

ARTICLE 30. HERITAGE COMMISSION

SEC. 1.30.001. ESTABLISHMENT AND PURPOSE.

The purpose of this Article is to preserve, conserve and maintain the aesthetic and historical resources of the City and to improve the quality of the City's environment through preservation, conservation and maintenance of neighborhoods which constitute or reflect distinctive features or the architectural, cultural, political, economic, or social history of the City; to promote the protection and enhancement of buildings, structures or land improvements of special historic, aesthetic or architectural significance; to resist and restrain environmental influences to this purpose; to foster appropriate use and wider public knowledge and appreciation of such neighborhoods and landmarks; and to promote the educational, cultural, economic and general welfare of the community by:

1. Providing a mechanism to identify and preserve the distinctive archaeological, historical and architectural characteristics which represent elements of the City's cultural, social, economic, political and architectural history;
2. Fostering and encouraging preservation, conservation, restoration and rehabilitation of structures, areas, and neighborhoods;
3. Conserving and improving the value of property or areas designated as Landmarks or within Historic Districts or Conservation Districts;
4. Protecting, enhancing and perpetuating the City's historic, aesthetic and cultural heritage as reflected in buildings, structures, desirable and unique physical features of neighborhoods or land improvements and landmarks which represent or reflect elements of the City's cultural, social, economic, political and architectural history;
5. Preventing blighting of older residential areas caused by insensitive and inappropriate development;
6. Providing economic development by preserving and enhancing the environmental quality and property values of neighborhoods and the community at large;
7. Protecting and enhancing the attractiveness of the City to home buyers, tourists, and shoppers; and thereby supporting and promoting business, commerce, industry, and providing economic benefit to the City;
8. Providing for the economic enhancement, revitalization, and continued economic vitality of designated areas;
9. Promoting economic benefits that encourage residential owners to locate in and invest in historically significant structures;
10. Providing a mechanism to target City capital improvements and infrastructure projects to support revitalization of designated areas;
11. Fostering civic pride in the beauty and noble accomplishments of the past as represented in Independence's landmarks and historic districts;
12. Promoting the use of historic landmarks and districts for the education, pleasure and welfare of the people;

13. Giving recognition to Section 89.020 R.S.Mo. and judicial interpretation of the exercise of zoning powers with respect to churches.

SEC. 1.30.002. DEFINITIONS.

Words or phrases in this Article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Article the most reasonable application; unless specifically defined below as follows:

ALTERATION means any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction or removal of any structure.

AREA means a specific geographic section of the City of Independence.

BUILDING means a resource created principally to shelter any form of human activity.

BUILDING OFFICIAL means the official who is charged with the administration and enforcement of the City's Building Code.

CERTIFICATE OF APPROPRIATENESS means a certificate approved by the City of Independence Heritage Commission authorizing an alteration, removal or demolition effecting a defined feature described and identified in the designation of a Landmark, Historic District or Conservation District.

CERTIFICATE OF ECONOMIC HARDSHIP means a certificate approved-by the Heritage Commission authorizing an alteration, removal, or demolition even though a Certificate of Appropriateness has previously been denied.

CITY COMPREHENSIVE PLAN means the comprehensive planning document adopted by the City Council to direct planning and development activities.

COMMISSIONERS means members of the City of Independence Heritage Commission.

CONSERVATION DISTRICT means an area designated as a "Conservation District" by ordinance of the City Council which possesses special historic, architectural or cultural significance as part of the heritage of the City, but is of lesser historic or architectural significance than a Historic District. A Conservation District has retained a sufficient amount of its historic and architectural character for interpretation as part of the development of the City although some alterations have been made.

CONSTRUCTION means the act of adding to an existing structure or the erection of a new principal or accessory structure on a lot or property.

CONTRIBUTING PROPERTIES means buildings, structures, public improvements or sites or objects contributing to the historic significance of a site or district which by location, design, setting, materials, workmanship, feeling and association add to the site's or district's sense of time and place and historical development. While these buildings, structures, land improvements, or sites or objects, by themselves may not meet the definition of "significant properties", and contribute to their site or district because of their scale, design, use of materials or location, and retain qualities or have the potential when restored to make a positive and compatible contribution to the character and appearance of a defined area.

CULTURAL RESOURCES means districts, sites, structures, landscape elements and 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 interpretation of past life ways and for interpreting human behavior.

DEMOLITION means any act or process which destroys, in part or in whole, a building or a structure.

DESIGN GUIDELINES means a standard of appropriate activity that will preserve the historic and architectural character of a structure or area.

EXTERIOR ARCHITECTURAL APPEARANCE means the architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, and of the building material and the type, design and character of all elements visible from the exterior such as windows, doors, siding, trim, roofs, porches and ornament.

HISTORIC DISTRICT means an area designated as a "Historic District" by ordinance of the City Council which means one or more of the criteria contained in Section 1.30.013 and which may contain within definable geographic boundaries one or more significant properties and which may have within its boundaries other contributing properties or structures which, while not of such historical and/or architectural merit to be designated as Landmarks or classified as Significant Properties, nevertheless, as a whole contribute to the overall visual characteristics of the Historic District.

INTEGRITY means authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

INVENTORY means listing of resources which retain levels of historic significance and integrity which includes information regarding their condition, locations, history and areas of significance.

LANDMARKS means property or structure designated as a "Landmark" by ordinance of the City Council because it meets one or more of the criteria contained in Section 1.30.013. Such properties are worthy of rehabilitation, restoration and preservation because of their archaeological, historical, cultural and/or architectural significance to the City of Independence.

NON-CONTRIBUTING PROPERTIES means a building, structure, public improvement or site not contributing to the historic significance of a site or district by virtue of the fact that it lessens the site's or district's sense of time and place and historical development; or one where the integrity of the original design or individual architectural features or spaces has been irretrievably lost; or one where physical deterioration and/or structural damage has made it not feasible to rehabilitate the property. Ordinarily, structures and buildings that have been built within the past fifty (50) years will be considered non-contributing unless a justification concerning their historical or architectural merit can be established or the historical attributes of the district are considered to be less than fifty (50) years old. Any future development of these sites will be of concern because of the effect on the continued quality of the site or district.

PROPERTY means any historic resource including but not limited to the land on which a historic building, structure, site or object is sited in addition to the building, structure, object, physical attributes, and/or related improvements. Historic properties may also be those resources included within a historically designated local or National district.

PUBLIC IMPROVEMENT PROJECT means an action of the City of any of its departments or agencies involving major modification or replacement of streets, sidewalks, curbs, street lights, street or sidewalk furniture, landscaping or the portions of the public infrastructure.

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PUBLIC NOTICE, in accordance with City Code, means notice of the time and date of a public hearing shall be published in an official newspaper of general circulation within the City of Independence at least fifteen (15) days prior to the date of such hearing.

REHABILITATION means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions of features or the property which are significant to its historical, architectural, and cultural values.

RELOCATION means the removal of a building or structure, a site or the moving of a building or structure to a site.

REPAIR means any change that is not construction, relocation or alteration.

RESTORATION means the act or process of accurately recovering the form and detail of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement or repair of missing earlier work.

SIGNIFICANT PROPERTIES means those properties which are determined eligible for the local or National Register of Historic Places using the Secretary of the Interior's Criteria for Evaluation (36 CFR Part 60). Significance is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association.

SITE means any area or location occupied as a residence, utilized by humans for a sufficient length of time to construct features or deposit a number of artifacts or any place with evidence of past human activity. Sites include, but are not limited to, occupation, location, work areas, evidence of farming or hunting and gathering, burial remains, artifacts and structures of all types.

SPECIAL USE PERMIT means authorization granted by the City Council for uses allowed only under special conditions of site development within a zoning classification.

STOP WORK ORDER means an order issued by the Building Official 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. A Stop Work Order is also issued to stop work that is being done contrary to the provisions of a Certificate of Appropriateness.

STRUCTURE means anything constructed or erected for the purpose of non-habitation, 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.

SEC. 1.30.003. HISTORIC PRESERVATION MANAGER.

The City shall employ or retain the services of a preservation professional to serve as Historic Preservation Manager, who meets the following qualifications:

1. Federal qualification as a "preservation professional" as set forth under the guidelines established in the Federal Register, Part V, Department of Interior, National Park Service, 36 CFT Part 61, Procedures for Approving State and Local Government Historic Preservation Programs: Final Rule; and,

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2. Academic training or experience in the following areas: comprehensive preservation planning; historic resource inventories and surveys; registration of historic sites and districts; preparation and administration of design guidelines for historic districts; local preservation ordinances; principles of land use and zoning; public relations/education.

SEC. 1.30.004. COMPOSITION OF THE HERITAGE COMMISSION.

The City of Independence shall have a Heritage Commission consisting of eleven (11) members. The Director of the Harry S Truman Library and the Superintendent of the Harry S Truman National Historic Site, or their designees, shall serve as ex-officio voting members. The remaining nine (9) members shall be appointed by the City Council. Of the nine (9) appointed members: one (1) or more shall be a resident of each locally designated Historic District or owner/resident of a locally designated Landmark; three (3) shall meet Federal criteria as preservation professionals as outlined in the Federal Register, Part V, Department of Interior, National Park Service Guidelines 36 CFR, Part 61 and the remainder shall have demonstrated knowledge of and public participation in the field of local history. All appointed members shall be residents of the City of Independence. All Commission members shall attend annually at least one informational or educational training program pertaining to historic preservation which are approved by the Missouri State Historic Preservation Officer. The cost of attendance shall be paid from funds included in the annual City budget and expended in accordance with City policies as amended or revised.

SEC. 1.30.005. TERMS OF HERITAGE COMMISSION MEMBERS.

Appointed members of the Heritage Commission shall serve for three (3) years, excepting those currently fulfilling their terms. No member may serve more than two (2) full consecutive terms. Upon completion of two (2) full consecutive terms, no member may be reappointed within less than three (3) years. Vacancies shall be filled within sixty (60) days through appointment by the City Council for the period of the unexpired term.

SEC. 1.30.006. COMPENSATION.

Commission members shall serve without compensation, but shall be reimbursed for expenses they incur while on Commission business in accordance with standard City policies concerning reimbursement.

SEC. 1.30.007. CONFLICT OF INTEREST.

No member of the Heritage Commission shall vote on any matter in which substantial ownership interests are involved, or which creates a substantial conflict between that person's private interests and the public interest, and in accordance with the "Code of Conduct" in Article 5 of the City Charter.

SEC. 1.30.008. OFFICERS.

Officers shall consist of a chairman, vice-chairman, and secretary elected by the Heritage Commission at the first regular meeting in April, who shall 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 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 to the Heritage Commission shall have the following duties, to be performed with assistance provided by staff :

1. Take the minutes of each Heritage Commission meeting and hearings;
2. Be responsible for publication and distribution of copies of the minutes, reports and decisions of the Heritage Commission to the members of the Heritage Commission;

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3. Provide notification to the City Council of vacancies on the Heritage Commission and expiring terms of members;
4. Submit to the City Council a complete record of the proceedings before the Heritage Commission on any matter requiring Council consideration.

SEC. 1.30.009. MEETINGS.

A quorum shall consist of a majority of the members. All decisions or actions of the Heritage Commission shall be made by majority vote of those members present and voting at any meeting where a quorum exists. Meetings are to be held at regularly scheduled times to be established by resolution of the Heritage Commission, but not less than monthly, or at any time upon the call of the Chairman or six (6) of the members.

The Heritage Commission shall conduct its meetings in accordance with the City Charter, relevant City ordinances and Roberts Rules of Order Newly Revised. The minutes shall show each commissioner's vote indicating such fact and shall be filed in the office of the City Clerk and shall be a public record.

SEC. 1.30.010. POWERS AND DUTIES.

The Heritage Commission shall act to carry out activities required by City ordinance relating to the administration of this Article and shall have the following powers and duties:

1. To increase public awareness of the value of historic, architectural and cultural preservation by developing and participating in public information programs and by recommending the update of the preservation program;
2. To initiate and recommend property(ies) for proposed designation as a Landmark, or Historic District or Conservation District and to review and comment on proposed designations;
3. To establish specific design guidelines for the alteration, construction, relocation or demolition of Landmarks or property and buildings/structures within Historic or Conservation Districts;
4. To review applications for new construction, alteration, relocation or reconstruction for designated Landmarks or within a designated Historic or Conservation District;
5. To review proposed changes in buildings, structures, street furniture, public improvements, City parks, civic areas, public facilities or environmental features of a Landmark or within a Historic or Conservation District;
6. To review applications for all demolition permits to demolish buildings or structures;
7. To review applications for special use permits effecting any Landmark or property within a Historic District or Conservation District;

8. To study proposed zoning amendments or applications for zoning variances for a Landmark, within a Historic District or potential Historic District, or within a Conservation District or potential Conservation District and to make recommendations concerning such requests to the Planning Commission or Board of Adjustment;

9. To recommend zoning changes;

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10. To develop, and from time to time, initiate changes in a Comprehensive Preservation Plan to be incorporated in the City's Comprehensive Plan;

11. To review applications for nomination to the National Register of Historic Places and make recommendations to the City Council and State Historic Preservation Officer;

12. To initiate and sponsor nominations to the National Register of Historic Places, which by their degree of significance and integrity, contribute to the history, architecture and culture of the Nation, the State, and the City of Independence;

13. To initiate, develop and supervise surveys 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;

14. To recommend the City 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 Article;

15. To recommend grants, tax incentives and benefits to encourage redevelopment of historically significant properties or neighborhoods;

16. To disseminate to the City Council, City agencies, owners or occupants of Landmarks, or within Historic Districts, or within Conservation Districts, or to the general public information concerning the preservation of Landmarks, Historic Districts or Conservation Districts and conservation or residential neighborhoods and commercial districts;

17. To work with and advise the Federal, State, County and City governments on matters involving historic properties in the City;

18. To initiate from time to time a comprehensive review of the provisions of this Article or any part thereof.

SEC. 1.30.011. SURVEY AND RESEARCH.

The Heritage Commission shall establish a plan and a schedule to guide an ongoing survey and research effort in the City of Independence to create an inventory of cultural resources which identifies geographical areas, sites, structures, buildings and objects that have historic, community, architectural, archaeological or aesthetic importance, interest, or value. The Commission shall maintain a register of significant non-designated properties and distribute said register to appropriate agencies and bodies. The inventory of historical properties shall:

1. Be in accordance with standards and guidelines established by the Secretary of the Interior's "Standards and Guidelines for Historic Preservation: (36 CFR, Part 61);
2. Be compatible with Missouri's State-wide Historical Preservation Comprehensive Planning Process;
3. Place a particular emphasis on evaluating and incorporating the findings of any prior studies and surveys by any unit of government or private organization which is already completed; and,
4. Be reviewed and updated every three (3) years.

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SEC. 1.30.012. NOMINATION OF LANDMARKS, HISTORIC DISTRICTS AND CONSERVATION DISTRICTS.

Nominations for designation of Landmarks shall be made to the Heritage Commission on a form prepared by it and may be submitted by a member of the Heritage Commission, owner of record of the nominated property, the City Council, or any other person or organization with the full consent and written approval of the owner(s) of record of a subject property. Nominations for designation of historic or conservation districts shall be made to the Heritage Commission on a form prepared by it and may be submitted by a member of the Heritage Commission, owner of record of the nominated property, or the City Council, or any other person or organization with the consent of the owners of at least fifty-one percent (51%) of the square footage in the proposed district, exclusive of all publicly owned property, streets and alleys.

The Historic Preservation Manager shall be available to consult with owners, persons or organizations who are preparing a nomination.

SEC. 1.30.013. CRITERIA FOR DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

The Commission shall be guided in its deliberations on or about designation of historic properties by the National Register Criteria for Evaluation (36 CFT Part 60). The Commission shall upon such investigation as it deems necessary, make a determination as to whether a nominated property, building, structure or area possesses integrity of location, design, setting, materials, workmanship, feeling, and association and:

1. Is associated with events that have made a significant contribution to the broad patterns of our history; or,
2. Is associated with the lives of persons significant in our past; or
3. Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
4. Have yielded, or may be likely to yield, information important in prehistory or history.

SEC. 1.30.014. CRITERIA FOR DESIGNATION OF CONSERVATION DISTRICTS.

The Commission shall upon such investigation as it deems necessary, make a determination as to whether a group of structures, landscape elements or any integrated combination thereof meet one or more of the following criteria:

1. Was developed at least fifty (50) years ago and retains distinctive architectural and historical characteristics that are worthy of conservation, but which has less historical, architectural or cultural significance than a Historic District;
2. Has a recognized neighborhood identity and character by virtue that it possess unifying distinctive elements of either exterior features or by environmental characteristics that create an identifiable setting, character, or association;
3. Has a relationship to an identifiable urban or neighborhood center or historic area where preservation of this relationship is determined to be critical to the protection of such center or historic area;

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4. Owing to its unique location or singular physical characteristics, represents an established and familiar visual feature of the neighborhood, community or City.

SEC. 1.30.015. REPORT AND RECOMMENDATION OF HERITAGE COMMISSION.

The Heritage Commission shall within sixty (60) days from the receipt of a completed nomination in proper form hold a public hearing on the proposal. Public notice of the hearing shall be given, including posting on the property or within the proposed district. Written notice shall be given to the owners of property under consideration for designation. Written notice under this Article shall be considered sufficient when it is mailed to the owner of record. The Commission shall adopt by resolution a recommendation that the nominated Landmark or District does or does not meet the criteria for designation as outlined in this Article. The resolution shall be accompanied by a report to the Planning Commission, a copy of which shall be available to the public at the office of the City Clerk, and which shall contain the following information:

1. Explanation of the significance or lack of significance of the nominated property as it relates to the criteria for designation,
2. Explanation of the integrity or lack of integrity of the nominated Landmark or District,
3. In the case of a recommendation to designate single structures or sites, portions of structures, groups of structures, landscape elements, works of art or integrated combinations thereof having a special historical, archaeological or architectural interest or value as Landmarks or Historic Districts or Conservation Districts the Heritage Commission shall:
 - a. Provide written reports describing the character and significance of the proposed Landmark or Historic or Conservation District, legal boundary description and justification for boundaries in accordance with the National Register Criteria for Evaluation (36 CFR part 60) established by The Secretary of the Interior, documentation of owner consent or objection, specific criteria and guidelines to preserve its significance, including current and permitted uses, information about any specific features to be defined in the Article, and information regarding any comprehensive or master plan, zoning requirements, projected public improvements and development plans applicable to the area.
 - b. A map or maps indicating proposed boundaries and ownership consent.

SEC. 1.30.016. NOTIFICATION OF DETERMINATION BY HERITAGE COMMISSION.

Notice of the determination by the Heritage Commission, including a copy of the report, shall be sent to the owners of record of a nominated Landmark, the owners of all property within a nominated Historic or Conservation District, and to the nominator within seven (7) days following a determination of the Heritage Commission as to whether or not the nominated property meets the criteria for designation.

SEC. 1.30.017. ACTION BY PLANNING COMMISSION.

The Planning Commission shall act within thirty (30) days of receipt of the recommendation and report of the Heritage Commission to designate a Landmark or Historic or Conservation District. The Planning Commission shall hold a public hearing and adopt by resolution a recommendation to the City Council. In its resolution the Planning Commission shall approve or deny the recommendation of the Heritage Commission.

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1. If the Planning Commission approves the recommendation for historic designation, it shall be an amendment to the Zoning District Map which creates a designation using the boundaries proposed by the Heritage Commission. In consideration of this amendment, the Planning Commission shall follow the same procedures as found in Section 14.01.020 of the City Code. The designation shall be HL for Landmark, HD for Historic Districts, and HC for Conservation Districts. When the Planning Commission acts favorably on a proposed designation it shall forward the proposed designation and the Heritage Commission's reported recommendation for historic designation to the City Council at the same time for consideration.

2. If the Planning Commission denies the recommendation of the Heritage Commission, the Planning Commission shall state all reasons for denial and these shall be forwarded along with all supporting documentation prepare a report delineating its reasons for such denial and shall submit this report and the Planning Commission's recommendation, along with the Heritage Commission report and recommendation, to the City Council for consideration.

SEC. 1.30.018. ACTION BY CITY COUNCIL.

A. The City Council shall act within sixty (60) days after receiving the recommendation of the Planning Commission and the Heritage Commission that the nominated Landmark or Historic District or Conservation District be designated and that the Zoning District Map be amended. The City Council shall hold a new evidence only public hearing as provided in Section 14.01.008 of the City Code. The Designation Ordinance shall include a legal description of the boundaries of the District or the Landmark, information on the significance of the property or properties, a statement on the reasons for the designation, and information about any specific features being protected. The establishment of the overlay district shall not effect the other zoning rules and regulations for the property that shall remain in full force and effect. The Council may approve or disapprove the proposed ordinance and the amendment to the Zoning District Map.

B. If the report and recommendation from the Planning Commission is against a proposed designation, the City Council may accept either the Planning Commission's or the Heritage Commission's recommendation. The City Council shall hold a full public hearing before considering the proposed designation ordinance. The Council may approve or disapprove the proposed ordinance and amendment to the Zoning District Map.

C. After the decision of the Council, the City Clerk shall provide written notification of the action of the City Council by regular mail to the nominator and the owner(s) of record of the nominated property. The notice shall include a copy of the designation ordinance and the zoning map amendment passed by the City Council and shall be sent within fifteen (15) days of the City Council action. A copy of each designation ordinance and zoning map amendment shall be sent to the Heritage Commission, the Planning Commission

and other interested City departments. In the case of a denial by the City Council, a nomination for designation may not be resubmitted for three years.

SEC. 1.30.019. INTERIM CONTROL.

No building permit shall be issued by the Building Department for alteration, construction, demolition or removal of a nominated Landmark or of any property or structure within a nominated Historic District or Conservation District from the date of the meeting of the Heritage Commission at which a nomination form is first presented until the final disposition of the nomination through a negative recommendation by the Heritage Commission or the Planning Commission or by the vote of the City Council. During this period the City Council may authorize such alteration, construction, demolition or removal when it adopts a formal resolution declaring that the proposed work is necessary for public health, welfare or safety. During this period the applicant for the permit shall have the opportunity to explain to the City Council the reasons why the permit should be issued promptly. In no event shall the delay be for more than one hundred eighty (180) days.

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SEC. 1.30.020. AMENDMENT OR RESCISSION OF DESIGNATION.

Designation may be amended or rescinded based upon one of the following circumstances:

- 1) The building(s) or structure(s) have been destroyed due to a natural disaster;
- 2) The building(s) or Structure(s) is deemed unsafe by public health officials;
- 3) The building(s) or structure(s) are relocated out of the city limits of Independence;

upon petition to the Heritage Commission and compliance with the same procedure and according to the same criteria set forth herein for designation.

When an amendment is proposed to expand an existing designation, only the consent of the property owners in the proposed expansion area will be considered for the amendment.

SEC. 1.30.021. CERTIFICATE OF APPROPRIATENESS.

A Certificate of Appropriateness shall be required before the following activities are permitted:

1. Issuance of any demolition permit;
2. Issuance of a Special Use Permit to determine effect of use on any Landmark or property within a Historic District or Conservation District;
3. Actions effecting the exterior architectural appearance of any landscape features, including walls, brick streets, and curbs that were defined in the ordinance designating any Landmark or property within a Historic District or Conservation District including:
 - a. Any construction or alteration, in whole or in part, which requires a permit from the City.
 - b. Construction, alteration, or demolition, in whole or in part, not requiring a permit, but effecting an exterior architectural feature(s), that are defined in the ordinance designating the Landmark, or Historic District or Conservation District.

c. Any construction, alteration, or demolition in whole or in part proposed by the City of Independence or any of its agencies or departments, for a Landmark, or structure within a Historic District or Conservation District and which effects a significant exterior architectural feature(s) that is are defined in the designating ordinance or which would require a building permit if undertaken on privately-owned property.

d. Any public improvements and land acquisition projects by the City of Independence or any of its agencies or departments within one hundred eighty-five feet (185') of any Landmark, Historic District or Conservation District boundary.

4. Relocation of a building or structure effecting any Landmark or property within a Historic District or Conservation District. Actions shall include removal of a building or structure from a site and the placement of a building or structure on a site.

5. The erection or placement of any sign.

SEC. 1.30.022. APPLICATION FOR CERTIFICATES OF APPROPRIATENESS.

A. Application for a Certificate of Appropriateness shall be made on a form prepared by the Heritage Commission and available in the office of the Community Development Department. Such form may require submittal of plans, drawings, elevations, specifications, materials, and photographs of the property and adjacent properties. An application for a Certificate of Appropriateness shall not be considered complete until the information requested on the application form. No Certificate of Appropriateness shall be issued until approved by the Heritage Commission.

B. Applicants may request advice from the Commission and before preparing their plans and their application, and applicants shall be afforded an opportunity to meet and consult with the Heritage Commission and staff prior to formal review of the application.

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SEC. 1.30.023. DETERMINATION BY HERITAGE COMMISSION.

A. After giving notice to the applicant and Public Notice, the Heritage Commission shall hold a public hearing on each application within thirty (30) days of the filing of a complete application. The Commission shall approve, approve with modifications, or disapprove each application within forty-five (45) days of the filing of a complete application, and the Commission shall provide written notification of its decision to the applicant within seven (7) days after determination.

B. Approval of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for the approval. Denial of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for the denial, including recommendations concerning changes, if any, which would cause the Heritage Commission to reconsider its determination. If the Commission fails to make a determination on an application within the specified time period, the application shall be deemed approved.

C. The Certificate of Appropriateness shall become void unless work commences within six (6) months of the date of issuance and is completed within eighteen (18) months of the date of issuance, or unless a request for an extension has been approved by the Commission.

D. In the case of a denial of a Certificate of Appropriateness, the Commission may grant a rehearing of an application. The request for rehearing must include new evidence to be introduced for consideration and must be submitted to the Commission within 30 days of the date of notification of the Commission's original determination. Only one application for a rehearing may be made in any case.

SEC. 1.30.024. STANDARDS FOR REVIEW FOR ISSUING CERTIFICATES OF APPROPRIATENESS.

The work of the Commission shall include negotiations with the applicant over the proposed plans and the development of preservation alternatives.

1. In considering an application for a Certificate of Appropriateness for properties which have been designed as architecturally/historically significant Landmarks, or which have been designated as significant or contributing properties in Historic Districts, the following guidelines based on the Secretary of the Interior's Standards for Rehabilitation (36 CFR Part 68) shall be followed. The Commission shall also use any specific design guidelines that it has adopted and shall consider architectural style, design, arrangement, texture, materials and color of materials.

a. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment or to use a property for its originally intended purpose.

b. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible. Distinctive stylistic features, historic material or examples of skilled craftsmanship original to the quality or character of a building or structure shall be retained or, when necessary replicated.

c. All buildings, structures and sites shall be recognized as products in their own time. Alterations that have no historical basis and which seek to create an earlier appearance are not acceptable. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. Alterations which

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seek to create an earlier appearance shall be discouraged if they impact on historic changes which reflect the history and development of the building and have acquired significance in their own rights.

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

e. Contemporary design for alterations and additions to existing properties shall not be discouraged where such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, material and visual character of the property, neighborhood or environment.

f. Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

g. Every reasonable effort shall be made to protect and preserve archaeological resources effected by, or adjacent to any project.

2. In considering applications for a Certificate of Appropriateness for Demolition the Heritage Commission shall determine and consider:

- a. The property's significance and integrity;
- b. The integrity of the streetscape and surrounding neighborhood;
- c. The reason grounds for the proposed demolition and data supporting said reason, including when applicable data sufficient to establish any economic or legal justification for demolition;
- d. Whether every reasonable effort has been made to rehabilitate, or provide a compatible use for a property; and,
- e. The proposed reuse of the parcel on which the building or structure to be demolished is located. Any applicant seeking for permission to demolish a noncontributing structure shall submit evidence that the site will be used for a new structure or building and will not be left vacant unless the site will be incorporated into development of adjoining contributing property.
- f. The Commission shall also include the following questions in its review:
 - (1) Has the property been damaged by a recent fire, natural disaster or other calamity?
 - (2) What is the extent of the damage?
 - (3) Has the property been declared substandard or a dangerous building by the Building Official?
 - (4) Has the property owner made a reasonable effort to preserve the building through rehabilitation, leasing for rehabilitation, sale, or relocation of the building for rehabilitation?

(5) Have provisions been made by the owner for architectural salvage of significant features to be retained or offered to interested individuals or groups?

(6) If the building is located in a redevelopment proposal, has an effort been made to incorporate the building into the redevelopment proposals or has an effort been made to relocate the building to another site for rehabilitation?

(7) Does retention and rehabilitation of the building represent an economic hardship to the owner?

3. In considering an application for a Certificate of Appropriateness for properties which have been designated as part of Conservation Districts or have been classified as "non-contributing" properties in a Historic District, the Heritage Commission shall use the following guidelines:

- a. New construction or additions to buildings shall be to a height roughly equal to the average height of existing buildings on the streetscape. New construction that greatly varies in height from other buildings in the immediate vicinity shall be considered inappropriate.
- b. The size and proportions of new structures or additions to existing buildings shall be compatible with older buildings in the immediate vicinity.
- c. The horizontal or vertical facade expressions shall be compatible with the character of buildings in the immediate area.
- d. New construction or alterations must follow the existing setback pattern for residential structures and shall maintain the same entry height as neighboring buildings.
- e. The sense of entry of primary entrance locations should be compatible with existing patterns in the streetscape.
- f. Roof forms of new buildings and alterations should duplicate the existing or traditional roof shapes, pitches and materials found in the area.

4. In considering an application for a Certificate of Appropriateness for relocation, the Heritage Commission shall consider the following:

- a. When a building or structure is to be moved from a Landmark site or a Historic District or Conservation District, the factors to be considered shall include: the possibility that the building or structure may be demolished in its present location, the contribution that the building or structure makes in its present location and the effect of the new location on the historical and architectural qualities of the building or structure.
- b. When application is made for moving a building or structure to a Landmark site or a Historic District or Conservation District, the factors to be considered shall include the architectural and historical qualities of the building or structure, the impact on the site and area to which the building or structure will be moved, and the possibility that the building or structure may be demolished in its present location.
- c. For all applications, the Heritage Commission shall evaluate the evidence submitted on the feasibility of successfully moving the building or structure.

SEC. 1.30.025. STOP WORK ORDERS.

A. All work performed pursuant to a Certificate of Appropriateness or a Certificate of Economic Hardship shall conform to the provision of such certificate. Whenever any work is being done contrary to the provisions of a Certificate or whenever work is being done without a required Certificate, the Building Official shall order the work stopped by notice in writing served on any person engaged in doing or causing such work to be done. Any such person shall forthwith stop such work until authorized by the Building Official to proceed with the work. The Building Official shall promptly notify the staff of the Heritage Commission of the action being taken.

B. The Chairman of the Heritage Commission or the Historic Preservation Manager may ask the Building Official to issue a Stop Work Order if they have reason to believe that work is not being performed pursuant to a required Certificate, but the Building Official is solely responsible for making the determination in Paragraph A above. The City may apply for an injunction to enforce its Stop Work Order.

SEC. 1.30.026. CERTIFICATE OF ECONOMIC HARDSHIP.

If a Certificate of Appropriateness is denied, the applicant may submit an application for a Certificate of Economic Hardship on a form prepared by the Heritage Commission. Said application shall be filed within fifteen (15) days from the date of denial by the Heritage Commission. The Heritage Commission shall schedule a public hearing within thirty (30) days after receiving a complete application and shall provide Public Notice in the same manner as outlined in this Article. Any person may testify at the hearing concerning economic hardship.

The Heritage Commission may solicit expert testimony, and it shall require that the applicant for a Certificate of Economic Hardship make submissions concerning any or all of the following information before the Commission 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 Heritage Commission 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 Heritage Commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use;
4. In the case of a proposed demolition, an estimate from a developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;
5. Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer;

6. If the property is income-producing, the annual gross income from the property for the previous two (2) years, itemized operating and maintenance expenses, and depreciation for the previous two (2) years; and annual cash flow before and after debt service, if any, during the same period;
7. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years;
8. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
9. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years;
10. Assessed value of the property according to the two (2) most recent assessments;
11. Real estate taxes for the previous (2) years;
12. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;
13. Information about plans prepared for the property, if a building or structure is demolished, including material on the timing and financing of the new construction; and,
14. Any other information considered necessary by the Heritage Commission to a determination as to whether the property does yield or may yield a reasonable economic return to the owner.

SEC. 1.30.027. DETERMINATION OF ECONOMIC HARDSHIP

A. The Heritage Commission shall review all the evidence and information required of an applicant for a Certificate of Economic Hardship and other evidence submitted to be part of the record.

B. The Commission shall make a determination, within forty-five (45) days of receipt of the complete application, whether the denial of a Certificate of Appropriateness has deprived, or will deprive, the owner of the property of reasonable use of, or a reasonable economic return on the property.

C. If the Commission make a finding of economic hardship, it shall grant a Certificate of Economic Hardship and give its approval for the work as proposed by that the applicant wishes to do. This approval from the Commission shall not relieve the applicant from complying with the requirements of other City ordinances and regulations.

D. If the Commission does not make a finding of economic hardship, it shall disapprove the application, and the applicant shall not receive a permit for the work requested. Written notice of determinations under this section shall be provided in the same manner as required by Section 1.30.023.

E. In making a determination of economic hardship, the Commission shall consider evidence showing that the owner or applicant failed to maintain or protect the property, or performed or permitted any acts to the detriment of the property and this evidence may be used as basis to reject allegations of economic hardship.

SEC. 1.30.028. APPEALS.

Owners who have been denied a Certificate of Appropriateness or a Certificate of Economic Hardship for their property may appeal to the City Council. Appeals shall be filed within fifteen (15) days from the date of denial of the Certificate of Appropriateness by the Heritage Commission, or if an application has been filed for a Certificate of Economic Hardship, the appeal shall be filed within fifteen (15) days from the date of denial of the Certificate of Economic Hardship, which appeal shall include an appeal of the denial of the Certificate of Appropriateness. The City Council shall act within thirty (30) days after receiving the appeal. The City Council shall hold a new evidence only public hearing as provided in Section 14.01.008 of the City Code. The City Council may approve or disapprove the decision of the Heritage Commission, which decision shall be based solely upon the record.

SEC. 1.30.029. VIOLATION AND PENALTY.

The owner of a building or property where a violation of any provision of this Article has been committed, or shall exist, or the lessee of an entire building, an entire property or the part of a building where such violation has been committed, or shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00) for each and every calendar day that such violation continues. If the offense is willful, on conviction thereof, the punishment shall be a fine of not less than One Hundred Dollars (\$100.00) no more than Two Hundred Fifty Dollars (\$250.00) for each and every day that such violation continues.

SEC. 1.30.030. MAINTENANCE AND REPAIR.

A. The owner and the tenant of a Landmark or a property in a Historic District or a Conservation District shall keep in good repair: (1) All of the exterior portions of such building or structure; and (2) All interior portions thereof which, if not so maintained, may cause such building or structure to deteriorate, or to become damaged or otherwise to fall into a state of disrepair. The purpose of this provision is to prevent a person from forcing the demolition of a building or structure by neglecting it and by permitting damage to it through weather or vandalism.

B. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided this work does not change the exterior appearance of the Landmark or the building or structure in any Historic District or a Conservation District.

C. In any case where the Building Official determines that there are emergency conditions dangerous to life, health or property effecting a Landmark or a property in a Historic District or a Conservation District, the Building Official may order the repair of these conditions without the approval of the Heritage Commission. The Building Official shall promptly notify the staff of the Heritage Commission of the action being taken.

D. The provisions of this section shall be in addition to all other provisions of State and City ordinance laws, and regulations requiring buildings or structures to be kept in good repair.

SEC. 1.30.031. DEMOLITION BY NEGLECT.

A. The Heritage Commission shall prepare and maintain a list of Landmarks and buildings and structures in Historic Districts and Conservation Districts that are not being maintained in a safe and sanitary condition. The Commission shall request a meeting with the owners of the buildings or structures on the list in order to discuss ways to improve the condition of the property. When such meetings are held, the Commission shall report the results of these discussions to appropriate City officials.

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B. The Commission shall use the list to recommend treatments to address problems relating to the individual buildings or structures on the list that requires attention. The Chairman and the Historic Preservation Manager shall meet with the Building Official to review the recommended treatments. After this review, they shall ask the Building Official to initiate additional action, if appropriate under applicable City Codes, to ensure the perpetuation of the building or structure and to prevent its destruction by deterioration. The Commission may also seek to have defects corrected or repairs made, so that such endangered buildings or structures are protected and preserved in accordance with the purpose of this section and the appropriate City Code.

SEC. 1.30.032. CONTINUATION OF PRIOR DESIGNATIONS AND DECISIONS.

All existing designations of historic property by the Heritage Commission and all decisions of the Heritage Commission that were made before the adoption of this Article pursuant to prior legislation shall remain in full force and effect, unless acted upon under the provisions of this Article.

SEC. 1.30.033. SEPARABILITY.

The paragraphs and provisions of this Article are separable. If any paragraph or provisions of this Article shall be declared void or unconstitutional, the remaining paragraphs and provisions shall continue to have full force and effect. It is hereby declared to be the legislative intent that such a decision by a court shall not effect or impair any of the remaining paragraphs and provisions and their application to other persons or circumstances.

SEC. 1.30.034 - 1.30.999 RESERVED.

ARTICLE 31 WAS REPEALED BY ORDINANCE NO. 3583, 9/3/74