

A HISTORIC RESOURCES PRESERVATION CODE 2003 ESTABLISHING A LEAVENWORTH LANDMARKS AND APPEALS BOARD, PROVIDING FOR THE DESIGNATION OF LEAVENWORTH LANDMARKS AND HISTORIC PROPERTY DISTRICTS, AND REGULATING IMPROVEMENTS TO AND DEMOLITION OR CLEARANCE OF BUILDINGS, SITES, STRUCTURES, OR OBJECTS LISTED AS A LANDMARK OR LOCATED IN A HISTORIC DISTRICT OR CONTRIBUTING STRUCTURES WITHIN 500 FEET OF A HISTORIC LANDMARK OR HISTORIC DISTRICT PROPERTY.

WHEREAS, The City of Leavenworth, Kansas (City) is a municipal corporation duly organized and authorized under the laws of the State of Kansas, and

WHEREAS, the City is authorized, under the Kansas Historic Preservation Act, KSA 75-2724, to participate in the Certified Local Government program by establishing a partnership with the Historic Preservation Department, Kansas State Historical Society, and

WHEREAS, the City Commission finds and determines that it is desirable to identify and promote the City's prehistoric, historic and cultural heritage, to enhance the attractiveness of the City, thereby promoting business and tourism;

Section 1. Purpose & Applicability

1.01 Title. This document shall be known as the "Historic Resources Preservation Code 2003," may be cited as such and will be referred to as "this" or "the" Code . The Code is intended to enhance and promote Leavenworth's contribution to the history of the State of Kansas as well as to this nation.

1.02 Purpose. The purpose of this Code shall be to establish a historic preservation commission to be called the Leavenworth Landmarks and Appeals Board, hereafter referred to as the board, to preserve and promote the preservation of prehistoric and historic sites, structures, objects, buildings and historic districts in the City.

1.03 Applicability. This Code shall apply to all historically and architecturally important structures, properties and districts located within the City limits, which have demonstrated and have been determined to be significant through nomination and placement on local, state or national registers of historic properties. This Code shall apply to demolition and exterior alteration or enlargements to properties within 500 feet of such designated historic properties in the City.

1.04 Definitions. For the purpose of this Code , certain terms and words are hereby defined. Words used in the present tense include the future; words in the singular include the plural. The word "shall" is mandatory while "should" and "may" are permissive. Any words not defined herein shall carry and convey the meaning ascribed by a common English language dictionary.

Adaptive Use: 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.

Appeals Board: The Leavenworth Landmarks and Appeals Board.

Alteration: Any change or rearrangement to the structural parts of an existing building or property. Any enlargement, whether by height or dimension, shall be considered an alteration.

Applicant: The owner or duly designated representative of a structure or property nominated for local, state or national registry, or group of owners of structures in a proposed historic district, or the owner or duly designated representative who has applied for a building permit, demolition or clearance permit involving a registered historic property or property within 500 feet of a registered historic property.

Board: the Leavenworth Landmarks and Appeals Board.

Building: A structure, such as a house, barn, church, hotel, courthouse, city hall, social hall, commercial building, library, factory, mill, train depot, theater, school, store, warehouse or other building created to shelter human activity. The term may also refer to a small group of buildings consisting of a primary and one or more accessory structures in a historically, functionally related manner such as a mansion and carriage house, or, a church and rectory and related out buildings.

Certificate of Appropriateness or CofA: A certificate issued by the City approving plans for alteration, construction, demolition or other matters relating to various historic properties.

CofA-major: A Certificate of Appropriateness which may only be granted by the board, or on appeal, by the City Commission.

CofA-minor: A Certificate of Appropriateness which may be granted by certain designated staff or non-exterior repairs or for non-registered properties which have no adverse impact on historic properties.

City: The City of Leavenworth, Kansas.

City Commission: The five-member, elected, governing body of the City of Leavenworth.

Contributing/Key contributing: A building, site, structure or object which adds to the architectural qualities, historic association or archeological values of historic register property for which a property is significant because: (a) it was present during the pertinent historic time; (b) it possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period or (c) it independently meets the standards and criteria of this Code .

Design guideline/standard: The standards set forth by the Secretary of the US Department of the Interior for the preservation of historic places.

District/historic district: An area that possesses a significant concentration, relationship between, or continuity of sites, buildings, structures, or objects united historically or architecturally by plan or physical development. Districts include college campuses, downtown areas, residential areas, industrial complexes, civic centers, government reservations, planned street systems and parks. The

term may also be applied to individual associated or functionally related sites, buildings, structures, or objects that are geographically separated. In such cases, visual continuity should not be necessary to convey the historic relationship of a group of related resources.

Environs: In addition to properties listed upon the National Register of Historic Places (hereafter, “registered”), this Code shall apply to all structures which are within 300 feet of a registered property and to all structures intervisible with the registered property up to, but not farther than, 500 feet. Intervisible is further defined as “the condition of being able to see one point from another without physical, permanent obstruction.” Intervisibility shall be determined by standing at the main entrance of the registered property and looking in all directions for a distance of up to 500 feet. All references to “within 500 feet of a landmark or historic district” as used throughout this Code, shall use the intervisibility standard for determining changes to the environs of a registered property.

Exterior Architecture/Feature: The character and composition of the exterior of the 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, and, the elements and components of the outer surface of a structure including windows, doors, light fixtures, signs, fences, hitching posts, decorations, chimneys, false fronts, parapets, flag poles, landscaping, retaining walls and related materials.

Historically or Architecturally important feature: The quality present in a structure, property or district because it: (a) Is associated with an event or events that significantly contributed to the broad patterns of the history or architectural heritage of the city, state or nation. (b) Is associated with the life of a person(s) significant to the history of the city, state or nation. (c) Embodies distinctive characteristics of a type, design, period or method of construction. (d) Represents the work of a master craftsman or possesses high artistic value. (e) Exemplifies the cultural, political, economic, social or historic heritage of city, state or nation. (f) Contains elements of design, detail, materials, or craftsmanship which represent a significant construction innovation. (g) Is part of or related to a square, park or other distinctive area that was or should be developed or preserved according to a plan based on a historic or architectural motif. (h) Is an established and familiar visual feature of a neighborhood or of the community. (i) Has yielded or is likely to yield archeological artifacts and/or information.

Historic District: An area designated as an historic district and which may contain within definable geographic boundaries one or more significant sites, structures or objects and which may have such other structures which contribute to the overall visual characteristics of the significant structures or objects located within the designated area, and are free from non-contributing structures which detract from the historic properties.

Historic Preservation: The study, identification, protection, restoration and rehabilitation of buildings, sites, structures, objects, districts, and areas significant to the history, architecture, archaeology or culture of the city, state or nation. Preservation may include work to halt the process of decay, normal maintenance, and other measures to retain and sustain the nature, form, material and integrity of historically or architecturally important properties, structures or districts.

Historic reconstruction: 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 materials based on precise historical documentation and specification, including construction method.

Historic restoration: the accurate reconstruction of structural elements matching in shape, size, texture and color the original construction method and material, including removal of materials that are not appropriate to the structure.

Historic replication: the reconstruction of structural elements which match the shape and size but may be made of different materials or methods used in the original construction.

Kansas Register/State Register: The current State Register of Historic Places as prepared, approved and amended by the State Historic Sites Board of Review and authorized by KSA 75-2701, et.seq.

Leavenworth Landmark: A site, structure or object designated as a landmark by Code of the City Commission deemed worthy of preservation because of its historic, archaeological and/or architectural significance to the City, state or nation.

National Register: The current National Register of Historic Places established by the National Preservation act of 1966, 80 Stat. 915.16 USC 470 et seq, as may be amended.

Non-contributing: A building, site, structure or object that does not add to the architectural quality, historic association or archaeological values for a landmark or historic district because it was not present historically, or, has been altered or changed which has destroyed its historic integrity and it is incapable of being restored, or, it cannot independently meet the criteria for landmark designation.

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

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.

State Historic Preservation Officer or SHPO: The person who has been designated by law and by the Governor of the State of Kansas to administer the State Historic Preservation Program for the purpose of carrying out the provisions of the National Historic Preservation Act of 1966, as amended, and related laws and regulations.

State Review Board: the Kansas Historic Sites Board of Review as established in KSA 75-2719a.

Variance: A variation from a specific requirement of the Secretary's design standards, as applied to a specific structure or property.

Section 2. Leavenworth Landmarks and Appeals Board

2.01 Creation. The Leavenworth Landmarks and Appeals Board (hereafter Board) is hereby created to inventory, promote, list, record, protect, preserve and enhance places, areas, features or sites within the City that have special significance of an architectural, archaeological, cultural or historical sense. The Board shall advise the City Commission and cooperate with other historic agencies and organizations concerning preservation of the City's historic and cultural heritage.

2.02 Membership. The board shall consist of seven Leavenworth residents by appointment by the mayor with concurrence by the City Commission. The membership shall include at least one architect, one real estate professional, one planning commissioner, and one historian as well as members at large. Appointments shall be for a term of three years, except that the first board shall be appointed as follows: three for three year terms, two for two year terms and two for one year terms. The mayor may reappoint, as above, persons who have met the minimum attendance requirement and who otherwise have served adequately. The mayor may remove any member of the board, for cause. Vacancies shall be filled by appointment as above within 60 days, such appointment for the remainder of the unexpired term.

2.03. Rules of Procedure. The board shall adopt bylaws or rules of procedure which specify attendance requirements, conflict of interest, officer/selection process, quorum, agenda formulation, notice and such other appropriate matters. Minutes of the meeting will be distributed to board members, the City Commission and the State Historic Preservation Officer (SHPO).

2.04. Annual Report. The board shall prepare an annual report of its activities for the period January 1 through December 31 to be submitted to the City Commission and SHPO by February 1. The report shall include an account of the number and type of cases reviewed and their disposition, a listing of new designations made during the year and a record of current and appointed board members. The report should also assess progress in preserving historically important structures and assess the need for future changes to the Code . The report shall conclude with a statement of goals for the ensuing year and shall be duly authorized by majority vote of the board.

2.05 Authority and Responsibilities.

2.05.01 The geographic area of authority shall be the area contained within the Leavenworth corporate limits.

2.05.02 The board's central purpose is the designation and the protection of historic properties in compliance with the Kansas Historic Preservation Act (KSA 75-2724 et seq.). Matters arising under the statute shall require notification of the SHPO.

2.05.03 The board shall review all proposed nominations for local, state and national registers of historic properties. All nominations shall be evaluated by a professional in a specific discipline, if not represented on the board, prior to board recommendation.

2.05.04 The SHPO may, by mutual agreement with the City, delegate responsibilities to the board.

2.05.05 Each board member shall attend at least one information or training meeting each year as approved by the SHPO.

2.05.06 The board shall review and maintain the historic property inventory to add properties which may be eligible for designation as landmarks or districts in accordance with procedures established by the SHPO. In addition to the Kansas Historic Structures Inventory form, the City shall use the Urban Study Unit Manual prepared by the SHPO for the preservation planning process. Copies of all inventory materials shall be submitted to the SHPO.

2.05.07 The City shall provide for adequate public participation in all aspects of the implementation

of this Code . All meetings shall be open to the public pursuant to KSA 75-4318. The board shall meet at least four times each year. Agenda materials provided to board members shall be open to the public. Decisions shall be made in a public forum and minutes of all meetings shall be kept on file and available for public inspection. Minutes shall be considered notice of any action or decision.

2.05.08 The board shall have the discretion to establish other programs and services, including but not limited to: create public information programs, use of City funds to promote preservation activities, review other departmental plans being considered that may affect historic structures or properties, and cooperate with local groups or agencies to provide the widest possible promotion of historic programs and places.

2.05.09 The board shall review and recommend local incentives which may encourage Landmark designation in Leavenworth. These may be in the form of retail discounts, tax rebates, permit fee waivers, utility reductions and other means to stimulate interest in historic preservation available only to designated Landmark properties. Such incentives shall be by agreement between the city, the Landmark owner and the respective business or utility providing the reduction or rebate.

2.05.10 The board shall review and recommend policies regarding historic, public streetscape, lighting and signage in historic districts to encourage their development. Resources available to create such places may include general or special tax authority as well as assessment processes.

2.06 Grants and gifts. The board shall prepare applications for City Commission approval for any gift, grant, bequest, devise, lease, fee, development right, easement, covenant or conveyance for the purpose of preservation, including state, federal or corporate grants or bequests.

2.07 Code review. The board shall review the provisions of this Code at least every five years to make comprehensive or individual changes deemed appropriate. The board may make recommendations for amendment at any time deemed necessary to improve the enforceability of the Code .

2.08 Compensation and expenses. Board members shall serve without compensation except for necessary expenses sustained in mandatory attendance at state historic preservation meetings and/or training as described above. The City Commission shall establish budget authority to provide for historic preservation administration and promotion activities.

Section 3. Administration.

3.01 Department. The Community Development Department shall be responsible for the administration of this Code and performing the staff function for the board. The Department is authorized to enforce the provisions of, and to develop such application forms and procedures consistent with, this Code .The department shall process all applications for Landmark designations in accordance with Section Four (4) as described herein.

3.02 Department Director. The Community Development Department Director shall review all building permit applications to determine if a Landmarks property may be affected by a proposed development. If so, the director shall follow the procedure to either issue a certificate of appropriateness or begin a review process in accordance with the provisions further described herein. The director shall forward the board's recommendations to the City Commission, record and file all landmark designations, and maintain the Map of Landmarks and keep all agendas, minutes, reports, findings, determinations, and correspondence for the board.

3.03 Landmark Impact Determination. No historic property may be occupied or used in a different manner unless/until the director has made a Landmark Impact Determination which shall be attached to a certificate of appropriateness (see Sections 5.01 through 5.04). Such determination shall include: Name and address of owner, address of historic property, nature of repair/alteration/demolition, historic or architectural significance, physical condition of the property, county appraised value of the property, detrimental effect of the permit, if any, and the director's recommendation to approve or deny a certificate of appropriateness.

3.04 Fees. Fees shall be set by the City Commission as recorded in Appendix F, Leavenworth Code of Code s. Payment shall be to the City Clerk, upon authorization from the director. Fees shall be set for the following activities: Nomination of a property to the local, state or federal Landmark registry and application for appeal to denial of a certificate of appropriateness for the improvement or demolition as indicated in the permit application.

3.05 Enforcement. The director, upon discovery that a demolition or improvement to a property is being made without review of the appropriate permit, shall issue notice to cease to the owner and shall take all appropriate measures to prevent such unlawful act. Notice shall explain the nature of the violation in clear terms and shall allow the owner to give satisfactory evidence that the action will be corrected within 30 days or an appropriate action to comply with the provisions of this Code will be initiated. Failure to comply may result in citation to municipal court and may result in the City taking corrective action to abate the offense and assess the costs of such abatement to the owner.

It shall be unlawful for any person, firm or corporation to enlarge, alter, repair, convert, demolish or change the use of any property listed on the National Register of Historic Places, or located within a registered Historic District, without first obtaining a building or other permit as lawfully required for such purpose by the City of Leavenworth, Kansas.

No building permit shall be issued until the property owner has submitted accurate building elevations, site plan and construction drawings, material lists and color schemes in sufficient detail to enable the City to conclude that the project meets the appropriateness test as set by the Secretary of the Interior's standards for historic preservation and the special terms of this Code .

Building construction shall be halted if inspection staff notes that the project description presented to the City for approval differs in any way from the construction practices being performed on-site. During this stop-construction period, the City shall require compliance with the original approved depiction. The owner may appeal the order to the Landmarks & Appeals Board by submitting amendments to the original plan and construction may proceed upon their approval. If the Landmarks & Appeals Board denies the amendment the owner may appeal to the City Commission.

Any person, firm or corporation willfully violating any of the provisions of this Code shall be deemed guilty of a misdemeanor punishable as provided by law.

3.06 Assessment. If the City has filed proper notice and the time has elapsed for correction by the owner, the City may take corrective action and any and all costs incurred by the City under the provisions of this article shall be assessed against each lot or piece of ground, chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.

3.07 Penalties. Any person violating any of the provisions of this Code shall be guilty of a misdemeanor, each day or portion thereof, constituting a separate offense. Each offense shall be punishable by a term of confinement in the City or county jail which shall be fixed by the court and shall not exceed one year and may, in addition to, or instead of the confinement, be sentenced to pay a fine not exceeding \$2,500.

3.08 Appeals. Any property owner aggrieved by any office of the City or other entity may apply for an appeal using the process identified in Section Seven (7) hereinafter described. Appeals shall be to the Leavenworth Landmarks and Appeals Board. Any decision of the board may be further appealed to the City Commission. All rulings by the City Commission shall be final and binding on all parties unless appealed to, and overturned by, the District Court.

3.09 Variances. Any property owner, or authorized representative, may apply for a variance from specific guidelines for historic preservation as set and amended by the Secretary of the Interior Department. Such application shall be made using the process identified in Section Seven (7) hereinafter described. Variance applications shall be made to the Leavenworth Landmarks and Appeals Board whose decisions are final. The board may grant a variance from the specific regulation upon a finding that such variance would not be contrary to the health, safety or best interest of the public, and, a literal enforcement of the provision will result in an unnecessary hardship to the property owner, and, there is a condition unique to the property which was not created by the property owner, and, there is no adverse effect on surrounding properties, and, the variance would not be contrary to the general spirit or intent of the Code . All five conditions shall be affirmed before granting the variance.

3.10 Normal property maintenance shall be exempt from the provisions of this Code , unless and/or until a permit for work to be done is required by other City development regulations.

Section 4. Landmarks Survey, Nomination and Designation Process

Submit Application form property owner or 75% of owners within the district to Community Development	Publish Notice of Public Hearing	Conduct Public Hearing within 45 Days
Wait one year to resubmit unless reconfigured pursuant to Commission direction	NO	Recommend to City Commission Commission Decision 14 days
Notify owner(s) within 7 days	Notify SHPO & Register of Historic Places	YES

4.01 Historic Resources Survey. The board shall annually update the historical resources survey to

identify buildings, structures, sites, neighborhoods and areas that may have historical, cultural or architectural importance to the community. As part of the survey, the board shall evaluate studies by other organizations and compile appropriate descriptions, facts and photographs. All such materials shall be documented in accordance with the survey manual prepared by the SHPO.

4.02 Identification of Landmarks and Historic Districts. The board shall identify the most significant resources with potential for designation as a local Landmark or historic district, devise and adopt procedures to initiate and consider their nomination to local, state and national registers and prepare and adopt a heritage conservation and promotion plan containing goals, objectives and policies to preserve the community's historic resource.

4.03. Leavenworth Landmarks Register. The board shall establish a register of local historic places to be called the Leavenworth Landmarks Register. The register will contain a complete description of all buildings, structures, sites and objects designated as landmarks and a description of boundaries of any area designated an historic district All landmarks and districts shall be identified on the Landmarks Register Map, on file in the office of the City Clerk and the Community Development Department located in City Hall, 100 N. 5th Street, Leavenworth, KS. Updated copies of the map will be provided to the reference section of the Leavenworth Public Library.

4.04 Nomination of Landmarks and historic districts. Using the public hearing process outlined in Section Seven (7), nominations for landmark or historic district designation shall be made by application submitted by the owner of a landmark or by written consent signed and acknowledged by seventy-five percent of all property owners within the defined boundaries of a proposed historic district Each owner or owners of any legal parcel of record shall have one vote in the district per parcel, regardless of parcel size to determine this threshold. Lots which have been historically combined to create one parcel or building site, shall be considered one parcel for this purpose. The board shall review each application and shall apply the following criteria to determine eligibility to the local register:

4.04.01 Character, interest or value as part of the development, site or structure which contributes significantly to the heritage or cultural characteristics important to the development of the city, state or nation.

4.04.02 Identification with a person or persons who significantly contributed to the development of the city, state or nation.

4.04.03 Architectural style valuable to the study of a period, or to the type, method of construction, materials used, design elements, detailing materials, or craftsmanship embodied in the structure, or identification with a master builder, architect or craftsman whose work influenced the development of the city, state or nation.

4.04.04 Location of a prehistoric or historic site, occupation or activity possessing significant archeological value.

The weight of any one criterion may be sufficient to accept the nomination and criteria not listed above may be contributed in the nomination which may render the nomination sufficient for placement on the register. All applications shall be submitted to the Community Development Department, City Hall, 100 N. 5th Street, Leavenworth, KS (Department).

4.05. Report and recommendation. Within thirty (30) days after close of the public hearing, the board shall adopt and submit its recommendation to the City Commission that the nominated property does

or does not meet the criteria for placement on the register with the following considerations: significance or lack of significance of the nominated property as it relates to the above stated criteria and integrity or lack of integrity of the nominated property as it relates to historical features. Recommendations will be accompanied by a locator map of the subject property and such other photographs or renderings deemed pertinent to the nomination process.

4.06. City Commission Designation. The City Commission shall consider the nomination at the next available regular commission meeting, after the protest petition period has elapsed. The City Commission shall approve acceptable nominations by Code approved by roll call vote. Denials may be by simple motion as recorded in the minutes of the meeting. Any landmark or historic district nomination denied by the City Commission shall not be reconsidered for a period of one year. The Commission may take any of the following actions:

- 4.06.01 Accept the recommendation of the board, or reverse the recommendation of the board
- 4.06.02 Amend by reduction or enlargement of the landmark or historic district
- 4.06.03 Amend or rescind previous placements on the register (after following the procedure for placement).

4.07. Designation. Within seven (7) days after approval, the City Commission shall forward notice of designation of any landmark or historic district to the SHPO, in the format necessary to request placement on the state and national registers of historic places. All appropriate state and local officials shall receive notice of the designation as well. Designation shall not alter the uses permitted by the existing zoning classification or district regulations affecting the property.

Section 5. Procedure for demolition, alteration or expansion of Landmark properties or historic districts and properties within 500 feet of landmarks or historic districts.

Property owner Applies to Community Development Dept.	CD determines Major/Minor CofA within 2 days	If Major, Landmarks Board holds hearing within 45 days or 180 days for demolition
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No, Denied

Approved? Yes	Appeal to City Commission within 30 days Permit is issued within 7 days	NO Yes	Approved? Yes
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Upon receipt of an application for any demolition, alteration or expansion of a landmark, a property within an historic district or a property within 500 feet of such landmark or district, the board and department shall initiate a process to determine if such permitted action is appropriate. All applications, except for proposed demolition of a landmark or historic district property, shall be reviewed, issued or denied in accordance with the process outlined in Section Seven (7).

5.01 Determination of appropriateness. Department staff shall prepare a certificate of appropriateness before any alteration or demolition permit may be issued for any landmark or historic district property, or for properties within 500 feet of such property. Certificates shall be classified as either a minor certificate of appropriateness or a major certificate of appropriateness. All certificates shall include the Director's landmark impact determination (See Section 3.03).

5.02 Minor Certificates of Appropriateness. Minor certificates shall be issued for any demolition or alteration work involving the following types of permits which can be demonstrated by the owner to have no adverse effect on a landmark or historic district: demolition of non-contributing structures, exterior improvements to contributing properties within 500 feet of a landmark property or district, most interior improvements except those noted as pertinent to a landmark designation, changes to signs, fences, public walkways, public streets, public alleys, public retaining walls and public utilities that do not contribute to the historic character of a landmark or historic district property.

Such certificates shall be authorized by the director and reported monthly to the board and City Commission. Such certificates may use a standardized checklist of pre-stated reasons and will be issued within twenty-four (24) hours of receipt except on Fridays, Saturdays, Sundays and holidays observed by the City.

5.03 Major Certificate of Appropriateness. Major certificates shall be subject to review and approval by the board and may be authorized for the following types of permits: interior space rehabilitation when such space was an important component in approval of the landmark nomination; demolition of any contributing structure within 500 feet of the landmark or historic district; any exterior alteration or expansion of a landmark or historic district property; any proposed new construction on a landmark property or within an historic district; and demolition of part or all of a landmark or building or structure in an historic district.

5.04 Criteria to determine appropriateness. The board shall adopt principles and guidelines establishing criteria for new construction, alterations, additions, moving and demolition of landmarks or properties in an historic district, including but not limited to, the following:

5.04.01 Specific design criteria for exterior alterations of landmarks or historic district properties shall be based on the US Secretary of the Interior's Standards for Rehabilitation as published in Section 36, Code of Federal Regulations, Part 67 as revised from time to time, and by further reference to such specific design criteria as the commission may require.

5.04.02 New construction and additions to existing structures shall be sensitive to and take into account the special historic district or landmark characteristics including height, scale, orientation, site coverage, spatial separations, facade and window patterns, entrance and porch size and general design, materials, texture, color, architectural detail, roof forms, vertical or horizontal elements, walls, fences, landscaping and other features.

5.04.03 Demolition applications for landmarks or historic district properties shall be denied for a period not to exceed 180 days if a proposed public or private re-use of the property is unknown. The maximum period of delay may be reduced whenever the board determines the owner will suffer extreme hardship or will be deprived of all beneficial use of the property by virtue of the delay. In either instance, the board shall use the delay to negotiate with the owner and interested parties to find a means to preserve the landmark or historic district property. Demolition applications for properties within 500 feet of a landmark or historic district shall be delayed not more than 30 days to determine their impact on the landmark or district. If the proposed re-use of the property is known, the use will be examined for relationship and compatibility with the landmark or historic district before demolition of a contributing or landmark structure may proceed. This section also applies to

properties nominated for landmark or historic district designation. Once redevelopment plans are known, the board will determine appropriateness pursuant to Sections Five (5) and Seven (7).

5.04.04 Non-binding conceptual reviews are encouraged.

5.05 Signs. The Board shall review and approve or deny all requests for signs to be located on a landmark or within an historic district in accordance with the following criteria:

5.05.01 Signs shall be designed and placed so as to be an integral part of the property design, in proportion to the landmark and compatible with the environment in historic districts.

5.05.02 Signs should be relative to the services and shall not block, obscure or distract from the landmark's or historic district's significant design elements.

5.05.03 Wherever possible, actual historic signage should be maintained and restored to original significance regarding design, materials, craftsmanship or placement.

5.05.04 In Commercial and Industrial Zoning Districts, illuminated signs shall be designed to reduce glare and shall not detract from the landmark's or district's historic character.

5.05.05 Freestanding signs and monument placards explaining the landmark's or district's significance or age shall be compatible with the landmark or district, but are otherwise encouraged. Signs shall be regulated for a distance of not more than 300 feet from a landmark or historic district.

Signs to be placed upon a National Register Landmark property shall not be subject to the public hearing process and may be approved as a minor certificate of appropriateness if the terms of Section 5.05 are met. Landmark signs which do not meet all of the stated terms shall be set for review by the Landmarks & Appeals Board at its next regular meeting with appeal to the City Commission if denied.

Signs within Commercial or Industrial Historic Districts shall not be subject to the public hearing process and may be processed as a minor certificate of appropriateness if the terms of Section 5.05 are met. Signs within Commercial or Industrial Historic Districts which do not meet all of the terms of Section 5.05 shall be set for review by the Landmarks & Appeals Board at its next regular board meeting with appeal to the City Commission if denied.

Signs within Residential Historic Districts shall be subject to the following procedure:

1. Any sign larger than two square feet proposed to be located within a Residential Historic District or within 300 feet of such District shall require a review by the Landmarks & Appeals Board prior to issuance of any sign permit.
2. The Board shall review the sign for compliance with the terms of Section 5.05 and shall modify, approve or deny the permit following a scheduled informal hearing set for its next regular meeting. Such informal hearing shall be preceded by written notice to each of the properties within the affected historic district.
3. This is not a formal public hearing process as described elsewhere in this Code for appeals. No notice is required to be advertised. Letters shall be sent by regular mail. Failure to receive notice of such informal hearing shall in no way void the hearing process. The letter mail distribution shall be based upon the addresses of the properties within the district as filed with the nomination for the district in records kept and maintained by the Community Development Department, City of Leavenworth, Kansas. Such notice shall be mailed at least five work days prior to the date set for the informal hearing. It shall state the date, time and place of the informal hearing and that the Landmarks & Appeals Board will meet to discuss a sign permit request and shall give the address where the sign may be located.
4. Should a legal, non-historic commercial or industrial zoned property be located within 300 feet of a Residential Historic District, then the Leavenworth Sign Code shall be used to issue sign permits and no further Historic review shall be required.
5. During the informal hearing the chair may elect to hear public testimony in favor of or opposed to the sign as designed. The Board may encourage modification of the sign to assure historic

integrity and compatibility with the character of the historic landmark or district, or the Board may grant or deny the sign permit as presented. The owner of the sign may appeal the decision of the Board to the governing body, if denied.

Appeals shall be in writing received by City staff within seven days of the date of denial.

5.06 Retention of Accessory Structures and Landscaping. Existing characteristics such as trees, walls, stairs, paving materials, fencing, walkways and other site features that reflect the landmark or district's significance shall be retained and protected from demolition or alteration.

5.06.01 Landscaping shall be appropriate to the scale and feature of the landmark or historic district.

5.06.02 Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Non-contributory structures shall not distract from the landmark or historic district properties.

5.06.03 Design criteria shall be applied more stringently to projects of greater significance than those of lesser impact. Accessory facilities are not subject to the public hearing process and will be reviewed at the next regular board meeting with appeal to the City Commission if denied. Appeals must be submitted in writing within seven days of date of denial.

5.07 Public Properties. Existing historically or architecturally significant public properties shall be nominated to local, state and federal registers upon authorization by the appropriate governing body after review and approval by the board of appropriate nominating materials. Unless specifically required elsewhere, normal nomination procedures may be waived. Normal maintenance to preserve and protect the historic integrity of structures owned by these entities are not subject to further review. Demolition, exterior alteration, or expansion of landmark properties owned by such entities shall follow the procedures enumerated in this Code .

5.08 Normal property maintenance shall be exempt from the provisions of this Code unless or until a permit for work to be done is required by other City development regulations.

Section 6. Promotion and other functions.

To further the purposes of this Code and to assure maximum public knowledge and involvement in the preservation of Leavenworth's history, the City may enter into agreements with other units of government, other agencies and private corporations. Specifically, the City shall negotiate an agreement with the SHPO whereby the state may delegate certain responsibilities to the City, including, but not limited to, the review of building and/or demolition permit applications for compliance with the above stated historical regulations and objectives.

6.01 Types and purposes of grant or other agreements. The board may recommend and the City Commission may authorize such agreements which address:

6.01.01 Designation of landmarks and historic districts.

6.01.02 Administration and use of preservation fund resources.

6.01.03 Improvements to landmarks and historic districts.

6.01.04 Demolition and clearance of landmarks and historic district properties and properties within 500 feet of such properties.

6.01.05 Maintenance of landmarks and historic district properties.

6.01.06 Other mutually acceptable provisions such as contracts with public or private consultants and acceptance of grants or other resources to further the objectives and functions of the board.

6.02 Promotion. The board shall be the City's point of contact for all historic associations and organizations within the City, state and nation and shall provide such assistance as practical to promote and develop historical, archeological, or prehistoric interest in Leavenworth within the established budget for the operation of the board. Activities such as submitting pass-through grants on behalf of these agencies, providing assistance with tax credit and other financial incentives directed toward historic property preservation, and providing basic research materials to interested parties will be conducted by the department as directed by the board and as authorized by the City Commission through the various agreements. The board is expected to provide accurate information to news media when appropriate to further the objectives of historic property preservation.

Section 7. Public Hearing Process for landmark designation and for proposed alteration, expansion or demolition of landmark or historic district properties and contributing properties within 500 feet of such properties.

Except where otherwise specifically excepted, the following process shall be used whenever historic landmarks or districts are proposed or whenever permit applications are received to alter, expand or demolish part or all of a landmark or historic district property or a contributing property within 500 feet of same.

7.01 Landmark nomination as additionally described in Section Four (4) above shall be processed as follows:

7.01.01 The board or department generates or receives a nomination and determines the appropriateness of the nomination based on age and character of the property being nominated.

7.01.02 The department advertises the date, time, place and purpose of a public hearing at least 20 days prior to the date set and sends notice to all property owners within 200 feet of such proposed nomination [allow 30-45 days for this process].

7.01.03 The board conducts the hearing and after a 14-day protest period elapses, recommends approval or denial of the nomination to the City Commission [allow 20-30 days for this process].

7.01.04 The City Commission accepts or reverses the recommendation and approves or denies the nomination.

7.01.05 If approved, proper notifications are made and the property or district is declared a landmark or historic district [allow 10-14 days for designation notification].

7.01.06 If denied, reasons therefore are presented to the owner, in writing, with remedies which the owner may address and resubmit in a future nomination of the same property [requires one year delay before a future nomination may be submitted].

7.02 Alteration, expansion or demolition of some or all of a landmark or an historic district property or a property within 500 feet of such property requiring a major Certificate of Appropriateness.

7.02.01 The department receives application for a permit which triggers the determinations warranting a major certificate of appropriateness and notifies the applicant within 24 hours that a

formal review is required before a certificate of appropriateness can be issued [allow one-two days for this process; minor certificates of appropriateness may be issued in this time frame].

7.02.02 Applicant submits request for review in writing within seven days [allow one-seven days for this process].

7.02.03 Department prepares and publishes notice of time, date, place and purpose of public hearing, such notice to be published at least twenty days prior to the date of the hearing [allow 30-45 days for

this process]. Notice is also sent by regular mail to all property owners within an affected historic district.

7.02.04 Board conducts the public hearing and determines if the certificate of appropriateness can be issued and submits its decision, in writing with appropriate documentation to the applicant within 10 days. If the certificate of appropriateness can be issued, the permit may be granted by building inspector or other regulating department as appropriate [allow 1-5 days for this process for residential projects, allow 30-60 days for major residential (more than four units per building), commercial or industrial projects]. If the requested action is determined inappropriate in order to protect the historic character or integrity of the property, then the applicant may file an appeal, in writing, within seven days asking that the application be reconsidered by the City Commission [allow 5-10 days for this process]. A protest period of at least 14 days must elapse from the date of the public hearing until the appeal may be heard by the City Commission [this time runs concurrently with the notification process, allow an additional 5-10 days for scheduling]

7.02.05 The City Commission holds a regularly scheduled meeting and upholds or reverses the decision of the board.

7.02.06 The decision of the City Commission is conveyed, in writing, to the applicant [allow 5-10 days for this process]. If the certificate of appropriateness is issued, the permit may be granted by the building inspector or other regulating department as appropriate [allow 1-5 days for residential or 30-60 days for major residential (more than four units per building), commercial or industrial projects].