

**Sample Historic Preservation Ordinance**

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**AN ORDINANCE AMENDING CHAPTER \_\_\_\_\_ OF THE MUNICIPAL CODE OF THE CITY OF \_\_\_\_\_, MISSOURI BY THE ADOPTION OF A NEW ARTICLE \_\_\_\_\_ : HISTORIC DISTRICTS AND LANDMARKS.**

**WHEREAS**, the City of \_\_\_\_\_ was originally settled .....

**WHEREAS**, the City of \_\_\_\_\_ has many buildings, structures, objects, sites, and districts that embody a sense of time and place unique to the City, or which exemplify and reflect the cultural, social, economic, political, architectural, engineering or archaeological history of the nation, the State of Missouri, or the City; and

**WHEREAS**, movements and shifts of population and the changes in residential, commercial and industrial uses and customs threaten areas, places, structures, sites, works of art and other objects having special historic, community, architectural, archaeological, or aesthetic importance, interest or value and whose preservation and continued utilization are necessary and desirable for the enjoyment, by the citizens of \_\_\_\_\_ and others, of the history and beauty of said city; and

**WHEREAS**, the protection of the historic, archaeological and architectural character and resources of the City of \_\_\_\_\_ is necessary for the promotion of its economic development; and

**WHEREAS**, the legislature of the State of Missouri has recognized the importance of protecting and preserving places, areas and neighborhoods of historical and cultural importance and significance by empowering cities to adopt regulations and restrictions for the protection of such places and areas, as provided by Chapter 89 and Chapter 253.415 of the Missouri Statutes.

**NOW, THEREFORE**, Be It Ordained by the Council of the City of \_\_\_\_\_, Missouri as follows:

The Municipal code of the City of \_\_\_\_\_, Missouri is hereby amended by the adoption of an amended Article \_\_\_\_\_: Historic Districts and Historic Landmarks to read as follows:

**Section I: General provisions**

**Purpose.** The purpose of this article is to promote the educational, cultural, economic, and general welfare of the community by:

1. Providing a mechanism to identify and preserve the distinctive historic, archaeological and architectural characteristics of \_\_\_\_\_ 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 \_\_\_\_\_ landmarks and historic districts;
3. Conserving and improving the value of property designated as landmarks or within historic districts;
4. Providing for economic benefits to encourage business and residential owners to locate and invest in historically significant properties;

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5. Protecting and enhancing the attractiveness of the city to home buyers, tourists, visitors, and shoppers, and thereby supporting and promoting business, commerce and industry, and providing economic benefit to the City;
6. Fostering and encouraging preservation, restoration, and rehabilitation of the historic structures, areas and neighborhoods, and thereby preventing future urban blight;
7. Promoting the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the City;
8. Promoting the identification, evaluation, protection and interpretation of the prehistoric and historic archaeological resources within the incorporated limits of the City.

**Definitions.** Unless specifically defined below, words or phrases in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

1. **Alteration** - any act or process that changes one or more historic, architectural or physical features of an area, site, landscape, place and/or structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure; the expansion or significant modification of agricultural activities; and clearing, grading or other modification of an area, site, or landscape that changes its current condition.
2. **Area** - A specific geographic division of the City of \_\_\_\_\_.
3. **Board of Adjustment** - The board established pursuant to Article \_\_\_\_\_.
4. **Certificate of Appropriateness** - A certificate issued by the Historic Preservation Commission (HPC) indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within a historic district.
5. **Certificate of Economic Hardship** - A certificate issued by the HPC authorizing an alteration, construction, removal or demolition, even though a certificate of appropriateness has previously been denied.
6. **Construction** - The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.
7. **Cultural Resources** - Districts, buildings, sites, structures, objects and evidence of some importance to a culture, a subculture, or a community for scientific, engineering, art tradition, religious or other reasons, significant in providing resource and environmental data necessary for the study and interpretation of past lifeways and for interpreting human behavior.
8. **Demolition** - Any act or process which destroys in part or in whole a Landmark or a structure within a Historic District, or which threatens to destroy a Landmark or a structure within a Historic District, or which destroys or threatens to destroy a potentially significant property or structure by failure to maintain it in a condition of good repair and maintenance.

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9. **Design Guideline** - A standard of appropriate activity that will preserve the historic, prehistoric, architectural, scenic or aesthetic character of a landmark or historic district.
10. **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.
11. **Historic District** - An area designated as a "historic district" by ordinance of the City Council which may include individual Landmarks, as well as other properties or structures which, while not of such historic and or architectural significance to be designated as Landmarks, nevertheless contribute to the overall visual characteristics and historical significance of the Historic District.
12. **HPC** - Members of the Historic Preservation Commission.
13. **Historic significance** - Character, interest or value as part of the development, heritage, or culture of the community, county, state or country; as the location of an important local, county, state or national event; or through identification with a person or persons who made an important contribution to the development of the community, county, state or country.
14. **Landmark** - A property or structure designated as a "Landmark" by ordinance of the City Council, pursuant to procedures prescribed herein, which is worthy of rehabilitation, restoration, interpretation and preservation because of its historic, architectural or archaeological significance to the City of \_\_\_\_\_.
15. **Minimum Maintenance** - The minimum regulations governing the conditions and maintenance of all existing structures, as set out in the BOCA Basic National Existing Structures Code, First Edition (1984), as published by the BOCA Building Officials & Code Administrators International, Inc., and adopted by reference, with certain amendments thereto by the City Council of the City of \_\_\_\_\_, Missouri, as such existing structures code shall be amended from time to time by the City of \_\_\_\_\_.
16. **Ordinary Maintenance** - Any work for which a building permit is not required by municipal ordinance, where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a structure or any part thereof and to restore the same, as nearly as may be practical, to its condition prior to the occurrence of such deterioration, decay or damage, and does not involve change of materials nor of form.
17. **Owner of Record** - The person, corporation or other legal entity listed as owner on the records of the County Recorder of Deeds.
18. **Public Improvement Project** - An action by the City of \_\_\_\_\_ or any of its departments or agencies involving major modification or replacement of streets, sidewalks, curbs, street lights, street or sidewalk furniture, landscaping, parking, or other portions of the public infrastructure servicing commercial, residential, recreational or industrial development; or any undertakings

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affecting city parks or city owned structures.

19. **Removal** - Any relocation of a structure, object or artifact on its site or to another site.
20. **Repair** - Any change that is not construction, alteration, demolition or removal and is necessary or useful for continuing normal maintenance and upkeep.
21. **Secretary of the Interior's Standards** – The Secretary of the Interior's Standards for the Treatment of Historic Properties are sets of treatment standards intended to assist users in making sound historic preservation decisions for the preservation, rehabilitation, restoration or reconstruction of historic properties. The Standards are codified as 36 CFR Part 68 in the July 12, 1995, Federal Register (Vol. 60, No. 133).
22. **Site** - The traditional, documented or legendary location of an event, occurrence, action or structure significant in the life or lives of a person, persons, groups, or tribe, or any place with evidence of past human activity. Sites include, but are not limited to, cemeteries, burial grounds, occupation and work areas, evidence of farming or hunting and gathering, battlefields, settlements, estates, gardens, groves, river crossings, routes and trails, caves, quarries, mines or significant trees or other plant life.
23. **Stop Work Order** - An order directing an owner, occupant, contractor or subcontractor to halt an action for which a certificate of appropriateness is required, and notifying the owner, occupant, contractor or subcontractor of the application process for a certificate of appropriateness.
24. **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 and towers, and swimming pools.
25. **Survey** - The systematic gathering of information on the architectural, historic, scenic, and archaeological significance of buildings, sites, structures, areas, or landscapes, through visual assessment in the field and historical research for the purpose of identifying landmarks or districts worthy of preservation.

## Section II: Historic Preservation Commission

**Composition of Historic Preservation Commission.** The Historic Preservation Commission (HPC) shall consist of seven (7) members, residents of the City of \_\_\_\_\_, all of whom shall be appointed by the Mayor. In addition, a member of the City Council and of the Planning and Zoning Commission shall be appointed to serve as liaison. The Council and Zoning representatives shall vote but shall not hold office. All Commission members must have a demonstrated interest, competence or knowledge in historic preservation. To the extent available in the community the HPC shall include professional members representing such disciplines as architecture, architectural history, prehistoric and historic archaeology, planning, urban design, cultural geography, cultural anthropology, folklore, curation, conservation, landscape architecture, law, real estate brokerage, banking, history or other fields related to historic preservation, and residents of historic districts or potential historic districts.

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**Terms.** The terms of office of the members of the HPC shall be for three years, excepting that the membership of the first HPC appointed shall serve respectively for terms of two for one year; two for two years; and three for three years. Vacancies shall be filled for the unexpired term only. Action to fill vacancies shall be initiated within 60 days. The HPC shall hold at least four (4) meetings per year and any member of the HPC who fails to attend at least fifty percent (50%) of all meetings, regular and special, in any calendar year, shall thereby automatically vacate the membership.

**Officers.** Officers shall consist of a chairman and a vice-chairman elected by the HPC who shall each serve a term of one (1) year and shall be eligible for re-election; but no member shall serve as chairman for more than two (2) consecutive years. The Council and Planning and Zoning Commission representatives shall not be eligible for office. The chairman shall preside over meetings. In the absence of the chairman, the vice-chairman shall perform the duties of the chairman. If both are absent, a temporary chairman shall be elected by those present. The secretary of the HPC shall be appointed by the Planning Department and shall have the following duties:

1. Take minutes of each HPC meeting;
2. Be responsible for publication and distribution of copies of the minutes, reports, and decisions to the members of the HPC;
3. Give notice as provided herein by law for all public hearings conducted by the HPC;
4. Advise the Mayor of vacancies on the HPC and expiring terms of members; and
5. Prepare to submit to the Council a complete record of the proceedings before the HPC on any matter requiring Council consideration.

**Meetings.** A quorum shall consist of four of the members. All decisions or actions of the HPC shall be made by a majority vote 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 HPC at the beginning of each calendar year or at any time upon the call of the chairman, but no less than once each quarter. Public notice of all meetings shall be posted in conformance with standard City policy and RSMO Section 610.020. No member of the HPC shall vote on any matter that may materially or apparently affect the property, income, or business interest of that member. No action shall be taken by the HPC that could in any manner deprive or restrict the owner of property in its use, modification, maintenance, disposition, or demolition until such owner shall first have had the opportunity to be heard at public meeting of the HPC, as provided herein. The chairman, and in his absence, the acting chairman, may administer oaths and require the attendance of witnesses. All meetings of the HPC shall be open to the public except as allowed by State law. The HPC shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of the City Clerk and shall be public record. All HPC rules of procedure, designation criteria, design guidelines and forms shall be available to the public at the Office of the City Clerk.

**Funding.** The City Council shall annually appropriate funds, within the budget limitations, for the operation of the HPC. The HPC may, with the consent of the City Council, apply for, receive, or expend any federal, state or private grant, grant-in-aid, gift or bequest, in furtherance of the general purposes of this ordinance.

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**Compensation.** The members shall serve without compensation but shall be reimbursed for expenses they incur while on commission business.

**Powers and Duties.** The HPC shall have the following powers and duties:

1. To adopt its own by-laws and procedural regulations, provided that such regulations are consistent with this chapter and the Revised Statutes of the State of Missouri;

2. To conduct an ongoing survey for the identification of historically, archaeologically and architecturally significant properties, structures, sites and areas that exemplify the cultural, social, economic, political, or architectural history of the nation, state or city; and to maintain the research information in an inventory accessible to the public (except for archaeological site locations, which shall be restricted);

Added 'notable properties'

3. To investigate, and recommend to the Planning and Zoning Commission and to the City Council the adoption of ordinances designating for protection properties or structures having special cultural, historic, archaeological, community or architectural value as "Landmarks";

4. To investigate and recommend to the Planning and Zoning Commission and the City Council the adoption of ordinances designating for protection areas as having special cultural, historic, archaeological, community or architectural value as "Historic Districts";

5. To keep a register of all properties and structures which have been designated as Landmarks or Historic Districts, including all information required for each designation;

6. To confer recognition upon the owners of Landmarks and property or structures within Historic Districts by means of certificates, plaques, or markers; and to 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. To advise and assist owners of Landmarks and property or structures within Historic Districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;

Expanded to all 'significant properties'

8. To nominate Landmarks and Historic Districts to the \_\_\_\_\_ Historic Register, and to the National Register of Historic Places, and to review and comment on any nominations to the National Register of Historic Places;

9. To inform and educate the citizens of the City of \_\_\_\_\_ concerning the historic, archaeological and architectural heritage of the City through publication or sponsorship of maps, newsletters, brochures, pamphlets, programs and seminars by the City, the HPC, or other appropriate parties.

10. To hold public hearings and to review applications for construction, alteration, removal or demolition affecting proposed or designated Landmarks or structures within Historic Districts and issue or deny Certificates of Appropriateness for such actions. Applicants may be required to submit plans,

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- drawings, elevations, specifications, and other information as may be necessary to make decisions;
11. To hold public hearings on each proposed nomination of a Landmark and of a Historic District and on the guidelines developed for each nomination;
  12. To request the Building Inspector to issue stop work orders for any construction, alteration, removal or demolition undertaken without a Certificate of Appropriateness or to stop work that violates the conditions of a certificate;
  13. To review all applications for demolition permits within the corporate limits of the City to determine impact to significant cultural resources, including those not yet nominated as Landmarks or as contributing properties within an Historic District;
  14. To consider applications for Certificates of Economic Hardship that would allow the performance of work for which a Certificate of Appropriateness has been denied;
  15. To develop specific design guidelines based on the Secretary of the Interior's Standards for Rehabilitation for the alteration, construction, or removal of Landmarks or property and structures within Historic Districts;
  16. To review proposed zoning amendments, applications for special use permits, or applications for zoning variances that affect proposed or designated Landmarks or Historic Districts;
  17. To administer on behalf of the City of \_\_\_\_\_ any property of historical significance or full or partial interest in real property, including easements, that the City of \_\_\_\_\_ may have or accept as a gift or otherwise, upon approval by the City Council;
  18. To accept and administer on behalf of the City of \_\_\_\_\_, upon approval of the Council, such gifts, grants, and money as may be appropriate for the purposes of this ordinance. Such money may be expended for publishing maps and brochures or for hiring staff persons or consultants or performing other functions for the purpose of carrying out the duties and powers of the HPC and the purposes of this ordinance;
  19. To call upon available city staff members as well as other experts for technical advice;
  20. To retain such specialists or consultants or to appoint such citizen advisory committees as may be required from time to time;
  21. To testify before all boards and commissions, including the Planning and Zoning Commission and the Board of Adjustment, on any matter affecting historically, archaeologically, culturally and architecturally significant property, structures, sites and areas;
  22. To make recommendations to the City Council concerning budgetary appropriations to further the general purposes of this ordinance;
  23. To develop a preservation component in the Master Plan of the City of \_\_\_\_\_ and to recommend it to the Planning and Zoning Commission and to the City Council;

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24. To periodically review the \_\_\_\_\_ Zoning Ordinance and to recommend to the Planning and Zoning Commission and the City Council any amendments appropriate for the protection and continued use of Landmarks or property, sites and structures within Historic Districts; and
25. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purpose of this ordinance.

### Section III: Surveys and Research

The HPC shall undertake an ongoing survey and research effort in the City of \_\_\_\_\_ to identify neighborhoods, areas, sites, structures, and objects that have historic, cultural, archaeological, architectural or aesthetic importance, interest or value, and shall maintain an inventory of that information. Before the HPC shall on its own initiative nominate any landmark or district for designation, it shall develop a plan and schedule for conducting a comprehensive survey of the City of \_\_\_\_\_ to identify significant resources. As part of the survey, the HPC shall review and evaluate any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts, and photographs. The HPC shall systematically identify potential Landmarks and Historic Districts and adopt procedures to nominate them based upon the following criteria:

1. The potential Landmarks and Historic Districts in one identifiable neighborhood or distinct geographical area of the City of \_\_\_\_\_;
2. The potential Landmarks and Historic Districts associated with a particular person, event, or historical period;
3. The potential Landmarks and Historic Districts of a particular architectural style or school, or of a particular architect, engineer, builder, designer, or craftsman;
4. The potential Landmarks and Historic Districts containing historic and prehistoric archaeological resources with the potential to contribute to the understanding of historic and prehistoric cultures;
5. Such other criteria as may be adopted by the HPC to assure systematic survey and nomination of all potential Landmarks and Historic Districts within the City of \_\_\_\_\_.

All inventory material shall be in conformance with standards and guidelines for cultural resource inventory as established by the State Historic Preservation Office.

### Section IV: Nomination of Landmarks and Historic Districts

**General.** Nominations shall be made to the HPC on a form prepared by it and may be submitted by a member of the HPC, owner of record of the nominated property or structure, or the City Council. Nominations shall be turned in to the City Clerk, who will within seven (7) days of receipt mail a notification of intent to nominate to the owner of record of the nominated property. Forms and criteria for nomination will be available at the Office of the City Clerk.

**Criteria for Consideration of Nomination.** The HPC shall, upon such investigation as it deems necessary, make a determination as to whether a nominated property, structure, site, area or district meets one or more of

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the following criteria, based on Criteria for Evaluation for the National Register of Historic Places:

1. Its character, interest, or value as part of the development, heritage, or cultural characteristics of the community, county, state or country;
2. Its overall setting and harmony as a collection of buildings, structures, objects where the overall collection forms a unit;
3. Its potential to be returned to an accurate historic appearance regardless of alterations or insensitive treatment that can be demonstrated to be reversible;
4. Its location as a site of a significant local, county, state, or national event;
5. Its identification with a person or persons who significantly contributed to the development of the community, county, state, or country;
6. Its embodiment of distinguishing characteristics of an architectural type valuable for the study of a period, type, method of construction, or use of indigenous materials;
7. Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state, or country;
8. Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
9. Its embodiment of design elements that make it structurally or architecturally innovative;
10. Its unique location or singular physical characteristic that make it an established or familiar visual feature of the neighborhood, community, or city;
11. 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;
12. Its suitability for preservation or restoration; and
13. Its potential to yield information important to history and prehistory.

Any structure, property, 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.

**Public Hearing on Landmarks and Historic Districts.** Upon receipt of a completed nomination of a Landmark or Historic District, the HPC shall schedule a public hearing to solicit input and comment on the proposed nomination and guidelines for Certificates of Appropriateness.

**Report and Recommendation of HPC.** The HPC shall within forty-five (45) calendar days from receipt of a completed nomination in proper form adopt by resolution a recommendation that the nominated Landmark or

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Historic District does or does not meet the criteria for designation in Section \_\_\_\_\_ of this ordinance. The resolution shall be accompanied by a report to the Planning and Zoning Commission containing the following information:

- a. Explanation of the significance or lack of significance of the nominated Landmark or Historic District as it relates to the criteria for designation;
- b. Explanation of the integrity or lack of integrity of the nominated Landmark or Historic District;

See designation criteria

In the case of a nominated Landmark found to meet the criteria for designation:

- a. The significant exterior architectural features of the nominated Landmark that should be protected;
- b. The types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit, that should be reviewed for appropriateness pursuant to the provisions of Section \_\_\_\_\_ through \_\_\_\_\_ of this ordinance;
- c. Archaeological significance and recommendations for interpretation and protection.

In the case of a nominated Historic District found to meet the criteria for designation:

- a. The types of significant exterior architectural features of the structures within the nominated Historic District that should be protected;
- b. The types of alterations and demolitions that should be reviewed for appropriateness pursuant to the provisions of Section \_\_\_\_\_ through \_\_\_\_\_ of this ordinance;
- c. The type and significance of historic and prehistoric archaeological sites within the nominated Historic District;
- d. Proposals for design guidelines of HPC review of Certificates of Appropriateness within the nominated Landmark or Historic District;
- e. The relationship of the nominated Landmark or Historic District to the ongoing effort of the HPC to identify and nominate all potential cultural resources that meet the criteria for designation;
- f. Recommendations as to appropriate permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, sign regulations, lot size, and parking regulations necessary or appropriate to the preservation of the nominated Landmark or Historic District, including recommendations for buffer zones to protect and preserve visual integrity;
- g. A map showing the location of the nominated Landmark and/or the boundaries of the nominated Historic District.

The recommendations and report of the HPC shall be sent to the Planning and Zoning Commission within seven (7) days following the vote on the resolution and shall be available to the public in the Office of the City Clerk.

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**Notification of Nomination.** The Planning and Zoning Commission shall schedule and hold a hearing on the nomination following receipt of a report and recommendation from the HPC that a nominated Landmark or Historic District does or does not meet the criteria for designation. The meeting shall be scheduled, held and conducted in the same manner as other meetings to consider applications for zoning map amendments or ordinance amendments. Notice of the date, time, place and purpose of the meeting and a copy of the completed nomination form shall be sent by regular mail to the owner(s) of record and to the nominators.

**Public Hearing.** Oral or written testimony concerning the significance of the nominated Landmark or Historic District shall be taken at the public hearing from any person concerning the nomination. The HPC may present expert testimony or present its own evidence regarding the compliance of the nominated Landmark or Historic District with the criteria for consideration of a nomination set forth in Section \_\_\_\_\_ of this ordinance. The owner of any nominated Landmark or of any property within a nominated Historic District shall be allowed reasonable opportunity to present evidence regarding significance and shall be afforded the right of representation by counsel and reasonable opportunity to cross-examine expert witnesses. The hearing shall be closed upon completion of testimony.

**Determination by Planning and Zoning Commission.** Within sixty (60) calendar days following close of the public hearing, the Planning and Zoning Commission shall make a determination upon the evidence whether the nominated Landmark or Historic District does or does not meet the criteria for designation. Such a determination shall be made upon a motion and vote of the Planning and Zoning Commission and shall be accompanied by a report stating the findings of the Planning and Zoning Commission concerning the relationship between the criteria for designation in Section \_\_\_\_\_ of this ordinance and the nominated Landmark or Historic District and all other information required by Section \_\_\_\_\_ of this ordinance.

**Notification of Determination.** Notice of the determination of the Planning and Zoning Commission, including a copy of the report, shall be sent by regular mail to the owner of record of a nominated Landmark and of all property within a nominated Historic District and to the nominator within seven (7) days following adoption of the resolution. Within seven (7) days following a determination by the Planning and Zoning Commission that the nominated Landmark or Historic District does meet the criteria for designation, a copy of the resolution and report accompanied by a recommendation that the nominated Landmark or Historic District be designated shall be sent to the City Council.

**Appeal.** A determination by the Planning and Zoning Commission that the nominated Landmark or Historic District does not meet the criteria for designation shall be a final administrative decision reviewable under the Missouri Administrative Procedure and Review Act provided, however, that the nominator or any owner of the nominated Landmark or of property within the nominated Historic District, may within thirty (30) days after the postmarked date of the notice of the determination file with the City Clerk a written appeal to the City Council.

**Action by City Council.** The City Council shall, within sixty (60) calendar days after receiving the recommendation that the nominated Landmark or Historic District be designated or receiving a written appeal, either reject the recommendation or written appeal by formal resolution or designate the Landmark or Historic District by an ordinance. The City Council shall hold a public hearing before enacting the resolution or ordinance and provide notice and take testimony in the same manner as provided in Section \_\_\_\_\_ of this ordinance. Any resolution or ordinance shall be accompanied by a written statement explaining the reasons for the action of the City Council. The City Clerk shall provide written notification of the action of the City

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Council by regular mail to the nominator, the appellant, and the owner(s) of record of the nominated Landmark or of all property within a nominated Historic District. The notice shall include a copy of the designation ordinance or resolution passed by the City Council and shall be sent within seven (7) days of the City Council action. A copy of each designation ordinance shall be sent to the HPC, Planning and Zoning Commission and Building Inspector.

**The Designation Ordinance.** Upon designation, the Landmark or Historic District shall be classified as a "District H--Historic", and the designating ordinance shall prescribe the significant features; the types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit that should be reviewed for appropriateness; the design guidelines for applying the criteria for review of appropriateness; permitted uses; special uses; height and area regulation; minimum dwelling size; floor area; lot size; sign regulation; and parking regulations. The official zoning map of the City of \_\_\_\_\_ shall be amended to show the location of the "District H-Historic" as an overlay zone.

**Interim Control.** No building permit shall be issued by the Building Inspector for alteration, construction, demolition, or removal of a nominated Landmark or of any property or structure within a nominated Historic District from the date of the meeting of the HPC at which a nomination form is first presented until the final disposition of the nomination by the City Council unless such alteration, removal, or demolition is authorized by formal resolution of the City Council as necessary for public health, welfare, or safety. In no event shall the delay be for more than one hundred eighty (180) days.

**Amendment and Rescission of Designation.** Designation may be amended or rescinded upon petition to the HPC and compliance with the same procedure and according to the same criteria set forth herein for designation.

Not included in the code, but this is our procedure

### Section V: Applications for Certificates of Appropriateness

A Certificate of Appropriateness shall be required before the following actions affecting the significance of any Landmark or any structure within a Historic District may be undertaken:

1. Any construction, alteration, or removal requiring a building permit from the City of \_\_\_\_\_;
2. Any demolition in whole or in part requiring a demolition permit from the City of \_\_\_\_\_;
3. Any construction, alteration, demolition, or removal affecting a significant exterior architectural feature or appearance as specified in the ordinance designating the Landmark or Historic District;
4. Any construction, alteration or removal involving earth disturbing activities that might affect archaeological resources;
5. Any actions to correct a violation of a minimum maintenance standard.

Applications for a Certificate of Appropriateness shall include accompanying plans and specifications affecting the significance of a designated Landmark or of a property within a designated Historic District; and applications for demolition permits shall include plans and specifications for the contemplated use of the property. Applications for building and demolition permits shall be forwarded by the Building Inspector to the HPC within seven (7) days following receipt of the application. A building or demolition permit shall not

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be issued until a Certificate of Appropriateness has been issued by the HPC. Any applicant may request a meeting with the HPC before the application is reviewed by the HPC or during the review of the application. Application for review of construction, alteration, demolition, or removal not requiring a building permit for which a Certificate of Appropriateness is required shall be made on a form prepared by the HPC and available at the Office of the City Clerk. The HPC shall consider the completed application at its next regular meeting.

**Stop Work Order.** Whenever the HPC has reason to believe that an action for which a Certificate of Appropriateness is required has been initiated, or is about to be initiated, or that a violation of the conditions of a permit has occurred, it shall request that the Building Inspector make every reasonable effort to contact the owners, occupants, contractor or subcontractor and inform them of proper procedures. If the HPC determines that a stop work order is necessary to halt an action, it shall request the Building Inspector to send a copy of the stop work order by certified mail return receipt requested to the owners, occupants, contractors and subcontractors, and notify them of the process of applying for a Certificate of Appropriateness. A copy of the proper application form shall be included in the notice. If necessary, a second or subsequent stop work order may be issued for the same project.

### **Section VI: Determination by the Historic Preservation Commission**

The HPC shall review the application for a building or demolition permit or for a Certificate of Appropriateness and issue or deny the permit with forty-five (45) days of receipt of the application. Written notice of the approval or denial of the application for a Certificate of Appropriateness shall be provided the applicant and the Building Inspector within seven (7) days following the determination and shall be accompanied by a Certificate of Appropriateness in the case of an approval.

A Certificate of Appropriateness shall become void unless construction is commenced within six months of date of issuance. Certificates of Appropriateness shall be issued for a period of eighteen months and are renewable. If the project is not completed according to the guidelines provided in the Certificate of Appropriateness, the project shall be deemed in violation of this ordinance.

**Denial of a Certificate of Appropriateness.** A denial of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for the denial. The HPC shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the HPC 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 HPC. The applicant may resubmit an amended application or reapply for a building or demolition permit that takes into consideration the recommendation of the HPC.

### **Section VII: Review of Public Improvement and Land Acquisition Projects**

Public improvement and land acquisition projects by the City of \_\_\_\_\_ or any of its departments or agencies shall be reviewed by the HPC in the following manner:

1. The HPC shall review and comment upon any public improvement project proposed by the City of \_\_\_\_\_ or any of its agencies or departments within any historic district, on the site of or within two hundred (200) feet of any Landmarks, or within two hundred (200) feet of any boundary of a Historic District. The Department of Public Works shall send a completed preliminary design for a public improvement project to the HPC simultaneously with its submission to the City Council for approval. The HPC shall have at least thirty (30) days to complete its review and report to the City

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Council, except when the Department of Public Works, if necessary to accelerate the design review process, may specify a time less than thirty (30) days within which the HPC shall complete its review and report to the Council.

2. The HPC shall review and comment upon any proposed acquisition of a Landmark or of land or buildings within a Historic District by the City of \_\_\_\_\_ or any of its agencies or departments. The City Council or the Department of Public Works shall, at the earliest possible date that will not interfere with acquisition negotiations, send the HPC information concerning the location, size, purchase price, current use, and proposed use of the land or building to be acquired, and specify the date by which the HPC shall report to the City Council.
3. The HPC shall review the public improvement or land acquisition projects to determine its effect upon the historic, archaeological or architectural character of the Landmark or Historic District and report to the City Council within any time specified by the City Council or Planning Department but not to exceed forty-five (45) days. The report by the HPC shall include any recommendations for changes to the preliminary design or land acquisition that will lessen or alleviate any adverse effect of the proposed project upon the historic, archaeological or architectural character of the Landmark or Historic District. The City Council shall take no final action on the preliminary design or land acquisition until it has received and reviewed the report of the HPC.

### Section VIII: Standards for Review

In considering an application for a building or demolition permit or for a Certificate of Appropriateness, the HPC shall be guided in principal by the Secretary of the Interior's Standards, as follows, in addition to any design guidelines in the ordinance designating the Landmark or Historic District. Applications, standards for review and design guidelines shall be available in the Office of the City Clerk for distribution to the public.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

Standards and guidelines sections combined under 29-2.3(d)(10)  
"Standards for certificate decision and guidelines."

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7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

### Section IX: Design Guidelines

Design guidelines for applying the criteria for review of Certificates of Appropriateness shall, at a minimum, consider the following architectural criteria:

1. **Height** - The height of any proposed alteration or construction should be compatible with the style and character of the Landmark and with surrounding structures in a Historic District.
2. **Proportions of Windows and Doors** - The proportions and relationships between doors and windows should be compatible with the architectural style and character of the Landmark and with surrounding structures within a Historic District.
3. **Relationship of Building Masses and Spaces** - The set back and relationship of a structure within a Historic District to the open space between it and adjoining structures should be compatible.
4. **Roof Shape** - The design of the roof should be compatible with the architectural style and character of the Landmark, and with surrounding structures in a Historic District.
5. **Landscaping** - Landscaping should be compatible with the architectural character and appearance of the Landmark and of surrounding structures and landscapes in Historic Districts.
6. **Scale** - The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in a Historic District.
7. **Directional Expression** - Facades in Historic Districts should blend with other structures with regard to directional expression. Structures in a Historic District should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a Landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.

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8. **Architectural Details** - Architectural details including materials, colors, and textures should be treated so as to make a Landmark compatible with its original architectural style and character and to preserve and enhance the architectural style or character of a Landmark or Historic District.
9. **Signage** - The character of signs should be in keeping with the historic architectural character of a Landmark or Historic District. Character of a sign includes the number, size, area, scale, location, type, (e.g., off-site advertising signs and on-site business signs), letter size or style, and intensity and type of illumination.
10. **Minimum Maintenance** - Significant features should be kept in a condition of good repair and maintenance. All structural and mechanical systems should be maintained in a condition and state of repair that will prevent decay, deterioration or damage to significant features, or otherwise adversely affect the historic or architectural character of structures within a Historic District.

### Section X: Certificate of Economic Hardship

Application for a certificate of economic hardship shall be made on a form prepared by the HPC only after a certificate of appropriateness has been denied. The HPC shall schedule a public hearing concerning the application and provide public notice and individual notice to the applicant, owners of record, and owners adjacent to the property in the same manner as in Section \_\_\_\_\_, and any person may testify at the hearing concerning economic hardship. All testimony, objections thereto and rulings at such public hearing shall be taken down by a reporter employed by the city for that purpose, or, if electronic tape recording equipment is available, by such electronic means. The HPC may solicit expert testimony or require 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 HPC for changes necessary for the issuance of a certificate of appropriateness;
2. A report from a licensed engineer or architect 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 HPC, 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;

### Section XI: Maintenance of Historic Properties

**Ordinary Maintenance Exclusion.** Nothing in the section shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure described in Section \_\_\_\_\_.

**Definition of Ordinary Maintenance.** Any work, for which a building permit is not required by law, where the

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purpose and effect of such work is to correct any deterioration or decay of or damage to a structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

**Minimum Maintenance Requirement.** All buildings and structures designated by city ordinance as "H" shall be preserved against decay and deterioration and free from certain structural defects in the following manner, by the owner thereof or such other person or persons who may have the legal custody and control thereof shall repair such building if it is found to have any of the following defects:

1. The deterioration of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of external chimneys;
4. The deterioration or crumbling of plasters or mortar;
5. The deterioration or ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
6. The peeling of paint, rotting, holes, and other forms of decay;
7. The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

If minimum maintenance is not being maintained, the owner of the property or other person having legal custody thereof shall be notified by the Building Inspector. The notice shall be by certified mail and shall specify each item in the property or Landmark that fails to meet minimum maintenance requirements. The owner or other person having legal custody of the property shall have thirty (30) days from the receipt of notice to comply with the minimum maintenance requirements. The HPC, for good cause shown, may extend the thirty (30) day period. If after the original thirty (30) day period or any extension granted by the Building Inspector the owner or person having legal custody of the property should fail to meet the minimum maintenance requirements, the owner or person having legal custody of the property shall be in violation of this section and punished in accordance with Section \_\_\_\_\_.

## Section XII: Review of Applications for Zoning Amendments, Special Use Permits and Variances

Applications for zoning amendments, special use permits, or variances for a Landmark or structures within a Historic District shall be referred to the HPC by the Planning Department at least fifteen (15) days prior to the date of the public hearing set by the Planning and Zoning Commission or the Board of Adjustment. The HPC may review these applications using any format which it deems appropriate provided, however, that the applicant shall be notified of the time and place of such review and shall be given the opportunity to appear

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and be heard. Within fifteen (15) days after receipt of said application, the HPC shall forward its comments to the Planning Department for presentation to the Planning and Zoning Commission for their consideration in reviewing the application.

### Section XIII: Appeals

If the HPC denies an application for a Certificate of Appropriateness, the HPC shall work with the applicant to arrive at a mutually satisfactory alternative to the proposed activities. If agreement cannot be reached within six months, the applicant may file with the City Clerk a written appeal to the Board of Adjustment. In acting upon the appeal, the Board may grant a variance from the strict interpretation of this ordinance when such will not materially affect the health or safety of the applicant and general public.

### Section XIV: Public Safety Exclusion

None of the provisions of this ordinance shall be construed to prevent any measures of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any structure, other feature or part thereof, where such condition has been declared unsafe or dangerous by the Building Inspector, and where the proposed measures have been declared necessary, by such department or departments, to correct the said condition; provided, however, that only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any structure or other feature shall be damaged by fire or other calamity, or by Act of God or by the public enemy, to such an extent that in the opinion of the aforesaid department or departments it cannot reasonably be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws.

### Section XV: Fees and Penalties

The Board shall establish an appropriate system of processing fees for the review of nominations and Certificates of Appropriateness.

It shall be unlawful for any person to undertake or cause an alteration, construction, demolition or removal of any nominated or designated Landmark or structure within a nominated or designated Historic District without a Certificate of Appropriateness.

It shall be unlawful to not maintain designated Landmarks or structures within designated Historic Districts within the minimum maintenance requirements of Section\_\_\_\_\_ of this ordinance.

Any person convicted of violating the provisions of this ordinance shall be punished by a fine no greater than Five Hundred Dollars (\$500.00) or confinement in the city jail for a period not to exceed sixty (60) days, or both fine and confinement. Each day each violation shall continue to exist shall constitute a separate violation.

(This sample historic preservation enabling ordinance includes P&Z commission procedures.)

November 2000