

## CHAPTER 14. DOUGLAS COUNTY HERITAGE CONSERVATION PLAN

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### ARTICLE 1. GENERAL PROVISIONS

- 14-101 TITLE. This Chapter, as amended, shall be known as the Douglas County, Kansas Heritage Conservation Plan, and is referred to herein interchangeably as this “Heritage Conservation Plan” and this “Plan”. (HR-13-11-4)
- 14-102 ESTABLISHMENT OF HERITAGE CONSERVATION COUNCIL AND STATEMENT OF PURPOSE. Pursuant to Douglas County Resolution No. 11-19, the Douglas County Commission established and the County Commission hereby affirms the establishment of the Douglas County Heritage Conservation Council, hereinafter referred to as the Council, and the Douglas County Commission hereby modifies Resolution No. 11-19 to amend the Council’s authority and responsibilities as set forth herein. If any conflict exists between this Heritage Conservation Plan and Resolution No. 11-19, the provisions of this Plan shall prevail. The purposes of this Heritage Conservation Plan are to:
- a) Ensure the conservation of the County’s natural and cultural resources.
  - b) Identify, conserve and promote the County’s natural resources, prehistoric, historic and cultural heritage through an ongoing surveys and studies of natural and cultural heritage resources.
  - c) Implement the strategies and goals contained in Chapter 11 of Horizon 2020 (the County’s Comprehensive Plan) for the protection, development and utilization of historic resources.

- d) Foster civic pride and promote tourism, particularly as related to the natural resources, pre-settlement history, settlement history, and the themes encompassed in Freedom's Frontier National Heritage Area.
- e) Work in concert with the State Historic Preservation Officer and observe the State Preservation Act, contained at K.S.A. 75-2701 et seq., as amended.
- f) Support education programs to increase public awareness of and support for the County's historic environment. [HR-13-11-4)

14-103 **APPLICATION.** The Heritage Conservation Plan is designed to be used in the unincorporated territory of Douglas County, Kansas and is to be used in conjunction with any existing zoning regulations. (HR-13-11-4)

14-104 **DEFINITIONS.** For the purpose of implementation of this Heritage Conservation Plan, certain words or terms are hereby defined. Unless specifically defined below, words or terms in this Plan shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Plan its most reasonable application. Words in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular. The word shall is mandatory and not directory. The following words or terms shall be used as defined below in the administration of this Heritage Conservation Plan. For further clarification of commonly used historic conservation terms, refer to the Kansas Historic Preservation Act (K.S.A. 75-2715 et seq.); Kansas Administrative Regulations 118-1-1 et seq.; Standards and Guidelines for Evaluating the Effect of Project on Environs (1998), Kansas State Historical Society; The National Historic Preservation Act of 1966 and amendments thereto; the National Register Bulletin #16: Guidelines for Completing National Register of Historic Places Forms, NPS; National Register Bulletin #24: Guidelines for Local Surveys: A Basis for Preservation Planning, NPS; Local Historic Resources Survey Manual, Kansas Historic Preservation Department; Harris, Cyril M., Dictionary of Architecture and Construction, McGraw-Hill, New York 1975.

- a) Accessory Structure - A subordinate structure or portion of the main structure, located on the same property and the use of which is clearly incidental to that of the main structure or to the use of the property on which it is located. Customary accessory structures include, but are not limited to, garages, carports, garden houses, small storage sheds, and children's playhouses.
- b) Adaptive Use

- 1) The process of changing the use of a structure or property to a use other than that for which the structure or property was originally designed.
- 2) A use for a structure or property other than the use for which it was originally designed. (Sometimes called adaptive reuse.)
- c) Adjacent - A structure or parcel having a common parcel boundary with or located immediately next to a structure or parcel.
- d) Administrator - The designated individual assigned by Douglas County to administer, interpret and enforce this Plan.
- e) Archeological Site - (See Site).
- f) Area - Properties, near to or adjacent to one another, capable of being described with such definiteness that their collective location may be established and boundaries definitely ascertained.
- g) Building - A structure, such as a house, barn, church, hotel, courthouse, city hall, social hall, commercial structure, library, factory, mill, train depot, theater, school, store or similar construction, created to shelter any form of human activity. The term may also refer to a small group of buildings consisting of a main building and subsidiary buildings which constitute an historically and functionally related unit such as a courthouse and jail, house and barn, mansion and carriage house, church and rectory, and farmhouse and related outbuildings.
- h) Certified Local Government (CLG) - A program of the National Park Service designed to promote the preservation of prehistoric and historic sites, structures, objects, buildings, and historic districts by establishing a partnership between the local government, the historic preservation department, a division of the Kansas State Historical Society, and the National Park Service. A certified local government carries out the purposes of the National Historic Preservation Act, as amended. Each certified local government is required to maintain a system of ongoing surveys compatible with the Kansas Historic Preservation Department process.
- i) Conservation (See Historic Preservation).
- j) Code Enforcement – the local regulation of building practices and enforcement of safety and housing code provisions, a principal tool to ensure neighborhood upkeep.
- k) Community Development Block Grant (CDBG) – A federal funding program that provides annual funding to eligible local governments for housing and community revitalization and development programs and for social services, particularly in low- and moderate-income areas.

- l) Comprehensive Plan – A document guiding the future growth and development of a specified geographic area and/or governmental entity. It provides a vision and direction for the governing body and a cohesive framework for decision-making.
- m) Context - A conceptual framework for determining the significant patterns that individual properties represent consisting of components that surround a resource and determine its meaning more clearly.
- n) Contributing (or Contributory) - A significant building, site, structure, or object which adds to the architectural qualities, historic association, or archeological values of an historic district because:
  - 1) It was present during the pertinent historic time; or
  - 2) It possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period.
- o) County - The governmental unit named Douglas County, Kansas.
- p) County Commission - The Governing Body of Douglas County, Kansas.
- q) County Limits - The established governmental boundary of Douglas County, Kansas.
- r) Council - The Douglas County Heritage Conservation Council.
- s) Council Members - Members of the Heritage Conservation Council, unless otherwise indicated.
- t) Demolition - Any act or process that destroys in part or in whole a landmark or a structure within an historic district.
- u) Demolition by Neglect – The destruction of a building through abandonment or lack of maintenance or an act or process that threatens to destroy a building, structure, or object of a site by failure to maintain it in a condition of good repair and maintenance.
- v) Design Guideline - A standard of appropriate activity that guides rehabilitation and new construction efforts that preserve and enhance this historic, architectural, scenic or aesthetic character of an area.
- w) Designation – Official recognition of an historic landmark or historic district by the Council and the County Commission according to the procedures and provisions in this Heritage Conservation Plan.
- x) Developer - Any person who:
  - 1) Causes real property to be used for development;

- 2) Sells, leases or develops; offers to sell, lease, or develop; or advertises for sale, lease or development any lot, plot, parcel, site, unit of interest, or structure for development; or
- 3) Engages directly or through an agent in the business or occupation of selling, leasing, developing, or offering for sale, lease or development, any lot, plot, parcel, site, unit of interest, or structure for development.
- y) Development - A subdivision; the construction or reconstruction of streets and utilities, the construction, expansion or remodeling of structures; a change in the use of a structure or parcel, or the clearing of land.
- z) District - (See Historic District). [HR-13-11-4]

14-105 DEFINITIONS, CONTINUED.

- a) Douglas County Register - The current Douglas County Register of Historic Places as prepared, approved and amended by the Heritage Conservation Council and authorized by resolution.
- b) Easement – A less-than-fee interest in real property acquired through donation or purchase and carried as a deed restriction or covenant to protect important open spaces, building facades, and interiors.
- c) Eminent Domain – The power of government to acquire private property for public benefit after payment of just compensation to the owners.
- d) Endangered Resource - A resource under a known or anticipated threat of damage to the integrity or existence of the resource, such as:
  - 1) Immediate threat which will result in loss of or collapse of structure;
  - 2) Immediate threat or destruction by private action; and
  - 3) Condemnation for code violations. (Sometimes referred to as threatened resource.)
- e) Environs – Environment surrounding a historic landmark or within a district.
- f) Exterior Architectural Appearance - The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.
- g) Fabric – The physical material of a building, structure, or community connoting an interweaving of component parts.

- h) Facade - The exterior face of a building which is the architectural front, sometimes distinguished by elaboration or architectural or ornamental details.
- i) Green Space – Land not available for construction and designated for conservation, preservation, recreation or landscaping.
- j) Historic District - An area designated as an historic district by the Heritage Conservation Council, pursuant to procedures prescribed herein, and which may contain within definable geographic boundaries one or more significant sites, structures or objects and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the significant sites, structures or objects located within the historic district.
- k) Historic Preservation - The study, identification, protection, restoration and rehabilitation of natural resources, buildings, structures, objects, districts, areas and sites significant in the history, architecture, archeology or culture of the county, state or nation.
- l) Historic Resources – Historic buildings, structures, objects, districts, areas, sites and archeological sites.
- m) Historically or Architecturally Significant - Possessing that quality present in an area, site, structure, object or district because of:
  - 1) Its character, interest, or value as part of the development, heritage or cultural characteristics of the community, county, state, or nation;
  - 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 development of the community, county, state, or nation;
  - 4) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
  - 5) Its identification as a work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state or nation;
  - 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;
- n) Kansas Register - The current Register of Historic Kansas Places as prepared, approved and amended by the Kansas Historic Sites Board of Review and authorized by K.S.A. 75-2715 et seq.
- o) Key Contributing (Contributory) - A building, site, structure, or object of such an outstanding quality and state of conservation that it significantly adds to the architectural qualities, historic association, or archeological values of an historic district because:
  - 1) It was present during the pertinent historic time;
  - 2) It possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period; and,
  - 3) It independently meets the standards and criteria of this Plan.
- p) Land Surface - The solid part of the exterior of the earth.
- q) Landmark - A site, structure or object designated as a landmark by the Heritage Conservation Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the County.
- r) Landscape – Natural or made-made features, including, but not limited to farmland, and natural resources changed for human purposes.
- s) Landscape Feature - Any element or component of outdoor open space including, but not limited to, fences, walls, retaining walls, gates, wells, sidewalks, walkways, driveways, parking lots, patios, terraces, decks, ground cover, trees, plants, outdoor furniture, exterior light standards, fountains, statuary, detached signs and other such elements.
- t) Marker - A sign used to label or identify a designated landmark or historic district as an architecturally significant property.
- u) National Register - The current National Register of Historic Places established by passage of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470 et seq., as amended.
- v) Natural Resources – Prairies, woodlands, waterways, habitats, wildlife corridors, open spaces, riparian areas, forest and environmentally sensitive areas, i.e., those areas which contain overlapping natural

features such as steep slopes, woodlands, natural prairies, wetlands, hydric soils, lakes, streams and prominent ridgelines.

- w) Noncontributing (or noncontributory) - A building, site, structure, or object that does not add to the architectural qualities, historic association, or archeological values of a landmark or historic district because:
  - 1) It was not present during the pertinent time; or
  - 2) Due to alterations, disturbances, additions, or other changes, it no longer possesses integrity nor reflects its significant historic character or is incapable of yielding important information about the pertinent historic period.
- x) Normal Maintenance and Repair - Any improvement or work for which a building permit is not required by county resolution or city ordinance, designed to correct deterioration, decay or damage and restore, as may be practical, a structure or property to the condition that existed prior to the deterioration, decay or damage.
- y) Nuisances - Physical conditions (affecting land, water, groundwater, the air, noise levels, or other elements of the environment) that endanger human health or safety, injure persons or property, or constitute a clear danger to property.
- z) Object - Those physical items that have functional, aesthetic, cultural, historical or scientific value and are relatively small in scale and simply constructed. While an object may be, by nature or design, movable, it should be located in a specific setting or environment appropriate to its significant historic use, role or character. Objects include, but are not limited to, sculptures, monuments, street signs, fence posts, hitching posts, mileposts, boundary markers, statuary, and fountains. (HR-13-11-4)

14-106 DEFINITIONS, CONTINUED.

- a) Owner(s) of Record - Those individuals, partnerships, firms, corporations, public agencies, or any other legal entity holding title to property but not including legal entities holding mere easements or leasehold interests. (May also be referred to as property owner(s).) Current owner(s) of record are those listed as owners on the records of the register of deeds.
- b) Period - A chronological division identified in the analysis of the historical development to an area or region (i.e., Victorian, Modern).
- c) Person - Any individual, firm, association, organization, partnership, business, trust, corporation, or company.



- d) Preservation - (See Historic Preservation).
- e) Preservation Easement - (See Easement).
- f) Project - Activities involving the issuance of a lease, permit, license, certificate or other entitlements for use, to any party by the County.
- g) Property - An area of land, undivided by any street, alley, railroad, stream, or similar physical feature, under common ownership or control, which is or will be occupied by one structure or land use, and any accessory structures and uses. A property could be made up of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof. The term shall include landscape features.
- h) Protection - The application of measures to defend, guard, cover or shield a building, site, structure, or object from deterioration, loss, attack, danger, or injury. In the case of buildings, structures or objects such measures generally are of a temporary nature and usually precede preservation measures. In the case of archeological sites, the protective measures may be temporary or permanent.
- i) Reconstruction/Reconstruct - The reproduction of the exact form and detail of a vanished building, site, structure or object or a part thereof, as it appeared at a pertinent time using both original and modern materials and based on precise historical documentation and physical evidence.
- j) Register - (See Douglas County Register.)
- k) Rehabilitation/Rehabilitate - The act of returning a building, site, structure or object to a useful state through its repair and/or alteration while retaining the characteristic features of the property which are significant to its historical and architectural value.
- l) Remodeling - Modification and modernization of a structure or property without striving to return to or replicate the original historical and architectural character of the structure or property.
- m) Removal - Any relocation of a structure in whole or in part on its site or to another site.
- n) Repair - Any change to a structure or object that is not construction, removal or alteration.
- o) Resource - Any building, site, structure, object or area that constitutes a source of present and future usefulness.
- p) Restoration/Restore - The act of accurately recovering the form and details, based on precise historical documentation and physical evidence, of a building, site, structure or object as it appeared at a

pertinent time including the removal of improvements that are not appropriate and the replacement of missing or deteriorated features.

- q) Right-of-Way - A strip of land occupied or intended to be occupied by a street, crosswalk, footpath, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use.
- r) Sign - Any surface, fabric, device or display designed to visually convey information to the general public.
- s) Significant - (See Historically or Architecturally Significant).
- t) Site - The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archeological value regardless of the value of any existing structure. Examples of sites include habitation sites, burial sites, village sites, hunting and fishing sites, ceremonial sites, battlefields, ruins of historic buildings and structures, campsites, designed landscapes, natural features, springs, and landscapes having cultural significance.
- u) Stabilization - Taking measures to return an unsafe or deteriorated building, site, structure or object to a safe and secure condition while maintaining the existing form and detail of the building, site, structure or object.
- v) Street - A right-of-way, other than an alley, dedicated to the public use, which provides principal access to adjacent properties.
- w) Structure - Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing: buildings, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.
- x) Studies – In-depth efforts to understand the history of Douglas County through surveys of buildings and natural resources with additional research into the stories of residents and communities with the County.
- y) Style - The specific identifying characteristics of a building both as it appears to the eye and as it is known to exist in design and structure.
- z) Survey - An architectural and historical examination of historic resources to identify historic properties within an area. [HR-13-11-4)

14-107 DEFINITIONS, CONTINUED

- a) Threatened Resource - (See Endangered Resource).

- b) Use - The specific purpose for which a structure or property is utilized.
- c) Utilitarian Structure - A category of structures intended primarily to serve a utilitarian or useful function rather than for beauty. Utilitarian structures may include, but are not limited to, structures used for agriculture, transportation and industry and certain moderate residential buildings. (HR-13-11-4)

## **ARTICLE 2. HERITAGE CONSERVATION COUNCIL**

- 14-201 **MEMBERSHIP.** The Heritage Conservation Council shall consist of seven (7) members who are Douglas County residents, and who demonstrate an interest in historic preservation and conservation of the County's natural and cultural heritage. Efforts should be made to balance the representation of all communities and unincorporated areas in the County. All members will be appointed and approved by the Douglas County Commission. Three (3) members shall be a diversity of preservation-related professionals, as defined by the National Park Service and recognized by the relevant standards of their respective profession, such as architect, architectural historian, archeologist, historian, landscape architect, and planner. The remaining four (4) members shall be a diversity of either professionals or lay persons with interest infields closely related to agriculture, tourism, unique and significant lands, ecology, geography, natural science, economic development, history or environment. At least one (1) preservation professional shall be on each subcommittee of the Council. The requirement of preservation-related professionals may be waived if Douglas County can provide acceptable written documentation to the Historic Preservation Office that it has made a reasonable effort to fill those positions. [HR-13-11-4]
- 14-202 **TERMS OF OFFICE.** Appointments to the Heritage Conservation Council shall be for three (3) years, excepting the first Council which shall consist of two (2) members serving for one (1) year, two (2) members serving for two (2) years, and three (3) members serving for three (3) years. A member may not serve more than two (2) full consecutive terms. The County Commission shall fill vacancies within sixty (60) days. Vacancies shall be filled for the unexpired term only. (HR-13-11-4)
- 14-203 **OFFICERS.** Officers shall consist of a Chair and Vice-Chair elected by the members of the Council who shall each serve a term of one year and shall be eligible for re-election; but no member shall serve as Chair for more than two 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. [HR-13-11-4)

14-204 MEETINGS; QUORUM; VOTING; MINUTES.

- a) A quorum shall consist of a majority of the members. Decisions or actions of the Council shall be made using the consensus decision making rule, or by a majority vote if consensus cannot be reached. Meetings shall be held at the discretion of the Council, with at least two of the meetings at the beginning of each calendar year; additional meetings shall be on the call of the Chair. No member of the Council shall vote on any matter that may materially or apparently affect the property, income, or business interest of that member. No member of the Council may vote by proxy. Final decisions regarding property will be made by the County Commission. The Chair, and in his or her absence the Acting Chair, may request the attendance of witnesses.
- b) All meetings of the Heritage Conservation Council shall be open to the public. The Council shall keep records of its examinations and other official actions, all of which shall be filed in the office of the County Planning Department, and with the State Historic Preservation Office at the same time distributed to the members, and shall be a public record. (HR-13-11-4)

14-205 POWERS & DUTIES.

- a) All of the powers and duties enumerated herein are subject to the approval, denial, or modification by the County Commission. All quasi-judicial decisions made by the County Commission are subject to appeal to the District Court, pursuant to K.S.A. 19-223. Further, all funds necessary to carry out the purpose of this Plan shall be approved and appropriated only by the County Commission.
- b) In addition to other responsibilities, the Heritage Conservation Council shall:
  - 1) Adopt its own bylaws and other procedural regulations, to be made available to the public, subject to the laws of the State of Kansas and Douglas County, which shall include attendance requirements and cover potential conflicts of interests;
  - 2) Keep a register of all properties, lands, and structures that have been designated as landmarks or historic districts, including all information required for each designation;
  - 3) Administer and preside over all aspects of the Natural & Cultural Heritage Grant Program. This includes evaluating and

recommending to the County Commission which projects shall receive funding;

- (a) Final recommendations and decisions by the council are subject to an appeal process before the County Commission;
- 4) Work in concert with the State Historic Preservation Officer and observe the State Preservation Act, contained at K.S.A. 75-2701 et seq., as amended and comply with the provisions of the National Historic Preservation Act of 1966, including the provisions protecting access to sensitive areas contained at 16 U.S. C. 470w-3(b), and the corresponding state law provisions contained in the Open Records Act, K.S.A. 45-215, et seq., as amended;
- 5) Comply with all requirements of the State Historic Preservation Officer to maintain its status as a Certified Local Government;
- 6) Make recommendations regarding any National Register nominations upon request of the State Historic Preservation Officer;
- 7) Investigate and recommend to the County Commission the adoption of County resolutions designating sites, structures, land, and objects having special historical, natural, community, or architectural value as landmarks to the Douglas County Register of Historic Places;
- 8) Investigate and recommend to the County Commission the adoption of resolutions designating areas having special historic, community, agricultural, natural, or architectural value as historic districts to the Douglas County Register of Historic Places; and
- 9) Review this Heritage Conservation Plan at least every two (2) years and make a report containing the following:
  - (a) An assessment of progress in preserving the architecturally, historically, and naturally important resources of the County;
  - (b) An analysis of numbers, types, locations, and dispositions of applications for designation and certificates of appropriateness, appeals, and variances as provided for in this Plan;
  - (c) An assessment of the progress and performance in educating the citizenry about the value of heritage preservation; and
  - (d) An analysis of the validity of this Heritage Conservation Plan and recommendations for changes.
- c) In addition to other responsibilities, the Heritage Conservation Council may:

- 1) Conduct ongoing studies of natural and cultural heritage resources, including but not limited to historically and architecturally significant properties and lands, structures, and areas that exemplify the cultural, social, economic, political, agricultural, environment, or architectural history of the nation, region, state, or county;
- 2) (2) recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or heritage district to another;
- 3) Advise and assist owners of properties or structures within the County on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the Douglas County, Kansas and National Registers of Historic Places;
- 4) Review and comment on any Kansas and National Register nominations submitted to the Council upon request of the County Commission and/or the State Historic Preservation Officer;
- 5) Inform and educate the citizens of the County concerning the historic, natural, and architectural heritage of the County by producing maps, newsletters, brochures, pamphlets, books, and/or other appropriate materials, and hold public programs at least twice a year available, and free of charge, to the general public;
- 6) Review and comment upon proposed zoning amendments, applications for special use permits, applications for zoning variances, or subdivision applications that affect proposed or designated landmarks and heritage districts. The Director of Planning or the Director of Zoning & Codes, depending upon who is responsible for scheduling the hearing, shall cause copies of all applications for zoning amendments, subdivision approvals, and variances for sites designated as landmarks or within the area of a designated heritage district, to be sent to the Council no less than ten (10) days prior to the date of the hearing by the Lawrence-Douglas County Planning Commission or the Board of Zoning Appeals;
- 7) Administer on behalf of the County any full or partial property interest in real property, including easements, that the County may have or accept as a gift or otherwise, upon acceptance of the interest in real property and authorization and approval of such administration by the County Commission;
- 8) Seek, accept, and administer on behalf of the County such gifts, grants, and money as may be appropriate for the purposes of this

Plan. Such money may be expended for publishing maps and brochures or for hiring a staff person(s) or consultants or performing other appropriate functions for the purpose of carrying out the duties and powers of the Council;

- 9) Call upon available County staff members, citizens and other experts for technical advice;
- 10) Recommend retaining such specialists or consultants or recommend the appointment of such ad hoc citizen advisory committees as may be required or helpful from time to time;
- 11) Testify before all boards and commissions, including the Lawrence-Douglas County Planning Commission and Board of Zoning Appeals, on any matter affecting historic, natural, and architecturally significant property, structures, and areas;
- 12) Confer recognition upon the owners of landmarks, property or structures within heritage districts by means of certificates, plaques or markers;
- 13) Periodically review the County's Zoning Regulations and Subdivision Regulations and recommend to the Lawrence-Douglas County Planning Commission and the County Commission any amendments appropriate for the protection and continued use of landmarks or property and structures within heritage districts;
- 14) Attend a heritage preservation-related workshop each year with the aid of County funds, if available; and
- 15) Undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or implementation of the purpose of the Heritage Conservation Council. [HR-13-11-4]

### **ARTICLE 3. SURVEYS AND INVENTORY**

- 14-301 **SURVEYS.** The Council shall conduct ongoing County-wide surveys of natural and cultural heritage resources, including but not limited to historically and architecturally significant properties and lands, structures, sites and areas that exemplify the cultural, social, economic, political, agricultural, environmental, or architectural history of the nation, region, state or county. All properties surveyed shall be inventoried in a form compatible with the current Kansas Historic Resources Inventory Form and with the State comprehensive historic preservation planning process. All inventory material shall be available to the public and kept up-to-date. (HR-13-11-4)

### **ARTICLE 4. LANDMARK AND HISTORIC DISTRICT REGULATIONS**

14-401 DOUGLAS COUNTY REGISTER OF HISTORIC PLACES.

- a) There is hereby established a Douglas County Register of Historic Places, which shall include:
  - 1) A description of all buildings, structures, sites, landscapes and objects designated as landmarks.
  - 2) A description of the boundaries of each area designated as an historic district.
  - 3) The boundaries of landmarks and historic districts shall be recorded on the zoning map of the County. A current copy of the Douglas County Register of Historic Places shall be kept on file in the office of the planning administrator.
- b) Landmarks may include, but are not limited to, any:
  - 1) Exterior of a structure;
  - 2) Landscape feature or object.
- c) Historic district may include, but are not limited to, two (2) or more structures and/or properties. Individual buildings, sites, structures and objects within designated historic districts shall be classified as key contributing, contributing or noncontributing.
- d) The Register shall be maintained by the Council as an Appendix to this Plan as if fully set out herein.
- e) Maps of each historic district shall be prepared by the applicants, and approved by the Council, identifying each building, site, structure and object with respective classification, and provided to property owners within the district, and filed with the Register of Deeds of Douglas County, Kansas.
- f) Designation to the Douglas County Register of Historic Places will be made by the Douglas County Commission, on recommendation of the Council. [HR-13-11-4)

14-402 NOMINATION OF LANDMARKS AND HISTORIC DISTRICTS.

- a) Nominations may be made only by application in the form approved by the Heritage Conservation Council. Application for nomination of a site, structure or object for designation as a landmark or of an area for designation as an historic district may be made by the consent of the owner(s) of record of the nominated property or structure; or in the case of an historic district, by the unanimous consent of the owners of record of property in a proposed historic district.
- b) The application shall contain, at the least:



- 1) The legal description and addresses of the pertinent structures and/or properties and a description of the environs thereof; and
- 2) A statement of historic significance of the nominated property, using the criteria for designation, listed below. (HR-13-11-4)

14-403 CRITERIA FOR DESIGNATION.

- a) The Heritage Conservation Council shall, upon such investigation as it deems necessary,, ,make a determination as to whether a nominated site, structure, object or area possesses significant historical, archeological and/or architectural qualities and thus qualifies for designation pursuant to one (1) 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 nation;
  - 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 development of the community, county, state or nation;
  - 4) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period type, method of construction or use of indigenous materials;
  - 5) Its identification as a work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the community, county, state or nation;
  - 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;
  - 10) Its significance as a site of prehistoric or historic occupation or activity possessing significant archeological value; and
  - 11) Its character, interest, or value as a cultural or natural resource.

- b) Any site, structure, object or area that meets one (1) or more of the above criteria shall also have sufficient integrity of location, design, materials, feeling, association and setting to make it worthy of preservation or restoration. [HR-13-11-4)

14-404 DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

14-404.1 Same; Procedures After Application Submission.

Upon receipt of an application nominating a site, structure or object for designation as a landmark, or nominating an area for designation as an historic district, the following procedures shall apply:

- a) The Administrator shall set the date of a public hearing before the Council concerning the application. The hearing shall be held within sixty (60) days following receipt of a completed application. The hearing may be held during a regular meeting of the Council or during a special meeting of the Council called in part for that purpose, and may be continued for good cause shown.
- b) The Administrator shall publish a notice of the public hearing in the official County newspaper, as required. The notice shall specify the time and place of the hearing, the subject matter of the hearing, and invite all interested persons to appear and be heard.
- c) Within ten (10) days after publication of the public notice, the Administrator shall cause a copy of the public notice to be served as follows:
  - 1) By first class mail to all record owners of property within an owner-nominated landmark or historic district;
  - 2) By first class mail, hand delivery, or e-mail to the Lawrence-Douglas County Metropolitan Planning Commission and all organizations that have submitted a written request to the Administrator within the last year to receive such notices.
- d) The Administrator shall prepare a staff report in conjunction with Lawrence-Douglas County Metropolitan Planning Commission (Planning Commission). The staff report shall be completed and available to the public at the office of the Planning Commission at least seven (7) days prior to the public hearing before the Council. The staff report shall contain a legal description of the proposed landmark or historic district, public hearing date and location, name(s) of the applicant and owner(s), requested action, history summary, architectural integrity summary, context description, planning and zoning considerations, positive or negative effects of the designation, fiscal comments, summary of

applicable designation criteria, and any other information deemed pertinent by the Administrator.

- e) Prior to the hearing of the completed application before the Council, the Administrator shall notify the Council and the Planning Commission of the case and shall transmit to them copies of the application and staff report, proof of service of notice required by subsections (D) 1, and 2 above, copies of any associated correspondence, and such other reports and materials as are deemed pertinent by the Administrator. The application shall not be considered complete until each of the public notice requirements and time requirements have been met. (HR-13-11-4)

14-404.2 Same; Public Hearing Before Council.

- a) The public hearing before the Council may be adjourned from time to time. The Administrator shall make what recommendations the Administrator deems appropriate. Comments shall also be received from the Lawrence-Douglas County Planning Commission, owners of affected property, and all other persons who have an interest in the proceedings.
- b) Following the hearing, the Council shall adopt by resolution a recommendation to be submitted to the County Commission for either (a) designation as a landmark or historic district; (b) denial of designation as a landmark or historic district; or, (c) not to make a recommendation. The resolution shall be accompanied by a report to the County Commission containing the following information:
  - 1) Explanation of the significance or lack of significance of the nominated landmark or historic district as it relates to the criteria for designation as set forth in Section 403;
  - 2) Explanation of the integrity or lack of integrity of the nominated landmark or historic district;
  - 3) In the case of a nominated landmark found to meet the criteria for designation, the Council shall identify the significant exterior architectural features of the nominated landmark that should be protected;
  - 4) In the case of a nominated historic district found to meet the criteria for designation, the staff shall identify:
    - (a) The types of significant exterior architectural features of the structures within the nominated historic district that should be protected;

- (b) A list of all key contributing, contributing and noncontributing sites, structures, objects and natural resources within the historic district;
  - 5) The relationship of the nominated landmark or historic district to the ongoing effort of the Council to identify and nominate all potential areas and sites, structures, objects and natural resources that meet the criteria for designation; and
  - 6) A map showing the location of the nominated landmark or the boundaries of the nominated historic district.
- c) If the Council recommends denial of a nomination, the recommendation may be accompanied by a statement of the reasons for the denial. The Council may make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the Council to reconsider its recommendation of denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the Council.
- 1) The applicant may resubmit an amended nomination which addresses the reasons for the denial of the Council's recommendation, or the applicant may appeal the recommendations for denial to the County Commission in accordance with the appeals procedures set out herein.
- d) The Council may recommend and the County Commission may amend or rescind designation of a landmark or historic district in the same manner and procedure as is followed in a designation of a landmark or historic district. A designated landmark or historic district may only be considered for amendment or rescission in the event that the integrity of the designated landmark or historic district is substantially impaired or destroyed by accidental or natural causes. [HR-13-11-4)

14-404.3 Same; Public Hearing Before County Commission.

- a) The County Commission shall consider the application at a public hearing. The public hearing may be during a regularly scheduled meeting. Prior to that hearing, the County Commission shall be provided with the record of the proceedings before the Council. The County Commission may approve a resolution designating a nominated site, structure or object as a landmark, or designating an area as an historic district in accordance with the findings of the Council. The County Commission may also recommend submittal of an application to nominate the proposed landmark or historic district for listing on the Kansas or National Registers of Historic Places. (HR-13-11-4)

14-404.4 Same; Notice of Designation.

- a) Within seven (7) days after approval of the nomination by the County Commission, the Administrator shall notify in writing the owner of each structure or property designated as a landmark or included within an historic district. The notice shall outline the results of such designation. The Administrator, as soon as reasonably possible, shall notify the County Building Official and the County Director of Planning of the designation in the manner requested by the county officials.
- b) The Administrator shall cause to be recorded in a timely manner at the Douglas County Register of Deeds a record of any designation of a landmark, historic district, amendment of such designation, or rescission of such a designation.
- c) The designation of a landmark or historic district shall in no way alter the uses permitted by the existing zoning classification or district of the properties so designated. A desire to change permitted uses shall require the filing of an application requesting a zoning change as provided by the County Zoning Regulations. [HR-13-11-4)

14-405 RESERVED

14-406 RESERVED.

**ARTICLE 5. RESERVED.**

**ARTICLE 6. RESERVED.**

**ARTICLE 7. PUBLIC HEARINGS**

14-701 **NOTICE.** Whenever a public hearing is required by this Plan, and unless otherwise provided by this Plan, notice of the time, place and subject of such public hearing shall be given as provided in this Plan and, and as otherwise required by the rules and procedures of the Douglas County Commission:

- a) By publication in the official County newspaper at least once prior to the date of such public hearing, as required.
- b) If the hearing concerns an appeal, notice of such hearing shall also be given by mail to the person(s) filing such appeal or application. (HR-13-11-4)

14-702 BURDEN OF PROOF.

- a) In all hearings the burden of establishing that the requirements and criteria are met for any action shall be upon the party requesting that such action be taken.

- b) A matter on appeal to the County Commission shall be heard de novo. [HR-13-11-4)

14-703 CONDUCT OF HEARINGS.

- a) Public hearings shall be conducted in a manner which allows all interested persons an opportunity to present relevant and non-repetitious information concerning the subject matter of the hearing. The body conducting the hearing may impose reasonable time limitation on comments by the general public.
- b) Minutes shall be kept of such hearings and shall identify the subject matter of the hearing, the persons who testified at such hearing, and the determination made by the body conducting the hearing.
- c) Applicants and appellants may be represented by counsel and shall be allowed a reasonable opportunity to rebut any information presented in opposition to their application or appeal. However, this shall not be construed to require that applicants or appellants be allowed to question opposing witnesses. (HR-13-11-4)

**ARTICLE 8. PROPERTY OWNED BY PUBLIC AGENCIES**

14-801 **PROPERTY OWNED BY PUBLIC AGENCIES.** Many of the historically and architecturally important buildings, sites, structures, and objects are owned by government entities. The preservation of buildings, sites, structures, objects, natural resources and districts significant in American history, architecture, archeology, engineering, and culture is established as national policy in the National Historic Preservation Act of 1966, as amended. The Kansas Historic Preservation Act, as amended, declares that the historical, architectural, archeological, and cultural heritage of Kansas is an important asset of the state and that its preservation and maintenance should be among the highest priorities of government. To accomplish the adopted policies of the federal and state governments and to accomplish the purposes of this Plan, the following regulations promote the preservation of publicly-owned historically and architecturally significant buildings, sites, structures, and objects, and natural resources.

- a) For properties owned by the County and located in the unincorporated territory of the County, the Council may recommend, and the County Commission may authorize, the submittal of a proposed nomination of a building, site, structure, object, or district to the Douglas County Register of Historic Places, the Register of Historic Kansas Places, or the National Register of Historic Places.

- b) To further the purposes of this Plan, the Council may enter into agreements with other units of government. The Council may recommend and the County Commission may authorize on behalf of the County, entering into such agreements. Such agreements may address:
  - 1) Designation of landmarks and historic districts;
  - 2) Administration of the use of preservation fund resources;
  - 3) Improvements to landmarks, properties in historic districts, and properties adjacent to landmarks or historic districts;
  - 4) Efforts to encourage the maintenance of landmarks and properties in historic districts;
  - 5) Other mutually acceptable provisions. [HR-13-11-4]

### **ARTICLE 9. HISTORIC RESOURCE ADMINISTRATOR**

14-901 **DUTIES OF ADMINISTRATOR.** The Administrator shall have the following responsibilities:

- a) Develop application forms and establish procedures consistent with this Plan;
- b) Be responsible for recording/taking minutes at each Council meeting;
- c) Be responsible for publication and distribution of copies of the minutes, reports and decisions of the Council to the members of the Commission;
- d) Give notice as provided in this Plan or by law for all public hearings conducted by the Council;
- e) Advise the County Commission of vacancies on the Council and expiring terms of members;
- f) Prepare and submit to the County Commission a complete record of the proceedings before the Council on any matter requiring County Commission consideration;
- g) Receive, review, process, and refer to the Council and the County Commission applications for designation of landmarks and historic districts, preservation easements, and appeals provided for in this Plan;
- h) Record and file approved landmark and historic district designations, preservation easements, and decisions on appeal;
- i) Maintain an up-to-date copy of the map of landmarks and historic districts, as necessary;

- j) Maintain agenda, minutes, and records of all meetings of the Council including voting records, attendance, resolutions, findings, determinations, and decisions; and
- k) Educate, communicate and inform the residents of Douglas County pursuant to the purpose of this Plan. (HR-13-11-4)

## **ARTICLE 10. INCENTIVES AND EASEMENTS**

14-1001 **CONDITIONAL USE PERMIT.** To make the preservation of historically significant structures more economically feasible, the Council may recommend to the Lawrence-Douglas County Planning Commission and the County Commission that a conditional use permit be granted for landmark or historic districts as an alternative zoning category to permit appropriate functions such as bed and breakfast accommodations, house museums, art galleries, and other appropriate specialty uses. [HR-13-11-4)

14-1002 **PRESERVATION EASEMENTS.** Conservation easements for land designated as landmarks or included in historic districts or preservation easements on the facades of buildings designated as landmarks or structures of merit may be acquired by the County or other appropriate groups of persons through purchase, donation or condemnation pursuant to the laws of the State of Kansas. A preservation easement would include any easement, restriction, covenant or condition running with the land designed to preserve or maintain the significant features of such landmarks or structures. (HR-13-11-4)

14-1003 RESERVED.

14-1004 PRESERVATION FUND.

- a) There is hereby established a preservation fund. The fund shall be administered as directed by and according to any limitations and regulations imposed by the County Commission and according to state law. The County may apply for, receive, and place in the fund any federal, state, local, or private gifts, grants, fees, grants-in-aid or bequests. The County Commission may budget and incorporate County revenues into the fund. Fees and fines imposed according to this Plan shall be placed in the fund.
- b) The Council may recommend, and the County Commission may approve, on a case by case basis, that the resources of the Douglas County preservation fund be used for:



- 1) The purchase of fee simple title to landmarks or properties located in an historic district;
  - 2) The purchase of conservation or preservation easements regarding landmarks or properties located in an historic district;
  - 3) The purchase of fee simple title to landmarks or properties located in an historic district with the eventual objective of property resale subject to a preservation easement;
  - 4) Payment of installments and fees according to a contract to purchase fee simple title to landmarks or properties located in an historic district or a preservation easement regarding a landmark or properties located in an historic district;
  - 5) Grants and/or loans to owners, developers, and organizations for preservation and/or rehabilitation of landmarks and properties in an historic district;
  - 6) Grants and/or loans to organizations for programs and projects designed to achieve one or more of the purposes of this Plan;
  - 7) The maintenance of landmarks and properties in historic districts or maintenance of preservation easements;
  - 8) The costs of conducting and preparing surveys of historically and architecturally important buildings, sites, structures and objects;
  - 9) The costs of preparing nominations of buildings, sites, structures or objects to the State Register or the National Register;
  - 10) The costs of the preparation and preservation of reports, instructions, brochures, meetings, maps, press releases, conferences, and other measures designed to acquaint citizens, owners, and developers of the purposes and provisions of this Plan; and
  - 11) Reasonable administrative, planning, architectural, engineering, financial, real estate, appraisal, and/or legal costs associated with the purchase of property, the purchase and enforcement of preservation easements, the sale of property, the negotiation of contracts, the preparation of a grant application, and legal actions.
- c) The Council may recommend, and the County Commission may approve, criteria, standards, rules, limitations, and regulations for projects and programs established pursuant to the requirements of this section. [HR-13-11-4)

14-1005 **HISTORIC CONSERVATION AWARD PROGRAM.** Preservation-related activities may be reviewed and awards given at appropriate times and may be

given in some or all of the following categories as the Council deems appropriate:

- a) Adaptive Use
- b) Preservation Project
- c) Restoration/Renovation
  - 1) Residential
  - 2) Commercial
- d) Exterior Paint
- e) Architectural Design
- f) Contractor
- g) Real Estate Sales Person
- h) Significant Preservation Contributor

The Council may add other appropriate categories to the award program. Winners of the awards may receive plaques and/or certificates. (HR-13-11-4)

#### **ARTICLE 11. FEES**

##### 14-1101 FEES.

- a) There shall be a \$50 fee to be paid by the persons nominating an historic district, and a \$10 fee to be paid by persons nominating a landmark. These fees shall be paid at the time of filing the application for nomination. All fees received shall be placed in the preservation fund. Fees may be waived for good cause. [HR-13-11-4)

#### **ARTICLE 12. MINIMUM MAINTENANCE REQUIREMENT**

14-1201 MINIMUM MAINTENANCE REQUIREMENT. All real property, and any building, structure, or utility thereon designated as an historic landmark or contributory and key contributory properties located within an historic district, whether owned or controlled privately or by any public body, shall receive reasonable care, maintenance and upkeep appropriate or its protection, preservation, enhancement, perpetuation, or use in compliance with the terms of this Plan and the applicable resolutions and other regulations of the County. (HR-13-11-4)

#### **ARTICLE 13. CIVIL ACTION**

14-1301      **CIVIL ACTION.** Any person who willfully constructs, reconstructs, alters, restores, renovates, relocates, stabilizes, repairs or demolishes any building, object, site, or structure in violation of this Plan shall be required to return the building, object, site, or structure to its appearance and setting prior to the violation. Any action to enforce this provision shall be brought by the County. In the event that the cost of returning the building, object, site or structure to its appearance or setting prior to the violation exceeds fifty percent (50%) of the value of the building, object, site or structure, the offender shall make restitution in the form of either reconstructing the building, object, site or structure to its appearance and setting prior to the violation or paying to the preservation fund 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 otherwise authorized by state law or county resolution. [HR-13-11-4)