

# **CITY COMMISSION MEETING AGENDA**

City Hall Commission Chambers

Monday, February 16, 2015

7:00 p.m.

MEETING #4996

## **CALL TO ORDER**

## **ROLL CALL**

**INVOCATION** by Pastor Kirk Larson, Grace Community Church

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

**VISITORS** (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).

Roger Profitt- Presentation for Tax Credits

## **CONSENT CALENDAR**

1. Approval of City Commission Meeting Minutes, February 2, 2015;
2. Approval of Special City Commission Minutes, February 5, 2015;
3. Approval of Joint City Commission Meeting Minutes, February 9, 2015;
4. Approval of Special City Commission Meeting Minutes, February 9, 2015;
5. Appropriation Ordinance No. 4, February 16, 2015;
6. Approval of Agreements between Dodge City Community College and City of Dodge City for the use of Athletic Fields.

## **ORDINANCES & RESOLUTIONS**

**Ordinance No. 3598:** An Ordinance Adopting an Historic Resources Preservation Ordinance by Reference for the City of Dodge City, Kansas; Creating a Reconstituted Historic Landmarks Commission; Establishing Penalties for Violations Thereof; and Repealing and Replacing all other Ordinance and Provisions of Ordinances in Conflict Herewith. Report by Project Development Coordinator, Melissa McCoy.

**Ordinance No. 3599:** An Ordinance granting to the Victory Electric Cooperative Association, Inc, A Kansas Electric Cooperative A Franchise to Provide Electric Services within the City of Dodge City, Kansas. Report by City Manager, Cherise Tieben.

**Ordinance No. 3600:** An Ordinance granting to the United Wireless Communications, Inc., a Contract Franchise to Construct, Operate and maintain a Telecommunications System in the City of Dodge City, Kansas. Report by City Manager, Cherise Tieben.

**Resolution No. 2015-01:** A Resolution Authorizing the Improvement or Reimprovement of Certain Main Trafficways within the City of Dodge City, Kansas; and providing for the payment of the costs thereof. Report by Finance Director/City Clerk, Nannette Pogue.

**Resolution No. 2015-02:** A Resolution of the City of Dodge City, Kansas, opposing the Kansas State Legislature's Consideration of Making Municipal Elections Partisan and Moving to the Fall of Even Numbered Years. Report by City Managers Assistant, Ernestor De La Rosa.

## **UNFINISHED BUSINESS**

## **NEW BUSINESS**

1. Approval of Agreement with CBC Real Estate Group, LLC. Report by City Manager, Cherise Tieben.
2. Approval of Guidelines for a Heritage District Overlay. Report by Parks & Recreation Director, Paul Lewis.

## **ADJOURNMENT**

# **CITY COMMISSION MEETING MINUTES**

City Hall Commission Chambers

Monday, February 2, 2015

7:00 p.m.

MEETING #4991

## **CALL TO ORDER**

**ROLL CALL :** Mayor Brian Delzeit, Commissioners, Kent Smoll, Jan Scoggins, Rick Sowers, Joyce Warshaw

**INVOCATION** by Pastor Kirk Larson, Grace Community Church

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

Girl Scout Cookie Proclamation. Margaret Butcher represented the Girl Scouts and passed out cookies.

Boy Scout Proclamation – Cub Scout #168. Andy Treder spoke about the Scouting program in Dodge City and the region.

**VISITORS (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).**

## **CONSENT CALENDAR**

1. Approval of City Commission Meeting Minutes, January 20, 2015;
2. Appropriation Ordinance No. 3, February 2, 2015;
3. Cereal Malt Beverage License Applications;

Commissioner Jan Scoggins moved to approve the Consent Calendar as presented; Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

## **NEW BUSINESS**

1. Commissioner Brian Delzeit moved to appoint the following citizens to Boards and Commissions. Commissioner Rick Sowers seconded the motion. The motion carried unanimously.

Airport Advisory Board - Mitch Counce, Kerry Zimmerman, Dan Cammack, RaeAnna Blomer.

Building Board of Appeals- John O'Neal, Varae Norman, Mike Weber

Convention & Visitors Bureau- for Hospitality Austin Swift; at-large

Beth Rhoten Dodge City Planning Commission -Tracy Smith

Golf Advisory Board- Ron Herrman

Historic Landmark Commission - Charles Meade, Darlene Clifton-Smith, Doug Austin

Housing Authority Board -Leland Kincaid, Celia Enriquez

Library Board- Jane Holwerda, Jeff Forrest

Parks & Recreation Advisory Board-Jeff McDaniel, Debra Pennington

Recycling Advisory Board - Melanie Scott

Santa Fe Trail Community Corrections- Leslie Lima, Peggy Cecil

Shade Tree Commission - David Grayson, Jim Geis

2. Commissioner Rick Sowers moved to approve the bid from J.A.G. Construction in the amount of \$99,235.00 for the construction of the 21014 Storm Drainage Improvement Projects Commissioner Joyce Warshaw seconded the motion. The motion carried unanimously.
3. Tailgating at Dodge City Law Games Plan, pending approval by City Attorney and City Manager was approved on a motion by Commissioner Rick Sowers seconded by Commissioner Kent Smoll. The motion carried unanimously.
4. Commissioner Jan Scoggins moved to approve the City Commission Travel Budget. Commissioner Kent Smoll seconded the motion. Motion carried unanimously.

The travel budget will consist of City Commissioner attending the following events: three commissioners to Dodge City Night in Topeka, Brian Delzeit and Jan Scoggins; two commissioners to Washington DC with the Western Kansas Congressional Delegation Joyce Warshaw, and possibly Jan Scoggins; one commissioner to the

Washington DC trip with Southwest Kansas delegation, Kent Smoll; and two commissioners to the League of KS Municipalities Annual Conference.

**OTHER BUSINESS**

City Manager, Cherise Tieben:

- Reported that she and Ernestor will be attending the KACM meeting on Thursday of this week;
- Joint City County Commission meeting on February 9.

Commissioner, Jan Scoggins:

- Thanked Andy Treder for updating the Commission on the Boy Scout Camp. Thanked Girl Scouts for cookies.

Commissioner, Rick Sowers:

- Thanked the Boy Scouts and Girl Scouts and everyone serving on the Boards and Commissions.

Commissioner, Joyce Warshaw:

- Thanked everyone serving on the Boards and Commissions and the Girl Scouts and Boy Scouts.

Commissioner, Kent Smoll:

- Thanked all of the volunteers who stepped forward to serve the Boards and Commissions;
- Reported on sales tax.

Mayor, Brian Delzeit:

- Thanks to all of the board and commission volunteers. Thanked the boy scouts for their presentation. Thanked the Girl Scouts for the cookies.

**EXECUTIVE SESSION**

At 7:55 P.M. Commissioner Brian Delzeit moved to adjourn to Executive Session to discuss Non-Elected Personnel to include the City Manager, Cherise Tieben not to exceed 20 minutes. Commissioner Rick Sowers seconded the motion. The motion carried unanimously.

The regular session convened at 8:15 p.m.

Commissioner Kent Smoll moved that the compensation of Cherise Tieben, City Manager, be increased by the same pay raise as the other employees of the City of Dodge City, 1% in January and 1.5% in July. In addition, the auto and cell phone allowance will be increased to \$6,240.00 per year and deferred comp will increase by \$500 to \$18,000. Commissioner Rick Sowers seconded the motion. The motion carried unanimously.

Kent Smoll thanked Cherise for all of her efforts. Joyce Warshaw echoed the comments. Brian Delzeit mentioned that he gets a lot of compliments from the public regarding her efforts.

**ADJOURNMENT**

Commissioner Scoggins moved and Commissioner Smoll seconded the motion to adjourn the meeting. The motion carried unanimously.

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Mayor

ATTEST:

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Nannette Pogue, City Clerk

# **SPECIAL CITY COMMISSION MEETING MINUTES**

City Hall Commission Chambers

Thursday, February 5, 2015

745 a.m.

MEETING #4992

## **CALL TO ORDER**

**ROLL CALL:** Mayor Brian Delzeit, Commissioners, Kent Smoll, Jan Scoggins, Rick Sowers, Joyce Warshaw

## **NEW BUSINESS**

1. Commissioner Smoll moved to approve the Final Replat of Summerlon Phase V. Commissioner Warshaw seconded the motion. The motion carried unanimously.

## **ADJOURNMENT**

Commissioner Smoll moved to adjourn the meeting. Commissioner Sowers seconded the motion. The motion carried unanimously.

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Mayor

ATTEST:

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Nannette Pogue, City Clerk

# **SPECIAL CITY COMMISSION MEETING MINUTES**

City Hall Commission Chambers

Thursday, February 5, 2015

745 a.m.

MEETING #4992

## **CALL TO ORDER**

**ROLL CALL:** Mayor Brian Delzeit, Commissioners, Kent Smoll, Jan Scoggins, Rick Sowers, Joyce Warshaw

## **NEW BUSINESS**

1. Commissioner Kent Smoll moved to approve the Final Replat of Summerlon Phase V. Commissioner Joyce Warshaw seconded the motion. The motion carried unanimously.

## **ADJOURNMENT**

Commissioner Kent Smoll moved to adjourn the meeting. Commissioner Rick Sowers seconded the motion. The motion carried unanimously.

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Mayor

ATTEST:

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Nannette Pogue, City Clerk

**Joint City/County Commission Meeting Minutes**  
**Monday, February 9, 2015**  
**Ford County Government Center**  
**Rose Room**  
**6:00 PM**  
**Meeting # 4993**

**CALL TO ORDER**

*Ford County:* Chairman Chris Boys, Commissioners Danny Gillum and Shawn Tasset.

*City of Dodge City:* Mayor Brian Delzeit, Commissioners Jan Scoggins, Joyce Warshaw, Kent Smoll, Rick Sowers

**UNFINISHED BUSINESS:**

1. Amendment of Motion for Organizational Funding-Report by Project Development Coordinator-Melissa McCoy

*County Action:* Commissioner Chris Boys moved to approve an amendment to the motion for Organizational Funding that includes the carry over funds in the amount of \$43,283.87 to be utilized for Organizational Funding in 2016. Commissioner Tasset seconded the motion. The motion carried unanimously.

*City Action:* Commissioner Rick Sowers moved to approve an amendment to the motion for Organizational Funding that includes the carry over funds in the amount of \$43,283.87 to be utilized for Organizational Funding in 2016. Commissioner Scoggins seconded the motion. The motion carried unanimously.

**NEW BUSINESS:**

1. Design Development for Regional Aquatics Park was presented by Paul Lewis. Todd Knight with McCown Gordon, Dave Schwartz, Water's Edge and SMH was also in attendance to give the presentation and answer questions.

Kent Smoll suggested that the wave pool be incorporated at the beginning of the project so that Dodge City can be different.

Shawn Tasset asked about the cost of a 50 meter pool and asked about what the plans are for the municipal pool. Suggested that the City build the pool part of the water park.

Chris Boys mentioned a water gun filling machine.

**County Action:** Commissioner Chris Boys moved to approve the Design/Development Package from McCown Gordon and authorized staff to proceed with the final design and development of a Guaranteed Maximum Price. Commissioner Danny Gillum seconded the motion. The motion carried 2-1 with Shawn Tasset voting no.

**City Action:** Commissioner Kent Smoll moved to approve the Design/Development Package from McCown Gordon and authorizing staff to proceed with the final design and development of a Guaranteed Maximum Price. Commissioner Warshaw seconded the motion. The motion carried unanimously.

**Upcoming Meetings:**

1. Monday, May 11, 2015-6:00 pm-Joint Commission Meeting- City Commissioners Chambers City Hall
2. Monday, August 10, 2015 6:00 pm -Joint Commission Meeting-Rose Room, Ford County Government Center
3. Monday, November 9, 2015 6:00 pm -Joint Commission Meeting- City Commissioners Chambers City Hall

**ADJOURNMENT**

**County Action:** Commissioner Chris Boys moved and Commissioner Shawn Tasset seconded the motion to adjourn the meeting. The motion carried unanimously.

**City Action:** Commissioner Rick Sowers moved and Commissioner Kent Smoll seconded the motion to adjourn the meeting. The motion carried unanimously.

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Mayor

ATTEST:

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Nannette Pogue, City Clerk

**Special City Commission Meeting Minutes**  
**Monday, February 9, 2015**  
**Ford County Government Center**  
**Rose Room**  
**6:30 PM**  
**Meeting # 4994**

**CALL TO ORDER**

**ROLL CALL** Mayor Brian Delzeit, Commissioners Kent Smoll, Rick Sowers, Jan Scoggins and Joyce Warshaw.

**NEW BUSINESS**

1. Commissioner Kent Smoll moved to approve the Site Development GMP in the amount of 1,742,561 and Executing the Contract contained in the Regional Water Park Site Development Package from McCown Gordon. Commissioner Rick Sowers the motion. The motion carried unanimously.

**ADJOURNMENT**

Commissioner Jan Scoggins moved to adjourn the meeting; Commissioner Joyce Warshaw seconded the motion. The motion carried unanimously.

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Mayor

ATTEST:

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Nannette Pogue, City Clerk

# *Memorandum*

*To: City Commission*  
*From: Ernestor De La Rosa, Asst. to  
the City Manager*  
*Date: February 16, 2015*  
*Subject: Dodge City Community College  
Agreements*  
*Agenda Item: Consent Calendar*

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**Recommendation:** Staff recommends approval of agreements with Dodge City Community College for the use of Legends Park and Cavalier Field.

**Justification:** The City Commission approved Resolution 2014-8 which revised fees and charges for Cavalier Field and and 2012-14 for Legends Park. These agreements were revised to include the new fees and charges and to include allowances for daily practices.

**Financial Considerations:** The new proposed fees and charges, this will generate more revenue annually. These funds will reduce the amount of sales tax funding required for ongoing maintenance and will help insure that adequate funds are available for future capital expenses.

**Purpose/Mission:** Approval of these agreements meets the City's core values and provides a reasonable income stream which will offset the cost of future capital maintenance. It allows the facility to be maintained at a high level while limiting the impact of future budgets.

**Legal Considerations:** The agreements have been revised and reviewed by the City Attorney.

**Attachments:** Memorandum of Understanding for Cavalier Field and Legends Park.

# MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and entered into by and between the City of Dodge City and Dodge City Community College, hereafter referred to as “City” and “College.”

**WHEREAS**, the City and College desire to cooperate in the maintenance and use of what is commonly known as Cavalier Field located on the former St. Mary of the Plains Campus now owned by the City, hereafter referred to as Facility; and

**WHEREAS**, the College desires to use the Facility for its baseball program and the City desires to use the Facility for youth and adult programs; and

**WHEREAS**, the Parties have come to an agreement for the use and maintenance of the “Cavalier Field” and both desire to commit to one another their perspective intent and desire from this point forward.

**NOW, THEREFORE**, the parties do hereby enter into this Memorandum of Understanding as evidence of their good faith, desire, and intent for the future use and maintenance of the facility.

The parties agree as follows:

1. The City shall make available to and College shall have first priority use of the Facility by the College to include one field, locker room and showers for practices and games by the College men’s baseball team during the school year provided such use is scheduled at least four weeks in advance, provided further that Facility is not needed for City activities. For purposes of this agreement, “school year” shall be defined as that period of time from August 15th to May 15th. Such use shall be available for team activities and workouts under a coach’s supervision.

1.1. All scheduling shall be made through City's Department of Parks and Recreation.

1.2. Nothing herein shall prohibit the City allowing usage of Facility not needed by the College when such usage is compatible with the College's intended use.

1.3. The City shall hold the ultimate authority of determining field playability in the event of bad weather.

1.4. The City shall be solely responsible for resolving any scheduling conflicts which may arise.

2. For the use of the Facility as outlined in this Agreement, the College shall pay to the City the field use rate as set out below:

<u>Cavalier Field Rental Rates</u>	
Field Rental	\$180 day
Lights	\$75 day
Daily Practice	\$40 day

2.1. Field use charges will be billed to the College in June of each year for the preceding 12 months. The College shall make payment to the City for use of the Facility each school year before June 30 following the end of the season.

3. The City extends to the College use of locker room space in Sheridan Activity Center/Dodge City YMCA. The College will have exclusive use of this during College seasons. Any improvements to these spaces will be at the expense of the College.

3.1. College will be responsible for providing any phone lines necessary for office use and/or game events.

3.2. The College shall not assign space or any portion of the locker room space to any other person or entity without first obtaining the written consent of the City.

4. The City or a third party operator contracted by the City shall be responsible for concession services for all game events conducted by the College during the school year. The

operator shall pay all costs and expenses incurred in providing such services and shall retain all income from such sales.

4.1. In the event City's concession operator does not wish to provide services for College activities, College may arrange with the concession operator to allow College to provide such services under terms and conditions agreeable to the operator.

5. The City shall be fully responsible for all field maintenance including but not limited to mowing, weed control, watering, fertilization, aerating, over-seeding, topdressing and infield treatments, maintenance of base paths, mound, home plate and dugouts, and repairs to fencing, gates and backstops. Additionally the City shall be responsible for all dragging and field marking, and general upkeep of the playing surface.

It is imperative that the Facility be available for routine maintenance. The schedule for routine maintenance will be developed by the City's Parks and Recreation Department in consultation with the College. The City shall make the final determination as to the maintenance schedule and field availability.

5.1. The College shall be responsible for cleaning and custodial care of the locker room and general litter pickup of dugouts, bleachers and the immediate area around the field or fields used by the College following and between events and games.

5.2. Any field maintenance desired by the College between doubleheader or tournament games shall be College's responsibility except the City may make available to the College the required equipment.

6. At its own expense, the College shall be allowed to place a sign within the facility promoting the College and its baseball program. Said sign must be approved in advance by the City as to size, location and design.

7. The College and City will maintain liability insurance coverage covering their respective uses of the field and locker rooms. Each will name the other as additional insureds. The policies shall have a minimum coverage amount of \$1, 000,000.

8. The Parties agree that this Memorandum of Understanding is a general guideline and is to serve as a general understanding of each Party's responsibilities. Any disagreement will be worked out between the City's Director, Parks & Recreation and the College's Athletic Director.

9. The Parties agree the initial term of this Agreement shall be a period of twelve (12) months beginning January 1, 2015 and ending December 31, 2015. This Agreement shall automatically renew for one-year periods thereafter at the end of the initial term or any renewal term unless 60 days written notice is given to the other party prior to the anniversary date. This Agreement may be terminated or modified at any time by the mutual written consent of both parties.

10. This is the entire agreement between the parties. It replaces and supersedes any and all oral agreements between the parties, as well as any prior writings. Modifications and amendments to this agreement, including any exhibit or appendix, shall be enforceable only if they are in writing and are signed by authorized representatives of both parties.

**IN WITNESS WHEREOF**, the Parties have signed this Memorandum of Understanding the date indicated below.

**City of Dodge City:**

\_\_\_\_\_  
Brian Delzeit, Mayor

\_\_\_\_\_  
Nannette Pogue, City Clerk

\_\_\_\_\_  
Date

**Dodge City Community  
College:**

\_\_\_\_\_  
Board of Trustees Chairperson

\_\_\_\_\_  
Secretary of Board

\_\_\_\_\_  
Date

# MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and entered into by and between the City of Dodge City and Dodge City Community College, hereafter referred to as “City” and “College.”

**WHEREAS**, the City is the owner of a four-diamond softball complex at Ross Boulevard and 6<sup>th</sup> Avenue, commonly known as Legends Park and hereinafter referred to as the “Facility,” and

**WHEREAS**, the College desires to use the Facility for its women’s fast pitch softball program for the purpose of conducting practices, games and tournaments; and

**WHEREAS**, the Parties have come to an agreement for the use of the Facility by the College and both desire to commit to one another their perspective intent and desire from this point forward.

**NOW, THEREFORE**, the parties do hereby enter into this Memorandum of Understanding as evidence of their good faith, desire, and intent for the future use of the Facility.

The parties agree as follows:

1. The City shall make available to and College shall have first priority use of the Facility by the College to include one field, locker room and showers for practices and games by the College women’s fast pitch softball team during the school year provided such use is scheduled at least four weeks in advance, provided further that Facility is not needed for City activities. For purposes of this agreement, “school year” shall be defined as that period of time from August 15th to May 15th. Such use shall be available for team activities and workouts under a coach’s supervision.

- 1.1.All scheduling shall be made through City’s Department of Parks and Recreation.

1.2. Nothing herein shall prohibit the City allowing usage of any field(s) not needed by the College when such usage is compatible with the College's intended use.

1.3. The City shall hold the ultimate authority of determining field playability in the event of bad weather.

1.4. The City shall be solely responsible for resolving any scheduling conflicts which may arise. In the event of the College shall require use of more than one field, the College shall coordinate such use with the City and shall have use of more fields unless the City has previously scheduled use of the other fields.

2. For the use of the Facility as outlined in this Agreement, the College shall pay to the City the field use rate as set out below:

<u>Legends Park Rental Rates per field</u>	
Field Rental	\$90 day
Lights	\$60 day
Daily Practice	\$40 day

2.1. Field use charges will be billed to the College in June of each year for the preceding 12 months. The College shall make payment to the City for use of the Facility each school year before June 30 following the end of the season.

3. The City extends to the College use of locker room space at Facility. The College will have exclusive use of this during College seasons. Any improvements to these spaces will be at the expense of the College.

3.1. College will be responsible for providing any phone lines necessary for office use and/or game events.

3.2. The College shall not assign space or any portion of the locker room space to any other person or entity without first obtaining the written consent of the City.

4. The City or a third party operator contracted by the City shall be responsible for concession services for all game events conducted by the College during the school year. The

operator shall pay all costs and expenses incurred in providing such services and shall retain all income from such sales.

4.1. In the event City's concession operator does not wish to provide services for College activities, College may arrange with the concession operator to allow College to provide such services under terms and conditions agreeable to the operator.

5. The City shall be fully responsible for all field maintenance including but not limited to mowing, weed control, watering, fertilization, aerating, over-seeding, topdressing and infield treatments, maintenance of base paths, mound, home plate and dugouts, and repairs to fencing, gates and backstops. Additionally the City shall be responsible for all dragging and field marking, restoration of infield dirt and general upkeep of the playing surface.

It is imperative that the Facility be available for routine maintenance. The schedule for routine maintenance will be developed by the City's Parks and Recreation Department in consultation with the College. The City shall make the final determination as to the maintenance schedule and field availability.

5.1. The College shall be responsible for cleaning and custodial care of the locker room and general litter pickup of dugouts, bleachers and the immediate area around the field or fields used by the College following and between events and games.

5.2. Any field maintenance desired by the College between doubleheader or tournament games shall be College's responsibility except the City may make available to the College the required equipment.

6. At its own expense, the College shall be allowed to place a sign within the facility promoting the College and its softball program. Said sign must be approved in advance by the City as to size, location and design.

7. The College and City will maintain liability insurance coverage covering their respective uses of the field and locker rooms. Each will name the other as additional insured's. The policies shall have a minimum coverage amount of \$1, 000,000.

8. The Parties agree that this Memorandum of Understanding is a general guideline and is to serve as a general understanding of each Party's responsibilities. Any disagreement will be worked out between the City's Director, Parks & Recreation and the College's Athletic Director.

9. The Parties agree the initial term of this Agreement shall be a period of twelve (12) months beginning January 1, 2015 and ending December 31, 2015. This Agreement shall automatically renew for one-year periods thereafter at the end of the initial term or any renewal term unless 60 days written notice is given to the other party prior to the anniversary date. This Agreement may be terminated or modified at any time by the mutual written consent of both parties.

10. This is the entire agreement between the parties. It replaces and supersedes any and all oral agreements between the parties, as well as any prior writings. Modifications and amendments to this agreement, including any exhibit or appendix, shall be enforceable only if they are in writing and are signed by authorized representatives of both parties.

**IN WITNESS WHEREOF**, the Parties have signed this Memorandum of Understanding the date indicated below.

**City of Dodge City:**

\_\_\_\_\_  
Brian Delzeit, Mayor

\_\_\_\_\_  
Nannette Pogue, City Clerk

\_\_\_\_\_  
Date

**Dodge City Community  
College:**

\_\_\_\_\_  
Board of Trustees Chairperson

\_\_\_\_\_  
Secretary of Board

\_\_\_\_\_  
Date



# City of Dodge City

806 N. Second Ave. Phone: 620-225-8100  
PO Box 880 FAX: 620-225-8144  
Dodge City, KS 67801 www.dodgecity.org

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## *Memorandum*

To: City Manager  
City Commissioners

From: Melissa McCoy, Project Dev. Coordinator

Date: February 12, 2015

Subject: Repeal Ordinance No. 3289 and adopt a Historic Preservation Ordinance for the City of Dodge City

Agenda Item: New Business

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### **Recommendation:**

Staff and the Historic Landmarks Commission (Landmark Commission) recommends an ordinance adopting a Historic Resources Preservation Ordinance by reference for the City of Dodge City, and repealing Ordinance NO. 3289 and all other ordinances and provisions of ordinances that may conflict.

### **Background:**

City staff requested that the Landmark Commission make recommendations for amendments to the Dodge City Historic Resources Preservation Ordinance (Preservation Ordinance) in conjunction with their review and recommendations of the Dodge City Heritage Overlay District guidelines. In addition, to the Landmarks Commission's recommendations for amendments, feedback was also received from the Kansas State Historical Society (SHPO), City Attorney, Development Services and Parks and Recreation Staff. The recommended amendments were as follows:

### **Amendments:**

- Remove all references to 500 foot Environs Law
- Remove all references to State and National Properties laws.
- Establish a name for the Local Register which will be referred to as *Dodge City Landmarks List*
- Specify Landmark Historic Districts and not only Historic Districts
- Update definitions and move the section for definitions to the 2<sup>nd</sup> section of the document.
- Move some sub-sections under different section headings to improve continuity.

### **Attachments:**

Dodge City Historic Preservation Ordinance

**Ordinance NO. 3598**

AN ORDINANCE ADOPTING AN HISTORIC RESOURCES PRESERVATION ORDINANCE BY REFERENCE FOR THE CITY OF DODGE CITY, KANSAS; CREATING A RECONSTITUTED HISTORIC LANDMARKS COMMISSION; ESTABLISHING PENALTIES FOR VIOLATIONS THEREOF; AND REPEALING AND REPLACING ALL OTHER ORDINANCES AND PROVISIONS OF ORDINANCES IN CONFLICT HERewith.

WHEREAS, Historic Preservation is fundamental to tourism and economic development in the City of Dodge City; and

WHEREAS, the City of Dodge City has had an Historic Landmarks Commission and procedures for nominating and preserving structures, places, and districts to local, state, and national historic registers since 1967; and

WHEREAS, state and federal guidelines have evolved since the original 1967 ordinance;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DODGE CITY, KANSAS;

**SECTION 1: ADOPTION AND INCORPORATION OF HISTORIC RESOURCES PRESERVATION ORDINANCE.**

There is hereby adopted and incorporated by reference for the purpose of identifying, preserving, and regulating changes to historic structures, places, and districts within the City of Dodge City, and providing for the administration and enforcement thereof an Historic Resources Preservation Ordinance developed and published by the Dodge City Development Services Department, dated February, 2015. Such Historic Resources Preservation Ordinance is hereby made as part of the ordinance and code of the City as if the same had been set in full herein, all as authorized and in the manner proscribed by K.S.A. 12-3009 through 12-3012, and K.S.A. 12-3301 through 12-3302, including any amendments thereto. No fewer than three copies of said Historic Resources Preservation Ordinance shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable hours of City Business.

**SECTION 2: STATUTORY AUTHORITY.**

The Historic Resources Preservation Ordinance is established by the Home Rule authority of the City as granted by the Kansas State Constitution.

**SECTION 3: PENALITIES.**

ANY violation of any provision of the Historic Resources Preservation Ordinance shall be a misdemeanor and punishable by a fine not to exceed \$500.00 and/or by imprisonment for not more than six months. Each day of violation after notification shall constitute a separate offense. Nothing contained herein shall prevent the City from taking such other lawful actions as necessary to prevent, abate, or remedy any violation.

**SECTION 4: REPEAL.**

Adoption of this Historic Resources Preservation Ordinance hereby repeals the City of Dodge City Ordinance NO. 3289, and repeals all other ordinances or provisions of ordinances in conflict herewith to the extent of conflict only.

SECTION 5: ACCRUED RIGHTS AND LIABILITIES SAVED.

The repeal of previously existing ordinance, and provisions of ordinances provided by Section 4 above shall not affect any rights accrued, nor fines penalties, forfeitures, or liabilities incurred thereunder, nor actions involving any of the provisions of said ordinances. Said repealed ordinances and provisions of ordinances are hereby continued in force and effect, for the purpose of such rights, fines, penalties, forfeitures, liabilities or actions thereof.

SECTION 6: SEVERABILITY.

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

SECTION 7: EFFECTIVE DATE.

This Historic Resources Ordinance shall take effect from and following its publication in the official city newspaper as provided by law.

PASSED AND APPROVED by the governing body and approved by the Mayor of the City of Dodge City, Kansas, this 16 day of February, 2015.

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BRIAN DELZEIT, Mayor

ATTEST:

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NANNETTE POGUE, CITY CLERK

# DODGE CITY HISTORIC RESOURCES PRESERVATION ORDINANCE

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## **Section 1: Purpose & Applicability**

## **Section 2: Definitions**

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

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

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

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

## **Section 7: Certificate of Appropriateness Required**

## **Section 8: Landmark Designation Process**

## **Section 9: Appeal and Variance Procedure**

## **Section 10: Severability**

### **Section 1: Purpose & Applicability**

- 1.01 **Title** - This ordinance shall be known as the “Dodge City Historic Resources Preservation Ordinance,” and may be cited as such and will be referred to below as “this” ordinance.
- 1.02 **Purpose** - The purpose of this ordinance is to establish an historic preservation commission called the Dodge City Historic Landmarks Commission, hereafter referred to as the “Landmarks Commission”, to preserve and promote the preservation of prehistoric and historic sites, structures, objects, buildings (collectively “Properties”) and historic districts in the City. This ordinance is intended to enhance and promote Dodge City’s contribution to the history and architecture of the State of Kansas, as well as to this nation.
- 1.03 **Applicability** - This ordinance shall apply to all historically and architecturally significant sites, structures, objects, buildings and historic districts located within the Dodge City limits, which have been determined to be significant through nomination and placement on Dodge City Landmarks list, state or national registers of historic properties (“Historic Property” or “Historic Properties”). This ordinance shall apply to new construction, demolition, exterior alteration or enlargements to designated properties.
- 1.04 **Statutory Authority** - This ordinance is established under the Home Rule authority of the City as granted by the Kansas State Constitution.

### **Section 2: Definitions**

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

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

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

the significant structures or objects located within the designated area, and are relatively free from non-contributing structures which detract from the historic properties.

- q) **Historic Property:** Historic properties that are over fifty years old that may have significance to the history of Dodge City, but have not been designated as Landmarks.
- r) **Historic Preservation:** The study, identification, protection, restoration, and rehabilitation of buildings, sites, structures, objects, districts, and areas significant to the history, architecture, archaeology, or culture of the city, state or nation. Preservation may include work to halt the process of decay, normal maintenance work, and other measures to retain and sustain the nature, form, material, and integrity of historically or architecturally important properties, structures, buildings, objects, or historical districts.
- s) **National Register:** The current National Register of Historic Places established by the National Preservation act of 1966, 80 Stat. 915.16 USC 470 et seq., as may be amended.
- t) **Non-contributing:** A building, site, structure, or object that does not add to the historic significance of a property.
- u) **Normal maintenance/repair:** Any work designated to correct damage or deterioration to the condition that existed prior thereto. "Normal maintenance" includes all work performed by a property owner which does not require a development permit as prescribed by the City's development regulations.
- v) **Secretary of Interior's *Standards for Rehabilitation*:** These are a set of 10 standards and their accompanying guidelines as issued by the Secretary of the Interior which the Landmarks Commission and Department staff shall use for reviewing projects under the COA process.
- w) **Site:** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archeological value.
- x) **State Historic Preservation Officer or "SHPO":** The person who has been designated by law and by the Governor of the State of Kansas to administer the State Historic Preservation Program.
- y) **State Register:** The current Register of Historic Kansas Places as prepared, approved, and amended by the State Historic Sites Board of Review and authorized by K.S.A. 752701, et seq., as may be amended.
- z) **Structure:** A functional construction made for purposes other than creating shelter, such as a bridge.
- aa) **Variance:** A variation from a specific requirement of the adopted design standards, as applied to a specific structure or property.

### Section 3: Dodge City Landmarks Commission

- 3.01 **Creation** - The Landmarks Commission is hereby created to inventory, promote, list, record, protect, preserve, and enhance places, areas, features, or sites within the City that have special architectural, archeological, cultural, or historical significance. The Landmarks Commission shall advise the City Commission and cooperate with other historic agencies and organizations concerning preservation of the City's historic and cultural heritage.
- 3.02 **Membership** - The Landmarks Commission shall consist of seven (7) Dodge City residents appointed by the Mayor with concurrence of the City Commission. All members shall have interest, knowledge, or training in preservation related fields. Three (3) members shall represent preservation related professions such as architecture, law, historian, real estate, finance, museum

curator, planning, and/or building trades. Appointments shall be for a term of three (3) years, except that the first Commission shall be appointed as follows: three (3) members for three-year terms, two (2) members for two-year terms and two (2) members for one-year terms. The Mayor, with City Commission concurrence, may remove any member of the board for cause. Vacancies shall be filled by appointment as above for the remainder of the unexpired term.

3.03 **Rules of Procedure** - The Landmarks Commission shall adopt bylaws or rules of procedure for its efficient operation. Minutes of the Landmarks Commission's meetings will be distributed to Landmarks Commission members, the City Commission, the Kansas State Historic Preservation Office (SHPO) and others upon request.

3.04 **Annual Report** - The Landmarks Commission shall prepare an annual report of its activities to be submitted to the City Commission and SHPO. The report shall include an account of the number and type of cases reviewed and their disposition, a listing of new designations made during the year, and a record of members' attendance at meetings and training sessions. The report shall also assess progress in preserving historically important properties, and districts, and assess the need for future changes to this ordinance and program. The report shall include a statement of goals for the ensuing year and shall be duly approved by the Landmarks Commission.

3.05 **Authority and Responsibilities**

- a) The geographic area of authority shall be the area within the Dodge City corporate limits.
- b) The Landmarks Commission's central purpose is the designation and the protection of Historic Properties and Historic Districts and to serve as an advisory board for the City Commission. The Landmarks Commission shall review all proposed nominations for Dodge City Landmark status, state, and national registers of Historic Properties. A professional in an applicable specific relevant discipline shall evaluate all nominations, if not represented on the Landmarks Commission, prior to board recommendation.
- c) The Landmarks Commission may recommend to the City entering into certain agreements with the SHPO
- d) Each commission member shall attend at least one (1) information or training meeting each year as approved by the SHPO.
- e) A survey shall be used to gather information about properties and areas that might be eligible for listing in the Landmark list (and/or the state and national register).
- f) The City shall provide for adequate public participation in all aspects of the implementation of this ordinance. All meetings shall be open to the public pursuant to K.S.A. 75-4318. The Landmarks Commission shall meet at least four (4) times each year. Agenda materials provided to members shall be open to the public. Decisions shall be made in a public forum and minutes of all meetings shall be kept on file and available for public inspection.
- g) The Landmarks Commission may establish other programs and services such as:
  - create public information programs;
  - promote preservation activities with public and/or private funds;
  - review development plans that may affect Historic Properties;
  - cooperate with local groups or agencies to provide the widest possible promotion of historic programs and places, and
  - similar activities to promote the intent of this ordinance.
- h) The Landmarks Commission shall review and recommend local incentives to encourage landmarks and districts designation in Dodge City. These may be in the form of retail discounts,

tax rebates, conservation easements, permit fee waivers, utility reductions, and other means to stimulate interest in historic preservation.

- i) The Landmarks Commission may review and recommend policies regarding historically compatible public streetscapes, lighting, and signage in the immediate vicinity of Historic Properties and in Historic Districts. Resources available to create such improvements may include general or special tax authority as well as special assessment processes.
- j) The Landmarks Commission may prepare applications for City Commission approval for any gift, grant, bequest, devise, lease, fee, development right, easement, covenant, or conveyance for the purpose of historic preservation.
- k) The Landmarks Commission shall review the provisions of this ordinance periodically to recommend comprehensive or individual changes as deemed appropriate.
- l) Landmarks Commission members shall serve without compensation. The City Commission shall establish budget authority to provide for historic preservation administration and promotion activities.

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

- 4.01 To further the purposes of this ordinance and to assure maximum public knowledge and involvement in the preservation of Dodge City's history, the City may enter into agreements with other units of government, other agencies, and private corporations and the Landmarks Commission may recommend them to do so. Specifically, the City may negotiate an agreement with the SHPO whereby the state may delegate certain responsibilities to the City, including, but not limited to, the review of register nominations and development/demolition permit applications for compliance with the herein stated historical regulations and objectives.
- 4.02 Promotion - The Landmarks Commission shall be the City's point of contact for all historic associations and organizations within the City, state, and nation and shall provide such assistance as practical to promote and develop historical, archeological, or prehistoric interest in Dodge City within the established budget for the operation of the Landmarks Commission. Activities such as submitting pass-through grants on behalf of these agencies, providing assistance with tax credit and other financial incentives directed toward historic property preservation, and providing basic research materials to interested parties will be conducted by the department as directed by the Landmarks Commission and as authorized by the City Commission through the various agreements. The Landmarks Commission is expected to provide accurate information to news media when appropriate to further the objectives of historic property preservation.

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

- 5.01 Department - The Dodge City Development Services Department (the "Department") shall be responsible for the administration of this ordinance and performing staff functions for the Landmarks Commission. The Department is authorized to develop application forms and procedures consistent with this ordinance, and to enforce its provisions.
- 5.03 Fees - Fees shall be set by the City Commission. Fees shall be set for the following activities: request for a Variance from provisions of this ordinance; and application to appeal denial of a COA for the improvement or demolition as indicated in the development permit application.
- 5.04 Enforcement - The Director, upon discovery that a project subject to the COA process has begun without the appropriate review and permits, shall issue a notice to cease to the owner and shall take all appropriate measures to prevent such unlawful act. Such notice shall explain the nature of the violation in clear terms and shall allow the owner to give satisfactory evidence that the action will be corrected within thirty (30) days or that appropriate action to comply

with the provisions of this ordinance will be initiated. Failure to comply may result in citation to municipal court and may result in the City taking corrective action to abate the offense and assess the costs of such abatement to the owner. Such notice and order may be appealed (see provision 4.07); however, the alleged violating work shall cease until the matter is finally resolved. The City may pursue any and all other available legal remedies to correct a violation of this ordinance.

- 5.05 Abatement Assessment of Costs If the City has filed proper notice and the time has elapsed for the correction by the owner, the City may take corrective action as necessary. Any and all costs incurred by the City under the provisions of this Section shall be assessed against each lot or piece of ground chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.
- 5.06 Penalties - Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed one (1) year and/or a fine not exceeding Two Thousand Five Hundred Dollars (\$2,500.00).

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

- 6.01 Historic Resources Survey - The Landmarks Commission shall annually update the historical resources inventory to identify historical properties, and historical districts that may have archeological, historical, cultural, or architectural importance to the community. As part of the survey, the Landmarks Commission shall evaluate studies by other organizations and compile appropriate descriptions, facts, and photographs. All such materials shall be documented in accordance with the survey manual prepared by SHPO.
- 6.02 Identification of Landmarks and Historic Districts - The Landmarks Commission shall keep a Dodge City Landmarks Register. Said register will contain a complete description of all historical properties, and historical districts designated as landmarks and a description of boundaries on the Map of Landmarks, on file in the office of the City Clerk and the Department.
- 6.03 Nomination of Landmarks and Historic Districts - The Landmarks Commission shall review nominations for Landmark Historic Districts to the local, state, and national historic registers.

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

- 7.01 Upon receipt of an application for any demolition, alteration or expansion of a Landmarks and properties within Landmark historic districts, the Landmarks Commission and Department shall initiate a process to determine if such permitted action is appropriate. All applications shall be reviewed, approved, or denied in accordance with the process outlined below.
- 7.02 Department Director - The Development Services Department Director (the "Director") or designated representative shall review all development permit applications and other pertinent information to determine if a Landmark historic Property or historic district may be affected by a proposed development or activity. If so, the Director shall follow the procedure to either issue a Minor COA or begin a review process in accordance with the provisions of this ordinance. The Director shall forward the Landmarks Commission's recommendations to the City Commission, record and file all landmark designations, maintain the Map of Landmarks, and keep all agendas, minutes, reports, findings, determinations, and correspondence for the Landmarks Commission. Applications that cannot be approved by the Director may be referred to the Landmarks Commission by the applicant as a Major COA.

- 7.03 Determination of Appropriateness - Department staff shall prepare a COA before any alteration, development, or demolition permit may be issued for any Landmark historic property or Landmark historic district. COA shall be classified as either a Minor COA or a Major COA.
- 7.04 Variances - Any Historic Property owner (or authorized representative) may apply for a Variance from specific standards or guidelines for historic preservation as set and amended by the Landmarks Commission and the City. Such request for Variance shall be made using the process identified in Section 8 of this ordinance.
- 7.05 Normal property maintenance shall be exempt from the provisions of this ordinance, unless and/or until a development permit for is required by other City development regulations.
- 7.06 Minor Certificates of Appropriateness - A Minor COA shall be issued for any demolition or alteration work involving the following types of activities which can be demonstrated by the owner to have no adverse effect on a Historic Property or Historic District:
- Most interior improvements except those noted as a pertinent to a landmark designation
  - Changes to accessory structures, landscaping features, signs, fences, public walkways, public streets, public alleys, retaining walls and utilities that do not contribute to the historic character of a Historic Property or Historic District.

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

- 7.07 Major Certificate of Appropriateness - A Major COA shall be subject to review and approval by the Landmarks Commission and may be authorized for the following types of permits:
- Interior space rehabilitation where such space was an important component in approval of the landmark nomination;
  - Any demolition, exterior alteration or expansion of a Historic Property or within an Historic District;
  - Any proposed new construction on a Historic Property or within an Historic District;
  - Demolition of part or all of a Historic Property or Landmark property in an Landmark historic district; and
  - Other items not covered by a Minor COA.
- 7.08 The review process for a Major COA is:
- a) The Department receives application for permit which triggers the determinations warranting a Major COA and notifies the applicant that a formal review is required before a COA can be issued.
  - b) The applicant submits a request for review in writing on provided forms and with all the required information.
  - c) A completed request is placed on the Landmarks Committee agenda or within thirty (30) days of the submittal. The Department prepares and publishes notice of time, date, place, and purpose of public hearing, such notice to be published at least twenty (20) days prior to the date of the hearing. Notice is also sent by regular mail to all affected property owners located where the project is taking place.
  - d) The Landmarks Commission conducts the public hearing and determines if the COA can be issued and submits its written decision, with appropriate documentation, to the applicant. If the

COA can be issued, the development permit may be granted by the Department. If the requested action is determined not appropriate in order to protect the historic character or integrity of the property and/or Historic District, then the applicant may file an appeal, in writing, within thirty (30) days asking that the application be reconsidered by the City Commission. (See Section 9)

- e) A decision may be made immediately after the public hearing, or the Landmarks Commission may recess the meeting for further deliberation. Failure to render a decision within thirty (30) days from the time a complete application was submitted shall be deemed to be approval, unless an extension is agreed upon by both the applicant and the Landmarks Commission.
- f) The decision of the Landmarks Commission (or City Commission) is conveyed in writing to the Applicant. If the COA is issued, the Department may grant a development permit as long all other city ordinance requirements are met.

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

- a) Specific design criteria for exterior alterations of Historic Properties, or Properties in Historic Districts, shall be based on the U.S. Secretary of the Interior's Standards for Rehabilitation as referenced in the Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings at <http://www.nps.gov/tps/standards/rehabilitation/rehab/guide.htm>.

Guidelines for New Construction and Additions:

- b) New construction and additions to existing Historic Properties guidelines shall be taken into consideration above and beyond the Standards noted above.

7.10 Signs - The Landmarks Commission shall review and approve or deny all requests for signs to be located on a Historic Property or within a Historic District in accordance with the following design guidelines in addition to the basic criteria set forth in the standards:

- a) Signs shall be relative to the scale of the site, and shall not block, obscure or distract from the Historic Property's or Historic District's significant design elements.
- b) Wherever possible, actual historic signage should be maintained and restored to original condition regarding design, materials, craftsmanship or placement.
- c) Illuminated signs shall be designed to reduce glare and shall not detract from the Historic Property's or Historic District's historic character.
- d) Freestanding signs and monument placards explaining the Historic Property's or Historic District's significance or age shall be compatible with the Historic Property or Historic District, but are otherwise encouraged.
- e) Signs requiring a Major COA are not subject to the public hearing process and will be reviewed at the next regular Landmarks Commission meeting with appeal to the City Commission, if denied. Appeals must be submitted in writing within thirty (30) days of denial.

7.11 Retention of Accessory Structures and Landscaping - Accessory structures such as outbuildings and existing site characteristics such as trees, other significant landscaping, walls, stairs, paving materials, fencing, walkways, and other site features that reflect the Historic Property's or Historic District's significance shall be retained and protected from demolition or alteration.

- a) Landscaping shall be appropriate to the scale, era, and features of the Historic Property or Historic District.

- b) Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Non-contributory structures shall not distract from the Historic Property or Historic District.
  - c) Design criteria are more stringently applied to projects/properties of greater significance.
  - d) Accessory structures and landscaping features requiring a Major COA are not subject to the public hearing process and will be reviewed at the next regular Landmarks Commission meeting with appeal to the City Commission if denied. Appeals must be submitted in writing within thirty (30) days of date of denial.
- 7.12 Normal property maintenance shall be exempt from the provisions of this ordinance unless or until a development permit for work is required by other City development regulations.
- 7.13 Demolition applications for a Historic Property or a Property in a Landmark Historic District which includes non-contributing properties shall be denied for a period not to exceed one hundred eighty (180) days if a proposed public or private re-use of the property is unknown. The maximum period of delay may be reduced whenever the Landmarks Commission determines the owner will suffer extreme hardship or will be deprived of all beneficial use of the property by virtue of the delay. In either instance, the Landmarks Commission shall use the delay to negotiate with the owner and interested parties to find a means to preserve the Historic Property or the Property in the Historic District. If the proposed re-use of the property is known, the use will be examined for relationship and compatibility with the Historic Property or Historic District before demolition may proceed. This provision also applies to Properties nominated for landmarks or historic district designation. Once redevelopment plans are known, the Landmarks Commission may determine appropriateness pursuant to Section 6 of this ordinance.

### **Section 8: Landmark Designation Process**

- 8.01 Except where otherwise specifically herein, the following process shall be used whenever Historic Properties or Historic Districts are nominated for the Dodge City Landmark designation.
- 8.02 Landmark Nominations - Landmark nominations shall be processed as follows:
- a) The Development Department will provide the necessary forms for the landmark nomination. Then, the Landmarks Commission or Department generates or receives a nomination and determines the appropriateness of the nomination based on age and character of the property or district being nominated. All applications shall be submitted to the Development Department.
  - b) Nominations for landmark or Landmark historic district designations shall be made by application submitted by the owner of a nominated landmark or by written consent signed and acknowledged by seventy-five percent (75%) of the owners within the boundaries of a defined proposed Landmark historic district. [Each owner or owners of any legal parcel of record shall have one voice in the district per parcel, regardless of parcel size to determine this threshold.
  - c) The Department shall provide notice of the date, time, place and purpose of the public hearing at least twenty (20) days prior to the date set and shall notify all affected property owners.
  - d) The Landmarks Commission shall conduct the hearing and make a recommendation to the City Commission. The meeting may be recessed for further deliberation. A recommendation shall be made within sixty (60) days from the time a complete application is received.
  - e) Within thirty (30) days after close of the public hearing, the Landmarks Commission shall submit its recommendation to the City Commission that the nominated property does or does not meet the criteria for placement on the Dodge City Landmarks list.

- f) The City Commission shall consider the nomination and recommendation at the next available regular commission meeting. The City Commission shall approve acceptable nominations by ordinance. Denials may be by simple motion and recorded vote. The City Commission may:
- Accept or reverse the Landmarks Commission recommendation.
  - Amend by reduction of a proposed historic district area or other types of nominated properties.
  - Refer the matter back to the Landmarks Commission for further study.

If approved, proper notifications shall be made and the property or historic district is declared a Landmark Historic Property or Landmark Historic District.

If denied, the reasons shall be presented to the applicant, in writing. If applicable the applicant may resubmit in a future nomination of the same property.

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

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

## **Section 9: Appeal and Variance Procedure**

9.01 Appeals - Any Historic Property owner aggrieved by the administration and enforcement of this ordinance may appeal (see Section 8) to the Landmarks Commission. Any decision of the Landmarks Commission may be further appealed to the City Commission. The Landmarks Commission (and City Commission) shall act in a quasi-judicial capacity when deciding appeals. They shall make specific findings of fact and derive conclusions from such findings. All rulings by the City Commission shall be final and binding on all parties unless appealed to, and overturned by, the District Court of Ford County, Kansas.

9.02 Applications for an appeal or Variance under the COA process or when nominations for a landmark shall be filed with the Department. The Director shall assure that all documentation and forms are properly submitted, and prepared notices for a public hearing before the Landmarks Commission. Notice shall be published in the newspaper and mailed to all affected property owners at least twenty (20) days prior to the public hearing.

- 9.03 The Landmarks Commission will conduct a public hearing on the case at the advertised place and time. A recommendation may be made immediately after the public hearing, or the Landmarks Commission may recess the meeting for further deliberation. This recommendation will be presented to the City Commission at the next regularly scheduled Commission meeting. Failure to render a decision within sixty (60) days from the time a complete application was submitted shall be deemed to be approval, unless an extension is agreed upon by both the Applicant, and the Landmarks Commission.
- 9.04 An Applicant may further appeal the City Commission decision to the District Court of Ford County, Kansas. Such appeal shall be filed with the court within thirty (30) days of the City Commission's decision.
- 9.05 Variance applications shall be reviewed by the Landmarks Commission. The Landmarks Commission may grant a variance from the specific regulation upon a finding that such Variance:
- a) Would not be contrary to the health, safety or best interest of the public; **and**
  - b) A literal enforcement of the provision will result in an unnecessary hardship to the owner; **and**
  - c) There is a condition unique to the property which was not created by the property owner; **and**
  - d) There is no adverse effect on surrounding properties; **and**
  - e) The Variance would not be contrary to the general spirit or intent of this ordinance.
- All five (5) conditions must be affirmed with specific findings of fact before granting the Variance.
- 9.06 An Applicant for a Variance may appeal the Landmarks Commission decision to the City Commission. Such appeal must be filed with the City Commission within thirty (30) days of the Landmarks Commission's decision.

### **Section 10: Severability**

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

# *Memorandum*

*To: City Commissioners  
City Manager*  
*From: Brad Ralph*  
*Date: February 12, 2015*

*Subject: Electric Utility Franchise*  
*Agenda Item: New Business*

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**Recommendation:** Staff recommends approval of the franchise contract for Victory Electric Cooperative Association, Inc.

**Background:** The most recent franchise for Victory Electric had a term of twenty (20) years commencing January 17, 1994. (prior Ordinance 3074). The franchise is now presented for continuation of the electric franchise pursuant to state statute (K.S.A. 12-2001 *et seq.*). Providing for a franchise fee of five percent (5%) of gross receipts per previous agreement. The franchise would extend through the year 2034 with five (5) year reviews.

**Justification:** The orderly use City rights-of-way for the delivery of electric power and light to the City's residents.

**Financial Considerations:** The sale of electricity to the City is exempt.

**Purpose/Mission:** Providing a safe and secure community and improving quality of life.

**Legal Considerations:** Continuation of expiring franchise ordinance. The proposed ordinance has been reviewed by counsel and is compliant with state statute.

**Attachments:** Proposed franchise ordinance.

**ORDINANCE NO: 3599**

**AN ORDINANCE GRANTING TO THE VICTORY ELECTRIC  
COOPERATIVE ASSOCIATION, INC., A KANSAS ELECTRIC  
COOPERATIVE, A FRANCHISE TO PROVIDE ELECTRIC SERVICES  
WITHIN THE CITY OF DODGE CITY, KANSAS**

**BE IT ORDAINED BY THE CITY COMMISSION OF DODGE CITY,  
KANSAS:**

**ARTICLE 1: DEFINITIONS**

1.1 “City” refers to the City of Dodge City, Kansas, a municipal corporation.

1.2 “Company” refers to The Victory Electric Cooperative Association, Inc., a Kansas electric cooperative corporation.

1.3 “Commission” refers to the governing body of the City.

1.4 “Facilities” refers to and are all facilities reasonably necessary to provide electric energy within and through the City other than the distribution facilities.

1.5 “Overhead to Underground Conversion” refers to and is the process of converting overhead electric distribution facilities to underground facilities.

1.6 “Public Easements” refers to public and dedicated easements and all rights owned or utilized by the City for utility or travel purposes.

1.7 “Relocation” refers to and is the movement of facilities from one location to another within the City in public easements or streets and other public places.

1.8 “Residents” refers to and includes all persons, business, industry, governmental entities or agencies, and any other entity presently located in whole or

in part, within the city limits or within the limits of the City as the same may be expanded during the term of the franchise agreement.

1.9 “Gross Receipts” refers to the amounts of money which the Company receives from its customers within the City from the sale of electric energy to customers within the City.

1.10 “Streets and Other Public Places” refers to and are streets, alleys, viaducts, bridges, roads, lanes, parks, and other public places within the City.

1.11 “Industrial Consumers” refers to those consumers which have a metered demand of 1200 KW or more.

## ARTICLE 2: GRANT OF FRANCHISE

2.1 Grant of Franchise. The City hereby grants to Company, for the period specified, and subject to the terms and conditions herein, a non-exclusive franchise (the “Franchise”) to furnish, sell and distribute electricity to the City and all residents of the City, and to transmit electricity through the City and beyond the limits of the City, and to do all things necessary for the provision of electric service within the City limits as now constituted and such additional area that may be added to the City by annexation or otherwise.

2.2 Notice of annexations. The City shall provide actual notice of additions or contractions to the City limits. Notice will include a certified copy of the annexation ordinance, proof of publication of the annexation ordinance as required by law and a map of the City detailing the annexed area. The Company shall have thirty (30) days from the date of the notice to adjust its billings to add or delete a franchise fee to the affected customers.

2.3 Street Lighting and Signaling. The Company shall provide street lighting within the City as reasonably requested by the City. The Company shall maintain the street lighting equipment in good repair. The Company will be compensated for the street lighting service through electric charges and rental fees in effect at the initial date of this Franchise, which may be increased based upon cost of service at five (5) year intervals from the date of this Franchise. If the City and the Company

shall disagree upon the proposed adjustment, each of them shall have the right to utilize an independent cost of service consultant, and the average of the two (2) opinions shall determine whether an increase should occur and, if so, the amount of such increase.

The City shall provide all traffic signals at the expense of the City and the same shall be metered and billed the same as other electrical service received by the City.

2.4 Term of Franchise. The term of this Franchise shall be from March 17, 2014 to March 17, 2034.

### ARTICLE 3: FRANCHISE FEE

3.1 Franchise Fee. In consideration for the grant of this Franchise, the Company shall pay to the City a sum equal to five percent (5%) of the gross receipts received by the Company from the sale of electricity within the City.

3.2 Exemptions. The sale of electricity to Industrial Consumers is exempt from payment of the Franchise Fee. The sale of electricity to the City is exempt from payment of the Franchise Fee. All Industrial Consumers who were exempt at the commencement of this Franchise shall remain exempt during the term of this Franchise. No new categories of exemptions will be created without the mutual agreement of the City and the Company.

3.3 Payment Schedule. The Company shall remit the Franchise Fee within thirty (30) days following the close of the month for which payment is to be made. Payment shall be made to the City and sent to the City Clerk.

3.4 Audits. The Company shall maintain adequate records of billings and payments under the Franchise which shall be open to inspection by the City, or the City's auditors, at reasonable times with reasonable notice. The City may request an audit by a professional third party auditor once during any five (5) year interval, and if it is determined that the Franchise Fees paid to the City were underpaid by more than ten percent (10%) within the most recent calendar year covered by the audit period, the Company shall pay one-half (1/2) of the third party audit expense.

If the audit reveals revenues which are due to the City under the terms of the Franchise, the Company shall make payment of the amount due to the City within ninety (90) days of the completion of the audit. Overpayments by the Company shall be reimbursed to the Company within ninety (90) days.

#### ARTICLE 4: CONSTRUCTION AND DESIGN

4.1 NESC Standards. The Company shall design, construct and maintain its electric system in accordance with the National Electric Safety Code (NESC).

4.2 Maintenance. The Company shall maintain its electric system such that electric service will be reliable and adequate to customers without undue interruption, recognizing however, that the Company may experience extraordinary interruptions in its wholesale power supply, and that weather related or accidental outages may occur as a result of extraordinary events outside of the control of the Company. The Company shall immediately seek to restore any and all interruptions in service which may occur, consistent with the safety of the agents, employees and customers of the Company.

The Company shall regularly trim, cut and/or remove trees and shrubbery which, in the Company's sole discretion, interferes with the safe and reliable use of the Company's electric system and Facilities.

4.3 Minimal Interference. The Company shall install and maintain Facilities so as to minimally interfere with the lawful use of Public Easements.

4.4 Excavations and Construction. All excavation and construction shall be performed to minimize inconvenience to the City and to the public. To the extent possible, the Company and the City shall cooperate in excavation, maintenance and construction activities to minimize the effect upon the Facilities operated by each of them. After excavations are completed, the Company shall restore the surface of the excavation area to the prior grade and condition as nearly as reasonably possible.

The City and the Company agree to give notice to each other before the commencement of construction or excavation activities upon streets, alleys and

public places which may impact or affect the Facilities of each other, and allow inspection by each other, if requested.

The City and the Company shall cooperate and mutually agree on the location and engineering of newly constructed Facilities with due regard to the costs and objectives of each of them.

4.5 Relocation. Any relocation of the Company's Facilities caused or occasioned by a City project shall be at the expense of the Company. If the City requests Overhead to Underground Conversion, the installation cost of said Conversion shall be borne by the City. Any relocated Facilities that were originally underground shall be relocated as underground Facilities by the Company.

4.6 New Service Locations. The Company shall extend service to new locations when requested at the earliest practical time in accordance with and based upon the Company's extension and cost of service policies which are then in effect.

Any newly constructed electrical service lines to new residential service locations will be placed underground with the cost based upon the Company's extension and cost of service policies which are then in effect.

4.7 Overhead to Underground Conversion. The Company agrees to cooperate with the City in a program and a work plan to convert Distribution Facilities and other Facilities to underground, provided that any schedule or work plan will be developed through joint meetings between the Company and the City, and the schedules and work plans will contain reasonable scope and timing requirements. The cost of Overhead to Underground Conversion over and above the cost of typical overhead service shall be paid by the City or by the customer based upon the Company's extension and cost of service policies which are then in effect.

## ARTICLE 5: USE OF COMPANY FACILITIES BY OTHERS

5.1 Use by the City. If the Company installs new electric underground conduit, opens a trench, or replaces conduit, the Company shall provide adequate notice to permit additional installation of similar conduit or pull-wire by the City or

its contractors, or, in the alternative, the Company may elect to install the additional Facilities for the City. The City shall bear the cost of additional installations made for the benefit of the City, unless the Company shall elect to install the City Facilities, in which case the City shall pay for materials and the Company shall bear the responsibility of the other installation costs.

The Company will consider allowing the City to use easements that were privately granted to the Company if the easement grant permits such use, so long as the use by the City does not impair the Company's use of the easements.

5.2 Use by Third Parties. The Company may allow third parties holding a franchise from the City (but not including electric service providers) to utilize its poles or other structures upon terms and conditions and for such compensation to be agreed upon between the Company and the third party. Compensation paid by a third party will be retained by the Company. The Company will not be required to pay any additional expense for such use, and all agreements between the Company and third party users shall conform to construction and maintenance standards established by the Company. The Company shall not be required to permit any use that will interfere with Company's use of such facilities.

## ARTICLE 6: INDEMNIFICATION

6.1 Liability. The Company shall construct, maintain and operate its Facilities in a manner which provides reasonable protection against injury or damage to persons or property, provided, however, the obligation of the Company hereunder shall not increase or decrease its liability on third-party claims, and provided further that the Company's obligation to the City shall not be diminished by such exception. The Company shall save and hold the City harmless from and against all liability or damage and all claims or demands whatsoever in nature, and reimburse the City for all its reasonable expenses arising out of the negligent operations of the Company within the City and the securing of and the exercise by the Company of the franchise rights granted in this ordinance, including any third-party claims, administrative hearings and litigation. The Company will not be obligated to hold harmless or indemnify the City for claims or demands to the extent arising out of or in connection

with any negligent act or failure to act of the City or any of the City's officers or employees.

## ARTICLE 7: SALE, TRANSFER OR CONDEMNATION

7.1 Assignment of Franchise. The Company shall not assign or transfer its franchise rights without approval of the City. This provision shall not apply to reorganization or mergers which do not result in a change of control of the Company.

7.2 Nothing in this Franchise shall modify or limit the rights of the City under Kansas law to purchase assets or condemn electrical services, property or Facilities within the City.

## ARTICLE 8: DISPUTE RESOLUTION

8.1 Forfeiture. The Company and the City recognize that there may be circumstances where compliance with the provisions of this Franchise is impossible or delayed because of circumstances beyond the Company's control. The Company and the City further recognize that there may be claims of breach or non-compliance by either of them concerning performance under this Franchise. In those circumstances the Company shall have a reasonable time, not exceeding six (6) months, in which to remedy any alleged violations. If the Company and the City cannot agree to remedies for a claimed violation, the Company and the City agree that they will submit to mediation to be conducted by a practicing mediator with experience in commercial disputes, which shall be held in Dodge City, Kansas. The expense of the mediation shall be divided between the Company and the City, however, each of them shall pay their own attorney fees and costs of preparation.

8.2 Judicial Review. If mediation fails to resolve a dispute between them, the Company and the City shall be free to petition for relief in the District Court of Ford County, Kansas.

8.3 Continued Service. During mediation proceedings, and unless and until the District Court shall order otherwise, the Company shall continue to provide

service under the terms of this Franchise until final resolution of the forfeiture declaration.

## ARTICLE 9: RULES AND POLICIES OF THE COMPANY

9.1 Rules and Policies. The Company will have the right to make reasonable rules and regulations binding or affecting the customers and contractors of the Company for the protection of its property, for the prevention of loss and waste in the conduct and management of its business, and for the sale and distribution of electricity, including rules and regulations with reference to extensions or additions to its electric distribution system, as from time to time is deemed necessary. Those rules and regulations will be furnished to the City.

9.2 State and Federal Regulation. The Company is partially regulated by various federal and state agencies. The Company shall comply with all such regulation, and to the extent such regulation conflicts with this Franchise, the state and federal regulation will prevail.

9.3 Cooperative Governance. The Company is organized and operated as a cooperative, of which the City and all electric customers are members. Nothing in this Franchise will modify the rights of the Company or its members under the Company's articles of incorporation and bylaws.

## ARTICLE 10: AMENDMENTS

10.1 Amendments to Franchise. At any time during the term of this Franchise, the City, acting through the Commission, or the Company may propose amendments to this Franchise by giving thirty (30) days written notice to other of the proposed amendments. The parties will negotiate in good faith in an effort to agree on mutually satisfactory amendments.

10.2 Five Year Review. The City, during the year 2019 and every fifth year thereafter during the term of this Franchise, upon giving sixty (60) days' notice to the Company of its intention to do so, may reconsider the consideration to be paid by the Company as a franchise fee. If the City decides that the franchise fee should

be increased or decreased, it shall provide for such increase or decrease by ordinance. The Company agrees to pay the franchise fee established by ordinance by the City, provided that the franchise fee may not exceed any maximum established by State statute or regulations.

## ARTICLE 11: MISCELLANEOUS

11.1 Third Parties. Nothing contained in this Franchise will be construed to provide rights to third parties. Nor is this Franchise intended to establish or provide rights to any third party, known or unknown.

11.2 Representatives. The Company and the City may designate representatives for communication and negotiation under this Franchise. The City Manager and the CEO of the Company will be the contact persons in the event disputes cannot be resolved between the designated representatives. The Company is ultimately controlled by a Board of Trustees and the City acts by its City Commission, and all amendments to the Franchise must be approved by such governing bodies.

11.3 Severability. Should any one or more provisions of this Franchise be determined to be illegal or unenforceable, all other provisions shall remain effective unless a valid forfeiture shall be decreed by a court of jurisdiction.

## ARTICLE 12: FORCE MAJEURE

Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Company's or the City's control.

## ARTICLE 13: VENUE

This franchise contract is made under and in conformation with and is subject to the laws of the State of Kansas.

ARTICLE 14: This ordinance shall take effect and be in force from and after its passage and publication once in the official City newspaper, and payment to the City of the costs of publication of this ordinance pursuant to KSA (2013 Supp.) 12-2001(b)(6) and a one-time application fee for reimbursement of the actual legal expenses incurred by the City for the review and approval of this contract franchise pursuant to KSA (2013 Supp.) 12-2001(g).

**PASSED BY THE GOVERNING BODY**, this \_\_\_<sup>th</sup> day of February, 2015, for the City of Dodge City, Kansas.

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Brian Delzeit, Mayor

ATTEST:

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Nannette Pogue, City Clerk

APPROVED AS TO FORM:

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Bradley C. Ralph, City Attorney

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Victory Electric Cooperative Assoc., Inc.

# *Memorandum*

*To: City Commissioners  
City Manager*  
*From: Brad Ralph*  
*Date: February 12, 2015*

*Subject: Telecommunications Franchise*  
*Agenda Item: New Business*

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**Recommendation:** Staff recommends approval of the telecommunications franchise contract for United Wireless Communications, Inc.

**Background:** The franchise is now presented for providing of telecommunications services pursuant to state statute (K.S.A. 12-2001 *et seq.*). Providing for a franchise fee of five percent (5%) of gross receipts per previous agreement. The franchise would effectively extend through the year 2034 with an initial five (5) year term and then one (1) year renewals.

**Justification:** The orderly use City rights-of-way for the delivery of telecommunications services to the community.

**Financial Considerations:** None

**Purpose/Mission:** Providing a safe and secure community and improving quality of life.

**Legal Considerations:** The proposed ordinance has been reviewed by counsel and is compliant with state statute.

**Attachments:** Proposed franchise ordinance.

**ORDINANCE NO. 3600**

**AN ORDINANCE GRANTING TO UNITED WIRELESS COMMUNICATIONS, INC., A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM IN THE CITY OF DODGE CITY, KANSAS.**

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS:**

**SECTION 1. DEFINITIONS.**

For the purposes of this Ordinance the following words and phrases shall have the meaning given herein. When not inconsistent within the context, words used in the present tense include the future tense and words in the single number include the plural number.

a. "Access line" - shall mean and be limited to retail billed and collected residential lines; business lines; ISDN lines; PBX trunks and simulated exchange access lines provided by a central office based switching arrangement where all stations served by such simulated exchange access lines are used by a single customer of the provider of such arrangement. Access line may not be construed to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of access line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected access line. Access line shall not include the following: Wireless telecommunications services, the sale or lease of unbundled loop facilities, special access services, lines providing only data services without voice services processed by a telecommunications local exchange service provider or private line service arrangements.

b. "Access line count" - means the number of access lines serving consumers within the corporate boundaries of the City on the last day of each month.

c. "Access line fee" - means a fee in an amount determined by the City, up to a maximum as set out in K.S.A. 12-2001 and amendments thereto, to be used by Grantee in calculating the amount of access line remittance.

d. "Access line remittance" - means the amount to be paid by Grantee to City, the total of which is calculated by multiplying the access line fee, as determined by the City, by the number of access lines served by Grantee within the City for each month in that calendar quarter.

e. "City" - means the City of Dodge City, Kansas.

f. "Communications System" or "System" means the poles, cables, wires, lines, optic fiber, and any associated converters, equipment, or other facilities designed, constructed or occupied by Grantee for the purpose of producing, receiving, amplifying or distributing communications service to or from locations within the City.

g. "Contract franchise" - means this Ordinance granting the right, privilege and franchise to Grantee to provide telecommunications services within the City.

h. "Facilities" means any portion of a System located in, along, over, upon, under, or through the right-of-way.

i. "Grantee" - means United Wireless Communications, Inc., a competitive telecommunications local exchange service provider providing local exchange service within the City. References to Grantee shall also include as appropriate any and all successors and assigns.

j. "Gross receipts" - shall mean only those receipts collected from within the corporate boundaries of the City and which are derived from the following: (1) recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (2) recurring local exchange access line services for pay phone lines provided by Grantee to all pay phone service providers; (3) local directory assistance revenue; (4) line status verification/ busy interrupt revenue; (5) local operator assistance revenue; (6) nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills; and (7) revenue received by Grantee from resellers or others which use Grantee's facilities. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless telecommunications services, lines providing only data service without voice services processed by a telecommunications local exchange service provider, private line service arrangements, internet, broadband and all other services not wholly local in nature are excluded from gross receipts. Gross receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within gross receipts. If Grantee offers additional services of a wholly local nature which if in existence on or before July 1, 2002, would have been included with the definition of gross receipts, such services shall be included from the date of the offering of such services within the City.

k. "Local exchange service" - means local switched telecommunications service within any local exchange service area approved by the Kansas Corporation Commission, regardless of the medium by which the local telecommunications service is provided. The term local exchange service shall not include wireless communication services.

l. "Right-of-way" means the surface and space on, above and below every present and future municipal street, alley, avenue, road, highway, lane, parkway and

boulevard or City right-of-way dedicated or commonly used now or hereafter for utility purposes, including but not limited to overhead lighting facilities, and including utility easements wherein the City now or hereafter acquires the right and authority to locate or permit the location of utilities consistent with communications systems. This term shall not include any county, state, or federal right-of-way or any property owned or controlled by any person or agency other than the City, except as provided by applicable laws or pursuant to an agreement between the City and any such person or agency. Right-of-way shall not include property owned or held by City and not typically considered right-of-way such as City parks and City buildings.

The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other nonwire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.

m. "Telecommunication services" - means providing the means of transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

## **SECTION 2. GRANT OF CONTRACT FRANCHISE.**

a. There is hereby granted to Grantee this contract franchise to construct, maintain, extend and operate its facilities along, across, upon or under any Right-of-way for the purpose of supplying telecommunication services to the consumers or recipients of such service located within the corporate boundaries of the City, for the term of this contract franchise, subject to the terms and conditions of this contract franchise.

b. The grant of this contract franchise by the City shall not convey title, equitable or legal, in the Right-of-way, and shall give only the right to occupy the Right-of-way for the purposes and for the period stated in this contract franchise. This contract franchise does not:

(1) Grant the right to use facilities or any other property, telecommunications related or otherwise, owned or controlled by the City or a third-party, without the consent of such party;

(2) Grant the authority to construct, maintain or operate any Facility or related appurtenance on property owned by the City outside of the Right-of-way, specifically including, but not limited to, parkland property, City Hall property or public works Facility property; or

(3) Excuse Grantee from obtaining appropriate access or attachment agreements before locating its Facilities on the Facilities owned or controlled by the City or a third-party.

c. As a condition of this contract franchise, Grantee is required to obtain and

is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by an appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission (FCC) or the Kansas Corporation Commission (KCC). Grantee shall provide City with copies of required permits. Grantee shall also comply with all applicable laws, statutes and/or ordinances.

d. This authority to occupy the Right-of-way shall be granted in a competitively neutral and nondiscriminatory basis and not in conflict with state or federal law.

### **SECTION 3. USE OF RIGHT-OF-WAY.**

a. Pursuant to K.S.A. 17-1902, and amendments thereto, and subject to the provisions of this contract franchise, Grantee shall have the right to construct, maintain and operate its Facilities along, across, upon and under the Right-of-way. Such Facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such Right-of-ways or obstruct the legal use by other utilities.

b. Grantee's use of the Right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. The City may exercise its home rule powers in its administration and regulation related to the management of the Right-of-way; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Grantee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances adopted by the City, relating to the construction and use of the Right-of-way, including, but not limited to the City's ordinance for communications services regulating the use and occupancy of the Right-of-way and amendments thereto, as may be amended from time to time.

c. Grantee shall participate in the Kansas One Call utility location program.

### **SECTION 4. COMPENSATION TO THE CITY.**

Compensation made pursuant to this contract franchise shall be paid on a quarterly basis without invoice or reminder from the City and paid not later than forty-five (45) days after the end of the remittal period. For the first year of this contract franchise, said compensation shall be a sum equal to five percent (5%) of gross receipts. Thereafter, compensation for each calendar year of the remaining term of the contract franchise shall continue to be based on a sum equal to five percent (5%) of gross receipts; unless the City notifies Grantee prior to ninety (90) days before the end of the calendar year that it intends to increase or decrease the percentage of gross receipts for the following calendar year or that it intends to switch to an access line fee for the following calendar year. In the event City elects compensation based on an access line fee, nothing herein precludes City from reverting back to a gross receipts fee provided City notifies Grantee prior to ninety (90) days before the end of the calendar year that it intends to elect a gross receipts fee for the

following calendar year. Any increased access line fee or gross receipt fee shall be in compliance with the public notification procedures set forth in K.S.A. 12-2001.

#### **SECTION 5. RECORD REVIEW.**

The City shall have the right to examine, upon written notice to the Grantee, no more than once per calendar year, those records necessary to verify the correctness of the compensation paid pursuant to this contract franchise.

#### **SECTION 6. RESOLD SERVICES.**

Grantee shall collect and remit compensation as described in Section 4 on those access lines that have been resold to another telecommunications local exchange service provider.

#### **SECTION 7. INDEMNITY AND HOLD HARMLESS.**

a. It shall be the responsibility of Grantee to take adequate measures to protect and defend its Facilities in the Right-of-way from harm or damage. If Grantee fails to accurately or timely locate Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 et seq., Grantee has no claim for costs or damages against the City and its authorized contractors unless such parties are responsible for the harm or damage caused by their gross negligence. The City and its authorized contractors shall be responsible to take reasonable precautionary measures including calling for utility locations and observing marker posts when working near Grantee's Facilities.

b. Grantee shall indemnify and hold the City and its commissioners and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of Grantee, any agent, officer, director, representative, employee, affiliate or subcontractor of Grantee, or its respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining Facilities in the Right-of-way.

c. Grantee and City shall promptly advise the other in writing of any known claim or demand against Grantee or the City related to or arising out of Grantee's activities in the Right-of-way.

## **SECTION 8. INSURANCE REQUIREMENT AND PERFORMANCE BOND.**

a. During the term of this contract franchise, Grantee shall obtain and maintain insurance coverage at its sole expense, with financially reputable insurers that are licensed to do business in the State of Kansas. Should Grantee elect to use the services of an affiliated captive insurance company for this purpose, that company shall possess a certificate of authority from the Kansas Insurance Commissioner. Grantee shall provide not less than the following insurance:

(1) Workers' compensation as provided for pursuant to the laws of the state of Kansas with an employers' liability limit equal to the amount required by law.

(2) Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with an aggregate limit of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage liability. Upon request, the City shall be included as an additional insured with respect to liability arising from Grantee's operations under this contract franchise.

b. As an alternative to the requirements of subsection (a), Grantee may demonstrate to the satisfaction of the City with a non-revocable Letter of Credit that it is self-insured and as such Grantee has the ability to provide coverage in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by Grantee, or alleged to so have been caused or occurred.

## **SECTION 9. REVOCATION AND TERMINATION.**

In case of failure on the part of Grantee to comply with any of the provisions of this contract franchise, or if Grantee should do or cause to be done any act or thing prohibited by or in violation of the terms of this contract franchise, the City shall abide by the requirements of K.S.A. 12-2001 by providing reasonable notice and an opportunity for a public hearing before the City governing body before the contract franchise may be revoked.

## **SECTION 10. RESERVATION OF RIGHTS.**

a. The City specifically reserves its right and authority as a customer of Grantee and as a public entity with responsibilities towards its citizens, to participate to the full extent allowed by law in proceedings concerning Grantee's rates and services to ensure the rendering of efficient telecommunications service and any other services at reasonable rates, and the maintenance of Grantee's property in good repair.

b. In granting its consent hereunder, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, its Home Rule powers under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

c. In granting its consent hereunder, Grantee does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, or under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

d. In entering into this contract franchise, neither the City's nor Grantee's present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the contract franchise, neither the City nor Grantee waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or Grantee may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of any present or future laws, non-franchise ordinances and/or rulings.

#### **SECTION 11. FAILURE TO ENFORCE.**

The failure of either the City or the Grantee to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this contract franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by the City or the Grantee unless said waiver or relinquishment is in writing and signed by both the City and the Grantee.

#### **SECTION 12. TERM AND TERMINATION DATE.**

a. This contract franchise shall be effective for a term of five (5) years from the effective date of this contract franchise. Thereafter, this contract franchise will renew for additional one (1) year terms, unless either party notifies the other party of its intent to terminate or renegotiate the contract franchise at least ninety (90) days before the termination of the then current term. The additional term shall be deemed a continuation of this contract franchise and not as a new franchise or amendment.

b. Upon written request of either the City or Grantee, this contract franchise shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Grantee, including but not limited to the scope of the contract franchise granted to Grantee or the compensation to be received by the City hereunder.

c. If any clause, sentence, section, or provision of K.S.A. 12-2001, and amendments thereto, shall be held to be invalid by a court or administrative agency of competent jurisdiction, provided such order is not stayed, either the City or Grantee may elect to terminate the entire contract franchise. In the event of such invalidity, if Grantee is required by law to enter into a contract franchise with the City, the parties agree to act in good faith in promptly negotiating a new contract franchise.

d. Amendments under this section, if any, shall be made by contract franchise ordinance as prescribed by statute. This contract franchise shall remain in effect according to its terms, pending completion of any review or renegotiation provided by this section.

e. In the event the parties are actively negotiating in good faith a new contract franchise ordinance or an amendment to this contract franchise upon the termination date of this contract franchise, the parties by written mutual agreement may extend the termination date of this contract franchise to allow for further negotiations. Such extension period shall be deemed a continuation of this contract franchise and not as a new contract franchise ordinance or amendment.

f. Pursuant to K.S.A.12-2001, under no circumstances shall the term of this contract franchise exceed twenty (20) years from the effective date of this contract franchise.

### **SECTION 13. DUTIES UPON TERMINATION**

Grantee shall, within one hundred and eighty (180) days of the termination of the contract franchise, remove from the Right-of-way any and all of its Facilities present above ground. Grantee will fill and pack to ground level any and all holes and depressions resulting from the removal of said Facilities as well as seeding said areas.

### **SECTION 14. POINT OF CONTACT AND NOTICES**

Grantee shall at all times maintain with the City a local point of contact who shall be available at all times to act on behalf of Grantee in the event of an emergency. Grantee shall provide the City with said local contact's name, address, telephone number, fax number and e-mail address. Emergency notice by Grantee to the City will be made by telephone to the City Clerk or the Superintendent of Public Works. All other notices between the parties shall be in writing and shall be made by personal delivery or by depositing such notice in the U.S. Mail, certified mail, return receipt requested. Any notice served by U.S. Mail, certified mail, return receipt requested, shall be deemed delivered five (5) business days after the date of such deposit in the U.S. Mail unless otherwise provided. "Business day" for purposes of this section shall mean Monday through Friday, City and/or Grantee observed holidays excepted.

**The City:**  
Cherise Tieben

**Grantee:**  
Bob Carlson

City Manager  
P.O. Box 880  
Dodge City, KS 67801  
(620) 225-8100

Roaming Coordinator  
1107 McArtor Road  
Dodge City, KS 67801  
(620) 855-4348  
bobc@unitedtelecom.net

or to replacement addresses that may be later designated in writing.

#### **SECTION 15. CONFIDENTIALITY.**

Information provided to the City under K.S.A. 12-2001 shall be governed by confidentiality procedures in compliance with K.S.A. 45-215 *et seq* and amendments thereto. Grantee agrees to indemnify and hold the City harmless from any and all penalties or costs, including attorneys' fees, arising from the actions of Grantee, or of the City at the written request of Grantee, in seeking to safeguard the confidentiality of information provided by Grantee to the City under this contract franchise.

#### **SECTION 16. COMPETITIVE NEUTRALITY**

The City agrees that under K.S.A.12-2001, and other state and federal laws, this contract franchise must be competitively neutral and may not be unreasonable or discriminatory to any telecommunications local exchange operating in the City. In entering into this contract franchise, the City specifically recognizes it must ensure all other telecommunications local exchange services providers operating in the City are subject to a substantially similar contract franchise within a timely manner not to exceed one hundred eighty (180) days from either the time this contract franchise becomes effective, or from the date a telecommunications local change service provider begins to offer local exchange service in the City. It is the City's sole responsibility to identify the telecommunications local exchange service providers operating in City, and utilize all available legal means, if necessary, to ensure all such telecommunications local exchange service providers are subject to a substantially similar contract franchise.

#### **SECTION 17. SEVERABILITY.**

If any clause, sentence, or section of this contract franchise, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared invalid; provided, however, the City or Grantee may elect to declare the entire contract franchise invalidated if the portion declared invalid is, in the judgment of the City or Grantee, an essential part of the contract franchise.

#### **SECTION 18. FORCE MAJEURE.**

Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Grantee's or the City's control.

**SECTION 19. VENUE.**

This franchise contract is made under and in conformation with and is subject to the laws of the State of Kansas.

**SECTION 20.** This ordinance shall take effect and be in force from and after its passage and publication once in the official City newspaper, and payment to the City of the costs of publication of this ordinance pursuant to KSA (2013 Suppl.) 12-2001(b)(6) and a one-time application fee for reimbursement of the actual legal expenses incurred by the City for the review and approval of this contract franchise pursuant to KSA (2013 Suppl.)12-2001(g).

**PASSED BY THE GOVERNING BODY**, this 16<sup>th</sup> day of February, 2015, for the City of Dodge City, Kansas.

\_\_\_\_\_  
Brian Delzeit, Mayor

ATTEST:

\_\_\_\_\_  
Nannette Pogue, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Ken W. Strobel, City Attorney

\_\_\_\_\_  
United Wireless Communications, Inc.  
\_\_\_\_\_

## *Memorandum*

*To: Cherise Tieben, City Manager*  
*From: Nannette Pogue*  
*Date: February 11, 2015*  
*Subject: Resolution No. 2015-01*

*Agenda Item: Ordinances and Resolutions*

---

**Recommendation:** I recommend the approval of Resolution No. 2015-01

**Background:** So that the City can obtain financing for construction projects in the form of general obligation bonds or temporary notes, the project first needs to be authorized by Resolution of the City of Dodge City. In 2015, the City needs funding in the amount of approximately \$2,825,000 plus associated financing costs. The projects to be paid by bonds or notes are: 14<sup>th</sup> Avenue Reconstruction from Country Acres Drive to Ross Blvd in the amount of 1,200,000; widening of Central Avenue from Layton Street to approximately 450' south of US 50, storm drainage modifications and installation of traffic signal in the amount of 1,475,000; and US 50 and Fairway Dr. intersection in the amount of \$150,000. These projects were previously reviewed and approved by the City Commission as part of the 2015 Street Program. Part of this money will come from the 2013 bond funds and part of it will be new General Obligation Bonds. There will be additional documents presented at the March 2 meeting which will authorize using the 2013 bond funds that were not used for the projects that were authorized in 2013. This came from savings on the Trail Street Project.

**Justification:** To issue General Obligation Bonds or Temporary Notes or use previously issued General Obligation Bonds to fund these projects, the specific street projects need to be authorized by Resolution.

**Financial Considerations:** Once the projects are authorized, funding will be issued to fund these projects.

**Purpose/Mission:** To maintain and improve the infrastructure in Dodge City.

**Legal Considerations:** None

**Attachments:** Resolution No. 2015-01

**RESOLUTION NO. 2015-01**

**A RESOLUTION AUTHORIZING THE IMPROVEMENT OR REIMPROVEMENT OF CERTAIN MAIN TRAFFICWAYS WITHIN THE CITY OF DODGE CITY, KANSAS; AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF.**

**WHEREAS**, K.S.A. 12-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 *et seq.* (the “Act”), and such improvement or reimprovement may include grading, regrading, curbing, recurbing, guttering, reguttering, paving, repaving, macadamizing, remacadamizing, constructing, reconstructing, opening, widening, extending, rounding corners, straightening, relocating, building any necessary bridges and approaches thereto, viaducts, overpasses, underpasses, culverts and drainage, trafficway illumination, traffic control devices, pedestrian ways, or other improvements or any two or more of such improvements or reimprovements and the acquisition of right-of-way by purchase or condemnation when necessary for any of such purposes; and

**WHEREAS**, the Act provides that all costs of improvements or reimprovements authorized thereunder, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large and may be funded, among others, by the issuance of general obligation bonds; and

**WHEREAS**, the governing body of the City of Dodge City, Kansas (the “City”), has heretofore designated certain streets within the City as main trafficways, as provided by and under the authority of the Act; and

**WHEREAS**, said governing body hereby finds and determines that it is necessary to improve or reimprove said main trafficways, and to provide for the payment of the costs thereof, all as provided by and under the authority of the Act.

**THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS:**

**Section 1. Project Authorization.** It is hereby deemed and declared to be necessary to improve or reimprove the main trafficways hereinafter set forth (collectively the “Project”) under the authority of the Act, in accordance with plans and specifications therefor prepared or approved by the City Engineer:

<b><u>Project Description</u></b>	<b><u>Main Trafficway Designation</u></b>	<b><u>Cost Estimate</u></b>
14 <sup>th</sup> Avenue Reconstruction from Country Acres Drive to Ross Blvd	Ord. 3016	\$1,200,000
Widening of Central Avenue from Layton Street to approx. 450’ south of US 50, storm drainage modifications and installation of traffic signal	Ord. 3169	1,475,000
US 50 and Fairway Dr. Intersection	Ord. 3569	150,000
<b><i>Total</i></b>		<b><i>\$2,825,000</i></b>

**Section 2. Financing Authority.** The costs of the Project, interest on interim financing and associated financing costs shall be payable from the proceeds of general obligation bonds of the City issued under authority of the Act (the “Bonds”).

**Section 3. Reimbursement.** The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

**Section 4. Effective Date.** This Resolution shall take effect and be in full force from and after its adoption by the governing body of the City.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

**ADOPTED AND APPROVED** by the governing body of the City of Dodge, Kansas, on February 16, 2015.

(Seal)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of Resolution No. 2015-\_\_ of the City of Dodge City, Kansas adopted by the governing body on February 16, 2015, as the same appears of record in my office.

DATED: February 16, 2015

\_\_\_\_\_  
Clerk

# *Memorandum*

*To: City Commission*  
*From: Ernestor De La Rosa, Asst. to  
the City Manager*  
*Date: February 16, 2015*  
*Subject: Resolution 2015-2*  
*Agenda Item: New Business*

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**Recommendation:** Staff recommends approval of Resolution No. 2015-2.

**Background:** The Senate Ethics and Elections committee of the Kansas Legislature has considered Senate Bill No. 171, which would make nonpartisan city and school elections partisan and move to the fall of even numbered years to be held in conjunction with state and federal elections.

**Justification:** City staff believes that proposed legislation would be unnecessary for the following reasons:

1. Combining the elections and forcing them to become partisan would relegate the local election to an afterthought to the party politics that attract the vast majority of media attention and campaign donations.
2. We have a firm belief that local elections should be focused on what is best for the community and the methods to achieve that success. The focus on partisan politics that we have seen in recent State and National elections will detrimentally erode that focus.
3. Communities can implement a variety of alternative methods, primarily grass roots initiatives that already exist, which are proven to increase turnout in city elections should there be a local election concern.

Overall, we believe that the current structure provides cities with the flexibility to address the preferences of their citizens and should be left alone unless driven by a local community effort.

**Financial Considerations:** None

**Purpose/Mission:** To maintain and improve voter turnout in Dodge City.

**Legal Considerations:** None

**Attachments:** Resolution No. 2015-2.

## **RESOLUTION NO. 2015-2**

A RESOLUTION OF THE CITY OF DODGE CITY, KANSAS, OPPOSING THE KANSAS STATE LEGISLATURE'S CONSIDERATION OF MAKING MUNICIPAL ELECTIONS PARTISAN AND MOVING TO THE FALL OF EVEN NUMBERED YEARS.

**WHEREAS**, the Senate Ethics and Elections committee of the Kansas Legislature originally considered SB 171, which would make nonpartisan city and school elections partisan and move to the fall of even numbered years to be held in conjunction with state and federal elections; and,

**WHEREAS**, the City feels that said legislation would unnecessarily interfere with local elections and would create the likelihood that local issues would be lost or ignored by voters during the course of large scale federal and state partisan elections; and,

**WHEREAS**, the City has concerns its issues would be relegated to the bottom of the ballot if placed with state and national elections leading to voter apathy with regards to said local issues; and,

**WHEREAS**, the City has concerns that partisan elections will harm the quality of city governments in Kansas and prohibit federal employees and active duty military from running for local office; and,

**WHEREAS**, the City is opposed to moving its elections to the fall of even numbered years.

**THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS:**

The City of Dodge City officially opposes SB 171 or any other legislation that moves local elections to the fall of even numbered years to be held in conjunction with state and federal elections.

**ADOPTED** by the governing body of the City of Dodge City, Kansas  
on this 16th day of February, 2015.

City of Dodge City

By \_\_\_\_\_  
Brian Delzeit, Mayor

Attest:

\_\_\_\_\_  
Nannette Pogue, City Clerk

## Memorandum

*To: City Commissioners*  
*From: Cherise Tieben*  
*Date: February 12, 2015*  
*Subject: CBC Real Estate Group LLC*  
*Agreement*  
*Agenda Item: New Business*

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**Recommendation:** Staff recommends the approval of the agreement with CBC Real Estate Group, LLC (CBC) for real estate advisory services in relation to the Star Bond Project.

**Background:** CBC has been working with the City of Dodge City since they submitted a proposal for services in December of 2011. Under the original letter of intent, dated December 19, 2011 the City paid a monthly fee for their services. Due to the length of time that it took to generate the Heritage Project, the payments were suspended in February of 2014. CBC has worked on a success based plan for compensation since that date.

**Justification:** Due to the detailed and complicated nature of the Star Bond legislation and the limited staff that communities our size can dedicate to Economic Development projects, it is necessary to hire an advisor to assist with these services. We have consulted our star bond attorney at Gilmore and Bell regarding the fees assessed and he has confirmed that they are reasonable due to the nature of the service.

**Financial Considerations:** The agreement will result in a base fee being paid totaling approximately \$271,016. The final amount will be directly tied to the actual percentages of bonds issued, see attached spreadsheet. The fees are recoverable from the star bond proceeds.

**Purpose/Mission:** Together, we serve to make Dodge City the best place to be.

**Legal Considerations:** The agreement has been reviewed by our City Attorneys and by bond counsel.

**Attachments:** Real Estate Advisor Agreement for Services

**REAL ESTATE ADVISOR  
AGREEMENT FOR SERVICES**

THIS AGREEMENT is entered into as of the \_\_\_\_ day of February 2015 (the "Effective Date"), by and between CBC REAL ESTATE GROUP, LLC, a Missouri corporation ("Real Estate Advisor") and the CITY OF DODGE CITY, KANSAS ("City"). (Real Estate Advisor and City are collectively referred to herein as the "Parties" and individually as a "Party").

**RECITALS:**

- a. The City has created a STAR Bond Project District pursuant to Ordinance No. \_\_\_\_\_ and pursuant to the provisions of K.S.A. 12-17,160 *et seq.* (the "Act") containing two (2) non-contiguous sites located in Dodge City, Kansas and Ford County, Kansas in close proximity to Dodge City, Kansas (the "Sites"). The Sites are described on Exhibit A, attached hereto and made a part hereof by reference.
- b. The City contemplates a development(s) on the Sites pursuant to the Act, consisting of retail, entertainment and business facilities (the "STAR Bond Project(s)");
- c. The City has decided to select CBC Real Estate Group, LLC as its Real Estate Advisor for the STAR Bond Project District.
- d. The Parties do now desire to make and enter into this Agreement.

**AGREEMENT**

NOW, THEREFORE, for valuable consideration, City and Real Estate Advisor hereby agree as follows:

**ARTICLE 1 - DEFINITIONS AND INTERPRETATION**

Interpretation. In this Agreement, unless a clear contrary intention appears:

- a. the singular number includes the plural number and vice versa;
- b. reference to any person includes such person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement and reference to a person in a particular capacity excludes such person in any other capacity or individually;
- c. reference to any gender includes each other gender;
- d. reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified, and in effect from time to time in accordance with the terms thereof;

- e. reference in this Agreement to any article, section, appendix, schedule or exhibit means such article or section thereof or appendix, schedule or exhibit thereto;
- f. each of the Exhibits hereto, and all parts thereof, are deemed part of this Agreement to the same extent as if set forth herein;
- g. "hereunder", "hereof", "hereto", "herein" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article, section or other provision thereof;
- h. "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and
- i. relative to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding."
- j. Accounting Terms. Unless expressly otherwise provided, accounting terms shall be construed and interpreted, and accounting determination and computations shall be made, in accordance with GAAP.
- k. Legal Representation of the Parties. This Agreement was negotiated by the Parties with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any Party will not apply to any construction or interpretation hereof or thereof.

## **ARTICLE 2 –TERM OF AGREEMENT.**

The term of this Agreement and Real Estate Advisor's Services hereunder commenced on December 19, 2011 (the "Effective Date") and shall continue in force until the completion of Services defined in Article 3, which is estimated to occur on or before December 31, 2016 or, final completion of the STAR Bond Project(s) and completion of the Real Estate Advisor's Services hereunder, unless terminated earlier in accordance with this Agreement.

If agreed to in writing by the City and the Real Estate Advisor, this Agreement may be extended for up to five (5) consecutive, one (1) year terms (the "Extension Term"). The City and the Real Estate Advisor agree to meet ninety (90) days prior to the expiration of the Term or any Extension Term to either extend the term or let this Agreement expire and confirm the same in writing, otherwise this Agreement will expire. If upon the date this Agreement expires or is terminated, the Real Estate Advisor is in active negotiations with Developer(s)/User(s) (the "Active Prospect") and if within a period that is 365 calendar days following the expiration or termination of the Term either there is a STAR Bond Issuance benefitting the Developer/User, then the City further agrees that the Advisory Fee will be paid to Real Estate Advisor in accordance with Article 4 of this Agreement. The Real Estate Advisor agrees to submit a list of such Active Prospects, to City not later than fifteen (15) calendar days following the expiration or termination of the Term, provided, however, that if City is in active negotiations with the Developer/User, it shall not be necessary to include that Active Prospect on the list. If there is a

STAR Bond Issuance during this period outlined above, this Agreement shall stay in effect until such STAR Bond issuance occurs.

Real Estate Advisor shall use its reasonable efforts to perform the Services defined in Article 3 within the Term of the Agreement. Notwithstanding payment of any Compensation, the Real Estate Advisor agrees to support the City with subsequent preparation and testimony required if the City is subject to a Post Audit performed by the State of Kansas Legislature.

### **ARTICLE 3 – SCOPE OF SERVICES.**

Real Estate Advisor shall provide the services described in Exhibit B - Scope of Services (the "Services"). In the event City determines that a material increase in the Services is warranted, the parties shall execute a Change Order, specifying the change in the Scope of Services and other provisions of this Agreement, including term and additional compensation, to reflect the increase in Services to be provided.

Staffing of Work, Real Estate Advisor. Real Estate Advisor shall provide sufficient staff to perform the Services in a timely manner. Real Estate Advisor designates William F. Crandall ("Crandall") to act as the Principal Representative of Real Estate Advisor. Real Estate Advisor agrees that, in addition to Crandall, there will be other employees of Real Estate Advisor who will be assigned key roles by Real Estate Advisor in performing the Services.

The Principal Representative shall perform the Services as reasonably determined necessary by Real Estate Advisor and Real Estate Advisor shall have the right to assign and re-assign specific personnel, including the Principal Representative, on the project in its reasonable discretion, provided that the staffing of the project is adequate to perform Real Estate Advisor obligations under this Agreement. Further, any Principal Representative removed or departed from the project will be replaced with another individual having, (a) comparable education, experience and other relevant qualifications, (b) the ability to devote sufficient time to the performance of duties appropriate to allow Real Estate Advisor to fulfill its obligations under this Agreement, and (c) such replacement Principal Representative will be subject to the approval of the City, with such approval not being unreasonably withheld, delayed or conditioned.

### **ARTICLE 4 – COMPENSATION.**

City shall pay Real Estate Advisor for the Services in accordance with Exhibit C - Compensation. Real Estate Advisor shall also be reimbursed for all reasonable out-of-pocket expenses incurred during performance of the Services (excluding Real Estate Advisor's overhead expenses), at cost. Real Estate Advisor shall invoice City periodically for the Services rendered and reimbursable costs, which invoices shall be due and payable upon receipt by City. City shall give prompt notice to Real Estate Advisor of any invoiced amount which City disputes, together with a full explanation of the reason for the dispute. City shall pay the remaining, undisputed amounts in a timely manner. City shall pay the disputed amount, if and to the extent determined to be owed, within thirty (30) days following resolution of the dispute.

If, with City's prior written consent, Real Estate Advisor continues to perform the Services after December 31, 2017 (the "Basic Services Outside Date") due to no fault or neglect of Real Estate Advisor, Real Estate Advisor's compensation for such services will be computed (a) on an hourly basis at the rates specified below (but shall not exceed, in the aggregate Ten Thousand Dollars (\$10,000.00) in any thirty (30) consecutive day period) or (b) as City and Real Estate Advisor may otherwise agree.

**Hourly Rates:**

Principal - \$325.00

Vice President - \$225.00

Project Manager - \$200

Administrative / Accounting Support - \$105

**ARTICLE 5 – INTENTIONALLY LEFT BLANK.**

**ARTICLE 6 – RESPONSIBILITIES.**

City shall be responsible for all matters described below:

- a. Provide to Real Estate Advisor, in a timely manner, all available information and documentation pertinent to STAR Bond Project(s) as may reasonably be requested by Real Estate Advisor in the performance of the Services.
- b. Give prompt notice to Real Estate Advisor of any matters of which City becomes aware that may affect the Services of Real Estate Advisor or any deficiency or perceived deficiency in the Real Estate Advisor's performance of the Services.
- c. Advise Real Estate Advisor of the identity and scope of services of any other consultants retained by City to provide services in regard to the STAR Bond Project(s) and require such other consultants to cooperate with Real Estate Advisor and to coordinate their activities with those of Real Estate Advisor, so as to allow Real Estate Advisor to perform the Services in an efficient manner.
- d. Provide comprehensive general liability insurance covering the Project, and naming Real Estate Advisor as an additional insured, with combined single limits per occurrence of not less than One Million Dollars (\$1,000,000.00) and Two Million Dollars (\$2,000,000.00) general annual aggregate.

**ARTICLE 7 – STANDARD OF CARE.**

Real Estate Advisor shall exercise that degree of care, expertise, skill and diligence in the performance of the Services as possessed and exercised by other persons providing the same type of real estate consulting services, under similar circumstances. Notwithstanding the fact that Real Estate Advisor's personnel may have professional qualifications as architects, engineers, attorneys or other professional designations, the performance standard to which Real

Estate Advisor shall be held shall be that of persons having experience and qualifications as real estate practitioners engaging in real estate sales, marketing, management, and project management.

## **ARTICLE 8 – INDEMNIFICATION AND LIABILITY.**

General; Limitation. Having considered the potential liabilities that may arise during Real Estate Advisor’s performance of the Services, the relative benefits and risks of the STAR Bond Project(s), and Real Estate Advisor’s fee for the Services, and in consideration of the terms of this Agreement, City and Real Estate Advisor agree to allocate and limit Real Estate Advisor’s liabilities in accordance with this Article. City stipulates and agrees that neither Real Estate Advisor nor any of its employees or agents shall bear any liability or responsibility with respect to any existing environmental, geo-technical or any other physical characteristic of the Sites or any zoning or other legal characteristic of the Sites.

Indemnification. Subject to the limits set forth below, Real Estate Advisor agrees to indemnify and hold City harmless from and against all losses, damages, costs and expenses incurred by City, if and to the extent such losses, damages, costs or expenses are caused by Real Estate Advisor’s negligence or willful misconduct in performing or failing to perform the Services; provided, however, that Real Estate Advisor shall have no obligation to indemnify and hold City harmless from and against, but rather City shall indemnify and hold Real Estate Advisor harmless from and against, any loss, damage, cost or expense caused by the negligence or willful misconduct of City, its agents or its other consultants. In the event losses, damages, costs or expenses are caused by the joint or concurrent negligence or willful misconduct of Real Estate Advisor and City, they shall be borne by each party in proportion to its own negligence or willful misconduct.

Limitation of Aggregate Liability. The total aggregate liability of Real Estate Advisor to City for all losses, damages, costs and expenses resulting in any way from the performance of, or failure to perform, the Services shall not exceed the limits of Professional Liability as defined in Article 9 below.

Incidental and Consequential Damages. Neither Party will be liable to the other for any incidental or consequential damages resulting in any way from either Party’s performance of, or failure to perform, pursuant to the terms of this Agreement.

Limitations of Responsibility. Real Estate Advisor shall not be responsible for: (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project; (b) the failure of any contractor, subcontractor, vendor, or other Project participant, not under contract to Real Estate Advisor, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, codes and ordinances; (c) procuring permits, certificates, and licenses required for any construction, (d) due diligence and underwriting of bonds or any financing related to the projects or (e) conclusion or recommendations made by consultants or other City advisors. Notwithstanding the foregoing,

Real Estate Advisor shall promptly advise City of any matters or condition of which Real Estate Advisor becomes aware that are likely to affect the general viability of the Project.

Survival. The terms and conditions of this Article 8 shall survive completion of the Services or any termination of this Agreement.

#### **ARTICLE 9 – INSURANCE.**

During the term of this Agreement, Real Estate Advisor shall maintain the following insurance:

- a. Comprehensive General Liability Insurance, with a combined single limit of \$1,000,000.00.
- b. Automobile Liability Insurance, with a combined single limit of \$1,000,000.00.
- c. Workers' Compensation Insurance in accordance with statutory requirements and Employers' Liability Insurance, with a limit of \$500,000.00 for each occurrence.
- d. Professional Liability Insurance, with a limit of \$1,000,000.00 annual aggregate.

Real Estate Advisor shall furnish to City certificates of insurance which shall include a provision that such insurance shall not be canceled without at least thirty (30) days written notice to City.

Real Estate Advisor and City waive all rights against each other and their directors, officers, partners, commissioners, officials, agents, and employees for damages covered by property insurance during and after the completion of the Services. If the Services result in or relate to any construction constituting part of the Project, a similar provision shall be incorporated into all construction contracts entered into by City and shall protect City and Real Estate Advisor to the same extent.

#### **ARTICLE 10 – RELATIONSHIP.**

It is the intent of the Parties that Real Estate Advisor will be an independent contractor in its capacity hereunder. Real Estate Advisor will not be deemed or construed to be a partner or joint venturer of or with City solely by virtue of, or pursuant to, this Agreement, and Real Estate Advisor will not have the power to bind or obligate City except as set forth in this Agreement or as otherwise approved by City in writing. Real Estate Advisor shall provide sufficient staff to perform the Services in a timely manner. Real Estate Advisor shall hire, train, supervise, direct the work of, and discharge all personnel engaged by it to perform the Services. Real Estate Advisor is solely responsible for payment of wages, salaries, fringe benefits and other compensation of, or claimed by, Real Estate Advisor's personnel in the performance of the Services, including, without limitation, contributions to any employee benefit plan and all payroll taxes.

## **ARTICLE 11 – TERMINATION AND SUSPENSION.**

Except as expressly permitted under this Article 11, neither party may terminate this Agreement. Either Party shall have the right to terminate this Agreement in the event that the other Party is in breach, fails to keep or perform any covenant or obligation contained in this Agreement and such other Party fails to remedy such breach or failure within fourteen (14) calendar days after the non-breaching Party has given the breaching Party written notice specifying such breach or failure, or within such additional period (not to exceed an additional thirty (30) days) as may reasonably be required to cure such breach or failure if it is of such nature that it cannot be cured within said fourteen (14) day period because of matters beyond the control of the breaching Party. In the event of termination, City shall pay to Real Estate Advisor all Compensation for the Services rendered or in progress (to the extent actually performed), and payment for reimbursable costs, through the date of termination. Termination of the Agreement will not preclude the non-breaching Party from pursuing legal or equitable relief against the breaching Party. If Real Estate Advisor has entered into any contracts for the benefit of the City (which Real Estate Advisor is not obligated to do, unless expressly provided on Exhibit A), such contracts will be assigned to City, and City shall assume all of Real Estate Advisor's obligations under such contracts, (i) upon notice from Real Estate Advisor, if City is the breaching Party, or (ii) upon notice from City, if Real Estate Advisor is the breaching Party.

## **ARTICLE 12 – NOTICES.**

Any notice, approval or other communication between City and Real Estate Advisor pursuant to this Agreement shall be made in writing and shall be deemed to be effective upon receipt or refusal of service and may be given by personal delivery, courier, reliable overnight delivery, facsimile or deposit in the United States mail, postage prepaid, registered or certified, return-receipt requested, to the address specified below or to such other address as may later be designated by written notice of the other Party, provided that any notice given by facsimile shall immediately be confirmed by another of the above methods:

City:

The City of Dodge City, Kansas  
806 N. Second Ave.  
Dodge City, Ks 67801  
Attn: City Manager Cherise Tieben  
Email: [cheriset@dodgecity.org](mailto:cheriset@dodgecity.org)  
Phone: (620) 225-8100

and City of Dodge City  
P.O. Box 880  
Dodge City, Kansas 67801  
Attention: City Clerk  
FAX: (620) 225-8144

Real Estate Advisor:

CBC REAL ESTATE GROUP, LLC  
4706 Broadway, #240  
Kansas City, Missouri 64112  
Attn: William F. Crandall  
Email: [bcrandall@cbcrealestategroup.com](mailto:bcrandall@cbcrealestategroup.com)  
Phone: (816)285-9550

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of City and Real Estate Advisor.

#### **ARTICLE 13 – DISPUTES.**

Each Party agrees to appoint an individual to act as liaison with the other Party with respect to this Agreement. In the event of a dispute between City and Real Estate Advisor arising out of or related to this Agreement, the aggrieved Party shall notify the other Party of the dispute within a reasonable time after such dispute arises. If the Parties cannot thereafter resolve the dispute, each Party shall nominate a senior executive officer to meet with a senior executive officer from the other Party in an effort to resolve the dispute by direct negotiation or mediation.

Should such negotiation or mediation fail to resolve the claim, dispute, or other matter in question between City and Real Estate Advisor arising out of, or relating to, this Agreement or the breach thereof, such claim, dispute, or other matter shall be decided by the District Court of Ford County, Kansas.

During the pendency of any dispute, the Parties shall continue diligently to fulfill their respective obligations hereunder.

#### **ARTICLE 14 – SEVERABILITY.**

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any invalid, illegal or unenforceable provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be invalid, illegal or unenforceable. The Parties further agree to amend this Agreement to replace any stricken provision with a valid, legal and enforceable provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being invalidated should a provision which is of the essence of this Agreement be determined to be invalid, illegal or unenforceable.

#### **ARTICLE 15 – ENTIRE AGREEMENT; GOVERNING LAW.**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and

negotiations with respect thereto. This Agreement may be amended only by a written instrument signed by both Parties. This Agreement shall be governed by the laws of the State of Kansas.

**ARTICLE 16 – ASSIGNMENT.**

Neither City nor Real Estate Advisor shall assign any rights or duties under this Agreement without the prior written consent of the other Party, which consent may be granted or withheld in such other Party’s absolute discretion. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent Real Estate Advisor from engaging independent consultants, associates, and subcontractors to assist in performance of the Services with the approval of the City.

**ARTICLE 17 – NO THIRD PARTY RIGHTS.**

The Services provided for in this Agreement are for the sole use and benefit of City and Real Estate Advisor. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Real Estate Advisor.

**ARTICLE 18– ATTORNEYS’ FEES.**

Each Party shall be responsible for their respective attorneys’ fees, costs of arbitration and court costs in the event any proceeding is brought by either Party with respect to this Agreement or to enforce any arbitration decision entered pursuant to this Agreement.

**ARTICLE 19 – MISCELLANEOUS.**

Authority. Each Party represents to the other that it has the power and authority to enter into this Agreement and that the person(s) executing on its behalf has the power to do so and to bind it to the terms of this Agreement.

Authority of the City; Legal Opinion. The City represents that it has taken all governmental and other action necessary or appropriate to authorize the City to execute, deliver and perform this Agreement and to cause it to be binding upon the City. Upon written request by the Real Estate Advisor, the City shall furnish to Real Estate Advisor an opinion reasonably acceptable to Real Estate Advisor from the City’s outside legal counsel engaged to assist the City with this Agreement to the effect that this Agreement has been duly authorized by the governing commission of the City and by any other governmental or other agencies, authorities or bodies having jurisdiction or control over the City and its activities, and that, subject to normal and reasonable bankruptcy and other qualifications, this Agreement is valid and binding upon the City and enforceable against the City in accordance with its terms.

Authority of Real Estate Advisor: Legal. Real Estate Advisor represents that it has taken all corporate and other action necessary or appropriate to authorize it to execute, deliver and perform this Agreement and to cause it to be binding upon Real Estate Advisor. Upon written

request by the City, the Real Estate Advisor shall furnish to the City an opinion reasonably acceptable to the City from Real Estate Advisor's outside legal counsel engaged to assist Real Estate Advisor with this Agreement to the effect that this Agreement has been duly authorized by the board of Real Estate Advisor and by any other bodies having jurisdiction or control over Real Estate Advisors and its activities, and that, subject to normal and reasonable bankruptcy and other qualification, this Agreement is valid and binding upon Real Estate Advisor and enforceable against Real Estate Advisor in accordance with its terms.

Exclusive Advisor. Real Estate Advisor will be the exclusive real estate advisor for the STAR Bond Project District for the City.

**ARTICLE 20 – EXHIBITS**

The following Exhibits are attached hereto and incorporated herein by reference:

- Exhibit A                      Project
- Exhibit B                      Scope of Services
- Exhibit C                      Compensation

IN WITNESS WHEREOF, Real Estate Advisor and City have executed this Agreement as of the Effective Date.

“REAL ESTATE ADVISOR”

“CITY”

**CBC REAL ESTATE GROUP, LLC**

**THE CITY OF DODGE CITY, KANSAS**

By: 

By: \_\_\_\_\_

Printed Name: WILLIAM F. CRANDALL

Printed Name: \_\_\_\_\_

Title: MANAGING PRINCIPAL.

Title: \_\_\_\_\_

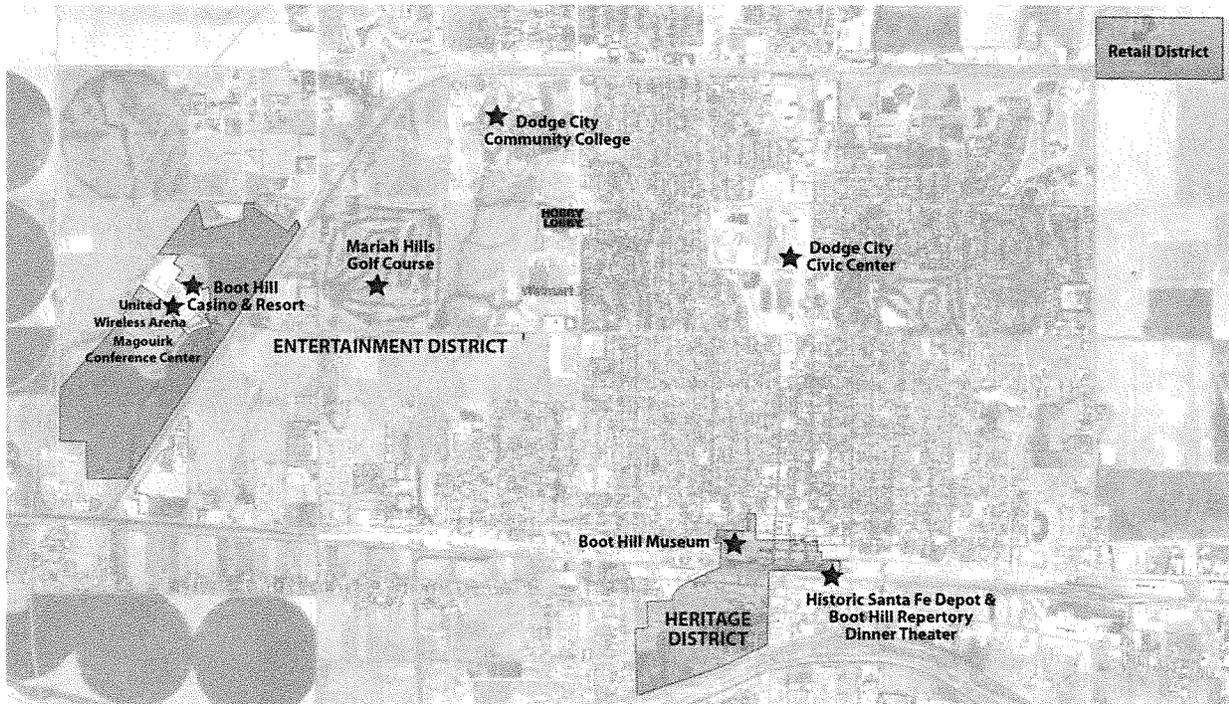
## EXHIBIT A – PROJECT DESCRIPTION

The City's objective is to become a tourist destination through the development and marketing of two (2) non-contiguous sites for additional retail/commercial and entertainment in Dodge City, Kansas. (Collectively the "STAR Bond Project Areas")

One (1) project area is immediately adjacent to Boot Hill Casino & Resort, United Wireless Arena, and Conference Center (the "Entertainment Area"). The City is currently considering relocating the Entertainment Area to an approximate 80.00 acre site located at the northeast corner of Hwy 50 and 112 Road.

The other project area is referred to as the "Heritage Area" and is the historic/entertainment site including the Boot Hill Museum and adjacent historic downtown area.

The STAR Bond Project Areas to be developed will be included in one (1) non-contiguous STAR Bond Project District for the purposes of using STAR Bond financing as provided in the Act. Such funding may generally be used for land costs, site preparation, public infrastructure and utilities, parking improvements, and museum facilities as provided in the Act and approved by the Secretary of Commerce.



## EXHIBIT B – SCOPE OF SERVICES

### 1) General:

#### a) **Real Estate Advisor Obligations**

- i) Represent solely and exclusively the City's interests in connection with the STAR Bond Project District, including, (i) the marketing, (ii) the pre-development, and (iii) the development management as further defined below.
- ii) The City Project Representative and Real Estate Advisor will jointly lead the team for dealings with the Bond Underwriter, Bond Counsel, any City legal counsel and other contractors or consultants of the City in the verification and preparation of development agreements.
- iii) Lead regularly scheduled progress meetings with the City, record action items and monitor the project of all marketing, pre-development and development management activity.

#### b) **City Obligations**

- i) The role of the City Project Representative is to represent the City and serve as a facilitator between Real Estate Advisor and the various City agencies with the intent of communicating the City requirements which may influence cost and/or schedule.
- ii) Real Estate Advisor team includes Slaggie Architects, Inc. (the "Master Planner") who will provide planning services for the Sites, BHC Rhodes (the "Consulting Engineer") who will provide conceptual civil engineering services for the Sites and Stinson Leonard Street (the "STAR Bond Lawyer") who will provide legal services throughout.

### 2) Basic Services: Provided During Marketing Phase

#### a) **Establishment of STAR Bond District:**

- i) Working directly with City, Master Planner, Consulting Engineer and STAR Bond Lawyer, the Real Estate Advisor will lead the preparation of the STAR Bond District pursuant to K.S.A. 12-17,160 including;
  - (1) Coordinate, plan and meet with the State of Kansas, Secretary of Commerce to verify location and eligibility of the STAR Bond District.
    - (a) Within the general Dodge City area, identify the STAR Bond Area(s) for future Development Projects, which may be amended from time to time. Negotiate use or acquisition of property with the landowners which land may be amended from time to time.
    - (b) Review City Comprehensive Plan to determine conformance with the proposed STAR Bond District Area(s).
  - (2) Assist with preparation of supporting documentation required for City Commission and County Commission public hearings necessary to approve STAR Bond District.
  - (3) Identify Feasibility Consultant and assist with preparation of the STAR Bond District Feasibility Report.

**b) Marketing**

- i) Representing the City, the Real Estate Advisor will lead efforts to secure At-Risk Developers including;
  - (1) Act as exclusive Real Estate Advisor to the City for the purposes of sale or contribution of property within the STAR Bond Project Area to a STAR BOND Project End-User and/or At-Risk Developer(s).
  - (2) Prepare marketing and sales collateral material with the assistance of the Master Planner.
  - (3) Attend national conferences including the International Conference of Shopping Centers main forum and regional forums.
  - (4) Using collateral material lead the City's team in development of requests for qualifications/proposals, prepare proposal analyses, and make recommendations to the City for the At-Risk Developer selections. Anticipated Developers include, but are not limited to:
    - (a) Retail Developer(s)
    - (b) Office Building(s) Developer
    - (c) Entertainment Developer
    - (d) Hotel Developer(s)
    - (e) Other as required.
    - (f) Feasibility
  - (5) Represent City in negotiation of a non-binding Preliminary Agreement (Letter of Intent) between the At-Risk Developer and the City outlining the general plan, phasing and development program.

**c) Establishment of STAR Bond Project Plan:**

- i) Working directly with the City, Feasibility Consultant, Master Planner, Consulting Engineer and STAR Bond Lawyer, the Real Estate Advisor lead the preparation of the STAR Bond District pursuant to the Act including;
  - (1) Solicit and engage Feasibility Consultant to prepare independent STAR Bond Feasibility Report.
  - (2) Provide supporting documentation to Feasibility Consultant necessary to complete compliant Feasibility Report including;
    - (a) Preparation of STAR Bond District master plan.
    - (b) Preparation of total investment budget for the master plan.
    - (c) Preparation of development proforma including rents, sales/sf and incremental sales tax projections.
  - (3) Coordinate review of STAR Bond Project Plan with State of Kansas Department of Commerce and implementation of Development Plan.

**3) Advisory Services: Provided during Pre-Development & Development Phase**

**a) Pre-Development**

- i) Lead periodic project coordination meetings to coordinate the efforts of the City, Real Estate Advisor, STAR Bond Lawyer, Master Planner, Bond Counsel, Underwriter and other contractors and consultants of the City, as necessary.

- ii) Upon approval by the City and execution of a Letter of Intent with the At-Risk Developer, the Real Estate Advisor will assist the At-Risk Developer with development of their project including;
  - (1) Assist with their leasing activity as required including attending conferences, making sales calls on primary/anchor tenants,
  - (2) Confirmation of the proposed phasing plan,
- iii) Negotiation of a binding Development Agreement between the City and At-Risk Developer including primary obligations of both Parties. Primary terms of the agreement will include;
  - (1) Total project development plan
  - (2) Timing for phasing of development plan
  - (3) At-Risk Developer contributions
  - (4) Financial Modeling – Sensitivity Modeling - Pro-ration STAR Bond proceeds between the At-Risk Developer, Off Site Improvements and Downtown District/Boot Hill Museum.
    - (a) Participate in development of analytical tools to assess the range of financial incentives
    - (b) Assist in development of sensitivity analyses using the projected costs and projected revenues to determine generally the bonding capacity of each Developer Project.
    - (c) Recommend proposed levels of concessions for each Specific Venture.
    - (d) Assist bond underwriters in assessing the bonding capacity of each Developer Project.
  - (5) Incentives - Working with the City economic development staff, summarize and model value of other economic incentives offered.
  - (6) Documentation – Including (a) Request documentation to support retail sales projections from the At-Risk Developer, coordinate the transmission and use of this information with the independent feasibility consultant, bond counsel, bond underwriter and others as may be necessary. (b) Secure from At-Risk Developers projected development costs segregated by those costs to be publicly funded vs. privately funded. (c) Assess and assist the City in negotiating relative amount of public investment vs. private investment for each At-Risk Development Project.
  - (7) Remedies in the event of failure to perform.
  - (8) Insurance and Indemnity.
  - (9) Assist the City’s legal counsel and other contractors and consultants in development of Easements, Covenants, Conditions and Restrictions Agreement for the Sites.
- iv) Support STAR Bond Lawyer, Bond Counsel, Feasibility Analyst, City Financial Advisor in completion of underwriting necessary for the issuance of STAR Bond.

**b) Development Management**

- i) Request for Qualifications / Proposals
  - (1) Develop Requests for Qualifications/Proposals for all design, engineering, construction and other services as they relate to any STAR Bond Projects. Assist

in preparation and negotiation of scope and compensation for all consultant and construction contracts.

- ii) Budget Management
  - (1) Assist the City in developing budgets for any City STAR Bond Project. Such budgets will be in a form that is acceptable to the City.
  - (2) Record modifications to the budget and will seek the City's approval and/or recognition of the same.
- iii) Schedule Management
  - (1) Prepare a master schedule for the purposes of monitoring the interaction and dependency of certain critical activities.
- iv) Construction Oversight/Project Management
  - (1) Real Estate Advisor will;
    - (a) Review the status of design and construction work as it relates to both the STAR Bond funded and privately funded work.
    - (b) Report to the City on the relative completion of the Developer as compared to the proposed development schedule including design, construction, fit-up and occupancy.
    - (c) Represent the interests of the City and assist in negotiating change orders to be funded by the STAR Bond proceeds as appropriate, if any.
    - (d) Review the At-Risk Developer's use of funds, whether STAR Bond proceeds, other debt financing or private funds, and observe as to conformance with the Development Agreements and any budgets or schedules.
    - (e) Review and make recommendations to the City, or such other parties as are designated by the City, to approve or deny payment applications and itemized schedule of payments funded by STAR Bond proceeds.
    - (f) Make reasonable efforts to manage construction manager and architect/engineer to cause required documents to be provided to the City
    - (g) Manage final close-out of any City STAR Bond Project contracts.
  - (2) Coordination Meetings
    - (a) Initiate and monitor regularly scheduled meetings to coordinate the efforts.
    - (b) Document action items for each member of this team and report periodically.
  - (3) The City STAR Bond Project Payment Application Meetings
    - (a) Establish protocol for all vendors to submit their payment requests and review each invoice for compliance with contract terms and make recommendations.
    - (b) Lead monthly payment application and record activities necessary prior to approval of requests.
  - (4) Employ project management accounting software to record the financial status of any City STAR Bond Project. Periodically, report on the status of any City STAR Bond Project using the following format.
    - (a) Budget
    - (b) Contracts
    - (c) Anticipated costs
    - (d) Payment applications

## EXHIBIT C – COMPENSATION

The proposed fee structure recognizes the various contributions provided by Real Estate Advisor throughout the various stages of development. Compensation structure for each service line is defined below. Compensation is broken into two components. For the services referenced in Exhibit B – Section 1 and 2), Basic Services, the Real Estate Advisor shall be compensated accordingly.

### 1) Basic Fee

- a) Real Estate Advisor will be compensated by a monthly retainer equal to \$10,000 per month.
- b) Pursuant to the Letter of Intent, the City will fund through Real Estate Advisor additional expenses related to Master Planner, Consulting Engineers, STAR Bond Lawyer and others as agreed by the City and the Real Estate Advisor.
- c) City funded the Basic Fee from January 2011 through December 2013. The Real Estate Advisor self-imposed a suspension of the Basic Fee which is subject to resumption upon the mutual written agreement of the Real Estate Advisor and reasonable discretion of the City. Suspension excludes payments made related to master planning, legal and engineering expenses to the City without mark up. The City has no obligations for any Basic Fee to the Real Estate Advisor.

### 2) Advisory Fee:

- a) For the services referenced Exhibit B – Section 3), Real Estate Advisory Services, the Real Estate Advisory Fee is determined as follows;

	Gross STAR Bonds (per Underwriter)	Factor	Attributable STAR Bonds
<b>SAMPLE CALCULATION:</b>			
<b>Est. STAR Bonds from Base Sales Tax Increment</b>			
New Development - Hotel, Restaurants, etc.	\$ 4,500,000	100.00%	\$ 4,500,000
Lewis Ford Agreement (Net New)	\$ 4,700,000	75.00%	\$ 3,525,000
Existing Heritage District (Net New)	\$ 2,200,000	25.00%	\$ 550,000
<b>Est. STAR Bonds from Transient Guest Tax</b>			
New Development - Hotel	\$ 1,900,000	100.00%	\$ 1,900,000
<b>Sub-Total</b>	<b>\$ 13,300,000.00</b>		<b>\$ 10,475,000.00</b>
<b>Less: Cost of Issuance, Debt Service Reserve</b>			
<b>Fund &amp; Captialized Interest Account</b>	<b>\$ (1,995,000.00)</b>		<b>\$ (1,571,250.00)</b>
<b>Est. Net STAR Bond Proceeds</b>	<b>\$ 11,305,000.00</b>		
<b>Est. Net STAR Bond Proceeds - Attributable to Real Estate Advisor</b>			<b>\$ 8,903,750.00</b>
<b>Advisory Fee Calculation using the Net STAR Bonds Attributable to the Real Estate Advisor</b>			
First \$5,000,000 multiplied by 3.50%	\$ 5,000,000.00	3.50%	\$ 175,000.00
Next \$5,000,000 multiplied by 2.50%	\$ 3,903,750.00	2.50%	\$ 97,593.75
Amounts above \$10,000,000 multiplied by 2.00%	\$ -	2.00%	\$ -
<b>Total</b>	<b>\$ 8,903,750.00</b>		
<b>Real Estate Advisors - Real Estate Advisory Fee</b>			<b>\$ 272,593.75</b>

- b) The Advisory Fee as defined above shall be paid fifty percent (50%) upon the closing of the STAR Bond sale, fifty percent (50%) on the first anniversary of that STAR Bond sale assuming the STAR Bond sale is concurrent with the commencement of construction of the projects referenced in the approved STAR Bond Project Plan (the "Projects"). If the STAR Bond sale occurs upon the completion of the Projects, one hundred percent (100%) of the Advisory Fee will be paid at upon the issuance of the STAR Bonds.

**3) Potential Services**

In the event the City should desire to build and own a building, Real Estate Advisor may serve as project manager providing full project management services. A market rate fee would be negotiated at the time of the project.

**4) Payment and Funding**

It is the understanding of the Real Estate Advisor and the City, that all Real Estate Advisor Fees including the Basic and Advisory Fees are STAR Bond Eligible expenses, subject to approval by the Kansas Secretary of Commerce pursuant to the Act. If the Real Estate Advisor Fees are not eligible for reimbursement, the City, if agreeable, will fund these fees or Real Estate Advisor will cause the Developer(s) to fund these fees as a condition of approval of a Development Agreement.

	Net Star Bond Per Stifel		Projected Fee	
Leisure	\$3,815,377	100%	\$3,815,377	
City's Guest Tax	\$1,595,314	100%	\$1,595,314	
Lewis	\$3,999,091	75%	\$2,999,318	
Existing	\$1,722,568	25%	\$430,642	
	\$11,132,350		\$8,840,651	
Fee	Base			
3.50%	1st \$5,000,000		\$175,000	
2.50%	2nd \$5,000,000		\$96,016	
2.00%	over \$10,000,000			
	CBC Star Bond Basis Fee		\$271,016	
	Previous CBC Fees Paid		\$240,000	
	CBC Total Fees		\$511,016	



# Parks and Recreation

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PO Box 880 • Dodge City KS 67801 • Phone: 620/225-8160 • Fax: 620/225-8144

## *Memorandum*

To: Cherise Tieben, City Manager  
City Commissioners

From: Paul Lewis, Director 

Date: February 12, 2015

Subject: Heritage District Overlay Guidelines

Agenda Item: New Business

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**RECOMMENDATION:** Staff recommends approval of the attached Heritage District Overlay Guidelines establishing development and redevelopment standards for the Heritage District anticipated in the STAR Bonds project.

**BACKGROUND:** With the projects and redevelopment efforts occurring as part of the Heritage District STAR bond program, it became apparent that new standards were necessary to guide the projects and sustain the theme being established. Slaggie Architecture, the planning consultant retained for the STAR bonds efforts, was engaged to develop a set of design guidelines that would apply across the Heritage District which includes the area south of Wyatt Earp to Wright Park, the Boot Hill Museum area and the downtown as a whole.

Slaggie provided an initial document which City Staff, including Kevin Israel, Melissa McCoy, Chelsey Dawson with Main Street, Brad Ralph and myself all began to work through and adjust as necessary. This information was also presented to the Historic Landmarks Commission for their consideration and input.

Attached with this memo are the results of that effort which is now ready for your review and approval. The Historic Landmark Commission has provided their review of the document and recommended it to the City Commission for approval.

**JUSTIFICATION:** The Heritage District Overlay Guidelines create a comprehensive set of goals and best practices to guide new developments and redevelopment of historic properties in the Heritage area. The Guidelines expand on the previously created Downtown Design Standards and provide direction to developers, property owners and staff that promotes the historic character of the entire Heritage area. As new projects occur, the Guidelines establishes the City's goal of setting a historic theme in the area and taking practical steps to guide all projects in a manner consistent with the theme.

**FINANCIAL CONSIDERATIONS:** By integrating with the City's existing Historic Preservation Ordinance, these Guidelines assist property owners of potentially historic properties within the Heritage District, to proceed in a fashion that could open pathways towards historic preservation grants and other funding sources to assist with project financing and help maintain the desired character and appearance of the area.

**PURPOSE/MISSION:** The Heritage District Overlay Guidelines are consistent with the City's Core Purpose of ongoing improvement as it establishes standards and criteria to help develop the historic potential of the downtown area. It also provides parameters for those interested in investing in the area and communicates those goals to potential investors and property owners.

**LEGAL CONSIDERATIONS:** These guidelines have been reviewed by the City Attorney for compliance with the Historic Preservation Ordinance and for consistency with City policies as it pertains to existing ordinances and requirements.

**ATTACHMENTS:** Heritage District Overlay Guidelines

**DODGE CITY, KANSAS**

**HERITAGE DISTRICT OVERLAY GUIDELINES**



**FIRST EDITION • 2015**

PUBLISHED BY  
STUCK PRINTERS, DODGE CITY



**Dear Reader,**

**Welcome to an exciting new chapter in the storied history of Dodge City!**

This document is intended to facilitate the approval process of developing or redeveloping property within the Dodge City Heritage Overlay District. This special district designation is intended to provide continuity of quality in the environmental site in order to provide both visitors and residents with something of real value. Value in economic terms to the City and property investors as well as value to the folks who come to Dodge City to enjoy our hospitality and to experience a modern day interpretation of the early American western frontier.

These guidelines are intended to create a common thematic vision in the minds of stakeholders in the continued success of Dodge City's economic development. It is the City's belief that a strong entertainment component is a natural result of the industrial and natural resources we enjoy in this region. A strong groundwork has been laid with the new casino, numerous hotels recently constructed, as well as retail and informal dining establishments opened within the last five years.

It is not the intention of these guidelines to inhibit development by national retailers or individual investors. We welcome all ideas and offers to our table, and are confident that we can work together to create a beneficial solution for all stakeholders.

Let's move 'em on!

**Cherise Tieben**  
City Manager

# Dodge City Heritage Overlay District

## City Staff

City Manager ..... Cherise Tieben  
Development Services Director..... Kevin Israel  
Special Projects Coordinator ..... Melissa McCoy  
Main Street Director ..... Chelsey Dawson  
Economic Development Director..... Joann Knight  
Director of Engineering Services..... Ray Slattery  
Superintendent of Public Works ..... Corey Keller  
City Attorney ..... Ken Strobel, Brad Ralph  
Parks & Recreation Director ..... Paul Lewis

## City Commission

Brian Delzeit - Mayor	Joyce Warshaw - Vice Mayor
Rick Sowers – Commissioner	E. Kent Smoll – Commissioner
Jan Scoggins - Commissioner	

## Historic Landmarks Commission

### Dodge City/Ford County

### Development Corporation

311 W. Spruce, PO Box 818

Dodge City, KS 67801

***Regarding illustrations and photographs: Note that this document incorporates many precedent images that represent successful implementation of the guidelines intent. Photographs from other cities may have been incorporated to illustrate relevant narrative.***

# SECTION 1

## Purpose of Design Guidelines

These guidelines (“Heritage Guidelines”) are to be followed when considering and undertaking improvements to historic properties in Dodge City, and for new construction within the Dodge City Heritage Overlay District.

The Dodge City Heritage Overlay District (the “Heritage District”) is comprised of five (5) distinct Sub-Districts: the Boot Hill District, the Gunsmoke District, (and its existing design guidelines), the West Trail District, The Plains District, and the Wyatt Earp District. The Sub-Districts are designated in two areas: Area 1- renovation/restoration, and Area 2-new construction/infill.

- ***See Exhibit A - Diagrammatic Map of the Dodge City Heritage Overlay District***

### **The Dodge City Heritage Overlay District Design Guidelines**

The Dodge City Heritage Overlay District Design Guidelines (the “Heritage Guidelines”) is a planning document designed to illustrate the overall vision of the downtown and enable the City, property owners, and citizens to make informed strategic decisions about future developments and enhancements. The Plan details a framework of how public infrastructure, streetscape design, wayfinding systems, circulation, parking, new construction, redevelopment, and preservation work together to provide a strong, viable commercial and cultural destination.

During site review of proposed projects in the Heritage District, property owners will be asked to design public improvements, streets, sidewalks, street furniture, and other elements in conformance with the Heritage Guidelines. To help facilitate these improvements, there may be financial assistance or other incentives available.

### **Historic Landmarks Commission**

The Dodge City Historic Landmarks Commission’s central purpose is the identification, designation, and protection of historic properties, sites, and districts in compliance with the Dodge City Historic Resources Preservation Ordinance.

- ***See Exhibit B - Preservation Ordinance***

The Historic Landmarks Commission (the “Landmarks Commission”) recommends to the City Commission, local landmark designations following research regarding historical and architectural significance of each site. In addition, the Landmarks Commission reviews proposed changes to local landmark designations to ensure historical integrity remains in place during renovations.

The Historic Landmarks Commission will also be asked to play an advisory role in reviewing and monitoring renovations and new construction within the Heritage District. The Historic Landmarks Commission and Development Services staff will utilize the Heritage Guidelines when considering the issuance of a Certificate of Appropriateness for projects within the Heritage District.

- ***See Exhibit C – Dodge City Certificate of Appropriateness***

### **Why Have Design Guidelines?**

The Heritage Guidelines provide a basis for making decisions about the appropriate treatment of historic resources and compatible new construction. They also serve as a planning tool for property owners and design professionals who seek to make improvements that may affect historic resources.

While the Heritage Guidelines are written such that they can be used by the layman to plan improvements, property owners are

strongly encouraged to enlist the assistance of qualified design and planning professionals, including architects and preservation consultants.

The historic core of Dodge City has served as the cultural center of the community since its inception and the City's iconic lore retains worldwide recognition through books, movies, and the long-running television series "Gunsmoke". The blocks along Wyatt Earp Boulevard contain structures of historic significance that, if renovated or redeveloped, contain significant potential to enhance the quality of life as well as the economy for the community. Historic preservation and economic development are critical partners. Many have long recognized that the character of development in those blocks that define the historic district are of community and commercial interest.

### **How Are Guidelines Used?**

Property owners, real estate agents, developers, tenants and architects should use the guidelines contained in this document when considering a project. This will help establish an appropriate direction for the project's design. For any project subject to review, the applicant should refer to the guidelines at the outset, to avoid planning efforts that later may prove to be inappropriate.

The Heritage Guidelines will be used for the review of proposed projects within the Heritage District to determine if the design policies presented herein have been followed. It is important to recognize that in each case a unique combination of design variables is at play and, as a result, the degree to which each relevant guideline must be met may vary. In making its determination of the appropriateness of a project, overall concerns are that:

1. The proposed work complies with the criteria in its ordinance

2. The integrity of an individual historic structure is preserved
3. New buildings or additions are designed to be compatible with surrounding historic properties
4. The overall character of the Heritage District is protected

Portions of the Heritage Guidelines are written to assure that preservation efforts and property investments are protected by providing direction for future development. It is also important that a framework for the historic district is clearly established and provides for active retail uses that invite pedestrian use.

The guidelines are for property owners planning exterior alterations, additions to or the rehabilitation of existing buildings. They also apply to the design of new buildings. The guidelines will assist property owners in understanding the historic character of the buildings and environment in which they are located, and assist owners when they are faced with decisions about repair, maintenance, rehabilitation, and new construction. The guidelines are not a rigid set of rules. They do not require that buildings be restored to an historical period or style. Rather, their purpose is to provide:

- Guidance to property owners and tenants about buildings, their distinctive characteristics, and how to maintain them
- Various appropriate ways to address design, repair, and rehabilitation issues
- Good maintenance practices
- Appropriate ways to design new, compatible infill buildings and site layouts

## Why Preserve Historic Resources?

Dodge City is rich in resources and offers an outstanding quality of life. In addition, it has the rare opportunity to leverage its namesake heritage for commercial and cultural enhancement. Preserving historic resources is a part of an overall strategy of maintaining community identity.

Preservation of the built environment provides a fundamental link to the past. Many of the buildings tell the story of Dodge City's unique historical part of the American West. Keeping these resources creates a sense of place for those who live here and provides visitors a connection with this unique heritage.

- ***See Exhibit A - Diagrammatic Map of structures on the National Historic Registry in and around the Dodge City Heritage Overlay District.***

## Design Goals

In order to assure visual consistency, a series of design goals are established for each sub-district. These design goals reflect the concerns of residents and property owners alike.

The design in Sub-Districts north of Wyatt Earp Boulevard, (Area 1) and the Sub-Districts south of Wyatt Earp, (Area 2) should develop in a coordinated manner so that an overall sense of visual continuity is achieved. The dominant character of this area should be that of a retail oriented, commercial environment, with an active street edge that is pedestrian friendly.

## The design goals for the Heritage District are:

- To rehabilitate existing historic commercial buildings
- To continue the use of traditional building materials found in the area

- To maintain the traditional mass, size, and form of buildings seen along the street (i.e., a building should be a rectangular mass that is one to three stories in height)
- To design commercial buildings with storefront elements similar to those seen traditionally (i.e., a commercial building should include: recessed entries, display windows, kick plates, transom windows, cornices or pediments, and vertically-oriented upper story windows)
- To design a project that reinforces the retail oriented function of the street and enhances its pedestrian character
- To promote friendly, walkable streets (i.e., projects that support pedestrian activity and contribute to the quality of life) are encouraged
- To provide site amenities such as benches, lights, waste receptacles, landscaping, etc., to enhance the pedestrian clean, uncluttered experience

## Design for the Boot Hill Sub-District

The Boot Hill District includes original and reconstructed historically themed structures that include the famous Long Branch Saloon, commercial buildings, a church, a school, a home, and a blacksmith shop. Traditionally, buildings for these uses have contrasted with the framework of storefronts. Historic Front Street is an example. It stands apart from the Museum and Hotel, framed by a green space foreground. This commons is ringed with tables and seating and is the site for the traditional gunfight and stage coach rides. The storefront entrances are faced with traditional board walkways further promoting pedestrian use. This orientation clearly defines its civic function as a gathering place.

The design guidelines focus on principles for rehabilitation and infill redevelopment of commercial and cultural use projects. These should reinforce the historic building fabric and enhance the pedestrian environment. While these are the majority of property types that will occur in the area, civic facilities also should be a part of the urban mix. Ample area for future development to the immediate south would be appropriate for public and private receptions and shop space for art galleries, performance venues, and event and multi-purpose sites.

**The design goals are:**

- Convenient pedestrian connections should link abutting buildings
- The edges of a civic property should be inviting to pedestrians
- The visual impacts of automobiles should be minimized
- Primary entrances should face the street, not parking lots
- A sense of human scale should be conveyed
- Impacts on adjacent historic resources should be minimized
- Outdoor spaces designed for public use should be provided

**Design for the Gunsmoke Sub-District**

Those commercial streets immediately east of the Boot Hill Museum should be redeveloped in a manner that is inviting to pedestrians while also accommodating automobiles. Development should include restoration to period facades, including older structures and more contemporary ones.

**The design goals are:**

- To preserve historic structures

- To continue the use of traditional building forms and materials in new construction
- To maintain the commercial character of street facing facades, streets, and the character of the area
- To provide for street scape amenities including light fixtures, tree grates, and trash receptacles to enhance outdoor spaces

**Design for the Trail Street Sub-District**

The Trail Street District is designated as an entertainment, dining, and retail area. Currently it is comprised of existing period buildings and vacant lots designated for new construction infill.

**The design goals are:**

- Convenient pedestrian connections should link abutting buildings and public plazas
- The visual impacts of automobiles should be minimized
- New construction infill to retain setback and massing of existing period structures
- Material use and design to be sympathetic to existing structures
- A sense of human scale should be conveyed
- Impacts on adjacent historic resources should be minimized
- Outdoor spaces designed for public use should be provided

**Design for the Plains Sub-District**

The Plains District is the recreational heart of the Dodge City Heritage District. The primary attraction is the Waterpark and underpinned by the RV Park and Soccer Field, Wright Park and Wright Park Zoo. While this area is comprised of

all new development, the design should reflect the character of the Heritage District in general.

**The design goals are:**

- Civic facilities should be located such that they encourage pedestrian traffic to nearby downtown businesses
- Civic facilities should be designed to reinforce the downtown fabric of streets and sidewalks
- To develop in a compatible nature with that of the entire Heritage District to reinforce impression of a distinct commercial district
- To strengthen the pedestrian network of sidewalks, plazas, and paths
- To define the sidewalk edge with elements that are amenities for pedestrians
- To establish a sense of scale in buildings and street-scape design that can be enjoyed by pedestrians

**Design for the Wyatt Earp Sub-District**

Wyatt Earp Boulevard is the primary east-west roadway through Dodge City. It bisects the Heritage District and can literally be considered the “gateway” to the American West. Planned infrastructure improvements, landscaping, trails and paths adorned with sculptural elements will help define the district visually and beautify the front door to the City.

**The design goals are:**

- To develop in a compatible nature with that of the entire Heritage District to reinforce impression of a distinct commercial district

- Civic facilities should be located such that they are easy to navigate by vehicle
- To strengthen the pedestrian network of sidewalks, plazas, and paths
- To develop building forms that reflect the districts historic character while screening required modern elements.

## SECTION 2

### Architectural Precedents

Dodge City is a pure definition of the West with a history that began with the opening of the Santa Fe Trail in 1821, the great commercial route between Independence, Missouri, and Santa Fe, New Mexico until 1880. In those days, safety along the dusty trail was essential. Fort Dodge was established in 1865 on the Santa Fe Trail near the present site of the City.

The Santa Fe Railroad reached this area in September of 1872 and Dodge City was founded five miles west of Fort Dodge. The railroad initiated a tremendous growth for many years. Already, south of the tracks, hastily built frame buildings and tents were housing two grocery and general merchandise stores, a dance hall, a restaurant, a barber shop, a blacksmith shop, and a saloon. Dodge City was already setting a record for growth and during those early years and also acquired its reputation of lawlessness and gun-slinging. There was no local law enforcement and the military had no jurisdiction over the town. Fights often lead to the shootings where men died with their boots on. And that created a hasty need for a local burial place - Boot Hill Cemetery. The cemetery is now a part of downtown Dodge City. It was used until 1878.

Dodge City was the Buffalo capital for three years with an estimated 850,000 Buffalo hides shipped in the years 1872-1874. By 1875 the Buffalo were gone as a source of revenue, but the Longhorn cattle of Texas drove the dollars into town. For ten more years, over five million head were driven up the western branch of the Chisholm and Western Trails to Dodge City. Law and order came with such respectable officers as Bat Masterson and Wyatt Earp. The town these early men knew was laid out with two Front Streets, one on either side of the railroad tracks. The city passed an ordinance that guns could not be worn or carried north of the "deadline" which was

the railroad tracks. The south side where "any-thing went" was wide open. In 1876 the population was 1,200 and nineteen businesses were licensed to sell liquor.

Fort Dodge was closed in 1882 and by 1886, the cattle drives had ended. An illustrious period of history was over but the legend lives on in Dodge City's history preservation of its romantic and internationally famous past much of which survives in the varied styled buildings constructed during the city's heyday. As the nineteenth century ended, an abundance of material provided for cheap novels, Hollywood films, radio and television. Most famously, the Western drama "Gunsmoke" that ran from 1952 to 1975. Even today, over 100,000 tourists relive the legend each year by visiting the Boot Hill Museum and historic Front Street reconstruction.

### **Architectural Styles and Building Types**

The sources of architectural styles in a small town are often indirect and difficult to trace. Buildings of mixed influence are common. In particular, with commercial buildings the means and desires of the building owner, the available building materials, and the skills of the local builders may have had a more direct influence on the design of a building than any recognized architectural style.

Most commercial building types within the downtown share a basic two or three story boxlike form. They are rectangular in plan with load-bearing masonry walls. Facades and sidewalls are rectangular and roofs are flat. Individual buildings are attached, often sharing interior sidewalls. At street side, a continuous facade line is created with each building being set at the sidewalk edge. The width and depth of these buildings has been prescribed by the dimensions of the lots and properties. While buildings may span several of the 20 to 30 foot wide properties, the individual lot width is still expressed as

a distinct bay or module. This helps give the town a consistency in scale.

Public buildings, including churches, are much fewer in number than commercial buildings. Like the commercial types, these buildings are also of load-bearing masonry but they are freestanding rather than attached. Unlike the commercial types with street level storefronts, each public building has a raised basement with a stepped approach from the street to the main level.

The most notable building types found in the Heritage District are presented on the pages that follow. The key features of each type are listed, along with a brief description of the style. Property owners should review these descriptions carefully.

In many cases the Heritage Guidelines make reference to the characteristics of residential and commercial styles that are presented in this chapter. The property owner is encouraged to use the styles section in analyzing the overall historic character of their building, as well as distinguishing its character defining features. Ultimately, this should aid in choosing an appropriate design solution for any proposed work.

## **Italianate**

Circa 1885 -1900



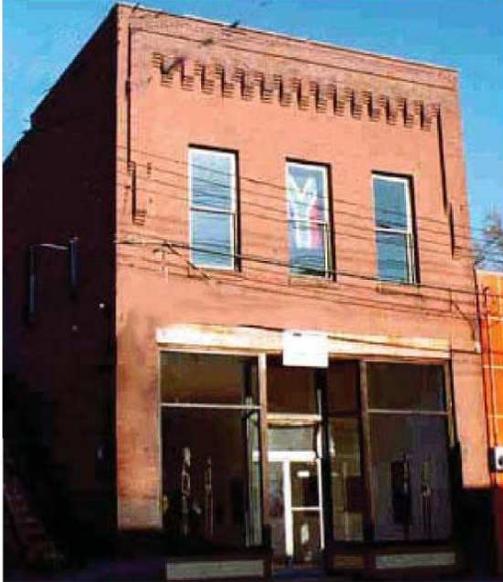
Originally inspired by farmhouses found in Northern Italy, this blending of classical and romantic features became one of the most popular of the picturesque styles in the United States. Because of its ornate details, such as bracketed cornices, this style was easily adapted to simple buildings and storefronts. As the details and features of this style were capable of being interpreted in wood, masonry, or iron, it was also very adaptable in the various regions of the country. With this adaptability and the sensibilities of the times, its popularity grew for commercial buildings.

### Characteristics

- Tall, narrow, double-hung windows, often with arched or round arch heads (commonly referred to as “punched” windows as opposed to “ribbon” windows)
- Window panes are either one-over-one or two-over-two
- Protruding sills
- Quoins at building corners
- Double doors with glass panels
- Transom, often curved, above the front door
- Brackets, modillions, and dentil courses
- Flat roof with ornate cornices
- Decorative paired brackets

## Commercial Storefront

circa 1900 - 1920



Usually between one and four stories, the vernacular commercial building is divided horizontally into two distinct bands. The first floor is more commonly transparent so goods can be displayed, while the second story is usually reserved for residential or storage space. The upper floor is typically supported by a steel beam that spans the glass opening. However, many one-story examples also exist.

A kick plate is found below the display window while above the display window, a smaller band of glass, a transom, is seen. Also, the main door is frequently recessed.

These buildings have stone and brick facades. Ornamental detail exists, but is simple, limited to a shallow molding such as a cornice. Some cornices were made of masonry, while others were made of stamped metal. Many carry simplified Italianate detailing. In essence, these buildings lack distinctive detail, contrasting them with the revival styles that were also popular during this period.

## Characteristics

- Cast-iron supported storefronts
- Large display windows
- Transom lights
- Kick plate
- Recessed entry
- Tall second story windows
- Cornice

## Art Deco

circa 1925-1940



These were the buildings of the future: sleek, geometric, dramatic. With their cubic forms and zigzag designs, art deco buildings embraced the machine age. Art Deco architecture was a complete break away from older architecture. It was meant to reflect a style of its own: It embodied all that was thought of as "modern." It represented the modernity of the machine age with all the amenities of modern society brought on by the industrial revolution. It represented modern simplicity, strength, forward motion, achievement, technology. Gone were the remnants of fancy, traditional, classic design/ornamentation.

During the roaring twenties and the early thirties, jazzy Art Deco architecture was the rage. Like any style, it evolved from many sources. The austere shapes of the Bauhaus School and streamlined styling of modern technology combined with patterns and icons taken from the Far East, ancient Greece and Rome, Africa, India, and Mayan and Aztec cultures.

#### Characteristics

- Stylized floral patterns
- Segments of circle
- Repetitive geometric forms incorporating sharp angles, zigzags, chevrons, and other stylized geometric motifs on the façade
- Vertical emphasis on towers and other projections above the roof line
- Building entrances embellished with decoration extending to hardware and light fixtures
- Smooth wall surfaces, usually stucco, with glass brick used in rounded or angular corner windows and panels/walls
- Illumination through colored lighting is common

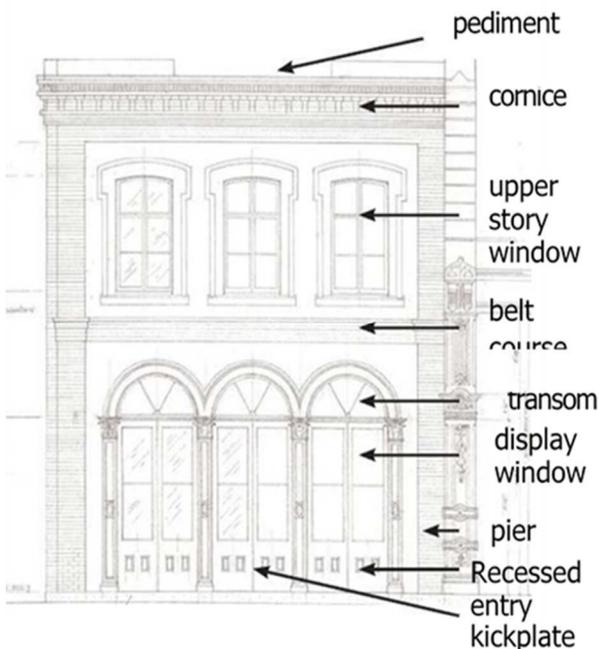
## **SECTION 3**

### **Historic Building Elements Design Guidelines**

This chapter presents design guidelines for the preservation of individual historic building elements in the Heritage District. They apply to individually listed historic infrastructure, as well as historic properties located in the Heritage District. "Designated Properties" are those awaiting formal historic status. The guidelines are organized into a series of relevant design topics. Within these design topics are individual policy and design guideline statements upon which the City will base its decisions.

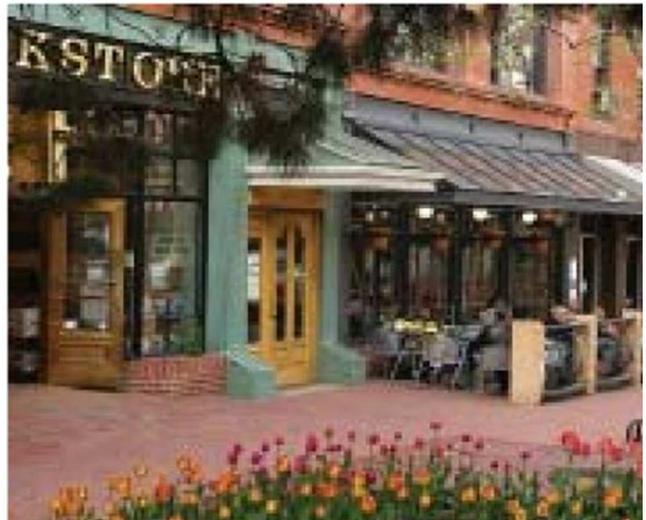
Cornices are most apparent on late 19th century commercial structures, when several ornate, bracketed types were used. Early 20th century buildings were, as a rule, less decorated and had simpler ornamentation. Rather than cornices, they tend to have parapets, some low and some extending several feet above the roof surface. A parapet may be capped with brick, stone, or tile, and frequently decorative elements or panels are placed in it.

### Commercial Facades



Ornamentation and details of elements such as Cornices and parapets are original components that "dress up" a building and give it a sense of style and character. Ornamental items include hood molds, trim at doors and windows, plaques and medallions, signboards or sign panels, date or name stones, and simple geometric shapes in metal, stone, or concrete.

Cornices, which are usually found at the top of building walls, and ornamental moldings or belt courses, which are located just above storefronts, are horizontal projecting elements that provide a visual break in, or termination to, a wall. A parapet is an upward extension of a building wall above the roof-line, sometimes ornamental and sometimes plain, used to give a building a greater feeling of height or a better sense of proportion.



Commercial buildings should, for the most part, all relate to the street and to pedestrians in the same manner with a clearly defined primary entrance and large windows that display goods and services offered inside. The repetition of these standard elements creates a visual unity on the street that should be preserved.

## Windows & Doors

Windows and doors are some of the most important character defining features of historic structures. They give scale to buildings and provide visual interest to the composition of individual façades. Distinct window and door designs, in fact, help define many historic building styles. Windows and doors often are inset into relatively deep openings or have surrounding casings and sash components which have a substantial dimension that casts shadows that contribute to the character of the historic style.

The Landmarks Commission will refer to the Historic Resources Preservation Ordinance and the following criteria when evaluating proposals to replace historic windows:

Historic windows and doors are not necessarily decorative, so their functionality as well as appropriate design should be considered.

- 1) It should be considered whether the repair of the historic windows and/or doors is technically not feasible.
- 2) The window and door openings should not be altered to accommodate windows or doors of different sizes, proportions, views, or configurations.
- 3) If the windows and doors are visible to the public they should not be removed, enclosed, or obscured.
- 4) Windows and doors visible to the public view should be retained in the original location.
- 5) Whether the appearance matches the details such as window or door size, shape, operation, glass configuration, material, and finish. The appearance of the sash, opening size, and decorative detail should look like the historic window or door.
- 6) It should be considered whether the operation of the replacement window or door is the same; for example, double-

hung or casement windows that open inward.

- 7) It should be considered whether the muntin style, configuration, detailing, and installation are the same for the replacement window or door as the historic window or door.
- 8) It should be considered whether the sash and frame materials are the same materials, match the historic detailing, style, complexity, and profile.

Historic Landmark Commission should assess the following when evaluating proposals to replace non-original windows:

- 1) It should be considered whether the proposed replacement windows and/or doors are based on the documented configuration of the building's original windows and/or doors.
- 2) It should be considered whether historic window and door openings are proposed to be altered to accommodate windows or doors of different sizes, proportions, views, or configurations.
- 3) A historic window or door opening should not be enclosed, altered in its dimensions, or obscured.
- 4) It should be considered whether the non-original windows and/or doors have taken on historic significance and now contribute to the history of the building.

## Roofs

The character of the roof is a major feature for most historic structures. When repeated along the street, the repetition of similar roof forms contributes to a sense of visual continuity for the neighborhood. In each case, the roof pitch, its materials, size, and orientation are all distinct features that contribute to the character of a roof. Gabled and hip forms occur most frequently in residential areas while flat roofs appear on most historic commercial buildings in Dodge City.

Although the function of a roof is to protect a structure from the elements, it also contributes to the overall character of the building. The Heritage District has seen the construction of various roof forms, as illustrated below.

When evaluating roofing proposals the Landmarks Commission should consider the following:

- 1) The condition of the deteriorated or damaged existing roof materials and whether they can be economically repaired.
- 2) Whether the proposed new roofing material can be installed without removing, damaging, or obscuring character defining architectural features or trim, such as cupolas, dormers, cornices, brackets, chimneys, cresting, finials, and weathervanes.
- 3) If the proposed new roofing material is similar in regard to size, style, and details of the original historic roofing materials, to the extent that such original roofing can be documented. If no photographic or other documentation exists for original historic roofing materials, selection of new roof materials shall be typical of those used in the style of the historic building.
- 4) The original form and shape of the roof are retained.
- 5) The original character of the structure should be maintained.

***Policy: Maintain an historic storefront and all of its character defining features.***



*1.1 For a commercial storefront building, a rehabilitation project shall preserve these character defining elements:*

- Display windows: The main portion of glass on the storefront where goods and services are displayed. This will help maintain the interest of pedestrians by providing views to goods and activities inside first floor windows.
- Transom: The upper portion of the display window, separated by a frame.
- Kick plate: Found beneath the display window. Sometimes called a bulk-head panel.
- Entry: Usually set back from the sidewalk in a protected recess.
- Upper-story windows: Windows located above the street level. These usually have a vertical orientation.
- Cornice molding: A decorative band at the top of the building.
- These features shall not be altered, obscured or removed.

*1.2 Maintenance of storefronts.*

- Wash display windows.
- Repair damaged kickplates.

- Re-caulk display windows to reduce air infiltration.
- Install weather stripping around doors.

*1.3 If a storefront is altered, restoring it to the original design is preferred.*

- If evidence of the original design is missing, use a simplified interpretation of similar storefronts. The storefront still should be designed to provide interest to pedestrians.
- Note that, in some cases, an original store front may have been altered early in the history of the building, and may itself have taken on significance. Such alterations should be preserved.
- See also Preservation Briefs #11: Rehabilitating Historic Storefronts, published by the National Park Service in the appendix of this document.

### **Combining Rehabilitation Principles**

This section defines the positive results of combining procedures for preservation, repair, reconstruction, and sympathetic alterations that are set in the design guidelines in this chapter.

*1.4 Alternative designs that are contemporary interpretations of traditional storefronts may be considered.*

- Where the original is missing and no evidence of its character exists, a new design that uses the traditional elements may be considered.
- However, the new design should continue to convey the character of typical storefronts, including the transparent character of the display window.

*1.5 Retain the kickplate as a decorative panel.*

- The kickplate, located below the display window, adds interesting detail to the street scape and should be preserved.
- If the original kickplate is covered with another material, consider exposing the original design.

*1.6 If the original kickplate is missing, develop a sympathetic replacement design.*

- Wood is an appropriate material for replacements on most styles. However, ceramic tile and masonry may also be considered when appropriately used with the building style.

*1.7 Preserve the character of the cornice line.*

- An original cornice molding should be preserved.
- Most historic commercial buildings have cornices to cap their facades. Their repetition along the street contributes to the visual continuity on the block.
- Many cornices are made of sheet metal. Areas that have rusted through can be patched with pieces of new metal.

*1.8 Reconstruct a missing cornice when historic evidence is available.*

- Use historic photographs to determine design details of the original cornice.
- Replacement elements should match the original in every detail, especially in overall size and profile. Keep sheet metal ornamentation well painted.

- The substitution of another old cornice for the original may be considered, provided that the substitute is similar to the original.

*1.9 A simplified interpretation is also appropriate for a replacement cornice if evidence of the original is missing.*

- Appropriate materials include stone, brick, and stamped metal.

*1.10 Retain the original shape of the transom glass in historic storefronts.*

- Transoms, the upper glass band of traditional storefronts, introduced light into the depths of the building, saving on light costs. These bands should not be removed or enclosed.
- The shape of the transom is important to the proportion of the storefront and it should be preserved in its historic configuration.
- If the original glass is missing, installing new glass is preferred. However, if the transom must be blocked out, be certain to retain the original proportions. One option is to use it as a sign panel or decorative band.

*1.11 A parapet wall should not be altered, especially those on primary elevations or highly visible facades.*

- When a parapet wall becomes deteriorated, there is sometimes a temptation to lower or remove it. Avoid doing this because the flashing for the roof is often tied into the parapet, and disturbing it can cause moisture problems.
- Inspect parapets on a regular basis. They are exposed to the

weather more than other parts of the building so watch for deterioration, such as missing mortar or excessive moisture retention.

- Avoid waterproofing treatments, which can interfere with the parapet's natural ability to dry out quickly when it gets wet.

***Policy: Historic windows and doors significantly affect the character of a structure and should be preserved.***

The size, shape and proportions of window and door openings are important features. They give scale to buildings and provide visual interest to the composition of individual facades. These features are inset into relatively deep openings in a building wall or they have surrounding casings and sash components that have substantial dimensions. They cast shadows that contribute to the character of the building.



*1.12 Preserve the position, number, size, and arrangement of historic windows and doors in a building wall.*

- Enclosing an historic opening in a key character-defining facade is inappropriate, as is adding a new opening.

- Do not close down an original opening to accommodate a smaller window. Restoring original openings which have been altered over time is encouraged.
- Historically, windows had a vertical emphasis. The proportions of these windows contribute to the character of each residence and commercial storefront.

*1.13 Preserve the functional and decorative features of an historic window or door.*

- Features important to the character of a window include its clear glass, frame, sash, muntins, mullions, glazing, sills, heads, jambs, moldings, operation, location, and relation to other windows.
- Features important to the character of a door include the door itself, door frame, screen door, threshold, glass panes, paneling, hardware, detailing, transoms, and flanking sidelights.
- Historic screen and storm doors should be preserved and maintained.

*1.14 Maintenance of windows.*

- Wash windows.
- Clean debris from windows.
- Replace loose or broken glass in kind. This will reduce air leaks.
- Replace damaged muntins, moldings, or glazing compound with material that matches the original in shape, size, and material.

- Repair window hardware or replace with materials that match the original in scale and design. If the replacement hardware does not match the original design it should be simple, unobtrusive, and compatible with the style and building's period of significance.
- Install weather stripping. This will enhance energy conservation significantly.
- Maintain the interior views, so that either merchandise or furniture can be seen.

*1.15 Repair wood features by patching, piecing in, consolidating, or otherwise reinforcing the wood.*

- Avoid the removal of damaged wood that can be repaired.
- Rebuild or repair portions of existing window frames, sashes, or sills, rather than replacing complete windows unless it is technically not feasible to do so.
- See also Preservation Briefs #9: The Repair of Historic Wooden Windows, published by the National Park Service.

*1.16 Glass in doors and windows should be retained.*

- If it is broken or has been removed in the past, consider replacing it with new glass. If security is a concern, consider using wire glass, tempered glass, or light metal security bars (preferably on the interior).
- Replacement glass may be insulating glass, but it should match the style and color of the original glass.

- Replacement glass should match the historic glass - clear, rolled (wavy), tinted, etc.
- Removal of historic leaded, art, stained, beveled, prismatic glass, etc., should not be permitted, unless it is damaged and is technically infeasible to repair.

*1.17 Installing window air-conditioners in windows on building fronts is inappropriate.*

*1.18 Maintain recessed entries.*

- The repetition of recessed entries provides a rhythm of shadows along the street, which helps establish a sense of scale.
- These recessed entries were designed to provide protection from the weather and the repeated rhythm of these shaded areas along the street helps to identify business entrances. Typically, recessed entries were set back between three and five feet.
- Restore the historic recessed entry if it has been altered.
- Avoid doors that are flush with the sidewalk, especially those that swing outward.

*1.19 Where entries were not recessed historically, maintain them in their original position.*

- However, one may also need to comply with other code requirements, including door width, direction of swing, and construction.
- In some cases, entries must comply with accessibility requirements of the Americans with Disabilities Act. Note, however, that some flexibility in

application of these other regulations is provided for historic properties.

- See also Preservation Briefs #32: Making Historic Properties Accessible, published by the National Park Service.



***Policy: A new or replacement window or door should match the appearance of the original.***

While replacing an entire window or door is discouraged, it may be necessary in some cases. Although wood is preferred as a replacement material, metal is common on the market today and sometimes is suggested for replacement. It is possible to consider alternative materials, if the resulting appearance matches the original as closely as possible. The substitute also should have a demonstrated durability in this climate.

*1.20 When window or door replacement is necessary, match the replacement to the original design as closely as possible.*

- Preserve the original casing, when feasible.
- If the original is double-hung, then the replacement window should also be double-hung, or at a minimum, appear to be so. Match the replacement also in the number and position of glass panes.

- Very ornate windows or doors that are not appropriate to the building's architectural style are inappropriate.
- Using the same material (wood) as the original is preferred.
- A new screen door added to the front of a visible door should be "full view" design or with minimal structural dividers to retain the visibility of the historic door behind it.
- A screen door should be sized to fit the original entrance opening and the design should be of the appropriate style and period of the building.
- Security doors are non-historic additions. If installed, they should follow the guidelines for screen doors.

*1.21 Maintain the historic ratio of window and storefront openings to solid wall.*

- Significantly increasing (or decreasing) the amount of glass will negatively affect the integrity of a structure.
- On traditional storefronts, first floors should be more transparent than upper floors.
- Upper floors should appear more solid than first floors.
- Avoid a blank wall appearance that does not provide interest to pedestrians. Note, however, that the side wall of a historic building located on a corner will have fewer openings.
- Large surfaces of glass are inappropriate on the upper floors and sides of commercial buildings.

- If necessary, divide large glass surfaces into smaller windows that are in scale with those seen traditionally.



**Policy: Preserve the original form and scale of a roof.**

*1.22 Preserve the original roof form of an historic structure.*

- In residential areas, most roof forms are pitched, such as gabled and hipped. Most commercial buildings, on the other hand, have flat or slightly sloping roofs.
- Avoid altering the angle of a historic roof. Instead, maintain the perceived line and orientation of the roof as seen from the street.
- Retain and repair roof detailing. All architectural features which give the roof its fundamental traits, such as dormer windows, cupolas, cornices, brackets, chimneys, cresting, and weather vanes, shall be retained.
- Often repairing a basically sound roof can be much less expensive than a complete replacement. If a new roof is necessary, try to match the color, material, and

pattern of the old as closely as possible. A roof may be re-roofed with substitute materials, such as asphalt or composite shingles that resemble the original style, if the original materials are determined to be beyond repair, are no longer available, or the historic roofing has been previously removed or covered.

- Skylights shall not be added where they are visible from the public right-of-way.
- Skylights should be placed at the rear roof lines or behind gables or dormers.
- Do not install new ornaments unless it can be shown that they historically existed on the roof.
- Roof alternations such as adding a green house, roof deck, solar panels, vents, and mechanical and electric equipment are not recommended if they would be visible from the street. These items should be made less noticeable by minimizing the size and using subdued colors.

*1.23 Locate downspouts to minimize impacts on historic canopies and other facade details.*

- Water from downspouts should drain away from the building properly.
- Ideally, a downspout should empty into an underground drainpipe that takes the water to the sewer or street.
- If this is not possible, a downspout should empty onto a metal or concrete splashblock that slopes downward and away from the building.

- Maintain and repair existing gutters and downspouts in place.
- If existing gutter and downspouts are deteriorated to the extent that they must be replaced, new gutters and downspouts shall match the original historic gutters and down spouts. They shall be of size and profile that would be characteristic of the period of significance.
- Where built-in gutters exist and must be repaired, repair or replace only those sections needing it, using similar materials to existing historic built-in gutters.
- Note that galvanized half-round sheet metal gutters may in many cases be more appropriate for historic buildings that had exposed gutters than the colonial profile aluminum gutters and downspouts commonly used today.

*1.24 Regular maintenance and cleaning is the best way to keep your roof in good shape.*

- Inspect the roof for breaks or holes in the surface and check the flashing for open seams.
- Many commercial buildings have shallow sloping flat roofs that are hard to see, so there is a tendency to forget about them until problems develop.
- Clean debris from gutters and downspouts to prevent the backing up of water.
- A roof should not hold water.
- Patch leaks in the roof. This should be a high priority for ongoing building maintenance.

- Replace deteriorated flashing.
- Solder downspout connections to prevent water from leaking into walls.

### **Design guidelines for additions and alterations to historic buildings**

They apply to individually listed historic infrastructure as well as historic properties. The design guidelines are organized into a series of relevant design topics. Within each category, individual policies and design guidelines are presented, which the City will use in determining the appropriateness of the work proposed. These guidelines apply equally to all designated landmarks, existing, and new construction in the overlay district.

#### **Design of Alterations**

Alterations may be considered for historic buildings, however, these alterations should occur in a manner that will not diminish the historic integrity of the property and they should be reversible for future property owners.

#### **Additions**

Many buildings have experienced additions over time as need for additional space occurred, particularly with a change in use. An historic addition typically was subordinate in scale and character to the main building. The height of the addition was usually positioned below that of the main structure and it was often located to the side or rear, such that the primary facade remained dominant. An addition was often constructed of materials that were similar to those in use historically. In some cases, owners simply added on to an existing roof, creating more usable space without increasing the footprint of the structure. This tradition of adding on to buildings is anticipated to continue. It is important, however, that new additions be designed in such a manner that they

maintain the character of the primary structure.

The compatibility of proposed additions with historic buildings will be reviewed in terms of the mass, the scale, the materials, the color, the roof form, and the proportion and spacing of windows and doors. Additions that echo the style of the original structure and additions that introduce compatible contemporary design could be acceptable.

#### **Demolition/Relocation**

Demolition is forever, and once a building is gone it takes away another piece of the City's character. Demolition of an Historic Building or resource should only be an action of last resort. The Landmarks Commission will determine what Historic Properties, designated or not would be protected under these guidelines, and may delay or deny requests for demolition while it seeks solutions for preservation and rehabilitation.

The Landmarks Commission should not allow the demolition or relocation of any Historical Property unless one or more of the following conditions exist and if, by a finding of the Landmarks Commission, the proposed demolition or relocation will materially improve or correct these conditions:

1. The resource constitutes a hazard to the safety of the public or the occupants, as determined by the Director.
2. The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
3. Retention of the resource will cause undue financial hardship to the owner when a governmental action, an act of

God, or other events beyond the owner's control created the hardship; and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the Historic District, have been attempted and exhausted by the owner.

4. Retention of the resource is not in the interest of the community.

The Landmarks Commission should consider the following when evaluating proposals to demolish or relocate Historic Properties:

1. Does the resource proposed for demolition or relocation have architectural and/or historical significance?
2. What would be the effect on surrounding buildings of demolition or relocation of the resource?
3. What would be the effect on the Heritage District as a whole of demolition or relocation of the resource?
4. What would be the effect of the demolition or relocation on the safeguarding of the heritage of the City?
5. What has been the impact of any previous inappropriate alterations?
6. Has the owner offered the resource for sale?
7. Has the owner asked a fair price?
8. Has the resource been marketed for a reasonable time?
9. Has the resource been advertised broadly in a reasonable manner?
10. Has the owner sought the advice of a professional experienced in historic preservation work?

11. What would be the effect of open space in that location if the lot is to be left open?
12. What will be done with the empty lot?
13. What would the effect of any proposed replacement structure be to the community?
14. What is the appropriateness of design of any proposed replacement structure to the Heritage District?

***Policy: Design an alteration to be compatible with the historic character of the property.***

- 2.1 *Avoid alterations that would damage historic features.*



- Avoid alterations that would hinder the ability to interpret the design character of the original building.
- Alterations that seek to imply an earlier period than that of the building are inappropriate.

- 2.2 *Properties designated by the City as a High or Medium Priority Historic Structure should be preserved and their historic character retained.*

- The City maintains the prerogative of prioritizing the historical status of a given structure and as to when and to what degree of preservation is required to comply with the Heritage Guidelines.

***Policy: Minimize the visual impacts of an addition to a commercial building.***

Two distinct types of additions are considered to be appropriate by the City: ground-level or rooftop.

First, a ground-level addition that involves expanding the footprint of a structure may be considered. Such an addition should be to the rear or side of a building. This will have the least impact on the character of a building, but there may only be limited opportunities to do this.

Second, an addition to the roof may be designed that is simple in character and set back substantially from the front of a building. The materials, window sizes and alignment of trim elements on the addition should be compatible to those of the existing structure, but also visually subordinate in character so as to avoid calling attention to the addition. Note that such additions are rarely approved for buildings under three stories tall when talking about tax credit or state law reviews by the State Historical Society. However, they may be fine for older non-designated buildings

Another option, which will only be considered on a case-by-case basis, is to design an addition to the front wall plane of the existing building. This option may only be considered on a “newer” or more contemporary building that was originally constructed set back from the front property line or sidewalk edge.

*2.3 An addition shall be compatible in scale, materials, and character with the main building.*

- An addition shall relate to the building in mass, scale, and form. It should be designed to remain subordinate to the main structure.

- An addition to the front of a building is inappropriate. However, where a building in the Heritage District is set back from the front property line and the structure does not have historic significance, the first consideration for the placement of an addition should be to fill the gap between the existing building and sidewalk. This will maintain the consistent “street wall” desired in the downtown.
- For example, mounting a sign panel in a manner that causes decorative moldings to be chipped or removed would be inappropriate.

*2.4 An addition shall not damage or obscure architecturally important features.*

- For example, loss or alteration of a cornice line should be avoided.

*2.5 An addition may be made to the roof of a commercial building if it does the following:*

- An addition should be set back from the primary, character-defining facade, to pre serve the perception of the historic scale of the building.
- Its design should be modest in character, so it will not attract attention from the historic facade.
- The addition should be distinguishable as new, albeit in a subtle way.
- The roofs of additions should not interfere with the original roof form by changing its basic shape and should have a roof form compatible with the original building.

## Design Guidelines for Color in the Heritage District

### Historic Color Schemes

When renovating an historic building, first consider returning to the original color scheme, which can be discovered by carefully cutting back paint layers.

Accurately determining the original color scheme requires professional help, but one may get a general idea of the colors that were used by scraping back paint layers with a penknife. Since the paint will be faded, moisten it slightly to get a better idea of the original hue. It is not necessary, however, to use the original color schemes of the building. An alternative is to use colors in ways that were typical of the period or architectural style, and with them create a new color scheme.

With respect to the treatment of color on individual historic buildings, colors that represent the appropriate period of history are preferred, but not necessarily required. Color does not damage the historic materials or alter significant details and can always be changed in the future and thus its application is not as critical as some other design options.

Inappropriate applications of color, however, may hinder one's ability to perceive the character of the building's architecture. For example, if a building with jig-saw brackets and moldings is painted solid black, with no contrast between the background and the details, and little opportunity for expression of shadows, the perception of the character of the building may be diminished.

This concern for perception of character is more relevant in the context of the Heritage District, where assemblage of buildings on the street is important to one's perception of the character of the streetscape. In this sense, one building that stands out from the rest with an inappropriate color scheme will

impede one's perception of the continuity in the district. For this reason, the city reviews the use of color as part of its consideration of design issues. In general, the Landmarks Commission will consider color on a case-by-case basis, and in context with the building's location.

***Policy: In general, bright colors used on large surfaces are discouraged. In all cases, the following standards for use of color shall apply.***



### 2.6 *Develop a color scheme for the entire building that coordinates all the façade elements.*

- Using the historic color scheme is encouraged.
- Choose a base color that will link elements of the entire building face together. It can tie signs, ornamentation, awnings, and entrances together. It can also help the building better relate to others on the block.
- A single color scheme should be used for the entire exterior so upper and lower floors and subordinate wings of buildings are seen as components of a single structure.
- For a newer building in the Heritage District, a color scheme

that complements the historic character of this sub-districts should be used.

*2.7 Paint colors should enhance individual building elements while creating a unified, coordinated appearance for the entire structure.*

- Paint colors and placement should create a cohesive look for the structure. There should be one main color on the body of the building to unify the façade.
- Choose colors for trim, accents, and architectural details that complement the main color on the body of the structure.
- Consider the palette of surrounding structures to create a harmonized appearance along the block face.
- Background and accent colors should be consistent within separate buildings, where a number of buildings are attached or where unity in theme is desired.

*2.8 A muted color is preferred for the base color of most buildings.*

- Use muted colors to minimize the apparent scale of buildings and blend them with the natural colors of area.
- Matte finishes are preferred to glossy ones.

*2.9 Roof colors must complement the style and overall color scheme of the structure.*

**Policy: Focus attention to a building's decorative details and entrances.**

*2.10 In general, use bright colors for accents only.*

- Colors of a vivid saturation are not appropriate for the body of commercial buildings.
- Overly strong or bold colors are not appropriate for the main body of a structure. Reserve the use of strong, bright colors for accents when you want to draw the customer's eye, such as to the sign, the building's ornamentation or entrance.
- In most cases only one or two accent colors should be used in addition to the base color.
- Doors may be painted a bright accent color or they may be left a natural wood finish. Historically, many of the doors would have simply had a stain applied.
- Window sashes, casings, and trims are also an excellent opportunity for accent color.
- Brilliant luminescent or day-glow colors are not appropriate.
- Minimize the metallic shine of aluminum and door frames.

*2.11 Paint colors should highlight architectural details.*

- Plan painting to use more than one color. It is inappropriate to allow architectural details to be camouflaged by painting them the same color as the background of the structure
- Strong or bold colors can be appropriate for trim, accents, and architectural details.

***Policy: It is important to know when to paint buildings and when to leave the material in its natural state or color.***

*2.12 Wooden structures must be painted.*

- Historically wooden structures in Dodge City were painted and would not have been left as exposed wood.
- Stained wood is inappropriate for the body of a structure.
- Certain wooden details, such as doors and windows, may remain unpainted. But the wood must not be exposed to the elements, so the materials need to be treated.
- The use and color of stain must be a typical style for the period of the structure.

*2.13 Leave natural masonry finishes unpainted when feasible.*

- Where the natural color of the materials exists, such as with stone or brick, they should be left unpainted.
- Painting an unpainted brick or stone wall may trap moisture inside the walls and will drastically alter its character and appearance.
- For other parts of the building that do require painting, select colors that will complement those of the natural materials.

*2.14 Where brick has been painted historically it should remain painted.*

- If a wall is made of porous brick, which has always been painted, it should remain painted. Removing the paint will expose the brick to weather, accelerating its deterioration.

- If a building was originally plain brick, but was painted sometime in the past, consider applying new paint colors that simulate the original brick color.

## SECTION 4

### Design Guidelines - Infill

## **Design Guidelines for Infill Construction (Area 1 - Area North of Wyatt Earp Blvd)**

This section presents design guidelines for the construction of new buildings within the boundaries of the Dodge City Heritage Overlay District. The design guidelines are organized into a series of relevant design topics. Within each category, individual policies and design guidelines are presented, which the City will use in determining the appropriateness of the work proposed.

### **Summary of Key Characteristics**

Key design characteristics of this area include the following:

- Buildings aligned with adjacent historic buildings at the sidewalk edge
- One to three story, traditional commercial buildings (some buildings reach greater heights, however)
- Masonry construction dominates
- Transparent ground floor with smaller windows “punched” into predominantly solid upper floors
- Flat-roof buildings
- Sidewalk uses and activities

### **Design Goals**

The Heritage District should continue to develop in a coordinated manner so that an overall sense of visual continuity is achieved. The dominant character of this area should be that of a retail-oriented, commercial environment, with an active street edge that is pedestrian friendly.

#### **The design goals are:**

- To rehabilitate existing historic commercial buildings
- To continue the use of traditional building materials found in the area

- To maintain the traditional mass, size, and form of buildings seen along the street (i.e., a building should be a rectangular mass that is one to three stories in height)
- To design commercial buildings with store front elements similar to those seen traditionally (i.e., a commercial building should include: recessed entries, display windows, kick plates, transom windows, midbelt cornices, cornices, or parapets, and vertically oriented upper story windows)
- To design a project that reinforces the retail-oriented function of the street and enhances its pedestrian character
- To promote friendly, walkable streets (i.e., projects that support pedestrian activity and contribute to the quality of life are encouraged)
- To provide site amenities - such as benches, lights, waste receptacles, landscaping, etc. - to enhance the pedestrian experience
- To accurately convey the history of the area by avoiding styles that are not accurate to Dodge City’s history

### **Building Setbacks**

To contribute to a sense of visual continuity, it is encouraged for commercial buildings to be aligned immediately at the inside edge of the sidewalk.

A typical building in the Heritage District also has its primary entrance oriented to the street. This helps establish a “pedestrian friendly” quality. In most cases, similar entryways are evenly spaced along a block, creating a rhythm that also contributes to the sense of visual continuity. These entrances are also typically recessed from the sidewalk edge.

## Mass and Scale

Patterns are created along the street by the repetition of similarly sized building elements. For example, uniform facade widths evenly spaced in downtown create a rhythm that contributes to the visual continuity of the area.

## Building Form

One of the most prominent unifying elements of the Dodge City Historic Overlay District is the similarity in building form. Commercial buildings are simple rectangular solids, deeper than they are wide. This characteristic is important and should be continued. Also, commercial roof forms appear flat, although there is typically a slight pitch to it for water to drain. This characteristic is important and should be preserved.

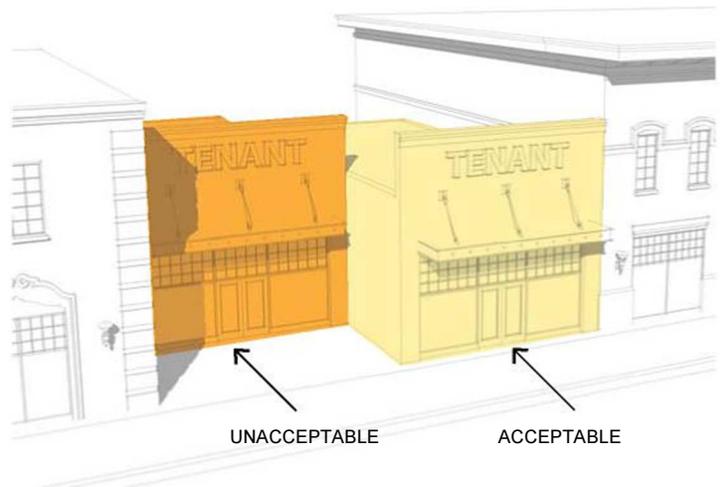
## Materials

Building materials of new structures should contribute to the visual continuity of the area. They should appear similar to those seen traditionally to establish a sense of visual continuity. Brick and stone are the dominant materials and their use in new construction is preferred.

## Architectural Character

The street level floors of traditional commercial buildings are clearly distinguishable from the upper floors. First floors are predominantly fixed plate glass with a small percentage of opaque materials. Upper floors are the reverse. Opaque materials dominate and windows appear as smaller, vertically oriented openings puncturing the solid walls. The floor-to-floor height on the street level is also generally taller than the upper floors. This feature should also be expressed in new construction.

**Policy: Maintain the line of building fronts in the block.**



*A new building should align at the front lot line and be built out to the full width of the parcel.*

Structures in the Dodge City Heritage Overlay District should contribute to a strong “building wall” along the street. A new building should align at the front lot line and be built out to the full width of the parcel (i.e., to the side lot lines). Although small gaps can occur between some structures, these are exceptions.

### *3.1 Maintain or enhance the alignment of buildings at the sidewalk edge.*

- Locate the front building wall at the sidewalk line when feasible.

- Where a building must be set back from the sidewalk, use landscape elements to define the sidewalk edge

*3.2 Orient the primary entrance of a building toward the street.*

- A building shall have a clearly defined primary entrance. For most commercial buildings, this should be a recessed entryway.
- Secondary public entrances to commercial spaces are also encouraged on a larger building.

**Policy: A building should appear similar in scale to traditional commercial buildings.**

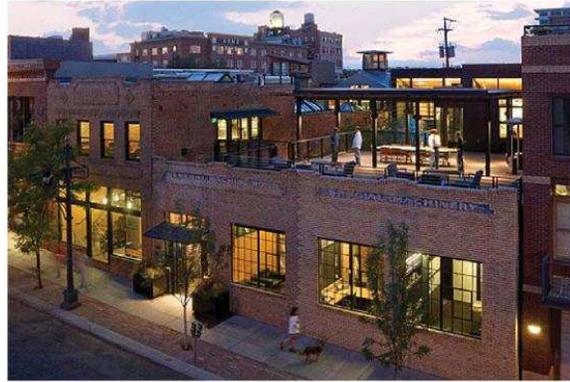
Building heights vary in the Heritage District and yet there is a strong sense of similarity in scale. This is in part because most buildings are one to two stories in height.

*3.3 Maintain the traditional range of building heights seen in the historic core.*

- Traditional floor heights should be expressed with horizontal moldings, alignment of windows, and other architectural details.
- Set back portions of a third floor to emphasize the lower scale of one and two story portions of a building.

*3.4 Buildings shall appear similar in width to those seen historically in the block.*

- Traditionally, building fronts were built in 20 to 30 foot increments. Building fronts should reflect this pattern.
- On corner lots, the secondary sidewall is traditionally longer in its "module", and this may be appropriate for new secondary elevations.



*Maintain the traditional range of building heights seen in the historic core.*

*3.5 Consider dividing a larger building into "modules" that are similar in scale to buildings seen traditionally.*

- If a larger building is divided into "modules," they should be expressed three-dimensionally throughout the entire building facade.

*3.6 Floor-to-floor heights shall appear to be similar to those seen traditionally.*

- In particular, the windows in a building should appear similar in height to those seen traditionally.

*3.7 A building shall maintain the alignment of horizontal elements along the block.*

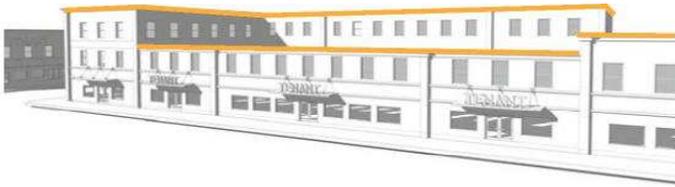
- This alignment occurs because many of the buildings are similar in height.
- Window sills, moldings, and cornices are among those elements that may be seen to align.

**Policy: The form of a building should be similar to those seen traditionally.**

One of the most prominent unifying elements of downtown is the similarity in building form. Commercial buildings were simple rectangular solids, deeper than they were wide. This characteristic is important and should be continued.

*3.8 Rectangular forms shall be dominant on commercial facades.*

- Rectangular forms should be vertically oriented.



*3.9 Use flat rooflines as the dominant roof form.*

- Parapets on side facades should step down towards the rear of the building.
- Gable roof forms may also be considered if they are obscured by a "false front" storefront similar to those seen historically. form.

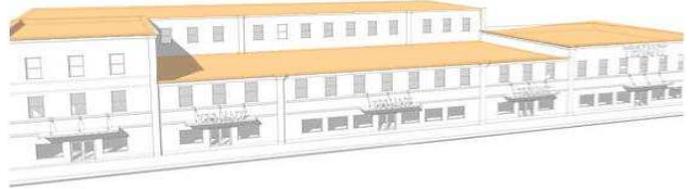
**Policy: Building materials should be visually compatible with the predominate materials of this area.**

- Traditionally, a limited palette of building materials, primarily brick and stone, was used in the area. This same selection of materials should continue to be predominant. New materials also may be appropriate when they relate to the scale, durability, color, and texture of the predominate materials of this area.

*3.10 Materials shall appear to be similar to those used traditionally.*

- Brick and stone were the traditional materials and are preferred.
- If alternative materials are selected they should be comparable to traditional materials, both in texture and color.

*3.11 A simple material finish is encouraged for a large expanse of wall plane.*



- A matte or non-reflective finish is preferred.
- Polished stone should be avoided as a primary material and mirrored glass is inappropriate.

**Policy: A building should be visually compatible with traditional commercial buildings.**

- While it is important that buildings be compatible with the surrounding traditional commercial context, it is not necessary that they imitate older building styles.



*Materials shall appear to be similar to those used traditionally.*

*3.12 New interpretations of traditional building styles are encouraged.*



*Maintain the distinction between the street level and the upper floor.*

- A new design that draws upon the fundamental similarities among older buildings in the area without copying them is preferred. This will allow the building to be seen as a product of its own time and yet be compatible with its historic neighbors.
- Buildings that are similar in scale and overall character to those seen historically are strongly encouraged.
- In essence, infill should be a balance of new and old in design.
- This applies to architectural details as well as the overall design of a building.

*3.13 Maintain the distinction between the street level and the upper floor.*

- The first floor of the primary facade should be predominantly transparent glass.
- Upper floors should be perceived as being more opaque than the lower floor.
- Highly reflective or darkly tinted glass is inappropriate.
- Express the traditional distinction in floor heights between street level and upper levels through detailing, materials, and fenestration. The presence of a belt course is an important feature in this relationship.

*3.14 Upper-story windows with vertical emphasis are encouraged.*

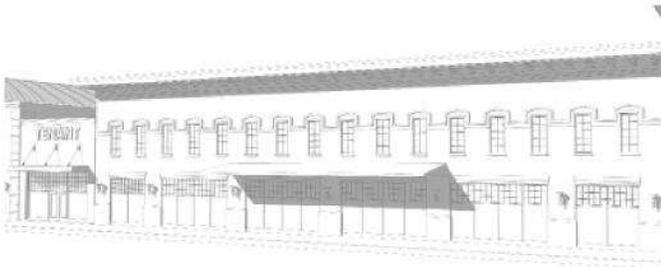
- A typical, upper-story window is twice as tall as it is wide. These proportions are within a limited range. Therefore, upper-story windows in new construction should relate to the window proportions seen historically.
- Windows should align with others in a block. Windows, lintels, and their trim elements should align with those on adjacent historic buildings.
- Upper floors should appear more solid than first floors.
- Avoid a blank wall appearance that does not provide interest to pedestrians

*3.15 Windows should be trimmed with wood, painted metal or anodized aluminum.*

- This trim should have dimension and shadow lines similar to those used historically.

*3.16 Window dimensions that are similar to those used traditionally are encouraged.*

- Many windows are “one-over-one,” in that a single pane of glass is in both the upper and lower sashes. Other pane configuration also may be present, such as “two-over-one,” with two panes (or lights) in the upper sash and one is in the lower sash. These arrangements are preferred.



*Upper-story windows with vertical emphasis are encouraged.*

*3.17 The ratio of solid-to-void surface area shall be similar to that seen traditionally on commercial storefront buildings in the district.*

- First floors should be more transparent than upper floors.

*3.18 Building entrances should appear similar to those used historically in the block.*

- Clearly define the primary entrance with an awning, canopy, or other architectural or landscape feature.
- A contemporary interpretation of a traditional building entry, which is similar in scale and overall character to those seen historically, may be considered.
- Building entrances should be recessed.
- Clearly define primary entrances.
- Secondary public entrances are also encouraged on a larger building or along an alley if there is parking in the rear of the site.

*3.19 Doors should be trimmed with wood, painted metal or anodized aluminum.*

- This trim should have dimension and shadow lines similar to those used historically.

## **Design Guidelines for Infill Construction (Area 2 – Area South of Wyatt Earp Blvd)**

This section presents design guidelines that apply to the area south of Wyatt Earp Blvd. The design guidelines are organized into a series of relevant design topics. Within each category, individual policies and design guidelines are presented, which the City will use in determining the appropriateness of the work proposed.

The area should continue to develop with a mix of uses. Improvements should occur in a manner that enhances the experience for pedestrians and to build a sense of visual correlation among properties. Even though vehicle circulation routes significantly affect the character, it is still possible to strengthen pedestrian links and to improve the edges of properties such that a sense of human scale is conveyed.

### **Design Goals**

Those commercial streets south of Wyatt Earp Blvd should develop in a manner that is inviting to pedestrians while also accommodating vehicles. Development should include a mix of building types, including older structures and more contemporary ones. Each should reflect the design trends of its own time, while also contributing to a sense of visual continuity and strengthening the pedestrian experience. In addition, a combination of uses is encouraged, including office, and retail.

### **The design goals for the area South of Wyatt Earp Blvd are:**

- To define the sidewalk edge with elements that are amenities for pedestrians
- To establish a sense of scale in buildings and streetscape design that can be understood by pedestrians

- To minimize the visual impacts of vehicles
- To strengthen the pedestrian network of sidewalks, plazas, and paths
- Retain native vegetation with project design

### **Building Setbacks**

A wide variety of building setbacks can be seen throughout the area south of Wyatt Earp Blvd. Much of this variety is due to the influence of the automobile and the need to provide on-site parking. This parking typically has been provided in front of the building for consumer convenience. However, this trend erodes the view of the edge of buildings located along a sidewalk as was seen historically. Therefore, it is strongly encouraged that new developments south of Wyatt Earp Blvd should build on this tradition and locate buildings at the front lot line.

### **Mass and Scale**

A variety of building sizes exist in this area. While contemporary design approaches are encouraged, developments should continue to exhibit a variety of sizes, similar to the buildings seen historically and traditionally.

### **Building Materials**

Building materials of structures should contribute to the visual continuity of the area. They should appear similar to those seen traditionally to establish a sense of visual continuity.

### **Architectural Character**

Commercial buildings throughout the Heritage District should relate to one another through the consistent use of similar building materials, storefronts, recessed entries, and the alignment of these different elements along a block. This tradition is strongly encouraged for new

developments in the area south of Wyatt Earp Blvd.

One of the concerns in building design is that when national chain companies or their franchises construct buildings in the area south of Wyatt Earp Blvd that they do so in a way that reinforces the design traditions of Dodge City. Some typical issues and negative impacts often associated with national chain or commercial franchise designs include:

- Bright logo colors are used over large expanses of a building.
- Large blank walls on “big box” buildings are bland and out of scale, and discourage pedestrian activity.
- Buildings are surrounded by parking lots and cars. Primary entrances are typically oriented to these parking lots, rather than to the street.
- Metal panels and large areas of featureless stucco are often used and these are out of character and not of human scale.

Instead, these building types shall comply with the design guidelines that follow.

### **Pedestrian Environment**

The area south of Wyatt Earp Blvd should provide a controlled, organized automobile system which provides a safe pedestrian environment. Streets, sidewalks, lighting, and landscaping should define the road edge and encourage walking, sitting, and other pedestrian activities.

Projects that can occur in the area also may have automobile activity associated with them. This should not, however, make it an unsafe environment for the pedestrian or cyclist. Automobile circulation patterns, both internal and external, should be clearly identified and should not interfere with pedestrian or cyclist circulation systems.

### ***Policy: A new building should maintain the wall of buildings at the sidewalk edge.***

Continuity of design within the Heritage District is a goal of the City, both in terms of connecting individual projects and town blocks. Not only should a new building in the area south of Wyatt Earp Blvd be located at the sidewalk edge, but it should be designed to provide visual interest.

#### ***4.1 Locate a new building at the front property line.***

- Align the building front at the sidewalk edge.
- A minimum of 50% of the street frontage of a property shall have a building wall at the sidewalk edge.
- Where no sidewalk exists one should be installed that aligns with nearby sidewalks.

#### ***4.2 Where a portion of a building must be set back, define the edge of the property with landscape elements.***

- For example, define the edges of a lot with landscaping, such as low-scale urban street trees or shrubs.
- Landscaping elements should be compatible with the character of the area in size, scale, and type. Free-form, suburban type landscaping is inappropriate in this setting.
- Also consider using a fence, or other structural element that reflects the position of typical storefront elements. These elements should align with nearby traditional commercial building types.

### ***Policy: The overall mass of a new building should convey a sense of human scale.***

Buildings in the downtown should appear similar in height and width to commercial structures seen traditionally in downtown Dodge City.

*4.3 A new building shall reflect the traditional lot width as expressed by the following:*

- Variation in height at internal lot lines
- Variation in the plane of the front façade
- Variation in architectural detailing and materials to emphasize the building module
- Variation in the façade height to reflect traditional lot width

*4.4 Building heights of larger projects should provide variety.*

- A larger development should step down in height towards the street or smaller, surrounding structures.
- Vary the building height in accordance with traditional lot width.
- Set back the upper floor to vary the building façade profile(s) and the roof forms across the width and the depth of the building.
- Vary the façade (or parapet) heights at the front.

*4.5 Large project sites should be developed with several buildings, rather than a single structure.*

- This will help reduce the perceived size of the project.
- The façade height shall be varied to reflect traditional lot width.

*4.6 Where a large building is needed, divide the building into modules that reflect the traditional size of buildings.*

A typical building module should not exceed 30 feet in width. The building module should be expressed with at least one of the following:

- A setback in wall planes of a minimum of 3 feet.

- A change in primary facade material for the extent of the building module.
- A vertical architectural element or trim piece
- Variations in facade treatment should be continued through the structure, including its roofline and front and rear facades.
- If a larger building is divided into “modules,” they should be expressed three dimensionally throughout the entire building. Variation in height should occur where the site is larger than two traditional lot widths, in order to reduce overall scale of the building.

*Where a large building is needed, divide the building into modules that reflect the traditional size of buildings.*



**Policy: Building materials for new construction should be visually compatible with the predominate materials of this area.**

New materials should relate to the scale, durability, color and texture of the predominate materials of downtown.



*New materials should relate to the scale, durability, color*

*4.7 Masonry materials that convey a sense of scale are preferred.*

- Brick and stone are preferred for new construction.
- New materials should appear similar in character to those used traditionally. For example, stucco, cast stone, and concrete should be detailed to provide a human scale.

*4.8 A simple material finish is encouraged for a large expanse of wall plane.*

- A matte or non-reflective finish is preferred.
- Polished stone and mirrored glass, for example, are inappropriate and should be avoided as primary materials.

*4.9 Traditional building materials such as wood, brick, and stone are encouraged.*

- Horizontal lap siding of traditional dimensions is appropriate in most applications.
- Maintenance of traditional siding dimensions is encouraged.
- Brick or stone, similar to that used traditionally, is also appropriate.
- Highly reflective materials are inappropriate.
- New materials that are similar in character to traditional ones may be considered. Alternative materials should have a proven durability in similar locations in this climate.

*4.10 Use roof materials that appear similar to those seen traditionally.*

- Metal and shingle roofs are preferred.
- Clay tile is discouraged.

***Policy: A new building should contribute to a pedestrian friendly environment by providing an active street edge.***

The downtown should continue to develop as a pedestrian oriented environment. Streets and sidewalks should encourage walking, sitting, and other outdoor activities. Buildings also should be visually interesting to invite exploration by pedestrians. Existing pedestrian routes should be enhanced. These are important concepts because buildings are experienced at close proximity by pedestrians.

***4.11 Develop the ground floor level of a project to encourage pedestrian activity.***

- Provide at least one of the following along primary pedestrian ways:
  - A storefront
  - Display cases
  - Landscaping
  - A courtyard or plaza
- Include traditional elements such as display windows, kick plates, and transoms on commercial storefronts.
- Avoid a blank wall or vacant lot appearance.

***4.12 Orient the primary entrance of a building toward the street.***

- A building should have a clearly defined primary entrance.
- The building entrance should be recessed.
- A primary building entrance also should be at or near street level.

***4.13 Clearly identify the road edge and project entrances for both automobiles and pedestrians.***

- Use landscaping and lighting accents to identify entrances.

***4.14 Buildings shall convey a sense of human scale.***

- Use building materials that are of traditional dimensions.
- Provide a one-story entry element that is similar in size to those seen traditionally.
- Use a building mass that is similar in size to those seen traditionally.
- Use elements that provide a sense of scale.

***4.15 Building heights of larger projects should provide variety.***

- A larger development should step down in height towards the street or smaller, surrounding structures.

***4.16 New interpretations of traditional building styles are encouraged.***

- A new design that draws upon the fundamental similarities among commercial and residential buildings in the community without copying them is preferred. This will allow them to be seen as products of their own time yet compatible with their historic neighbors.



*Develop the ground floor level of a project to encourage pedestrian activity.*

## SECTION 5

### Design Guidelines - Signage

## Design Guidelines - Signage

This section presents design guidelines for the design of signs and wayfinding programs. Within each category, individual policies and design guidelines are presented which the City will use in determining the appropriateness of the work proposed.

Historically, a variety of signs have evolved in the Heritage District of Dodge City. In addition, modern requirements have driven new sign developments. Often signs were mounted to fit within architectural features. In many cases, they were mounted flush above the storefront, just above moldings. Others were located between columns or centered in “panels” on a building face. This method is least distracting to the design character of individual structures.

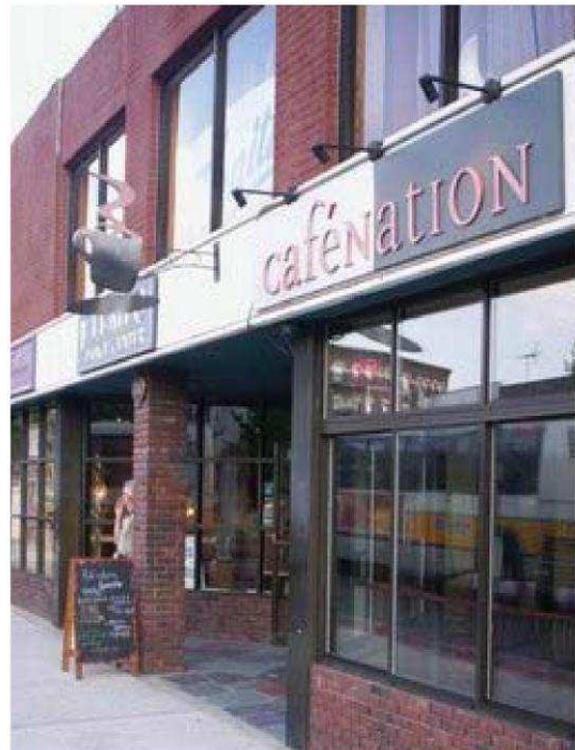
Generally, signage in the Heritage District will be defined by the following types:

- **Freestanding Signs** - mounted on a pole or post; located near the sidewalk and typically imprinted on both sides. This would include municipal use such as street signs.
- **Marquee Type Signs** - square or rectangular shaped signs mounted to the building above the awnings or canopies; printed on both sides.
- **Façade Type Signs** - mount directly to face of structure, may be indirectly illuminated or internally illuminated.
- **Blade Type Signs** - protrude from the building below the awnings or canopies but above pedestrians’ heads; printed on both sides.
- **Hanging Type Signs** - protrude from the building and hang from a bracket, essentially a blade sign but typically larger and mounted higher; printed on both sides.
- **Canopy Type Signs** - horizontally-oriented rectangular signs attached flat against the building, above

and/or below the awnings; printed on one side only. They may also be mounted and backlit from the canopy face or affixed to the top of the same.

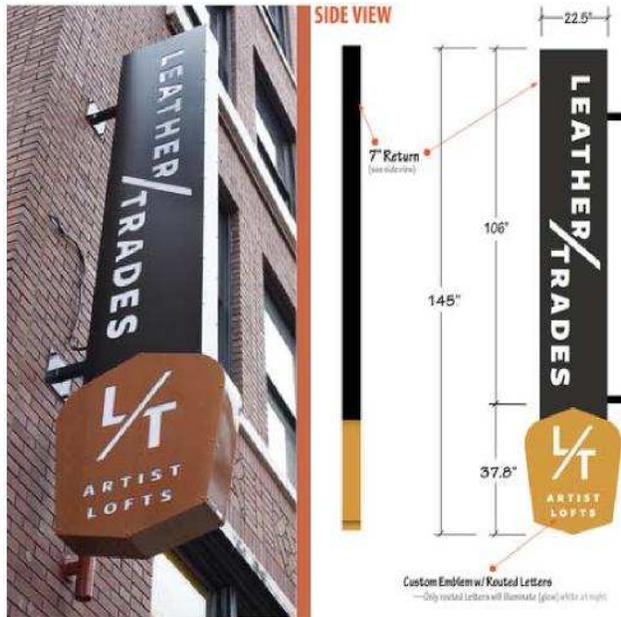
- **Window Signs** - painted on glass; used at the street level and on upper floors
- **Mural Signs** - painted on the exterior advertised the primary business of a building. It was also not unusual for these facades to serve as modern day billboards primarily advertising consumer goods
- **Site Specific Signs** - located at destination examples include facade or pavement mounted plaques and post mounted signs

Representative examples of these sign types are located at the end of this section.



The overall facade composition, including ornamental details and signs, should be coordinated.

A sign typically serves two functions. First, to attract attention, and second, to convey information essentially identifying the business or services offered within. If it is



*Design a sign to be in balance with the overall character of the property.*

well designed, the building front alone can serve the attention-getting function, allowing the sign to be focused on conveying information in a well-conceived manner. All new signs should be developed with the overall context of the building and of the area in mind.

Multi-tenant buildings shall share signage through co-locating the various businesses' advertising on directories and monument or other approved signs

A primary sign represents the owner's largest sign expense and is likely the most important of the sign types. Only one primary sign will be allowed per business per building. The primary sign's audience is specifically the viewer driving past in a vehicle. The sign should be in proportion to the building, such that it does not dominate the appearance.

A primary sign should identify the services or business offered within. To avoid driver

confusion, the information on the primary sign should be in a large enough font or design that it is easily viewable from a vehicle.

The sign should contain only enough information to alert the viewer in a vehicle to the location of the business or entity at the building. Whenever possible, other signs should be utilized for information geared towards pedestrian or other viewers. The primary sign should be easily viewable from a vehicle with as little visual clutter as possible.

Secondary signs are utilized in addition to the primary building sign. Typically, a secondary sign protrudes from the building below the awnings or canopies but above pedestrian heads, printed on both signs. This may also be a small to medium free-standing sign mounted on a pole or post. The secondary sign is generally intended to capture the attention of the pedestrian walking on the sidewalk.

Where several businesses share a building, coordinate the signs. Align several smaller signs, or group them into a single panel as a directory.

Use similar forms or backgrounds for the signs to tie them together visually and make them easier to read. The manner in which a directory sign is mounted to a building, either flush to or projecting from a wall, will determine the maximum allowable sign area. Electronic message centers are not allowed.

Signage allocation must be considered when setting up a building for multiple tenants, and the appropriate distribution of allowable sign square footage and sign sizes and locations planned for the various tenants. The maximum area of a flush-mounted or projecting sign is subject to review by the Landmarks Commission.

A small hanging sign is easier for a pedestrian to read than other sign types and is encouraged. This type of sign should be located near the business entrance, just above the door or to the side of it. A hanging sign installed under a canopy should be a maximum of 50% of the canopy's width.

A hanging sign should be mounted perpendicular with the building facade. A hanging sign should provide a minimum of eight feet clearance between the sidewalk surface and the bottom of the sign. However, a hanging sign mounted under a canopy may provide a minimum clearance of seven feet. With few exceptions, a hanging sign shall be no more than eight square feet in size.

Window signs are painted or applied to the glass, used at street level and/or on upper floors. The window signage is intended for the pedestrian walking on the sidewalk and conveys specific information about the business offered. A window sign may be considered in addition to the primary building sign to convey specific information regarding contact information (i.e., telephone number, email, or web address of a business), other business locations, or list more than one (1) specific product or service.

A window sign should cover no more than thirty percent (30%) of the total window area.

It may be painted on the glass, attached with flush vinyl, or hung just inside a window using appropriate attachment materials, as reviewed and approved by the Landmarks Commission. No more than 50% of a window shall be covered by business signage, advertisements, open signs, hours of operation, and other messages.

One small (maximum 2 square feet) window sign with a dark background displaying the business' hours of operation with contrasting (but not in a vivid color) lettering is allowed without Certificate of Appropriateness Application. If additional size or design is requested, then a Certificate of Appropriateness is required. One small (maximum 1.5 square feet) 'open' sign per business is allowed to be placed in a window without Certificate of Appropriateness review, if additional size is requested then a Certificate of Appropriateness is required. The sign message cannot be in a flashing or traveling mode.

Window located electronic message signs that are designed to be visible from the street are not allowed.

While window displays are not reviewed by the Landmarks Commission, their use is very important to retailers. The attractiveness of a display is likely the highest contributing factor to whether or not a pedestrian will enter a store, and its design should be carefully planned.

A projecting sign should appear to be in proportion with the building. It should not overwhelm the appearance of the building or obscure key architectural features. A projecting sign shall provide a minimum clearance of eight feet between the sidewalk surface and the bottom of the sign. A projecting sign shall be no more than fifteen square feet in size with a maximum sign height of five feet. Additionally, a projecting sign shall in no case project beyond 1/2 of the sidewalk width.

Signs should not obscure the view of any windows, existing signs, and/or adjacent buildings to an unreasonable extent. A large projecting sign is not permitted unless other types of signage are not appropriate for the building. A large

projecting sign, if approved, should be mounted higher, and centered on the facade or positioned at the corner of a building. Generally, a projecting sign should not be located above the second floor.

“Blade” signs are considered projecting signs and should follow the guidelines for projecting signs. Any two-sided sign shall be designed to be back-to-back and in no case shall both sides of the sign be visible at any time to the reader.

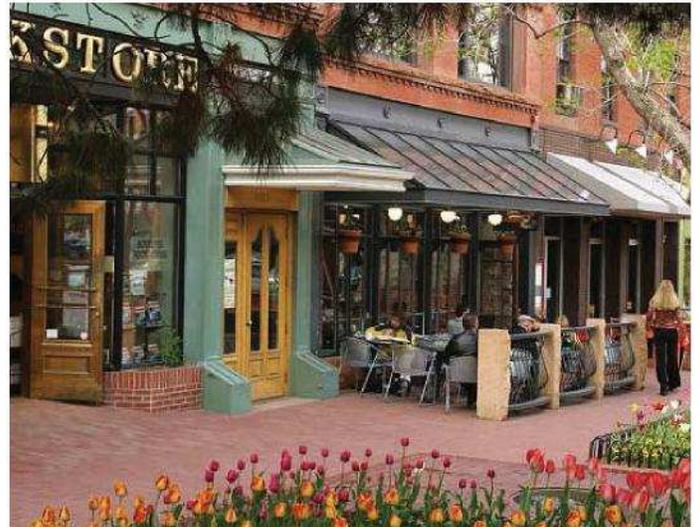
An awning or canopy sign shall not exceed one square foot for every one linear foot of facade width. In no case should an awning or canopy sign exceed the size of the awning or canopy surface to which it is applied. The size of an awning or canopy sign shall be calculated by its actual area and shall be included in the calculation for total allowable building signage.

Consider mounting a sign centered on top of a building canopy where a flush-mounted sign would obscure architectural details. A sign mounted on top and affixed to a building canopy, and located perpendicular to the building shall not be allowed. Appearance of a sign as viewed from an upper level must be considered.

Portable signs are intended for the pedestrian walking on the sidewalk. Portable signs include sandwich boards, signs mounted on easels, or freestanding frames with sign inserts.

Temporary signs are used for a special purpose, such as limited-time offer or a sale. Planning and Development Department staff may approve temporary signs for a specified period of time. Special event signs would include area events or festivals and would include quality color pole banners or large mesh scrim types. Development Services staff may approve

temporary signs for a specified period of time.



*When utilizing the sign frieze as the sign placement location, it is important to respect the frieze borders.*

## Wayfinding Sign Systems



Wayfinding refers to the user experience of orientation and choosing a path within the built environment. It can also refer to the set of architectural or design elements that aid orientation, as well as in reference to parking management strategies. Consistent use of colors, symbols, and typography make this graphic communication style a very effective method in directing the visitor or tourist.

Site-Finder signs are found directly in front of their locations, in the areas designated, or along routes and walking trails.

This is especially important in the area south of Wyatt Earp Blvd where new construction, historic preservation, and modern infill coexist with both vehicular and pedestrian traffic requirements.

Well-designed signs and related graphics are needed in the Heritage District for communication and identifying goods and services available in the District. But signs are artifacts in themselves. They are a significant component of the environment. Signs affect the quality, image, and cohesiveness of the entire Heritage District.

The placement or location of a sign is a critical factor in maintaining the order and integrity of the Dodge City Heritage Overlay District. Consistent placement of signs according to building type, size, location, and even building materials creates a visual

pattern that the pedestrian can easily interpret and utilize to the mutual benefit of merchants, tourists, and customers.

Portable signs are intended for pedestrian traffic on the sidewalk and can convey specific information regarding information on products, services or special events such as dining and entertainment offerings. An A-frame or sandwich board sign should be limited to 12 square feet of surface per side and should in no case exceed four feet in height and three feet in width. A portable sign should not interfere with pedestrian traffic.

A portable sign should be secured to the sidewalk. If an eye bolt is used it should be installed by the City and placed below the sidewalk surface, and a steel wire should be used to attach the sign to the bolt. If the sign is not anchored with an eye bolt, then the sign shall be internally weighted rather than secured with sand bags or other external means. Portable signs shall be taken inside when the business being advertised is not open.

A temporary sign (including banners) should be limited to a maximum of twenty-four square feet in area with a maximum height of three feet. A temporary sign, when installed, should not obscure windows or other architectural details of a building. In no case will a temporary sign be allowed to substitute as a permanent sign.

Development Services staff may approve temporary signs for up to 45 days, a request for a longer time period will be forwarded to the Landmarks Commission. Temporary signs should respect the design and color guidelines for permanent signs.

A sign should not in any way obscure or compete with architectural details of an historic building facade. This is especially important for a building with historic significance. A sign should be designed to

integrate with the architectural features of a building not distract attention from them.

***Policy: A sign should be in character with the material, color, and detail of a building.***

- Signs that are out of character with those seen historically and would alter the historic character of the street are inappropriate.
- Animated signs are prohibited.
- Any sign that visually overpowers the building or obscures significant architectural features is inappropriate.
- Murals that include signage may be considered appropriate.
- Murals shall not be painted onto previously unpainted brick or masonry of historical significance.
- Sign materials should be compatible with that of the building facade.
- A simple, easy-to-read sign design is preferred.
- Typefaces that are in keeping with those seen in the area traditionally are encouraged. Select letter styles and sizes that will be compatible with the building front. Generally, these are typefaces with serifs.
- Avoid hard-to-read or overly intricate typeface styles.
- Painted wood and metal are appropriate materials for signs. Their use is encouraged. Unfinished materials, including untreated wood, are discouraged because they are out of character with the context of the Overlay Districts.
- Plastic is not permitted, except for flush, adhesive, professionally installed lettering.
- Highly reflective materials that will be difficult to read are inappropriate.
- Painted signs on blank walls were common historically and may be considered.
- Using a symbol for a sign is encouraged.
- A symbol sign adds interest to the street, can be read quickly and is remembered better than written words.
- Use colors for the sign that are compatible with those of the building front.
- Sign colors should be limited. In general, no more than three colors should be used. For these Guidelines, black and white are not counted as colors.
- The Historic Landmark Commission may consider different shades of a color similar enough to count as one color in the determination of the number of colors being allowed.
- Signs with photo images, including multiple colors, are appropriate on A-frame/sandwich board type signs only.
- Symbol signs add interest to the street, are quickly read, and are remembered better than written.
- Symbol signs, like this barber's pole, were used historically and their use is encouraged today.
- The light for a sign should be an indirect source.
- Light should be directed at the sign from an external, shielded lamp.
- The fixture should have a sense of design, which is coordinated with the sign surface, and appropriate to building style and character.
- A warm light, similar to daylight, is appropriate.

- Light should not shine directly or reflect into the eyes of pedestrians.
- Exposed up-lights are inappropriate.
- If internal illumination is used, it should be designed to be subordinate to the overall building composition.
- Internal illumination of an entire sign panel is discouraged. If internal illumination is used, a system that backlights only the sign text is preferred.
- Neon and other tubular illumination may be considered. However, use neon in limited amounts so it does not become visually obtrusive.
- Internal illumination of an awning is inappropriate.
- Neon signs may be considered in limited situations.
- The use of neon signs is more appropriate to new construction, non-historic structures, and historic structures built after 1930. These signs should have an historic character.
- Sign brackets and hardware should be compatible with the building and installed in a workman-like manner.
- Maintenance of signs shall be required.
- Re-secure sign mounts to the building front.
- Repaint faded graphics.
- Repair worn wiring.
- Replace burned out bulbs.
- Remove non-historic, obsolete signs.
- Preserve historic painted signs in place as decorative features.
- Signage should have a professional quality and a finished appearance.
- Signs that appear to be temporary, unfinished, or homemade are not allowed.
- A change in a portion of a multi-tenant sign should be consistent with the original, approved design.
- Lighting that is directed at a sign from an external, shielded lamp, is preferred.
- Internal illumination of an entire sign panel is discouraged

**Representative Signage & Wayfinding Examples**

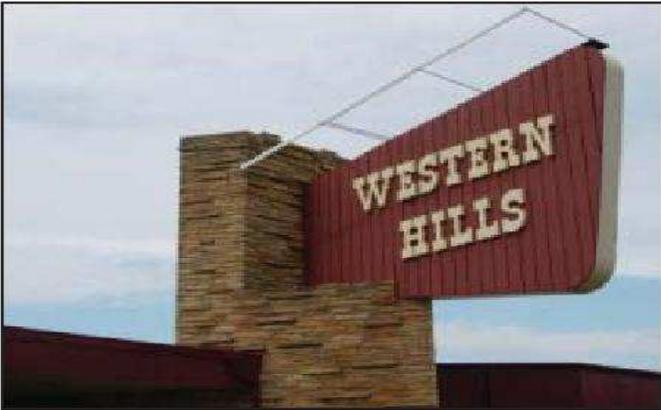
**Freestanding Signs**



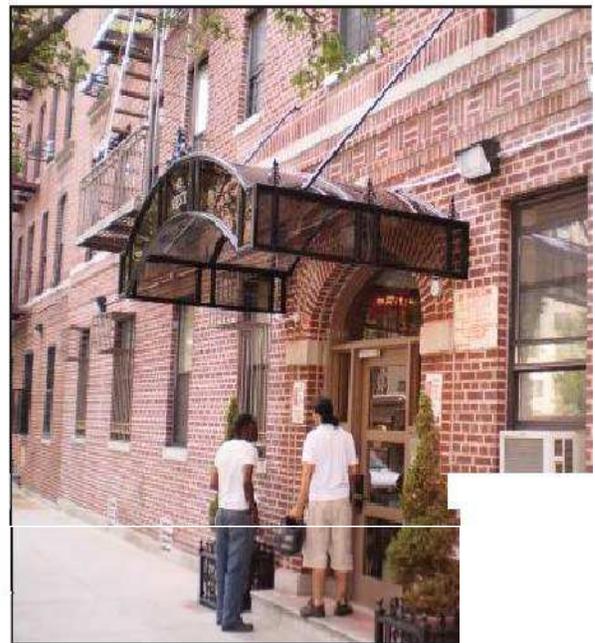
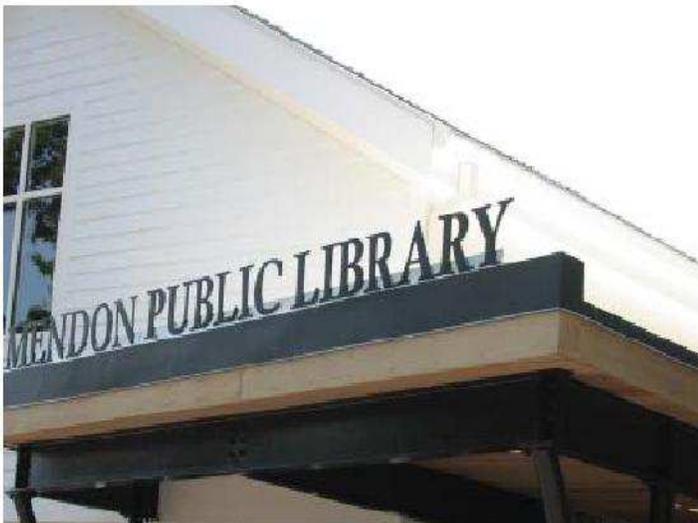
**Facade Type Signs**



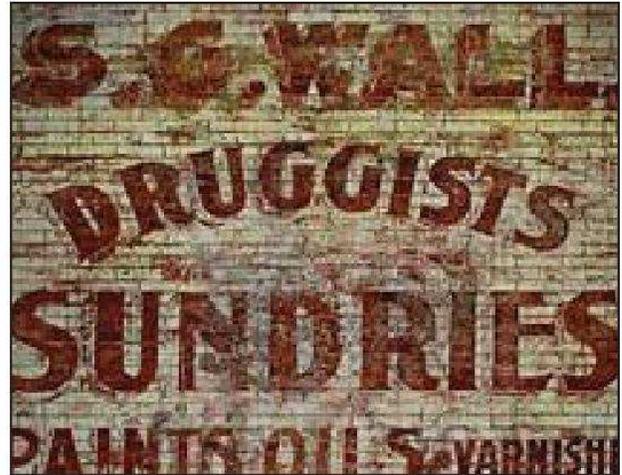
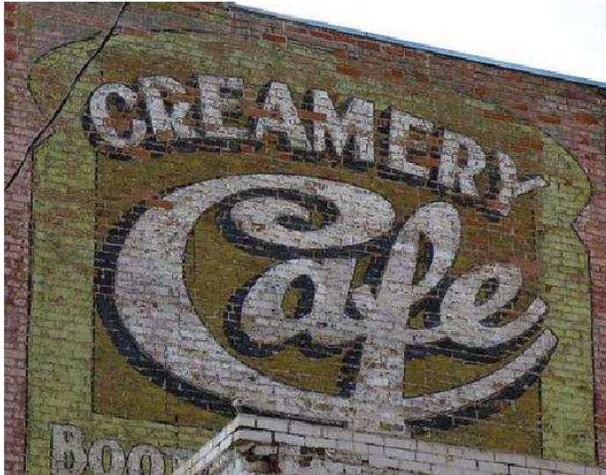
**Marquee Type Signs**



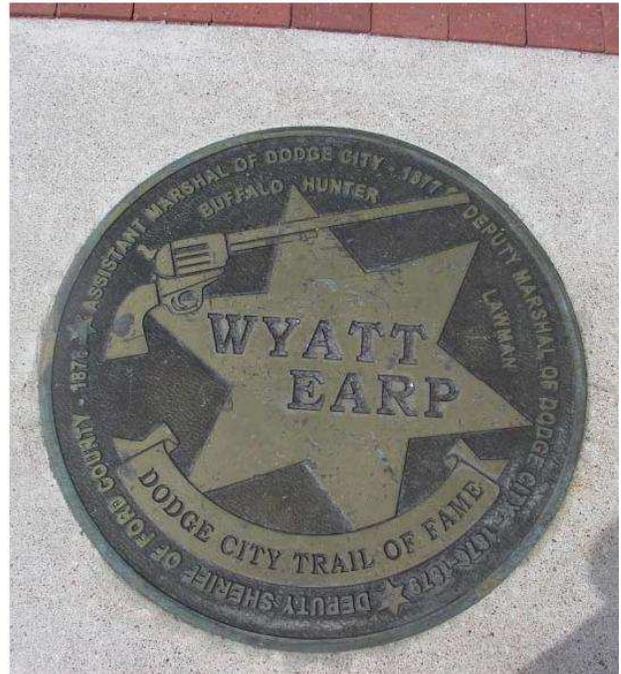
## Canopy Type Signs



## Wall Mural Signs



## Site Specific Signs



## SECTION 6

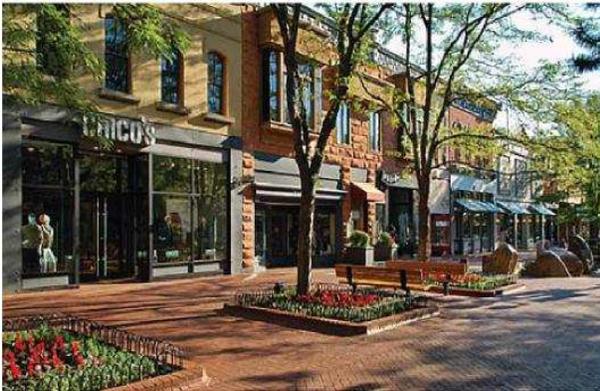
### Design Guidelines - Site Design Landscape & Hardscape

## Site Design Guidelines

This section presents design guidelines for site design. The design guidelines are organized into a series of relevant design topics. Within each category, individual policies and design guidelines are presented which the City will use in determining the appropriateness of the work proposed.

### Public Streetscape

Fundamentally, streetscape designs should help to establish a sense of visual continuity in an area and they should be compatible with any historic resources found there.



### Building and Street Lighting

The character of lighting design and level of intensity of the resulting illumination are key considerations. Traditionally, lights were simple in character and were used to highlight entrances, walkways, and signs. Most fixtures had incandescent lamps that cast a color similar to daylight, were relatively low in intensity, and were shielded with simple shade devices. Although new lamp types may be considered, the overall effect of modest, focused light should be continued.

### Mechanical Equipment, Service Areas, and Other Equipment

Utilities that serve properties may include telephone and electrical lines, ventilation systems, gas meters, air conditioners, fire protection, telecommunication and alarm systems. Adequate space for these utilities

should be planned in a project from the outset and they should be designed such that their visual impacts are minimized. Service areas for trash and recycling containers and loading facilities should be carefully planned as an integral part of a site. At the same time, the visual impacts of service areas should be minimized. While solar energy collecting devices might not always be considered as mechanical or service equipment, for the purpose of these Design Guidelines they shall be.

### Parking

Public parking lots and garages were not a part of Dodge City's early history. However, cars are a fact of life in the downtown today, and the visual impacts associated with their storage should be carefully planned.

***Policy: The public streetscape in downtown Dodge City should enhance the pedestrian experience without being an obstacle to traffic or commerce.***

The sidewalks, lights, landscaping, and street furnishings all contribute to the pedestrian friendly environment in downtown Dodge City. These elements should be preserved, enhanced, and expanded. Sidewalks vary in construction and quality. While many sidewalks are concrete, some include brick as an accent element, or are completely brick themselves. Curb ramps have also been installed at some corners to facilitate access. Also, while several areas already have amenities in place that enhance the pedestrian experience, additional furnishings should be considered to enhance the area.

#### *6.1 Preserve significant sidewalk features.*

- The alignment with other original sidewalks, the street, and overall town grid is of primary importance

- Replace only those portions that are deteriorated beyond repair. Any replacement materials should match the original in color, texture, size, and finish

*6.2 When new sidewalks are to be installed, they shall be compatible with the traditional character of the streetscape.*

- A new sidewalk should align with those that already exist along a block
- Decorative paving should be used throughout the Heritage District.
- Such paving shall be of the same design, character, and installation as that already in use by the City in and around the Heritage District
- Sidewalks and crosswalks should be consistent with the sidewalk, intersection, and crosswalk designs in the Heritage District.

*6.3 Street furniture should be simple in design and historically reminiscent in character.*

- Benches, bike racks, planters or pots, statues, and trash receptacles are examples of street furnishings that are appropriate
- Advertising promotions on benches is not allowed under any circumstance
- Individual furnishings should be of designs such that they may be combined with other street furniture in a coherent composition

*6.4 Avoid materials that are incompatible with the character of the district.*

- Exposed aggregate, plastic, unfinished wood, and polished metal are inappropriate

*6.5 Street furniture should be located in areas of high pedestrian activity.*

- Locate furniture at pedestrian route intersections and major building entrances and near outdoor gathering places



*6.6 Street furnishings should be clustered in "groupings," when feasible.*

- Street furnishings and sidewalk displays should not interfere with pedestrian traffic
- For example, use planters and covered or enclosed waste receptacles to frame spaces for benches
- Install benches in high pedestrian traffic areas and/or areas of interest

*6.7 Position a bench to provide a sense of comfort.*

- Buffer the bench from traffic; for example, position a planter between the bench and the curb
- Avoid locating a bench close to the curb

*6.8 Cluster waste receptacles with other furnishings.*

- The design of the receptacles should be compatible with other existing furnishings



*6.9 When feasible, cluster planters with other furnishings.*

- Install freestanding planters on either side of a store entrance, at seating areas, along edges of parking lots, in pedestrian plazas, and in clustered furnishing areas
- A planter should be large enough to be easily seen, but not so large as to cause an obstruction to pedestrian traffic
- Conventional home-style planters, such as those constructed of redwood or ordinary terracotta pottery, as well as over-sized concrete plant tubs are not appropriate

*6.10 Outdoor dining and seating areas should be simple in design and compatible with the approved street furniture.*

- Furniture and fixtures must not be secured to trees, lampposts, street signs, hydrants, or any other street infrastructure by means of ropes, chains, or any other such devices, whether during restaurant operating

hours or at times when the restaurant is closed

- All furniture and fixtures must be maintained in good visual appearance and in a clean condition at all times
- All furniture and fixtures must be durable and of sufficiently sturdy construction as not to blow over with normal winds
- All furniture and fixtures must contribute to the overall atmosphere of the Heritage District and must be complementary in both appearance and quality

*6.11 Tables and chairs are allowed without approval of City if they meet the following guidelines. Otherwise, Landmarks Commission approval is required based upon the intent of the guidelines.*

- Tables and chairs may be colored or of a natural unpainted material (i.e. wood, metal treated to prevent rust, etc.). Tables and chairs are not permitted to be plastic or of any fluorescent or other strikingly bright or vivid color
- Upholstered chairs suitable for outdoor use are permitted, but the upholstery may not be any fluorescent or other strikingly bright or vivid color
- All chairs used within a particular establishment's outdoor seating area must match each other by being of visually similar design, construction, and color
- Other furniture such as serving stations, bar counters, shelves, racks, sofas, televisions, trash receptacles, heaters, and torches are not permitted unless Landmarks Commission determines that these items are sufficiently setback or screened from view of the public

*6.12 Umbrellas are allowed without approval of a City if they meet the following guidelines. Any proposed umbrella that does not meet the guidelines maybe approved by Landmarks Commission if they determine the intent of the guidelines has been met.*

- Umbrellas shall be appropriately designed and sized for the location where they will be utilized
- Umbrellas must be free of advertisements and all elements contained within the outdoor dining area, and at the lowest dimension of an extended umbrella must be at least 7 feet above the sidewalk surface and not block the main walking path or create a hazard. Any proposed umbrella signage will need City approval and to be included with the overall sign package for the property
- Any part of an umbrella used in an outdoor seating area may not exceed a height of ten feet (10') above the level of the sidewalk
- Umbrellas must blend appropriately with the surrounding built environment. Therefore, umbrella fabric may not be fluorescent or other strikingly bright or vivid colors.
- Umbrella fabric must be of a material suitable for outdoor use, and must be canvas-type. No plastic fabrics, plastic/vinyl-laminated fabrics, grass, or rigid materials of any type are permitted for use as umbrellas within an outdoor seating area
- Umbrellas should not block views of building signs or windows, especially those of adjacent properties
- A four foot clear area must be maintained on all sidewalks to allow pedestrian traffic. So, smaller tables and

chairs are generally preferred to meet this requirement

- No sidewalk coverings or raised platforms are allowed, unless the outdoor seating area is not located on the sidewalk
- No extra or additional signage is permitted solely as a result of an outdoor seating area. If any signage is proposed it should be included as part of the overall sign package for the property
- Any proposed fence related to an outside eating or sitting area for a nonresidential use is required to have approval

***Policy: Using trees and flowering plants is strongly encouraged.***

- Trees and flowering plants help provide interest to pedestrians, as well as shaded protection from the summer sun. Therefore, the use of street trees and planters is strongly encouraged
- 6.13 Use indigenous, native, and drought tolerant plant materials when feasible.*
- Locate street trees along edges of sidewalks, maintaining a clearly defined pedestrian travel zone



- Locate street trees in larger planting areas, such as buffer strips adjacent to parking lots and/or pocket parks
- Provide underground irrigation systems where long-term growth will not impact the irrigation system
- Use flowers to provide seasonal colors

*6.14 Install new street trees to enhance the pedestrian experience.*

- Install new trees where walkway widths permit
- Replace trees that are diseased or have passed their life cycle
- The height of a street tree should be minimized, however, to avoid blocking views of storefronts and interesting details

*6.15 Provide electrical service for string lights in trees.*

- Use of string lights should generally be limited to the traditional end of year and New Year holidays and other special occasions where there is a multi-business lighting event scheduled that includes the Heritage District
- String lights in trees shall not be left in the trees year round to protect the health of the tree
- String lights shall be maintained in appearance and installation
- Unless an approved project by the City, property owners are discouraged from plugging into City owned outlets for personal use of lights
- The use of lights to highlight a building's architecture, canopies, and windows may be appropriate and effective
- Properties are encouraged to provide electrical service for string lights in trees

***Policy: Site lighting should be used to enhance the pedestrian experience at night by providing a well-lit environment.***

Lighting on a site is important for aesthetics and safety, as well as customer awareness on commercial properties. Traditionally, lights were simple in character and were used to highlight buildings, signs, entrances, first floor details, walkways, and buildings. Today, the lights are also used to light parking lots. Most fixtures had incandescent lamps that cast a warm color, were relatively low in intensity, and were shielded with simple shade devices. Site lighting should reinforce the visual continuity of downtown. The light fixtures (luminaires) and poles (standards) should be unifying design elements that promote visual interest and variety.



*6.16 Use lighting for the following:*

- To accent architectural details
- To accent building entrances
- To accent signs
- To illuminate sidewalks and pedestrian routes
- To illuminate parking and service areas, for safety concerns
- To illuminate a state or national flag

*6.17 Provide low-scale lighting for pedestrian routes.*

- Lighting along the right-of-way should be a combination of pedestrian-scaled streetlights and spillover from lights on adjacent buildings. Lighting in this location should be designed to be comfortable to pedestrians
- The position of a lamp in a light fixture on a pedestrian way should not exceed fifteen feet in height

*6.18 Streetscape lighting in Heritage District should be the same as that adopted for use by the City.*

*6.19 Lighting for parking areas, service areas, buildings, pedestrian routes, and public ways in the area south of Wyatt Earp Blvd (Area 2) shall be shielded to prevent any off-site glare.*

- Note that this also applies to parking and service areas in the downtown area
- Keep parking area lighting at a human scale

*6.20 The light pole, or standard, should be designed to accommodate special decorative accessories.*

- In Area 1, mounts for hanging planter baskets and banners, for example, should be included
- In Area 2, the light design should remain simple
- Mounts for seasonal lighting schemes also should be considered

*6.21 Minimize the visual impacts of architectural lighting.*

- All exterior light sources should have a low level of luminescence
- Wall-mounted flood lamps shall be shielded so that the light source is not visible off-site. Spotlights without shielding devices are not allowed

- Lighting fixtures should be appropriate to the building and its surroundings in terms of style, scale, and intensity of illumination
- Wall-mounted light fixtures should not extend above the height of the wall to which they are mounted

*6.22 Minimize the use of non-standard lighting Downtown.*

- The use of individual decorative lighting shall not be used outside of the winter holiday season
- Window/door border lighting inside a building is inappropriate

### **Landscape Features**

In the commercial core, landscape designs were historically simple, while a variety of site features appeared in the residential parts of downtown. Wood and metal fences often defined property boundaries. Concrete and brick paved sidewalks were popular and lined many streets. A variety of plantings, including trees, lawns, and shrubbery also occurred. Each of these elements, along with paths, trails, and streams contributed to the historic character of the city. They also added variety in scale, texture, and materials to the street scene, providing interest and shade to pedestrians.

Landscaping shall be comprised of native trees, shrubs, and grasses to resemble plantings found in the country climate of Dodge City. The design will comprise of low maintenance plant cultivars and a xeriscape approach to irrigation coverage. Smaller, ornamental trees shall provide color without sacrificing views of tenants. Splashes of color will be found in annual plantings at entrance thresholds as well as large decorative pots marching along the pedestrian walkways.

## Plant Palette

Keeping with the historic Dodge City theme, plant materials shall be reminiscent of what one would find in this part of the country, yet hardy enough to survive the winter. Grasses, flowering trees, and colorful perennials shall be used in conjunction with larger shade trees providing shade for parking and pedestrian areas. All landscape material shall meet The American Standard for Nursery Stock (ANSI z60.1-current edition) per The American Association of Nurserymen. The Master Plant Palette is a general reference, outlining accepted plant material. Approved equals (i.e. alternates/substitutions) will be determined through the preliminary design review process.

## Lawn Areas

Manicured lawn areas will be designed for areas that are easily accessed for maintenance. These areas should be limited to the main public rights-of-way, perimeter landscape areas adjacent to buildings and special interest areas within the development. Turf will not be used on parking medians or islands.

- Landscaping will be used to distinguish access points, to break up parking, and to define pedestrian access and spaces.
- Landscaping should screen and orient the pedestrian environment.
- A mix of deciduous shade trees and shrubs will be planted in landscape islands to visually soften views and provide shade.
- Where adjacent to streets, the perimeter of parking lots shall be landscaped with low plant material to provide a visual screen.
- Head-in parking spaces adjacent to streets shall be screened using either: – 30" high earthen berm. Dense shrub plantings at a minimum of 4' o.c.

- Landscaped parking islands and medians shall constitute a minimum of 15% of the overall parking area.
- Trash, service, and loading areas shall be screened from streets, open areas, and pedestrian corridors. Where adjacent to a public right of way or residential areas, a 6' ht. masonry wall designed to be an integral and complementary extension of the building shall be used.

## Landscape Regulations

Article IV of the Dodge City Zoning Ordinance establishes additional requirements for landscaping, buffering, parking lot screening, etc. applicable to all new developments and redevelopments within the City, including the Heritage Overlay District. All property owners, developers, and other affected parties should refer to those requirements prior to initiating any project or development.

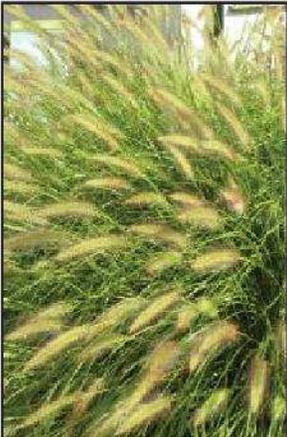
- ***See Exhibit D – Landscaping and Buffer Requirements***

**Landscape-Grasses**

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**Northwind Switchgrass**



**Cassion Fountaingrass**



**Prairie Dropseed**



**Shenandoah Switchgrass**

## Site Furnishings



**Bench and Bollards**



**Benches with Back**



**Trash Receptacle**



**Tree Grate**

Lighting Fixtures



Pedestal Acorn Light Fixture



Pole Mounted Banners

# Appendix

Exhibit A – DIAGRAMMATIC MAP OF THE DODGE CITY HERITAGE OVERLAY DISTRICT

Exhibit B - DODGE CITY HISTORIC RESOURCES PRESERVATION ORDINANCE (attached by reference and subject to revision)

Exhibit C - DODGE CITY HISTORIC LANDMARK COMMITTEE CERTIFICATE OF APPROPRIATENESS APPLICATION INSTRUCTIONS

Exhibit D - DODGE CITY ZONING ORDINANCE: ARTICLE IV – LANDSCAPING AND BUFFER REQUIREMENTS (attached by reference and subject to amendment)



Exhibit B

DODGE CITY HISTORIC RESOURCES  
PRESERVATION ORDINANCE  
(attached by reference and subject to revision)

CITY OF DODGE CITY  
HISTORIC LANDMARK COMMITTEE  
CERTIFICATE OF APPROPRIATENESS  
APPLICATION INSTRUCTIONS

1. Complete the Certificate of Appropriateness Application form. Call the Development Services Department at 620-225-8105 with questions about the form or your project.

Mail or hand deliver the form to the Dodge City Development Services Department located at City Hall, P.O. Box 880, 806 Second Avenue, Dodge City, Kansas, 67801.

2. The Development Service Director will determine if your plan is a “major” or “minor” project.
  - a. If the project is a “minor” and meets the requirements of the City’s Historic Preservation Ordinance, the Director may approve the project immediately. You may proceed to the Inspection Department to obtain your permit.
  - b. If the project is a “major”, it will be reviewed on the next scheduled meeting of the Historic Landmark Committee. Please contact the Development Service Department to confirm schedule.

“Major projects require the following types of supplementary materials. Include whatever will assist the Board in visualizing the outcome of the project:

- A site plan
- Architectural drawings
- Photographs and/or computer-generated graphic representations.
- Sample of materials to be used.

Although it is not required, it is recommended that you or your representative attend the meeting in order to answer questions about your project. For all “major” projects, you will receive written notification of Board action on your application.

Please refer to the Historic Resources Preservation Ordinance at [www.dodgecity.org/historic-preservation](http://www.dodgecity.org/historic-preservation) and Main Street Design Guidelines at <http://mainstreetdodgecity.org/design/design-guidelines> and Illustrated Guidelines for Rehabilitating Historic Building at <http://www.nps.gov/tps/standards/rehabilitation/rehabilitation-guidelines.pdf>.

These documents are also available from the Development Services Department at City Hall.

**CITY OF DODGE CITY  
CERTIFICATE OF APPROPRIATENESS  
APPLICATION**

**APPLICANT INFORMATION**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Daytime Phone # \_\_\_\_\_ Other Phone \_\_\_\_\_

E-mail: \_\_\_\_\_

**PROJECT INFORMATION**

Project Address: \_\_\_\_\_

Property Owner: \_\_\_\_\_

District:  Downtown Historic District  Individual Nomination

**DETAILED PROJECT DESCRIPTION** (Please attach additional pages as necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby certify with my signature that I have read and understand the information provided in the application, and that all information provided by me is accurate, and completed as required by this application and the City Regulations.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**FOR STAFF USE ONLY:**

Approved By: \_\_\_\_\_  
Development Services Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chair, Historic Landmark Committee

\_\_\_\_\_  
Date

Exhibit D

DODGE CITY ZONING ORDINANCE:  
ARTICLE IV – LANDSCAPING AND BUFFER REQUIREMENTS  
(attached by reference and subject to amendment)