

ORDINANCE NO. 6065

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANHATTAN, KANSAS, TO ADD A CHAPTER DEALING WITH HISTORIC PRESERVATION, AND CREATING A HISTORIC RESOURCES BOARD, AND RELATED MATTERS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS:

Section 1. That the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended by the addition of Chapter 25 as follows.

Chapter 25. Historic Resources

Article I- General Provisions.

(A) Statement of Purpose

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

- (1) Providing a mechanism to identify and conserve the distinctive historic and architectural characteristics and other historic resources of the City which represent elements of the City's cultural, social, economic, political and architectural history;
- (2) Fostering civic pride in the accomplishments of the past as represented in the City's historic resources;
- (3) Conserving and improving the value of property in and around designated historic properties, historic districts, and neighborhoods within the community;
- (4) Enhancing the attractiveness of the City to residents, current and prospective homeowners, visitors and shoppers and thereby supporting and promoting business, commerce, industry, and providing economic benefit to the City; and
- (5) Encouraging preservation, restoration, and rehabilitation of historic properties within the City.

(B) Definitions

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

- (1) Alteration: Any act or process that changes one or more of the architectural features of a site or structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.
- (2) Architectural Features: The physical elements of a structure or designed landscape which may include the setting, scale, detailing and decorative elements, size and shape of the structure/landscape or components of the structure/landscape (for example: roofs, cupolas, windows, doors, fireplaces, stairways, retaining walls, benches, lighting, paths, materials, textures, colors, and spaces.)
- (3) Board: The Historic Resources Board.
- (4) Certification of Appropriateness: A certificate issued by the Historic Resources Board indicating its approval of plans for alteration, construction, removal, or demolition of a historic structure, historic site, or property within a historic district.
- (5) City Commission: The Governing Body of the City of Manhattan, Kansas.
- (6) Construction: The act of making an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.
- (7) Criteria for Review: A standard of appropriate activity that will preserve the historic and architectural character of a historic structure, historic site or historic district.
- (8) Demolition: Any act or process that destroys in part or in whole a historic structure, historic site, or a property within a historic district.
- (9) Historic District: An area designated as a “historic district” by ordinance of the City Commission and which may contain within defined geographic boundaries one or more historic structures or historic sites that are united historically or aesthetically by plan or physical development and which may have within its boundaries other structures or sites that, while not of such historic and/or architectural significance to be designated historic structures or historic sites, nevertheless contribute to the overall visual characteristics of the historic district.
- (10) Historic Site: The location of a significant event, a prehistoric or historic occupation or activity, or a building or a structure, whether standing, ruined

or vanished, where the location itself possesses historic, cultural, or archeological value, regardless of the value of any existing structure.

- (11) **Historic Structure:** Anything constructed or erected with a fixed location on the ground that is worthy of preservation because of its particular historic, architectural, archeological, or cultural significance. Among other things structure types that may be worthy of preservation include buildings, walls, fences, signs, billboards, sheds, towers, and bins.
- (12) **Integrity of Association:** A property's direct connection with a significant event or person. To have integrity of association, the property must be where the significant event or activity occurred, and it must be sufficiently intact to convey the connection to an observer.
- (13) **Integrity of Design:** The combination of elements that create the form, plan, space, structure, style, and regional character of a property as it was originally conceived. It includes such elements as organization of space, proportion, skill, technology, ornamentation, and materials.
- (14) **Integrity of Materials:** The physical elements that originally were combined to form a property. For a rehabilitated property to have integrity of materials, most of its historical materials must have been preserved; it must be an actual historic property, not a re-creation.
- (15) **Integrity of Setting:** The physical environment (including natural or manmade features) related to a property's functions, its significant role, or its design. Setting refers to the character of the place where a property played its significant role in history.
- (16) **Integrity of Workmanship:** The physical evidence of the crafts of a particular culture or people during the period in history or prehistory when a property was created.
- (17) **Owner of Record:** The individual(s), corporation(s), or other legal entity(ies) listed as owner on the records of the Register of Deeds of Riley County.
- (18) **Removal:** Any relocation of a structure in whole or in part on its site or to another site.
- (19) **Repair:** Any change to a structure or site that is not construction, removal, alteration, or demolition.

Article II-Historic Resources Board.

(A) Creation and Composition

There is hereby created the Manhattan Historic Resources Board which shall consist of seven (7) members, residents of the City, all of whom shall be appointed by the Mayor with the advice and consent of the City Commission. The Mayor shall make every reasonable effort to appoint persons with a demonstrated interest, knowledge, or training in fields closely related to historic preservation, such as history, architecture, landscape architecture, architectural history, archeology, planning, engineering, real estate, law, finance, building trades, urban design, and geography. At least three members shall be preservation-related professionals, such as an architect, architectural historian, archeologist, historian, landscape architect, planner, or engineer.

(B) Terms

The terms of office of the members of the Historic Resources Board shall be for three years, except that of the initial seven members, two shall be appointed for terms of one year, two shall be appointed for terms of two years and three shall be appointed for terms of three years. A member may serve only two consecutive full terms. Members may be removed with or without cause by an affirmative vote of a majority of the City Commission. Vacancies shall be filled for the unexpired term only.

(C) Officers

Officers shall consist of a chair and a vice-chair elected by the Historic Resources Board who shall each serve a term of one (1) year and shall be eligible for re-election; but no member shall serve as chair for more than two (2) consecutive years. The chair shall preside over meetings. In the absence of the chair, the vice-chair shall perform the duties of the chair. If both are absent, a temporary chair shall be elected by those present. The City Administration in the form of a staff liaison, shall serve as the Secretary of the Board.

(D) Meetings

The quorum for the Board shall be four. All decisions or actions of the Historic Resources Board shall be made by a majority vote of those members present and voting at any meeting where a quorum exists. The Historic Resources Board may meet at such times as it deems appropriate and may establish regular meetings. The Secretary of the Historic Resources Board shall keep minutes of its proceedings, showing the vote, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Historic Resources Board and shall be a public record.

(E) Continuing Education

The Board shall participate in continuing education as required by the City Commission.

(F) Powers and Duties

All of the powers and duties enumerated herein are subject to the approval, denial, or modification by the City Commission. Further, all funds necessary to carry out the purpose of this Chapter shall be approved and appropriated by the City Commission.

In addition to other responsibilities specified in this Chapter, the Historic Resources Board may:

- (1) Adopt its own bylaws and procedures related to the conduct of meetings subject to the laws of the State of Kansas and the policies and ordinances of the City of Manhattan.
- (2) Recommend to the City Commission that the City conduct an ongoing survey to identify historically and architecturally significant properties, structures, and areas that exemplify the cultural, social, economic, political, or architectural history of the nation, state, or city.
- (3) Identify “historic structures,” “historic sites,” and “historic districts” that are eligible for listing in the Manhattan Register of Historic Places.
- (4) Make recommendations to the City Commission on applications for designation and the adoption of ordinances designating properties having historic, community, or architectural value as “historic structures,” “historic sites,” or “historic districts.”
- (5) Research and recommend to the City Commission an appropriate system of markers for designated historic structures, historic sites, and historic districts.
- (6) Upon request of the Mayor or City Commission, provide advice and information to allow the City Commission to comment on any nominations to the Register of Historic Kansas Places or the National Register of Historic Places submitted to the City for comment.
- (7) Recommend that the City Commission inform and educate the citizens of Manhattan concerning the historic and architectural heritage of the City and advise and assist owners of designated historic structures, historic sites, or historic districts of physical and financial aspects of preservation, rehabilitation, and restoration by publishing appropriate maps, newsletters, brochures, and pamphlets, and by holding programs, workshops, and seminars.
- (8) Review Applications for Certificates of Appropriateness pursuant to this Chapter.
- (9) Make recommendations to the City Commission regarding funding for the purpose of carrying out the duties and powers of the Historic Resources Board and the purposes of this ordinance.

- (10) Make recommendations to the City Commission regarding retaining such specialists or consultants or recommend appointing such citizen advisory committees as may be required from time to time.
- (11) Make comments to other City boards and commissions on any matter affecting significant historic structures, historic sites, and historic districts.
- (12) Periodically make recommendations to the City Commission regarding actions it deems appropriate for the protection and continued use of significant historic structures, historic sites, and historic districts.
- (13) Recommend to the City Commission that Board members be encouraged to participate in an historic preservation-related educational program each year.
- (14) Undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to the implementation of the purpose of this ordinance.

Article III-Survey and Inventory.

(A) Survey

The City Commission shall authorize such ongoing survey as it deems appropriate to identify structures, sites, and districts that have historic, cultural, or architectural importance or value to the community. The survey may review and evaluate any prior surveys and studies by any public or private organization and compile appropriate descriptions, facts, and photographs and be consistent with the methods and forms provided by the Kansas State Historical Society.

The Historic Resources Board shall evaluate the information compiled through survey efforts and systematically identify properties that are potentially eligible for designation as indicated by survey results.

(B) Inventory

The Historic Resources Board shall create, and the City shall maintain, a detailed inventory of properties surveyed and evaluated for potential eligibility for designation. The inventory shall be maintained in a form compatible with the requirements of the Kansas State Historical Society and the Kansas comprehensive historic preservation planning process.

Article IV-Designation of Significant Historic Structures, Historic Sites and Historic Districts.

(A) Manhattan Register of Historic Places

There is hereby established a Manhattan Register of Historic Places, which shall include:

- (1) All historic structures and historic sites designated as significant pursuant to this Article.
- (2) All historic districts designated as significant pursuant to this Article.

(B) Nomination of Historic Structures, Historic Sites and Historic Districts

Nomination of a historic structure or historic site for placement on the Manhattan Register of Historic Places shall be made to the Historic Resources Board on a form prepared by the Board and may be submitted by a member of the Historic Resources Board; owner(s) of record of the nominated property; the City Commission; or any other person or organization.

Nomination of a historic district for designation in the Manhattan Register of Historic Places shall be made to the Historic Resources Board on a form prepared by the Board and may be submitted by a member of the Historic Resources Board; the owners of record of fifty-one percent (51%) or more of the area in the proposed historic district; the City Commission; or any other person or organization.

(C) Certification of Owner Consent for Designation

The City staff liaison shall, within 10 working days of receipt of a nomination for designation of a historic structure, historic site or historic district, certify that the nomination provides adequate evidence that the owner(s) of record of the nominated property or historic district have provided the required consent for designation as set forth in Article IV (F) (4).

(D) Public Hearing and Consideration of Nominations by the Historic Resources Board

- (1) Hearings: The Historic Resources Board shall hold at least one public hearing on each nomination considered for designation as a significant historic structure, historic site or historic district at a reasonable time and place established by the Board. The hearing shall be held no later than sixty (60) days following receipt of a completed application. The hearing may be held during a regular meeting of the Board or during a special meeting of the Board called in part for that purpose.
- (2) Notice of Hearing: At least twenty (20) days in advance of the public hearing on the proposed designation, notice of same shall be published in the official City newspaper. The notice shall state the date, time, and place of the hearing and contain the street address and legal description of the nominated property. The Board shall also send by regular mail a written notice of the public hearing, containing the same information as the published notice, to the owners of record of all properties proposed for designation and all owners of record of all property within two-hundred (200) feet of the nominated historic

structure, historic site or historic district at least twenty (20) days prior to the hearing. In addition, the applicant shall place a sign(s) on the property(ies) proposed for designation informing the general public that a public hearing will be held on a specific date concerning the proposed designation. The sign(s) shall be furnished by the City, and placed in a location designated by the City. The applicant shall file an affidavit with the City on the day of the public hearing verifying that the sign has been maintained and posted as required by this paragraph. The sign may be removed at the conclusion of the public hearing and must be removed by the applicant at the end of all proceedings on the nomination or upon withdrawal of the nomination. Failure to post the sign(s) in accordance with these procedures, or failure to submit the affidavit prior to the hearing may result in a delay of the public hearing.

- (3) Conduct of Hearing: Any person or party may be present and heard at the meeting in person, by agent or by attorney.

(E) Findings/Criteria for Designation

The Historic Resources Board shall, based upon evidence submitted at the hearing, make a recommendation to the City Commission as to whether or not a nominated structure, site or district should be designated historic. In order for the Historic Resources Board to make a recommendation that a nominated structure, site or district should be designated as historic, the Board shall make findings that such structure, site or district has sufficient integrity of location, design, materials, workmanship, or association to make it worthy of preservation or restoration; and possesses significant historical, archeological and/or architectural qualities, and thus qualifies for designation pursuant to one or more of the following criteria:

- (1) Its character, interest, or value as part of the development, heritage, or cultural characteristics of the community, county, state, or country;
- (2) Its location as a site of a significant local, county, state, or national event;
- (3) Its identification with a person or persons who significantly contributed to the community, county, state, or country;
- (4) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of materials;
- (5) 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;
- (6) Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;

- (7) Its embodiment of design elements that make it structurally or architecturally innovative;
- (8) Its unique location or singular physical characteristics that make it an established or familiar visual feature;
- (9) Its character as a particularly fine or unique example of a utilitarian structure, including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance; and/or
- (10) It has yielded or is likely to yield important historical or prehistorical information.

(F) Recommendations

Within thirty (30) days after the close of the public hearing, if the Board finds that the evidence submitted at the hearings meets the criteria for designation, it shall submit a recommendation to the City Commission that the nominated historic structure, historic site or historic district meets the criteria for designation identified in Article IV (E) of this Ordinance. The recommendation shall be accompanied by the following information:

- (1) Explanation of the integrity of the nominated historic structure, historic site or historic district as it relates to the criteria for designation identified in Article IV(E) of this Ordinance;
- (2) Explanation of the significance of the nominated historic structure, historic site or historic district as it relates to the criteria for designation identified in Article IV (E) of this Ordinance;
- (3) The Board shall also set forth the following:
 - (a) The significant architectural features of the nominated historic structure, historic site or historic district that should be protected;
 - (b) The types of construction, alteration, demolition, and removal that should be reviewed for appropriateness pursuant to the provisions of Article V of this Chapter;
 - (c) Proposed design guidelines for applying the criteria for review of Certificates of Appropriateness to the nominated historic structure, historic site or historic district;
 - (d) The relationship of the nominated historic structure, historic site or historic district to the ongoing effort of the Historic Resources Board to identify and designate historic structures, historic sites and historic districts that meet the criteria for designation;

- (e) Recommendations as to appropriate height and area regulations, setbacks, minimum dwelling size, floor area, sign regulations, and parking regulations necessary or appropriate to the preservation of the nominated historic structure, historic site or historic district;
- (f) A map showing the location of the nominated landmark and the boundaries of the nominated historic district; and

- (4) Evidence of owner's (s') consent for designation: For structures and sites, all owners of record must provide consent. For districts, the owners of record of properties constituting a majority of the area of the district must provide consent.

(G) Consideration of Nominations by the City Commission

The City Commission shall, after receiving the recommendation from the Board, either designate the historic structure, historic site or historic district or reject the recommendation. If the City Commission makes the designation, it shall do so by ordinance. The City Commission shall not designate any structure, site or district unless the designation meets the public purpose of this Chapter. If the City Commission chooses to reject the recommendation, it shall respond to the Board with reasons for rejection of the nomination. The City Clerk shall provide a copy of the designation ordinance by regular mail to the owner(s) of record of the historic structure or historic site, or to the owners of record of all property within a nominated historic district. The failure of the City Clerk to provide a copy of the designation ordinance to the owners of record does not nullify the designation ordinance.

(H) The Designation Ordinance

The designation ordinance shall prescribe the significant architectural features; the types appropriateness; height and area regulations; setbacks; minimum dwelling size; floor of construction, alteration, demolition, and removal that shall be reviewed for appropriateness; the design guidelines for applying the criteria for review of area; sign regulation; and parking regulation. After the designation ordinance is effective, the City Clerk shall file a notice with the Register of Deeds of the County in which the structure, site or district is located, setting forth the description of the real estate upon which the same is located, the fact that same has been designated historic and the nature and extent of the designation.

(I) Interim Control

No building permit shall be issued by the City of Manhattan for alteration, construction, demolition, or removal of a nominated historic structure, historic site or any property within a nominated historic district from the date the complete nomination form is first presented to the City until the final disposition of the nomination by the City Commission unless such alteration, removal, or demolition is authorized by formal resolution of the City Commission. Notwithstanding the foregoing, any application for permit that complies with other ordinances will not be denied if more than 180 days have passed since a complete nomination form is presented to the City.

(J) Denial of Designation

A determination by the Historic Resources Board that the nominated structure, site or district does not meet the criteria for designation shall be a final administrative decision.

Rejection of a recommendation for designation by the City Commission shall be a final administrative decision. Nominations for structures, sites and districts which have been denied designation within the prior 12 month period will not be considered by the Board.

(K) Amendment and Rescission of Designation

Designation may be amended or rescinded upon petition to the Historic Resources Board and compliance with the same procedure and according to the same criteria set forth herein for designation, except that designation can not be amended or rescinded because of a change in owner's consent.

Article V-Certificates of Appropriateness.

(A) Certificates of Appropriateness

No person shall undertake the demolition, alteration, or construction of any historic structure, historic site or property within a historic district without obtaining a Certificate of Appropriateness as set forth in Article V. Certificates of Appropriateness are issued by the Historic Resources Board in accordance with the stipulations of this section.

(1) A Certificate of Appropriateness shall be required for designated historic structures for the following types of construction, alteration, or demolition:

- (a) Demolition requiring a permit;
- (b) Alterations of exterior features/materials identified as significant in the ordinance designating the historic structure;
- (c) Construction of additions;
- (d) Construction of new structures;
- (e) Alterations of the building site;
- (f) Alteration of spaces, features, and finishes within designated interiors.

(2) A Certificate of Appropriateness shall be required for designated historic sites for the following types of construction, alteration, or demolition:

- (a) Demolition requiring a permit;
- (b) Alterations of features/materials identified as significant in the ordinance designating the historic site;
- (c) Construction of additions;
- (d) Construction of new structures.

(3) A Certificate of Appropriateness shall be required for properties within designated historic districts for the following types of construction, alteration, or demolition:

- (a) Demolition requiring a permit;
- (b) Alterations of features/materials identified as significant in the ordinance designating the historic district;
- (c) Construction of new structures.

(B) Applications for Certificates of Appropriateness

Application for a Certificate of Appropriateness shall be made on a form approved by the Historic Resources Board.

(C) Consideration and Approval of Certificates of Appropriateness

The Historic Resources Board shall review the application for a Certificate of Appropriateness and determine whether issuance of a Certificate of Appropriateness will be approved or denied within forty-five (45) days of receipt of the application. If the application for a Certificate of Appropriateness complies with the designation ordinance and the Criteria for Review in Article V (E), the Board must approve the Certificate of Appropriateness. The Board may also approve the issuance of a Certificate of Appropriateness if the applicant agrees to meet specific conditions with regard to modifications to the proposed project so that it complies with the designation ordinance and the Criteria for Review in Article V (E). Written notice of the approval of the application for a Certificate of Appropriateness, with conditions if applicable, shall be provided the applicant within seven (7) working days following the determination and shall be accompanied by a Certificate of Appropriateness.

(D) Denial of a Certificate of Appropriateness

If the application for a Certificate of Appropriateness does not comply with the designation ordinance or the Criteria for Review in Article V (E) and the applicant does not agree to meet specific conditions with regard to modification to the proposed project so that it complies with the designation ordinance and the Criteria for Review in Article V (E), the Board must not approve the Certificate of Appropriateness. A denial of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for the denial. The Historic Resources Board shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the Historic Resources Board to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the applicant and the Historic Resources Board. The applicant may resubmit an amended application that takes into consideration the recommendations of the Historic Resources Board. Written notice of the denial of the application for a Certificate of Appropriateness shall be provided the applicant within seven (7) working days following the determination.

(E) Criteria for Review

In considering an application for a Certificate of Appropriateness, the Historic Resources Board shall be guided by the following general standards in addition to the ordinance designating the historic structure, historic site or historic district.

- (1) A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- (2) The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships 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 elements from other historic properties, shall not be undertaken.
- (4) Changes to a property that have occurred may be retained and preserved.
- (5) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a 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, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
- (7) Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
- (8) New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- (9) 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.

Article VI-Fees and Enforcement.

(A) Fees

Any application for Historical Designation or Certificate of Appropriateness shall be accompanied by such fee as shall be specified from time to time by ordinance of the Governing Body of the City.

(B) Civil Action

Any person who willfully constructs, reconstructs, alters, restores, renovates, relocates, stabilizes, repairs or demolishes any historic structure or historic site or property within a historic district in violation of this Chapter may be required to return the historic structure, historic site, or property to its appearance and setting prior to the violation. Only the City shall have the authority to bring an action to enforce the provisions of Article VI (B). In the event that the cost of returning the historic structure, historic site or property to its appearance or setting prior to the violation exceeds fifty percent (50%) of the value of the historic structure, historic site or property, the offender shall have the option of either returning the historic structure, historic site or property to its appearance and setting prior to the violation or paying to the City of Manhattan a dollar amount equivalent to the cost of reconstruction. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.

Article VII-Applicability of Prior Ordinances.

(A) All ordinances in conflict herewith are hereby repealed. Specifically, and in addition, Ordinance No. 3932, adopted February 16, 1982, is hereby repealed except to the extent it applies to the Downtown Historic District, as established by Ordinance No. 3933, adopted February 16, 1982. Both of said ordinances shall remain in effect for the sole purpose of regulating the Downtown Historic District, as created thereunder. The Historic Resources Board, created under the terms of this ordinance, shall act as the Historic Districts Review Board for the purposes of Ordinance Nos. 3932 and 3933 and the Historic Districts Review Board, as created under the prior Ordinances, is hereby dissolved.

Section 2. If any particular section of this ordinance is declared to be unconstitutional or void, only that particular section is affected, and all other sections of this ordinance shall remain in full force and effect.

Section 3. This ordinance shall be in full force and effect from and after its publication in the official City newspaper.

PASSED AND ADOPTED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS, THIS 20th DAY OF APRIL, 1999.

CITY OF MANHATTAN,

Roger P. Reitz, M.D., Mayor

ATTEST:

Richard L. Doan, CMC, City Clerk

8-28-98