

Chapter 2.17
LANDMARKS COMMISSION

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2.17.010 Policy and Purpose Statement.

As a matter of public interest, the Governing Body authorizes the protection, enhancement, and perpetuation of properties holding historical, cultural, or architectural merit. The ordinance is intended to:

- A. safeguard historic properties; and
- B. foster civic pride in City landmarks; and
- C. promote the use of landmarks for educational purposes or pleasure; and
- D. create a Landmarks Commission to review historic landmark nominations.

(History: Ord. LC-1348 §1, 85)

2.17.020 Definitions.

The following words and phrases are used in this ordinance and shall have the following meaning, unless a different meaning is plainly stated:

- A. **Historic Landmark:** Any single building structure, site, or object designated by the Governing Body as having particular historic, cultural, or architectural significance.
- B. **Historic district:** means buildings, structures, sites or objects taken together having particular historic, cultural, aesthetic or architectural significance and limited in size to that area reasonable for the property identification and maintenance of the district; except that a district designated because of a common thematic element of historic, cultural, aesthetic or architectural significance need not be limited to such an area. Historic districts may include contributing and noncontributing properties.
- C. **Contributing properties (Historic Districts):** Those properties over 50 years old and found to be representative (i.e. historical, cultural or architectural) of the attributes of the proposed historic district.
- D. **Noncontributing properties (Historic Districts):** Those properties not 50 years old or not having the same historical, cultural or architectural significance as other properties in the historical district.

- E. **Historic, Cultural, or Architectural Significance:** That quality present in buildings, structures, sites, objects, and districts which displays the integrity of location, design, setting, materials, workmanship, feeling, and association that reflect the community's historic and cultural values and architecture, and
1. that are associated with events that have made a significant contribution to the broad patterns of our history; or
 2. that are associated with the lives of persons significant in our past; or
 3. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a "master," or that possess high artistic values, or that as a district represent a significant and distinguishable entity whose components may lack individual distinction; or
 4. that have yielded, or may be likely to yield, information important in pre-history or history.
- F. **Normal Maintenance and Repair:** Any work for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration or decay of or damage to a structure or any part thereof, and to restore the same as nearly as may be practicable to its condition prior to the occurrence of such deterioration, decay, or damage.

(History: Ord. LC-2627 §1, 2006; LC-1348 §2, 85)

2.17.030 Creation, Composition, Terms, and Vacancies.

A Landmarks Commission is created and shall be appointed by the Mayor. The Commission shall be composed of seven members who shall serve without compensation. Each of these seven Commissioners shall have a demonstrated interest, knowledge or training in one or more of the following areas: architecture, history, architectural history, historical preservation, real estate, appraisal, geography, urban design, landscape architecture, or sociology. In addition, two of the seven members shall be preservation-related professionals representing one of the areas cited above.

Of these seven members, three shall be appointed for 2-year terms and four shall be appointed for 3-year terms. Vacancies on the Landmark Commission shall be filled by appointment of the Mayor for the unexpired term of the vacant position.

The Commission shall select one of its members to serve as chairperson. This term shall be for a 1-year period. There shall be a limit of two successive terms as chairperson.

(History: Ord. LC-2627 §2, 2006; LC-1348 §3, 85)

2.17.040 Meetings.

The Landmarks Commission shall meet monthly at a regularly scheduled time, provided there is an agenda requiring action by the Landmarks Commission. The chairperson may call special meetings in addition to the monthly meetings. A quorum shall consist of four members.

(History: Ord. LC-2627 §3, 2006; LC-1348 §4, 85)

2.17.050 Landmark Review Process.

The Landmarks Commission shall be responsible for reviewing landmark nominations. The Landmarks Commission may initiate a landmark nomination, however, other individuals or groups may submit applications for landmark nomination. If the application is for a historic district, the application shall include affidavits from the affected landowners of not less than 60 percent of the contributing land area included in the proposed historic district.

The Commission may seek expertise in the areas of historical preservation and historical architecture from knowledgeable individuals from the community. Such individuals may serve the Commission by conducting surveys or research on historical properties, however, they shall serve as ex-officio advisors without voting rights.

Applications for landmark nominations shall be filed with the Planning and Development Services Department. The Director of the Planning and Development Services Department or a designee will be responsible for reviewing the application materials for each nomination to assure that the information presented is complete.

The application shall include but not be limited to the following:

- A. address of proposed landmark; and
- B. legal description; and
- C. description of historical, architectural, or cultural merit and any other information relevant to the application including detailed explanation addressing all 13 criteria for the review of landmark nominations; and
- D. description of past and present land uses; and
- E. address of property owner and applicant; and
- F. photographs, drawings, or sketches of the building and site; and
- G. owner affidavit from affected landowner, if landowner is consenting to the application.

Any application for a historic district shall include those items listed above and the following:

- H.
 1. affidavits from the affected landowners of not less than 60 percent of the contributing land area included in the proposed historic district; and
 2. inventory list of all buildings, homes, sites and objects in the district, including address, historical name (if known), date of construction and a list of all contributing and noncontributing sites, structures and objects within the proposed district; and
 3. proposed design guidelines for applying the criteria for review of future certificate of appropriateness applications; and
 4. the types of architectural features of the structures within the nominated district that should be protected; and
 5. a general description about how the neighborhood/district has been altered or changed through the years, including a description of trends (This is not to be just a list of every change)

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The Landmarks Commission and/or City Council may make amendments to the proposed criteria.

The Director of the Planning and Development Services Department or a designee shall notify the owner of the property containing the proposed landmark, if such person is different than the applicant. This notification shall be done within 10 days of the application date for the landmark nomination.

The notification of the property owner shall include the following:

- A. a copy of the application that was made for the landmark nomination; and
- B. an explanation of the nomination procedure and the consequential property restrictions on locally designated landmarks; and
- C. an explanation stating that the property owner has the right to appear at the scheduled public hearing at which the landmark nomination will be considered and the date of the hearing; and
- D. an explanation stating that the property owner has the right to submit documentation either for or against the landmark nomination.

The application shall be placed on a Landmarks Commission agenda not to exceed 40 days after the application date. Public notice of the hearing shall be published at least 20 days prior to the hearing date in the Overland Park Sun, an official city newspaper and the property owners shall be notified concurrently.

In the case of landmark nominations, the applicant shall place at least one sign in the public right-of-way so as to face each of the streets abutting the subject property informing the general public that a public hearing will be held at a specific time and place concerning the proposed landmark nomination. The sign(s) shall be furnished by the City to the applicant, and the applicant shall maintain the sign(s) for at least the 15 days immediately preceding the date of the public hearing. The sign(s) shall be firmly affixed and attached to a wood or metal backing or frame and placed within the street right-of-way line in a central position in front of the lot, tract or parcel of land so that the sign is free of any visual obstructions surrounding the sign. The applicant shall file an affidavit with the Director of Planning and Development Services or designee at the time of the public hearing verifying that the sign(s) has been maintained and posted as required by this ordinance; failure to submit the affidavit prior to the hearing may result in a continuance of the hearing. The sign(s) may be removed at the conclusion of the public hearing and must be removed at the end of all proceedings on the application or upon withdrawal of the application. It shall be a public offense for any person to remove, deface or destroy any sign provided for in this section.

The Codes Administrator shall be notified of the landmark nomination application. The appropriate administrative precautions shall be taken to prevent the issuance of building or

demolition permits during the time the application is pending. No exterior alterations, additions or changes to any structure on the application property or within the proposed historic district shall be permitted once an application has been submitted, until a final decision has been made by the City Council.

A public hearing shall be held by the Landmarks Commission to consider the landmark nomination. The Landmarks Commission shall make its findings, taking into consideration the criteria for review that is specified in this chapter. The Landmarks Commission shall make a written recommendation either in favor or against the application stating the reasons for their decision. The recommendation will be forwarded to the Governing Body for final consideration in the form of an ordinance. The designation of a Historic Landmark shall be permanent or until such time as the designation is revoked. Revocation of a historical nomination shall require the same procedure as described for the nomination of landmarks.

If a zoning, special use permit (SUP), or preliminary development plan application has been filed, no Landmarks Commission application may be submitted until after the zoning, SUP or preliminary development plan is acted upon by the City Council.

If the City Council approves an application, the Planning and Development Services Department shall be responsible for a photographic survey of said property(ies) for future Certificate of Appropriateness applications or unapproved alterations.

No application for Landmarks Commission shall be accepted if any application for substantially the same property has been filed and advertised for public hearing within the preceding six months. The Director of Planning and Development Services or a designee shall determine if an application concerns “substantially the same property” as a prior application. The applicant may appeal the decision to the City Council.

Immediately upon passage of an ordinance designating a site as a historic landmark, notice shall be sent to the Public Works Department and to the Codes Administrator.
(History: Ord. LC-2627 §4, 2006; LC-2438 §1, 2003; ROCR-2245 §2, 2001; LC-1348 §5, 85)

2.17.060 Criteria for the Review of Landmark Nominations.

- A. The Landmarks Commission shall make a recommendation concerning the designation of a landmark based on one or more of the following criteria. In addition to the following criteria, the Landmarks Commission may adopt by resolution a more extensive list of guidelines for the review of landmark nominations.
 - 1. prior designation on lists of historic sites, including, but not limited to, the National Register of Historic Places, and the Register of Historic Kansas Places;
 - 2. character, interest or value as part of the development, heritage or culture of the City of Overland Park, State of Kansas, or the United States;
 - 3. site of a significant historic event;

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4. identification with a person or persons who significantly contributed to the culture and development of the City;
 5. exemplification of the cultural, economic, social or historical heritage of the City;
 6. portrayal of the environment of a group of people in an era of history characterized by distinctive architectural style or sequence of styles;
 7. embodiment of distinguishing characteristics of an architectural type or specimen;
 8. identification as the work of an architect or master builder whose individual work has influenced the development of the City;
 9. embodiment of elements of architectural design, detail, materials, or craftsmanship which represent significant architectural innovation;
 10. relationships to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on historic, cultural or architectural motif;
 11. unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the City;
 12. archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest; and
 13. value as an aspect of community sentiment or public pride.
- B. Properties are only eligible for designation if they have achieved the significance required by the above criteria more than 50 years prior to the application date.
- (History: Ord. LC-2627 §5, 2006; LC-2438 §2, 2003; LC-1348 §6, 85)

2.17.070 Certificate of Appropriateness.

- A. No person shall undertake exterior alteration or changes to exterior materials to any structure designated as a landmark or located within a designated historic district and no building or other permit shall be issued therefore, without first obtaining a certificate of appropriateness from the Landmarks Commission.
1. For the purposes of this section, the terms “exterior alterations” and “changes to exterior materials” shall include without being limited to:
 - a. Physical changes such as construction, reconstruction, improvement, repair, removal, demolition or moving of any building, structure or utility.
This includes without being limited to new roof materials, new doors or windows, siding, etc. Painting and roof repair are acceptable exterior alterations.
 - b. Site work, substantial landscaping, substantial planting plan, paving or any changes in the existing land surfaces of the property.
 - c. The erection or placement of any sign.
 2. The term “exterior alterations” or “changes to exterior materials” shall not include:
 - a. Work with respect to utilities, to the extent that no material change results in appearance or to the extent that visibility from any public place is not affected; or

- b. Ordinary and necessary maintenance which results in no change in appearance, provided that the burden of proving application of any such exceptions shall in all instances fall upon that party asserting the applicability of such exception.

The Commission shall review the Certificate of Appropriateness permit request at a public hearing at the next regularly scheduled meeting of the Commission and determine whether the proposed alteration is in keeping with the integrity of the landmark. The Landmarks Commission shall base its decision on the following criteria:

1. that such changes are not detrimental to the historic, cultural, or architectural character of the district, site, building, structure or object, or of other improvements thereon; and
2. that such changes are in accordance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

Such determination shall be made in writing by the Landmarks Commission within 30 days from the date of the hearing. An explanation of the decision by the Landmarks Commission shall accompany the recommendation and be forwarded to the Codes Administrator.

For those noncontributing structures in a district, staff will review the Certificate of Appropriateness request against the approved material palette, guidelines for the approved districts, and all other approved district requirements. If the Certificate of Appropriateness is denied by staff, the Certificate of Appropriateness may be appealed to the Landmarks Commission.

- B. In the event that the Landmarks Commission denies a Certificate of Appropriateness for an exterior change or demolition of a designated landmark, a written explanation shall be forwarded to the Codes Administrator stating the reasons for denial. In such case, no building permit may be issued for exterior changes or demolition any time before 12 months and at the discretion of the Codes Administrator, a building permit may be withheld up to a period of 18 months. This interim period will provide an opportunity for negotiations between the applicant and the Landmarks Commission to discuss alternative actions to the proposed changes or demolition. The applicant may petition the Landmarks Commission for a rehearing in the event that a Certificate of Appropriateness is denied when significant physical or economic hardship can be shown because of the denial, or if the change substantially affects the health, safety, or general welfare of the Public or when the reapplication is significantly different from the original request.

In the event the application is denied at the rehearing or a rehearing is denied, the applicant may appeal to the Governing Body within 30 days of the decision of the Landmarks Commission.

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- C. Changes in the zoning, requests for special use permits, or requests for variances or exceptions on property which contains or which is a locally designated landmark, shall require a Certificate of Appropriateness from the Landmarks Commission. The Landmarks Commission shall review the request in terms of its effect on the designated landmark and make a written recommendation to be submitted prior to the public hearing scheduled to consider the request. The Landmarks Commission shall consider whether the proposed change will adversely affect the landmark in terms of its historic, cultural, or architectural character.

(History: Ord. LC-2627 §6, 2006; LC-1348 §7, 85)

2.17.080 Minimum Maintenance Requirement.

Property owners of locally designated landmarks shall provide reasonable care, maintenance and upkeep appropriate for the protection, preservation, enhancement, perpetuation, or use in compliance with the terms of zoning, property, maintenance, nuisance, weed and grass control laws in the Code of the City of Overland Park, Kansas, and other such provisions affecting the appearance and upkeep of the property.

(History: Ord. LC-1348 §8, 85)

2.17.090 Fees.

Repealed.

(History: Ord. LC-2438 §3, 2003; LC-1348 §9, 85)

2.17.100 Penalties.

A. Violations and Remedy of City

1. It shall be the duty of the Codes Administrator to enforce this article.
2. It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, raze, maintain, excavate, zone, place signs in or on any Historic Landmark in violation of the provisions of this ordinance. In addition to other remedies, the City may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful construction, restoration, demolition, razing, maintenance, excavating, zoning or placement of a sign to restrain, correct or abate such violation.

B. Fine and penalties

Any person convicted of a violation of any of the provisions of or failing to comply with any of the mandatory requirements of the ordinances of the city for which another penalty is not specifically provided is guilty of a public offense and punishable by a fine of not more than five hundred dollars or by imprisonment not to exceed six months, or by both such fine and imprisonment. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person; and he shall be punished accordingly.

(History: Ord. LC-2627 §7, 2006; LC-1348 §10, 85)

2.17.110 Severability Clause.

If any section, subsection, paragraph, sentence, clause or phrase in this chapter or any part thereof, is for any reason held to be unconstitutional, or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portion of this chapter or any part, thereof.

(History: Ord. LC-1348 §11, 85)

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