

09/09/93

ORDINANCE NO. 42-146

AN ORDINANCE AMENDING SECTIONS 2.12.1016, 2.12.1023 AND 2.12.1024 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO HISTORIC PRESERVATION AND REPEALING THE ORIGINALS OF SAID SECTIONS.

9-14-93
EMERGENCY

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. SECTION 2.12.1016 OF THE CODE OF THE CITY OF WICHITA, KANSAS IS AMENDED TO READ AS FOLLOWS:

"DEFINITIONS. As used in this Chapter, the following words, terms and phrases shall have the meanings set out below:

(a) 'Appurtenances and environmental setting' is the entire parcel as of the date of 'Historic District' or 'Historic Landmark' designation, on which is located an historic resource, and to which it relates physically and/or visually. 'Appurtenances and environmental setting' includes, but is not limited to, interior structures, fixtures and features, walkways and driveways (whether paved or not), vegetation (including trees, gardens, lawns), fences, gateways, rocks, open space and waterways.

(b) 'Demolition' shall mean any and all activity that requires a demolition permit under the provisions of the building code and shall also include any other activity by the owner or any party in possession of an historic resource or historic resource within an historic district which creates or results in:

(i) a dangerous or unsafe condition, as defined in §18.16.040 of this Code; or

(ii) the removal, destruction or deterioration of exterior walls, roof, chimneys, doors, windows, porches, steps or trim or of interior structures, fixtures and features which will or could cause permanent damage, injury or loss of or to historically significant exterior or interior features.

(b) 'Demolition by neglect' means the failure to provide ordinary and necessary maintenance and repair to an historic resource or historic resource within an historic district, whether such neglect is willful or not, on purpose of by design by the owner or any party in possession of such a site, which results in any of the following conditions:

(1) The deterioration of exterior features so as to create or permit a dangerous or unsafe condition to exist, as defined by Section 18.16.040.

(2) The deterioration of exterior walls, roof, chimneys, doors, windows, porches, steps or trim; the lack of adequate waterproofing; or deterioration of interior features or foundations which will or could result in permanent damage, injury or loss of or to exterior features.

(c) 'Design review committee' means a committee of three voting members with one alternate to be appointed by the president for the purpose of reviewing certificates of appropriateness. The design review committee

shall work closely and informally with the preservation staff for the purpose of reviewing, reporting and recommending action to the board on requests for Certificate of Appropriateness for all major projects. The design review committee shall follow the guidelines adopted by the board for Certificate of Appropriateness review. If the committee recommends denial of a Certificate of Appropriateness, it shall accompany such a denial with an explanation detailing why the request should be denied.

(d) 'Historic landmark' means an historic resource of historical, architectural, archaeological, or cultural importance or value which the city council determines shall be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the people and which is so designated.

(e) 'Historic landmark district' means a group of historic resources which are significant as a cohesive unit and contribute to the historical, architectural, archaeological or cultural values of the city, state or nation and which is so designated by the city council.

(f) 'Historic Resource' means a district, site, land area, building, interior, structure or object, including appurtenances and environmental setting, which has historical, cultural, aesthetic, architectural and/or archaeological significance, or is a district, site, land area, building, interior, structure or object with potential importance or value.

(g) 'Permit' means a building, demolition, moving, sign, fence, parking lot, location, roofing, siding, or swimming pool permit which is issued by the office of central inspection.

(h) 'Preservation district' is a contiguous building grouping of potentially significant historic resources so defined in the city's preservation plan.

(i) 'Preservation staff' means personnel assigned to provide staff services for the historic preservation board.

(j) 'Project classification.' For the purpose of the certificate of proposed work involving an historic landmark or resource within a historic district shall be classified as major or minor.

(1) Major projects include:

(A) Any undertaking requiring a permit on a national, state or local register landmark unless determined minor by the preservation staff and/or the design review committee; or on a structure within a national state or local landmark district, unless determined minor by preservation staff and/or the design review committee;

(B) Any demolition permit or moving permit for any structure listed as an historic resource in the reservation plan or for any

building plan adopted by the city council; (C) Any project deemed major by any design review committee member.

(2) Minor Project. For the purpose of Certificate of Appropriateness review, a minor project is any project requiring a permit on a local, state, or national landmark or any project requiring a permit within a local, state or national historic landmark district that proposes repairing or restoring an existing element or feature, or replacing an element or material with identical material and design to that which is existing.

(k) 'Project' means any activity which would affect, change, or impact the appearance, environs or integrity of a historic resource."

SECTION 2. Section 2.12.1023 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

"Certificate of Appropriateness Review. The following procedures/requirements apply to Certificate of Appropriateness review:

(a) A permit for any project affecting a designated historic landmark or any property within a designated historic landmark district shall not be issued to any applicant by the Office of Central Inspection unless an application for a Certificate of Appropriateness has first been reviewed and approved by either the preservation staff, the Historic Preservation Board and/or the City

Council. Projects not requiring a permit but which propose to alter features which have been defined in a district's preservation guidelines as requiring protection shall require a Certificate of Appropriateness application. Projects which will or have the potential to damage or destroy historic features of an historic landmark or an historic resource which is located within an historic district shall be subject to Certificate of Appropriateness review. Projects described in §2.12.1024(b) shall be subject to Certificate of Appropriateness review.

(b) When applying for a Certificate of Appropriateness, the applicant shall provide plans, specifications or other documentation pertaining to the work as required on board-adopted application forms. A completed Certificate of Appropriateness application and accompanying materials must be submitted to the metropolitan area planning department where the preservation staff will review the application and determine if the proposed work is a major or minor project.

(c) A Certificate of Appropriateness for a major project shall receive preliminary review by the design review committee. The committee shall then report and make a recommendation to the board. The board shall review the application and recommend approval, approval with conditions, or denial

within thirty days of the receipt of the application. If approved and provided that a protest is not filed within five business days, preservation staff shall issue a copy of the Certificate of Appropriateness to the applicant and provide a copy to the Office of Central Inspection and the applicant. If protest is filed by the applicant or any interested party with the preservation staff within five business days of the board's approval, the Certificate of Appropriateness shall not be issued until the City Council holds a public hearing regarding the application. This public hearing shall be at the next possible City Council meeting.

(d) A Certificate of Appropriateness for a minor project shall be reviewed and approved or denied by the preservation staff. If approved, the preservation staff shall provide a copy of the signed application to the applicant and provide documented approval to the Office of Central Inspection.

(e) If no action has been taken by the preservation staff and/or the board within forty-five days for major projects and within fifteen days for minor projects after the date of receipt by the Metropolitan Area Planning Department of the completed application, the building permit may be applied for with the Office of Central Inspection.

(f) Any applicant or other interested party wishing to appeal a denial or approval with conditions of any Certificate of Appropriateness may appeal to the next higher authority. The order of the appeal procedure shall be: (1) the preservation staff, (2) the design review committee, (3) the historic preservation board, and (4) the City Council.

(g) No change shall be made in the work defined in the Certificate of Appropriateness without resubmittal and approval thereof in the same manner as provided above.

(h) After a decision is reached denying with prejudice an application for Certificate of Appropriateness, a resubmittal of application will not be accepted for additional hearing within a twelve-month period from the date of final decision except upon written request by the applicant indicating the incorporation of recommended changes in plans and specifications to the original application. Denial of a Certificate of Appropriateness without prejudice permits reapplication immediately.

(i) In the event the staff assigned to the board certifies to the City Manager that the board and/or its president are unable to process a Certificate of Appropriateness for a major project in a

timely fashion (through lack of a quorum or otherwise) then the City Council is empowered to act upon written recommendation of the preservation staff without the review procedure set forth above."

SECTION 3. Section 2.12.1024 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

"Historic landmark - Demolition, moving or damage or destruction of historic features.

(a) If an application is received by the Office of Central Inspection for demolition or moving of any historic resource the applicant shall be referred to the preservation staff for a Certificate of Appropriateness application. Review of such application for a Certificate of Appropriateness shall be as provided in §2.12.1023.

(b) For a project which involves demolition or which will or has the potential to damage or destroy historic features of an historic landmark or resource which is listed on the national, state and local registers, the proponent of such project shall, before doing any of the demolition or work in furtherance of such project, whether or not a building or other permit is required to be obtained to do such demolition or work, submit a Certificate of Appropriateness for review as provided for in §2.12.1023.

AMENDED AND
REPEALED BY

ORD. NO. 42-645

DATE 3-21-95

(c) After review of Certificate of Appropriateness and, upon the recommendation of the historic preservation board, the city council shall hold a hearing within thirty days of the date of the board's recommendation. The city council shall hear all other interested parties. Besides the recommendations of the board, the city council shall consider the state of repair of the building, the reasonableness of the cost of restoration or repair, owner hardship, the purpose of preserving the designated historic landmark, alternatives presented by interested parties, the character of the neighborhood and all other factors which it finds appropriate. The owner of the landmark shall bear the burden of proof demonstrating hardship.

(d) The City Council may approve the Certificate of Appropriateness or deny the Certificate of Appropriateness if it determines that feasible alternatives to demolition, moving or the proposed project exist and that in the interest of preserving historical values, the historic landmark or resource should not be demolished, moved or altered.

(e) In the event of an emergency demolition of a designated historic resource within an historic landmark district, office of central inspection staff shall notify the preservation staff as soon as is possible."

SECTION 4. The originals of Sections 2.12.1016, 2.12.1023, and 2.12.1024 are hereby repealed.

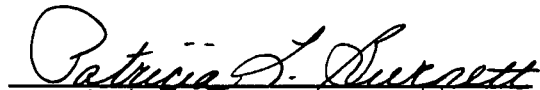
SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 14th day of September 1993.

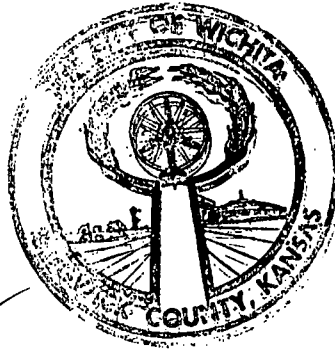


Elma Broadfoot, Mayor


ATTEST:



Patricia L. Burnett
Deputy City Clerk



Approved as to Form:



Gary E. Rebenstorf
Director of Law

DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA FOR THE DECLARATION BY THE GOVERNING BODY OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION AND PASSAGE ON THE DATE OF ITS INTRODUCTION OF AN ORDINANCE BELOW DESIGNATED.

TO THE MEMBERS OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

I, Elma Broadfoot, Mayor of the City of Wichita, Kansas hereby request that the Governing Body declare that a public emergency exists requiring the final adoption and passage on the day of its introduction, to-wit, of an ordinance entitled:

SCANNED

AN ORDINANCE AMENDING SECTIONS 2.12.1016, 2.12.1023 AND 2.12.0124 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO HISTORIC PRESERVATION AND REPEALING THE ORIGINALS OF SAID SECTIONS.


The general nature of such public emergency is that it is in the public interest to have the amended historic preservation ordinances immediately effective in order to adequately protect and preserve designated historic landmarks and historic resources, the continued existence and integrity of which is threatened. It is, therefore, expedient at this time that the Governing Body find and declare that a public emergency exists by reason of the foregoing, and that the above-entitled ordinance be finally adopted on the day of its introduction.

Executed at Wichita, Kansas, this 14th day of September
1993.



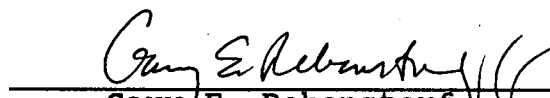
Elma Broadfoot, Mayor

ATTEST:



Patricia L. Burnett
Deputy City Clerk

Approved as to Form:



Gary E. Rebenstorf
Director of Law

