

BILL NO: _____

ORDINANCE NO: _____

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI AUTHORIZING THE ESTABLISHMENT AND FORMATION OF THE KIRKSVILLE HISTORIC PRESERVATION COMMISSION, UNDER A NEW SECTION OF THE CODE OF ORDINANCES OF THE CITY OF KIRKSVILLE CALLED: KIRKSVILLE HISTORIC PRESERVATION.

WHEREAS, The City of Kirksville was originally chartered in 1857; and

WHEREAS, the City of Kirksville has many buildings, structures, objects, sites, and districts that embody a sense of time and place unique to the City, or which exemplify and reflect the cultural, social, economic, political, architectural, engineering or archaeological history of the nation, the State of Missouri, or the City; and

WHEREAS, movements and shifts of population and the changes in residential, commercial and industrial uses and customs threaten areas, places, structures, sites, works of art and other objects having special historic, community, architectural archaeological, or aesthetic importance, interest or value and whose preservation and continued utilization are necessary and desirable for the enjoyment, by the citizens of Kirksville and others, of the history and beauty of said city; and

WHEREAS, the protection of the historic, archaeological and architectural character and resources of the City of Kirksville is necessary for the promotion of its economic development; and

WHEREAS, the legislature of the State of Missouri has recognized the importance of protecting and preserving places, areas and neighborhoods of historical and cultural importance and significance by empowering cities to adopt regulations and restrictions for the protection of such places and areas, as provided by Chapter 89 and Chapter 253.415 of the Missouri Statutes,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, MISSOURI, AS FOLLOWS:

That a new section of the Code of Ordinances be approved and named: Kirksville Historic Preservation; under which the Kirksville Historic Preservation Commission shall be formed and that the provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the City of Kirksville, Missouri, as follows:

KIRKSVILLE HISTORIC PRESERVATION

Section I. General Provisions

a. Purpose. The purpose of this article is to promote the educational, cultural, economic, and general welfare of the community by:

- (1) Providing a mechanism to identify, evaluate, and preserve the distinctive historic and architectural characteristics of the City of Kirksville;
- (2) Fostering civic pride in the beauty and accomplishments of the past as represented in Kirksville's landmarks and historic areas;
- (3) Conserving and improving the value of property designated as landmarks or historic districts;
- (4) Protecting and enhancing the attractiveness of the City of Kirksville to home buyers, home owners, residents, tourists, visitors, and shoppers, thereby supporting and promoting business, commerce, industry, and providing economic benefit to the City.
- (5) Fostering and encouraging preservation, restoration, and rehabilitation of historic structures, areas, and neighborhoods;
- (6) Promoting the use of landmarks and historic areas for the education, pleasure and welfare of the people of the City of Kirksville;
- (7) Encouraging the identification, evaluation, protection, and interpretation of the prehistoric and historic archaeological resources within the incorporated limits of the City of Kirksville.

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

- (1) *Alteration* – Any act or process that changes one or more historic, architectural, or physical features of an area, site, landscape, place and/or structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure; the expansion or significant modification of agricultural activities; and clearing, grading, or other modification of an area, site, or landscape that changes its current condition.

- (2) *Board of Adjustment* – The board established pursuant to Appendix A – Zoning, Article II, of the Code of Ordinances of the City of Kirksville, Missouri.
- (3) *Certificate of Appropriateness* – A certificate issued by the Kirksville Historic Preservation Commission (KHPC) indicating its approval of the architectural appropriateness of plans for construction, alteration, removal or demolition of a landmark or of a structure within an historic district.
- (4) *Certificate of Economic Hardship* – A certificate issued by the KHPC authorizing an alteration, construction, removal or demolition, even though a certificate of appropriateness has previously been denied.
- (5) *Construction* – The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.
- (6) *Demolition* – Any act which destroys in part or in whole a structure, a landmark, or a structure within an historic district.
- (7) *Design Guideline* – A standard of appropriate activity that will preserve the historic, prehistoric, architectural, scenic, or aesthetic character of a landmark or historic district.
- (8) *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.
- (9) *Historic District* – An area designated as being zoned “H – Historic” by ordinance of the City Council which may include individual Landmarks, as well as other properties or structures which, while not of such historic and or architectural significance to be designated as Landmarks, nevertheless contribute to the overall visual characteristics and historical significance of the Historic District.
- (10) *Historic significance* – Character, interest or value as part of the development, heritage, or culture of the community, county, state or country; as the location of an important local, county, state or national event; or through identification with a person or persons who made an important contribution to the development of the community, county, state or country.

- (11) *KHPC* – Members of the Kirksville Historic Preservation Commission.
- (12) *Landmark* – A property or structure designated as a “Landmark” by ordinance of the City Council, pursuant to procedures prescribed herein, which is worthy of rehabilitation, restoration, interpretation and preservation because of its historic, architectural or archaeological significance to the City of Kirksville, and zoned appropriately as an “H-Historic” overlay property.
- (13) *Minimum Maintenance* – The minimum regulations governing the conditions and maintenance of all existing structures, as set out in the 2003 International Property Maintenance Code, as published by the International Code Council and adopted by reference into the Code of Ordinances for the City of Kirksville. The particular year or version of the International Property Maintenance Code adopted by the City of Kirksville will be the version that is recognized by this ordinance and made a part thereof.
- (14) *Ordinary Maintenance* – Any work for which a building permit is not required by the City, where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a structure or any part thereof and to restore the same, as nearly as may be practical, to its condition prior to the occurrence of such deterioration, decay or damage, and does not involve change of materials nor of form.
- (15) *Owner of Record* – The person, corporation or other legal entity listed as owner on the records of the Adair County Recorder of Deeds.
- (16) *Public Improvement Project* – An action by the City of Kirksville or any of its departments or agencies involving major modification or replacement of streets, sidewalks, curbs, street lights, street or sidewalk furniture, landscaping, parking, or other portions of the public infrastructure servicing commercial, residential, recreational or industrial development; or any undertakings affecting city parks or city owned structures.
- (17) *Removal* – Any relocation of a structure, object or artifact on its site or to another site.
- (18) *Repair* – Any change that is not construction, alteration, demolition or removal and is necessary or useful for continuing normal maintenance and upkeep.
- (19) *Secretary of the Interior’s Standards* – The Secretary of the Interior’s Standards for the Treatment of Historic Properties are sets of treatment standards intended to assist users in making sound historic

preservation decisions for the preservation, rehabilitation, restoration or reconstruction of historic properties. The Standards are codified as 36 CFR Part 68 in the July 12, 1995, Federal Register (Vol. 60, No. 133).

- (20) *Site* – The traditional, documented or legendary location of an event, occurrence, action or structure significant in the life or lives of a person, persons, groups, or tribe, or any place with evidence of past human activity. Sites include, but are not limited to, cemeteries, burial grounds, occupation and work areas, evidence of farming or hunting and gathering, battlefields, settlements, estates, gardens, groves, river crossings, routes and trails, caves, quarries, mines or significant trees or other plant life.
- (21) *Stop Work Order* – An order directing an owner, occupant, contractor or subcontractor to halt an action for which a certificate of appropriateness is required, and notifying the owner, occupant, contractor or subcontractor of the application process for a certificate of appropriateness.
- (22) *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, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae and towers, and swimming pools.
- (23) *Survey* – The systematic gathering of information on the architectural, historic, scenic, and archaeological significance of buildings, sites, structures, areas, or landscapes, through visual assessment in the field and historical research for the purpose of identifying landmarks or districts worthy of preservation.

Section II: Kirksville Historic Preservation Commission

a. Members. The Kirksville Historic Preservation Commission (KHPC) shall consist of five (5) members, residents of the City of Kirksville or the surrounding community, all of whom shall be appointed by the Mayor of Kirksville. In addition, a member of the City Council and of the Planning and Zoning Commission shall be appointed to serve as members. The Commission will then consist of seven (7) total voting members. The Council and Zoning representatives shall vote but shall not hold office. All Commission members must have a demonstrated interest, competence, or knowledge in historic preservation. To the extent available in the community the KHPC shall include professional members representing such disciplines as architecture, architectural history, prehistoric and historic archaeology, planning, urban design, cultural geography, cultural

anthropology, folklore, curation, conservation, landscape architecture, law, real estate brokerage, banking, history or other fields related to historic preservation, and residents of historic districts or potential historic districts.

b. Terms. The terms of office of the members of the KHPC shall be for three years, excepting that the membership of the first KHPC appointed shall serve respectively for terms of two for one year; two for two years; and three for three years. The city council and planning and zoning representatives will be appointed to 3 year terms, with reappointment possible after that time, as long as the person continues to serve on the city council or planning and zoning commission. For these two positions, the KHPC person must be a currently serving city council person or planning and zoning commission member, respectively. Vacancies shall be filled for the unexpired term only. Action to fill vacancies shall be initiated within 60 days. The KHPC shall hold at least four (4) meetings per year and any member of the KHPC who fails to attend at least fifty percent (50%) of all meetings, regular and special, in any calendar year, shall thereby automatically vacate the membership.

c. Officers. Officers shall consist of a chairman and a vice-chairman elected by the KHPC who shall each serve a term of one (1) year and shall be eligible for re-election. The City Council and Planning and Zoning Commission representatives shall not be eligible for office. The chairman shall preside over meetings. In the absence of the chairman, the vice-chairman shall perform the duties of the chairman. If both are absent, a temporary chairman shall be elected by those present. The Codes and Planning Director of the City of Kirksville will be appointed as a City Staff Representative member of the Commission, but without voting privileges. Other members of the City staff may also be appointed members, but without voting privileges. The secretary of the KHPC shall be appointed by the Codes and Planning Department of the City of Kirksville and shall have the following duties:

- (1) Take minutes of each KHPC meeting;
- (2) Be responsible for publication and distribution of copies of the minutes, reports, and decisions to the members of the KHPC;
- (3) Give notice as provided herein by law for all public hearings conducted by the KHPC;

The Codes and Planning Director of the City of Kirksville shall have the following duties:

- (1) Prepare agendas for all meetings of the KHPC, provide information on the agenda items, and give them to the Secretary for timely mailings to members and to the media.
- (2) Prepare reports and information on decisions made by the KHPC, and report same to the Planning and Zoning Commission for their recommendations to the City Council;

- (3) Advise the City Manager of vacancies on the KHPC and expiring terms of members; and
- (4) Prepare reports and information on decisions made by the Planning and Zoning Commission regarding KHPC actions to the Kirksville City Council on any matter requiring their consideration and decisions.

d. Meetings. A quorum shall consist of four of the voting members. All decisions or actions of the KHPC shall be made by a majority vote of those members present and voting at any meeting where a quorum exists. Meetings shall be held at regularly scheduled times to be established by resolution of the KHPC at the beginning of each calendar year or at any time upon the call of the chairman, but no less than once each quarter. Public notice of all meetings shall be posted in conformance with standard City policy and RSMO Section 610.020. No member of the KHPC shall vote on any matter that may materially or apparently affect the property, income, or business interest of that member. No action shall be taken by the KHPC that could in any manner deprive or restrict the owner of property in its use, modification, maintenance, disposition, or demolition until such owner shall first have had the opportunity to be heard at a public meeting of the KHPC, as provided herein. All meetings of the KHPC shall be open to the public except as allowed by State law. The KHPC shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of the City Clerk and shall be public record. All KHPC rules of procedure, designation criteria, design guidelines, and forms shall be available to the public at the Office of the City Clerk or on the City of Kirksville's web site: www.kirksvillecity.com.

e. Funding. The City Council shall annually appropriate funds, within the budget limitations, for the operation of the KHPC. The KHPC may, with the consent of the City Council, apply for, receive, or expend any federal, state or private grant, grant-in-aid, gift or bequest, in furtherance of the general purposes of this ordinance.

f. Compensation. The members of the KHPC shall serve without compensation but shall be reimbursed for expenses they incur while on commission business.

g. Powers and Duties. The KHPC shall have the following powers and duties:

- (1) To adopt any of its own by-laws and procedural regulations, if needed, provided that such regulations are consistent with this chapter and the Revised Statutes of the State of Missouri;
- (2) To conduct an ongoing survey for the identification of historically, archaeologically and architecturally significant properties, structures, sites, and areas that exemplify the cultural, social,

economic, political, or architectural history of the nation, state or city; and to maintain the research information in an inventory accessible to the public (except for archaeological site locations, which shall be restricted);

- (3) To investigate and recommend, with the consent of the owner, to the Planning and Zoning Commission and the City Council the adoption of ordinances designating for protection properties or structures having special cultural, historic, archaeological, community or architectural value as "Landmarks";
- (4) To investigate and recommend, with the consent of a majority of the owners, to the Planning and Zoning Commission and the City Council the adoption of ordinances designating for protection areas as having special cultural, historic, archaeological, community or architectural value as "Historic Districts";
- (5) To keep a register of all properties and structures which have been designated as Landmarks or Historic Districts, including all information required for each designation;
- (6) To confer recognition upon the owners of Landmarks and property or structures within Historic Districts by means of certificates, plaques, or markers;
- (7) To advise and assist owners of Landmarks and property or structures within Historic Districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;
- (8) To encourage the nomination of Landmarks and Historic Districts to the Kirksville Historic Register, and to the National Register of Historic Places, and to review and comment on any nominations to the National Register of Historic Places;
- (9) To inform and educate the citizens of the City of Kirksville concerning the historic, archaeological and architectural heritage of the City through publication or sponsorship of maps, newsletters, brochures, pamphlets, programs and seminars by the City, the KHPC, or other appropriate parties.
- (10) To hold public hearings and to review applications for construction, alteration, removal or demolition affecting proposed or designated Landmarks or structures within Historic Districts and issue or deny Certificates of Appropriateness for such actions. Applicants may be required to submit plans, drawings, elevations, specifications, and

other information as may be necessary to make decisions;

- (11) To hold public meetings on each proposed nomination of a Landmark and of a Historic District and on the guidelines developed for each nomination;
- (12) To request the Building Inspector to issue stop work orders for any construction, alteration, removal or demolition undertaken without a Certificate of Appropriateness or to stop work that violates the conditions of a certificate;
- (13) To review all applications for demolition permits for any commercial building, or any structure used as a residence, not to include trailer houses, within the corporate limits of the City, to determine impact to significant cultural resources, including those not yet nominated as Landmarks (See Section XII for demolition procedures and process), or as contributing properties within an Historic District;
- (14) To consider applications for Certificates of Economic Hardship that would allow the performance of work for which a Certificate of Appropriateness has been denied;
- (15) To develop specific design guidelines based on the Secretary of the Interior's Standards for Rehabilitation for the alteration, construction or removal of Landmarks or property and structures within Historic Districts;
- (16) To review proposed zoning amendments, applications for special use permits, or applications for zoning variances that affect proposed or designated Landmarks or Historic Districts;
- (17) To administer on behalf of the City of Kirksville any property of historical significance that the City of Kirksville may have, or accept as a gift or otherwise, including full or partial interest in real property, including easements, upon approval by the City Council.
- (18) To accept and administer on behalf of the City of Kirksville, upon approval of the City Council, such gifts, grants, and money as may be appropriate for the purposes of this ordinance. Such money may be expended for publishing maps and brochures or for hiring staff persons or consultants or performing other functions for the purpose of carrying out the duties and powers of the KHPC and the purposes of this ordinance;
- (19) To call upon available city staff members as well as other experts for technical advice;

- (20) To retain such specialists or consultants or to appoint such citizen advisory committees as may be required from time to time;
- (21) To testify before all boards and commissions, including the Planning and Zoning Commission and the Board of Adjustment, on any matter affecting historically, archaeologically, culturally and architecturally significant property, structures, sites and areas;
- (22) To make recommendations to the City Council concerning budgetary appropriations to further the general purposes of this ordinance;
- (23) Provide input into the development of a preservation component in the Master Plan of the City of Kirksville;
- (24) To periodically review the Kirksville Historic Preservation Zoning Ordinance and to recommend to the Planning and Zoning Commission and the City Council any amendments appropriate for the protection and continued use of Landmarks or property, sites and structures within Historic Districts; and
- (25) To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purpose of this ordinance.

Section III: Surveys and Research

The Kirksville Historic Preservation Commission shall undertake an ongoing survey and research effort in the City of Kirksville to identify neighborhoods, areas, sites, structures, and objects that have historic, cultural, archaeological, architectural, or aesthetic importance, interest, or value, and shall maintain an inventory of that information. As part of the survey, the Kirksville Historic Preservation Commission shall review and evaluate any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts, and photographs. The Kirksville Historic Preservation Commission shall systematically identify potential Landmarks and Historic Districts and encourage property owners to nominate them based upon the following criteria:

1. The potential Landmarks and Historic Districts in one identifiable neighborhood or distinct geographical area of the City of Kirksville;
2. The potential Landmarks and Historic Districts associated with a particular person, event, or historical period;

3. The potential Landmarks and Historic Districts of a particular architectural style or school, or of a particular architect, engineer, builder, designer, or craftsman;
4. The potential Landmarks and Historic Districts containing historic and prehistoric archaeological resources with the potential to contribute to the understanding of historic and prehistoric cultures;
5. Such other criteria as may be adopted by the Kirksville Historic Preservation Commission to assure a systematic survey and possible nomination of all potential Landmarks and Historic Districts within the City of Kirksville.

Section IV. Nomination of Landmarks and local Historic Districts

a. Nomination of Landmarks. Nomination of Landmarks shall be made to the Kirksville Historic Preservation Commission on a form prepared by it and may be submitted by the owner or any one of the owners of record of the nominated property or structure. Nominations shall be turned in to the City Clerk, who will within fourteen (14) days of receipt send to the Codes & Planning Director who will add the nomination of the property to the next available agenda of the KHPC, after any required posting for a public meeting. Forms and criteria for nomination will be available at the Office of the City Clerk.

b. Nomination of local Historic Districts. Nomination of a local Historic District shall be made to the Kirksville Historic Preservation Commission on a form prepared by it and may be submitted by any one of the owners of any property or structures within the boundaries of the proposed local Historic District. Nominations shall be turned in to the City Clerk, who will within fourteen (14) days of receipt send to the Codes & Planning Director. The Codes & Planning Director will determine the ownership of all properties and sites within the boundaries of the proposed local Historic District, based on the current Adair County tax map parcels and listed ownership. Certified mailings will be sent out to all owners of the proposed local Historic District explaining the proposed nomination that has been received and giving notice of the date, time, and place for a vote of the Property Owners on the proposed local Historic District. When the vote has taken place and a tally of the votes has been completed, a majority of 66% of the designated lots voting must vote in favor of the nomination before it can move forward. If approved, the nomination of the local Historic District will be added to the next available agenda of the KHPC, after any required posting for a public meeting. Forms and criteria for nomination will be available at the Office of the City Clerk.

The rules and procedures for Voting on a local Historic District are as follows:

1. Each Adair County tax map parcel in the proposed local historic district will be allowed one vote, regardless of the number of owners of the parcel.
2. If a tax map parcel has more than one owner, all such living owners must unanimously cast their vote and sign the voting ballot in order for it to be counted.
3. If the tax map parcel is recorded as being owned by a Trust, a Limited Liability Corporation (LLC), or by a Corporation, the voting ballot will be mailed to the Trustee, President, Chief Executive Officer (CEO), Chief Operating Officer (COO), or Secretary of the Trust, Corporation, or LLC. The Trustee, President, CEO, or COO will have the authority to vote for the Trust, Corporation, or LLC with only their one signature, indicating their authorized title or status as Trustee.
4. The paper voting ballot will be sent by certified mailings to the address of record of affected property owners.
5. At least thirty (30) days time will be allowed after mailing, for receipt of the letters, for the owners to contact others for signatures, and for the ballots to be received by the City Clerk. All votes must be in the possession of the City Clerk by the time and date indicated on the ballot for the ballot to be counted.
6. Votes may be submitted to the City Clerk any time after receipt, until the stated time and date when all votes are required to be in possession of the City Clerk.
7. The Kirksville City Clerk and the Codes & Planning Director will be jointly responsible for counting the votes and for certifying the results to the Kirksville Historic Preservation Commission. The counting of the votes will be open to the public.
8. The City Clerk and Codes & Planning Director may delay declaring the results of the vote for clarification of specific ballot signatures, titles, handwriting issues, etc., to ensure those ballots are being counted as intended by the person(s) voting.
9. For a vote to successfully pass the nomination on to the Kirksville Historic Preservation Commission for consideration as a local Historic District, a minimum of 66% of votes being cast in favor of the measure is necessary. The results of the voting will be determined only by the parcels/property owners who actually cast their votes.
10. For a parcel with multiple owners, all living co-owners must unanimously vote and sign the single ballot or the vote will not count.
11. For any property in a proposed local Historic District that is owned by the City, the Mayor must sign the voting ballot as authorized by the City Council.
12. For any property in a proposed local Historic District that is owned by the local school district, the school board President must sign the voting ballot as authorized by the School Board.
13. For any property in a proposed local Historic District that is owned by Adair County, the Presiding Commissioner must sign the voting ballot as

authorized by the County Commission.

14. For any property in a proposed local Historic District that is owned by Truman State University, the President of the University must sign the voting ballot as authorized by its Board.

c. Criteria for Consideration of Nomination. The KHPC shall, upon such investigation as it deems necessary, make a determination as to whether a nominated property, structure, site, area or district meets one or more of the following criteria, based on Criteria for Evaluation for the National Register of Historic Places:

1. Its character, interest, or value as part of the development, heritage, or cultural characteristics of the community, county, state or country;
2. Its overall setting and harmony as a collection of buildings, structures, objects where the overall collection forms a unit;
3. Its potential to be returned to an accurate historic appearance regardless of alterations or insensitive treatment that can be demonstrated to be reversible;
4. Its location as a site of a significant local, county, state, or national event;
5. Its identification with a person or persons who significantly contributed to the development of the community, county, state, or country;
6. Its embodiment of distinguishing characteristics of an architectural type valuable for the study of a period, type, method of construction, or use of indigenous materials;
7. Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state, or country;
8. Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
9. Its embodiment of design elements that make it structurally or architecturally innovative;
10. Its unique location or singular physical characteristic that make it an established or familiar visual feature of the neighborhood, community, or city;
11. 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;

12. Its suitability for preservation or restoration; and
13. Its potential to yield information important to history and prehistory.

Any structure, property, or area that meets one or more of the above criteria shall also have sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or restoration.

d. Public Meeting on Landmarks and Historic Districts. Upon receipt of a completed nomination of a Landmark or Historic District, the Kirksville Historic Preservation Commission shall schedule a public meeting to solicit input and comment on the proposed nomination and guidelines for Certificate of Appropriateness.

e. Report and Recommendation of Kirksville Historic Preservation Commission. The KHPC shall, within 120 days from receipt of a completed nomination in proper form, adopt by resolution a recommendation that the nominated Landmark or Historic District does or does not meet the criteria for designation in Section IV of this ordinance. The resolution shall be accompanied by a report to the Planning and Zoning 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;
2. Explanation of the integrity or lack of integrity of the nominated Landmark or Historic District;

In the case of a nominated Landmark found to meet the criteria for designation:

1. The significant exterior architectural features of the nominated Landmark that should be protected;
2. The types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit, that should be reviewed for appropriateness pursuant to the provisions of Section IV through IX of this ordinance;
3. Archaeological significance and recommendations for interpretation and protection.

In the case of a nominated Historic District found to meet the criteria for designation:

1. The types of significant exterior architectural features of the structures within the nominated Historic District that should be protected;
2. The types of alterations and demolitions that should be reviewed for appropriateness pursuant to the provisions of Section IV through IX of this ordinance;
3. The type and significance of historic and prehistoric archaeological sites within the nominated Historic District;
4. Proposals for design guidelines of KHPC review of Certificates of Appropriateness within the nominated Landmark or Historic District;
5. The relationship of the nominated Landmark or Historic District to the ongoing effort of the KHPC to identify and nominate all potential cultural resources that meet the criteria for designation;
6. Recommendations as to appropriate permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, sign regulations, lot size, and parking regulations necessary or appropriate to the preservation of the nominated Landmark or Historic District, including recommendations for buffer zones to protect and preserve visual integrity;
7. A map showing the location of the nominated Landmark and/or the boundaries of the nominated Historic District.

The recommendations and report of the KHPC shall be sent to the Planning and Zoning Commission following the vote on the resolution and shall be available to the public in the Office of the City Clerk, or on the City's website: www.kirksvillemcity.com.

f. Notification of Nomination. The Planning and Zoning Commission shall schedule and hold a public hearing on the nomination following receipt of a report and recommendation from the KHPC that a nominated Landmark or Historic District does or does not meet the criteria for designation. The meeting shall be scheduled, held, and conducted in the same manner as other meetings to consider applications for zoning map amendments or ordinance amendments. Notice of the date, time, place and purpose of the meeting and a copy of the completed nomination form shall be sent by regular mail to the owner(s) of record and to the nominators.

g. Public Hearing. Oral or written testimony concerning the significance of the nominated Landmark or Historic District shall be taken at the public hearing from any person concerning the nomination. The Kirksville Historic Preservation

Commission may present expert testimony or present its own evidence regarding the compliance of the nominated Landmark or Historic District with the criteria for consideration of a nomination set forth in Section IV of this ordinance.

h. Determination by Planning and Zoning Commission. Within a reasonable period of time following the close of the public hearing, the Planning and Zoning Commission shall make a determination upon the evidence whether the nominated Landmark or Historic District does or does not meet the criteria for designation. Such a determination shall be made upon a motion and vote of the Planning and Zoning Commission and shall be accompanied by a report stating the findings of the Planning and Zoning Commission concerning the relationship between the criteria for designation in Section IV of this ordinance and the nominated Landmark or Historic District and all other information required by Section IV of this ordinance.

i. Notification of Determination. Notice of the determination of the Planning and Zoning Commission, including a copy of the report, shall be sent by regular mail to the owner of record of a nominated Landmark and of all property within a nominated Historic District and to the nominator within fourteen (14) days following adoption of the resolution. Within thirty (30) days following a determination by the Planning and Zoning Commission that the nominated Landmark or Historic District does meet the criteria for designation, a copy of the resolution and report accompanied by a recommendation that the nominated Landmark or Historic District be designated shall be sent to the City Council.

j. Appeal. A determination by the Planning and Zoning Commission that the nominated Landmark or Historic District does not meet the criteria for designation shall be a final administrative decision reviewable under the Missouri Administrative Procedure and Review Act provided, however, that the nominator or any owner of the nominated Landmark or of property within the nominated Historic District, may within thirty (30) days after the postmarked date of the notice of the determination file with the City Clerk a written appeal to the City Council.

k. Action by City Council. The City Council shall, within ninety (90) calendar days after receiving the recommendation that the nominated Landmark or Historic District be designated or receiving a written appeal, either reject the recommendation or written appeal or designate the Landmark or Historic District by an ordinance. The City Council shall hold a public hearing before enacting the resolution or ordinance and provide notice and take testimony in the same manner as provided in Section IV f and g of this ordinance. The Codes & Planning Director shall provide written notification of the action of the City Council by regular mail to the nominator, the appellant, and the owner(s) of record of the nominated Landmark or of all property within a nominated Historic District. The notice shall include a copy of the designation ordinance if passed by the City Council and shall be sent within fourteen (14) days of the City Council action. A

copy of each designation ordinance shall be sent to the members of the KHPC, the Planning and Zoning Commission, and to the Codes and Planning Director.

I. The Designation Ordinance. Upon designation, the Landmark or Historic District shall be classified as “H – Historic”, and the designating ordinance shall prescribe the significant features; the types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit that should be reviewed for appropriateness; the design guidelines for applying the criteria for review of appropriateness; permitted uses; special uses; height and area regulation; minimum dwelling size; floor area; lot size; sign regulation; and parking regulations. The official zoning map of the City of Kirksville shall be amended to show the location of the “H – Historic” zoning district as an overlay zone.

m. Interim Control. No building permit shall be issued by the Codes Department of the City of Kirksville for alteration, construction, demolition, or removal of a nominated Landmark or of any property or structure within a nominated Historic District from the date of the meeting of the Kirksville Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination by the City Council unless such alteration, removal, or demolition is authorized by formal resolution of the City Council as necessary for public health, welfare, or safety. In no event shall the delay be for more than one hundred eighty (180) days.

n. Amendment and Rescission of Designation. The designation of a Landmark or Historic District may be amended or rescinded upon petition to the Kirksville Historic Preservation Commission and compliance with the same procedure and according to the same criteria set forth herein for designation.

Section V: Applications for Certificates of Appropriateness

a. Certificate of Appropriateness – When Required. A Certificate of Appropriateness shall be required before the following actions affecting the significance of any Landmark or any structure within a Historic District may be undertaken:

1. Any construction, alteration, or removals requiring a building permit from the City of Kirksville;
2. Any demolition in whole or in part requiring a demolition permit from the City of Kirksville;
3. Any construction, alteration, demolition, or removal affecting a significant exterior architectural feature or appearance as specified in the ordinance designating the Landmark or Historic District;

4. Any construction, alteration, or removal involving earth disturbing activities that might affect archaeological resources;
5. Any actions to correct a violation of a minimum maintenance standard.

Applications for a Certificate of Appropriateness shall include accompanying plans and specifications affecting the significance of a designated Landmark or of a property within a designated Historic District; and applications for demolition permits shall include plans and specifications for the contemplated use of the property. Applications for building and demolition permits shall be forwarded by the Codes & Planning Director to the Kirksville Historic Preservation Commission within thirty (30) days following receipt of the application. A building or demolition permit shall not be issued until a Certificate of Appropriateness has been issued by the KHPC. Any applicant may request a meeting with the KHPC before the application is reviewed by the KHPC or during the review of the application. Application for review of construction, alteration, demolition, or removal not requiring a building permit for which a Certificate of Appropriateness is required shall be made on a form prepared by the KHPC and available at the Office of the City Clerk. The KHPC shall consider the completed application at its next regular meeting.

b. Stop Work Order. Whenever the Kirksville Historic Preservation Commission has reason to believe that an action for which a Certificate of Appropriateness is required has been initiated, or is about to be initiated, or that a violation of the conditions of a permit has occurred, it shall request that the Codes Department of the City of Kirksville make every reasonable effort to contact the owners, occupants, contractor or subcontractor and inform them of proper procedures. If the KHPC or the Codes Department determines that a stop work order is necessary to halt an action, they shall send a copy of the stop work order by certified mail return receipt requested to the owners, occupants, contractors and subcontractors, and notify them of the process of applying for a Certificate of Appropriateness. A copy of the proper application form shall be included in the notice. If necessary, a second or subsequent stop work order may be issued for the same project.

Section VI. Determination by the Kirksville Historic Preservation Commission.

a. Timeline of a Certificate of Appropriateness. The Kirksville Historic Preservation Commission shall review the application for a building or demolition permit or for a Certificate of Appropriateness and issue or deny the permit within sixty (60) days of receipt of the application. Written notice of the approval or denial of the application for a Certificate of Appropriateness shall be provided the applicant and the Kirksville Codes and Planning Director within fourteen (14)

days following the determination and shall be accompanied by a Certificate of Appropriateness in the case of an approval.

b. Voiding a Certificate of Appropriateness. A Certificate of Appropriateness shall become void unless construction is commenced within six (6) months of the date of issuance. Certificates of Appropriateness shall be issued for a period of eighteen (18) months and are renewable. If the project is not completed according to the guidelines provided in the Certificate of Appropriateness, the project shall be deemed in violation of this ordinance.

c. Denial of a Certificate of Appropriateness. A denial of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for the denial. The Kirksville Historic Preservation Commission shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the KHPC to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the KHPC. The applicant may resubmit an amended application or reapply for a building or demolition permit that takes into consideration the recommendation of the KHPC.

Section VII: Review of Public Improvement and Land Acquisition Projects

Public improvement and land acquisition projects by the City of Kirksville or any of its departments or agencies shall be reviewed by the Kirksville Historic Preservation Commission in the following manner:

1. The Kirksville Historic Preservation Commission shall review and comment upon any public improvement project proposed by the City of Kirksville or any of its agencies or departments within any historic district, on the site of or within two hundred (200) feet of any Landmarks, or within two hundred (200) feet of any boundary of a Historic District. The Department of Public Works shall send a completed preliminary design for a public improvement project to the KHPC simultaneously with its submission to the City Council for approval. The KHPC shall have at least thirty (30) days to complete its review and report to the City Council, except when the Department of Public Works, if necessary to accelerate the design review process, may specify a time less than thirty (30) days within which the KHPC shall complete its review and report to the Council.
2. The Kirksville Historic Preservation Commission shall review and comment upon any proposed acquisition of a Landmark or of land or buildings within a Historic District by the City of Kirksville or any of its agencies or departments. The City Council or the Department of Public Works shall, at the earliest possible date that will not interfere with acquisition negotiations, send the KHPC information concerning the

location, size, purchase price, current use, and proposed use of the land or building to be acquired, and specify the date by which the KHPC shall report to the City Council.

3. The Kirksville Historic Preservation Commission shall review the public improvement or land acquisition projects to determine its effect upon the historic, archaeological or architectural character of the Landmark or Historic District and report to the City Council within any time specified by the City Council or Planning Department but not to exceed forty-five (45) days. The report by the KHPC shall include any recommendations for changes to the preliminary design or land acquisition that will lessen or alleviate any adverse effect of the proposed project upon the historic, archaeological, or architectural character of the Landmark or Historic District. The City Council shall take no final action on the preliminary design or land acquisition until it has received and reviewed the report of the KHPC.

Section VIII: Standards for Review

In considering an application for a building or demolition permit or for a Certificate of Appropriateness, the Kirksville Historic Preservation Commission shall be guided in principal by the Secretary of the Interior's Standards, as follows, in addition to any design guidelines in the ordinance designating the Landmark or Historic District. Applications, standards for review and design guidelines shall be available in the Office of the City Clerk for distribution to the public.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterizes a historic property shall be preserved.

6. Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Section IX: Design Guidelines

Design guidelines for applying the criteria for review of Certificates of Appropriateness shall, at a minimum, consider the following architectural criteria:

1. **Height** – The height of any proposed alteration or construction should be compatible with the style and character of the Landmark and with surrounding structures in a Historic District.
2. **Proportions of Windows and Doors** – The proportions and relationships between doors and windows should be compatible with the architectural style and character of the Landmark and with surrounding structures within a Historic District.
3. **Relationship of Building Masses and Spaces** – The set back and relationship of a structure within a Historic District to the open space between it and adjoining structures should be compatible.

4. **Roof Shape** – The design of the roof should be compatible with the architectural style and character of the Landmark, and with surrounding structures in a Historic District.
5. **Landscaping** – Landscaping should be compatible with the architectural character and appearance of the Landmark and or surrounding structures and landscapes in Historic Districts.
6. **Scale** – The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in a Historic District.
7. **Directional Expression** – Facades in Historic Districts should blend with other structures with regard to directional expression. Structures in a Historic District should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a Landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.
8. **Architectural Details** – Architectural details including materials, colors, and textures should be treated so as to make a Landmark compatible with its original architectural style and character and to preserve and enhance the architectural style or character of a Landmark or Historic District.
9. **Signage** – The character of signs should be in keeping with the historic architectural character of a Landmark or Historic District. Character of a sign includes the number, size, area, scale, location, type, (e.g., off-site advertising signs and on-site business signs), letter size or style, and intensity and type of illumination.
10. **Minimum Maintenance** – Significant features should be kept in a condition of good repair and maintenance. All structural and mechanical systems should be maintained in a condition and state of repair that will prevent decay, deterioration or damage to significant features, or otherwise adversely affect the historic or architectural character of structures within a Historic District.

SECTION X: Certificate of Economic Hardship

Application for a certificate of economic hardship shall be made on a form prepared by the Kirksville Historic Preservation Commission only after a certificate of appropriateness has been denied. The KHPC shall schedule a public hearing concerning the application and provide public notice and individual notice to the applicant, owners of record, and owners adjacent to the property in the same manner as in Section IV, and any person may testify at the hearing

concerning economic hardship. All testimony, objections thereto and rulings at such public hearing shall be taken down by a reporter employed by the city for that purpose, or, if electronic tape recording equipment is available, by such electronic means. The KHPC may solicit expert testimony or require that the applicant for a certificate for economic hardship make submissions concerning any or all of the following information before it makes a determination on the application.

1. Estimate of the cost of the proposed construction, alteration, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the KHPC for changes necessary for the issuance of a certificate of appropriateness;
2. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;
3. Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition or removal; after any changes recommended by the KHPC, and, in the case of a proposed demolition, after renovation of the existing property for continued use;
4. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure;

Section XI: Maintenance of Historic Properties

Ordinary Maintenance Exclusion. Nothing in the section shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure described in Section IV.

Definition of Ordinary Maintenance. Any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration or decay of or damage to a structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

Minimum Maintenance Requirement. All buildings and structures designated by city ordinance as “H” – Historic shall be preserved against decay and deterioration and free from certain structural defects in the following manner, by the owner thereof or such other person or persons who may have the legal

custody and control thereof shall repair such building if it is found to have any of the following defects:

1. The deterioration of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of external chimneys;
4. The deterioration or crumbling of plasters or mortar;
5. The deterioration or ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
6. The peeling of paint, rotting, holes, and other forms of decay;
7. The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

If minimum maintenance is not being maintained, the owner of the property or other person having legal custody thereof shall be notified by an Inspector from the Codes Department. The notice shall be by certified mail or first class mail and shall specify each item in the property or Landmark that fails to meet minimum maintenance requirements. The owner or other person having legal custody of the property shall be given a due date with a reasonable amount of time to comply with the minimum maintenance requirements. The Codes & Planning Director or his designated Building Inspector, may extend the due date for good cause. If after the original time period or any extension granted by the Building Inspector the owner or person having legal custody of the property should fail to meet the minimum maintenance requirements, the owner or person having legal custody of the property shall be in violation of this section and punished in accordance with Section XVI.

Section XII: Review of Applications for Demolition of Structures

1. Applications for demolition of existing structures which are already designated as a Landmark or part of a Historic District, or are a planned or pending Landmark or part of a Historic District must be approved by a majority vote of the KHPC, in regular or special session, with a Certificate of Appropriateness.
2. Applications for demolition of an existing structure, which could be a residential home, or a structure which has never been used as a residential home, such as a garage, accessory building, or commercial building, and

which is not a current, planned, or pending Landmark or part of a Historic District, must be approved by the Chairman and Vice-Chair of the KHPC, and by the Codes & Planning Director. If unanimous consent of these three persons is not given, the matter must be presented before the full Kirksville Historic Preservation Commission in regular or special session. Approval of the 3 persons listed above would be required on a Certificate of Appropriateness.

Section XIII: Review of Applications for Zoning Amendments, Special Use Permits and Variances.

Applications for zoning amendments, special use permits, or variances for a Landmark or structures within a Historic District shall be referred to the Kirksville Historic Preservation Commission by the Kirksville Codes & Planning Director at least ten (10) days prior to the date of the public hearing set by the Planning and Zoning Commission or the Board of Adjustment. The KHPC may review these applications using any format which it deems appropriate provided, however, that the applicant shall be notified of the time and place of such review and shall be given the opportunity to appear and be heard. Prior to the public hearing, the KHPC shall forward its comments to the Codes & Planning Director for presentation to the Planning and Zoning Commission or to the Board of Adjustment for their consideration in reviewing the application.

Section XIV: Appeals

If the Kirksville Historic Preservation Commission denies an application for a Certificate of Appropriateness, the KHPC shall work with the applicant to arrive at a mutually satisfactory alternative to the proposed activities. If agreement cannot be reached within six months, the applicant may file with the Codes & Planning Director a written appeal to the Board of Adjustment. In acting upon the appeal, the Board may grant a variance from the strict interpretation of this ordinance when such will not materially affect the health or safety of the applicant and general public.

Section XV: Public Safety Exclusion

None of the provisions of this ordinance shall be construed to prevent any measures of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any structure, other feature or part thereof, where such condition has been declared unsafe or dangerous by the Building Inspector, and where the proposed measures have been declared necessary, by such department or departments, to correct the said condition; provided, however, that only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any

structure or other feature shall be damaged by fire or other calamity, or by Act of God or by the public enemy, to such an extent that in the opinion of the aforesaid department or departments it cannot reasonably be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws.

Section XVI: Fees and Penalties

The Board shall establish an appropriate system of processing fees for the review of nominations and Certificates of Appropriateness.

The current designated fee for a Certificate of Appropriateness is: None.

The current designated fee for the nomination of a Landmark or for a Historic District is: None.

It shall be unlawful for any person to undertake or cause an alteration, construction, demolition or removal of any nominated or designated Landmark or structure within a nominated or designated Historic District without a Certificate of Appropriateness.

It shall be unlawful to not maintain designated Landmarks or structures within designated Historic Districts within the minimum maintenance requirements of Section XI of this ordinance.

Any person convicted of violating the provisions of this ordinance shall be punished according to Sec. 1-7 (a,b,and c) of the Code of Ordinances of the City of Kirksville, Missouri.

The provisions of this Ordinance shall be numbered accordingly and included with the City of Kirksville, Missouri, City code as deemed necessary by the Municipal Code Corporation.

This ordinance shall be effective from and after the date of its passage.

**PASSED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR ON THIS
DAY OF , 2008.**

Martha Rowe, Mayor

ATTEST:

Vickie Brumbaugh, City Clerk