

CHAPTER XVI. (B) BUILDING PRESERVATION CODE AND SIGN CODE

- Article 1. Historic Preservation Regulations
- Article 2. Sign Code

ARTICLE 1. HISTORIC PRESERVATION REGULATIONS

16B-101 DECLARATION OF POLICY. The city council finds and declares as a matter of public policy that the identification, designation, protection, enhancement, preservation and use of historic resources is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the public. Preservation of historic resources will:

- (1) Protect, enhance and perpetuate historic, distinctive and important elements of the city's cultural, social, economic, political, archaeological and architectural history;
- (2) Safeguard the city's historic and cultural heritage as embodied and reflected in such historic resources;
- (3) Stabilize and improve property values in such locations of historic resources and thus strengthen the economy of the city;
- (4) Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;
- (5) Foster civic pride in the beauty and noble accomplishments of the past;
- (6) Protect and enhance the city and its attractions to tourists and visitors and provide support and stimulus to business and industry; and
- (7) Promote the use and adaptive reuse of historic resources for the culture, education, enjoyment and economic welfare of the city's citizens and visitors.

16B-102 DEFINITIONS. As used in this chapter, the following words, terms and phrases shall be the meanings set out below:

Appurtenances and environmental setting includes, but is not limited to walkways and driveways (whether paved or not) fences, gateways, open space and waterways. Interiors of structures are included only when a historic resource is designated a historic landmark and the owner consents to the addition of the interior of the structure.

Certificate of appropriateness is the approval given for projects impacting historic landmarks and assets within historic districts.

Demolition shall mean any and all activity that requires a demolition permit.

Demolition by neglect is the failure to provide ordinary and necessary

maintenance and repair to a structure resulting in the deterioration of the structure or resulting in permanent damage, injury or loss to exterior features.

Design criteria is the standard used for issuing a certificate of appropriateness. The criteria shall be based upon the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, or guidelines adopted by the historic district and based upon criteria of the Secretary of Interior's Standards as recommended by the Haysville Historic Committee and approved by the respective jurisdiction. Examples illustrating said standards shall be made available by the preservation staff.

Historic district is a group of historic resources, consisting of three (3) or more principal use structures or a tract of ground five (5) acres or larger which are significant as a cohesive unit and contribute to the historical, architectural, archaeological or cultural values of the city, county, state, or nation which is so designated by the city council. Historic district includes all state and national registered districts provided the owner(s) of record consents in writing to the inclusion. The Historic District may also include appurtenances and environmental setting with written consent from the owner(s) of record.

Historic landmark is a historic resource that has been designated, with the written consent of the owner(s) of record, as having historical, architectural, archaeological, or cultural importance or value which the city council determines shall be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the public. Historic landmark may also include the interior of a structure appurtenances and environmental setting with written consent from the owner(s) of record. Historic landmark includes all state and national registered structures provided the owner(s) of record consents in writing to the inclusion.

Historic resource is a site, land area, building, structure or object, which may also include appurtenances and environmental setting, which has historical, cultural, aesthetic, architectural and/or archaeological significance, or is a site, land area, building, structure, or object with potential importance or value.

Overlay zoning. Any zoning that functions in addition to the existing land use zoning, as in the case of historic landmark or historic district zoning.

Permit means authorization whether by administrative action or actions by the city council and includes a building, demolition, moving, zoning, sign, fence, parking lot, roofing, sidewalk, siding, or swimming pool permit which is issued by the development services office.

Preservation staff means personnel assigned to provide staff services for the Haysville Historic Committee

Project classification. For the purpose of the certificate of appropriateness review

procedure, proposed work involving a historic landmark or property within a historic district shall be classified as major or minor.

(1) Major projects include:

- a. Any undertaking requiring a permit on a historic landmark unless determined minor by the preservation staff; or a structure within a historic district; unless determined minor by preservation staff;
- b. Any demolition permit or moving permit for any structure listed as a historic landmark or historic resource within a historic district.

(2) Minor project. For the purpose of certificate of appropriateness review, a minor project is any project requiring a permit on a historic landmark or property within a historic district that proposes repairing or restoring an existing exterior element, or replacing an element or material with identical material and design to that which is existing.

Preservation plan. A document developed, adopted and implemented by the Haysville Historic Committee that identifies trends affecting and impacting historic resources and provides guidance for their preservation. The preservation plan will include a list of all historic resources, historic landmarks and historic districts within the City. The preservation plan will be a component of the comprehensive plan for the city.

Preservation program. The overall program administered by the Haysville Historic Committee that involves the implementation of the historic preservation ordinance, the historic preservation plan, and all activities relating to the furtherance of historic preservation in the City.

Uniform Code for Building Conservation. A national code adopted by the city that provides for more flexible code review for older and historic properties.

16B-104 HISTORIC DISTRICT COMMITTEE. See Chapter 1, Administration.

16B-105 HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATION.
The city council may designate certain historic resources as historic landmarks or historic districts. Such designation shall be in addition to any other zoning designation established in the comprehensive zoning regulations of the city and be known as historic overlay zoning. An official register of all historic designations in the city shall be created, maintained and filed for public information and use in the office of the city clerk.

16B-106 HISTORIC LANDMARK DESIGNATION AND NOMINATION CRITERIA.

A. DESIGNATION

- (1) In the designation of buildings, structures and objects as historic

landmarks certain criteria must be met. These properties must be fifty (50) years or older. In addition, the property must meet one (1) or more of the following criteria:

- (a) Is associated with events that have made a significant contribution to the broad pattern of history of the city, county, state or nation;
- (b) Is associated with a significant person or group of persons in the history of the city, county, state or nation;
- (c) Embodies distinctive characteristics of a type, period, or method of construction; represents the work of a master builder/architect; possesses high artistic values; or represents a distinguishable entity whose components may lack individual distinction;
- (d) Yields or is likely to yield information important in prehistory or history; or
- (e) Possesses integrity of location, design, setting, materials and workmanship.

(2) Properties less than fifty (50) years old may be eligible for designation provided they are of extreme historical significance. All other criteria listed herein shall apply.

B. NOMINATION.

(1) The process is initiated when a historic landmark or historic district nomination form is accompanied by the following information and submitted to the Haysville Historic Committee. The nomination form shall include:

(a) A description of the specific historic resource nominated as a historic landmark or a list of specific historic resources located within the proposed district boundaries and a description of the particular importance or value of each such historic resources, such description to include the following:

- I. Approximate date of construction, and dates of major alterations, if known;
- II. Builder and/or architect, if known;
- III. Architectural style;
- IV. Primary building materials;
- V. Current owner of record; and
- VI. Legal description of each property.

(b) A map showing the boundaries of the proposed historic district and the location of each asset of importance or value identified by a number or letter designation;

(c) Sufficient photographs of each historic resource proposed as a historic landmark or historic resources listed within the historic district;

(d) Written consent to the nomination by all of the owners of record of the proposed historic landmark. In the event of a contract sale, both the owner of record and the party or parties holding an equitable interest in the property must

consent to the nomination; and

(e) For a historic district, sixty-five (65) percent of the owners of record within the proposed historic district must provide written consent. In the event of a contract sale of real property, both the owner of record and party or parties holding an equitable interest in the property must consent to the nomination.

(2) Applications to increase the boundaries of a historic district may be made if one (1) or more of the following conditions are met:

- (a) When additional historic resources which relate to the historic district are requested for inclusion;
- (b) When facts previously undisclosed to or unknown by the Haysville Historic Committee are revealed which indicate that a particular building or site is possessed of special architectural, archaeological, or cultural character, or economic viability to the district.

(3) Applications to reduce the boundaries of a historic district may be made when one (1) or more of the following conditions have been met:

- (a) When it can be shown that a particular building, structure, site, object or land area has no historic, architectural, archaeological, or cultural importance or value to the viability of the historic district;
- (b) When it can be shown that no physical, historical, architectural, archaeological or cultural degradation will result from exclusion of property from the district.

16B-107 HISTORIC DISTRICT DESIGNATION CRITERIA.

(1) In the designation of buildings, structures and objects as historic districts certain criteria must be met. The historic resources within the historic district must be fifty (50) or more years old. In addition, the historic resources must meet one (1) or more of the following criteria:

- (a) Are associated with events that have made a significant contribution to the broad pattern of history of the city, county, state or nation;
- (b) Are associated with a significant person or group of persons in the history of the city, county, state or nation;
- (c) Embody distinctive characteristics of a type, period, method of construction; represent the work of a master builder/architect; possess high artistic values; or represent a distinguishable entity whose components may lack individual distinction;
- (d) Yield or are likely to yield information in prehistory or history; or
- (e) Possess integrity of location, design, settings, materials and workmanship.

(2) The boundaries of historic districts shall be drawn so as to include all buildings, structures, sites, objects or land areas which meet one (1) or more of the criteria set out herein or which directly affect or relate to such buildings, structures, sites, objects or land areas meeting one (1) or more of the above criteria, provided that at least seventy-five (75) percent of the total structures within the boundaries are of architectural, historical, archaeological, or cultural importance or value as determined by the Haysville Historic Committee.

16B-108 PROCEDURE FOR DESIGNATION OF HISTORIC LANDMARK AND HISTORIC DISTRICT. An application for historic landmark and historic district designation requires the following procedures:

(1) A historic landmark or historic district nomination form, accompanying material, and for historic districts, historic district preservation guidelines as defined herein, shall be submitted to the historic committee.

(2) Upon receipt of such nomination, the Haysville Historic Committee shall make its decision regarding the designation within a reasonable time. In the event a member of the Haysville Historic Committee shall make application, evidence shall be presented in the same manner as all other persons and the Haysville Historic Committee member shall not vote on the matter contained in the application. A simple majority vote shall be required to constitute a recommendation of approval on any nomination application presented to the Haysville Historic Committee.

(3) After consideration and recommendation by the Haysville Historic Committee, the application shall be submitted to the City Planning Department. The following is required as part of the designation application:

- a. The Haysville Historic Committee recommendation;
- b. Legal description and map of the boundaries of the proposed designation;
- c. Completed historic landmark or historic district nomination form and accompanying materials;
- d. Applicable historic district preservation guidelines as defined herein; and
- e. A list of property owner(s) of record.

(4) The designation shall be placed on the Haysville Planning Commission agenda for public hearing to consider historic landmark or historic district designation. The same public notices and public hearing as required by law in a zoning case shall be observed. The owner or owners of record of any parcel on which a proposed historic landmark is situated or within a proposed historic district as well as all property owners of record within a two hundred (200) foot radius in the city will be notified of the hearing. At the conclusion of its hearing, the Haysville Planning Commission shall set forth in writing its findings as to whether the designation is consistent with adopted plans and shall transmit such

findings to the city council.

(5) After notice and public hearing as required by law in a zoning case, a historic landmark or historic district may be created by ordinance by the city council. Upon passage of such ordinance a certified copy shall be filed with the Sedgwick County Register of Deeds.

(6) Upon approval of a historic landmark or historic district designation ordinance by the city council, the city planning department shall cause the official designation and delineation of the property or properties involved upon the City's official zoning map.

16B-109 HISTORIC DISTRICT EXEMPTIONS. Within thirty (30) days of approval of a historic district by the city council, property owners located within the district may elect to exempt their property from the requirements of the historic district by providing written notice of the self-exemption to the preservation staff. In the event of a contract sale of real property, both the owner of record and party or parties holding an equitable interest in the property must consent to the exemption. The property shall automatically convert to the historic overlay zoning district upon sale of the property, including a contract sale.

16B-110 HISTORIC DISTRICT PRESERVATION GUIDELINES. Preservation guidelines for a proposed historic district shall be submitted with a nomination application. The district preservation guidelines shall not apply to the interior of commercial structures. Further, the district guidelines shall include, but not be limited to the following:

(1) Guidelines for those seeking a certificate of appropriateness including, but not limited to the following:

- a. Acceptable materials for any construction, additions, remodeling or rehabilitation activities to the exterior of the structures;
- b. Appropriate architectural character, scale, and detail for any construction, additions, remodeling or rehabilitation activities;
- c. Acceptable appurtenances to the structures;
- d. Acceptable textures and ornamentation to the exterior of the structures;
- e. Acceptable accessories on structures;
- f. Such other building regulations which would have impact on the buildings;
- g. Acceptable standards for changes to non-contributing resources within the district; and
- h. Acceptable signage.

(2) Guidelines for public improvements in the district, including street furniture, signs, design textures of sidewalks, streets and parks.

16B-111 HISTORIC DISTRICT DESIGNATION ADMINISTRATIVE REQUIREMENTS.

The following shall apply:

- (1) When the Haysville Historic Committee considers an area as a possible historic district, the Haysville Historic Committee shall, prior to rendering its final recommendation, submit the nomination package including district preservation guidelines to appropriate city departments and other public agencies directly affected.
- (2) In addition, the Haysville Historic Committee shall, prior to rendering its final recommendation, make the historic district preservation guidelines available upon request to all landowners in the proposed historic district.
- (3) The Haysville Historic Committee approved graphics for designated historic resources within a historic district may be made available to the owners of designated structures.

16B-112 CERTIFICATE OF APPROPRIATENESS REVIEW.

The following procedures and requirements shall apply to certificate of appropriateness review:

- (1) A permit for any project as defined herein affecting a designated historic landmark or any property within a designated historic district shall not be issued for any major project, as defined in 16B-102, to any applicant by the office of the Public Works Director unless an application for a certificate of appropriateness has first been reviewed and approved by the preservation staff, by the Haysville Historic Committee and, if a protest is filed, by the city council. Minor projects, as defined in 16B-102, and those not requiring a permit but which propose to alter features which have been defined in a historic district's preservation guidelines as requiring protection shall require a certificate of appropriateness application. Projects which will or have the potential to damage or destroy historic features of a historic landmark or a historic resource which is located within a historic district shall be subject to a certificate of appropriateness review.
- (2) When applying for a certificate of appropriateness, the applicant shall provide plans, specifications or other documentation pertaining to the work as required on the Haysville Historic Committee's adopted application forms. A complete certificate of appropriateness application and accompanying materials shall be submitted to the preservation staff for review of the application and determination if the proposed work is a major or minor project.
- (3) The Haysville Historic Committee shall review the application after the classification of the project being minor or major as determined by the

preservation staff. (refer to 16B-102).

a. Major Project - The Haysville Historic Committee shall recommend approval, approval with conditions, or denial within thirty (30) days of the receipt of an application. Upon receiving the recommendation of the Haysville Historic Committee, the Haysville Planning Commission shall call and hold a public hearing. Notice of such hearing shall be published at least once in the official city newspaper. Such notice shall be published at least 20 days prior to the hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. The Planning Commission shall prepare its recommendations by a majority vote, and shall submit a summary of the hearing to the Governing Body. The Governing Body either may approve, override or return the recommendation to the Planning Commission. The Planning Commission may resubmit original, new, or an amended recommendation to the Governing Body. Upon return from the Planning Commission to the Governing Body, the Governing Body by simple majority may adopt, revise, or amend and adopt or take no further action. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting, the Governing Body shall consider it as a resubmission of the original recommendations and proceed accordingly.

b. Minor Project - A certificate of appropriateness for a minor project shall be reviewed and approved or denied by the preservation staff. If approved, the preservation staff shall provide a certificate of appropriateness to the applicant and provide a copy of documented approval to the office of the public works director. An appeal from a denial of an application for a minor project may be filed with the preservation staff within five (5) business days. A public hearing on the appeal, as set out above for major projects, shall be at the next appropriate meeting of the Planning Commission.

(4) Ordinary maintenance and repair not otherwise subject to a permit or restricted by the historic preservation guidelines may be carried out without a certificate of appropriateness.

(5) If no action has been taken by the preservation staff and/or the Haysville Historic Committee within thirty (30) days for major projects and within fifteen (15) days for minor projects after date of receipt of the completed application, the permit may be applied for with the office of the public works director.

(6) No significant change shall be made in the work defined in the certificate of appropriateness application after issuance of a certificate of appropriateness without re-submittal and approval thereof in the same manner provided herein.

(7) A certificate of appropriateness may be re-filed provided the request addresses the concerns stated by the city council in its denial.

16B-113 HISTORIC LANDMARK AND HISTORIC DISTRICT DEMOLITION AND MOVING PERMITS.

(1) If an application is received by the Public Works Department for demolition or moving of any historic landmark or structure within a historic district the applicant shall be referred to the preservation staff for a certificate of appropriateness application. Review of such application for a certificate of appropriateness shall be as provided in article 16B-112.

(2) For a project which involves demolition of a historic landmark property or properties within a historic district the proponents of such project shall, before doing any of the demolition or work in furtherance of such project, whether or not a building or other permit is required to be obtained to do such demolition work, file an application for a certificate of appropriateness for review as provided in article 16B-112.

(3) After review of certificate of appropriateness and, upon the recommendation of the Haysville Historic Committee, the Haysville Planning Commission shall call and hold a public hearing. Notice of such hearing shall be published at least once in the official city newspaper. Such notice shall be published at least 20 days prior to the hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. The Planning Commission shall prepare its recommendations by a majority vote, and shall submit a summary of the hearing to the Governing Body. The Governing Body either may approve, override or return the recommendation to the Planning Commission. The Planning Commission may resubmit original, new, or an amended recommendation to the Governing Body. Upon return from the Planning Commission to the Governing Body, the Governing Body by simple majority may adopt, revise, or amend and adopt or take no further action. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting, the Governing Body shall consider it as a resubmission of the original recommendations and proceed accordingly. In addition to the recommendation of the Haysville Historic Committee, the Planning Commission shall consider the state of repair of the building, the reasonableness of the cost of restoration or repair, owner hardship, the purpose of preserving the designated historic landmark or structure within a historic district, alternatives presented by interested parties, the character of the neighborhood, the economic consequences to the city and the affected owner(s), and all other factors which it finds appropriate. The owner(s) of the historic landmark or owner(s) of the structure within the historic district shall bear the burden of proof demonstrating hardship. The proposed certificate of appropriateness shall become effective upon publication of the respective adopting ordinance.

(4) The city council may approve the certificate of appropriateness or deny the certificate of appropriateness if it determines that feasible alternatives to

demolition or moving of the historic landmark or structure within the historic district exist and that in the interest of preserving historical values, the historic landmark or structure within the historic district should not be demolished or moved.

(5) In the event of an "emergency" demolition of a historic landmark or a structure within a historic district, the Public Works Department shall notify the preservation staff as soon as possible. "Emergency" includes, but is not limited to, the need for demolition upon the determination by the Public Works Department that the structure poses a threat to human safety.

16B-114 REVIEW OF DEMOLITION BUILDINGS AND MOVING PERMITS HISTORIC RESOURCES. An application to the office of public works director for a demolition or moving permit shall require notification to preservation staff if the permit is for a historic resource determined by preservation staff to have potential for landmark designation. These resources shall be fifty (50) years or older and meet one (1) or more of the criteria for landmark designation described herein. The following procedure applies:

(1) Demolition and moving permit applications for buildings or structures listed as historic resources will be reviewed by preservation staff.

(2) Preservation staff may make the determination that a building, site or structure threatened with demolition or removal meets the criteria for landmark designation.

(3) If a building, site or structure is determined by the preservation staff to meet criteria for historic landmark designation a written notice shall be sent by certified mail to the owner or owners of such building, site or structure. Said notice shall describe the property which meets historic landmark criteria including its location and boundaries and justification of its historic or architectural significance. The notice shall also be delivered to the office of public works director.

(4) Following application for a moving or demolition permit for a listed historic resource, a ninety (90) day delay shall occur prior to the issuance of the requested moving or demolition permit in order for alternatives to be explored with the owner by the Haysville Historic Committee staff.

(5) During such period, no permit shall be issued unless for emergency public safety reasons, or a certificate of appropriateness has been issued.

(6) After the delay, if demolition of the historic resource is the conclusive alternative of the Haysville Historic Committee, the Haysville Historic Committee shall direct staff to document the resource with photography, and/or measured drawings for record purposes.

16B-115 HISTORIC LANDMARK AND HISTORIC DISTRICT DEMOLITION BY NEGLECT. In the event of demolition by neglect of a historic landmark or structure within a historic district on public or private property, the following provisions shall apply:

(1) If a historic landmark or a property within a historic district has been determined by the Haysville Historic Committee to be the subject of demolition by neglect, the Haysville Historic Committee or preservation staff shall provide the owner of record with a written notice specifying the conditions of deterioration and the minimum items of repair or maintenance necessary to correct or prevent further deterioration.

(2) Such notice shall be sent by certified mail, return receipt requested, addressed to the owner of the property, contract purchaser, if applicable, at his or her last known address, or the address shown on the real property tax records in the Clerk's Office of Sedgwick County, Kansas. Such notice, when so addressed and deposited with the United States Postal Service with proper postage prepaid, shall be deemed complete and sufficient. In the event that notification cannot be accomplished, as aforesaid, after reasonable efforts, notice shall be accomplished by posting a public notice on the property. A copy shall also be provided to the office of public works director.

(3) The notice shall provide that corrective action shall commence no later than thirty (30) days from the receipt or posting of said notice, unless an extension is granted by the Haysville Historic Committee. The owner or contract purchaser, if applicable, shall demonstrate continual progress and all repairs shall be completed within a reasonable period of time. The notice shall state that the owner(s) of record of the subject property may within ten (10) days request a hearing before the Haysville Historic Committee challenging the finding of demolition by neglect and/or the notice to repair. If such request for a hearing is received within this time period, a hearing will be at the next regular meeting of the Haysville Historic Committee. The Haysville Historic Committee shall review all evidence of demolition by neglect at the scheduled hearing.

(4) In the event that the Haysville Historic Committee finds that, notwithstanding the necessity for such improvements, corrective action would impose a substantial hardship on the owner or any or all persons with any right or title in the subject property, then the commission shall establish a period of forty-five (45) days and direct preservation staff to seek alternative methods to preserve the historic landmark or property located within a historic district.

(5) If no alternative is found to preserve the structure without undue hardship to the owner, and any or all persons with any right or title in the subject property and the structure is determined a threat to human safety and is in violation of city code a demolition permit may be issued.

16B-116 CONTINUATION OF EXISTING DESIGNATION. Nothing contained in this section shall eliminate, change, or otherwise affect the existing designation of an historic landmark or an historic resource in the City of Haysville.

16B-117 SEVERABILITY. If any part or parts of this article shall be held unconstitutional, invalid, or otherwise unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article.

16B-118 PENALTY. It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, deface, move or maintain any historic landmark or asset within a historic district in violation of the provisions of this article. Any violation of the provisions of these regulations shall be a misdemeanor and shall be punishable by a fine of not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.