

# **ORDINANCE NO. 3782**

**AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING THE FORT SCOTT HISTORIC PRESERVATION AND RESOURCE COMMISSION (FSHPRC) TO THE CITY CODE OF THE CITY OF FORT SCOTT, KANSAS.**

**WHEREAS**, the City Commission recognizes a need to have clear, effective, and enforceable provisions governing and Establishing the Fort Scott Historic Preservation and Resource Commission; and

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT SCOTT, BOURBON COUNTY, KANSAS:**

## ***ARTICLE I - IN GENERAL***

### **A. POLICY**

- (1) The governing body of the City of Fort Scott, Kansas, finds and declares that the present and future economic and general welfare of the people of the City is generally founded on the contributions of the past. Many of these contributions are manifested in districts, sites, buildings, structures, archeology, and objects which reflect the richness and diversity of the City's history by their design, association, and integrity.
- (2) The governing body of the City of Fort Scott further finds that many historic properties have been lost through demolition and destructive rehabilitation, notwithstanding the feasibility of preserving and continuing the use of such properties, and without adequate consideration of the irreplaceable loss to the people of the City of the historic, cultural, and architectural values represented by such sites, buildings, structures and objects. It is the sense of the governing body that economic and general welfare of the City cannot be maintained or enhanced by disregarding the historic, cultural, and architectural heritage of the City.

### **B. PURPOSE**

The purposes of this chapter are:

- (1) To establish and organize the Fort Scott Historic Preservation and Resource Commission, hereafter referred to as the FSHPRC;
- (2) To identify, protect and enhance districts, sites, buildings, structures and objects which represent or reflect distinctive and important elements of the City's historic, cultural and architectural heritage;
- (3) To protect and enhance the City's attractions for tourists and visitors and provide incidental support and stimulus to business and industry;
- (4) To make the preservation of historic places an integral part of planning for land use, economic development, housing and transportation;
- (5) To provide resources and information to aid and promote historic preservation;

## C. DEFINITIONS

For the purpose of this chapter, certain terms and words are hereby defined. The word "shall" is mandatory and not directory.

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

*Adjacent structures/parcels:* A structure or parcel having a common parcel boundary or located immediately next to a structure or parcel.

*Administrator:* The designated individual assigned by the City manager to administer, interpret and enforce this chapter.

*Adaptive use:* The process of changing the use of a structure or property to a use other than that for which the structure or property was originally designed.

*Alteration:* As applied to a structure, a change or rearrangement in the structural parts of an existing structure. Enlargement, whether by extending a side, increasing the height, or moving from one location or position to another shall be considered an alteration.

*Building:* A structure, such as a house, barn, church, hotel, courthouse, City hall, social hall, commercial building, library, factory, mill, train depot, theater, school, store or similar construction, created to shelter any form of human activity. The term also may refer to a small group of buildings consisting of a main building and subsidiary buildings which constitute a historically and functionally related unit such as a courthouse and jail, house and barn, mansion and carriage house, church and rectory, and farmhouse and related outbuildings.

*Certificate of Appropriateness:* A certificate issued by the FSHPRC, or on appeal by the City Commission, approving plans for alteration, construction, demolition or other matters relating to historic properties.

*City:* The municipal corporation named the City of Fort Scott, Kansas.

*City Commission:* The Board of City Commissioners of Fort Scott, Kansas.

*Contributing:* A building, site, structure or object which adds to the architectural qualities, historic association or archeological values of a site or district for which a property is significant because:

- (1) It was present during the pertinent historic time;
- (2) It possesses integrity and reflects significant historic character or is capable of yielding important information about the pertinent historic period; or
- (3) It independently meets the standards and criteria of this chapter.

*District:* An area that possesses a significant concentration of, relationship between, or continuity of sites, buildings, structures or objects united historically or architecturally by plan or physical development. Districts may include college campuses, the downtown area, residential areas, commercial areas, industrial complexes, civic centers, planned street systems and large related sites, buildings, structures or objects which are geographically separated. In such cases, visual continuity should not be necessary to convey the historic relationship of a group of related resources.

*Exterior feature:* Elements and components of the outer surface of a structure including, but not limited to, building materials, windows, outside doors, outdoor light fixtures, attached signs, fixtures, carvings, columns, railings, stairs and steps, retaining walls, fences and fence posts, hitching posts, decorations, dormers, chimneys, false fronts, paint colors, surface textures or parapets.

*Governing body:* The City Commission of Fort Scott, Kansas.

*Historic preservation:* The study, identification, protection, restoration and rehabilitation of buildings, sites, structures, objects, districts and areas significant to the history, architecture, archeology or culture of the City, state or nation. Preservation may include work to halt the process of decay, normal maintenance and other measures to retain and sustain the nature, form, material and integrity of historically or architecturally important properties, structures or districts.

*Historic reconstruction:* The reproduction of the exact form and detail of a vanished building, site, structure or a part thereof, as it appeared at a pertinent time using materials based on precise historical documentation and specification, including construction method.

*Historic restoration:* The accurate reconstruction of structural elements matching the original construction method and material in shape, size, texture, including removal of materials that are not appropriate to the structure.

*Historic site:* The location of a significant event, prehistoric or historic occupation or activity, building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural, or archeological value, regardless of the value of any existing structure.

*Fort Scott Register of Historic Places:* The current Fort Scott Register of Historic Places as prepared, approved and amended by the FSHPRC and authorized by this chapter.

*Interior features:* Elements and components of the inside of a structure including, but not limited to, building materials, inside doors, door and window moldings, wall covering, paint colors, indoor light fixtures, lamps, furniture, draperies, fireplace hearths, stairways, appliances, heating and ventilating equipment, carvings, columns, railings, decorations and surface textures.

*Landscape feature:* Any element or component of outdoor open space including, but not limited to, fences, walls, retaining walls, gates, sidewalks, walkways, driveways, parking lots, patios, terraces, decks, ground covers, trees, plants, outdoor furniture, exterior light standards, fountains, statuary, detached signs and other such elements.

*Noncontributing:* A building, site or object that does not add to the architectural qualities, historic association or archeological values of a historic place or district because:

- (1) It was not present during the pertinent historic time;
- (2) Due to alterations, disturbances, additions or other changes, it no longer possesses integrity, reflects its significant historic character or is capable of yielding important information about the pertinent period; or
- (3) It does not independently meet the standards and criteria of this chapter.

*Normal maintenance and repair:* Any improvement or work for which a building permit is not required by City Ordinance.

*Object:* Those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. While an object may be movable by nature or design, it should be located in a specific setting or environment appropriate to its significant historic use, role or character. Objects include sculptures, monuments, street signs, fence posts, hitching posts, mileposts, boundary markers, statuary and fountains.

*Owner:* All owners of record of fee simple title as determined by publicly filed records.

## **ARTICLE II - FORT SCOTT HISTORIC PRESERVATION AND RESOURCE COMMISSION (FSHPRC)**

### **A. MEMBERSHIPS AND APPOINTMENTS**

The Fort Scott Historic Preservation and Resource Commission shall consist of seven members who shall be appointed by the governing body of the City. Members whose terms have expired shall continue to serve until their successors have been appointed. The following qualifications shall apply to appointees to FSHPRC:

- (1) All appointees shall be residents of the City.
- (2) All appointees should be persons who have demonstrated interest, knowledge or training in fields closely related to historic preservation, such as history, architecture, landscape architecture, architectural history, archeology, planning, real estate, law, finance, building trades, urban design and geography.

### **B. TERMS**

The terms of office for the initial members shall be as follows:

One year term - Three members

Two-year term - Four members

Thereafter, all terms shall be for a two-year period commencing on January 1 and terminating on December 31, two years hence.

### **C. OFFICERS**

<sup>1</sup> The FSHPRC shall annually elect a chairman and vice-chairman from its members. The administrator shall serve as secretary of the FSHPRC. In the absence of the chairman and vice-chairman, the secretary of the FSHPRC may convene a meeting of the FSHPRC. In such case, the first order of business shall be to elect a temporary chairman who shall conduct the meeting. The chairman and vice-chairman shall serve for a term of one year. The chairman and vice-chairman may succeed themselves.

### **D. RULES OF PROCEDURE**

The FSHPRC shall adopt bylaws and/or rules of procedure. The rules of procedure shall specify attendance requirements and cover potential conflicts of interest for members. Minutes of all meetings shall be kept by the administrator and shall be available for public inspection. The administrator shall provide a copy of the approved minutes for each FSHPRC meeting to the state historic preservation officer.

### **E. MEETINGS**

The times, dates and locations of FSHPRC meetings may be established by the chairman or a majority of the FSHPRC members. The FSHPRC shall meet at least quarterly. The chairman or, in the absence of the chairman, the vice-chairman, shall approve meeting agendas before the meeting. A simple majority of the FSHPRC members shall constitute a quorum of the FSHPRC. There must be a quorum present before the

FSHPRC may take any formal action but the FSHPRC may discuss items of business in the absence of a quorum.

#### **E. ANNUAL REPORT**

The FSHPRC shall prepare an annual report of its activities. The report shall be prepared not later than August 1 of each year and shall pertain to the period of July 1 through June 30. The report shall be submitted to the City Commissioners and the state historic preservation officer not later than August 1 of each year. The report shall include:

- (1) A report on the number and types of cases reviewed and their disposition;
- (2) A list of new historic designations made during the year;
- (3) A list of new appointments to the FSHPRC and the resumes of these new members;
- (4) The attendance records of FSHPRC members;
- (5) All minutes of meetings at which state and/or national register nominations were considered; and
- (6) The goals and objections for the coming year.

#### **G. EX-OFFICIO MEMBERS**

A representative designated by any of the following organizations may sit on the FSHPRC as an ex-officio member:

- (1) Fort Scott Planning Commission; and
- (2) Fort Scott City Commission

Ex-officio members shall not have voting power but may assist the FSHPRC in its various functions.

#### **H. COMMITTEES AND SUB COMMITTEES**

The FSHPRC may establish such committees or subcommittees as deemed necessary or convenient to carry out its various functions and duties. Such committees or subcommittees may be made up in part by members of the FSHPRC and may meet upon such schedule and for such purposes as established by the FSHPRC.

#### **I. POWERS AND DUTIES**

The FSHPRC shall have the power and authority to do the following:

- (1) Adopt its own bylaws and procedures related to the conduct of its meetings and implementation of this chapter.
- (2) Conduct an ongoing survey to identify historically and architecturally significant properties, structures and areas that exemplify the cultural, social, economic, political or architectural history of the nation, state or City.
- (3) Identify "historic structures", historic sites" and "historic districts" that are eligible for listing on the Fort Scott Register of Historic Places.

- (4) Make decisions on applications for designation of properties having historic, community or architectural value as "historic structures" or "historic sites" and make recommendations to the City Commission on applications for designation of "historic districts."
- (5) Research and recommend to the City Commission an appropriate system of markers for designated historic structures, historic sites and historic districts.
- (6) Prepare comments on any nominations to the state register of historic places or the national register of historic places. Such comments shall be subject to the approval of the City Commission before being submitted.
- (7) Inform and educate the citizens of Fort Scott concerning the historic and architectural heritage of the City and advise and assist owners of designated historic structures, historic sites or historic districts of physical and financial aspects of preservation, rehabilitation and restoration by publishing appropriate maps, newsletters, brochures and pamphlets, and by holding programs, workshops and seminars.
- (8) Review and act upon applications for certificates of appropriateness.
- (9) Make recommendations to the City Commission regarding funding for the purpose of carrying out the duties and powers of the FSHPRC and the purposes of this chapter.
- (10) Make recommendations to the City Commission regarding the hiring of such specialists or consultants, or recommend appointing such citizen advisory committees, as may be required from time to time.
- (11) Make comments to other City boards and commissions on any matter affecting historic structures, historic sites and historic districts.
- (12) Periodically make recommendations to the City Commission regarding actions the FSHPRC deems appropriate for the protection and continued use of historic structures, historic sites and historic districts.
- (13) Participate in a historic preservation-related educational programs.
- (14) Perform duties delegated to it pursuant to any agreement reached between the state historic preservation officer and the City Commission.
- (15) Recommend local incentives to encourage historic designation within the City.
- (16) Apply for and receive gifts, grants and bequests subject to the approval of the City Commission.
- (17) Undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to the implementation of the purpose of this chapter.

## **I. SURVEY**

The FSHPRC shall conduct an ongoing survey to identify structures, sites and districts that have historic, cultural or architectural importance or value to the community. The survey may review and evaluate any prior surveys and studies by a public or private organization and compile appropriate descriptions, facts and photographs and be consistent with the methods and forms provided by the Kansas State Historical Society.

The FSHPRC shall evaluate the information compiled through survey efforts and systematically identify properties that are potentially eligible for designation as indicated by survey results.

## **K. INVENTORY**

The FSHPRC shall create and maintain a detailed inventory of properties surveyed and evaluated for potential eligibility for designation. The inventory shall be maintained in a form compatible with the requirements of the Kansas State Historical Society and the Kansas Comprehensive Historic Preservation planning process.

## ***ARTICLE III - DESIGNATION OF SIGNIFICANT HISTORIC STRUCTURES, HISTORIC SITES AND HISTORIC DISTRICTS***

### **A. DESIGNATIONS**

There is hereby established the Fort Scott Register of Historic Places which shall include all historic structures, historic sites and historic districts designated as significant pursuant to this chapter.

### **B. APPLICATION FOR FORT SCOTT DESIGNATION**

To obtain historic designation an application shall be filed with the FSHPRC as follows:

- (1) Nomination of a historic structure, a historic site or a historic district for placement on the Fort Scott Register of Historic Places shall be made to the FSHPRC on an application prepared by the FSHPRC and may be made by any person or entity.
- (2) The application shall contain the following information in addition to such other information deemed necessary and advisable by the FSHPRC:
  - a. The legal description and address of the pertinent structures and/or properties;
  - b. Name and address of the owner(s);
  - c. The approximate date of the original construction and the date of any major improvement or alteration, if known;
  - d. The names of the architect and builder, if known;
  - e. The names of the original owner or occupant, if known;
  - f. A statement of why the property is historically or architecturally important;
  - g. A list of sources that document the historical significance; and
  - h. Black and white photographs of the structures and/or property(s).
- (3) No application for designation of a historic structure or historic site shall proceed forward unless all owners have consented in writing to the designation. No application for designation of a historic district shall proceed forward unless both 51 percent of the owners of property within the nominated district and the owners of 51 percent of the property within the nominated district have consented in writing to the designation.

### **C. PUBLIC HEARING PROCEDURE**

- (1) *Public hearings.* The FSHPRC shall conduct a public hearing on each property nominated for designation at a reasonable time and place established by the FSHPRC. The hearing shall be held no later than 60 days following receipt of a completed application. The hearing may be held during a

regular meeting of the FSHPRC or during a special meeting of the FSHPRC called in part for that purpose.

- (2) *Notice of hearing.* At least 20 days in advance of the public hearing, notice shall be published in the official City newspaper. The notice shall state the date, time and place of the hearing and contain the street address and legal description of the nominated property. The FSHPRC shall also send by regular first class mail a written notice of the public hearing containing the same information as the published notice to the owners of all properties nominated for designation at least 20 days prior to the hearing.
- (3) *Conduct of hearing.* The hearing shall be conducted by the FSHPRC. Any person or entity may attend and participate in the meeting in person, by agent or by attorney subject to reasonable rules of order adopted by the FSHPRC.
- (4) The public hearing may be continued from time to time as the FSHPRC deems necessary to fully explore all issues relevant to the nomination. Once the notice requirements have been satisfied, the notice procedure need not be repeated as to the continuation of the public hearing on another date. Notice of the date, time and place of such public hearing continuation shall be announced at the time of the initial public hearing.

#### **D. FINDINGS AND CRITERIA FOR DESIGNATION**

The FSHPRC shall, based upon evidence submitted at the hearing, make a decision as to whether or not a nominated structure or site should be designated historic and shall make a recommendation to the City Commission as to whether a nominated district should be designated historic. The FSHPRC shall make findings in support of its decision or recommendation for designation that such structure, site or district has sufficient integrity of location, design, materials, workmanship or association to make it worthy of preservation or restoration; and that it possesses significant historical, archeological and/or architectural qualities and thus qualifies for designation pursuant to one or more of the following criteria:

*Note(s) – The following shall hereafter be referred to as the "Criteria for Designation".*

- (1) Prior designation of historic sites, including, but not limited to, the national register of historic places and the state register of historic places;
- (2) Identification with a person or persons who significantly contributed to the culture and development of the City, county, region, state or nation;
- (3) Identification as the work of an architect, designer or master builder whose individual work has influenced the development of the City, county, region, state or nation;
- (4) Character, interest or value as part of the development, heritage or culture of the City, county, region, state or nation;
- (5) Location of the site as a significant historic event;
- (6) Exemplification of the cultural, economic, social or historical heritage of the community;
- (7) Portrayal of the environment of a group of people in an era of history characterized by distinctive architectural style or sequence of styles;
- (8) Embodiment of distinguishing characteristics of an architectural type or specimen;
- (9) Embodiment of elements of architectural design, detail, materials or craftsmanship which represents a significant architectural innovation;
- (10) Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on historic, culture or architectural motif;

- (11) Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the City;
- (12) Archeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest; and
- (13) Value as an aspect of community sentiment and/or public pride.

#### **E. DECISIONS AND RECOMMENDATIONS OF FSHPRC**

Within 30 days after the closure of the public hearing, if the FSHPRC finds that the evidence submitted at the hearing meets the criteria for designation, it shall render a decision that the nominated historic structure or historic site or a recommendation to the City Commission that the nominated historic district meets the criteria for designation as a historic structure, historic site or historic district. The decision or recommendation shall be accompanied by the following information:

- (1) Explanation of the integrity of the nominated historic structure, historic site or historic district as it relates to the criteria for designation.
- (2) Explanation of the significance of the nominated historic structure, historic site or historic district as it relates to the criteria for designation.
- (3) The FSHPRC shall also set forth the following:
  - a. The significant architectural features of the nominated historic structure, historic site or historic district that should be protected;
  - b. The types of construction, alteration, demolition and removal that should be reviewed for appropriateness;
  - c. Proposed design guidelines for applying the criteria for designation to certificates of appropriateness for the nominated historic structure, historic site or historic district;
  - d. The relationship of the nominated historic structure, historic site or historic district to the ongoing effort of the FSHPRC to identify and designate historic structures, historic sites and historic districts that meet the criteria for designation;
  - e. Recommendations as to appropriate height and area regulations, setbacks, minimum dwelling size, floor area, sign regulations and parking regulations necessary or appropriate to the preservation of the nominated historic structure, historic site or historic district; and
  - f. A map showing the location of the nominated historic structure or historic site and the boundaries of the nominated historic district.

#### **F. CONSIDERATION OF NOMINATIONS FOR HISTORIC DISTRICTS BY THE CITY COMMISSION**

The City Commission shall, after receiving the recommendation from the FSHPRC, either designate historic district or reject the recommendation. If the City Commission rejects the recommendation, it shall provide the FSHPRC with reasons for rejection of the nomination.

#### **G. THE DESIGNATION ORDINANCE.**

Once a structure or site has been designated historic by the FSHPRC or a district has been designated by the City Commission, the designation shall be made effective by adoption of a designation Ordinance by the City Commission. The designation Ordinance shall set forth the design guidelines for applying the criteria for designation, significant architectural features, the types appropriateness, height and area

regulations, setbacks, minimum dwelling size, sign regulation and parking regulation to establish a baseline for future consideration of an application for Certificate of Appropriateness regarding the property. The City Clerk shall provide a copy of the designation Ordinance by regular mail to the owner(s) of the historic structure, historic site or historic district. The failure of the City Clerk to provide a copy of the designation Ordinance to the owner(s) of record does not nullify the designation Ordinance.

## **H. INTERIM CONTROL**

No building permit shall be issued by the City for alteration, construction, demolition or removal of a nominated historic structure, historic site or property within a historic district from the date a completed application is first presented to the FSHPRC until the final disposition of the nomination by the City Commission unless alteration, removal or demolition is authorized by formal Resolution of the City Commission. Notwithstanding the foregoing, any application for a building permit that complies with all other applicable Ordinances shall not be denied if more than 180 days have passed since a completed application is presented to the FSHPRC.

## **I. DENIAL OF DESIGNATION**

A determination by the FSHPRC that the nominated structure, site or district does not meet the criteria for designation shall be a final administrative decision. Rejection of a recommendation for designation of a district by the City Commission shall be a final administrative decision. Nominations for structure, sites and districts which have been denied designation within the prior 12-month period will not be considered by the FSHPRC.

## **I. AMENDMENT AND RESCISSION OF DESIGNATION**

A designation may be amended or rescinded upon petition to the FSHPRC and compliance with the same procedure and according to the same criteria set forth herein for designation. The fact that the applicant or subsequent owner(s) no longer desire to have the property designated historic does not create a mandatory obligation upon the FSHPRC to rescind the designation, but such fact shall be considered along with all other criteria.

# ***ARTICLE IV - CERTIFICATION OF APPROPRIATENESS***

## **A. CERTIFICATES OF APPROPRIATENESS**

No person shall undertake the demolition or alteration of any historic structure, historic site or property within a historic district without first obtaining a Certificate of Appropriateness, provided however, the City of Fort Scott shall be exempt from the requirement of a Certificate of Appropriateness.

- (1) A Certificate of Appropriateness shall be required for designated historic structures for the following types of construction, alteration or demolition:
  - a. Demolition requiring a permit;
  - b. Alterations of exterior features/materials identified as significant in the Ordinance designating the historic structure;

- c. Construction of new structures; and
- d. Alterations of the building site.

(2) A Certificate of Appropriateness shall be required for designated historic sites for the following types of construction, alteration or demolition:

- a. Demolition requiring a permit;
- b. Alterations of features/materials identified as significant in the Ordinance designating the historic site;
- c. Construction of additions; and
- d. Construction of new structures.

(3) A Certificate of Appropriateness shall be required for properties within designated historic districts for the following types of construction, alteration or demolition:

- a. Demolition requiring a permit;
- b. Alterations of features/materials identified as significant in the Ordinance designating the historic district;
- c. Construction of new structures.

Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of a structure or site.

#### **B. APPLICATIONS FOR CERTIFICATES OF APPROPRIATENESS**

Application for a Certificate of Appropriateness shall be made on a form approved by the FSHPRC.

#### **C. CONSIDERATION AND APPROVAL OF CERTIFICATES OF APPROPRIATENESS**

The FSHPRC shall review the application for a Certificate of Appropriateness and determine whether issuance of a Certificate of Appropriateness should be approved or denied within 45 days of receipt of the application. If the application for a Certificate of Appropriateness complies with the designation Ordinance and the criteria for designation, the FSHPRC must approve the Certificate of Appropriateness. The FSHPRC may also approve the issuance of a Certificate of Appropriateness if the applicant agrees to meet specific conditions regarding modifications to the proposed project so that it complies with the designation Ordinance and the criteria for designation. Written notice of the approval of the application for a Certificate of Appropriateness, with conditions if applicable, shall be provided to the applicant within seven working days following the determination and shall be accompanied by a Certificate of Appropriateness.

#### **D. DENIAL OF A CERTIFICATE OF APPROPRIATENESS**

If the application for a Certificate of Appropriateness does not comply with the designation Ordinance or the criteria for designation and the applicant does not agree to meet specific conditions regarding modification to the proposed project so that it complies with the designation Ordinance and the criteria for designation, the FSHPRC must not approve the Certificate of Appropriateness. A denial of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for the denial. The FSHPRC shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the FSHPRC to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as

possible the differences between the applicant and the FSHPRC. The applicant may resubmit an amended application that takes into consideration the recommendations of the FSHPRC.

#### **E. CRITERIA TO DETERMINE APPROPRIATENESS**

The FSHPRC shall adopt principles and guidelines establishing criteria for new construction, alterations, additions, moving and demolition of structures, sites, objects or properties in a historic district. Criteria includes, but is not limited to:

- (1) Specific design criteria for exterior alterations of historic properties or historic districts shall be based on the U.S. Secretary of the Interior's Standards for Rehabilitation as published in Section 36, Code of Federal Regulations, Part 67 as revised from time to time, and by further reference to such specific design criteria as the FSHPRC may require.
- (2) New construction and additions to existing structures shall be sensitive to and take into account the special historic district or historic characteristics including height, scale, orientation, site coverage, spatial separations, facade and window patterns, entrance and porch size and general design, materials, texture, color, architectural detail, roof forms, vertical or horizontal elements, wall, fences, landscaping and other features.
- (3) An application for Certificate of Appropriateness for purposes of demolition shall be delayed for a period not to exceed 180 days. The maximum period of delay may be reduced whenever the FSHPRC 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 FSHPRC shall use the delay to negotiate with the owner and interested parties to find a means to preserve the historic property.
- (4) For those structures or property(ies) that have been designated as a historic structure, or structures located in a historical district, which are being considered for condemnation as a dangerous and unsafe structure under K.S.A. 12-1750 et. seq., or a similar City Ordinance, the FSHPRC shall be considered an interested party and the City shall be required to give the FSHPRC the same notice required to be given to the owner of the property. The FSHPRC shall prepare a recommendation of whether the structure should be condemned as dangerous and unsafe and what alternatives are available for repair of the structure. The report shall be submitted at the date and time specified by the City Commission for a public hearing.
- (5) Existing characteristics shall include trees, walls, paving materials, fencing, walkways and other site features that reflect the historic property(ies) significance or protected from demolition or alteration.
- (6) Landscaping shall be appropriate to the scale and feature of the historic property.
- (7) Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Noncontributory structures shall not distract from the historic property(ies).
- (8) Archeological sites will be protected and preserved.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion and massing to protect the integrity of the property and its environment.
- (10) A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

#### **F. APPLICATION**

A copy of every application for a building or demolition permit received by the City, including any accompanying plans and specifications affecting the exterior architectural appearance of a designated historic property or structure in a historic district shall be forwarded by the building official to the administrator who shall initiate an application for a Certificate of Appropriateness. The City's building inspector shall not issue a building or demolition permit until a Certificate of Appropriateness has been issued by the FSHPRC, unless the structure has been determined to be unsafe and dangerous pursuant to K.S.A. 12-1750, et. seq., or a similar City Ordinance.

#### **G. APPEAL**

The applicant for a Certificate of Appropriateness may appeal the denial of the Certificate of Appropriateness to the City Commission by filing a notice of appeal with the City Clerk within 30 days of the date the FSHPRC denies the Certificate of Appropriateness. The City Commission shall conduct a hearing within 30 days. The City Commission shall base its decision on the same guidelines as set forth in Article IV/Section C and shall either approve or deny the Certificate of Appropriateness in the same manner specified in Article IV/Section C and Article IV/Section D.

### ***ARTICLE V - ADMINISTRATION***

#### **A. ADMINISTRATIVE REVIEW**

The administrator or designee shall have authority to conduct an administrative review of certain applications, and to grant a Certificate of Appropriateness if compliance is found with the applicable review standards without the necessity of the matter being reviewed by the FSHPRC. If compliance is not found, the administrator shall refer the application to the FSHPRC. Such delegated authority to conduct administrative reviews and approvals shall be limited to the following:

- (1) Maintenance and minor repair to the exterior when using identical or like-kind materials and which does not alter the original appearance, design, profile and size of the current feature. This includes all windows, doors, porches, roofing etc.
- (2) Installation of signs and awnings on commercial properties (when installed into masonry, the attachments are made into mortar joints) and not connected to historic property.
- (3) Minor alterations to exterior buildings include the addition of mechanical or electrical equipment when not affecting character-defining aspects of historical properties.
- (4) Installation of fire safety equipment or minor alterations to meet the American[s] with Disabilities Act.
- (5) Interior modifications that do not affect or remove character-defining elements of interior spaces, including the installation of mechanical, plumbing or electrical systems that require minimal changes to existing features.
- (6) Minor public improvements including improvements to streets, curbs, sidewalks, parking areas, parks, and other amenities (work must not impact character-defining features).
- (7) Similar projects or replacements with like-kind materials.

(8) Any project that has been reviewed by the state preservation office for tax-credit purposes or projects under federal preservation law and grant funding programs and has received approval from them.

## **B. PRESERVATION FUND**

(1) There is hereby established the Fort Scott Preservation Fund (the "fund"). The fund shall be administered as directed by and according to any limitations and regulations imposed by the City Commission and according to state law. The City may apply for, receive and place in the fund any federal, state or private fees, grants, grants-in-aid, gifts or bequests. The City may budget and incorporate City revenues into the fund. Fees and fines imposed according to this chapter shall be placed in the fund.

(2) The FSHPRC may recommend the use of the fund for:

- (a) The purchase of fee simple title to a historic property or properties;
- (b) The purchase of preservation easements regarding a historic property or properties;
- (c) The purchase of fee simple title to a historic property or properties with the eventual objective of property resale to a preservation association;
- (d) Payment of installments and any fees according to a contract to purchase fee simple title to a historic property, or a preservation easement;
- (e) Grants and/or loans to owners, developers and organizations for preservation and/or rehabilitation of a historic property or properties;
- (f) Grants and/or loans to organizations for programs and projects designed to achieve one or more of the purposes of this chapter;
- (g) The maintenance of historic property, properties or the maintenance of preservation easements;
- (h) The costs of conducting and preparing surveys of historically and architecturally important buildings, sites, structures, objects and districts;
- (i) The costs of the preparation and presentation of reports, instructions, brochures, meetings maps, press releases, conferences, and other measures designed to acquaint citizens, owners, and developers with the purpose of this chapter, and
- (j) Reasonable administrative, planning, architectural, engineering, financial, real estate, appraisal and/or legal costs associated with the purchase of property, the purchase and enforcement of preservation easements, the sale of property, the negotiation of contracts and the preparation of grant applications and legal actions.

## **C. FEES**

- (1) An application fee for designation of a historic property may be established by Resolution of the City Commission.
- (2) An application fee for a Certificate of Appropriateness may be established by Resolution of the City Commission.

#### **D. ENFORCEMENT**

- (1) In the event that an improvement is made to any structure or property or any structure or property is demolished or cleared in violation of the provisions of this chapter, the City Commission may institute an appropriate action or proceeding to prevent or abate such unlawful action. The imposition of any penalty hereunder shall not preclude the City from instituting a proper action or proceeding to require compliance with the provisions of this chapter and with administrative orders and determinations made hereunder.
- (2) The administrator shall give written notification of any violation of this chapter to the property owner, lessee, trustee or other legally responsible party. The notification shall describe and explain in clear, precise terms the nature of the violation. The property owner, lessee, trustee or other legally responsible party shall have 30 days to correct the violation or give satisfactory evidence that steps have been taken that will lead to correcting the violation within a specified time period. The administrator must agree that the stated period of time is fair and reasonable.
- (3) The City may take the necessary steps to correct a violation of this chapter in the event that notification of the violation has been given and the 30-day time period has elapsed. The cost of correcting a violation by the City may be assessed against the owner, lessee, trustee or other legally responsible party of the property and/or as a special assessment against the property on which the pertinent structure is located. The City Clerk may cause the same to be extended on the tax rolls of the county against the pertinent lot or parcel of land.
- (4) Any person violating any of the provisions of this chapter shall be guilty of a Class B misdemeanor, punishable by up to a \$1,000.00 fine or six months in jail, or both such fine and imprisonment. Each day during which any such violation is committed, continued or permitted shall constitute a separate offense.
- (5) The City Commission may bring action to require the rebuilding or restoration of a building, site, structure or object, or any part thereof, by a person who alters or improves any building, site, structure or object, or any part thereof, in violation of the provisions of this chapter. Such action shall be in addition to and not in lieu of any criminal prosecution and penalty.

#### **E. SEVERABILITY**

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

This Ordinance shall be effective after its passage and publication in the official City newspaper.

Passed by the City Commission of the City of Fort Scott, Kansas, this 17<sup>th</sup> day of June, 2025.

**THE CITY OF FORT SCOTT, KANSAS**

By:

  
Tim Van Hoecke, Mayor

