the City Commission determine shall be protected,
11 enhanced and preserved in the interest of the culture, prosperity, education and welfare of
12 the public. Historic landmark may also include the interior of a structure with written
13 consent from the owner(s) of record. Historic landmark includes all state and national
14 registered structures provided the owner(s) of record consents in writing to the inclusion.

15
16 **Historic Replication:** The reconstruction of structural elements, which substantially
17 matches and was based on documentation of the shape and size but may be made of
18 different materials or methods used in the original construction.

19
20 **Historic Resource:** is a site, land area, building, structure or object, including
21 appurtenances and environmental setting, which has historical, cultural, aesthetic,
22 architectural and/or archaeological significance, or is a site, land area, building, structure,
23 or object with potential importance or value.

24
25 **Historic Restoration:** The accurate reconstruction of structural elements matching in
26 shape, size, texture and color, the original construction method and material, is including
27 removal of materials that are not appropriate to the structure that returns a building to a
28 particular point in time, the time of its historical significance.

29
30 **Kansas Register/State Register:** The current State Register of Historic Places as
31 prepared, approved, and amended by the State Historic Sites Board of Review and
32 authorized by K.S.A. 75-2701, et seq., as may be amended.

33
34 **Local Register Landmark:** A district, site, structure or object designated as a landmark
35 by ordinance of the City Commission deemed worthy of preservation because of its
36 historic, archaeological and/or architectural significance to the city, state or nation.

37
38 **National Register:** The current National Register of Historic Places established by the
39 National Preservation act of 1966, 80 Stat. 915.16 U.S.C. 470 et seq., as may be
40 amended.

41
42 **Normal maintenance/repair:** Any work designated to correct damage or deterioration
43 to the condition that existed prior thereto. "Normal maintenance" includes all work
44 performed by a property owner which does not require a development/building permit as
45 prescribed by the City's development/building regulations.

46
47 **Overlay Zoning:** Any zoning that functions in addition to the existing land use zoning,
48 as in the case of historic landmark or residential historic district zoning.

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

9
10 **Preservation Plan:** A document developed, adopted and implemented by the Landmarks
11 Commission that identifies trends affecting and impacting historic resources and provides
12 guidance for their preservation. The preservation plan will include a list of all historic
13 resources, historic landmarks and historic districts within Garden City. *The preservation*
14 *plan will be a component of the Comprehensive Plan for the City.*

15
16 **Preservation Program:** The overall program administered by the Landmarks
17 Commission that involves the implementation of the historic preservation ordinance, the
18 historic preservation plan, and all activities relating to the furtherance of historic
19 preservation in Garden City.

20
21 **Preservation Staff:** personnel assigned to provide staff services for the Landmarks
22 Commission.

23
24 **Property:** An area of land, undivided by a street, alley, railroad, stream or similar
25 physical feature, under common ownership or control, which is or will be occupied by
26 one structure or land use and any accessory structures and uses. A property could be
27 made up of one or more lots of record, one (1) or more portions of a lot or lots of record,
28 or any combination thereof. The term shall include landscape features.

29
30 **Site:** The location of a significant event, a prehistoric or historic occupation or activity,
31 or a building or structure, whether standing, ruined or vanished, where the location itself
32 possesses historic, cultural or archeological value.

33
34 **State Historic Preservation Officer or SHPO:** The person who has been designated by
35 law and by the Governor of the State of Kansas to administer the State Historic
36 Preservation Program. The SHPO may delegate some of his state law review
37 responsibilities to local Landmarks Commissions.

38
39 **State Review Board:** The Kansas Historic Sites Board of Review as established in
40 K.S.A. 75-2719a.

41
42 **Uniform Code for Building Conservation:** A national code adopted by the City of
43 Garden City that provides for more flexible code review for older and historic properties.

44
45 **Variance:** A variation from a specific requirement of the adopted design standards, as
46 applied to a specific structure of property.

47

1 **SECTION 70-52. GARDEN CITY, KANSAS, LANDMARKS COMMISSION.**

2 There is created and established a commission to be known as the “Garden City Landmarks
3 Commission” of the City of Garden City, Kansas. The Garden City Landmarks Commission
4 will hereafter be called the “Landmarks Commission.”

5 (a) **Scope of Duties.** The duties of the Landmarks Commission are to advise and
6 make recommendations to the City Commission on historic resources and to look after the
7 architectural and cultural heritage of the community through the preservation of historic
8 landmarks and historic districts. The Landmarks Commission’s duties shall include
9 identification, documentation and designation of historic resources, preparation of a historic
10 preservation plan, and administration of ordinances governing the designation, alteration, and
11 removal of historic resources. The commission may carry out its duties by such additional
12 actions as coordinating public and private historic preservation activities within the community,
13 by assisting with educational programs, economic development, and tourism, and by carrying out
14 other related programs necessary to the preservation of the community’s historic resources.

15 (b) **Members.** The Landmarks Commission shall be composed of seven (7)
16 Garden City residents appointed by the City Commission. All members
17 shall have interest, knowledge, or training in preservation related fields.
18 Three (3) members shall represent preservation related professions as
19 recognized by the National Park Service. Appointments shall be for a
20 term of three (3) years, except that the first Landmarks Commission shall
21 be appointed as follows: (i) three (3) for three (3) year terms, (ii) two (2)
22 for two (2) year terms and (iii) two (2) for one (1) year terms. Members
23 shall serve until their successor has been appointed. Vacancies shall be
24 filled by appointment as above for the remainder of the unexpired term.

25 (c) **Officers.** The Landmarks Commission shall elect a chairperson and one
26 (1) vice-chairperson from its members.

27 (d) **Meetings.** The Landmarks Commission shall meet at least once each
28 quarter with additional meetings upon call by the Chairperson or upon
29 petition of a majority of the members. All meetings shall be open to the
30 public and notification shall be given in the Official Newspaper and to
31 those who request notification. Unless otherwise required herein, four (4)
32 members present constitute a quorum for the transaction of business.

1 (e) **Jurisdiction.** The ordinance shall apply to the City of Garden City
2 corporate limits as it may be amended from time to time.

3 (f) **Committees and Subcommittees.** The Landmarks Commission may establish
4 through its By Laws such committees as deemed necessary or convenient to carry out the various
5 functions and duties of the Commission. The Chairperson of the Commission may appoint a
6 subcommittee of four (4) of its members to review application for a certificate of appropriateness
7 for all types of actions except demolitions when delay to the next regular meeting would create
8 an unnecessary hardship to the applicant. A certificate of appropriateness relating to any
9 construction, alteration, or removal affecting a significant exterior architectural or historical
10 feature as specified in the ordinance designating the landmark or historic district may be issued
11 prior to the next regular meeting upon the signatures of all but one of the members of that
12 subcommittee. This subcommittee may issue a certificate of appropriateness for the
13 reconstruction of any structure when such work substantially reproduces the existing design and
14 is performed in the existing material to prevent unnecessary delay(s) in construction. Any
15 actions taken by the sub-committee will be reported at the next scheduled Landmarks
16 Commission meeting by the sub-committee chairperson.

17 (g) **Staff of the Landmarks Commission.** The Planning & Community
18 Development Department shall be responsible for the administration of this ordinance and
19 performing staff administrative functions for the Landmarks Commission. The Department is
20 authorized to develop such application forms and procedures consistent with this ordinance, and
21 to enforce its provisions. The staff may issue a Certificate of Appropriateness Minor for repairs
22 authorized by the Landmarks Commission or for non-registered properties, which have no
23 adverse impact on historic properties and report the same to the Landmarks Commission at their
24 next meeting.

25 (1) The Department Director or designated representative shall review all
26 development permit applications and other pertinent information to
27 determine if a landmark property or district may be affected by a proposed
28 project. If so, the director shall follow the procedure to begin a review
29 process in accordance with the provisions of this ordinance. The director
30 shall forward the Landmarks Commission recommendations to the City
31 Commission, record and file all landmark designations, and cause to be
32 maintained the Map of Landmarks and keep all agendas, minutes, reports,

1 findings, determinations, and correspondence for the Landmarks
2 Commission. The applicant may refer applications that cannot be
3 approved by the director to the Landmarks Commission.

4 (2) **Fees.** The City Commission shall set fees. Fees shall be set for the
5 following activities: Nomination of a property to the local, registry only;
6 request for a variance from the provisions of this ordinance; and application to
7 appeal a denial of a Certificate of Appropriateness for the improvement or
8 demolition as indicated in the development permit application.

9 (3) **Enforcement.** The Director, upon discovery that a demolition or
10 improvement to a property is being made without review of, or contrary to,
11 an appropriate development permit, shall issue a notice to cease such
12 activity to the owner and shall take all appropriate measures to prevent
13 such unlawful act. Such notice shall explain the nature of the violation in
14 clear terms and shall allow the owner to give satisfactory evidence that the
15 action will be corrected within thirty (30) days or that appropriate action to
16 comply with the provisions of this ordinance will be initiated. Failure to
17 comply may result in prosecution of a violation in municipal court, and
18 may also result in the City taking corrective action to abate the offense and
19 assess the costs of such abatement to the owner. Such notice and order
20 may be appealed as provided in subsection (g)(6); however, the alleged
21 violating work shall cease until the matter is finally resolved. The City
22 may pursue any and all other available legal remedies to correct a violation
23 of this ordinance, including injunctive relief.

24 (4) **Abatement Assessment of Costs.** If the City has filed proper notice and the
25 time has elapsed for the correction by the owner, the City may take corrective
26 action as necessary. Any and all costs of abatement incurred by the City
27 under the provisions of this article shall be assessed against each lot or piece
28 of ground, chargeable therewith as an assessment, and the City Clerk shall
29 certify the assessment to the County Clerk for collection as other special
30 assessments are collected.

31 (5) **Penalties.** Any person violating any of the provisions of this ordinance shall
32 be guilty of a Class C violation, each day or portion thereof constituting a

1 separate offense. In addition to any penalty provided by Section 1-8, the
2 municipal court judge may also order abatement of any condition, or cessation
3 of any act found to be in violation of this ordinance.

4 (6) *Appeals.* Any property owner aggrieved by the administration and
5 enforcement of this ordinance may appeal to the Landmarks Commission.
6 Any decision of the Landmarks Commission may be further appealed to the
7 City Commission. The Landmarks Commission and the City Commission
8 shall act in a quasi-judicial capacity when deciding appeals. They shall make
9 specific findings of fact and derive conclusions from such findings. All
10 rulings by the City Commission shall be final and binding on all parties unless
11 appealed to, and overturned by, the district or appellate court.

12 (7) *Variances.* Any property owner (or authorized representative) may apply for
13 a variance from specific standards or guidelines for historic preservation as set
14 and amended by the United States Secretary of the Interior Department or as
15 provided by the Landmarks Commission of the City.

16 (8) *Maintenance.* Normal property maintenance shall be exempt from the
17 provisions of this ordinance, unless and/or until a development permit is
18 required by other City development regulations.

19
20 **SECTION 70-53. LANDMARKS COMMISSION. FUNCTIONS AND DUTIES.**

21 The landmarks Commission shall have the following functions:

22 (a) The Landmarks Commission shall familiarize itself with the historic resources
23 within the community and those, which may be eligible for designation as historic landmarks or
24 historic districts and shall administer the identification, documentation and designation of such
25 historic landmarks and historic districts, and shall present verification of significance to the Area
26 Planning Commission and the City Commissioners.

27 (b) The Landmarks Commission using the criteria identified herein shall determine
28 whether certain buildings, structures, land areas, and interiors of historic landmarks and with
29 owner consent) should be locations or elements designated as historic landmarks or historic
30 districts.

1 (c) The Landmarks Commission shall administer certificate of appropriateness review
2 according to design criteria as defined to determine whether to grant or deny approval of
3 proposed undertakings.

4 (d) The Landmarks Commission shall review and comment on projects, which may
5 be determined to pose a threat to an archaeological site as, listed on the master file of all recorded
6 archaeological sites in Kansas, maintained by the Kansas State Historical Society.

7 (e) The Landmarks Commission may suggest sources of funds for preservation and
8 restoration activities or acquisition, to include federal, state, municipal, private and foundation
9 sources.

10 (f) The Landmarks Commission may recommend incentives to the City Commission
11 for preservation.

12 (g) If the Landmarks Commission finds that certain historic resources cannot be
13 preserved without acquisition, the Landmarks Commission may recommend to the City
14 Commissioners that the fee or a lesser interest in the property be acquired by gift, or purchase,
15 using funds or facilities available for preservation or restoration.

16 (h) The Landmarks Commission shall annually review the status of designated
17 historic landmarks and residential/commercial historic districts and include in the Landmarks
18 Commission minutes, a report of such review.

19 (i) The Landmarks Commission shall make and adopt a historic preservation plan
20 and review and update the plan as needed. The plan may include a list of historic resources,
21 which may not have attained the status of a historic landmark or as historic district. Within
22 twenty (20) days of a resource listing determination by the Landmarks Commission, the
23 following shall be provided and administered by the preservation staff:

24 (1) Property owners of those sites and structures, which are listed as historic
25 resources, shall be notified of such listing by first class mail.

26 (2) Property owners of historic resources shall be provided the opportunity to
27 concur, or not to concur, with the inclusion of their property in the listing.

28 (3) Notice of the listing of a property as a historic resource shall be filed with the
29 Register of Deeds Office in Finney County and recorded as an official notice
30 to subsequent property owners.

1 (j) The Landmarks Commission may implement a receivership program for
2 conservation easement donations for the purpose of historic preservation. Such easements shall
3 be held by the city and monitored by the Landmarks Commission.

4 (k) The Landmarks Commission may recommend programs and legislation to the
5 City Commissioners to encourage historic preservation in the City of Garden City.

6 (l) The Landmarks Commission, upon request of the property owner, may
7 assist in the preparation of National and/or State Register nominations.

8 (m) The Landmarks Commission, upon request of the property owner, may
9 render advice and guidance with respect to any proposed work on a
10 historic resource.

11

12 **SECTION 70-54. HISTORIC LANDMARK DESIGNATION.** The City
13 Commission may designate certain historic resources as local historic landmarks or local historic
14 districts. The City Commission shall designate historic resources. Such appointment shall
15 amend the designation established in the “2000-2015” Garden City Comprehensive Plan and be
16 known as historic places in Garden City. The Map of Historic Places in Garden City shall be
17 maintained and filed for public information and use in the offices of Planning and the City Clerk.

18

19 **SECTION 70-55. HISTORIC LANDMARK DESIGNATION CRITERIA.**

20 (a) In the designation of buildings, structures, locations, elements, and objects as
21 historic landmarks certain criteria must be met. These properties must be fifty (50) years or
22 older. In addition, the property must meet one or more of the following criteria:

23 (1) possesses integrity of location, design, setting, materials and
24 workmanship.

25 (2) is associated with events that have made a significant contribution to the
26 broad pattern of history of the city, county, state or nation;

27 (3) is associated with a significant person or group of persons in the history of
28 the city, county, state or nation;

29 (4) embodies distinctive characteristics of a type, period, or method of
30 construction; represents the work of a master builder/architect; possesses
31 high artistic values; or represents a distinguishable entity whose
32 components may lack individual distinction, or

- 1 (5) yields or is likely to yield information important in prehistory or history;
2 (b) Properties less than fifty (50) years old may be eligible for designation provided they
3 are of extreme historical significance. All other criteria listed herein shall apply.
4

5 **SECTION 70-56. HISTORIC DISTRICT DESIGNATION CRITERIA.** In the
6 designation of buildings, structures and objects as historic districts certain criteria must be met.
7 The historic resources within the historic district must be located on appropriately zoned property
8 and must be fifty (50) or more years old. In addition, the historic resources must meet one or
9 more of the following criteria:

- 10 (a) are associated with events that have made a significant contribution to the broad
11 pattern of history of the city, county, state or nation;
12 (b) are associated with a significant person or group of persons in the history
13 of the city, county, state or nation;
14 (c) embody distinctive characteristics of a type, period, method or
15 construction; represent the work of a master builder/architect; possess high
16 artistic values; or represent a distinguishable entity whose components
17 may lack individual distinction;
18 (d) yield or are likely to yield information in prehistory or history; or
19 (e) possess integrity of location, design, settings, materials and workmanship.
20 (f) the boundaries of contiguous historic districts shall be drawn so as to
21 include all buildings, structures, sites, objects or land areas which meet
22 one or more of the criteria set out herein or which directly affect or relate
23 to such buildings, structures, sites, objects or land areas meeting one or
24 more of the above criteria, provided that at least seventy-five (75%)
25 percent of the total structures within the boundaries are of architectural,
26 historical, archaeological, or cultural importance or value as determined by
27 the Landmarks Commission.
28

29 **SECTION 70-57. PROCEDURE FOR DESIGNATION OF HISTORIC**
30 **LANDMARK AND HISTORIC DISTRICT.** An application for historic landmark and
31 residential historic district designation requires the following procedures:

1 (a) A Historic Landmark or Historic District nomination form, accompanying
2 material, and for historic districts, historic district preservation guidelines as defined herein, shall
3 be submitted to the Preservation Staff.

4 (b) Upon receipt of such nomination, a hearing by the Landmarks Commission will
5 be scheduled either at its regular meeting or at a special meeting, provided that notice of the
6 meeting shall be published twenty (20) days prior to the date of such hearing. For the purposes
7 of holding a hearing to consider designation of a historic landmark or historic district, four (4)
8 members of the Landmarks Commission shall constitute a quorum. The owner or owners of
9 record of any parcel on which a proposed historic landmark is situated or which is a part of a
10 proposed historic district shall be mailed written notice at least twenty (20) days prior to the
11 hearing relating to the designation of such proposed historic landmark or historic district, the
12 amendment to any designation thereof, or the proposed reduction of any designation or the
13 amendment thereto. Owner(s) consent to the historic landmark or historic district designation is
14 a requirement for such designation to occur. The Landmarks Commission shall afford a full and
15 fair hearing to all interested persons. The Landmarks Commission may solicit expert testimony
16 regarding the historic and architectural importance of the historic resource(s) under consideration
17 for designation. All interested persons may appear in person or by representative and present
18 evidence or comment. The Landmarks Commission shall make its decision regarding the
19 designation within a reasonable time, no later than fifteen (15) days following the close of the
20 hearing. In the event a member of the Landmarks Commission shall make application, evidence
21 shall be presented in the same manner as all other persons and the Landmarks Commission
22 member shall not vote on the matter contained in the application. Four (4) affirmative votes
23 shall be required to constitute a recommendation of approval on any nomination application
24 presented to the Landmarks Commission.

25 (c) After consideration and recommendation by the Landmarks Commission, the
26 application shall be submitted to the Preservation Staff. The following is required as part of the
27 designation application:

- 28 (1) the Landmarks Commission recommendation,
- 29 (2) legal description and map of the boundaries of the proposed designation,
- 30 (3) completed Historic Landmark or Historic District nomination form and
31 accompanying materials,
- 32 (4) applicable historic district preservation guidelines as defined herein; and

1 (5) a list of property owner(s) of record.

2 (d) The designation shall be placed on the next possible Area Planning Commission
3 meeting agenda for public hearing to consider historic landmark or historic district designation.
4 The same public notices and public hearing as required by law in a zoning case shall be observed.
5 The owner or owners of record of any parcel on which a proposed historic landmark is situated or
6 within a proposed historic district as well as all property owners of record within two-hundred
7 (200') feet for a local historic landmark or local district designation or five-hundred (500') feet
8 for a State or National designation will be notified of the hearing by first class mail. At the
9 conclusion of its hearing, the Area Planning Commission shall set forth in writing its findings as
10 to whether the designation is consistent with adopted plans and shall transmit such findings to the
11 Governing Body.

12 (e) After notice and public hearing as required by law in a zoning case, a historic
13 landmark or historic district may be created by ordinance by the Governing Body. Upon passage
14 of such ordinance, a certified copy shall be filed with the Finney County Register of Deeds
15 Office.

16 (g) Upon approval of a historic landmark or residential historic district
17 designation ordinance by the Governing Body, the Community
18 Development Department of the City shall cause the official designation
19 and delineation of the property or properties involved.

20

21 **SECTION 70-58. NOMINATION.**

22 (a) The process is initiated when a historic landmark or historic district
23 nomination form is accompanied by the following information and
24 submitted to the Landmarks Commission. The City Clerk shall retain
25 copies of the nomination form. The nomination form shall include:

26 (1) a description of the specific historic resource nominated as a historic
27 landmark or a list of specific historic resources located within the
28 proposed district boundaries and a description of the particular importance
29 of or value of each such historic resource, such description to include the
30 following:

- 31 • approximate date of construction, and dates of major alterations, if
32 known,

- 1 • builder and/or architect, if known,
- 2 • architectural style,
- 3 • primary building materials,
- 4 • current owner of record, and
- 5 • legal description of each property.
- 6 (2) a map showing the boundaries of the proposed historic district and the
- 7 location of each structure of importance or value identified by a number or
- 8 letter designation;
- 9 (3) sufficient photographs of each historic resource proposed as a historic
- 10 landmark or historic resources listed within the historic district;
- 11 (4) written consent to the nomination by all of the owners of record of the
- 12 proposed historic landmark. In the event of a contract sale, both the
- 13 owner of record and the party or parties holding an equitable interest in the
- 14 property must consent to the nomination.
- 15 (5) For a historic district, fifty-one (51%) percent of owners of record within
- 16 the proposed historic district must provide written consent. In the event
- 17 of a contract sale of real property, both the owner of record and party or
- 18 parties holding an equitable interest in the property must consent to the
- 19 nomination.
- 20 (b) Applications to increase the boundaries of a historic district may be made
- 21 if one or more of the following conditions are met:
- 22 (1) when additional historic resources which relate to the historic district are
- 23 requested for inclusion.
- 24 (2) when facts previously undisclosed to or unknown by the Landmarks
- 25 Commission are revealed which indicate that a particular historic building
- 26 or site is possessed of special architectural, archaeological, or cultural
- 27 character, or economic viability to the district.
- 28 (c) Applications to reduce the boundaries of a historic district may be made when one
- 29 ore more of the following conditions have been met:
- 30 (1) when it can be shown that a particular historic building, structure, site,
- 31 object or land area has no historic, architectural, archaeological, or cultural
- 32 importance or value to the viability of the historic district.

1 (2) when it can be shown that no physical, historical, architectural,
2 archaeological or cultural degradation will result from exclusion of the
3 property from the district.
4

5 **SECTION 70-59. HISTORIC DISTRICT NOTIFICATIONS.** Upon approval of a

6 historic district by the appropriate governing body, property owners located within the district
7 may not elect to exempt their property from the requirements of the historic district. In the event
8 of a contract sale of real property, both the owner of record and party or parties holding an
9 equitable interest in the property must notify the potential owner of the status of the historic
10 district.

11
12 **SECTION 70-60. HISTORIC DISTRICT PRESERVATION GUIDELINES.** The

13 Landmarks Commission shall, upon such investigation as it deems necessary, make a
14 determination as to whether a nominated site, structure, object or area possesses significant
15 historical, archeological and/or architectural qualities for designation pursuant to one or more of
16 the following criteria:

- 17 (a) Its character, interest, or value as part of the development, heritage or cultural
18 characteristics or the community, county, state, or nation;
- 19 (b) Its location as a site of a significant local, county, state, or national event;
- 20 (c) Its identification with a person or persons who significantly contributed to the
21 development of the community, county, state, or nation;
- 22 (d) Its embodiment of distinguishing characteristics of an architectural style valuable for
23 the study of a period, type, method of construction, or use of indigenous materials;
- 24 (e) Its identification as a work of a master builder, designer, architect, or landscape
25 architect whose individual work has influenced the development of the community,
26 county, state, or nation;
- 27 (f) Its embodiment of elements of design, detailing, materials, or craftsmanship that
28 render it architecturally significant;
- 29 (g) Its embodiment of design elements that make it structurally or architecturally
30 innovative;
- 31 (h) Its unique location or singular physical characteristics that make it an established or
32 familiar visual feature;

- 1 (i) Its character as a particularly fine or unique example of a utilitarian structure,
2 including, but not limited to farmhouses, gas stations, or other commercial structures,
3 with a high level of integrity or architectural significance;
- 4 (j) Its location as a site of prehistoric or historic occupation or activity possessing
5 significant archeological value.

6
7 **SECTION 70-61. HISTORIC DISTRICT DESIGNATION ADMINISTRATIVE**
8**REQUIREMENTS.** The following shall apply:

9 (a) When the Landmarks Commission considers an area as a possible historic district,
10the Landmarks Commission shall, prior to rendering its final recommendation, submit the
11nomination package including district preservation guidelines to the appropriate city departments
12and other public agencies directly affected.

13 (b) In addition, the Landmarks Commission shall, at the time of notice of hearing
14make the historic district preservation guidelines available to all landowners in the proposed
15historic district.

16 (c) Landmarks Commission approved graphics for designated historic
17 resources within a historic district may be made available to the owners of
18 designated structures.

19
20 **SECTION 70-62. CERTIFICATE OF APPROPRIATENESS REVIEW.** The
21following procedures and requirements shall apply to certificate of appropriateness review:

22 (a) A permit for any project as defined herein affecting a designated historic landmark or
23 any property within a designated historic district and environs shall not be issued to
24 any applicant by the Community Development Department of the City unless an
25 application for a Certificate of Appropriateness has first been reviewed and approved
26 by the Preservation Staff, by the Landmarks Commission and, if a protest is filed by
27 the City Commissioners. Projects, which will or have the potential, to damage or
28 destroy historic features of a historic landmark or a historic resource, which is located
29 within a residential historic district and environs, shall be subject to a certificate of
30 appropriateness review.

31 (b) When applying for a certificate of appropriateness, the applicant shall provide plans,
32 specifications or other documentation pertaining to the work as required with the

1 Landmarks Commission's adopted application forms. A complete certificate of
2 appropriateness application and accompanying materials shall be submitted to the
3 preservation staff for review of the application and determination if the proposed
4 work is a major or minor project.

5 (c) When reviewing any project for a Certificate of Appropriateness the following
6 standards shall be utilized:

7 *Standards for Rehabilitation.*

8 (1) A property shall be used for its historic purpose or be placed in a new use
9 that requires minimal change to the defining characteristics of the building
10 and its site and environment.

11 (2) The historic character of a property shall be retained and preserved. The
12 removal of historic materials or alternation of features and spaces that
13 characterize a property shall be avoided.

14 (3) Each property shall be recognized as a physical record of its time, place
15 and use. Changes that create a false sense of historical development, such
16 as adding conjectural features or architectural elements from other
17 buildings, shall not be undertaken.

18 (4) Most properties change over time; those changes that have acquired
19 historic significance in their own right shall be retained and preserved.

20 (5) Distinctive features, finishes, and construction techniques or examples of
21 craftsmanship that characterize a historic property shall be preserved.

22 (6) Deteriorated historic features shall be repaired rather than replaced.
23 Where the severity of deterioration requires replacement of a distinctive
24 feature, the new feature shall match as closely as possible the old in
25 design, color, texture, and other visual qualities, and, where possible,
26 materials. Replacement of missing features shall be substantiated by
27 documentary, physical, or pictorial evidence.

28 (7) Chemical or physical treatments, such as sandblasting, that cause damage
29 to historical materials shall not be used. The surface cleaning of
30 structures, if appropriate, shall be undertaken using the gentlest means
31 possible.

1 (8) Significant archeological resources affected by a project shall be protected
2 and preserved. If such resources must be disturbed, mitigation measures
3 shall be undertaken.

4 (9) New additions, exterior alterations, or related new construction shall not
5 destroy historic materials that characterize the property. The new work
6 shall be differentiated from the old and shall be compatible with the
7 massing, size, scale, and architectural features to protect the historic
8 integrity of the property and its environment.

9 (10) New additions and adjacent or related new construction shall be
10 undertaken in such a manner that if removed in the future, the essential
11 form and integrity of the historic property and its environment would be
12 unimpaired.

13 (d) The Landmarks Commission and/or the appropriate subcommittee shall review the
14 application and recommend approval, approval with conditions, or denial within thirty
15 (30) days of the receipt of the application. A fifteen (15) day period for written
16 comments regarding the project shall be provided prior to the Landmarks
17 Commission's hearing. These written comments shall be directed to the Landmarks
18 Commission. If the application is approved, and provided that a protest is not filed
19 within five (5) business days following the approval of the application, preservation
20 staff shall issue a copy of the certificate of appropriateness to the applicant and
21 provide a copy to the Community Development Department of the City and the
22 applicant. If an appeal is filed by the applicant or any interested party with the
23 preservation staff within five (5) business days of the Landmarks Commission's
24 and/or the appropriate subcommittee action, the certificate of appropriateness shall
25 not be issued until the City Commission holds a public hearing regarding the
26 application. This public hearing shall be at the next available meeting of the
27 Governing Body. For the purpose of this section, interested party shall mean an
28 individual or individuals with a legally recognized interest in the real property located
29 within the subject historic district.

30 (e) A certificate of appropriateness for a minor project shall be reviewed and approved or
31 denied by the preservation staff. If approved, the preservation staff shall provide a
32 certificate of appropriateness to the applicant and provide a copy of documented

1 approval to the Community Development Department of the City. An appeal from a
2 denial of an application for a minor project may be filed with the preservation staff
3 within five (5) business days. A public hearing on the appeal shall be at the next
4 available meeting of the Governing Body.

5 (f) Ordinary maintenance and repair not otherwise subject to a permit or restricted by the
6 historic preservation guidelines may be carried out without a certificate of
7 appropriateness.

8 (g) If the preservation staff and/or the Landmarks Commission have taken no action
9 within thirty (30) days for major projects and within fifteen (15) days for minor
10 projects after date of receipt of the completed application, the permit may be applied
11 for with the Community Development Department of the City.

12 (h) No significant change shall be made in the work defined in the certificate of
13 appropriateness application after issuance of a certificate of appropriateness without
14 resubmittal and approval thereof in the same manner provided herein.

15 (i) A certificate of appropriateness may be re-filed provided the request addresses the
16 concerns stated by the Governing Body in its decision.

17

18 **SECTION 70-63. HISTORIC LANDMARK AND HISTORIC DISTRICT –**
19**DEMOLITION AND MOVING PERMITS.**

20 (a) If an application is received by the Community Development Department of the
21 City for demolition or moving of any historic landmark or structure within a historic district the
22 applicant shall be referred to the preservation staff for a certificate of appropriateness application.
23 Review of such application for a certificate of appropriateness shall be as provided herein.

24 (b) For a project which involves demolition of a historic landmark property or
25 properties within a historic district or national and state registered properties, the proponents of
26 such project shall, before doing any of the demolition or work in furtherance of such project,
27 whether or not a building or other permit is required to be obtained to do such demolition work,
28 file an application for a certificate of appropriateness for review as provided herein.

29 (c) After review of certificate of appropriateness and, upon the recommendation of
30 the Landmarks Commission, the Governing Body shall hold a hearing within thirty (30) days of
31 the Landmarks Commission's recommendation. In addition to the recommendation of the
32 Landmarks Commission the Governing Body shall consider the state of repair of the building, the

1reasonableness of the cost of restoration or repair, owner hardship, the purpose of preserving the
2designated historic landmark or structure within a historic district, alternatives presented by
3interested parties, the character of the neighborhood, the economic consequences to the City and
4the affected owner(s), and all other factors which it finds appropriate. The owner(s) of the
5historic landmark or owner(s) of the structure within the historic district shall bear the burden of
6proof demonstrating hardship.

7 (d) The Governing Body may approve the certificate of appropriateness, or deny the
8certificate of appropriateness if it determines that feasible alternatives to demolition or moving of
9the historic landmark or structure within the residential historic district exist and that in the
10interest of preserving historical values, the historic landmark or structure within the historic
11district should not be demolished or moved.

12 (e) In the event of an “emergency” demolition of a historic landmark or a structure
13within a historic district, the Community Development Department of the City shall notify the
14preservation staff as soon as possible.

15 (f) The Landmarks Commission shall in the case of a historic resource
16 suggest to the owner of the property alternatives to demolition, or if
17 demolition is the conclusive alternative, the Landmarks Commission shall
18 document or cause to be documented the historic resource with
19 photographs and/or measured drawings.

20 (g) The Community Development Department office shall notify the
21 Landmarks Commission in the event a permit for demolition is requested
22 for a historic resource.

23

24 **SECTION 70-64. REVIEW OF DEMOLITION BUILDINGS AND MOVING**
25**PERMITS – HISTORIC RESOURCES.** An application to the Community Development
26Department of the City for a demolition or moving permit shall require notification to
27preservation staff if the permit is for a historic resource determined by preservation staff to have
28potential for local landmark designation. These resources shall be fifty (50) years or older and
29meet one or more of the criteria for landmark designation described herein. The following
30procedure applies:

31 (a) Demolition and moving permit applications for buildings or structures listed as
32historic resources will be reviewed by preservation staff.

1 (b) Preservation staff may make the determination that a building, site or structure
2 threatened with demolition or removal meets the criteria for landmark designation.

3 (d) If a building, site or structure is determined by the preservation staff to
4 meet criteria for historic landmark designation, a written notice shall be
5 sent by certified mail to the owner or owners of such building, site or
6 structure. Said notice shall describe the property which meets historic
7 landmark criteria including its location and boundaries and justification of
8 its historic or architectural significance. The respective administrator
9 shall also deliver the notice to the Community Development Department
10 of the City with acknowledgement of receipt.

11 (e) Following application for a moving or demolition permit for a listed
12 historic resource, a thirty (30) day delay shall occur prior to the issuance of
13 the requested moving or demolition permit in order for alternatives to be
14 explored with the owner by Landmarks Commission staff.

15 (f) During such period, no permit shall be issued unless for emergency public
16 safety reasons, or a certificate of appropriateness has been issued.

17 (g) After the delay, if demolition of the historic resource is the conclusive
18 alternative, the Landmarks Commission shall direct staff to document the
19 resource with photography, and/or measured drawings for record purposes.
20

21 **SECTION 70-65. HISTORIC LANDMARK AND HISTORIC DISTRICT –**

22 **DEMOLITION BY NEGLIGENCE.** In the event of demolition by neglect of a historic landmark
23 or structure within a historic district on public or private property, the following provisions shall
24 apply:

25 (a) If a historic landmark or a property within a historic district has been
26 determined by the Landmarks Commission to be the subject of demolition
27 by neglect, the Landmarks Commission or preservation staff shall provide
28 the owner of record with a written notice specifying the conditions of
29 deterioration and the minimum items of repair or maintenance necessary to
30 correct or prevent further deterioration.

31 (b) Such notice shall be sent by certified mail, return receipt requested,
32 addressed to the owner of the property, contract purchaser, if applicable, at

1 his or her last known address, or the address shown on the real property
2 tax records in the County Clerk's Office. Such notice, when so addressed
3 and deposited with the Postal Service with proper postage prepaid, shall be
4 deemed complete and sufficient. In the event that notification cannot be
5 accomplished, as aforesaid, after reasonable efforts, notice shall be
6 accomplished by posting a public notice on the property. A copy shall
7 also be provided to the Community Development Office.

8 (c) The notice shall provide that corrective action shall commence no later
9 than thirty (30) days from the receipt or posting of said notice, unless the
10 Landmarks Commission grants an extension. The owner or contract
11 purchaser, if applicable, shall demonstrate continual progress and all
12 repairs shall be completed within a reasonable period of time. The notice
13 shall state that the owner(s) of record of the subject property may within
14 ten (10) days request a hearing before the Landmarks Commission
15 challenging the finding of demolition by neglect and/or the notice to
16 repair. If such request for a hearing is received within this time period, a
17 hearing will be at the next regular meeting of the Landmarks Commission.
18 The Landmarks Commission shall review all evidence of demolition by
19 neglect at the scheduled hearing.

20 (d) In the event that the Landmarks Commission finds that, notwithstanding
21 the necessity for such improvements, corrective action would impose a
22 substantial hardship on the owner or any or all persons with any right or
23 title in the subject property, then the Commission shall establish a period
24 of forty-five (45) days and direct preservation staff to seek alternative
25 methods to preserve the historic landmark or property located within a
26 historic district.

27 (e) If no alternative is found to preserve the structure without undue hardship
28 to the owner, and any or all persons with any right or title in the subject
29 property and the structure is determined a threat to human safety and is in
30 violation of City Code, a demolition permit may be issued.

31

1 **SECTION 70-66.** **PENALTY.** It is unlawful to construct, reconstruct, structurally
2alter, remodel, renovate, restore, demolish, deface, move or maintain any historic landmark in
3violation of the provisions of this Ordinance. Any person violating any of the provisions of this
4Ordinance shall be guilty of a Class C violation, each day or portion thereof constituting a
5separate offence. In addition to other remedies, the City may institute any appropriate action or
6proceedings to prevent such unlawful construction, restoration, demolition, moving or
7maintenance to restrain, correct or abate such violation. In addition, the Landmarks Commission
8may determine it appropriate to request the State Historic Preservation Officer seek assistance
9from the State Attorney General if the violation is such that the loss of the historic property is
10immediate or near immediate. The State Attorney General may invoke a penalty up to
11\$25,000.00 for failing to obtain the required building permit before pursuing a project that would
12encroach upon, damage or destroy any historic property included in the national register or
13historic places or the state register of historic places, or the environs of such property.

14

15 **SECTION 70-67.** **SEVER ABILITY.** If any section, subsection, subdivision,
16paragraph, sentence, clause or phrase in this article or any part thereof, is for any reason held to
17be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision
18shall not effect the validity or effectiveness of the remaining portions of this chapter or any part
19thereof.

20

21 **SECTION 2.** **EFFECTIVE DATE.** That this ordinance shall be in full force and
22effect from and after its publication in the Garden City Telegram, the official City newspaper.

23 **PASSED AND APPROVED** by the Governing Body of the City of Garden City, Kansas,
24this 28th day of December 2001.

25

26

27

28

29

30**ATTEST:**

31

32

33

34_____
35**Jean E. Payne, CITY CLERK**

35

James E. Wharton, MAYOR

1 **APPROVED TO FORM**

2

3

4

5 **Randall D. Grisell, CITY ATTORNEY**

6

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