

ARTICLE IV. HISTORIC LANDMARKS AND HISTORIC DISTRICTS

DIVISION I. GENERALLY

Sec. 27-76. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adaptive use means the process of adapting a building to a use other than that for which it was designed, e.g., a piano factory being converted into housing or a mansion into offices. This may involve restoration and/or rehabilitation, and may be accomplished with varying changes to the appearance of a structure from minimal to major.

Day means any day other than a Saturday, Sunday or legal holiday; provided, however, that for the purposes of section 27-79, subsection (b) the term "day" means every day of the week.

Exterior architectural feature means the general arrangement and components of all of the outer surfaces of a building, structure, or object, including, but not limited to, the kind, color and texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building, structure or

object.

Historic, cultural or architectural significance means that quality present in districts, sites, buildings, structures and objects having integrity of location, design, setting, materials, workmanship, feeling and association and that:

(1) Is associated with events that have made a significant contribution to the broad patterns of our history; or

(2) Is associated with the lives of persons significant in our past; or

(3) Embodies the distinctive characteristics of a type, period or method of construction, or that represents the work of a master, or that possesses high artistic values, or that as a district represents a significant and distinguishable entity whose components may lack individual distinction; or

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

Historic district means a geographically definable area

possessing a substantial concentration, linkage or continuity of sites, buildings, structures or objects united associationally by historic events or physically by historic plan, historic design or historic development within a contiguous configuration of land, designated by the governing body as having particular historic, cultural or architectural significance, and limited in size to that reasonable area needed to sustain the integrity and to maintain the proper identification of the district.

Historic landmark means any single site, building, structure or object designated by the governing body as having particular historic, cultural or architectural significance.

Improvement means any building, structure, wall, fence, steps, paving, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.

Normal maintenance and repair means any work for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration or decay of or damage to a structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

Preservation means the application of measures designed to sustain the form and extent of a district, site, building, structure or object essentially as existing.

Rehabilitation means the process of returning a building, structure or object to a state of usefulness by repairs or alterations when its significance does not justify full restoration and when its condition or proposed use precludes preservation in its existing form.

Restoration means the process of accurately recovering, by the removal of later work and the replacement of missing earlier work, the form and details of a building, structure or object, together with its setting, as it appeared at a particular period of time.

(Code 1964, Sec. 2-26(2); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Cross reference - Definitions and rules of construction generally, Sec. 1-2.

Sec. 27-77. Policy

(a) The governing body finds and declares that the present and future economic and general welfare of the people of the city and of the public generally are founded on the contributions of the past. Many of these contributions are manifested in districts, sites, buildings, structures and objects which reflect the richness and diversity of the city's history by their design, association and integrity. The history so reflected includes the emigrant Indian tribes, the struggle against slavery, the railroads and the opening of the West, the Kansas Fever Exodus of 1879-1880, the development of major industries and the arrival of European immigrants, and all those factors attendant on the growth and development of a midwestern urban area.

(b) The governing body further finds that many historic properties have been lost through demolition and destructive rehabilitation, notwithstanding the feasibility of preserving and continuing the use of such properties and without adequate consideration of the irreplaceable loss to the people of the city of the historic, cultural and architectural values represented by such sites, buildings, structures and objects. In addition, distinct areas and districts may be similarly uprooted or may have their distinctiveness destroyed, although the preservation thereof may be both feasible and desirable. It is the sense of the governing body that the economic and general welfare of the city

cannot be maintained or enhanced by disregarding the historic, cultural and architectural heritage of the city and by countenancing the destruction of such assets.

(Code 1964, Sec. 2-26(1)(A); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-78. Purpose.

The purposes of this article are:

- (1) To identify, protect, enhance and perpetuate districts, sites, buildings, structures and objects which represent or reflect distinctive and important elements of the city's historic, cultural and architectural heritage.
- (2) To safeguard the city's historic, cultural and architectural heritage as embodied and reflected in such districts, sites, buildings structures and objects.
- (3) To stabilize and improve property values in such locations.
- (4) To encourage the conservation and preservation of neighborhoods having distinct historic, cultural or architectural characteristics.
- (5) To foster civic pride in the beauty and noble accomplishments of the past.

(6) To protect and enhance the city's attractions for tourists and visitors and provide incidental support and stimulus to business and industry.

(7) To strengthen the economy of the city.

(8) To promote the use of historic landmarks and historic districts for the culture, economy, education and welfare of the people of the city.

(9) To promote the safety, health, morals and general welfare of the city as a whole.

(Code 1964, Sec. 2-26(1)(B); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-79. Compliance, violations and penalty.

(a) It shall be unlawful for any person to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, raze, maintain, excavate, zone, place signs in or on any historic landmark or within an historic district in violation of the provisions of this article.

(b) In addition to other remedies, the city may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful construction, restoration, demolition, razing, maintenance, excavating, zoning or placement of a sign to restrain, correct or abate such violation.

(c) Any person violating any provision of this article

shall be guilty of a separate offense for each day or portion thereof during which any such violation is committed, continued or permitted, and each offense shall be punishable by a fine of not more than two hundred dollars (\$200.00).

(Code 1964, Sec. 2-26(8)(A)(2),(B); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-80. Enforcement.

The building official shall enforce this article.

(Code 1964, Sec. 2-26(3)(A)(1); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Secs. 27-81 - 27-94. Reserved.

DIVISION 2. LANDMARKS COMMISSION

Sec. 27-95. Created.

There is created a landmarks commission.

(Code 1964, Sec. 2-26(3)(A); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-96. Membership.

(a) The landmarks commission shall be composed of seven (7) members who shall occupy positions to be numbered one (1) through (7). The members shall be residents of the city at the time of their appointments and thereafter for the duration of their terms. The members of the commission shall at all times include one (1) architect, one (1) real estate broker or appraiser, one (1) officer of a mortgage lending institution, and one (1) person with training or experience

specifically in history, architectural history, or historic preservation. The terms of the seven (7) positions shall be as follows and the members occupying the positions shall be appointed by the mayor or district council member set out adjacent to each position below:

Position

No. Term

Council Member

7 June 1, 1981 to May 31, 1984 Mayor

(b) Thereafter, members appointed to each position shall serve for terms of three (3) years. All appointments shall be made by and with the consent of the governing body. Any vacancies hereafter occurring in any position shall be filled by appointment for the unexpired term in the same manner as the original appointment to the vacated position was made. Incumbent appointees hereafter appointed shall serve until their successors are appointed. All members shall serve without compensation. Failure to attend three (3) or more consecutive regular or special meetings shall result in an automatic forfeiture of the appointment. Notice of each appointment shall be filed with the city clerk.

(c) In addition, the city administrator or the administrator's designee shall serve as ex officio member without a vote, but shall provide such staff support as may from time to time be required.

(Code 1964, Sec. 2-26(3); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-97. Officers and meetings.

(a) The members of the landmarks commission shall select one (1) of their number as chairman and one (1) as vice-chairman, who shall serve one (1) year and until their successors have

been selected. All elections shall take place annually in June at the first meeting of the new commission.

(b) The members of the landmarks commission shall meet at least once a month at such time and place as they fix by resolution. Special meetings may be called at any time by the chairman or, in his absence, by the vice-chairman. A majority of the commission shall constitute a quorum for the transaction of business. The commission shall cause a proper record to be kept of its proceedings.

(c) The director of city planning shall serve as the secretary of the landmarks commission. The director shall serve without additional compensation and shall be authorized, on behalf of the landmarks commission, to make accurate, written summaries of all commission proceedings, to attest all resolutions properly passed by the commission, and to perform all duties otherwise provided by law.

(d) If the landmarks commission does not meet during the period of one (1) consecutive twelve-month span, its powers and duties are assigned to the city planning commission, and the landmarks commission is abolished; provided, that if the landmarks commission is abolished, the commission may be recreated, with new appointees, by resolution of the governing body.

(Code 1964, Sec. 2-26(4); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-98. Powers and duties.

(a) The landmarks commission may conduct investigations to determine the existence of, the identity of, and the location of districts, sites, buildings, structures and objects within the corporate limits of the city which should be safeguarded and preserved for posterity, and develop and maintain an inventory of the same.

(b) The landmarks commission shall recommend to the governing body the designation of districts, sites, buildings, structures and objects as historic landmarks and historic districts. The recommendations shall be made by a majority vote of the quorum present of the landmarks commission following a public hearing. Recommendations may be proposed by:

(1) The landmarks commission after its own investigation.

(2) The request of the property owner of a single

building, structure, site object, district or area.

(3) The request of any interested citizen, group of citizens, or organization of the city.

(c) The landmarks commission shall hold hearings on proposed recommendations at its regular monthly meeting.

(d) The landmarks commission may investigate potential sources of funds with which to accomplish its authorized objectives and advance the purposes herein stated; encourage the formation of foundations, trusts and other organizations for the advancement of such purposes and providing funds thereof; support and coordinate the efforts of any organizations dedicated to such purposes in acquiring real property or interest therein for use of such historic landmarks or historic districts as may be established.

(e) The landmarks commission may undertake any and all activities that affect or relate to the preservation of historic landmarks and historic districts, as so directed by the governing body by ordinance.

(f) The landmarks commission shall establish and promulgate rules and regulations relating to this article.

(Code 1964, Sec. 2-26(5); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Secs. 27-99 - 27-110. Reserved.

DIVISION 3. DESIGNATION OF

HISTORIC LANDMARKS

AND HISTORIC DISTRICTS

Sec. 27-111. Public hearing and recommendation.

(a) An application for designation of historic landmarks and historic districts shall be filed in accordance with the rules and regulations as established and promulgated by the landmarks commission. The application shall contain a legal description of the subject property or district, current photographs of the property or district adequate to portray its appearance and condition, and a statement describing the historic, cultural or architectural significance of such property or district, together with any pertinent supporting documentation and identification of contributing and noncontributing elements. After receipt of the application, a public hearing shall be held by the landmarks commission at the next regularly scheduled meeting, or by special meeting. Public notice of the hearing shall be published at least one (1) time in the official newspaper of the city not less than twenty (20) days prior to such hearing. The notice shall state the time and place and general purpose of the hearing. A copy of the notice shall be mailed to each owner of record of the affected property or district. At the public hearing, the landmarks commission shall review all pertinent staff comments and recommendations, and shall make findings and conclusions regarding the designation of the historic landmark or historic district. A majority vote of the quorum present shall be required to constitute a recommendation of approval.

(b) The recommendation of the landmarks commission shall immediately be forwarded to the governing body. The recommendation shall specifically define the historic landmark or historic district to be designated.

(c) Upon application for designation of a historic landmark or historic district, the governing body of the City of Kansas City, Kansas, may order a moratorium on the issuance of building permits for exterior alterations other than normal maintenance and repair, permits for building additions or permits for demolition with respect to any real property proposed for designation as a historic landmark or located within a historic district. In ordering the moratorium for building and demolition permits, the governing body shall consider, among other proper legislative factor considerations, the following:

(1) Existing studies or information substantiating the historic or architectural significance of the proposed landmark or district;

(2) Previous listing of the proposed landmark or district on the Register of Historic Kansas Places or the National Register of Historic Places;

(3) Probable cause that the property or district meets one or more of the requirements for designation as a historic landmark or a historic district;

(4) The extent that demolition or exterior alteration would be detrimental to the alleged historic, cultural or architectural character of the district, site, building, structure or object.

The moratorium shall continue until final action on the application for designation has been taken by the governing body, but in no case shall the moratorium extend more than ninety (90) days subsequent to the date of application for [therefor].

(Code 1964, Sec. 2-26(6)(A); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84; Ord. No. 65337, Sec. 1, 8-4-88)

Sec. 27-112. Action by governing body.

(a) Notice requirements of section 27-111, subsection (a) shall be applicable to meetings by the governing body for the purposes of this section.

(b) If the governing body approves the recommendations of the landmarks commission, the governing body may, by ordinance:

(1) Adopt the proposed amendment; or

(2) Deny the application only when the landmarks commission specifically recommends denial.

(c) If the governing body disapproves the recommendation, it must resubmit the item to the landmarks commission for further consideration, with a written statement specifying the basis for disapproval. After further consideration, at the next regularly scheduled meeting, the landmarks commission shall submit the same, a

new, or an amended recommendation. Upon receipt of the second recommendation, the governing body may, by ordinance:

- (1) Adopt the proposed amendment; or
- (2) Supplement or change the amendment prior to adoption; or
- (3) Deny the recommendation.

(Code 1964, Sec. 2-26(6)(B); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-113. Adoption by governing body.

(a) The governing body shall adopt the historic landmark or historic district designation by ordinance. Upon the passage of such an ordinance:

(1) The suffix "H" shall be appended to the zoning classification of the particular district, site, building, structure or object so approved. Such designation shall be in addition to any other zoning district classification established.

(2) The official zoning district maps shall be changed to reflect the designation of all historic districts and historic landmark subdistricts by the letter (H), used as a suffix.

(3) Within ten (10) days following passage of the ordinance designating property as an historic landmark or historic district, written notice of the designation, together with a copy of the ordinance, shall be sent to the owner of record of each property so designated or each property within the designated district.

(4) The following department or division heads shall be notified in writing of the historic designation:

- a. City planning;
- b. Community development;
- c. Building inspection;
- d. Engineering; and
- e. Any other deemed appropriate.

(b) Within thirty (30) days following passage of the ordinance designating property as an historic landmark or historic district, written notice of such designation, together with a copy of the ordinance, shall be filed with the register of deeds of the county.

(Code 1964, Sec. 2-26(6)(C), Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-114. Criteria for designation.

(a) In making a recommendation concerning designation or in designating an historic landmark or historic district, the landmarks commission and the governing body, respectively, shall determine that the proposed landmark or district meets one (1) or more of the following criteria:

- (1) Prior designation on lists of historic sites, including, but not limited to, the National Register of Historic Places, and the Register of Historic Kansas Places.
- (2) Character, interest or value as part of the development, heritage or culture of the city, the state or the United States.
- (3) Location as the site of a significant historic event.
- (4) Identification with a person or persons who significantly contributed to the culture and development of the city.
- (5) Exemplification of the cultural, economic, social or historical heritage of the city.
- (6) Portrayal of the environment of a group of people in an era of history characterized by distinctive architectural style or sequence of styles.
- (7) Embodiment of distinguishing characteristics of an architectural type or specimen.

(8) Identification as the work of an architect or master builder whose individual work has influenced the development of the city.

(9) Embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation.

(10) Relationships to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on historic, cultural or architectural motif.

(11) Unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the city.

(12) Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.

(13) Value as an aspect of community sentiment or public pride.

(b) Properties that have achieved significance within the past fifty (50) years shall not be considered eligible for designation. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if the property is determined to be of exceptional importance.

(Code 1964, Sec. 2-26(6)(D); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-115. Property owned by public agencies.

(a) The city, or any subdivision thereof, or any other public agency which may own or acquire property in the city shall not undertake any project which will encroach upon, damage or destroy any real property designated as an historic landmark or as part of an historic district or the environs of such property until the landmarks commission has been given notice and an opportunity to review and comment upon the proposed project. If the landmarks commission determines that such proposed project will encroach upon, damage or destroy any real property designated as an historic landmark, or as part of an historic district or the environs of such property, such project shall not proceed until:

(1) The governing body has made a determination, based on prudent consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such real property resulting from such use; and

(2) Five (5) days' notice of such determination has been given to the landmarks commission.

(b) Such review and determination shall be in addition to any similar review and determination that may be required by the Kansas Historic Preservation Act [K.S.A. 75-2715 - 75-2725, as amended].

(Code 1964, Sec. 2-26(7)(D); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-116. Certificate of appropriateness - Prerequisite to building permit, etc.

(a) No building or demolition permit, whether to erect, construct, enlarge, alter, repair, move, improve, remove, excavate, convert or demolish any building, structure or utility shall be issued in accordance with this Code, with respect to any real property designated as an historic landmark or located within an historic district, except in accordance with the terms and provisions of a certificate of appropriateness as approved by the landmarks commission. However, a building permit may be issued with respect to such real property for the accomplishment of any work thereon which will neither change the exterior architectural features of a structure nor the character or appearance of the land, and which is considered necessary as a part of normal maintenance and repair. The permit shall be issued only with the joint concurrence of the building official and the director of city planning.

(b) Except as otherwise provided, no land surface within any real property designated as an historic landmark or as part of an historic district shall be changed, and no improvements thereon shall be erected, removed, restored, demolished or altered, nor shall any addition be made thereto, in such a manner or of such a character as to change the exterior appearance or exterior architectural features thereof, which change shall be visible from any public street, park or other public place, without prior approval of the landmarks commission, evidenced by a certificate of appropriateness reciting in detail precisely what changes are approved. Such changes in appearance shall include the erection of business, professional and other signs on the historic landmark or within the historic district, and no certificate of appropriateness shall permit the erection of any such sign unless the size, texture, style and materials thereof are compatible with the general characteristics of the neighborhood.

(c) Any person desiring to obtain a building or demolition permit to remove, demolish or in any way change the exterior appearance or the exterior architectural features of improvements on a real property designated as an historic landmark or located within an historic district, or desiring to change the land surface of such real property, shall submit to the landmarks commission a specific statement of the work proposed, together with such details as the commission may require. Upon receipt of any application for a building or demolition permit, the building inspector shall immediately forward the application to the landmarks commission. The commission shall schedule a public hearing on the request at the next regularly scheduled meeting of the commission, and notify the applicant of such hearing. Public notice shall be required as in section 27-111.

(d) No building or demolition permit shall be issued for such a property without the prior approval of the landmarks commission, evidenced by the certificate of appropriateness. The landmarks commission shall grant the certificate of appropriateness if it shall find:

(1) The changes proposed are not visible from any public street, alley, park or other public place; or

(2) Such changes are not detrimental to the historic, cultural or architectural character of the district, site, building, structure or object, or of other improvements thereon; or

(3) That such changes are in accord with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

If the landmarks commission shall not find either (1), (2) or (3) hereinabove, then it must deny the application for a certificate of appropriateness.

(e) A majority vote of the quorum present of the landmarks commission is necessary to either approve or deny an application for a certificate of appropriateness.

(f) In the event of a denial of a certificate of appropriateness, no building permit or demolition permit may be issued for a period of eighteen (18) months from the hearing date of original application; provided, however, the landmarks commission, upon petition by the applicant, may grant a rehearing of the application when significant physical or economic hardship can be shown, or when changes of circumstance that substantially affect the health, safety or general welfare have taken place, or when the reapplication is significantly different from the original request. The applicant shall submit a statement detailing those changes which the applicant deems significant and upon which the applicant relies for refiling the original application.

(g) In the event the application is denied at the rehearing, or a rehearing is denied, the applicant may appeal to the governing body within thirty (30) days from the decision of the landmarks commission.

(h) Within the eighteen-month period of postponement, the landmarks commission shall consult with civic groups, public agencies and interested citizens to ascertain what action may be taken to preserve the real property designated as an historic landmark or located within an historic district, and shall make recommendations to that effect to the governing body.

(Code 1964, Sec. 2-26(7)(A); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-117. Same - Prerequisite to rezoning.

(a) No change in the zoning of any real property designated as an historic landmark or as part of an historic district shall be recommended by the city planning commission to the governing body without an accompanying certificate of appropriateness granted by the landmarks commission.

(b) A certificate of appropriateness shall be granted by the landmarks commission for a zoning classification change if:

(1) The request is for a change of zoning classification in which none of the permitted uses would have detrimental effect on the historic, cultural or architectural character of the real property designated as an historic landmark or located within an historic district or of other improvements thereon; or

(2) The request is for a use allowed by special permit which would not have a detrimental effect on the historic, cultural or architectural character of the real property designated as an historic landmark or located within an historic district or of other improvements thereon.

(c) All site plans for proposed uses contingent upon a change in zoning in historic districts or relative to historic landmarks must be approved by a majority vote of the quorum present of the landmarks commission prior to submission to the governing body for final approval.

(Code 1964, Sec. 2-26(7)(C); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Sec. 27-118. Minimum maintenance requirements.

All real property, building, structure or utility thereon designated as an historic landmark or located within an historic district, whether owned or controlled privately or by any public body, shall receive reasonable care, maintenance and upkeep appropriate for the protection, preservation, enhancement, perpetuation or use in compliance with the terms of this article and chapter 8, article VIII.

(Code 1964, Sec. 2-26(7)(B); Ord. No. 49004, Sec. 2, 9-1-70; Ord. No. 63524, Sec. 1, 11-12-81; Ord. No. 64598, Sec. 1, 2-2-84)

Secs. 27-119 - 27-150. Reserved.