

# DODGE CITY HISTORIC RESOURCES PRESERVATION ORDINANCE

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**Section 1: Purpose & Applicability**

- 1.01 **Purpose** - The purpose of this ordinance is to establish an historic preservation commission called the Dodge City Historic Landmark Commission, hereafter referred to as the “Landmark Commission”, to preserve and promote the preservation of prehistoric and historic sites, structures, objects, buildings (collectively “Properties”) and historic districts in the City. This ordinance is intended to enhance and promote Dodge City’s contribution to the history and architecture of the State of Kansas, as well as to this Nation.
- 1.02 **Applicability** - This ordinance shall apply to all historically and architecturally significant sites, structures, objects, buildings, and historic districts located within the Dodge City limits, which have been determined to be significant through nomination and placement on Dodge City Landmarks list, state, or national registers of historic properties (“Historic Property” or “Historic Properties”). This ordinance shall apply to new construction, demolition, exterior alteration, or enlargements to designated properties.

**Section 2: Definitions**

- 2.01 For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense include the future; words in the singular include the plural. The word “shall” is mandatory while “should” and “may” are permissive. Any words not defined herein shall carry and convey the meaning ascribed by a common English language dictionary.
- a) **Alteration:** Any change or rearrangement to the structural parts of an existing building, structure, or property. Any enlargement, whether by height or dimension, shall be considered an alteration.
  - b) **Applicant:** The owner or duly designated representative of a building, structure, or property seeking nomination of such to the Dodge City Landmark list or seeking approval of plans under the COA process.
  - c) **Building:** A structure, including but not limited to a house, barn, church, hotel, courthouse, city hall, social hall, commercial building, library, factory, mill, train depot, theater, school, store, warehouse, or other building created to shelter human activity. The term may also refer

to a small group of buildings consisting of a primary and one or more accessory structures in a historically, functionally related manner such as a mansion and a carriage house, a church and rectory, or a farmhouse and agricultural structures.

- d) **Certificate of Appropriateness or “COA”:** A certificate issued by the City approving plans for alteration, construction, demolition, or other matters relating to various historic properties.
- e) **COA-Major:** A Certificate of Appropriateness which may only be granted by the Landmark Commission or, on appeal, by the City Commission.
- f) **COA-Minor:** A Certificate of Appropriateness which may be granted by certain designated City staff for non-exterior repairs or for non-registered properties which have no adverse impact on historic properties.
- g) **Contributing/Key Contributing:** A building, site, structure, or object adding to the historical significance of a property. This term can pertain to a single property but most commonly is used in cases of historic districts.
- h) **Design Guideline:** Guidelines developed by the Landmark Commission, and approved by the City Commission, for use by the Landmark Commission and Department staff for reviewing project under the COA process in addition to the Sec. of the Interior’s Standards for Rehabilitation.
- i) **Development Permit:** A permit issued by the Dodge City Development Services Department authorizing construction or other land development activity, including but not limited to building, curb cut, electrical, excavating, zoning, certificate of occupancy, business license, and sign permits.
- j) **Director:** The director of the Dodge City Development Services Department or his/her authorized representative.
- k) **District:** An area that possesses a significant concentration, relationship among, or continuity of sites, buildings, structures, or objects united historically or architecturally by plan or physical development. Districts include college campuses, downtown areas, residential areas, industrial complexes, civic centers, government reservations, planned street systems, and parks. The term may also be applied to individual associated or functionally related sites, buildings, structures, or objects that are geographically separated. In such cases, visual continuity should not be necessary to convey the historic relationship of a goal of related resources.
- l) **Dodge City Landmark List:** A district, site, structure or object designated as a landmark by ordinance of the City, deemed worthy of preservation because of its historic, archaeological and/or architectural significance to the City, state or nation.
- m) **Exterior Architecture/Feature:** The character and composition of the exterior of the structure or building, 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, and the elements and components of the outer surface of a structure including windows, doors, light fixtures, signs, fences, hitching posts, decorations, chimneys, false fronts, parapets, flag poles, landscaping, retaining walls, and related materials.

- n) **Historic District:** An area designated as an historic district and which may contain within definable geographic boundaries one or more significant sites, structure features, or objects and which may have such other structures which contribute to the overall visual characteristics of the significant structures or objects located within the designated area, and are relatively free from non-contributing structures which detract from the historic properties.
- o) **Historic Property:** Historic properties that are over fifty years old that may have significance to the history of Dodge City, but have not been designated as landmarks.
- p) **Historic Preservation:** The study, identification, protection, restoration, and rehabilitation of buildings, sites, structures, objects, districts, and areas significant to the history, architecture, archaeology, or culture of the city, state or nation. Preservation may include work to halt the process of decay, normal maintenance work, and other measures to retain and sustain the nature, form, material, and integrity of historically or architecturally important properties, structures, buildings, objects, or historical districts.
- q) **National Register:** The current National Register of Historic Places established by the National Preservation Act, as may be amended.
- r) **Non-contributing:** A building, site, structure, or object that does not add to the historic significance of a property.
- s) **Normal maintenance/repair:** Any work designated to correct damage or deterioration to the condition that existed prior thereto. "Normal maintenance" includes all work performed by a property owner which does not require a development permit as prescribed by the City's development regulations.
- t) **Public Structure:** Any building, facility, or physical construction that is owned, operated, maintained, or otherwise controlled by a government entity or public body.
- u) **Public Right-of-Way:** an area of land owned, maintained, or controlled by a government entity, used for public purposes including but not limited to transportation, public use, or utilities.
- v) **Secretary of Interior's Standards for Rehabilitation:** A set of 10 standards and their accompanying guidelines as issued by the Secretary of the Interior which the Landmark Commission and Department staff shall use for reviewing projects under the COA process.
- w) **Sign:** Any object, device, display, or structure, or any part thereof, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, service, event, organization, business, product, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.
- x) **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.
- y) **State Historic Preservation Office or "SHPO":** The office, under direction of the State Historic Preservation Officer as designated by law and by the Governor of the State of Kansas to administer the State Historic Preservation Program.

- z) **State Register:** The current Register of Historic Kansas Places as prepared, approved, and amended by the State Historic Sites Board of Review and authorized by K.S.A. 752701, et seq., as may be amended.
- aa) **Structure:** A functional construction made for purposes other than creating shelter, such as a bridge.
- bb) **Variance:** A variation from a specific requirement of the adopted design standards, as applied to a specific structure or property.

### **Section 3: Dodge City Landmark Commission**

- 3.01 **Creation** - The Landmark Commission is hereby created to inventory, promote, list, record, protect, preserve, and enhance places, areas, features, or sites within the City that have special architectural, archeological, cultural, or historical significance. The Landmark Commission shall advise the City Commission and cooperate with other historic agencies and organizations concerning preservation of the City's historic and cultural heritage.
- 3.02 **Membership** - The Landmark Commission shall consist of seven (7) Dodge City residents appointed by the Mayor with concurrence of the City Commission. All members shall have interest, knowledge, or training in preservation related fields. Three (3) members shall represent preservation related professions such as architecture, law, historian, real estate, finance, museum curator, planning, and/or building trades. Appointments shall be for a term of three (3) years, except that the first Landmark Commission shall be appointed as follows: three (3) members for three-year terms, two (2) members for two-year terms and two (2) members for one-year terms. The Mayor, with City Commission concurrence, may remove any member of the board for cause. Vacancies shall be filled by appointment as above for the remainder of the unexpired term.
- 3.03 **Rules of Procedure** - The Landmark Commission shall adopt bylaws or rules of procedure for its efficient operation. Minutes of the Landmark Commission's meetings will be distributed to Landmark Commission members, the City Commission, the Kansas State Historic Preservation Office (SHPO) and others upon request.
- 3.04 **Annual Report** - The Landmark Commission shall prepare an annual report of its activities to be submitted to the City Commission and SHPO. The report shall include an account of the number and type of cases reviewed and their disposition, a listing of new designations made during the year, and a record of members' attendance at meetings and training sessions. The report shall also assess progress in preserving historically important properties, and districts, and assess the need for future changes to this ordinance and program. The report shall include a statement of goals for the ensuing year and shall be duly approved by the Landmark Commission.
- 3.05 **Authority and Responsibilities**
  - a) The geographic area of authority shall be the area within the Dodge City corporate limits.
  - b) The Landmark Commission's central purpose is the designation and the protection of Historic Properties and Historic Districts and to serve as an advisory board for the City Commission. The Landmark Commission shall review all proposed nominations for Dodge City Landmark status, state, and national registers of Historic Properties. A professional in an applicable specific relevant discipline shall evaluate all nominations, if not represented on the Landmark Commission, prior to board recommendation.

- c) The Landmark Commission may recommend to the City entering into certain agreements with the SHPO.
- d) Each commission member shall attend at least one (1) information or training meeting each year as approved by the SHPO.
- e) A survey shall be used to gather information about properties and areas that might be eligible for listing in the Landmark list (and/or the state and national register).
- f) The City shall provide for adequate public participation in all aspects of the implementation of this ordinance. All meetings shall be open to the public pursuant to K.S.A. 75-4318. The Landmark Commission shall meet at least four (4) times each year. Agenda materials provided to members shall be open to the public. Decisions shall be made in a public forum and minutes of all meetings shall be kept on file and available for public inspection.
- g) The Landmark Commission may establish other programs and services such as:
  - (i) create public information programs;
  - (ii) promote preservation activities with public and/or private funds;
  - (iii) review development plans that may affect Historic Properties;
  - (iv) cooperate with local groups or agencies to provide the widest possible promotion of historic programs and places, and
  - (v) similar activities to promote the intent of this ordinance.
- h) The Landmark Commission shall review and recommend local incentives to encourage landmarks and districts designation in Dodge City. These may be in the form of retail discounts, tax rebates, conservation easements, permit fee waivers, utility reductions, and other means to stimulate interest in historic preservation.
- i) The Landmark Commission may review and recommend policies regarding historically compatible public streetscapes, lighting, and signage in the immediate vicinity of Historic Properties and in Historic Districts. Resources available to create such improvements may include general or special tax authority as well as special assessment processes.
- j) The Landmark Commission may prepare applications for City Commission approval for any gift, grant, bequest, devise, lease, fee, development right, easement, covenant, or conveyance for the purpose of historic preservation.
- k) The Landmark Commission shall review the provisions of this ordinance periodically to recommend comprehensive or individual changes as deemed appropriate.
- l) Landmark Commission members shall serve without compensation. The City Commission shall establish budget authority to provide for historic preservation administration and promotion activities.

#### **Section 4: Promotion and Other Functions**

- 4.01 To further the purposes of this ordinance and to assure maximum public knowledge and involvement in the preservation of Dodge City's history, the City may enter into agreements with other units of government, other agencies, and private corporations and the Landmark Commission may recommend them to do so. Specifically, the City may negotiate an agreement with the SHPO

whereby the state may delegate certain responsibilities to the City, including, but not limited to, the review of register nominations and development/demolition permit applications for compliance with the herein stated historical regulations and objectives.

- 4.02 **Promotion** - The Landmark Commission shall be the City's point of contact for all historic associations and organizations within the City, state, and nation and shall provide such assistance as practical to promote and develop historical, archeological, or prehistoric interest in Dodge City within the established budget for the operation of the Landmark Commission. Activities such as submitting pass-through grants on behalf of these agencies, providing assistance with tax credit and other financial incentives directed toward historic property preservation, and providing basic research materials to interested parties will be conducted by the department as directed by the Landmark Commission and as authorized by the City Commission through the various agreements. The Landmark Commission is expected to provide accurate information to news media when appropriate to further the objectives of historic property preservation.

### **Section 5: Administration and Enforcement**

- 5.01 **Department** - The Dodge City Development Services Department (the "Department") shall be responsible for the administration of this ordinance and performing staff functions for the Landmark Commission. The Department is authorized to develop application forms and procedures consistent with this ordinance, and to enforce its provisions. The Dodge City Police Department may also enforce this ordinance when called upon by the Dodge City Development Services Department.
- 5.03 **Fees** - Fees shall be set by the City Commission. Fees shall be set for the following activities: request for a Variance from provisions of this ordinance; and application to appeal denial of a COA for the improvement or demolition as indicated in the development permit application.
- 5.04 **Enforcement** - The Director, upon discovery that a violation of this ordinance has occurred, shall issue a notice to cease to the owner and shall take all appropriate measures to prevent such unlawful act. Such notice shall explain the nature of the violation in clear terms and shall allow the owner to give satisfactory evidence that the action will be corrected within thirty (30) days or that appropriate action to comply with the provisions of this ordinance will be initiated. Failure to comply may result in citation to municipal court and may result in the City taking corrective action to abate the offense and assess the costs of such abatement to the owner. Such notice and order may be appealed; however, the alleged violating work shall cease until the matter is finally resolved. The City may pursue all other available legal remedies to correct a violation of this ordinance.
- 5.05 **Abatement Assessment of Costs** - If the City has filed proper notice and the time has elapsed for the correction by the owner, the City may take corrective action as necessary. All costs incurred by the City under the provisions of this Section shall be assessed against each lot or piece of ground chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.

### **Section 6: Landmarks Survey, Nomination, and Designation Process**

- 6.01 **Historic Resources Survey** - The Landmark Commission shall annually update the historical resources inventory to identify historical properties, and historical districts that may have archeological, historical, cultural, or architectural importance to the community. As part of the survey, the Landmark Commission shall evaluate studies by other organizations and compile appropriate descriptions, facts, and photographs. All such materials shall be documented in accordance with the survey manual prepared by SHPO.

- 6.02 **Identification of Landmarks and Historic Districts** - The Landmark Commission shall keep a Dodge City Landmarks Register. Said register will contain a complete description of all historical properties, and historical districts designated as landmarks and a description of boundaries on the Map of Landmarks, on file in the office of the City Clerk and the Department.
- 6.03 **Nomination of Landmarks and Historic Districts** - The Landmark Commission shall review nominations for Landmark Historic Districts to the local, state, and national historic registers.

### **Section 7: Certificate of Appropriateness Required for Alteration, Development, or Demolition**

- 7.01 Upon receipt of an application for any demolition, alteration or expansion of a landmark and properties within landmark historic districts, the Landmark Commission and Department shall initiate a process to determine if such permitted action is appropriate. All applications shall be reviewed, approved, or denied in accordance with the process outlined below.
- 7.02 **Department Director** - The Development Services Department Director (the “Director”) or designated representative shall review all development permit applications and other pertinent information to determine if a Landmark historic Property or historic district may be affected by a proposed development or activity. If so, the Director shall follow the procedure to either issue a Minor COA or begin a review process in accordance with the provisions of this ordinance. The Director shall forward the Landmark Commission’s recommendations to the City Commission, record and file all landmark designations, maintain the Map of Landmarks, and keep all agendas, minutes, reports, findings, determinations, and correspondence for the Landmark Commission. Applications that cannot be approved by the Director may be referred to the Landmark Commission by the applicant as a Major COA.
- 7.03 **Determination of Appropriateness** - Department staff shall prepare a COA before any alteration, development, or demolition permit may be issued for any Landmark historic property or Landmark historic district. COA shall be classified as either a Minor COA or a Major COA.
- 7.04 **Variations** - Any Historic Property owner (or authorized representative) may apply for a Variance from specific standards or guidelines for historic preservation as set and amended by the Landmark Commission and the City. Such request for Variance shall be made using the process identified in Section 8 of this ordinance.
- 7.05 **Normal Maintenance Exempt** - Normal property maintenance shall be exempt from the provisions of this ordinance, unless and/or until a development permit for is required by other City development regulations.
- 7.06 **Minor Certificates of Appropriateness** - A Minor COA shall be issued for any demolition or alteration work involving the following types of activities which can be demonstrated by the owner to have no adverse effect on a Historic Property or Historic District:
- a) Most interior improvements except those noted as a pertinent to a landmark designation.
  - b) Changes to accessory structures, landscaping features, signs, fences, public walkways, public streets, public alleys, retaining walls and utilities that do not contribute to the historic character of a Historic Property or Historic District.

Minor COA shall be authorized by the Director and reported to the Landmark Commission and the City Commission. Minor COA shall be determined within thirty (30) days from the time a complete application was submitted. If the Director cannot approve a Minor COA, it may be forwarded to the Landmark Commission, at the option of the Applicant, as a Major COA application.

7.07 **Major Certificate of Appropriateness** - A Major COA shall be subject to review and approval by the Landmark Commission and may be authorized for the following types of permits:

- a) Interior space rehabilitation where such space was an important component in approval of the landmark nomination;
- b) Any demolition, exterior alteration or expansion of a Historic Property or within an Historic District;
- c) Any proposed new construction on a Historic Property or within an Historic District;
- d) Demolition of part or all of a Historic Property or Landmark property in an Landmark historic district; and
- e) Other items not covered by a Minor COA.

7.08 The review process for a Major COA is:

- a) The Department receives application for permit which triggers the determinations warranting a Major COA and notifies the applicant that a formal review is required before a COA can be issued.
- b) The applicant submits a request for review in writing on provided forms and with all the required information.
- c) A completed request is placed on the Landmark Commission agenda or within thirty (30) days of the submittal. The Department prepares and publishes notice of time, date, place, and purpose of public hearing, such notice to be published at least twenty (20) days prior to the date of the hearing. Notice is also sent by regular mail to all affected property owners located where the project is taking place.
- d) The Landmark Commission conducts the public hearing and determines if the COA can be issued and submits its written decision, with appropriate documentation, to the applicant. If the COA can be issued, the development permit may be granted by the Department. If the requested action is determined not appropriate to protect the historic character or integrity of the property and/or Historic District, then the applicant may file an appeal, in writing, within thirty (30) days asking that the application be reconsidered by the City Commission. (See Section 9)
- e) A decision may be made immediately after the public hearing, or the Landmark Commission may recess the meeting for further deliberation. Failure to render a decision within thirty (30) days from the time a complete application was submitted shall be deemed to be approval unless an extension is agreed upon by both the applicant and the Landmark Commission.
- f) The decision of the Landmark Commission (or City Commission) is conveyed in writing to the Applicant. If the COA is issued, the Department may grant a development permit as long all other city ordinance requirements are met.

7.09 **Criteria to Determine Appropriateness** - The Landmark Commission shall prepare, and the City Commission shall adopt principles and guidelines establishing criteria for new construction, alterations, additions, moving and demolition of Historic Properties, and Properties in Historic Districts, including but not limited to the following:

- a) Design Criteria. Specific design criteria for exterior alterations of Historic Properties, or Properties in Historic Districts, shall be based on the U.S. Secretary of the Interior's Standards

for Rehabilitation as referenced in the Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings at <http://www.nps.gov/tps/standards/rehabilitation/rehab/guide.htm>.

- b) Guidelines for New Construction and Additions. New construction and additions to existing Historic Properties guidelines shall be taken into consideration above and beyond the Standards noted above.
- 7.10 **Signs** - The Landmark Commission shall review and approve or deny all requests for signs to be located on a Historic Property or within a Historic District in accordance with the following design guidelines in addition to the basic criteria set forth in the standards:
- a) Signs shall be relative to the scale of the site, and shall not block, obscure or distract from the Historic Property's or Historic District's significant design elements.
  - b) Wherever possible, actual historic signage should be maintained and restored to original condition regarding design, materials, craftsmanship or placement.
  - c) Illuminated signs shall be designed to reduce glare and shall not detract from the Historic Property's or Historic District's historic character.
  - d) Freestanding signs and monument placards explaining the Historic Property's or Historic District's significance, or age shall be compatible with the Historic Property or Historic District but are otherwise encouraged.
  - e) Signs requiring a Major COA are not subject to the public hearing process and will be reviewed at the next regular Landmark Commission meeting with appeal to the City Commission, if denied. Appeals must be submitted in writing within thirty (30) days of denial.
- 7.11 **Retention of Accessory Structures and Landscaping** - Accessory structures such as outbuildings and existing site characteristics such as trees, other significant landscaping, walls, stairs, paving materials, fencing, walkways, and other site features that reflect the Historic Property's or Historic District's significance shall be retained and protected from demolition or alteration.
- a) Landscaping shall be appropriate to the scale, era, and features of the Historic Property or Historic District.
  - b) Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Non-contributory structures shall not distract from the Historic Property or Historic District.
  - c) Design criteria are more stringently applied to projects/properties of greater significance.
  - d) Accessory structures and landscaping features requiring a Major COA are not subject to the public hearing process and will be reviewed at the next regular Landmark Commission meeting with appeal to the City Commission if denied. Appeals must be submitted in writing within thirty (30) days of date of denial.
- 7.12 Normal property maintenance shall be exempt from the provisions of this ordinance unless or until a development permit for work is required by other City development regulations.
- 7.13 Demolition applications for a Historic Property or a Property in a Landmark Historic District, which includes non-contributing properties, shall be denied for a period not to exceed one hundred eighty (180) days if a proposed public or private re-use of the property is unknown. The maximum period of delay may be reduced whenever the Landmark Commission determines the owner will suffer

extreme hardship or will be deprived of all beneficial use of the property by virtue of the delay. In either instance, the Landmark Commission shall use the delay to negotiate with the owner and interested parties to find a means to preserve the Historic Property or the Property in the Historic District. If the proposed re-use of the property is known, the use will be examined for relationship and compatibility with the Historic Property or Historic District before demolition may proceed. This provision also applies to Properties nominated for landmarks or historic district designation. Once redevelopment plans are known, the Landmark Commission may determine appropriateness pursuant to Section 7 of this ordinance.

- 7.14 **Penalties.** Altering, developing, or demolishing without a COA or acting without or contrary to a decision of the Landmark Commission under this Section 7 shall be a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed thirty (30) days and/or a fine not exceeding Five Hundred Dollars (\$500.00).

## Section 8: Downtown Historic District Regulations

8.01 **Downtown Historic District.** The Downtown Historic District is roughly bounded by Front Street on the south, Third (3<sup>rd</sup>) Avenue on the west, Vine Street on the north, and Central Avenue on the east. The provisions of this Section 8 shall apply to all property within the Downtown Historic District and may be enforced against the owners or tenants of property within said district. The boundaries of the Downtown Historic District are shown in the image incorporated to this Section.



- 8.02 **Design Criteria.** Specific design criteria for exterior alterations of Historic Properties, or Properties in Historic Districts, shall be based on the U.S. Secretary of the Interior’s Standards for Rehabilitation as referenced in the Secretary of the Interior’s Guidelines for Rehabilitating Historic Buildings at <http://www.nps.gov/tps/standards/rehabilitation/rehab/guide.htm>.
- 8.03 In addition to the U.S. Secretary of the Interior’s Standards, the Landmark Commission has adopted additional regulations for the Downtown Historic District and are as follows:
- 8.04 **Window Signage.** Window Signage shall be subject to the following definitions and requirements:
- a) **Window Signs.** “Window signs” means any sign that is attached to, placed upon, or painted on the interior or exterior of a window or within a certain distance from a window, and is visible from the exterior of the building. This can include, but is not limited to, posters, decals, banners, paint, vinyl, or other signage intended to be viewed from outside the premises.
  - b) **Coverage.** Window signs shall not cover more than thirty percent (30%) of the window area.
  - c) **Opacity.** No person or entity shall place window signs constructed of opaque materials that obscure views into and out of windows, either partially or completely.
  - d) **Lighting.** No person or entity shall install, display, or operate any lighting device that emits flashing or steady light output from any window or door in any building or structure located within the boundaries of the Downtown Historic District.
    - (i) **Flashing Light** shall mean any light that intermittently turns on and off, or changes intensity or color, in a manner that creates a flashing effect.
    - (ii) **Steady light output** shall mean any continuous light emission that is projected from a window or door, regardless of changes in color or intensity, that remains on for an extended period.
    - (iii) The use of lighting devices that produce flashing effects, including but not limited to strobe lights, LED displays with intermittent illumination, and other similar devices, is strictly prohibited.
    - (iv) The use of lighting devices that produce a continuous, steady light output visible from the exterior of the building, including but not limited to neon signs, LED strips, and other similar devices, is strictly prohibited.
  - (v) **Exemptions.**
    - (A) **Holiday Displays.** Temporary holiday lighting displays that do not exceed a period of thirty (30) days and are in keeping with the character of the historic district are exempt from this provision.
    - (B) **Emergency Lighting.** Lighting necessary for public safety or emergency purposes, including exit signs and security lighting, is exempt from this provision.
    - (C) **Approved Lighting Plans.** Lighting that has been explicitly approved as part of a lighting plan by the Dodge City Development Services Department may be exempt from this provision if deemed consistent with the historical character of the district.

- e) Removal. Non-compliant window signage must be removed within sixty (60) days of ordinance adoption.

8.05 **Windows and Doors.** Windows and doors shall be subject to the following definitions and requirements:

- a) Historical Integrity of Windows and Doors. Windows and doors must be maintained in a manner that preserves their historical integrity. Original windows and doors should remain in place and in good restoration whenever possible. Owners or tenants seeking to repair or replace windows and doors must obtain a COA prior to proceeding with repair and replacement.
- b) Obstruction. Windows on first floor levels shall be free of obstruction. Curtains, blinds, merchandise, or other material shall not obstruct view in or out of windows. Curtains and blinds may be appropriate for second floor and above levels, but placement of curtains and blinds should be done in consultation with the Dodge City Development Services Department. Certain circumstances may call for blinds or curtains to be placed on first floor levels but must have prior approval from the Dodge City Development Services Department prior to installation. Owners and tenants should be aware that curtains or blinds placed without prior approval may be subject to citation pursuant to this ordinance.
- c) Lighting. Window and door lighting in the downtown historic district shall be subject to the provisions of section 8.4(d) herein.
- d) Glass tint and UV film may be applied to windows and doors so long as it allows at least 35% light transmission.
- e) Security bars, mesh, etc., are prohibited on all exterior doors and windows, except on those windows and doors facing alley ways with approval of the Dodge City Development Services Department.
- f) Removal. All non-compliant signage, decoration, obstruction, lighting, or security apparatus must be removed within 60 days of ordinance adoption.

8.06 **Exterior Colors**

- a) Exterior colors for properties located within the Downtown Historic District, including but not limited to paint, signage, awnings, window coverings, etc., shall be appropriate for the district. A COA is required for all exterior paint.
- b) Bright colors and other colors that would not have been found in the District's period of significance (typically 1910s-1930s) are not appropriate for exterior colors in the Downtown Historic District.
- c) Exterior colors violating this section must be painted with compliant colors within six (6) months of adoption of this ordinance.

8.07 **Mechanical, Electrical, Plumbing and Telecommunications**

- a) Prohibition on exterior air conditioning units, ventilation/exhaust termination. No air conditioning units or ventilation/exhaust termination may be installed in windows or attached to the exterior wall of the building. All non-compliant air conditioning units or ventilation/exhaust termination must be removed within six (6) months of ordinance adoption.

- b) Electrical and plumbing lines and conduit should not be placed on exterior walls with street frontage, whenever possible. Owners seeking continued use of electrical and plumbing lines and conduits placed on exterior walls must obtain a COA and must begin the process of obtaining a COA within thirty (30) days of ordinance adoption.
- c) Satellite dishes and other telecommunications equipment shall not be attached to awnings or exterior walls with street frontage. Non-compliant equipment must be removed within sixty (60) days of ordinance adoption.
- d) Cables and lines shall not be placed on exterior walls with street frontage whenever possible. Cables and lines must be removed when no longer in use. Cables and lines not in use must be removed within sixty (60) days of ordinance adoption. Owners seeking to continue use of cables and lines must obtain a COA and must begin the process of obtaining a COA within thirty (30) days of ordinance adoption.

#### **8.08 Public Right of Way and Public Structures**

- a) No signage, equipment or other objects may be placed on or attached to Public Structures or Public Rights-of-Way within the Historic Downtown District, including City owned and maintained awnings without a COA.
- b) Authority to Remove. The City shall have the authority to remove any signage, equipment, or other object attached to a Public Structure or placed within a Public Right-of-Way, including upon city-owned awnings without prior notice to the owner of the building, the tenant occupying the building, or any other person or entity. This provision shall exempt the City from the notice requirements of Section 5, above.
- c) Liability. The City shall not be held liable for any damage that occurs to any signage, equipment, or other object during the removal process. By placing or attaching items within a Public Right-of-Way or to a Public Structure, the person or entity placing said item assumes all risk of loss or damage.
- d) Disposal of Removed Items. Items removed by the City under this section will not be stored or returned to the owner or tenant. All removed items shall be immediately disposed of in a manner determined by the City.

#### **8.09 Minimum Maintenance Standards**

- a) Properties must be maintained in accordance with the provisions of the adopted International Property Maintenance Code.
- b) Exterior areas. Exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
- c) Exterior structure. The exterior of the structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
- d) Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted. Siding and masonry joints, as

well as those between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained weather resistant and watertight.

- e) Structural members. Structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.
- f) Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
- g) Window, skylight, and door frames. Every window, skylight, door, and frame shall be kept in sound condition, good repair, and weather tight.
- h) Glazing. Glazing materials shall be maintained free from cracks and holes.
- i) Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.
- j) Infestation. Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

8.10 **Penalties** - Any person violating the provisions of Section Eight (8) of this ordinance shall be guilty of a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed thirty (30) days and/or a fine not exceeding Five Hundred Dollars (\$500.00).

### **Section 9: Landmark Designation Process**

9.01 Except where otherwise specifically herein, the following process shall be used whenever Historic Properties or Historic Districts are nominated for the Dodge City Landmark designation.

9.02 **Landmark Nominations** - Landmark nominations shall be processed as follows:

- a) The Development Department will provide the necessary forms for the landmark nomination. Then, the Landmark Commission or Department generates or receives a nomination and determines the appropriateness of the nomination based on age and character of the property or district being nominated. All applications shall be submitted to the Development Department.
- b) Nominations for landmark or Landmark historic district designations shall be made by application submitted by the owner of a nominated landmark or by written consent signed and acknowledged by seventy-five percent (75%) of the owners within the boundaries of a defined proposed Landmark historic district. Each owner or owners of any legal parcel of record shall have one voice in the district per parcel, regardless of parcel size to determine this threshold.
- c) The Department shall provide notice of the date, time, place, and purpose of the public hearing at least twenty (20) days prior to the date set and shall notify all affected property owners.
- d) The Landmark Commission shall conduct the hearing and make a recommendation to the City Commission. The meeting may be recessed for further deliberation. A recommendation shall be made within sixty (60) days from the time a complete application is received.

- e) Within thirty (30) days after close of the public hearing, the Landmark Commission shall submit its recommendation to the City Commission that the nominated property does or does not meet the criteria for placement on the Dodge City Landmarks list.
- f) The City Commission shall consider the nomination and recommendation at the next available regular commission meeting. The City Commission shall approve acceptable nominations by ordinance. Denials may be by simple motion and recorded vote. The City Commission may:
  - (i) Accept or reverse the Landmark Commission recommendation.
  - (ii) Amend by reduction of a proposed historic district area or other types of nominated properties.
  - (iii) Refer the matter back to the Landmark Commission for further study.
- g) If approved, proper notifications shall be made and the property or historic district is declared a Landmark Historic Property or Landmark Historic District.
- h) If denied, the reasons shall be presented to the applicant, in writing. If applicable the applicant may resubmit in a future nomination of the same property.

9.03 **Landmark Eligibility Criteria** - The Landmark Commission and City Council may approve a property for Landmark Listing using the following criteria to judge the property's historical significance:

- a) A property must be at least fifty (50) years old to be eligible.
- b) Character, interest, or value as part of the development, site, structure, or district which contributes significantly to the heritage or cultural characteristics important to the development of the city, state, or nation.
- c) Identification with a person or persons who significantly contributed to the development of the city, state, or nation.
- d) Architectural style valuable to the study of a period; or to the type, method of construction, materials used, design elements, detailing materials, or craftsmanship embodied in the structure; or identification with a master builder, architect, or craftsman whose work influenced the development of the city, state, or nation.
- e) Location of a prehistoric or historic site, occupation, or activity possessing significant archeological value.
- f) The weight of any one criterion may be sufficient to accept the nomination and criteria not listed above may be contributed in the nomination which may render the nomination sufficient for placement on the Local Landmarks list.

## **Section 10: Appeal and Variance Procedure**

10.01 **Appeals** - Any Historic Property owner aggrieved by the administration and enforcement of this ordinance may appeal (see Section 3) to the Landmark Commission. Any decision of the Landmark Commission may be further appealed to the City Commission. The Landmark Commission (and City Commission) shall act in a quasi-judicial capacity when deciding appeals. They shall make specific findings of fact and derive conclusions from such findings. All rulings by the City

Commission shall be final and binding on all parties unless appealed to, and overturned by, the District Court of Ford County, Kansas.

- 10.02 Applications for an appeal or Variance under the COA process or when nominations for a landmark shall be filed with the Department. The Director shall assure that all documentation and forms are properly submitted, and prepared notices for a public hearing before the Landmark Commission. Notice shall be published in the newspaper and mailed to all affected property owners at least twenty (20) days prior to the public hearing.
- 10.03 The Landmark Commission will conduct a public hearing on the case at the advertised place and time. A recommendation may be made immediately after the public hearing, or the Landmark Commission may recess the meeting for further deliberation. This recommendation will be presented to the City Commission at the next regularly scheduled Commission meeting. Failure to render a decision within sixty (60) days from the time a complete application was submitted shall be deemed to be approval, unless an extension is agreed upon by both the Applicant, and the Landmark Commission.
- 10.04 An Applicant may further appeal the City Commission decision to the District Court of Ford County, Kansas. Such appeal shall be filed with the court within thirty (30) days of the City Commission's decision.
- 10.05 Variance applications shall be reviewed by the Landmark Commission. The Landmark Commission may grant a variance from the specific regulation upon a finding that such variance:
- a) Would not be contrary to the health, safety or best interest of the public; and
  - b) A literal enforcement of the provision will result in an unnecessary hardship to the owner; and
  - c) There is a condition unique to the property which was not created by the property owner; and
  - d) There is no adverse effect on surrounding properties; and
  - e) The Variance would not be contrary to the general spirit or intent of this ordinance.
- All five (5) conditions must be affirmed with specific findings of fact before granting the Variance.
- 10.06 An Applicant for a Variance may appeal the Landmark Commission decision to the City Commission. Such appeal must be filed with the City Commission within thirty (30) days of the Landmark Commission's decision.

### **Section 11: Severability**

- 11.01 If any section, provision, sentence, clause or phrase of this ordinance, or its application in a specific instance, is found to be invalid, the remainder of this ordinance and its application shall remain in full force and effect.