

CHAPTER XXII. CONSERVATION OF HISTORIC RESOURCES CODE

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ARTICLE 1. GENERAL PROVISIONS

22-101 TITLE.

This Chapter shall be known as the Conservation of Historic Resources Code of the City of Lawrence, Kansas. (Ord. 5950, Sec. 1)

22-102 STATEMENT OF PURPOSE.

The purpose of this Chapter is to promote the educational, cultural, economic, and general welfare of the community by:

- (1) Providing a mechanism to identify and conserve the distinctive historic and architectural characteristics and other historic resources of the city which represent elements of the city's cultural, social, economic, political, and architectural history;
- (2) Fostering civic pride in the beauty and noble accomplishments of the past as represented in the City's landmarks, historic districts, and historic resources;
- (3) Conserving and improving the value of property in and around designated landmarks, historic districts, and within the community;
- (4) Enhancing the attractiveness of the city to residents, current and prospective home owners, visitors, and shoppers, and thereby supporting and promoting business, commerce, industry, and providing economic benefit to the City;
- (5) Fostering and encouraging preservation, restoration, and rehabilitation of structures, areas, and neighborhoods;
- (6) Fostering and encouraging the studying, interpreting, and publicizing of historic resources;
- (7) Fostering and encouraging the studying, interpreting, and publicizing of historical archeological work and information. (Ord. 5950, Sec. 1)

22-103 APPLICATION.

This Chapter shall apply to all designated historically and architecturally significant structures and properties and their environs which are located within the City limits. This Chapter also may apply to new construction within the City limits where such construction may affect designated historically and architecturally significant structures, properties and districts. (Ord. 5950, Sec. 1)

22-104 DEFINITIONS.

For the purpose of this Chapter, certain words or terms are hereby defined. Unless specifically defined below, words or terms in this Chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. Words in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular. The word shall is mandatory and not directory. The following words or terms shall be used as defined below in the administration of this chapter. For further clarification of commonly used historic conservation terms, refer to the Kansas Historic Preservation Act (K.S.A. 75-2715 et seq.); The National Historic Preservation Act of 1966 and amendments of 1980; Nimz, Dale, Living with History: A Historic Preservation Plan for Lawrence, Kansas, Kansas Historic Preservation Dept./City of Lawrence, Kansas Planning Dept., Lawrence, KS. 1984 pp. 29-34; and the National Register Bulletin #16: Guidelines for Completing National Register of Historic Places Forms, NPS; National Register Bulletin #24: Guidelines for Local Surveys: A Basis for Preservation Planning, NPS; Local Historic Resources Survey Manual, Kansas Historic Preservation Department; Harris, Cyril M., Dictionary of Architecture and Construction, McGraw-Hill, New York 1975.

(A) Accessory Structure - A subordinate structure or portion of the main structure, located on the same property and the use of which is clearly incidental to that of the main structure or to the use of the property on which it is located. Customary accessory structures include, but are not limited to, garages, carports, garden houses, small storage sheds, and children's playhouses.

(B) Adaptive Use

(1) The process of changing the use of a structure or property to a use other than that for which the structure or property was originally designed.

(2) A use for a structure or property other than the use for which it was originally designed. (Sometimes called adaptive reuse.)

(C) Adjacent - A structure or parcel having a common parcel boundary with or located immediately next to a structure or parcel.

(D) Administrator - The designated individual assigned by the City Manager to administer, interpret and enforce this Article. Also known as the Historic Resources Administrator for the City.

(E) Alley - A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, the right-of-way of which generally is sixteen (16) feet or less in width.

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

(G) Applicant - The person or group who initiates and signs the application to nominate a landmark or historic district; for a building permit; for a demolition permit; for a certificate of appropriateness; for a certificate of economic hardship; or for a preservation easement.

(H) Application - One of several forms provided by the Commission to a person(s) who wishes to initiate a particular Commission action, including nomination of a landmark or historic district; a building or demolition permit; a certificate of appropriateness; a certificate of economic hardship; a preservation easement; or, appeal.

(I) Archeological Site - (See Site).

(J) 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.

(K) 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 consisting of a main building and subsidiary 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.

(L) 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 or in the environs thereof, based primarily on design considerations.

(M) 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 or in the environs thereof based primarily on economic considerations.

(N) Certified Local Government (CLG) - A program of the National Park Service designed to promote the preservation of prehistoric and historic sites, structures, objects, buildings, and historic districts by establishing a partnership between the local government, the historic preservation department, a division of the Kansas State Historical Society, and the National Park Service. A certified local government carries out the purposes of the National Historic Preservation Act, as amended. Each certified local government is required to maintain a system of ongoing surveys compatible with the Kansas Historic Preservation Department process.

(O) City - The municipal corporation named the City of Lawrence, Kansas.

(P) City Commission - The Governing Body of the City of Lawrence, Kansas.

(Q) City Limits - The established corporate boundary of the City of Lawrence, Kansas.

(R) Commission - The Historic Resources Commission of the City of Lawrence, Kansas, unless otherwise indicated.

(S) Commissioners - Members of the Historic Resources Commission, unless otherwise indicated.

(T) Conservation (See Historic Preservation).

(U) Construction

(1) 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.

(2) An addition to an existing structure or a new principal or accessory structure.

(V) Context - A conceptual framework for determining the significant patterns that individual properties represent consisting of components that surround a resource and determine its meaning more clearly.

(W) Contributing (or Contributory) - A significant building, site, structure, or object which adds to the architectural qualities, historic association, or archeological values of an historic district because:

(1) It was present during the pertinent historic time; or

(2) It possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period;

(X) Demolition - Any act or process that destroys in part or in whole a landmark or a structure within an historic district, or the environs thereof.

(Y) Design Criteria - A standard of appropriate activity that will preserve the historic and architectural character of a structure or area.

(Z) Designation - Official recognition of an historic landmark or historic district by the Commission and the City Commission according to the procedures and provisions in this Chapter.

(AA) Developer - Any person who:

- (1) Causes real property to be used for development;
- (2) Sells, leases or develops; offers to sell, lease, or develop; or advertises for sale, lease or development any lot, plot, parcel, site, unit of interest, or structure for development; or
- (3) Engages directly or through an agent in the business or occupation of selling, leasing, developing, or offering for sale, lease or development, any lot, plot, parcel, site, unit of interest, or structure for development. (Ord. 5950, Sec. 1)

22-105 DEFINITIONS, CONTINUED.

(A) Development - A subdivision; the construction or reconstruction of streets and utilities, the construction, expansion or remodeling of structures; a change in the use of a structure or parcel, or the clearing of land.

(B) District - (See Historic District).

(C) Easement - The written and recorded authorization by a property owner to allow specific uses of a designated part of a property by another individual(s), or entity. (For the purposes of administering this Chapter, may be called an historic or preservation easement.)

(D) Endangered Resource - A resource under a known or anticipated threat of damage to the integrity or existence of the resource, such as:

- (1) Immediate threat which will result in loss of or collapse of structure;
- (2) Immediate threat or destruction by private action; and
- (3) Condemnation for code violations. (Sometimes referred to as threatened resource.)

(E) Environs - Any structure, object, or site that directly contributes to the architectural and/or historical significance of a landmark or historic district. The environs area shall not include structures, objects, or sites which are not located in part, or in their entirety, within 250 feet of the boundaries of a landmark or historic district designated pursuant to this Chapter.

The environs is not an extension of the boundaries of an historic district or landmark. For this reason, an application for a certificate of appropriateness for a project within the environs area shall receive the least stringent scrutiny when the Commission applies its Standards for Review as set forth in section 22-504, and there shall be a presumption that the application should be approved. "Interim control" shall not apply to the environs area of a nominated landmark or historic district.

(F) 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.

(G) Facade - The exterior face of a building which is the architectural front, sometimes distinguished by elaboration or architectural or ornamental details.

(H) Highly Significant - A building, site, structure or object is highly significant when it is historically or architecturally significant, as defined hereafter, and its alteration, removal and demolition would cause irreparable injury to a unique and overriding public interest in maintaining the historical or architectural character of such building, site, structure, or its environment. The Commission may recommend, and the City Commission may designate a building, site, structure, or object as highly significant only upon the basis of relevant evidence presented at a public hearing, and findings as set forth in Section 22-405 of this Chapter.

(I) Historic Conservation - (See Historic Preservation.)

(J) Historic District - An area designated as an historic district by ordinance of the City Commission and which may contain within definable geographic boundaries one or more significant sites, structures or objects and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the significant sites, structures or objects located within the historic district.

(K) Historic Preservation - The study, identification, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archeology or culture of the city, state or nation.

(L) Historic Preservation Department - Department within the Kansas State Historical Society which assists the State Historical Preservation Officer (SHPO) in promoting the identification and conservation of the state's historic resources, according to the Kansas Historic Preservation Act, as authorized by the Historical Preservation Act of 1966.

(M) Historically or Architecturally Significant - Possessing that quality present in an area, site, structure, object or district because it:

(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;

(N) Improvement - Any physical change in a structure or property including the adding of exterior features, any change in landscape features, alteration of a structure, new construction, painting or repainting, reconstruction, restoration or remodeling, but excluding normal maintenance.

(O) Kansas Register - The current Kansas Register of Historic Places as prepared, approved and amended by the Kansas Historic Sites Board of Review and authorized by K.S.A. 75-2715 et seq.

(P) Key Contributing - A building, site, structure, or object of such an outstanding quality and state of conservation that it significantly adds to the architectural qualities, historic association, or archeological 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; and,

(3) It independently meets the standards and criteria of this Article.

(Q) Land Surface - The solid part of the exterior of the earth.

(R) 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 and/or architectural significance to the City.

(S) Landscape Feature - Any element or component of outdoor open space Including, but not limited to, fences, walls, retaining walls, gates, sidewalks, walkways, driveways, parking lots, patios, terraces, decks, ground cover, trees, plants, outdoor furniture, exterior light standards, fountains, statuary, detached signs and other such elements.

(T) Lawrence Register - The current Lawrence Register of Historic Places as prepared, approved and amended by the Historic Resources Commission and authorized by ordinance.

(U) Lot - A portion of a subdivision or other parcel of land intended as a unit of ownership and occupied or intended to be occupied by one main structure and accessory structures or a complex of structures, including open spaces and parking. A lot may be more than one lot of record or may be a metes and bounds described tract having its principal frontage upon a street or officially approved place.

(V) Lot of Record - A lot which is a part of a subdivision, the plat of which has been recorded in the Office of the Register of Deeds or a lot described by metes-and-bounds, the description of which has been recorded in the Office of the Register of Deeds.

(W) Marker - A sign used to label or identify a designated landmark or historic district as an architecturally significant property.

(X) National Register - The current National Register of Historic Places established by passage of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470 et seq., as amended.

(Y) Nominated Landmark or Historic District - A neighborhood, area, site, structure or object shall be considered a nominated landmark or historic district upon determination by the Administrator that the application to nominate has been properly completed and the date/time has been set for the public hearing before the Commission.

(Z) Noncontributing (or noncontributory) - A building, site, structure, or object that does not add to the architectural qualities, historic association, or archeological values of a landmark or historic district because:

(1) It was not present during the pertinent time; or

(2) Due to alterations, disturbances, additions, or other changes, it no longer possesses integrity nor reflects its significant historic character or is incapable of yielding important information about the pertinent historic period.

(Ord. 5950, Sec. 1; Ord. 6214, Sec. 1)

22-106 DEFINITIONS, CONTINUED.

(A) Normal Maintenance and Repair - Any improvement or work for which a building permit is not required by city ordinance, designed to correct deterioration, decay or damage and restore, as may be practical, a structure or property to the condition that existed prior to the deterioration, decay or damage.

(B) Nuisances - Physical conditions (affecting land, water, groundwater, the air, noise levels, or other elements of the environment) that endanger human health or safety, injure persons or property, or constitute a clear danger to property.

(C) 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.

(D) Owner(s) - (See Owner(s) of Record.)

(E) Owner(s) of Record - Those individuals, partnerships, firms, corporations, public agencies, or any other legal entity 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.

(E) Period - A chronological division identified in the analysis of the historical development to an area or region (i.e., Victorian, Modern).

(G) Person - Any individual, firm, association, organization, partnership, business, trust, corporation, or company.

(H) Preservation - (See Historic Preservation).

(I) Preservation Easement - (See Easement).

(J) Project - Activities involving the issuance of a lease, permit, license, certificate or other entitlements for use, to any party by the City.

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

(L) Proposed Designation - (See Nominated Landmark or Historic District).

(M) Protection - The application of measures to defend, guard, cover or shield a building, site, structure, or object from deterioration, loss, attack, danger, or injury. In the case of buildings, structures or objects such measures generally are of a

temporary nature and usually precede preservation measures. In the case of archeological sites, the protective measures may be temporary or permanent.

(N) Reconstruction/Reconstruct - The reproduction of the exact form and detail of a vanished building, site, structure or object or a part thereof, as it appeared at a pertinent time using both original and modern materials and based on precise historical documentation and physical evidence.

(O) Register - (See Lawrence Register.)

(P) Rehabilitation/Rehabilitate - The act of returning a building, site, structure or object to a useful state through its repair and/or alteration while retaining the characteristic features of the property which are significant to its historical and architectural value.

(Q) Remodeling - Modification and modernization of a structure or property without striving to return to or replicate the original historical and architectural character of the structure or property.

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

(S) Repair - Any change to a structure or object that is not construction, removal or alteration.

(T) Resource - Any building, site, structure, object or area that constitutes a source of present and future usefulness.

(U) Restoration/Restore - The act of accurately recovering the form and details, based on precise historical documentation and physical evidence, of a building, site, structure or object as it appeared at a pertinent time including the removal of improvements that are not appropriate and the replacement of missing or deteriorated features.

(V) Right-of-Way - A strip of land occupied or intended to be occupied by a street, crosswalk, footpath, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use.

(W) Sign - Any surface, fabric, device or display designed to visually convey information to the general public.

(X) Significant - (See Historically or Architecturally Significant).

(Y) 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.

(Z) Stabilization - Taking measures to return an unsafe or deteriorated building, site, structure or object to a safe and secure condition while maintaining the existing form and detail of the building, site, structure or object. (Ord. 5950, Sec. 1)

22-107 DEFINITIONS, CONTINUED.

(A) State or any Political Subdivision of the State - The State of Kansas; any office, department, agency, authority, bureau, commission, board, institution, hospital, college or university of the State; or any county, township, city, school district, special district, regional agency, redevelopment agency or any other political subdivision of the State.

(B) Street - A right-of-way, other than an alley, dedicated to the public use, which provides principal access to adjacent properties.

(C) Structure - Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing: buildings, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.

(D) Style - The specific identifying characteristics of a building both as it appears to the eye and as it is known to exist in design and structure.

(E) Survey - An architectural and historical examination of historic resources to identify historic properties within an area.

(F) Threatened Resource - (See Endangered Resource).

(G) Use - The specific purpose for which a structure or property is utilized.

(H) Utilitarian Structure - A category of structures intended primarily to serve a utilitarian or useful function rather than for beauty. Utilitarian structures may include, but are not limited to, structures used for agriculture, transportation and industry and certain moderate residential buildings. (Ord. 5950, Sec. 1)

ARTICLE 2. HISTORIC RESOURCES COMMISSION

22-201 COMPOSITION OF HISTORIC RESOURCES COMMISSION.

The Historic Resources Commission shall consist of seven (7) members, residents of the City, all of whom shall be appointed by the Mayor and approved by the City Commission. The Mayor shall make every reasonable effort to appoint persons with a demonstrated interest in historic preservation or architecture of the City. The Commission shall be composed of the following: Three (3) members shall be a diversity of preservation-related professionals, as recognized by the relevant standards of their respective profession, such as architect, architectural historian, archeologist, historian, landscape architect,

and planner; four (4) members shall be a diversity of either professionals or lay persons with demonstrated interest, knowledge or training in fields closely related to historic preservation, such as history, architecture, landscape architecture, architectural history, archeology, planning, real estate, law, finance, building trades, urban design, and geography. At least one (1) preservation professional shall be on each subcommittee. (Ord. 5950, Sec. 1)

22-202 TERMS.

The term of office of the members of the Commission shall be for three (3) years, excepting the first Commission which shall consist of two (2) members serving for one (1) year, two (2) members serving for two (2) years, and three (3) members serving for three (3) years. A member may not serve more than two (2) consecutive terms. Vacancies shall be filled for the unexpired term only. (Ord. 5950, Sec. 1)

22-203 OFFICERS.

Officers shall consist of a Chair and Vice-Chair elected by the Commission who shall each serve a term of one (1) year and shall be eligible for re-election; but no member shall serve as Chair for more than two (2) consecutive years. The Chair shall preside over meetings. In the absence of the Chair, the Vice-Chair shall perform the duties of the Chair. If both are absent, a Temporary Chair shall be elected by those present. (Ord. 5950, Sec. 1)

22-204 MEETINGS.

(A) A quorum shall consist of a majority of the members. Decisions or actions of the Commission shall be made by a majority vote, except when described otherwise in this Chapter, of those members present and voting at any meeting where a quorum exists. Meetings shall be held at regularly scheduled times to be established by resolution of the Commission at the beginning of each calendar year; additional meetings shall be on the call of the Chair. No member of the Commission shall vote on any matter that may materially or apparently affect the property, income, or business interest of that member. No member of the Commission may vote by proxy. No action shall be taken by the Commission that could in any manner deprive or restrict the owner of a property in its use, modification, maintenance, disposition, or demolition until such owner shall first have had the opportunity to be heard at a public meeting of the Commission, as provided in this Chapter. Final decisions regarding property will be made by the City Commission. The Chair, and in his or her absence the Acting Chair, may request the attendance of witnesses.

(B) All meetings of the Commission shall be open to the public. The Commission shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Commission and shall be a public record. (Ord. 5950, Sec. 1)

22-205 POWERS AND DUTIES.

(A) All of the powers and duties enumerated herein are subject to the approval, denial, or modification by the City Commission. All decisions made by the City Commission are subject to appeal to the District Court, pursuant to K.S.A. 60-2101. Further, all funds necessary to carry out the purpose of this Chapter shall be approved and appropriated only by the City Commission.

(B) In addition to other responsibilities specified in this Chapter, the Commission may:

- (1) Adopt its own procedural regulations, subject to the laws of the State of Kansas and the City of Lawrence;
- (2) Conduct an ongoing survey to identify historically and architecturally significant properties, structures, and areas that exemplify the cultural, social, economic, political, or architectural history of the nation, region, state, or city.
- (3) Investigate and recommend to the City Commission the adoption of ordinances designating sites, structures and objects having special historical, community, or architectural value as landmarks.
- (4) Investigate and recommend to the City Commission the adoption of ordinances designating areas having special historic, community, or architectural value as historic districts;
- (5) Keep a register of all properties and structures that have been designated as landmarks or historic districts, including all information required for each designation;
- (6) Determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or historic district to another;
- (7) Advise and assist owners of properties or structures within the City on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the Kansas and National Registers of Historic Places;
- (8) Initiate the nomination of landmarks and historic districts to the Kansas and National Registers of Historic Places, and review and comment on any Kansas and National Register nominations submitted to the Commission upon request of the Mayor or City Commission;
- (9) Inform and educate the citizens of the City concerning the historic and architectural heritage of the City by producing maps, newsletters, brochures, pamphlets, books, and/or other appropriate materials, and hold public programs at least twice a year available, and free of charge, to the general public;
- (10) Hold public hearings and review applications for construction, alteration, removal, or demolition affecting proposed or designated landmarks or structures within historic districts or their environs and issue or deny certificates of appropriateness or economic hardship for such actions. Applicants may be requested to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions;
- (11) Develop specific design criteria for alteration, construction, or removal of landmarks or property and structures within historic districts with reasonable concern for both property or district and property owner;

- (12) Review and comment upon proposed zoning amendments, applications for special use permits, or applications for zoning variances that affect proposed or designated landmarks and historic districts. The Director of Planning shall cause copies of all applications for zoning amendments, and variances for sites designated as landmarks or within the area of a designated historic district, or the environs thereof, to be sent to the Commission no less than ten (10) days prior to the date of the hearing by the Lawrence-Douglas County Planning Commission or the Lawrence Board of Zoning Appeals;
- (13) Administer on behalf of the City any full or partial property interest in real property, including easements, that the City may have or accept as a gift or otherwise, upon authorization and approval of such administration by the City Commission;
- (14) Seek, accept, and administer on behalf of the City such gifts, grants, and money as may be appropriate for the purposes of this Chapter. Such money may be expended for publishing maps and brochures or for hiring a staff person(s) or consultants or performing other appropriate functions for the purpose of carrying out the duties and powers of the Commission and the purposes of this Chapter;
- (15) Call upon available City staff members, citizens and other experts for technical advice;
- (16) Recommend retaining such specialists or consultants or recommend the appointment of such ad hoc citizen advisory committees as may be required from time to time;
- (17) Testify before all boards and commissions, including the Lawrence-Douglas County Planning Commission and Board of Zoning Appeals, on any matter affecting historically and architecturally significant property, structures, and areas;
- (18) Confer recognition upon the owners of landmarks, property or structures within historic districts by means of certificates, plaques or markers;
- (19) Develop a preservation component for the comprehensive plan of the city and recommend it to the Lawrence-Douglas County Planning Commission and to the City Commission;
- (20) Periodically review the City's Zoning Code and recommend to the Lawrence-Douglas County Planning Commission and the City Commission any amendments appropriate for the protection and continued use of landmarks or property and structures within historic districts;
- (21) Attend an historic preservation-related workshop each year with the aid of City funds, if available;
- (22) Review this Chapter at least every five (5) years and make a report containing the following:
- (A) An assessment of progress in preserving the architecturally and historically important structures of the City;

- (B) An analysis of numbers, types, locations, and dispositions of applications for designation and certificates of appropriateness, appeals, and variances as provided for in this Chapter;
 - (C) An assessment of the progress and performance in educating the citizenry about the value of historic preservation;
 - (D) An analysis of the validity of these regulations;
 - (E) Any recommended changes.
- (23) Undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or implementation of the purpose of this Chapter. (Ord. 5950, Sec. 1)

ARTICLE 3. SURVEYS AND INVENTORY

22-301 SURVEYS.

- (A) The Historic Resources Commission shall cause and commit to a good faith effort to be undertaken on behalf of the City to identify neighborhoods, areas, sites, structures and objects that have historic, community, or architectural importance, interest or value. Before the survey has been undertaken, the Commission may nominate for designation as landmarks or historic districts only those properties already listed on the National Register of Historic Places or the Kansas Register of Historic Places, and any property nominated on the initiative of the owner of that property. After a period of time to be determined by the Commission with the consent of the City Commission, but not less than six (6) months from the date of enactment of this Chapter, the Commission may also nominate any property on the Commission's own initiative or accept applications as defined in Section 22-402.
- (B) As part of the survey, the Historic Resources Commission shall review and evaluate any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts, and photographs. All new surveys and inventories shall use the Kansas Historic Resources Inventory Form and the Local Historic Resources Survey Manual prepared by the Kansas Historic Preservation Department. All survey efforts shall integrate with the Kansas historic preservation process.
- (C) The Commission shall then:
 - (1) Systematically identify potential landmarks and historic districts as interpreted from survey results.
 - (2) Categorize each individual site, structure, building or object identified as a potential landmark and recommend designation as either highly significant or significant.

(3) If the property owner wishes to object to either of these classifications, those concerns shall be heard as an agenda item at any Commission meeting and the Commission shall take the appropriate action as the situation warrants.

(4) Devise, adopt, and maintain procedures to nominate these potential landmarks and historic districts. (Ord. 5950, Sec. 1)

22-302 INVENTORY.

Once the designation process has begun, the Commission shall maintain a detailed Inventory of designated landmarks and historic districts. The inventory shall be maintained in a form compatible with the current Kansas Historic Resources Inventory Form and with the State comprehensive historic preservation planning process. All inventory material shall be available to the public and kept up-to-date. (Ord. 5950, Sec. 1)

ARTICLE 4. LANDMARK AND HISTORIC DISTRICT REGULATIONS

22-401 LAWRENCE REGISTER OF HISTORIC PLACES.

(A) There is hereby established a Lawrence Register of Historic Places. The register shall include the following:

(1) A list of all sites, structures and objects designated as landmarks pursuant to this chapter.

(2) A description of the boundaries of each area designated as an historic district pursuant to this Chapter.

(3) For each such landmark and historic district, the findings made by the Commission pursuant to Section 22-404.

(B) The boundaries of landmarks, historic districts and their environs shall be recorded on a map or maps of landmark and historic districts. In case uncertainties arise regarding intended boundaries on the map, it shall be construed that boundaries follow the:

(1) City limits, township, section, or quarter section;

(2) Center lines of streets, alleys, or public rights-of-ways;

(3) Lot lines, parcel boundaries or property lines;

(4) Center lines of the main tracts of railroad lines;

(5) Center lines of creeks, streams, rivers, or drainage channels; or

(6) Specific distances from a street line or other physical feature when so indicated on the map.

(C) The Lawrence Register of Historic Places and the map(s) of landmarks and historic districts and all notations, symbols, dimensions, and references shown thereon shall be as much a part of this Chapter as if fully described herein and shall be filed with the City Clerk as part of this Chapter. The list and map shall be available for public inspection in the City Clerk's office and any later alterations of the list and map adopted by ordinance shall be filed and made available for public reference.

(D) Landmarks and historic districts may include any:

(1) Exterior of a structure or part thereof;

(2) Property or part thereof;

(3) Interior, or any portion thereof, of a structure, provided it is customarily open or accessible to the public, or to which the public is customarily invited, and the owner consents to such designation. Owners' protest of such designation cannot be overridden by the Commission or the City Commission;

(4) Abutting property or part thereof used as and constituting part of the premises on which another landmark is situated; or,

(5) Landscape feature or aggregate of landscape features.

(E) Historic districts may include two or more structures and/or properties. Individual buildings, sites, structures and objects within an historic district shall be classified and designated on the register. Individual buildings, sites, structures and objects shall be classified as:

(1) Key contributing;

(2) Contributing;

(3) Noncontributing.

Maps of each historic district shall be prepared identifying each building, site, structure and object with respective classification, and provided to property owners within the district, and filed with the Register of Deeds of Douglas County, Kansas. (Ord. 5950, Sec. 1)

22-401.1 LANDMARK DESIGNATIONS.

The following described real estate, and the improvements thereon, have been designated a landmark on the Lawrence Register of Historic Places as such designation is defined and prescribed in Chapter 22 of the City Code. The provisions, limitations, and requirements of ordinances making such designations are hereby incorporated by reference as if fully set forth herein.

- (A) The George and Anne Bell House, located at 1008 Ohio. (Ord. 6259)

- (B) The Benedict House, without the 1989 Addition, located at 923 Tennessee Street. (Ord. 6169)

- (C) The Dillard House, located at 520 Louisiana Street. (Ord. 6378)

- (D) The Duncan-Tucker House, located at 933 Tennessee. (Ord. 6163)

- (E) The E.H.S. Bailey Residence, located at 1101 Ohio. (Ord. 7233)

- (F) The Griffith House, located at 511 Ohio Street. (Ord. 6379)

- (G) The Hendry House, located at 941 Rhode Island. (Ord. 6537)

- (H) The House Building, located at 729-731 Massachusetts Street. (Ord. 6796)

- (I) The Octavius W. McAllaster Residence, located at 724 Rhode Island Street, which is legally described as Lot 34, Rhode Island Street, Original Townsite, Lawrence, Douglas County, Kansas. (Ord. 6894)

- (J) The McCurdy House, located at 909 W. 6th Street. (Ord. 6259)

- (K) The McFarland House, located at 940 Rhode Island. (Ord. 6538)

- (L) The Josiah Miller Building, Miller's Hall, located at 723/725 Massachusetts. (Ord. 6259)

- (M) The Robert H. Miller House, located at 1111 E. 19th Street. (Ord. 6163)

- (N) The Dr. Fredrick D. Morse House, located at 1041 Tennessee. (Ord. 6163)

- (O) The John N. Roberts House, located at 1307 Massachusetts. (Ord. 6163)

- (P) The Jane A. Snow Residence, located at 706 W. 12th Street. (Ord. 6627)

- (Q) The Shalor Eldridge House, located at 945 Rhode Island (Ord. 6536)

- (R) The J.B. Shane/Juno Bell Shane Thompson Photography Studio, located at 615 Massachusetts. (Ord. 6380)

- (S) Social Service League located at 905-907 Rhode Island Street, Lot 71, Original Townsite, Lawrence, Kansas. (Ord. 7234)

- (T) South Park, bounded by Vermont Street on the west, New Hampshire Street on the east and vacated New Hampshire Street, North Park Street on the north and South Park Street on the south. (Ord. 7232)

- (U) The Judge Nelson T. Stephens House, located at 340 N. Michigan Street. (Ord. 6163)

22-401.2 HISTORIC DISTRICTS.

The following described real estate, and the improvements thereon, have been designated an historic district on the Lawrence Register of Historic Places as such designation is defined and prescribed in Chapter 22 of the City Code. The provisions, limitations, and requirements of ordinances making such designations are hereby incorporated by reference as if fully set forth herein.

- (A) The 1000 block of Ohio Street (East Side Only) and the 1000 block of Tennessee Street (West Side Only) as Oread Neighborhood Historic District. (Ord. 6264)

22-402 NOMINATION OF LANDMARKS AND HISTORIC DISTRICTS.

(A) 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 only by application. Application may be made by resolution of the City Commission or Commission; or in the case of a landmark, by owner(s) of record of the nominated property or structure; or in the case of an historic district, by twenty percent (20%) or more of the owner(s) of record of property in a proposed historic district composed of twenty-five (25) or fewer properties; by fifteen percent (15%) or more of the owner(s) of record of property in a proposed historic district composed of 26 to 50 properties, and by ten percent (10%) or more of the owner(s) of record of property in a proposed historic district composed of 51 or more properties. The Commission shall make all reasonable efforts to secure the approval and written consent of the owner(s) before nominating a site, structure or object as a landmark. If the owner(s) does protest, the nomination for designation as a landmark or historic district may proceed only as set forth in Section 22-405.

- (B) The application shall contain, at the least:

- (1) The legal description and addresses of the pertinent structures and/or properties and a description of the environs thereof;

(2) A certified property ownership list from the County Clerk's office shall be submitted with the application for nomination of an historic district or landmark.

(Ord. 5950, Sec. 1; Ord. 6241, Sec. II)

22-403 CRITERIA FOR DESIGNATION.

(A) The Commission shall, after such investigation as it deems necessary, make a determination as to whether a nominated site, structure, object or area qualifies for designation pursuant to one 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;

(B) Any site, structure, object, or area that meets one 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. 5950, Sec . 1)

22-404 DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

22-404.1 SAME; PROCEDURES AFTER APPLICATION SUBMISSION.

Upon receipt of an application nominating a site, structure or object for designation as a landmark, or nominating an area for designation as an historic district, the following procedures shall apply:

(A) The Administrator shall set the date of a public hearing before the Commission concerning the application. The hearing shall be held no earlier than forty-five (45), nor later than sixty (60) days following receipt of a completed application. The hearing may be held during a regular meeting of the Commission or during a special meeting of the Commission called in part for that purpose.

(B) The Administrator shall publish a notice of the public hearing in the official City newspaper. The notice shall specify the time and place of the hearing, the subject matter of the hearing, and invite all interested persons to appear and be heard. In addition to the foregoing, when the hearing concerns a proposed historic district, the notice shall further specify the time and place of an informational meeting to be held by the Administrator, and state as follows:

(1) Owners of property within the proposed historic district have sixty (60) days from the date of the first publication of the notice within which to file with the City Clerk a written consent or protest to the inclusion of their property within the proposed historic district. Any owner who fails to file a written consent or protest will be deemed to have consented to the inclusion of their property within the historic district.

(2) A copy of the staff report regarding the proposed historic district will be available for public inspection at the office of the City Clerk at least seven (7) days prior to the hearing.

(C) Within ten (10) days after publication of the public notice, the Administrator shall cause a copy of the public notice to be served as follows:

(1) By first class mail to all owners of property within an owner-nominated landmark or historic district;

(2) By certified mail to all owners of property within a non-owner nominated landmark or historic property;

(3) By first class mail to the owners of all property within two hundred fifty (250) feet of the boundaries of a proposed landmark or historic district; and,

(4) By first class mail or hand delivery to the Lawrence-Douglas County Metropolitan Planning Commission and all organizations that have submitted a written request to the Administrator within the last year to receive such notices.

(D) When a landmark is nominated without the owner's consent, proof of receipt of actual notice of the hearing shall be required. Otherwise, failure of any other notice to actually be received by any other person shall not invalidate action on the nomination of a landmark or historic district.

(E) The Administrator shall prepare a staff report. The staff report shall be completed and available to the public at the office of the City Clerk at least seven (7) days prior to the public hearing before the Commission and by the date of the informational meeting to be held by the Administrator. The staff report shall contain a legal description of the proposed landmark or historic district, public hearing date and location, name of the applicant and owner(s), requested action, history summary, architectural integrity summary, context description, planning and zoning considerations, positive or negative effects of the designation, fiscal comments, summary of applicable designation criteria, and any other information deemed pertinent by the Administrator.

(F) The Administrator shall hold an informational meeting on any application to nominate an historic district at least seven (7) days prior to the public hearing before the Commission. At the informational meeting the Administrator shall present a summary of the staff report and such other information as the Administrator deems relevant.

(G) Prior to the hearing before the Commission, the Administrator shall notify the Commission and the Planning Commission of the case and shall transmit to them copies of the application and report, copies of any associated correspondence, and such other reports and materials as are deemed pertinent by the Administrator. (Ord. 5950, Sec. 1; Ord. 6184, Sec. 1)

22-404.2 SAME; PUBLIC HEARING BEFORE COMMISSION.

(A) The public hearing before the Commission may be adjourned from time to time. The Administrator shall make what recommendations the Administrator deems appropriate. Comments shall also be received from the Lawrence-Douglas County Planning Commission, owners of affected property, and all other persons who have an interest in the proceedings.

(B) Following the hearing the Commission shall adopt by resolution a recommendation to be submitted to the City Commission for either (a) designation as a landmark or historic district; (b) not to designate as a landmark or historic district; or, (c) not to make a recommendation. The resolution shall be accompanied by a report to the City Commission containing 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 22-403;

(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/interior 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.

(D) In the case of a nominated historic district found to meet the criteria for designation:

- (1) The types of significant exterior architectural features of the structures within the nominated historic district that should be protected;
- (2) 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.
- (3) A list of all key contributing, contributing and noncontributing sites, structures and objects within the historic district.
- (E) Proposed design guidelines for applying the criteria for review of certificates of appropriateness to the nominated landmark or historic district.
- (F) The relationship of the nominated landmark or historic district to the ongoing effort of the Commission to identify and nominate all potential areas and structures that meet the criteria for designation.
- (G) A map showing the location of the nominated landmark or the boundaries of the nominated historic district. (Ord. 5950, Sec. 1)

22-404.3 SAME; PUBLIC HEARING BEFORE CITY COMMISSION.

- (A) The City Commission shall consider the application at a public hearing. The public hearing may be during a regularly scheduled meeting. If the application concerns the designation of an historic district, the City Commission shall not consider the application until the period for the filing of written consents and protests has lapsed. Prior to that hearing, the City Commission shall be provided with the record of the proceedings before the Commission. 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 in accordance with the findings of the Commission. The City Commission may also authorize submittal of an application to nominate the proposed landmark or historic district for listing on the State or National Registers of Historic Places.
- (B) The 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.
- (C) The 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.
- (D) In the case of a denial of nomination, subsequent nomination attempts shall not occur within three years or without a change of ownership of the property, whichever occurs first. A subsequent nomination of an historic district may not be made within a year (365 days) unless there has been a substantial reconfiguration of the proposed nominated district. (Ord. 5950, Sec. 1)

22-404.4 SAME; NOTICE OF DESIGNATION.

(A) The Commission shall forward notice of designation of any landmark or historic district approved by the City Commission to be on the register to the Kansas State Historical Society.

(B) 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 notice shall outline the results of such designation. The Administrator, as soon as reasonably possible, shall notify the City Building Official and the City Director of Planning of the designation.

(C) The Administrator shall cause to be recorded in a timely manner at the Douglas County Register of Deeds a record of any designation of a landmark, historic district, environs, amendment of such designation, or rescission of such a designation.

(D) 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. (Ord. 5950, Sec. 1)

22-405 DESIGNATION PROTEST PROCEDURES.

22-405.1 SAME; PROTEST OF LANDMARK DESIGNATION BY PROPERTY OWNER.

(A) A protest of any landmark nomination may be submitted any time prior to completion of the 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 Administrator shall provide a protest form on request. One of the following procedures will then occur:

(1) Should a properly executed and valid protest be submitted for a property classified as significant, the Commission shall immediately terminate the nomination process for that property. However, such action shall have no bearing on subsequent nominations of the same property; or,

(2) The Commission may recommend that the nomination be classified as highly significant only by a two-thirds favorable vote. To designate the nomination as highly significant the Commission must make the following findings on the evidence presented at the public hearing on the nomination, to-wit:

(a) That the nomination is highly significant, pursuant to the definition set forth in this Chapter;

(b) The structure or building is fifty (50) years old or older;

(c) The structure is of a significant or unique architectural style or characteristic, and few, if any, other such structures remain in the City; or the structure is associated with a major event which is a significant part of the history of the city, community, state, or nation and few, if any, other such associated structures remain; or the structure is substantially associated with a person or persons of major significance to the city, community, state, or nation, and that few, if any, other such structures remain which are primarily associated with the persons or persons;

(d) The structure or building has been surveyed by the Administrator or other preservation specialist, and recommended for designation as highly significant, which survey and a recommendation shall be made part of the public record;

(e) The building or structure shall have a reasonable use to the owner(s) and it is probable that the building or structure shall be physically maintained;

(f) The structural integrity and major architectural components have been substantially preserved;

(g) That the proposed property meets the spirit of the criteria for either the Kansas or National Register.

(B) Upon recommendation of a nomination as highly significant by the Commission, the nomination shall be forwarded to the City Commission. Such property may be designated a landmark only by a two-thirds favorable vote by the City Commission affirming the findings and conclusions of the Historic Resources Commission. (Ord. 5950, Sec. 1)

22-405.2 SAME; PROTEST OF HISTORIC DISTRICT DESIGNATION BY PROPERTY

OWNER WITHIN PROPOSED DISTRICT.

(A) The consent of a majority of the owners and the owners of a majority of the total area 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 sixty (60) days within which to file written consents or objections to the inclusion of their property in the proposed district. The sixty (60) day period shall commence upon the publication of the notice of the public hearing before the 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 Douglas County, Kansas. If any 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.

(B) If a majority (fifty-one percent (51%) or more) of the owners or the owners of a majority (fifty-one percent (51%) or more) of the total area 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.

(C) If thirty-five percent (35%) 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 two-thirds (2/3) of all the members of the City Commission. (Ord. 5950, Sec. 1)

22-406 INTERIM CONTROLS.

Action on building or demolition permit applications shall not be delayed if the building or demolition permit was submitted prior to the submittal of a pertinent landmark or historic district application. Action on a building or demolition permit application to the City for a nominated landmark shall be delayed until final action has been taken on such nomination. Action on a demolition permit application for a key contributing or contributing structure or object within a nominated historic district shall be delayed until final action has been taken on such nomination. There shall be no interim controls on noncontributory buildings, sites, structures, and objects within a nominated historic district; or on the environs of a nominated landmark or district. Interim controls shall not extend beyond one hundred twenty (120) days from date of filing the

application in any situation. Exception shall be made when such alteration, removal or demolition is authorized by formal resolution of the City Commission as necessary for public health, welfare, or safety. (Ord. 5950, Sec. 1)

ARTICLE 5. CERTIFICATE OF APPROPRIATENESS

22-501 WHEN CERTIFICATE REQUIRED.

- (A) Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of a structure or building.

- (B) 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 or their environs:
 - (1) Any exterior construction, alteration, or removal requiring a building permit from the City.

 - (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:
 - (a) To the environs of a designated landmark or historic area;

 - (b) To such repairs and preventive measures as are minimally required to prevent additional loss or harm to the structure resulting from damage to the structure by accident or natural causes. (Ord. 5950, Sec. 1)

22-502 APPLICATIONS 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 or the environs thereof, will be forwarded to the Commission who shall initiate an application for a certificate of appropriateness. Application for review of construction, alteration, demolition, or removal not requiring a permit for which a certificate of appropriateness is required shall be initiated on a form prepared by the Commission. (Ord. 5950, Sec. 1; Ord. 6214, Sec. III)

22-503 DETERMINATION BY HISTORIC RESOURCES COMMISSION.

- (A) Any applicant may request a meeting with the Commission before the application is sent by the Building Inspection Department to the Commission or during the review of the application. The Commission shall consider the completed application at its regular meeting. To prevent unnecessary delay in construction, the Administrator may issue certificates of appropriateness for the repair or maintenance of any structure when such work substantially reproduces the existing design

and is performed in the existing material or for alterations or construction which are clearly appropriate in the particular situation which follow the design criteria of this ordinance. The Administrator shall approve or deny the request within five (5) working days, unless an extension is consented to by the applicant. The Chair (or his or her designee) shall co-sign any certificates of appropriateness issued in this manner.

(B) The Chair of the Commission may appoint a subcommittee of a quorum of its members to review routine applications for a certificate of appropriateness 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 of the members of that subcommittee.

(C) The Commission shall review the application for a certificate of appropriateness and issue or deny the certificate of appropriateness within forty-five (45) days of receipt of the applicant. Written notice of the appropriateness shall be provided the applicant and the building inspection department within seven days following the determination and shall be accompanied by a certificate of appropriateness in the case of approval. (Ord. 5950, Sec. 1)

22-504 DENIAL OF CERTIFICATE OF APPROPRIATENESS.

(A) A denial of a certificate of appropriateness shall be accompanied by a statement of the reasons for the denial. The Commission shall make recommendations to the applicant concerning changes, if any, in the proposed action 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.

(B) Any person dissatisfied with a determination by the Commission concerning a certificate of appropriateness may file an appeal to the City Commission within fifteen (15) 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. (Ord. 5950, Sec. 1)

22-505 STANDARDS FOR REVIEW.

(A) 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 on the following criteria:

- (1) Most careful scrutiny and consideration shall be given to applications for designated landmarks;
- (2) Slightly less scrutiny shall be applied to properties designated as key contributory within an historic district;
- (3) Properties designated contributory and non-contributory within an historic district shall receive a decreasing scale of evaluation upon application;

(4) The least stringent evaluation is applied to the environs area 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 on, damage, or destroy the landmark or historic district. If the Commission denies a certificate of appropriateness in this category, and the owner(s) appeals to the City Commission, the burden to affirm the denial shall be upon the Commission, the City or other interested persons.

(B) In considering an application for a certificate of appropriateness, the Commission shall be guided by the following general standards in addition to any design criteria in this Chapter and in the ordinance designating the landmark or historic district:

(1) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, site or object and its environment, or to use a property for its originally intended purpose;

(2) 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;

(3) 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;

(4) 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;

(5) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity;

(6) 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;

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building material shall not be undertaken;

(8) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project;

(9) 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, neighborhood, or environs. (Ord. 5950, Sec. 1)

22-506 DESIGN CRITERIA.

(A) The following are specific design criteria used to promote the standards set forth in Section 22-505. The purpose of these design criteria is to encourage preservation of intact significant properties; restoration of significant properties that have already undergone insensitive alterations; and new construction, as long as such complement the existing buildings and streetscapes. It is not the intention of these criteria to discourage new architectural styles.

(B) The Commission shall prepare and adopt specific design criteria as it deems necessary to supplement the provisions of this ordinance for the review of certificates of appropriateness. The Commission shall prepare and adopt design criteria in accordance with the review standards set forth in Section 22-505. 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 Commission may recommend amendments and supplements to the criteria used for review of applications for certificates of appropriateness to the City Commission. The City Commission must first approve additional design criteria not listed in this chapter, and any changes thereto, before the criteria or changes shall become effective.

(C) In considering any application for a certificate of appropriateness and in reviewing and commenting on matters before other bodies, the Commission shall consider the standards for review listed above and the following:

(1) Alterations. Specific design criteria for exterior alterations of landmarks and key contributing 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.

(2) New Construction and Additions to Existing Buildings.

(a) 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.

(b) 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 insure that their exterior design, materials, and color are in harmony with neighboring structures.

(c) The following specific design criteria shall be used to review all applications for certificates of appropriateness for new construction or additions to existing buildings:

(3) Demolition, Relocation, and Land Surface Change.

(a) Demolition in whole or in part of individual landmarks or any key contributory or contributory structure within an historic district shall not be permitted. Exceptions are allowed only if a structure has been substantially damaged through fire

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. Demolition under this chapter shall be subject to Ordinance 5810, as amended.

(b) 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 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.

(c) Major and 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.

(4) Signage Guidelines. The Commission will receive copies of any appeal or request for variance regarding a sign located, or to be located, on a landmark or within an historic district, or the environs thereof. The Commission may review and comment upon such appeals or requests for variances subject to the following guidelines:

(a) 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;

(b) Obscuring or disrupting important design elements is discouraged. Signs should be designed with appropriateness relative to the services of the establishment served;

(c) 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;

(d) 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;

(e) Descriptive signs as an integral part of the structure are encouraged. Such signs could include building dates, historic descriptions, commemorations, etc.;

(f) Free-standing signs may be considered, if appropriate and necessary to preserve the character of the landmark or historic district.

(5) Accessory Structures and Landscaping.

(a) Existing characteristic features 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.

(b) Landscaping should be appropriate to the scale and the unique features of the landmark or historic district.

(c) Accessory structures within the boundaries of a designated landmark site shall be appropriate to and compatible with the architectural features of the primary landmark structure. Structures accessory to noncontributory buildings within a designated historic district shall be so designated as to not detract from the historical or architectural character of the district. (Ord. 5950, Sec. 1)

22.506.1 ILLUSTRATIVE DESIGN CRITERIA

22.506.2 ARTICLE 6. CERTIFICATE OF ECONOMIC HARDSHIP

22-601 PURPOSE.

A certificate of economic hardship serves as an alternative to a certificate of appropriateness 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 Chapter would otherwise impose undue hardship. (Ord. 5950, Sec. 1)

22-602 APPLICATION FOR CERTIFICATE.

(A) Application for a certificate of economic hardship shall be made on a form prepared by the Commission. Such application may be made in conjunction with, or separately from, an application for a certificate of appropriateness or upon the denial of a certificate of appropriateness. The Commission shall schedule a public hearing concerning such applications within 30 days.

(B) 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.

(C) 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 necessary for the issuance of a certificate of appropriateness;

(2) A report from a qualified or bonded person 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; 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 years; itemized operating and maintenance expenses for the previous two 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 years;

(7) All appraisals obtained within the previous two 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 years;

(9) Assessed value of the property according to the two most recent assessments;

(10) Real estate taxes for the previous two 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.

(Ord. 5950, Sec. 1)

22-603 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. (Ord. 5950, Sec. 1)

22-604 APPEAL.

Any person dissatisfied with a determination by the Commission concerning a certificate of economic hardship may file an appeal to the City Commission within fifteen (15) 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. (Ord. 5950, Sec. 1)

ARTICLE 7. PUBLIC HEARINGS

22-701 NOTICE.

Whenever a public hearing is required by this Chapter, and unless otherwise provided by this Chapter, notice of the time, place and subject of such public hearing shall be given as follows:

(A) By publication in the official City newspaper at least once prior to the date of

such public hearing.

(B) If the hearing concerns an appeal, or an application for a certificate of economic hardship, notice of such hearing shall also be given by mail to the person(s) filing such appeal or application.

22-702 BURDEN OF PROOF.

(A) In all hearings the burden of establishing that the requirements and criteria are met for any action shall be upon the party requesting that such action be taken.

(B) A matter on appeal to the City Commission shall be heard de novo. (Ord. 5950, Sec. 1)

22-703 CONDUCT OF HEARINGS.

(A) Public hearings shall be conducted in a manner which allows all interested persons an opportunity to present relevant and nonrepetitious information concerning the subject matter of the hearing. The body conducting the hearing may impose reasonable time limitation on comments by the general public.

(B) Minutes shall be kept of such hearings and shall identify the subject matter of the hearing, the persons who testified at such hearing, and the determination made by the body conducting the hearing.

(C) Applicants and appellants may be represented by counsel and shall be allowed a reasonable opportunity to rebut any information presented in opposition to their application or appeal. However, this shall not be construed to require that applicants or appellants be allowed to question opposing witnesses. (Ord. 5950, Sec. 1)

ARTICLE 8. PROPERTY OWNED BY PUBLIC AGENCIES

22-801 PROPERTY OWNED BY PUBLIC AGENCIES.

In the City, many of the historically and architecturally important buildings, sites, structures, and objects are owned by government entities. The preservation of buildings, sites, structures, objects, and districts significant in American history, architecture, archeology, engineering, and culture 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.

(A) For properties in the City, the Commission may recommend, and 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 Register or National Register. The authorization of the pertinent unit of government, if other than the City, should be obtained before submittal of such an application if required by applicable state or federal law and regulations.

(B) 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 permit applications and demolition and/or clearance 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:

- (1) Designation of landmarks and historic districts;
- (2) Administration of the use of preservation fund resources;
- (3) Improvements to landmarks, properties in historic districts, and properties adjacent to landmarks or historic districts;
- (4) Demolition and clearance of all or a portion of landmarks, properties in historic districts, and properties adjacent to landmarks or historic districts;
- (5) Efforts to encourage the maintenance of landmarks and properties in historic districts;
- (6) Other mutually acceptable provisions.

(C) 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 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 (designated as a landmark or located in an historic district), shall be approved according to the procedures and regulations listed herein. (Ord. 5950, Sec. 1)

ARTICLE 9. PRESERVATION SPECIALIST ON STAFF-HISTORIC

RESOURCE ADMINISTRATOR

22-901 QUALIFICATIONS OF ADMINISTRATOR.

(A) The City Manager shall be authorized to employ an Administrator to facilitate the mandates of this chapter. The Administrator should have a master's degree in either American architectural history; American history with an emphasis in architectural history; architecture with an emphasis in architectural history; historic preservation; historic preservation technology; or, have demonstrated extensive practical experience in historic preservation or historic preservation technology. In addition, the Administrator should have at least two years' working experience in the area of historic preservation or a related field. The title of this administrative position shall be Historic Resources Administrator for the City.

(B) If at any time the position of Historic Resources Administrator is temporarily vacant, the City Manager shall designate a member of the City staff to serve as acting Administrator until such time as the position is filled. (Ord. 5950, Sec. 1)

22-902 DUTIES OF ADMINISTRATOR.

The Administrator shall have the following responsibilities:

- (A) Develop application forms and establish procedures consistent with this Chapter;
- (B) *Be responsible for recording/taking minutes at each Commission meeting; (2)*
- (C) *Be responsible for publication and distribution of copies of the minutes, reports and decisions of the Commission to the members of the Commission;*
- (D) Give notice as provided in this Article or by law for all public hearings conducted by the Commission;
- (E) Advise the mayor of vacancies on the Commission and expiring terms of members;

- (F) Prepare and submit to the City Commission a complete record of the proceedings before the Commission on any matter requiring City Commission consideration.

- (G) Receive, review, process, prepare reports and recommendations and refer to the Commission and the City Commission applications for designation of landmarks and historic districts, certificates of appropriateness, building permits, demolition and clearance permits, certificates of economic hardship, preservation easements, and appeals provided for in this Chapter;

- (H) Record and file approved landmark and historic district designations, certificates of appropriateness, certificates of economic hardship, preservation easements, and decisions on appeal;

- (I) Make landmark and historic district recommendations to the Commission;

- (J) Maintain an up-to-date copy of the map of landmarks and historic districts, as necessary;

- (K) Maintain agenda, minutes, and records of all meetings of the Commission including voting records, attendance, resolutions, findings, determinations, and decisions;

- (L) Conduct and interpret architectural surveys and research necessary to support local, state, and national designations, upon approval of the Commission;

- (M) To educate, communicate and inform the residents of Lawrence pursuant to the purpose of this Chapter. (Ord. 5950, Sec. 1)

ARTICLE 10. INCENTIVES AND EASEMENTS

22-1001 SPECIAL USE PERMIT.

To make the preservation of historically significant structures more economically feasible, the Commission may recommend to the Lawrence-Douglas County Planning Commission that a special use permit be granted for landmark or historic districts as an alternative zoning category to permit appropriate functions such as bed and breakfast accommodations, house museums, art galleries, and other appropriate specialty uses. (Ord. 5950, Sec. 1)

22-1002 PRESERVATION EASEMENTS.

Preservation easements on the facades of buildings designated as landmarks or structures of merit may be acquired by the City or other appropriate groups of persons through purchase, donation or condemnation pursuant to the laws of the State of Kansas. A preservation easement would include any easement, restriction, covenant or condition running with the land designed to preserve or maintain the significant features of such landmarks or structures. (Ord. 5950, Sec. 1)

22-1003 EXCEPTIONS.

Exceptions to the Building Code of the City may be available to owners of landmarks and buildings within historic districts as set forth in Section 104 of the Building Code as amended by Chapter 5, Article 1, Section 5-102.1 (Ord. 5950, Sec. 1)

22-1004 PRESERVATION FUND.

(A) There is hereby established a preservation fund. The fund shall be administered as directed by and according to any limitations and regulations imposed by the City Commission and according to state law. The City may apply for, receive, and place in the fund any federal, state, local, or private gifts, grants, fees, grants-in-aid or bequests. The City Commission may budget and incorporate City revenues into the fund. Fees and fines imposed according to this Chapter shall be placed in the fund.

(B) The Commission may recommend and the City Commission may approve, on a case by case basis, that the resources of the Lawrence preservation fund be used for:

- (1) The purchase of fee simple title to landmarks or properties located in an historic district;
- (2) The purchase of preservation easements regarding landmarks or properties located in an historic district;
- (3) The purchase of fee simple title to landmarks or properties located in an historic district with the eventual objective of property resale subject to a preservation easement;
- (4) Payment of installments and fees according to a contract to purchase fee simple title to landmarks or properties located in an historic district or a preservation easement regarding a landmark or properties located in an historic district;
- (5) Grants and/or loans to owners, developers, and organizations for preservation and/or rehabilitation of landmarks and properties in an historic district;
- (6) Grants and/or loans to organizations for programs and projects designed to achieve one or more of the purposes of this Chapter;
- (7) The maintenance of landmarks and properties in historic districts or maintenance of preservation easements;
- (8) The costs of conducting and preparing surveys of historically and architecturally important buildings, sites, structures and objects;

(9) The costs of preparing nominations of buildings, sites, structures or objects to the State Register or the National Register;

(10) The costs of the preparation and preservation of reports, instructions, brochures, meetings, maps, press releases, conferences, and other measures designed to acquaint citizens, owners, and developers of the purposes and provisions of this Chapter; and

(11) Reasonable administrative, planning, architectural, engineering, financial, real estate, appraisal, and/or legal costs associated with the purchase of property, the purchase and enforcement of preservation easements, the sale of property, the negotiation of contracts, the preparation of a grant application, and legal actions.

(C) The Commission may recommend, and the City Commission may approve, criteria, standards, rules, limitations, and regulations for projects and programs established pursuant to the requirements of this section. (Ord. 5950, Sec. 1)

22-1005 HISTORIC CONSERVATION AWARD PROGRAM.

Preservation-related activities may be reviewed and awards given at appropriate times, but not less than once a year by the Commission. The awards shall be known as the Paul E. Wilson Awards and may be given in some or all of the following categories as the Commission deems appropriate:

Adaptive Use

Preservation Project

Restoration/Renovation

(A) Residential

(B) Commercial

Exterior Paint

Architectural Design

Contractor

Real Estate Sales Person

Significant Preservation Contributor

The Commission may add other appropriate categories to the award program. Winners of the awards may receive plaques and/or certificates. (Ord. 5950, Sec. 1)

ARTICLE 11. FEES

22-1101 FEES.

(A) There shall be a \$50 fee to be paid by the persons nominating an historic district, and a \$10 fee to be paid by persons nominating a landmark. These fees shall be paid at the time of filing the application for nomination. All fees received shall be placed in the preservation fund. Fees may be waived for good cause.

(B) There shall be no fee for the application for a certificate of appropriateness of economic hardship. (Ord. 5950, Sec. 1)

ARTICLE 12. MINIMUM MAINTENANCE REQUIREMENT

22-1201 MINIMUM MAINTENANCE REQUIREMENT.

All real property, and any 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 or its protection, preservation, enhancement, perpetuation, or use in compliance with the terms of this Chapter and the applicable codes of the City. (Ord. 5950, Sec. 1)

ARTICLE 13. FINES AND PENALTIES

22-1301 CRIMINAL ACTION.

Any person who undertakes or causes an alteration, construction, demolition, or removal of any nominated or designated landmark or property within a nominated or designated historic district in violation of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$500. Every day each such violation shall continue to exist shall constitute a separate violation. The Commission may institute any appropriate action or proceeding in the name of the City to enjoin, correct, or abate any violation of this Chapter. The amount of the fine or penalty herein imposed is in addition to the following civil remedy. (Ord. 5950, Sec. 1)

22-1302 CIVIL ACTION.

Any person who willfully constructs, reconstructs, alters, restores, renovates, relocates, stabilizes, repairs or demolishes any building, object, site, or structure in violation of this Chapter shall be required to return the building, object, site, or structure to its appearance and setting prior to the violation. Any action to enforce this provision shall be brought by the City. in the event that the cost of returning the building, object, site or structure to its appearance or setting prior to the violation exceeds fifty percent (50%) of the value of the building, object, site or structure, the offender shall make restitution in the form of either reconstructing the building, object, site or structure to its appearance and setting prior to the violation or paying to the preservation fund a dollar amount equivalent to the cost of reconstruction. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty. (Ord. 5950, Sec. 1)

