CODE

of the

CITY OF DODGE CITY

KANSAS

Published under the authority and by the Direction of
The Governing Body of the City of Dodge City,
Kansas, this 8th day of April 2014

A Codification of the General Ordinances
of the City of Dodge City, Kansas

ROSTER OF CITY OFFICIALS

CITY OF DODGE CITY

GOVERNING BODY

Commissioners

Rick Sowers Brian Delzeit

E. Kent Smoll Joyce Warshaw

Jan Scoggins

Administrative Officials

Cherise Teiben
City Manager

Ken W. Strobel
City Attorney

Nannette Pogue
City Clerk/Finance Director

Terry Malone
Prosecuting Attorney

Craig Mellecker
Chief of Police

PREFACE

This volume contains the Code of the City of Dodge City, Kansas, 1987. As expressed in the adopting ordinance, the code supersedes all ordinances passed prior to February 1, 1988 which are not included herein or recognized as continuing in force by reference thereto. The code was prepared by the staff of the League of Kansas Municipalities and Dodge City officials under the authority of Sections 12-3014:3015 of the Kansas Statutes Annotated.

This code is arranged in chapters, articles, and sections in a manner similar to the Kansas Statutes Annotated arrangement. Headnotes and footnotes are included; however, these do not constitute a part of the code and no implication or presumption of intent or construction is to be drawn therefrom.

Any section of this code may be amended or repealed by ordinary ordinance by reference to the code section number as follows:

"Section 1-105 of the Code of the City of Dodge City is hereby amended to read as follows: (the new provisions shall then be set out in full)"

A new section not heretofore existing in the code may be added as follows:

"The Code of the City of Dodge City is hereby amended by adding a section (or article or chapter) which reads as follows: (the new provision shall be set out in full)"

All sections or articles or chapters to be repealed shall be repealed by specific reference as follows:

"Section 1-105 (or article or chapter) of the Code of the City of Dodge City is hereby repealed."

The user's attention is directed to the League of Kansas Municipalities publication, "HANDBOOK for the City Governing body," with the supplement for cities of the first class, both as a source of general information and as an index to the pertinent sections of the Kansas Statutes Annotated.

An index is included in this volume, and the user's attention is also directed to indexes which may appear in standard codes incorporated by reference in this Code.

THE LEAGUE OF KANSAS MUNICIPALITIES

ORDINANCE NO. 2727

AN ORDINANCE AUTHORIZING THE PROVIDING FOR THE CODIFICATION OF THE GENERAL ORDINANCES OF THE CITY OF DODGE CITY, KANSAS, AND THE PUBLICATION OF SUCH CODIFICATION IN PERMANENTLY BOUND OR LOOSELEAF BOOK FORM.

Be it Ordained by the Governing Body of the City of Dodge City:

Section 1. That a codification of the general ordinances of the City of Dodge City, Kansas, including supplements thereto, as authorized by K.S.A. 12-3014 and 12-3015, is hereby ordered, authorized and provided for, the preparation of which shall be done by the League of Kansas Municipalities as provided by contract. When completed, the codification shall be adopted by ordinance and published together with the adopting ordinance in loose-leaf book form. No fewer than 10 copies shall be published. Such codification shall be entitled, "Code of the City of Dodge City, Kansas," of the year in which the work is completed and ready for publication. The said code shall be duly certified by the City Clerk. One copy of the code shall be filed in the office of the City Clerk and shall be designated as and shall constitute the official ordinance book. Three additional copies shall be filed in the office of the city clerk and shall be designated for used by the public.

Section 2. That this ordinance shall take effect and be in force from and after its publication once in the official city newspaper.

Passed and Approved by the Governing Body this 19th day of November, 1984.

/s/ Louis T. Sanchez, Mayor

ATTEST: Ron Thornburg, City Clerk

(SEAL)

ORDINANCE NO. 2870

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF DODGE CITY, KANSAS, AUTHORIZED BY ORDINANCE NO. 2727 PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

Be it ordained by the Governing Body of the City of Dodge City, KS:

Section 1. The codification of ordinances of the City of Dodge City, Kansas, authorized by Ordinance No. 2727 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapter I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of Dodge City, Kansas, 1987," is hereby adopted and ordained as the "Code of the City of Dodge City, Kansas, 1987," and said codification shall become effective upon publication of no fewer than 10 copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to February 1, 1088, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Dodge City, Kansas, 1987,: and this ordinance, are hereby repealed as of the date of publication of said code except as hereinafter provided.

Section 3. In construing this ordinance, the following ordinances shall not be considered or held to be ordinances of general nature:

(a) Ordinances pertaining to the acquisition of property or interests in property by gift, purchase, devise, bequest, appropriation or condemnation;
(b) Ordinances opening, dedicating, widening, vacating or narrowing streets, avenues, alleys and boulevards;
(c) Ordinances establishing and changing grades of streets, avenues, alleys and boulevards;
(d) Ordinances naming or changing the names of streets, avenues and boulevards;
(e) Ordinances authorizing or directing public improvements to be made;
(f) Ordinances creating districts for public improvements of whatsoever kind or nature;
(g) Ordinances levying general taxes;
(h) Ordinances levying special assessments or taxes;
(i) Ordinances granting any rights, privileges, easements or franchises therein mentioned to any person, firm or corporation;
(j) Ordinances authorizing the issuance of bonds and other instruments of indebtedness by the city;
(k) Ordinances authorizing contracts;
(l) Ordinances establishing the limits of the city or pertaining to annexation or exclusion of territory;

(m) Ordinances relating to compensation of officials, officers and employees of the city;

(n) Ordinances of a temporary nature; Provided, that the above enumeration of exceptions shall not be held or deemed to be exclusive, it being the purpose and intention to exempt from repeal any and all ordinances not of a general nature and general ordinances specifically excepted by this section.

Section 4. The arrangement and classification of the several chapters, articles, and sections of the code adopted by Section 1 of this ordinance and the headnotes and footnotes at the ends of the sections, are made for the purpose of convenience and orderly arrangement, and do not constitute a part of the ordinances, and therefore, no implication or presumption of legislative intent or construction is to be drawn therefrom.

Section 5. The repeal of ordinances as provided in Section 2 hereof, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of said ordinances or parts thereof. Said ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefor.

Section 6. If for any reason any chapter, article, section, subsection, sentence, portion or part of the "Code of the City of Dodge City, Kansas, 1987," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

Section 7. This ordinance shall take effect and be in force from and after the publication of the "Code of the City of Dodger City, Kansas, 1987," as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Dodge City, Kansas, this 7th day of March, 1988.

/s/ Bob Carlson, Mayor

ATTEST: /s/ Ron Thornburg, City Clerk

(SEAL)

CERTIFICATE OF THE CITY CLERK

Office of the City Clerk

City of Dodge City, Kansas

State of Kansas)
)
Ford County)

I, Ron Thornburg, City Clerk of the City of Dodge City, Ford County Kansas do hereby certify that said city is a city of the first class of the commission form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body of Ordinance No. 2727 and in accordance therewith is entitled the "Code of The City of Dodge City, Kansas, 1987," that said codification was adopted as the "Code of the City of Dodge City, Kansas, 1987," by the governing body by Ordinance No. 2870 passed on the 7th day of March, 1988, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance No. 2870 and said codification of general ordinances as contained in this volume will take effect upon publication of 10 or more copies; that the publication of 10 copies of this code and adoptive Ordinance No. 2870 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 2870 as contained herein are true and correct copies; and that said publication imports absolute verity and is to be received in evidence in all courts and places without further proof as provided by 12-3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of Dodge City, Kansas, 1987," and the matter therein contained will take effect upon publication and be in force from and after March 10, 1988.

Witness my hand and the seal of the City of Dodge City, Kansas, at my office in Dodge City, Kansas, this 7th day of March, 1988.

/s/ Ron Thornburg, City Clerk
City of Dodge City, Kansas

(SEAL)

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ARTICLE 1. GENERAL PROVISIONS

1-101. **CODE DESIGNATED.** The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Dodge City, Kansas," and may be so cited. The Code may also be cited as the "Dodge City Code." (Code 1983, 1-1)

1-102. **DEFINITIONS AND RULES OF CONSTRUCTION**. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:

(1) Bond. When a bond is required, an undertaking in writing shall be sufficient.

(2) City. shall mean the City of Dodge City, Kansas.

(3) City Commission. The words "city commission," "the commission," "board of commissioners," "commissioners," "mayor and commissioners," "governing body," and "governing board" shall mean the city commission of the city.

(4) Code shall mean "The Code of the City of Dodge City, Kansas."

(5) Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Sunday, or legal holiday, that day shall be excluded.

(6) County means the County of Ford in the State of Kansas.

(7) Delegation of Authority. Whenever a provisions appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.

(8) Gender. Words importing the masculine gender include the feminine and neuter.

(9) Governing Body shall be construed to mean the city commission of the city.

(10) In the city shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

(11) Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(12) Month shall mean a calendar month.

(13) Number. Words used in the singular include the plural and words used in the plural include the singular.

(14) Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" is equivalent to the word "affirm".

(15) Officers, departments, etc. Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise.

(16) Owner applied to a building or land, shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.

(17) Person includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.

(18) Personal property shall include every species of property, except real property.

(19) Preceding, following. The words "preceding" and "following" shall mean next before and next after, respectively.

(20) Property includes real, personal and mixed property.

(21) Real Property includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

(22) Shall, may. "Shall" is mandatory and "may" is permissive.

(23) Sidewalk means any paved portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

(24) Signature, subscription includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness.

(25) State shall be construed to mean the State of Kansas.

(26) Street means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city.

(27) Tenant or occupant applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, whether alone or with others.

(28) Tenses. Words used in the past or present tense include the future as well as the past and present.

(29) Writing or written may include typewriting, printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.

(30) Year means a calendar year, except where otherwise provided. (Code 1983, 1-2; Code 1986)

1-103. EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 1983, 1-5; Code 1986)

1-104. **EFFECT OF REPEAL.** The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1986)

1-105. **CATCHLINES OF SECTIONS.** The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. Code 1983, 1-3)

1-106. **PARENTHETICAL AND REFERENCE MATTER.** The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not part of this code. (Code 1983, 1-9; Code 1986)

1-107. **AMENDMENTS; REPEAL.** Any portion of this code may be amended by specific reference to the section number as follows: "Section ____ of the code of the City of Dodge City is hereby amended to read as follows: (the new provisions shall then be set out in full)..." A new section not heretofore existing in the code may be added as follows: "The code of the City of Dodge City is hereby amended by adding a section (or article or chapter) which reads as follows: ... (the new provisions shall be set out in full)..." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) _____ of the code of the City of Dodge City is hereby repealed." (Code 1983, 1-7; Code 1986)

1-108. **ORDINANCES.** The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. (K.S.A. 12-3002; Code 1983, 2-28; Code 1986)

1-109. **SAME; SUBJECT AND TITLE; AMENDMENT.** No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections entirely amended shall be repealed. (K.S.A. 12-3004; Code 1986)

1-110. **SAME; PUBLICATION.** No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 1986)

1-111. **SAME; ORDINANCE BOOK.** Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 1986)

1-112. **RESOLUTIONS, MOTIONS.** Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the governing body. (Code 1986)

1-113. **CITY RECORDS.** The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 or 12-121 inclusive, as amended, which is incorporated by reference herein as if set out in full. (K.S.A. 12-120:121; Code 1986)

1-114. **ALTERING CODE.** It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Dodge City to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body. (Code 1983, 1-8; Code 1986)

1-115. **SCOPE OF APPLICATION.** Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 1983, 1-4; Code 1986)

1-116. **GENERAL PENALTY.** Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.

(a) A fine of not more than $499; or,

(b) Imprisonment in jail for not more than 179 days; or,

(c) Both such fine and imprisonment not to exceed (a) and (b) above. (Code 1983, 1-4; Code 1986)

1-117. **SEVERABILITY.** If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 1983, 1-6; Code 1986)

1-118. **OFFICIAL NEWSPAPER.** The Dodge City Daily Globe is hereby declared and designated as the official city newspaper for the publishing of all legal notices and publications of the city. (Code 1983, 2-1)

1-119. **OFFICIAL CITY SEAL: DESCRIPTION.** The official corporate seal of the city shall have and impress the following words and figures: "Seal of the City of Dodge City, Kansas, Incorporated Nov. 2, 1875." (Code 1983, 2-13)

1-120. **SAME; CUSTODY AND USE.** The city clerk shall be the keeper of the official city seal, and shall affix it to all instruments, documents and papers to which by ordinance or by law it is required to be affixed. (Code 1983, 2-14)

1-121. **SAME; CONFIRMING PRIOR USE.** The official seal of the city, having heretofore been used, is hereby approved and all attestations made thereunder are as to the seal thereof hereby ratified and approved. (Code 1983, 2-15)

ARTICLE 2. GOVERNING BODY

1-201. **GOVERNING BODY.** The governing body of the City of Dodge City shall consist of five commissioners, one of whom shall be elected annually to serve as mayor and one of whom shall be elected annually to serve as vice-mayor. (C.O. No. 15, Sec. 2)

1-202. **POWERS GENERALLY.** All powers now exercised by cities of the first class or which shall hereafter be conferred upon them, shall be exercised by the city commission, insofar as they do not conflict with the provisions of statutes relating to the commission-manager

plan of government and the creation of the office of city manager. (Code 1983, 2-22)

1-203. **TITLES.** No distinction shall be made in title or duties among the commissioners, except as the commission shall organize itself for business. (Code 1983, 2-23).

1-204. **CHAIRPERSON, MAYOR.** The commission shall choose its own chairperson annually who shall serve in that capacity until the second meeting of the Governing Body in April, 2002, at which time and on the second meeting in April thereafter. This date corresponds with General City Commission elections which are held in April. A Chairperson shall be chosen who shall have the title of "Mayor" to the end that the City shall have an official head on formal occasions. The Mayor shall have such other duties as shall be delegated to that office by law, which shall not be inconsistent with the Commission-Manager plan of government. (Sec. 2)

1-205. **VICE-CHAIRPERSON.** The commission shall choose a vice-chairperson. In the absence of the mayor from any meeting of the board of commissioner the vice-chairperson of the commission shall preside and in the absence of the mayor from the city or his or her inability to perform any of the duties imposed upon his or her office by the laws of the city or the laws of Kansas, the vice-chairperson of the commission shall exercise the duties of the office of mayor to the end that the city has an official head on such occasions. In such case the vice-chairperson shall use the title of "vice mayor."
(Code 1983, 2-25; Code 1986)

1-206. **MEETINGS.** (a) The regular meetings of the governing body of the city shall be held on the first and third Mondays of each month beginning at 7:00 p.m., and shall be held in city hall, unless some other meeting place be specified.

(b) Special meetings of the governing body shall be called, as authorized by Kansas Statutes Annotated 12-1009.

(c) Regular and special meetings of the governing body shall be open to the public.

(d) Should a regular meeting date fall upon the day which a holiday is observed, the meeting shall be held upon the following Tuesday at 7:00 p.m.
(C.O. No.18, Code 1983, Ord. 3131)

1-207. **ORDINANCES.** All ordinances of the City of Dodge

City shall be considered at a public meeting of the governing body, except where a statute provides a different procedure for an ordinance for a specific purpose. Any ordinance may be passed finally on the day it is introduced. (C.O. No. 20, Sec. 2)

1-208. **OFFICES AND SALARIES**. The commission shall provide for such offices as shall be necessary to carry out the provisions of the laws relating to commission-manager plan of government and to determine the salaries for the same. (Code 1983, 2-29)

1-209. **APPOINTMENT OF CITY MANAGER.** The commission shall appoint a manager as herein provided and shall be responsible for his or her efficient administration of the city's business. (Code 1983, 2-30)

1-210. **MEMBERS NOT TO INTERFERE.** No member of the city commission shall directly interfere with the conduct of any department. (Code 1983, 2-31; Code 1986)

1-211. **COMMISSION TO APPOINT BOARDS, COMMITTEES, ETC., WHEN; TERMS.** (a) The appointments of members to all boards, commissions, authorities, and committees shall be made by the governing body of the city at the first regular meeting held in January of each year.

(b) The terms of appointment for all members of all boards, commissions, authorities, and committees shall be for the term provided for in the ordinance establishing the group to which such members are appointed. (Code 1983, 2-33; Code 1986)

(c) Boards and Commissions:

Airport Advisory Board;

Building Board of Appeals;

Cultural Relations Advisory Board;

Convention and Visitors Advisory;

Golf Advisory Board;

Historic Landmark Preservation Committee;

Housing Authority Board;

Industrial Revenue Bond Advisory Committee;

Library Board;

Park & Recreation Advisory Board;
SMPC Advisory Committee;

Shade Tree Commission;

Board of Zoning Appeals;

Recycling Advisory Board;

Santa Fe Trails Community Corrections Advisory Board;

(Code 1983, 2-33; Code 1986)

1-212 **CITY COMMISSION CODE OF CONDUCT & ETHICS.** The residents and business of Dodge City are entitled to have a fair, ethical and accountable local government. Such a government requires that public officials:

(a) Inspire public confidence in Dodge City government.

(b) Comply with both the letter and the spirit of the laws and policies affecting operations of the government.

(c) Be independent, impartial and fair in their judgment and actions.

(d) Serve as a model of leadership and civility in the community.

To this end, the Dodge City Commission has adopted the Code of Ethics and Conduct to encourage public confidence in the integrity of local government and its fair and effective operation.

(1) Policy Role of Members: Commission members will respect and adhere to the Commission-City Manager structure of Dodge City government as provided in State law and the Municipal Code.

Commission members will establish policies, hire a City Manager and allow that person to execute policies, administer services provided by the City. All Commission authority and direction delegated to staff is delegated through the City Manager, so that all authority and accountability of staff-so far as the Commission is concerned to be the authority and accountability of the City Manager. Only decisions of the City Commission acting as a a body are binding on the City Manager.

(2) Act in the Public Interest: Recognizing that stewardship of the public interest must be their primary concern, Commission members will work for the common good of the people of Dodge City, both vocal and non-vocal, and not for any private or personal interest, and they will endeavor

to treat all persons, claims and transactions in a fair and equitable manner.

(3) Comply with the Law: Commission members will comply with the laws of the nation, the State of Kansas and the City in the performance of their public duties. This laws include, both are not limited to: the United States of Kansas constitutions; the Dodge City Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities and open processes of the government; and City ordinances and policies.

(4) Conduct of Members: Commission members will fully participate in all meetings, and will refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the City Commission, boards, commissions, committees, staff or the public.

Commission members will be tolerant of all views expressed at public meetings.

(5) Respect for Process: Commission member duties will be performed in accordance with the processes and rules of order established by the City Commission. Members will keep discussion and questions focused on specific items under consideration.

(6) Conduct of Public Meetings: Commission members will inform themselves of public issues, listen attentively to public discussions before the body and focus on the business at hand. The Commission will endeavor to deliberate In many voices, but govern in one.

(7) Decisions Based on Merit: Commission decisions will be based upon the merits and substance of the matter at hand, emphasizing strategic rather than short-term issues, policy rather than single events, and group rather than individual decisions.

(8) Communication: It is the responsibility of Commission members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Commission members.

(9) Coordination with City Staff: Appropriate City Staff should be involved, when possible, when Commission members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed.
(10) Disclosur of Corruption: All City officials will take an oath upon assuming office, pleading to uphold the

constitution and laws of the City, the State and the Federal government. As part of this oarth, officials commit to disclosing to the appropriate authorities and/ or to the City Commission any behavior or activity that may qualify as corruption, abuse, fraud, bribery or other violation of the law.

(11) Conflict of Interest: In order to assure their independence and impartiality on behalf of the public good, Commission members will not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

If members have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

(12) Gifts and Favors: Commission members will not take advantage of services or opportunities for personal gain by virtue of their public office, that are not available to the public in general. They will refrain from accepting gifts, favors or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

(13) Confidential Information: Commission members will respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They will neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial or private interests.

(14) Representation of Private Interests: In keeping with their role as stewards of the public trust, Commission members will not appear on behalf of the private interests of a third-party before the City Commission or any board, commission or committee or proceeding of the City.

(15) Advocacy: To the best of their ability, Commission members will represent the official policies and positions of the City Commission. When presenting their personal opinions or positions, members will explicitly state that they do not represent the Commission or the City.

(16) Improper Influence: Commission members will refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions or committees. Commission members will not direct their differences of opinion with fellow Commissioners to staff in a manner which creates dissension in the organization.

(17) Positive Work Environment: Commission members will

support the maintenance of a positive and constructive environment for residents, businesses and City employees through a dedication to excellence in governing including the careful establishment of broad written policies reflecting the values and perspectives of the community at large.

(18) Implementation: Conduct standards will be included in the regular orientations for City Commission candidates. The Commission will enforce upon itself whatever discipline is needed to govern effectively. Discipline will apply to matters such as attendance, preparation for meetings, policy making principles and respect for votes.

(19) Use of Public Funds and Resources: Members will not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

Commission members will be responsible and accountable for the use of public funds spent while attending local, state, and national meetings while representing the City in accordance with policies and procedures specified for employees.

(20) Compliance and Enforcement: The Dodge City "City Code of Conduct and Ethics" expresses standards of ethical conduct expected for members of the Dodge City, City Commission. Members themselves have the primary responsibility to ensure ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The City Commission will, at least twice annually, discuss the Commissions success and performance with respect to this Code.

ARTICLE 3. CITY MANAGER

1-301. **ADMINISTRATION BY MANAGER.** The administration of the city's business shall be in the hands of a manager. (Code 1983, 2-41)

1-302. **APPOINTMENT OF MANAGER; TERM, QUALIFICATIONS.** The city commission shall appoint a manager who shall be responsible for the administration of all of the affairs of the city and who shall hold such office at the pleasure of the commission. The manager shall be chosen solely on the basis of administrative ability and qualifications, and the choice shall not be limited by any residence requirement. (Code 1983, 2-42; Code 1986)

1-303. **SALARY, BOND.** The manager shall receive a salary to

be fixed by the commission and shall give surety bond at the expense of the city for the faithful performance of his or her duties in the amount of $50,000. (Code 1983, 2-43; Code 1986)

1-304. **DUTIES OF MANAGER.** The city manager shall be responsible for the administration of all of the affairs of the city:

(a) The city manager shall:

(1) See that the laws and ordinances are enforced;

(2) Appoint and remove all heads of department and all subordinate officers and employees of the city, all appointments shall be made upon merit and fitness alone;

(3) Be responsible for the discipline of all appointive officers, and may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined;

(4) Prepare and submit the annual budget to the commission and also keep the commission fully advised as to the financial condition and needs of the city;

(5) Have a seat, but no vote, in all of the public meetings of the commission;

(6) Countersign all warrants and combined warrant-checks issued by the director of finance; and

(7) Perform such other and further duties as may be required by law or ordinance.

(b) The city manager may:

(1) Make recommendation to the commission on all matters concerning the welfare of the city; and

(2) Perform the duties of any officer whose office he or she is qualified to fill and in such cases the appointment or employment of such officer may be dispensed with. (Code 1983, 2-44:45, 2-58; Code 1986)

1-305. **PROVISIONS DO NOT RESTRICT OFFICERS.** Nothing in this article shall be construed as limiting the number of offices that may be created. Other offices may be created by other ordinances. (Code 1983, 2-59)

1-306. **ONE PERSON MAY HOLD MORE THAN ONE OFFICE.** The manager may appoint one person to hold and perform the duties of more than one office; provided, that one person may not hold offices which are incompatible or when such dual holding is prohibited by law. (Code 1983, 2-60)

1-307. **MANAGER SHALL APPOINT EMPLOYEES.** The manager shall have the power to appoint and remove such employees in and for the various departments as may be necessary to the efficient operation of the city's business.

(Code 1983, 2-61)

ARTICLE 4. ADMINISTRATIVE DEPARTMENTS

1-401. ADMINISTRATIVE DEPARTMENTS AND FUNCTIONS. Administrative departments shall be created by the City Manager as the public business may require. (Code 1983, 2-32; Code 1986)

1-402. CITY DEPARTMENTS; NOT UNDER SPECIAL SUPERVISION. None of the members of the governing body of the City of Dodge City shall have under his or her special charge or supervision any responsibility for any of the departments of the government of the City of Dodge City. (C.O. No. 15, Sec. 3)

1-403. ADDITIONAL DEPARTMENTS. The city manager may create and establish additional departments and offices as may be necessary for the purpose of a more efficient administration and as business may demand. When other departments and offices are created and established, the officers in charge shall be appointed by and serve at the pleasure of the city manager, and compensation shall be fixed by ordinance. (Code 1983, 2-57; Code 1986)

1-404. CODE OF ETHICS. (a) Declaration of Police - The proper operation of government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.

(b) Responsibilities of Public Office - Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United State and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long term public interest must be their primary concern. The conduct in both their official and private affairs should be above reproach.

(c) Dedicated Service - All officials and employees of the city should be responsive to the

political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority.

Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(d) Fair and Equal Treatment - (1) Interest in Appointments. Canvassing of members of the governing body, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the governing body.

(2) Use of Public Property - No official or employee shall request or permit the use of city-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as city policy for the use of such official or employee in the conduct of official business.

(3) Obligations to Citizens - No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(e) Conflict of Interest - No elected or appointive city official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association. Specific conflicts of interest are enumerated below for the guidance of officials and employees:

(1) Incompatible Employment - No elected or appointive city official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

(2) Disclosure of Confidential Information - No elected or appointive city official or employee, shall,

without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself or others.

(3) Gifts and Favors. No elected or appointive city official or employee shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm, or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee (a) accept any gift, favor or thing of value that may tend to influence him or her in the discharge of his or her duties or (b) grant in the discharge of his or her duties any improper favor, service, or thing of value. The prohibition against gifts or favors shall not apply to:

(a) an occasional non pecuniary gift, of only nominal value or

(b) an award publicly presented in recognition of public service or (c) any gift which would have been offered or given to him or her if not an official or employee.

(4) Representing Private Interest Before City Agencies or Courts - No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear in behalf of private interest before any agency of this city. He or she shall not represent private interests in any action or proceeding against the interest of the city in any litigation to which the city is a party. (Code 1986)

1-405. **CONFLICT OF INTEREST.** (a) No city officer or employee shall be signatory upon, discuss in an official capacity, vote on any issue concerning or otherwise participate in his or her capacity as a public official or employee in the making of any contract with any person or business:

(1) In which the officer or employee owns a legal or equitable interest exceeding $5,000 or five percent, whichever is less, individually or collectively with his or her spouse; or

(2) From which the officer or employee receives, in the current or immediately preceding or succeeding calendar year, any salary, gratuity, other compensation or a contract for or promise or expectation of any such salary, gratuity or other compensation or remuneration having a dollar value of $1,000 or more; or

(3) In which he or she shall hold the position of officer or director, irrespective of the amount of compensation received from or ownership held in the business.

(4) Contracts let after competitive bidding has been solicited by published notice; and

(5) Contracts for property or services for which the price or rate is fixed by law. (K.S.A. 75-4301; Code 1986)

ARTICLE 5. OATHS AND BONDS

1-501. **OATH.** All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:

''I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United State and the Constitution of the State of Kansas and the laws of the City of Dodge City, Kansas and faithfully discharge the duties of (here enter name of office or position). So help me God." (K.S.A. 75-4308; Code 1983, 2-71; Code 1986)

1-502. **OATHS FILED.** All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk. (Code 1986)

1-503. **BONDS REQUIRED.** (a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to wit:

(1) City commissioner - $5,000;
(2) City manager - $50,000;
(3) City clerk - $50,000;
(4) Director of finance - $50,000;
(5) Judge of municipal court - $5,000.

(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, Designate. (Code 1983, 2-72:73; Code 1986)

1-504. **SAME; PREMIUMS.** All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 1983, 2-73; Code 1986)

1-505. **CONDITION OF BONDS.** Each of the bonds required in section 1-503 of this article shall be conditioned for the

faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office. (Code 1983, 2-72; Code 1986)

1-506. **APPROVAL OF BONDS**. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 1986)

ARTICLE 6. PERSONNEL POLICY AND EMPLOYEE BENEFITS

1-601. **PERSONNEL POLICIES**. The City Manager shall design, adopt and implement personnel policies, procedures and rules which shall govern and regulate the employment of the City work force except in those matters which require specific governing body approval. (Ord. 3225)

ARTICLE 7. HISTORIC LANDMARK PRESERVATION

1-701.

ADOPTION AND INCORPORATION OF HISTORIC RESOURCES PRESERVATION ORDINANCE. There is hereby adopted and incorporated by reference for the purposes 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 October 2000, and amend July 6, 2004. Such Historic Resources Preservation Ordinance is hereby made as a part of the ordinances 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 in 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. (ORD. 3289)

1-702. **STATUTORY AUTHORITY.** This Historic Resources Preservation Ordinance is established under authority granted by K.S.A. 75-2701 et seq., the Kansas Administrative Regulations Section 118-3-1 et seq., and the Home Rule authority of the City as granted by the Kansas State Constitution.

1-703. **PENALTIES**. 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 action as necessary to prevent, abate or remedy any violation.

ARTICLE 8. OPEN RECORDS

1-801. **POLICY.** (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.

(b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative. (Code 1986)

1-802. **PUBLIC REQUEST FOR ACCESS.** All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record. (Code 1986)

1-803. **FACILITIES FOR PUBLIC INSPECTION.** All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal record keeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extend practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office. (Code 1986)

1-804. **PROCEDURES FOR INSPECTION.** Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 1986)

1-805. **APPOINTMENT OF OFFICIAL CUSTODIANS.** The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

(a) City Manager - All public records not on file in the office of the city clerk and kept and maintained in the city manager's office.

(b) Director of Finance - All public records not on file in the office of the city clerk and kept and maintained in the director of finance's office.

(c) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.

(d) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.

(e) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office. (Code 1986)

1-806. **DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.**

(a) Each of the official custodians appointed in section 1-805 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations. (Code 1986)

1-807. **DUTIES OF CUSTODIANS.** All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records. (Code 1986)

1-808. **REQUESTS TO BE DIRECTED TO CUSTODIANS.** (a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the

Kansas Open Records Act, shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copies.

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request. (Code 1986)

1-809. **FEE ADMINISTRATION.** The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the director of finance not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the finance officer of the city. (Code 1986)

1-810. **INSPECTION FEE.** (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate established in the fee schedule set out in Article 9, of Chapter 1. A minimum charge shall be charged for each such request. (Code 1986)

1-811. **COPYING FEE.** (a) A fee, as established in the fee schedule set out in Article 9 of Chapter 1 shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records. (Code 1986)

1-812. **PREPAYMENT OF FEES.** (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest

of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled at the time of inspection of the requested record or delivery or the requested copies.

(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed $50.

(c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made. (Code 1986)

ARTICLE 9. FEES FOR SERVICES, LICENSES, PERMITS AND PROGRAMS

1-901. **FEE SCHEDULE.** Except where this code provides otherwise, all fees and charges imposed by the city for licenses, permits, services and programs shall be as established in the fee schedule set out in this article.

1-902. **ANIMAL FEES.** Set by Ordinance of the City Commission. Set out in Appendix A.

1-903. **BEVERAGE FEES.** Set by Ordinance of the City Commission as set out in Appendix A.

1-904. **BUILDING PERMITS AND LICENSES.** Set by Ordinance of the City Commission as set out in Appendix A.

1-905. **BUSINESS AND OCCUPATIONAL FEES.** Set by Ordinance of the City Commission as set out in Appendix A.

1-906. **PUBLIC FACILITIES.** Set by Resolution of the City Commission as set out in Appendix A.

1-907. **PUBLIC RECORD; INSPECTION AND COPYING CHARGES.** Set by Ordinance of the City Commission as set out in Appendix A.

1-908. **SUBDIVISION AND ZONING.** Set by Ordinance of the City Commission as set out in Appendix A.

1-909. **WATER RATES.** Set by Resolution of the City Commission as set out in Appendix A.

1-910. **SEWER RATES.** Set by Resolution of the City Commission as set out in Appendix A.

1-911. **SOLID WASTE RATES**. Set by Resolution of the City Commission as set out in Appendix A.

1-912. **DRAINAGE RATES**. Set by Resolution of the City Commission as set out in Appendix A.

CHAPTER II. ANIMAL CONTROL AND REGULATION

Article 1. General Provision
Article 2. Penalties
Article 3. Reserved
Article 4. Pit Bull Dogs

ARTICLE 1.

GENERAL PROVISIONS

2-101. **DEFINITIONS.** For the purposes of this chapter, the following words and phrases shall mean:

(a) Abandon the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(b) Altered The animal is permanently sterile by any means-operation, accident or birth.

(c) Animal Shelter means the facility or facilities operated by the City or its authorized agents for the purpose of impounding or caring for animals under the authority of this chapter or state law.

(d) At-large means to be outside of a fence or other enclosure or device which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to an object within range of public thoroughfares are deemed to be "At-large."

(e) Bite means any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health or vaccination status of the animal causing such bite.

(f) Companion Animal means:

(1) cats;
(2) dogs;
(3) domestic ferrets;
(4) domestic rodents commonly kept as pets;
(5) domestic rabbits;
(6) reptiles commonly kept as pets, excluding any venomous reptile or any constructor snake over six foot in length, alligator, caiman, crocodile, anaconda, komodo dragon, monitor lizard;
(7) and domestic birds commonly kept as pets excluding any fowl.(Ord. 3514)

(g) Cat means any member of the species felis catus, regardless of gender.

(h) Cruelty means any act of neglect, torture, or torment that causes if not remedied will cause unjustifiable pain or suffering to an animal.

(i) Dangerous or Vicious Animal means any animal deemed to be dangerous or vicious per section 2-114.

(j) Dog means any member of the species canis familiars, regardless of gender.

(k) Domestic Animal means any horse or other equine, dairy and beef cattle, swine, sheep, goats, fowl, ostrich, emu, llama, alpaca and any other animal defined as such be a promulgated rule.

(l) Euthanasia the human destruction of a companion animal, domestic animals, or an exotic animal administered by a method which causes immediate unconsciousness.

(m) Exotic Animal means any animal not defined as a companion animal or domestic animal herein.

(n) Fowl birds commonly used for meat or egg production or sport which shall include but not be limited to, chickens, ducks, geese, turkeys, guineas and pigeons.

(o) Harbor to allow any animals to habitually remain, lodge or be fed within one's home, store, yard, enclosure or place of business or any other premises where one resides or has control.

(p) Humane Live Animal Trap means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

(q) Immediate Control means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(r) Impound means to seize summarily, confine, or restrain in custody.

(s) Kennel means any establishment, commercial residential or otherwise, where more than a total of four dogs and/or puppies are maintained for the purpose of breeding, rearing, training, grooming, or boarding. Also any premise commercial, residential or otherwise where more that four dogs and/or puppies are harbored. Puppies born on the premises and less than twelve weeks of age shall not be included in the count.

(t) License means the method of caring and the information carried on a dog which identifies the owner of

said dog and any other information required by the City of Dodge City.

(u) Own means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of the chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

(v) Owner means the person or persons, firm association, partnership or corporation owning, keeping or harboring a companion animal, domestic animal or exotic animal. Also includes any other competent person into whose charge an animal has been placed by the actual owner.

(w) Tether means any physical method that retrains a dog by tying it with a rope, chain or any like object to a stationary object.

(x) Vaccinated means a companion animal or domestic animal has been administered a vaccine or vaccines against a disease or diseases harmful to itself and/or communicable to others.

(y) Veterinarian means a doctor of veterinary medicine licensed by the State of Kansas.

2-102 ANIMAL CONTROL OFFICER; DUTY TO IMPOUND: CITATION ALTERNATIVE.

(a) There is hereby created the position of animal control officer for the City and such officers shall be charge with the enforcement of this chapter. Any person employed by the City as an animal control officer and commissioned by the chief of police shall have such powers and authority as allowed by law in the enforcement of this chapter all animal control officers shall be subject to the supervision and direction of the Chief of Police.

(b) The animal control officer shall have the authority to seize and impound animals found to be in violation of the provisions of this chapter. Any law enforcement officer employed by the city is also authorized to seize and impound animals found to be in violation of the provisions of this chapter.

(c) If a complaint is filed in the municipal court for any violation of this chapter, any animal control officer or law enforcement officer shall serve upon the accused person, a written complaint and notice to appear in the municipal court at a time not less that five days after such notice to appear is served, unless the accused person shall demand an earlier hearing.

2-103. SAME; CAPTURE/DESTRUCTION. When deemed necessary by Law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the City, such officers and/or their agents may:

(a) Place a humane trap on public property or upon the private property of a requesting or consenting person for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;

(b) Use any tranquilizer gun, humane trap, or other suitable device to subdue and capture any animal that is deemed by the animal control officer, to be of danger to itself or to the public health and safety, or to be a nuisance to the public.

(c) Use firearms or other suitable weapons to destroy any rabid animal, or vicious animal as defined in section 2-114, or any animal creating a nuisance as defined in section 2-110, where such animal is impossible or impractical to catch, capture or tranquilize.

2-104 SAME; RIGHT OF ENTRY. The animal control officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter, It shall be unlawful for any person to interfere with the animal control officer or law enforcement officer in the exercise of this right.

2-105. MUNICIPAL ANIMAL SHELTER ESTABLISHED. A municipal animal shelter shall be established to carry out the provisions of this chapter. Such a shelter may be operated by a contractor and all services required herein may be provided by a contractor. The shelter shall have the following services and facilities:

(a) The impounding of stray and ownerless companion and domestic animals and animals otherwise in violation of the provisions of this chapter.

(b) Holding facilities for stray or ownerless animals impounded for violations of the provisions of this chapter.

(c) Facilities for the humane destruction of animals.

The shelter may also authorize animal adoption, including medical testing, treatment and sterilization.

2-105a. DISPOSITION OF UNCLAIMED ANIMALS. If any animal is not redeemed by its owner or harborer within the time allowed for redemption thereof, the animal control officer, any authorized law enforcement officer, any

authorized veterinarian or any duly authorized shelter personnel may destroy such animal or authorize the adoption of the same for the costs per the provisions of the Kansas Pet Animal Act and the resolution of the City of Dodge City in Ordinance No. 3299.

2-106. INTERFERENCE WITH ANIMAL SHELTER.

(a) It shall be unlawful for any person to remove or attempt to remove any animal from a cage, pen or the premises of the animal shelter, unless authorized by an animal control officer or the Municipal Judge.

(b) It shall be unlawful for any person to obstruct, interfere with or hinder in any manner any animal control officer, law enforcement officer, City employee or authorized agent in efforts or actions to seize, take up or impound any animal believed to be in violation of this chapter.

(c) It shall be unlawful for any person to feed or provide care for any impounded animal unless authorized by an animal control officer.

(d) It shall be unlawful for any person to obstruct, interfere with or hinder in any manner the authorized care of an impounded animal.

2-107. CRUELTY TO ANIMALS.

(a) It shall be unlawful for any person to subject an animal to cruelty.

(b) Cruelty is further defined to mean that any of the following is a separate act of cruelty:

(1) for any person to beat or physically injure an animal except that reasonable force may be employed to drive off vicious animals.

(2) for any person to drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done.

(3) for any person to own, keep or harbor any animal which is not provided with adequate medical treatment and is thus infected with any dangerous or incurable disease or suffers from any painful condition.

(4) for any person to dye or artificially color any animal.

(5) for any person to promote, stage, hold, manage, in any way conduct, or attend any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or another animals. Also for any person to train any animal to fight or to possess the equipment for training said animals to fight or the equipment used in such fights.

(6) for any person to own, keep or harbor any animal which is not provided with adequate care, food, drink, air, light, space, shelter, and protection from the elements as necessary for the well-being of such animal.

(7) for any person to abandon or lease any animal In any place without making provisions for its Proper care.

(8) for any person to taunt an animal.

(9) for any person to poison or attempt to poison an animal.

(10) For any person to leave an animal in a vehicle when the temperature is such that it could cause unjustifiable pain or suffering to the animal.

(11) These provisions shall not apply to the exceptions sanctioned under section 2-108.

The Municipal Judge may order a person convicted of a violation under this section to transfer the animal involved to the municipal animal shelter where it can be adopted, transferred, or destroyed, as the shelter director deems appropriate.

2-107a. SAME; EXCEPTIONS. The provisions of section 2-107 shall not apply to:

(a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care.

(b) Bona fide experiments carried on by commonly recognized research facilities.

(c) Killing, attempting to kill, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 37 of the Kansas States Annotated.

(d) Rodeo practices accepted by the Professional Rodeo Cowboy's Association.

(e) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent, such as a licensed veterinarian at the request of the owner.

(f) The humane killing of an animal by a public health official in the performance of his or her official duties.

(g) The humane killing of an unclaimed animal following the receipt of such animal at a municipal pound or an incorporated animal shelter by the operator or authorized agents of such establishments.

2-108 **TETHERING OF DOGS RESTRICTED.** It shall be unlawful for any person to continuously tether a dog for more than one continuous hour, except that tethering of the same dog may resume after a hiatus of three continuous hours, for up to three hours total time on tether per day.

(a) For the purpose of tethering a dog, a chain, leash, rope or tether shall be at least ten feet in length.

(b) A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to tether a dog shall not weigh more than one-eighth of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area tethered.

(c) Dogs shall be tethered in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other manmade or natural obstacles.

(e) It is unlawful to attach chains, ropes or other restraints implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

2-109 **ANIMAL TRAPS.** It shall be unlawful for any person to use, place, set out, or deploy any animal trap above ground, which makes use of a spring gun, spring jaw, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any

animal when caught or trapped by the device; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals.

2-110. NUISANCE; ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful for the owner or harborer of any animal to keep or maintain such animal in the City so as to constitute a nuisance. For the purpose of this section, "nuisance" is defined as any animal which:

(a) Molests of interferes with persons on public or private property, other than that of its owner or harborer;

(b) Attacks or injures other domestic animals;

(c) Damages or fouls public or private property other than that of its owner or harborer, by its activities or with or with its excrement;

(d) Scatters refuse on public or private property, other than that of its owner or harborer;

(e) Causes any condition which threatens or Endangers the health or well-being of persons or other animals.

2-111 NOISE. If any animal is found to be in violation of the City's noise ordinance (Ordinance No. 3361) it shall be the duty if any owner or harborer of such animal to abate the violation. If any owner or harborer fails to abate the violation, the animal or animals may be seized and impounded by any animal control officer or law enforcement officer in order to abate the condition. Said animal is subject to adoption and removal from the city or it may be destroyed by the order of the municipal judge after a hearing.

2-112 ANIMAL CONFINES. It shall be unlawful for any person to:

(a) Keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that may reasonably annoy others, and devoid of rodents and vermin.

(b) Excrement shall be removed at least once a week from any pen or yard area where animals are kept, or more often if necessary to prevent or control odors, insects and vermin. If excrement is stored on the premises it shall be stored in adequate containers with fly-tight lids.

(c) All animal pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) It shall be unlawful to maintain any animal pen or kennel, or to tether any animal closer than 25 feet to the dwelling house of another, other than that of the owner of the animal.

(e) All premises on which animals are kept shall be subject to inspection by Animal Control Officers or Law Enforcement Officers. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals impounded shall be released after fees are paid and the condition which caused the impoundment has been corrected.

2-113 DEAD ANIMALS. All dead animals shall be disposed of by the owner or harborer within 24 hours of the animal's death, by burial, incineration at an approved facility, by rendering or by other lawful means. No dead animal shall be dumped on any private or public property or disposed of in any city-owned refuse container, or any other refuse container, unless authorized by the owner or lessor of the container.

2-114 AGGRESSIVE ANIMALS.

(a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious animal within the City. Impoundment of animals whose owners or harborers have been cited for violation of this section shall be at the discretion of the animal control officer or law enforcement officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or law enforcement officer, or an authorized agent to immediately impound the animal.

(b) Defined: For purposes of this chapter a vicious animal shall include:

(1) Any animal with a known propensity, tendency or disposition to cause injury or to otherwise threaten the safety of human beings or domestic animals or companion animals; or

(2) Any animal which in an aggressive or threatening manner approaches any person in an apparent attack upon the person while on streets, sidewalks, or any public grounds or places or on private property other than on the property of the owner; or

(3) Any animal which, unprovoked, attacks or bites or has attacked or bitten a human being or domestic animal; or

(4) Any animal which is urged by its' owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any animal Control Officer or any Law Enforcement officer while such officer is engaged in the performance of official duty. (Ord. No. 3561)

(5) This section shall not apply to dogs kept by law enforcement agencies for use in the performance of official duties.

(c) Immediate Destruction: Nothing is this chapter shall be construed to prevent the Animal Control Officer or a law enforcement officer from taking whatever action is reasonably necessary to protect the officer or the public from injury or danger, including immediate destruction of any vicious animal without notice to the owner.

(d) Whenever a complaint is filed in the municipal alleging that an animal is vicious and in violation of this section, the Municipal Court shall determine whether or not the animal is vicious, as defined herein. In making a determination, the Court shall consider the following:

(1) The seriousness of the attack or injury:
(2) Past history of attacks or injuries;
(3) The likelihood of future attacks or injuries;
(4) The condition and circumstances under which the animal is kept or confined.

If the court finds from the evidence presented that the animal is not vicious, the court shall order the release of the animal to the owner or harborer, after the payment of any fees or expenses associated with the impoundment of said animal as assessed by the court.

If after trail it is found that the animal is vicious as defined herein, the court may order the animal to be destroyed in a humane manner by the animal control officer or designated agent.

Consent by an owner or harborer of a vicious animal to have it destroyed, after finding that the animal is vicious, does not relieve or render the owner or harborer immune from the decision of the court, nor of the fees and fines which result from the animal being in violation of this section.

2-115. RUNNING A LARGE. It shall be unlawful for any person to allow any companion animal or domestic animal under his or her control to be at large within the City. Any companion animal or domestic animal found at large may be impounded.

2-116. IMPOUNDMENT; FEE; NOTICE; RECORD.

(a) The Animal Control Officer or Law Enforcement Officer may impound any domestic animal or companion animal found at large within the city or constituting a nuisance or otherwise in violation of this chapter at the municipal pound or at another suitable pound or enclosure provided or contracted for by the City. The impounding officer shall make reasonable inquiry as to the owner of the animal and shall make any reasonable efforts to contact the owner thereof of such impoundment.

(b) The City shall be entitled to receive from such owner an impoundment fee which shall be as established in the fee schedule set out in Article 9 or Chapter 1 plus the actual cost of feeding and maintaining the animal while impounded.

2-117 IMPOUNDMENT OF RABIES SUSPECTS.

(a) Any animal control officer, law enforcement officer or any licensed veterinarian under contract with the City to provide animal control services, hereinafter referred to as the City veterinarian, may seize, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, or in a veterinary hospital or animal care facility for a period not to exceed 30 days during which time the city veterinarian shall determine whether or not such animal is suffering from a communicable disease and, if not, the City Veterinarian shall authorize the release of the animal upon payment by the owner of the boarding costs and any other applicable fees. The City Veterinarian may authorize the keeping of any such animal on the owner's premises if the owner can produce proof of a current rabies vaccination for the animal and demonstrates the facilities and ability to quarantine the animal adequately. If in the opinion of the City Veterinarian symptoms of possible rabies infection develop or the circumstances of the animal bite or scratch incident merit a level of concern requiring such, then the animal shall be destroyed and an examination of brain tissue for rabies conducted. The owner of the animal shall be responsible for the cost of the examination.

(a) In lieu of the provisions of subsection (a), the owner of such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian within the City for observation. Such Veterinarian shall report his or her findings to the shelter Veterinarian in writing. If, in the opinion of the City Veterinarian an examination of brain tissues is

justified, then the animal shall be turned over to an animal control officer or the City veterinarian to be killed and the tissue submitted for examination.

(c) Any animal desired for observation by the City Veterinarian under this section shall be delivered to an animal control officer or law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. The refusal of any person to so deliver such animal, subjects that person to immediate arrest.

2-118. ANIMALS BITTEN BY RABID OR POSSIBLE RABID ANIMALS.

(a) Whenever a companion or domestic animal is bitten by a rabid animal or an animal later proven to be rabid, or a wild animal, it shall be the duty of the owner of the exposed animal to report that fact to an animal control officer or law enforcement officer. It shall also be the duty of the owner of the exposed animal to have the exposed animal destroyed unless:

(1) The animal which had been exposed had been vaccinated against rabies and such vaccination was current; and

(2) The animal can be quarantined in an appropriate facility for 45 days;

(b) The animal shall be released from quarantine only upon written order from the City Veterinarian declaring the animal to be free of rabies;

(c) If during confinement, the animal was found to have contracted rabies, it shall destroyed.

2-119. REPORT OF RABID ANIMALS. It shall be the duty of the owner or harborer of any animal and practicing veterinarians who become aware of an animal suspicioned or diagnosed as having rabies to report said suspicion or diagnosis to the city veterinarian or animal control officer. This report shall be made immediately upon diagnosis or suspicion of rabies.

2-120. VEHICULAR ACCIDENTS INVOLVING ANIMALS. the operator of a motor vehicle which strikes any animal shall stop at once and shall immediately contact the owner of such animal if the owner can be determined. In the event the owner can not be ascertained or located, the operator shall at once report the accident to an animal control officer or law enforcement officer.

2-121. RABIES VACCINATION REQUIRED. It shall be unlawful for the owner or harborer of any dog, cat or ferret over 4 months of age to fail to maintain effective rabies immunization of such dog, cat or ferret. Upon request by an animal control officer or law enforcement officer the owner or harborer must be able to produce a current, valid, completed certificate of immunization against rabies or the dog, cat or ferret shall be deemed Not be immunized.

2-122 REGISTRATION REQUIRED.

(a) Every owner of any dog over 3 months of age shall annually register with the City of Dodge City his or her name and address with the name, sex and description of each dog owned or harbored within the City. It shall be unlawful for the owner of any newly-acquired dog to fail to register the animal within 30 days from acquisition or bringing the dog into the City. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog.

(b) The registration period shall be from January 1st through December 31st of each year.

(c) The City of Dodge City shall collect an annual registration fee as established in the fee schedule set out in Article 9 of Chapter 1.

(d) It shall be the duty of the City Clerk or designated agent, upon receipt of the registration fee herein before required, to record the date of registration, and the name of the owner or keeper, the number of the registration, and the fee paid, and to deliver to the owner or keep of the dog a certificate stating that the person has registered the dog and the number by which the dog is registered. The City Clerk or designated agent shall also deliver to the owner or keeper of the dog a tag with the registration number and the registration year thereon. When any registration tag is lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period. When so requested, the City Clerk or designated agent shall, upon presentation of the registration certificate, issue a duplicate of such tag without a charge.

(e) It shall be unlawful for any person to take off or remove the City registration tag from any dog belonging to another, or remove the strap or collar to which the same is fastened.

2-123. SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof.

2-124. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.

(a) Any companion or domestic animal found in violation of the provisions of this article shall be subject to impoundment by the City.

(b) A record of all dogs impounded shall be kept by the City containing a physical description of the animal, registration number (if any) and the date of impoundment.

(c) If the animal impounded has a current registration tag attached to it or if the staff of the city pound knows the owner of the animal by other means, every reasonable attempt shall be made to contact the owner as soon as possible or at least 24 hours before such animal is disposed of by destruction, sale or adoption. If, after a minimum of three full days of custody during which the public has clear access to inspect and recover the animals through time periods ordinarily accepted as usual business hours, the city pound staff has been unable to locate the owner, or the owner, upon having been located, fails to redeem or claim the animal, then the animal may be uthanized, sold to or adopted by another person.

(d) If at any time within the impounding period, the owner of an impounded animal does appear to redeem the animal, it shall be turned over to the owner upon payment of the impoundment fee or penalties plus the actual cost of impoundment, and upon compliance with the registration and immunization provisions of this article. This subjection shall not apply to any animal alleged as being vicious under section 2-114, quarantined for rabies observation under section 2-117, or being held as evidence for court regarding a violation of this chapter.

(e) The minimum impoundment fee shall be established in the fee schedule set out in Aritcle 9 of Chapter 1.

(f) Impoundment hereunder shall not preclude any court from imposing and executing any fine which might otherwise be levied under this article for violation of any of the provisions thereof; nor shall impoundment be a defense in any prosecution commenced hereunder.

2-125 CONFINEMENT OF DOGS IN HEAT. Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain access to the confined animal except for purposes of planned breeding. Any female dog that is in the state of estrus (heat) and that is not properly confined, or any such

dog that is creating a neighborhood nuisance, may be impounded by an animal control officer or law enforcement officer. All expenses incurred as a result of the impoundment shall be paid by the owner or harborer.

2-126 EXOTIC ANIMALS.

(a) It shall be unlawful for any person, partnership, organization, association, business firm or corporation to keep, maintain, harbor or hae in control within the city any exotic animal.

(b) The prohibitions of this section shall not apply to zoos, circuses, carnivals, pet shops, educational institutions, or medical institutions, if:

(1) There location conforms to the provisions of the zoning ordinance of the City and any required permits have been obtained from the city; and

(2) All animals and animal quarters are kept in a clean and sanitary condition so maintained as to eliminate objectionable odors; and

(3) Animals are maintained in quarters so constructed as to prevent their escape.

2-127 DOMESTIC ANIMALS.

(a) It shall be unlawful for any person, partnership, organization, association, business, firm or corporation to own, harbor or maintain any domestic animal within the city without possession of a current valid permit issued by the City of Dodge City which designates the type and number of domestic animals which may be maintained and the location at which they may be kept.

(b) Permits must be renewed on an annual basis are Not transferable.

(c) It shall be unlawful for the owner or harborer of any domestic animal within the City to fail to display a current permit upon request of any animal control officer or law enforcement officer.

(d) The prohibitions of this section shall not apply to animals temporarily housed at bona fide sale barns, veterinarian offices or hospitals, or other agricultural business or temporarily within the City to participate in fairs, shows, rodeos or other demonstrations, contests or displays.

2-128 KENNELS.

(a) It shall be unlawful for any person, partnership, organization, association, business, firm or corporation to operate or maintain any kennel within the City without possession of a current valid permit issued by the city of Dodge City which designates the number of dogs which may be maintained and the location at which they may be kept.

(b) Permits must be renewed on an annual basis and are not transferable.

(c) It shall be unlawful for the owner or operator of any kennel which the city to fail to display a current permit upon request by an animal control officer or any law enforcement officer. (ORD. NO.3387)

ARTICLE 2.
PENALTIES

2-200 PENALTY.

(a) Persons convicted of a violation of this chapter shall be punished by a fine not to exceed $1000.00, or by imprisonment for no more than 180 days, or by both such fine and imprisonment, except those in violation so Section 2-107 Cruelty to Animals or 2-108 Tethering.

(b) Any person convicted of a violation of Section 2-107 Cruelty to Animals or 2-108 Tethering, shall be punished by a fine not to exceed $2,500 or by imprisonment for no more than one year, or by both such fine and imprisonment. (ORD. NO. 3387)

ARTICLE 3.

(RESERVED)

ARTICLE 4.

PIT BULL DOGS

2-401. WHEREAS, Local governmental bodies possess broad powers to regulate the ownership and possession of dogs within the community; and

WHERESS, The Kansas Supreme Court has determined that pit bull dogs:

(a) represent a unique public health hazard not presented by other breeds or mixes of dogs;

(b) possess both the capacity for extraordinary savage behavior and physical capabilities in excess of those possessed by many other breeds or mixes of dogs; and

(c) have an unpredictable nature;

WHEREAS, The governing body finds that pit bull dogs are potentially aggressive dogs and desires to enhance the public health, safety, and welfare by prohibiting their ownership and possession within the city limits.

2-402. DEFINITIONS.

The following words and phrases when used in this ordinance, shall have the meanings respectively, ascribed to them:

(1) "Enforcement Authority'' means the City Manager, Chief of Police, Animal Control supervisor and their respective designees.

(2) "Pit Bull Dog" is defined to mean any and all of the following dogs:

(a) The Staffordshire bull terrier breed of dog;

(b) The American Staffordshire terrier breed of dogs;

(c) The American Pit Bull Terrier breed of dog;

(d) Any other breed commonly known as Pit Bull, Pit Bull Dog, or Pit Bull Terrier;

(e) Dogs which have the appearance and characteristics of being predominantly of the breed of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

The registration of a dog with a dog association or in any governmental jurisdiction as a pit bull or any of the dogs listed above shall constitute prima facie evidence the animal is prohibited by this ordinance.

2-403. PROHIBITION. No person shall own, keep, harbor, or in any way possess a pit bull dog within the city limits of Dodge City, Kansas unless in full compliance with the provisions of this ordinance. The City Manager shall implement administrative regulations related to standards and requirements to protect the public safety governing nonresident possession of a pit bull dog within the city limits on a temporary basis.

2-404. **SPECIAL REGULATIONS.** Pit bull dogs located within the city limits must be lawfully registered with the City of Dodge City in full compliance with the provisions of this Ordinance. Pit Bull dogs may be kept within the city limits only upon strict compliance with the standards and requirements set forth in Section 4.

2-405 **STANDARDS AND REQUIREMENTS.** The keeping of a pit bull under Section 3 shall be subject to the following mandatory requirements:

(1) Special Permit Required A special annual permit shall be required for keeping of any pit bull dog under Section 3. No permit shall be granted except with such conditions attached as shall, in the opinion of the enforcement authority, reasonably protect the public health, safety and welfare. A temporary permit may be issued following application and pending final disposition of the application. Permits shall only be issued to adults.

(2) The application shall be on forms provided by the city, with its form, content and submittal requirements to be determined by the City Manager.

(3) Permit Fee An initial application fee for an annual permit shall be Fifty Dollars ($50.00), which fee will include the annual license for the first year. Annual renewal fee shall be Five Dollars ($5.00) for the purchase of a license each year as required by all other dog owners residing within the city.

(4) Standard and Requirements The keeping of a pit bull dog in the City limits shall be subject to the following mandatory requirements, in addition to compliance with all other state and local laws and regulations including the provisions of Section 2-114 of this Chapter 11:

(a) Leash Requirement Outside of Pen. No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer that six (6) feet in length and a properly sized and attached muzzle. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless an adult physically capable of controlling the dog is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, or buildings.

(b) Confinement. All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel. Such pen or kennel must meet administrative regulations for construction and location standards established by the City

Manager. All structures used to confine specially permitted pit bull dogs must be locked by a key or combination lock when such animals are within the structure.

(c) Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.

(d) Microchipping. All pit bull dogs, at owners expense, shall have an identification microchip implanted in the dog which is compatible with city detection equipment. Such microchipping shall be accomplished by a licensed veterinarian or by the Dodge City Animal Shelter as part of the special permitting process. The applicant for a special permit under this ordinance shall file proof of microchipping if it has already taken place or has been accomplished outside the permitting process, in which case the initial application fee will be reduced by $15.00.

(e) Signs. All owners of pit bull dogs shall within 30 days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(f) Special Collar. All pit bull dogs shall be required to wear a special designated numbered collar at all times when not confined indoors. The collar shall be visible on the dog when it is in a kennel or pen, or on a leash. The collar shall be one issued by the City during the special permit process. If the numbered collar is lost, stolen or damaged to the extent the number is not easily visible, the owner must immediately purchase a replacement collar from the city.

(g) Insurance. All owners of pit bull dogs shall, within thirty (30) days of the effective date of this ordinance obtain and have in effect public liability insurance in a single incident amount of not less than $100,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such pit bull dog. In addition, such insurance policy shall provide for medical pay coverage protection in an amount of not less than $5,000 for any bodily injury sustained by any person which is caused by a pit bull dog owned by or in the care of

the insured person. At the time of initial application for a special permit, the owner, keeper or harborer must present proof of the required insurance. At the time of each subsequent registration renewal, the owner, keeper, or harborer shall show proof of insurance for the present registration period and proof that there was continuous insurance coverage through the period of the prior special permit year. In the event said liability insurance is canceled, lapsed or for any other reason becomes nonenforceable, said owner, keeper or harborer shall be in violation of the provisions of this ordinance. The owner, harborer or keeper shall notify the city within ten (10) days of any cancellation, lapse or non-enforceablity of this insurance. And provide proof substitute coverage has been obtained. The insurance may be in the form of a special liability policy or a standard homeowners or renters insurance policy from a Kansas licensed insurer which does not have a provision limiting or excluding coverage due to pit bull dog ownership.

(h) Identification Photographs. All owners of pit bull dogs shall make available the dog during the special permit process in order to allow the city to obtain digital photographs of the registered animal for identification purposes.

(i) Reporting Requirements. All owners of a pit bull dog shall, within ten (10) days of the occurrence, report the following information in writing to the city:

(1) The removal from the City limits or death, theft or loss of a specially permitted pit bull dog.

(2) The new address of the premises where the Pit bull dog is kept or harbored should the Owner move within the city limits.

(j) Written Notices. All notices required to be given to the city in writing shall be directed to the director of the Dodge City Animal Shelter and delivered to either the shelter or the City Clerk. Such delivery shall be made in person or by the United States Postal Service via regular mail or certified mail.

(k) Number of Pit Bulls Permitted per Household. One adult registered pit bull dog will be allowed per residence.

(l) Spayed or Neutered. All owners at the time of application for permit shall provide proof that the pit bull has been spayed or neutered.

2-406. DUTY OF OWNERS: FAILURE TO COMPLY. The purpose of the requirements in this ordinance governing pit bull dogs is to prevent attacks, injuries or deaths by mandating use of control methods. It is the positive duty of any owner of a pit bull dog to take all necessary steps to comply with this ordinance. It is unlawful for the owner of a pit bull dog and any person claiming to be responsible for said pit bull dog as agent of the owner. Any dog found to be the subject of a violation of this ordinance may be subject to immediate seizure and impoundment. If the dog is not immediately seized and impounded, the officer shall instruct the owner to keep said dog confined in a securely closed and locked pen or kennel until such time as the court may order seizure and impoundment. Neither the owner, nor any other person, may remove said dog from said secure pen or kennel without the written permission of either the animal control director or judge of the municipal court. Failure to comply with any provision of this ordinance shall also be considered good cause for the revocation of any license or special permit issued allowing for the keeping of the subject dog, resulting in the immediate removal of the animal from the city.

2-407. COSTS TO BE PAID BY RESPONSIBLE PERSONS. Any reasonable costs incurred by the city in seizing, impounding, confining or disposing of any pit bull dog pursuant to the provisions of this ordinance shall be charged against the owner of such animal and shall be subject to collection by any lawful means. If the owner of the animal is found guilty of a violation of this ordinance, said above-mentioned expenses shall be assessed as costs in said court action.

2-408. ADMINISTRATION AND ENFORCEMENT. It shall be the duty of the City Manager, through the enforcement authority to administer and enforce the provisions of this ordinance. The City Manager shall have authority to establish reasonable administrative regulations, policies and procedures as needed to effectively carry out the spirit and intent of this ordinance.

2-409 PENALTIES. Whenever in this ordinance any act is prohibited or is declared to be unlawful or the performance of any act is required or the failure to do any act is declared to be unlawful, the violation of any provision of any provision of this ordinance shall be punished by a fine of not more than two thousand five hundred dollars ($2,500), or by imprisonment for a period not exceeding one (1) year, or by both fine and imprisonment, at the discretion of the court. Each day any violation of this ordinance continues shall constitute a separate offense. (ORD. NO.3560)

CHAPTER III. BEVERAGES

ARTICLE 1. General Provisions
Article 2. Cereal Malt Beverages
Article 3. Alcoholic Liquor
Article 4. Private Clubs
Article 5. Drinking Establishments
Article 6. Caterers
Article 7. Temporary Permits

ARTICLE 1. GENERAL PROVISIONS

3-101. **DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

(a) Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) Alcoholic Liquor means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) Caterer means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit selling alcoholic liquor in accordance with the terms of such permit.

(d) Cereal Malt Beverage means any fermented but undistilled liquor brewed or made from a malt or a mixture of malt or malt substitute, but shall not include any such liquor which contains more than 3.2 percent alcohol by weight.

(e) Class "A" Club means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the State of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter

referred to as members), and their families and guests accompanying them.

(f) Class "B" Club means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) Club means a Class A or Class B club.

(h) Conditional License. Means a license authorizing the sale, service or consumption of cereal malt beverages of City owned property which contains the terms and conditions under which sale, service or consumption of such beverages may occur as established by the authorizing city commission motion. (ORD.3396)

(i) Drinking Establishment means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

(j) General Retailer means a person who has a license to sell cereal malt beverages at retail.

(k) Limited Retailer means a person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

(l) Place of Business. Any place at which cereal malt beverages or alcoholic beverages or both are sold.

(m) Temporary Permit means a permit, issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, open to the public.

(n) Wholesaler or distributor. Any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, copartnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail. (Code 1987)

3-102. **PUBLIC SALE.** (a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.

(b) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated. (K.S.A. 41-719; Code 1983, 5-30, 5-69; Ord. 2858, Sec. 1; Code 1987)

(c) The prohibition against sale, service or consumption of cereal malt beverages or alcoholic beverages shall not apply to the Hoover Pavilion in Wright Park which is property owned by the City when that property is leased for a private function which the City Manager determines is not open to the general public, or when leased to a not-for-profit tax exempt civic club or organization in conjunction with a banquet or dinner sponsored by such club or organization, admission to which is gained by a ticket sold prior to the event and the proceeds of which go to support the club or organization's civic projects. Such lease may contain additional restrictions or conditions relating to the dispensing and consumption of cereal malt beverages or alcoholic beverages as the City Manager deems appropriate under the circumstances. (Ord.3500)

(d) The prohibition against sale, service or consumption of cereal malt beverages or alcoholic liquors shall not apply to the Dodge City/Ford County Events Center, Dodge City Civic Center, Mariah Hills Golf Course, Dodge City Raceway Park, Legends Park, Cavalier Field, or other city-owned property as determined from time to time by duly adopted motion of the City Commission, if a proper and appropriate conditional license establishing the terms and conditions under which such sale, service or consumption may occur has been issued for said location by the City Clerk. (Ord. 3500)

3-103. PUBLIC CONSUMPTION. No person shall drink or consume alcoholic liquor upon the public streets, alleys, roads or highways; in beer parlors, taverns, pool halls or places to which the general public has access, whether or not an admission or other fee is charged or collected; upon property owned by the state or any governmental subdivision

thereof or inside vehicles while upon the public streets, alleys or roads within the city. (K.S.A. 41-719(a); (Ord. 2823, Sec. 1)

3-104. **OPEN CONTAINER.** (a) It shall be unlawful for any person to transport in any vehicle upon a highway or street any cereal malt beverage or alcoholic beverage unless such beverage is:

(1) In the original, unopened package or container, the seal of which has not been broken and from which the original cap or cork or other means of closure has not been removed;

(2) In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion or;

(3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 5-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

(b) As used in this section "highway" and "street" have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto.

(c) It shall be unlawful for any person to have in his or her possession any open container of cereal malt beverage or alcoholic beverage on any premises licensed only for off premises consumption of either cereal malt beverage or alcoholic beverage.

(d) It shall be unlawful for any licensee of any premises licensed only for off-premises consumption of either cereal malt beverage or alcoholic beverage to allow any open container of either cereal malt or alcoholic beverage to remain upon such premises. (K.S.A. 41-804, 41-2719; Code 1983, 5-32, 5-69; Code 1986)

3-104. **CONSUMPTION WHILE DRIVING.** No person shall consume any cereal malt beverage or alcoholic beverage while operating any vehicle upon any street or highway. (K.S.A. 41-719, 41-2720; Code 1983, 5-30, 5-69; Code 1986)

3-106. **IDENTIFICATION CARD.** (a) It shall be unlawful for any person to:

(1) Display, cause or permit to be displayed, or have

in possession, any fictitious, fraudulently altered, or fraudulently obtained identification care for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(2) Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(3) Permit any unlawful use of an identification card issued to a person for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(4) Photograph, Photostat, duplicate or in any way reproduce any identification care or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(b) It shall be unlawful for any person to:

(1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any alcoholic liquor.

(2) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any cereal malt beverage. (Ord. 2743, Sec. 8; Code 1987)

3-107. UNDERAGE PURCHASER. (a) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any cereal malt beverage.

(b) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any alcoholic liquor. (K.S.A. 71-715, 41-2721; Ord. 2743, Sec. 7; Code 1987)

3-108. RESTRICTION ON LOCATION. (a) No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 200 feet of any church or school, said distance to be determined by measuring in a direct line between any entrance or exit to any church or school. For purposes of this subsection any portion of a four-year college shall not be considered as a church or

school building, when the buildings are used for the purpose of conducting religious services or educational activities.

(b) The distance location of subsection (a) above shall not apply to a club, drinking establishment, caterer, temporary permit holder or establishment holding a cereal malt beverage license when the license or permit applicant petitions for and receives a waiver of the distance limitation from the governing body. The governing body shall grant such a waiver only following public notice and hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.

(c) No license or permit shall be issued for the sale of cereal malt beverage or alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes.

(d) The distance limitation of subsection (a) shall not apply to any place of business in existence and dispensing cereal malt beverage or alcoholic liquor prior to the effective date of this code so long as such premises continues to so operate. Any such premises where business has ceased for a period of three consecutive months or greater shall no longer be entitled to the exemption provided by this section. (Code 1983, 5-43, 5-61; Code 1987)

ARTICLE 2. CEREAL MALT BEVERAGES

3-201. LICENSE REQUIRED OF RETAILERS. (a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.

(b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.
(K.S.A. 41-2702; Code 1983, 5-74; Code 1986)

3-202. APPLICATION. No person shall sell any cereal malt beverage at retail in the City of Dodge City without first securing a license for each place of business as herein provided. The application for such license shall be made to the governing body and filed with the city clerk of said city. The application shall be verified and upon a form

prepared by the attorney general of the State of Kansas shall contain:

(a) The name and residence of the applicant and how long he has resided within the State of Kansas;

(b) The particular place for which a license is desired;

(c) The name of the owner of the premises upon which the place of business is located;

(d) A statement that the applicant is a citizen of the United States and not less than 21 years of age and he or she has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.

(e) Such additional information as may be required by the governing body by ordinance. (C.O. No. 12, Sec. 3)

3-202A. SAME; ADDITIONAL APPLICATION PROCEDURES. (a) Each application for a general retailer's license shall be accompanied by a certificate from the city certifying that the premises to be licensed has been inspected and complies with the provisions of the city zoning, building, fire, and property maintenance laws. (ORD. 3337)

(b) Each application for a general retailer's license must be accompanied by a certificate from the city certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of chapter 7 of this code.

(c) Each application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the city clerk not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by

the governing body at the earliest meeting consistent with current notification requirements.

(d) All applications for a new cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they will be considered.

(e) The governing body will not consider any application for a new or renewed license that has not been submitted 10 days in advance and been reviewed by the above city departments.

(f) An applicant who has not had a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered. (Code 1983, 5-75; Code 1986)

3-203. **LICENSE FEE.** All applications for a license to sell cereal malt beverage at retail in original and unopened containers and not for consumption on the premises shall be accompanied by a license fee as provided by the fee schedule set out in Chapter 1, Article 9. No license fee shall be refunded. (C.O. No. 12, Sec. 4; Ord. 2062, 12-3-73)

3-204. **LICENSE; DISQUALIFICATION.** No license shall be issued to:

(a) A person who been not a resident in good faith of the state of Kansas for at least one year immediately preceding application and a resident of Ford County for at least six months prior to filing of such application.

(b) A person who is not a citizen of the United States;

(c) A person who is not a good character and reputation in the community in which he or she resides.

(d) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor, or the violation of any other intoxicating liquor law of any state or of the United States;

(e) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license,

(f) A corporation, if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, would be ineligible to receive a license

hereunder for any reason other than nonresidence within the city or county;

(g) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent of the stock, of a corporation. has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.

(h) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee.

(i) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license. (C.O. No. 12, Sec. 5; Code 1987)

3-205. **LICENSE PERIOD; NOT TRANSFERABLE.** All licenses issued in accordance with the provisions of this ordinance shall be a for a term of one year and shall not be transferable to another person or to another location. (C.O. No. 12, Sec. 6)

3-206. **LICENSE GRANTED; DENIED.** (a) The record of the city clerk shall show the action taken on the application.

(b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the year for which issued.

(c) No license shall be transferred to another licensee. (Code 1983, 5-77, 5-79; Code 1986)

3-207. **LICENSE TO BE POSTED.** Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Code 1983, 5-81)

3-208. **SUSPENSION OF LICENSE.** The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for

any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of

suspension to the governing body within seven days from the date of such order. (K.S.A. 41-2708; Code 1986)

3-209. LICENSE SUSPENSION/REVOCATION BY GOVERNING BODY. Upon the conviction of a violation of any of the provisions of this section, a person holding a license to sell cereal malt beverages shall, without notice, be suspended by the governing body upon a first conviction for a period of one week and upon a second conviction, during the licensing period, for a period of fifteen (15) days. Upon a third conviction, during the licensing period, the license shall be revoked and the licensee shall not be eligible to make application for a cereal malt beverage license within a period of one (1) year following the date of conviction. Such suspensions or revocation shall be for the following reasons:

(a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;

(b) If the licensee has violated any of the provisions of this chapter or has become ineligible to obtain a license under this article;

(c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling cereal malt beverages;

(d) The sale of cereal malt beverages to any person under 21 years of age;

(e) For permitting any gambling in or upon any premises licensed under this article;

(f) For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose;

(g) For the employment of any person under 21 years of age in dispensing cereal malt beverages;

(h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;

(i) For the sale or possession of, or for permitting

the use or consumption of alcoholic liquor within or upon any premise licensed under this article;

(j) The nonpayment of any license fees;

(k) If the licensee has become ineligible to obtain a license under this chapter;

(l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club. (K.S.A. 41-2708; Code 1983, 5-84; Ord. 2743, Secs. 5:6; Code 1986; Ord. 2898, Sec. 2)

3-210. **SAME; APPEAL.** The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Ford County. Any appeal taken under this section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of one year thereafter. (K.S.A. 41-2708; Code 1983, 5-84; Ord. 2743, Secs. 5:6; Code 1986)

3-211. **SALES AND CONSUMPTION ON PUBLIC PROPERTY.** No person shall sell, serve, give away, or consume any cereal malt beverage upon any real property owned by or under the control of the City of Dodge City, without a license granted by the Governing Body of the City of Dodge City, which may be issued for a period of not to exceed 5 days for a specific area in Wright Park beginning July 1, 1989. The license shall designate the dates for which it has been issued and shall designate a specific area within which cereal malt beverage can be sold or consumed. (Ord. 2911, Sec. 2)

3-211A. **SPECIFIC EXEMPTION.** The area comprising the Mariah Hills Municipal Golf Course is hereby exempt from the limitations and restrictions of K.S.A. 41-719. All other provisions of K.S.A. 41-719 shall remain in effect. (3-16-81)

3-212. **LICENSE; IN ADDITION TO OTHER LICENSE.** The license issued under this article shall be in addition to any other licenses required for the operation of any other business for which a license is required. (Code 1983, 5-83)

3-213. **WHOLESALERS AND/OR DISTRIBUTORS.** It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales. (K.S.A. 41-2713; Code 1983, 5-68; Code 1986)

3-214. **BUSINESS REGULATIONS.** It shall be the duty of every licensee to observe the following regulations. Any licensee who fails to observe any of the following regulations shall be subject to suspension and/or revocation of their business license under section 3-209 and/or section 3-210 of this article.

(a) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.

(b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state.

(c) Except as provided by subsection (d), no cereal malt beverages may be sold or dispensed (1) between the hours of 12:00 midnight and 6:00 a.m.; or (2) on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises.
Following reasonable notice, it shall be the responsibility of a licensee for consumption on the premises to provide proof that not less than 30 percent of its gross receipts on the licensed premises are from the sale of food. (Ord. 3105)

(d) Cereal malt beverages may be sold on premises which are licensed pursuant to both the acts contained in Article 27, of Chapter 41, of the Kansas Statutes annotated and the Club and Drinking Establishment Act at any time when alcoholic liquor is allowed to be served on the premises.

(e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic beverage Control shall be open to the police and not to the public.

(f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.

(g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.

(h) No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverage to any person under 21 years of age .

(i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.

(j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose.

(k) No licensee or agent or employee of the licensee shall employ any person under the age of eighteen for employment involving dispensing cereal malt beverages. No licensee shall employ any person who has been convicted of the commission of a felony.
(Ord. 2738; Ord. 2743; Sec. 2; Code 1983, 5-57, 5-63, 5-66; Code 1987, Ord. 2953; 1991 Code)

3-215. **SANITARY CONDITIONS REQUIRED.** Any licensee who fails to meet the following minimum sanitary conditions shall be subject to suspension and/or revocation of their business license under section 3-208 and/or section 3-209 of this article.

(a) All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times.

(b) The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees.

(c) Each restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face.

(d) Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable.

(e) The doors of all toilet rooms shall be self

closing and toilet paper at all times shall be provided.

(f) Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered.

(g) Each restroom shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee.
(Code 1983, 5-66; Code 1986)

3-216. **MINORS ON PREMISES.** (a) It shall be unlawful for any person under 21 years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.

(b) This section shall not apply if the person under 21 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 50 percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.
(Ord. 2743, Sec. 2; Code 1983, 5-65; Code 1987)

3-217. **SAME; NOTICE TO PUBLIC REQUIRED.** It shall be unlawful for the licensee of premises under this article to fail to post a conspicuous notice on or near all doors for which access to a licensed premises may be obtained advising that the entering or remaining upon the licensed premises or the purchase of consumption of cereal malt beverage is not permitted by any person who has not attained 21 years of age. (Ord. 2743, Sec. 9; Code 1987)

3-218. **SALE OR GIFT TO MINOR; ALLOW TO PURCHASE.** (a) It shall be unlawful for any person to sell or give any cereal malt beverage to any person under 21 years of age.

(b) It shall be unlawful for any person to knowingly permit any person under 21 years of age to purchase any cereal malt beverage.
(Code 1983, 5-62; Ord. 2743, Sec. 4; Code 1987)

3-219. **POSSESSION OF ALCOHOLIC LIQUOR WITHIN PREMISES.** It shall be unlawful for any person to have in his or her possession any alcoholic liquor within any place of business licensed for the sale of cereal malt beverage unless such place of business is also currently licensed as a private club. (Code 1983, 5-60; Ord. 2743, Sec. 3; Code 1986)

3-220. **CONSUMPTION BY MINORS.** It shall be unlawful for any person under 21 years of age to drink or consume any cereal malt beverage within a place of business licensed to sell the same. (Code 1983, 5-64; Code 1987)

3-221. CONSUMPTION OF MALT BEVERAGE IN PUBLIC PLACES PROHIBITED. (a) Any violation of the provisions of this section is declared to be an act and condition endangering the public safety and welfare.

(b) It shall be unlawful for any person to have any cereal malt beverage in his or her possession, except in the original and unopened container or to consume any cereal malt beverage in or upon any motor vehicle, moving or parked, upon any public property within the city, or in any parking lot, including private parking lots to which the motoring public has access and parking lots to which the general public has access.

(c) On premises licensed only for the off-premises consumption of cereal malt beverage, the possession of an open container of cereal malt beverage, or the consumption of the same, is prohibited. The possession and consumption of a cereal malt beverage in or upon premises properly licensed for on-premises consumption of cereal malt beverage is not prohibited by the provisions of this paragraph.

(d) The words and phrases used in this section shall have the meaning described to them by pertinent statutes of Kansas and, in lieu of any statutory definition, meanings of words and phrases shall be determined by reference to standard dictionaries, except that for the purpose of defining the word "access" in paragraph (b) of this section, the motoring public shall be deemed to have access to parking lots irrespective of whether or not a fee or charge
8 is made for admittance therein. (Code 1983, 5-69)

3-222. POSSESSION OF CEREAL MALT BEVERAGE BY PERSON UNDER 21 YEARS OF AGE; PROHIBITED. It shall be unlawful for any person under 21 years of age to have in his or her possession any cereal malt beverage in either an opened or unopened container. (Code 1987)

3-223 TEMPORARY EVENT CEREAL MALT BEVERAGE PERMIT

(a) Any provisions of this Chapter to the contrary not withstanding, the City Clerk may issue to a charitable or nonprofit organization which is not the holder of an annual retail cereal malt beverage license, but which would otherwise qualify for such a license, a temporary event cereal malt beverage permit allowing for the sale and consumption of cereal malt beverages for limited periods of time on specifically designated premises within the City.

(b) Such permit may be issued upon a verified application filed with the City Clerk containing the following information:

1. The name of the fraternal or non-profit organization;

2. Name, address and phone number of the president or other officer of the organization signing the application.

3. The nature of the event or function for which the permit is requested;

4. The specific location(s) where the event will be conducted;

5. The number of days or duration of the event.

6. Such other information as the Clerk may require.

(c) Such application shall be submitted to the City Clerk at least five (5) days prior to the event; provided, however, such time period may be waived by the Clerk when the nature and location of the event are of common knowledge to the Clerk and the Chief of Police.

(d) Each such permit shall extend for a period not to exceed twelve (12) consecutive days. Not more than three (3) separate temporary event permits may be issued to any one organization during any calendar year. There must be at least a five (5) day interval between the period of coverage for each such permit to any one organization.

(e) A temporary event permit fee of Fifty Dollars ($50.00) shall accompany each permit application.

(f) All other provisions of this Chapter which are not contrary to or inconsistent with the provisions set forth in this section shall be applicable to the holder of a temporary event Cereal Malt beverage permit. (ORD.3379)

ARTICLE 3. ALCOHOLIC LIQUOR

3-301. **STATE LICENSE REQUIRED.** (a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas liquor control act" without first having obtained a state license to do so.

(b) The holder of a license for the sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation fee levied in section 3-303 and the fee shall be received and a receipt shall be issued for the calendar year.(K.S.A. 41-310; Code 1983, 5-37; Code 1986)

3-302. **APPLICATIONS.** Any person desiring a license required by the provisions of this article shall make application therefor to the city clerk giving the type of license desired, the location in which he or she desires to operate and such other information as shall be required by the city clerk or the city commission. (Code 1983, 5-38)

3-303. **OCCUPATIONAL FEES.** Annual fees shall be charged and collected before any license shall be issued under the provisions of this article. The fees enumerated in Article 9 of Chapter 1 shall in lieu of all other occupation taxes. (K.S.A. 41-310; Code 1983, 5-39; Code 1986)

3-304. **WHEN REFUND ALLOWED.** Where a retailer's license for alcoholic liquors is canceled by the licensee on request and for voluntary reasons and the license has more than 30 days in which to be effective, the city clerk shall refund that portion of the license fee paid for the period in which the licensee shall not use such license, the refund to be based on a 365 day year. (Code 1983, 5-40)

3-305. **DURATION.** Any license issued under this article shall be valid for the calendar year in which the same was issued. (Code 1983, 5-41)

3-305. **POSTING OF RECEIPT.** Every licensee under this article shall cause the city's alcoholic liquor occupation fee receipt to be placed in plain view, next to below the state license in a conspicuous place on the licensed premises. (Code 1986)

3-307. **DAYS AND HOURS OF SALE.** No person shall sell at retail any alcoholic liquor:

(a) on Sunday
(b) on Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day, or
(c) before 9:00 a.m. or after 9:00 p.m. on weekdays and before 9:00 a.m. or after 10:00 p.m. on Saturdays or the day before holidays on any day when the sale is permitted. (Ord. 3105)

3-308. **BUSINESS REGULATIONS.** It shall be the duty of every licensee to observe the following regulations. Any licensee who fails to observe any of the following regulations shall be subject to suspension and/or revocation of their business license under section 3-312 of this article. No licensee shall:

(a) Permit any person to mix drinks in or on the licensed premises;

(b) Employ any person under the age of 21 years in connection with the operation of the retail establishment;

3-315. PROHIBITION OF UNDER 21 YEAR OLD ON CERTAIN PREMISES, EXCEPTION. It shall be unlawful for any person under twenty-one (21) years of age to be present on any premises where the sale of alcoholic liquor is licensed for on premises consumption, except when said person is accompanied by a parent or guardian, or the licensed derives not less than thirty (30) percent of its gross receipts from the sale of food for consumption on the licensed premises. (Ord. 2895)

ARTICLE 4. PRIVATE CLUBS

3-401. OCCUPATION TAX. (a) There is hereby levied an annual occupation tax in an amount set in Chapter 1, Article 9 of this Code on each class "A" and each Class "B" private club located in the city which who has a Class "B" private club license issued by the State Director of Alcoholic Beverage Control, which tax shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

(b) A holder of a license for a Class "A" or Class "B" club issued by the state director of alcoholic beverage control shall present such license when applying to pay the occupation tax levied herein and the tax shall be received and receipt issued for the calendar year by the city clerk.

(c) The occupation tax shall be due on or before the commencement of business and endure from its date of issuance for a calendar year. The occupation tax shall not be refundable upon cessation of business or for any reason and shall be charged in full regardless of the time the application to the city is made.

(d) Every licensee shall cause the city Class "B" club occupation tax receipt to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.
(K.S.A. 41-2622; Code 1983, 5-94; Code 1987)

3-402. SAME; APPLICATION REQUIREMENTS. Applications for all club licenses under this article shall be upon forms prescribed and furnished by the city clerk and shall be filed with the city clerk, in duplicate, and shall be accompanied by the annual occupation tax and evidence that the applicant possesses a valid state license. (Code 1983, 5-95; Code 1986)

3-403. SAME; ISSUED FOR ONE PREMISES; COMPLIANCE WITH OTHER LAWS. The license provided herein shall be issued for one particular premises which shall be stated in the application and in the occupation tax receipt. No license shall be issued for a premises wherein the use thereof would be in violation of the city zoning, building, fire, and property maintenance laws. (ORD.3337)

3-404. CONDUCT OF BUSINESS GENERALLY; EMPLOYMENT OF CERTAIN PERSONS PROHIBITED. It shall be unlawful for a club licensee:

(a) To employ any person under the age of 21 years in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor;

(b) To knowingly employ any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who has been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States. For the purposes of this subsection, the term "morals charge" shall include those charges involving prostitution, procuring any female person, soliciting of a child under 18 for any immoral act involving sex, possession or sale of narcotics, marijuana, amphetamines or barbiturates, rape, incest, gambling, illegal cohabitation, adultery, bigamy or crimes against nature;

(c) To knowingly employ any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who has been adjudged guilty of a violation of any intoxicating liquor law of this or any other state, or of the United States, for a period of two years preceding such employment or after his or her employment;

(d) To fail to maintain at the licensed premises a current list of all club members and their residence addresses;

(e) To refuse to allow any law enforcement officer to inspect the current list of the members of the club;

(f) To purchase alcoholic liquor from any person except from a person holding a valid license to sell alcoholic liquor at retail. (K.S.A. 41-2610; Code 1983, 5-97)

3-405. CONSUMPTION OF ALCOHOLIC LIQUOR - AUTHORIZED AT CERTAIN PLACES; CONDITIONS FOR AUTHORIZATION. The consumption of alcoholic liquor by any person shall

be authorized in this city:

(a) Upon private property by those occupying such private property as an owner or as the lessee of an owner and by the guests of the owner or lessee provided that no charge is made by the owner or lessee for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance co-mixed with any alcoholic liquor; and if no sale of alcoholic liquor in violation of K.S.A. 41-803 takes place on private property;

(b) At a club licensed by the Kansas Alcoholic Beverage Control Board;

(c) In a lodging room of any hotel, motel or boarding house by the occupant of the lodging room or his or her guests provided the occupant is not engaged in a sale of liquor in violation of K.S.A. 41-803; and if the occupant makes no charge for:
(1) Serving or mixing any drink or drinks of alcoholic liquor; or
(2) For any substance co-mixed with an alcoholic liquor;

(d) In a private dining room of a hotel, motel or restaurant when the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803 takes place at the private party.
(K.S.A. 41-2602; Code 1983, 5-91)

3-406. SAME; AT PLACE OTHER THAN THOSE AUTHORIZED. The consumption of alcoholic liquor at any place other than that provided in this article shall be deemed to be the consumption of alcoholic liquor in a place to which the general public has access. (K.S.A. 41-2603; Code 1983, 5-92)

3-407. REVOCATION OF LICENSE IF REVOKED BY STATE. The governing body shall immediately revoke the license of and club licensee whenever the state license of the club licensee is revoked by the State of Kansas for any reason. (Code 1983, 5-98)

3-408. LICENSE TO BE POSTED IN CONSPICUOUS PLACE. Every club licensee shall cause his or her license to be framed and hung in plain view in a conspicuous place on the licensed premises. (Code 1983, 5-99)

3-409. RIGHT OF ENTRY AND INSPECTION BY AUTHORIZED OFFICER, AGENT OR LAW ENFORCEMENT OFFICER. The right of immediate entry and inspection at any time on any premises licensed as

a club under this article or of any premises subject to the control of any club licensed under this article by any duly authorized officer or agent of the city or by any law enforcement officer shall be a condition on which every club license shall be issued and the application for and acceptance of any club licensed hereunder shall conclusively be deemed to be the consent of the applicant and licensee to such immediate entry and inspection. Upon the refusal of any club licensee to permit immediate entry and inspection as before said, the chief of police shall immediately report such refusal to the state director of alcoholic beverage control. (K.S.A. 41-2613; Code 1983, 5-100)

3-410. HOURS SERVING, MIXING OR CONSUMPTION OF ALCOHOLIC LIQUOR IS PROHIBITED. No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day. (K.S.A. 41-2614; Code 1987)

3-411. CONSUMPTION OF ALCOHOLIC LIQUOR BY MINORS PROHIBITED. No club licensed hereunder shall knowingly or unknowingly permit the consumption of alcoholic liquor or cereal malt beverages on his or her premises by a minor and no minor shall consume or attempt to consume any alcoholic liquor or cereal malt beverage while in or upon the premises of a club licensed hereunder or as prohibited by K.S.A. 41-715 and any amendment thereto. The owner of any club, any officer or any employee thereof, who shall permit the consumption of alcoholic liquor or cereal malt beverages on the premises of the club by a minor shall be deemed guilty of a misdemeanor and upon conviction shall be punished in accordance with section 1-116 of this code. (K.S.A. 41-2615; Code 1983, 5-102)

3-412. EXISTENCE OF UNLICENSED ESTABLISHMENT PURPORTING TO BE A CLUB; SEARCH WARRANT. The existence of any establishment, room or place purporting to be a club or being held out to the public or any person by the proprietors of the establishment, room or place or by their agents or employees to be a club unless a club license has been issued by the city for such establishment, room or place shall be deemed to be sufficient probably cause for the municipal judge to issue a search warrant to any law enforcement officer for the purpose of searching the establishment, room or place for alcoholic liquor being sold, possessed or consumed in violation of this article, any other law of the state, or any ordinance. (K.S.A. 41-2619, Code 1983, 5-106)

3-413. PERSONS, COPARTNERSHIPS, ETC., INELIGIBLE FOR LICENSE. No club license shall be issued under the provisions of this article to:

(a) A person who has not been a citizen of the United States for at least one year;

(b) A person who has been convicted of or has pleaded guilty to a felony under the laws of this state or any other state or of the United States;

(c) A person who has been convicted of or has pleaded guilty to being a proprietor of a gambling house or of pandering or other crimes or misdemeanors opposed to decency and morality or shall have forfeited his or her bond to appear in court to answer charges for any such violations; by a person who is not at least 21 years of age; by a person who appoints or is a law enforcement official or who is an employee of the Director of Alcoholic Beverage Control Board of the State of Kansas or the alcoholic beverage control board;

(d) A person who intends to carry on the business authorized by the license as agent of another;

(e) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

(f) A person who does not own the premises for which a license is sought or does not have a written lease thereon for a least three-fourths of the period for which the license is to be issued;

(g) Any person if the spouse of such person would be ineligible to receive such a license hereunder for any reason other than citizenship and residence requirements;

(h) A person who is not a resident of Ford County, Kansas;

(i) A person who has not been a resident of Ford County, Kansas, for at least one year immediately preceding the date of his or her application or a person who has not been a resident of the state for a total of at least five years preceding the date of his or her application;

(j) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquor or a beneficial interest in

any other club licensed under this article, provided, that a license for premises located in a hotel as defined in K.S.A. 36-101, may be granted to a person who has a beneficial interest in another club or clubs

licensed hereunder if the other club or clubs are located in a hotel as defined herein.

(k) A copartnership, unless all of the copartners are entitled to obtain a license;

(l) A corporation, if any officer, manager or director thereof or any stockholder owning in the aggregate more than five percent of the common or preferred stock of such corporation would be ineligible to receive a club license hereunder for any reason other than citizenship and residence requirements;

(m) A corporation organized under the laws of any state other than Kansas. (K.S.A. 41-2623; Code 1983, 5-107)

ARTICLE 5. DRINKING ESTABLISHMENTS

3-501. **LICENSE REQUIRED.** It shall be unlawful for any person granted a drinking establishment license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a city license from the city clerk. (Code 1987)

3-502. **LICENSE FEE.** (a) There is hereby levied an annual license fee in the amount of $250 on each drinking establishment located in the city which has a drinking establishment license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

(b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning, building, fire, property maintenance, or alcoholic beverage ordinances of the city. (ORD. 3337)

(c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

(d) Every licensee shall cause the city drinking establishment license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises. (Code 1987)

3-503. **BUSINESS REGULATIONS.** (a) No drinking establishment licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

(b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverage for on-premises licensed for the retail sale of cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(c) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age. (Code 1987)

ARTICLE 6. CATERERS

3-601. **LICENSE REQUIRED.** It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any liquor by the drink within the city without obtaining a local caterer's license from the city clerk. (Code 1987)

3-602. **LICENSE FEE.** (a) There is hereby levied an annual license fee in the amount of $500 on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

(b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

(c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

(d) Every licensee shall cause the caterer license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor for consumption on the premises.(Code 1987)

3-603. **BUSINESS REGULATIONS.** (a) No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 p.m. on any day.

(b) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age. (Code 1987)

3-604. **NOTICE TO CHIEF OF POLICE.** Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink the caterer shall provide written notice to the chief of police at least 72 hours prior to the event if the event will take place within the city. The notice shall

contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving. (Code 1987)

ARTICLE 7. TEMPORARY PERMITS

3-701. **PERMIT REQUIRED.** It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk. (Code 1987)

3-702. **PERMIT FEE.** (a) There is hereby levied a temporary permit fee in the amount of $25 per day on each group or individual holding a temporary permit issued by the state director of alcoholic beverage control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit.

(b) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises. (Code 1987)

3-703. **CITY TEMPORARY PERMIT.** (a) It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least 10 days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:

(1) the name of the applicant;
(2) the group for which the event is planned;
(3) the location of the event;
(4) the date and time of the event;
(5) any anticipated need for police, fire or other municipal services.

(b) Upon presentation of a state temporary permit, payment of the city's temporary permit fee and a written application as provided for in subsection (a), the city clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.

(c) The city clerk shall notify the chief of police whenever a temporary permit has been issued and forward a copy of the permit and application to the chief of police. (Code 1987)

3-704. **PERMIT REGULATIONS.** (a) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. at any event for which a temporary permit has been issued.

(b) No alcoholic beverage shall be given, sold or traded to any person under 21 years of age. (Code 1987)

CHAPTER IV. BUILDING AND CONSTRUCTION

Article 1. International Building Code

Article 2. International Electrical Code

Article 3. International Plumbing Code

Article 4. Water Conditioning

Article 5. International Mechanical Code

Article 6. Property Maintenance Code

Article 7. Dangerous and Unfit Structures

Article 8. Moving Buildings

Article 9. Satellite Receiver Antennas

Article 10. Fences & Spray Painting

Article 11. Numbering Buildings

Article 12. Fees

Article 13. Licensing Contractors and Trades

Article 14. Inspections

Article 15. Penalties

Article 16. Unsafe or Dangerous Structures Code.

Article 17. International Fuel Gas Code

Article 18. International Existing Building Code

Article 19. International Residential Code

The City of Dodge City Building & Construction Code, three copies of which are on file and are open for inspection to the public in the office of the City Clerk, is hereby adopted and incorporated herein by this reference for the purpose of governing building and construction within the City of Dodge City.(Ord.3465)

ARTICLE 1. INTERNATIONAL BUILDING CODE

4-101. 2009 INTERNATIONAL BUILDING CODE. The 2009 International Building Code is hereby adopted as the Building Code of the City of Dodge City for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure the structures are safe, sanitary and fit for the occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in the City of Dodge City; providing for the issuance of permits and collections of fees; including Appendix. Three (3) copies of the Building Code are on file and are open for inspection of the public in the office of the City Clerk and made a part hereof as is fully set out in this ordinance. (ORD. 3435)

4-101.1 AMENDMENTS AND DELETIONS TO BUILDING CODE. The following sections of the Building Codes adopted by references in this article are hereby amended or deleted as follows:

(a) Title-Insert: These regulations shall be known as the Building Code of the City of Dodge City, hereinafter referred to as "the code".

(b) Building permits will be required for all exterior improvements for structures designated on the Local, State or National Historic Register. Exterior improvements will include the following: Window replacement, door and door frame replacement, repainting, siding, tuck pointing, gutter replacement, altering a façade, altering signage, replacing awnings, replacing roofing and making structural changes.

(c) K.S.A 12-16,219 prohibits any jurisdiction from requiring residential sprinklers to be installed.

4-102. BUILDING PERMIT POLICY:

PERMITS REQUIRED: No building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, re-roofed or demolished unless a separate permit for each building or structure has first been obtained from the Building Official.

4-103. BUILDING PERMIT APPLICATIONS, AND FEES:

PERMIT APPLICATIONS: Permit(s) shall only be issued upon the filing of an application on forms provided for the purpose, to a licensed contractor, licensed trades contractor, or the owner of such building or structure, and then only after approval of such application by the building official or his/her duly authorized assistant, and the prior arrangement for payment of such permit

fees as may be required by this code and by any requirements established by the city clerk.*

*EXECPTION: Authorized Agent. Permits shall be issued upon receipt of a notarized letter authorizing a named agent or agents acting in and for the bona fide licensed contractor, licensed trades contractor, or the owner of such residential building or structure.

4-103.1 PERMIT FEES AND PAYMENT:

(a). PERMIT FEES: Permit fees shall be payable to the City of Dodge City, as provided in Article 12 of this chapter.

(b). SUBSTANTIATION OF VALUATION: The building official shall, when deemed necessary by him or her, require reasonable substantiation of the valuation stated on any application for permit or any other form that may be prescribed.

(c). PAYMENT. All fees for permits shall be due and payable at the time a permit is issued.*

*EXCEPTION: The Building Official may, however, issue permits to established contractors or tradesmen and allow payment in person or by mail after a city bill for such permit fee has been sent to the permittee. All bills for permits shall be due and payable not later than 15 days following the date of such bill. Should the due day fall on a Sunday or a holiday observed by the city, the next regular business day shall be allowed as day of grace for payment.

Any person who shall fail, refuse or neglect to pay the billing on or before the due date shall be subject to revocation of the permit and shall be required to pay an additional fee for renewal of such permit.

4-104. PERMIT DURATION OF VALIDITY: Any permit issued under this section shall be valid and subsisting for a period of one year from date of issue. Building work must begin within 60 days from the date of issuance. Building work commenced for the purpose of this section shall mean the beginning of building work other than the preparation of plans, staking out of the building location, or the letting of a building contract. Any work not complete within the 365 days shall require an additional permit to allow for the completion of the original project. Additional permits are to state completion date.

4-105. BUILDING PERMIT REQUIREMENTS:

(a) For structures other than one, and two family dwellings and residential accessory structures, the following shall be submitted at least working days prior to obtaining a permit.

<u>* (3) full sets of stamped plans.</u>**

Building plans shall include the following:

1. **A code footprint.**
2. **Architectural floor plans.**
3. **All elevations.**
4. **All structural, framing, foundation, electrical, mechanical, and plumbing details.**
5. **Storm water & Erosion Control Drainage Plans.**
6. **Landscape Plans.**

Such plans shall be stamped by an architect/engineer licensed by the State of Kansas.

(b) For one and two family dwellings, mobile homes, residential manufactured design homes and residential accessory structures, the following shall be submitted at least(24)hours prior to obtaining a permit.

<u>* (1) site plan and (1) set of building plans.</u>**

Building plans shall include the following:

1. **Floor plans indicating room designation and dimensions for all stories.**
2. **Egress windows where required.**
3. **Load bearing footings.**
4. **Indicate if it is not a truss design roof system.**
5. **Building is required to be staked out, before obtaining a building permit.**

(c) All construction or installation using structural metal shall have the design stamped by an engineer/architect licensed by the State of Kansas.

(d) Mobile home which do not bear a label certifying compliance with the National Manufactured Home Construction and Safety Standards, effective June 15, 1976, shall not be permitted into this jurisdiction.

(e) All building sites must be platted and be on applicably zoned ground.

SITE PLANS: Site Plans for all work shall be submitted with the permit application. Information to be included on the Site Plan includes (as applicable):

1. Lot dimensions
2. Location of existing and proposed structure(s)
3. Size of structure(s)
4. Identification of setbacks
5. Location and dimensions of off street parking spaces
6. Location of driveways

7. Location and size of signs
8. Location and dimensions of all accessory structures
9. Location of other features (fences, walls, trees, etc.)
10. Location and dimensions of utility and drainage easements
11. Location of utility service lines to existing and proposed structures
12. Location and type of solid waste containers
13. A legal description of the property
14. Information sufficient to show drainage in conformance with the approved subdivision drainage plan.
15. Location and dimensions of sidewalks, including curb ramps.
16. Location and dimensions of streets and alleys.

4-106. RESIDENTIAL BASEMENT FOUNDATION STANDARDS. The following standards assume a horizontal ground surface, minimal surcharge, minimal lateral pressure and minimal groundwater effects on foundations. The Building Official reserves the right to require architectural/engineering designs for foundations where determined necessary.

1. The frost depth for this jurisdiction is 30 inches.
2. All poured concrete shall have minimum compressive strength of 3,000 psi at 28 days.
3. A poured concrete foundation wall shall cure for a minimum of 7 days prior to back filling.*

* EXCEPTION:

(a) Back filling is permitted if a temperature of 70 degree Fahrenheit has been maintained for four consecutive days.

(b) Foundations with a maximum height of four feet may be back filled after 24 hours curing.

4. Slabs for patios, driveways, and similar treatments shall be placed on any of the approved supports as f follows:

   a. The foundation shall be supported on columns carried down to the basement wall footings.
   b. The foundation may be of a bridging design with a minimum of five (5) #4 rebar and shall be embedded at least four inches into the adjoining wall and extend two feet beyond disturbed soil.
   c. The slab shall have a rebar placement of a minimum #4

embedded at least four inches into the adjoining wall and eight inches into the slab with a maximum spacing of 18".

5. Placement of steel support shall be a minimum of:
   (4) - Four feet – vertical
   (24)- Twenty-four inches - horizontal.

6. All new residential basements shall have at least (1) egress window installed. All basement sleeping rooms specified on building plans shall have egress windows(s).

7. When foundations designs are used other than those specified in the International Building Code, the plans shall be sealed by a licensed structural engineer licensed in the State of Kansas. All foundation plans must be accompanied by cross sections showing all re-enforcement and other details at each change in foundation design.

4-107. RESIDENTIAL, MOBILE HOME / MANUFACTURED HOUSING:

4-107.1 Definitions. Unless clearly indicated otherwise by the context of this section, the following word and terms when used herein, shall have the following meanings.

1. Residential Housing: A permanent dwelling structure which is custom built on the site of its permanent location. Designed for and located on a permanent foundation, not capable of being transported on its own chassis. Connected to public utilities, and completely assembled on the site of its foundation.

2. Manufactured Housing: A permanent dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, capable of being transported on its own chassis and designed without a permanent foundation whether or not one is subsequently provided. Manufactured housing bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280, et seq.), effective June 15, 1976, as may be amended.

3. Modular Housing: A permanent dwelling structure designed for and located on a permanent foundation and not capable of being transported on its own chassis; connected to public utilities, consisting of pre-selected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom

built on the site of its permanent location, and also in contradistinction to a manufactured housing unit.

4. Mobile Homes: A permanent manufactured housing unit built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976.

4-107.2 FOOTINGS & FOUNDATIONS: (Residential Manufactured Homes)

All residential, manufactured homes shall have footings and a foundation as set out in the International Building Code, or engineered stamped foundation plan, whichever is the more restrictive.

1. Residential manufactured design homes shall have a poured concrete or solid blocked perimeter skirting wall, or an engineered pre-fabricated custom made perimeter skirting unit approved by the building official.*

* EXCEPTION:

(a) Concrete board material such as HardiBoard or Durock may be used as a perimeter wall for manufactured housing units under certain conditions:

1. In locations identified as former R-4 zoning districts under-going active development, inclusive (Glenridge Estates Subdivision, Waddell Subdivision, and 17th Street south of Park Street).

2. As change outs of older manufactured housing units in other areas of the City.

3. The perimeter wall must rest on a concrete shelf.

4. The concrete shelf must extend 6” above finished grade.

5. Either the perimeter wall shelf or the foundation piers must be below the identified frost line (30”). Whichever feature is not below the frost line shall be poured 12” below grade.

6. The concrete board material must be secured to a treated wood frame. Alternate framing systems shall be at the sole discretion of the Building Official.

7. The perimeter wall shall be provided with an access way and ventilation as required by code.

8. The installation of a perimeter wall and framework shall be conducted by a licensed contractor or the homeowner, as required by code.

9. The perimeter wall shall be finished in a workmanlike manner as expected on any other single family structure.

2. Mobile Home Pads: Mobile home pads shall measure at least 20 by 20 inches, and be at least 12 inches deep. The number of required pads and straps shall be as Follows:

   1. 14' x 80' …… 5 pairs of pads, 5 straps
   2. 14' x 70' …… 4 pairs of pads, 4 straps
   3. Under 60' …… 3 pairs of pads, 3 straps
   4. Other dimensions similar to above, never less than three pairs of pads and straps

3. Mobile Home / Manufactured Housing: All mobile homes and Manufactured Homes shall have skirting installed no More than 45 days after placement on the site of any Manufactured home park. Skirting shall be continuous, rodent and vermin proof, and free from hazardous rough edges. Wood skirting shall be made with treated lumber.

All wood skirting shall be constructed of treated lumber.

4-108. DETACHED SMALL STRUCTURE FOUNDATIONS:

For small detached structures containing 600 or less square feet in floor area, foundations shall meet the following requirements:

(a) Storage sheds of 300 sq ft or less, no foundation is required.

(b) Storage sheds of 300-600 sq ft in size shall have a spread footing of a minimum bottom width of 12”, and a minimum depth of 10” below grade. The structure must be 6” above grade.

(c) Any structure over 600 sq ft, regardless of use shall have a minimum footing of 30” depth, and 8” width. The structure must be 6” above grade.

(d) Any enclosed structure for the purpose of, or capable of vehicle storage shall have footings at a minimum of 30” depth, 8” width, and include a 4” parking slab of concrete or asphalt. The structure must be 6” above grade.

(e) All light weight, pre engineered carports shall have a footing of a minimum 12" width, and 10" depth, with a 4" parking slab of dustless surface (concrete or asphalt).

(f) All stick built carports must have a minimum footing of 30" depth, and 8" width. If the structure is built in "pole barn" fashion concrete piers of 30" depth 8" width are required.

4-109. EXTERIOR SPRAY PAINTING STANDARDS: A Spray Painting Permit is required or each individual exterior spray painting job. Any person, prior to exterior spray painting shall obtain a permit from the city by making application to the Building Official setting forth the name and address of the applicant, the name and address of the owner of the property to be painted, and shall pay a permit fee as provided for an Article 12 of this chapter. The applicant shall produce a minimum $5,000 bond or liability insurance policy from a company recognized in the State of Kansas to secure payment for any and all damage caused to any persons or property by such exterior spray painting.

ARTICLE 2. INTERNATIONAL ELECTRICAL CODE

4-201. 2008 ELECTRICAL CODE. The National Electrical Code, 2008 Edition, as promulgated by the National Fire Prevention Association, including Appendixes A, B, & C is hereby adopted as the Electrical Code of the City of Dodge City for the purpose of providing practical safeguarding of persons and property from hazards arising from the use of electricity.

4-201.1 AMENDMENTS AND DELETIONS TO ELECTRICAL CODE.

The following sections of the National Electric Code 2008 adopted and incorporated by reference in this article are hereby amended or deleted as follows:

(a). Title - Insert: These regulations shall be known as the Electrical Code of the City of Dodge City, hereinafter referred to as "the code".

(b) Administrative Authority: The Building Official shall be the electrical inspector and Administrative Authority.

4-202. ELECTRICAL PERMITS REQUIRED: No person(s) shall make any material alteration or addition to the existing electrical wiring of any building or structure nor shall any new building or structure be wired for any circuits or devices requiring the use of electric current before making application in writing on forms furnished by the City for a permit and making the payment of all fees required therefore.

4-202.2 ISSUANCE OF PERMITS RESTRICTED. Electrical permits shall be issued under this article only to a licensed contractor, licensed master electrical contractor, or the owner of such residential building or structure.

(1). A permit shall be issued to a licensed contractor who is engaged in the construction or remodeling of new or existing commercial buildings or residential family dwellings. Application of permit must be completed upon a city application form provided for that purpose, and list all qualified trade subcontractors at the time of application. The licensed contractor shall be responsible for payment of all fees at the time of permit approval.

(2). A permit shall only be issued to a licensed master electrical contractor who is engaged in contracting or providing their services to individual persons or firms.

(3). The bona fide owner/occupant of a single family dwelling, residing in said dwelling, or intending to reside in such dwelling if under construction, may be issued a permit to do electrical work after the service and branch cabinet have been installed by a licensed electrician. Providing the electrical inspector is convinced that such person is qualified by knowledge and experience to wire said dwelling in accordance with the provisions of the electrical code, a permit will be issued. One element of qualification shall be the ability to provide a schematic drawing of the work to be performed and demonstrating a knowledge of the construction requirements for such work. All such work shall comply with the provisions of the electrical code. Such owner shall personally perform the principal labor in connection therewith rather than act in a supervisory capacity.

4-203. ELECTRICAL CONDUIT REQUIRED.

CONDUIT REQUIRED. For a nonresidential structure no romex shall be installed for electric light, heat or power wires in new buildings.

(a). Conduit shall be required for all exterior installations of wiring attached to any structure.

4-204. ELECTRICAL MAIN DISCONNECTION. A service disconnect shall be installed at the exterior of a building for any new service and shall be a minimum of 100 amp service.

4-205. PRE-REQUISITE TO SERVICE. No electrical current or other electrical service shall be turned on, except for the purpose of

testing and inspecting, until the installation thereof shall have been approved by the electrical inspector.

ARTICLE 3. INTERNATIONAL PLUMBING CODE

4-301. 2009 INTERNATIONAL PLUMBING CODE. The 2009 International Plumbing Code is hereby adopted as the Plumbing Code of the City of Dodge City for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, addition to, use or maintenance of plumbing systems in the City of Dodge City, providing for the issuance of permits and collections of fees, including the Appendix. Three (3) copies of the plumbing code are on file and are open for inspection of the public in the office of the City Clerk and made a part hereof as if fully set out in this ordinance.

4-301.1 AMENDMENTS AND DELETIONS TO PLUMBING CODE.

The following sections of the *International Plumbing Code 2003* adopted and incorporated by reference in this article are hereby amended or deleted as follows:

(a). Title - Insert: These regulations shall be known as the Plumbing Code of the City of Dodge City, hereinafter referred to as "the code".

(b) Administrative Authority: The Building Official shall be the plumbing inspector and Administrative Authority.

4-302. PLUMBING PERMITS REQUIRED: No building shall have any alterations, extensions, or new piping in the gas, waste and vent, or water made by any person(s) before making application in writing on forms furnished by the City for a permit and making the payment of all fees required therefore.

4-302.1 PERMIT APPLICATIONS: Permit(s) shall only be issued upon the filing of an application on forms provided for the purpose. Application approval shall be made by the building official or his/her duly authorized assistant, and only after prior arrangement for payment of permit fee has been made as required by this code or by any requirements established by the city clerk.

4-302.2 ISSUANCE OF PERMITS RESTRICTED. Plumbing permits shall be issued under this article only to a licensed contractor, licensed master plumbing contractor, or the owner of such building or structure.

(1). A permit shall be issued to a licensed contractor who is engaged in the construction or remodeling of new or existing commercial buildings or residential family dwellings. Application of permit must be completed upon a city application form provided for that purpose, and

list all qualified trade subcontractors at the time of application. The licensed contractor shall be responsible for payment of all fees at the time of permit approval.

(2). A permit shall only be issued to a licensed master plumbing contractor who is engaged in contracting or providing their services to individual persons or firms.

(3). The bona fide owner/occupant of a single family dwelling, residing in said dwelling, or intending to reside in such dwelling if under construction, may be issued a permit to do waste and vent only, not to include yard-line plumbing work, providing the plumbing inspector is convinced that such person is qualified by knowledge and experience to plumb said dwelling in accordance with the provisions of the plumbing code. No gas piping, or water piping in or outside of the structure is permitted, and shall only be carried out by a licensed plumber. The sewer line extending outside the building wall to the main shall be done by a licensed plumber. One element of qualification shall be the ability to provide a schematic drawing of the work to be performed and a knowledge of the construction requirements for such work. All such work shall comply with the provisions of the plumbing code. Such owner shall personally perform the principal labor in connection therewith rather than act in a supervisory capacity.

4-303. MOBILE HOME WATER HEATER. When a water heater is installed in a mobile home the water heater shall be labeled for mobile home use.

4-304. GAS FUELED LOG LIGHTERS.

(a) INSTALLATION. The installation of gas fueled log lighters without approved safeties installed in new residential and commercial wood-burning fireplaces is hereby prohibited.

(b) REPAIR. The repair of a gas fueled fireplace log lighter, after they become inoperable for any reason, shall be prohibited. The gas line serving such fixture or appliance shall be permanently taken out of service by a license master plumbing or mechanical contractor qualified to work on gas lines.

4-305. VACANT BUILDINGS, PRESSURE CHECK REQUIRED. Before any building or structure which has been vacant or unoccupied for a period of one year or more, a pressure check shall be made on the fuel gas piping system to determine that the system complies with the requirements of the mechanical and/or plumbing code. Such pressure test shall run from the structure

wall nearest the fuel gas meter and shall include the entire gas pipe system in the buildings or structure.

(a) TEST PROCEDURE. The test procedure used shall be capable of disclosing all leaks in the system and shall be selected after giving due consideration to the volumetric content of the system and its location.

ARTICLE 4. WATER CONDITIONING & UNDERGROUND SPRINKLER SYSTEMS INSTALLATION CODE

4-401. COMPLIANCE. Both underground sprinkler systems or water softener installations, alterations, and repairs shall comply with the provisions of this article.

4-402. ADMINISTRATIVE AUTHORITY: The Building Official shall be the Underground Sprinkler System, and Water Conditioning Inspector and Administrative Authority.

4-403. WATER CONDITIONING PERMIT REQUIRED. No underground sprinkler system or water softener system shall be installed or altered by any person before making an application in writing on forms furnished by the City for a permit and making the payment of all fees required therefore. The requirement for this permit and inspections thereof is limited to the system of potable water intake, outflow, and drainage connections.

4-404. PERMIT APPLICATIONS: Permit(s) shall only be issued upon the filing of an application on forms provided for the purpose. Application approval shall be made by the building official or his/her duly authorized assistant, and only after prior arrangement for payment of permit fee has been made as required by this code or by any requirements established by the city clerk.

ISSUANCE OF PERMITS RESTRICTED. Underground water sprinkler systems, or water conditioning permits shall be issued under this article only to a licensed underground sprinkler or water conditioning installer or to a licensed master plumber.

In no instance shall a property owner be allowed to perform any alteration to the potable water systems.

4-405. SYSTEM READY APPLICATION. A potable water system shall be made readily adaptable for the water treatment equipment by a licensed master plumber.

ARTICLE 5. INTERNATIONAL MECHANICAL CODE

4-501. **2009 INTERNATIONAL MECHANICAL CODE.** The 2009 International Mechanical Code is hereby adopted as the Mechanical Code of the City of Dodge City for regulating and governing the design, construction, quality of materials, erection,

installation, alteration, repair, location, relocation, replacement, addition
to used or maintenance of mechanical systems in the City of Dodge City; providing for the issuance of permits and collections of fees, including Appendix. Three (3) copies of the Mechanical Code are on file and are open for inspection of the public in the office of the City Clerk and are made a part hereof as if fully set out in this ordinance.

4-501.1 AMENDMENTS AND DELETIONS TO MECHANICAL CODE.

The following sections of the *International Mechanical Code 2003* adopted and incorporated by reference in this article are hereby amended or deleted as follows:

(a) Title - Insert: These regulations shall be known as the Mechanical Code of the City of Dodge City, hereinafter referred to as "the code".

(b) Administrative Authority: The Building Official shall be the mechanical inspector and Administrative Authority.

4-502. MECHANICAL PERMITS REQUIRED: No Building shall have a system installed, changed out, altered or extended which involves the heating and air, duct or flue system, refrigeration, unless a permit application shall be made in writing on forms furnished by the City for a permit and making the payment of all fees required therefore.

4-502.1 PERMIT APPLICATIONS: Permit(s) shall only be issued upon the filing of an application on forms provided for the purpose. Application approval shall be made by the building official or his/her duly authorized assistant, and only after prior arrangement for payment of permit fee has been made as required by this code or by any requirements established by the City Clerk.

4-502.2 ISSUANCE OF PERMITS RESTRICTED. Mechanical permits shall be issued under this article only to a licensed contractor, or licensed master mechanical contractor. *

(1). A permit shall be issued to a licensed contractor who is engaged in the construction or remodeling of new or existing commercial buildings or residential family dwellings. Application of permit must be completed upon a city application form provided for that purpose, and list all qualified trade subcontractors at the time of application. The licensed contractor shall be responsible for payment of all fees at the time of permit approval.

(2). A permit shall only be issued to a licensed master mechanical contractor who is engaged in contracting or providing their services to individual persons or firms.

(3). The bona fide owner/occupant shall be permitted to conduct any and all normal maintenance. (ORD. 3435)

4-503. GAS FUELED LOG LIGHTERS.

(a) INSTALLATION. The installation of gas fueled log lighters without approved safeties installed in new residential and commercial wood-burning fireplaces is hereby prohibited.

(b) REPAIR. The repair of gas fueled fireplace log lighters, after they become inoperable for any reason, shall be prohibited. The gas line serving such fixture or appliance shall be permanently taken out of service by a licensed person qualified to work on gas lines.

4-504. VACANT BUILDINGS, PRESSURE CHECK REQUIRED. Before any building or structure which has been vacant or unoccupied for a period of one year or more may be reoccupied, the building owner or his/her agent shall have a pressure check made on the fuel gas piping system to determine that the system complies with the requirements of the mechanical and/or plumbing code. Such pressure test shall run from the structure wall nearest the fuel gas meter and shall include the entire pipe system in the building or structure.

(a) TEST PROCEDURE. The test procedure used shall be capable of disclosing all leaks in the system and shall be selected after giving due consideration to the volumetric content of the system and to its location.

ARTICLE 6. PROPERTY MAINTENANCE CODE

GENERAL

4-601. 2009 INTERNATIONAL EXISTING BUILDING CODE. The 2009 International Existing Building Code is hereby adopted as the Existing Building Code by the City of Dodge City.

4-601.1 TITLE. These regulations shall be known as the Property Maintenance Code of the City of Dodge City, hereinafter referred to as "this code".

4-601.2 SCOPE. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating,

sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators, and occupants; the occupancy of existing structures and premises, and for administration, enforcement, and penalties.

4-601.3 INTENT. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

4-601.4 SEVERABILITY. If a section, subsection, sentence, clause, or phrase of this code is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this code.

APPLICABILITY

4-602.1 GENERAL. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

4-602.2 MAINTENANCE. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

4-602.3 APPLICATION OF OTHER CODES. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the building, fire, plumbing and mechanical codes. Nothing in this code shall be construed to cancel, modify or set aside any provision of the zoning or other City property and development ordinances.

4-602.4 EXISTING REMIDIES. The provisions in this code shall not be construed to abolish or impair existing remedies of the City or its officers or agencies relating to the repair, removal, or demolition of any structure or premises condition which is dangerous, unsafe and unsanitary.

4-602.5 WORKMANSHIP. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

4-602.6 HISTORIC BUILDINGS. The provisions of this code shall not be mandatory for existing buildings or structures designated by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

4-602.7 REQUIREMENTS NOT COVERED BY CODE. Requirements necessary for the strength, stability or proper operation of an existing structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

DUTIES AND POWERS OF THE CODE OFFICIAL

4-603.1 GENERAL. The code official shall enforce the provisions of this code.

4-603.2 RULE-MAKING AUTHORITY. The code official shall have authority as necessary in the interest of public health, safety and general welfare, to develop rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety. Such rulings shall be in writing and available for public inspection.

4-603.3 INSPECTIONS. The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the City administration.

4-603.3.1 CAUSE FOR INSPECTION. Inspections shall be made based on visual observation, documented complaints received, and/or code enforcement projects approved by the City.

4-603.3.2 OWNER IDENTIFICATION. When a complaint is received the code official will make reasonable attempt to contact the owner, landlord or agent prior to an inspection.

4-603.4 RIGHT OF ENTRY. The code official is authorized to enter structures or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

4-603.5 IDENTIFICATION. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

4-603.6 NOTICES AND ORDERS. The code official shall issue all necessary notices or orders to ensure compliance with this code.

4-603.7 DEPARTMENT RECORDS. The code official shall keep official records of all business and activities of the department specified in the provisions of this code.

4-603.8 COORDINATION OF INSPECTIONS. Whenever in the enforcement of this code or another code or ordinance, the responsibility of more than one code official of the jurisdiction is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to numerous visits by inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

4-603.9 LIABILITY. The code official or any employee charged with the enforcement of this code, while acting for the City in the lawful discharge of duties shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

Any suit or other legal action instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the City until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer acting in good faith and without malice, shall be free from liability for

acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

APPROVAL

4-604.1 MODIFICATIONS. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reasons make the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. Documentation of actions granting modifications shall be recorded and entered in the department files, and made available for public inspection.

4-604.1.1 For example, the code official shall have the right to relax the minimum dimensional provisions of this code by ten percent upon proper justification; but may not impose more stringent requirements without *substantial* justification of health, life or fire safety needs.

4-604.2 ALTERNATIVE MATERIALS, METHODS AND EQUIPMENT. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

4-604.3 REQUIRED TESTING. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction.

4-604.3.1 TEST METHODS. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall approve the testing procedures.

4-604.3.2 TESTING AGENCY. All tests shall be performed by an approved agency.

4-604.3.3 TEST REPORTS. Reports of tests shall be retained by the code official.

4-604.4 MATERIAL AND EQUIPMENT REUSE. Materials, equipment and devices shall not be reused unless such elements have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

VIOLATIONS

4-605.1 UNLAWFUL ACTS. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

4-605.2 GENERAL. After any order of the code official or the appeals board made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a Class C misdemeanor. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

4-605.3 FAILURE TO OBEY ORDER. If, after any order of the code official or appeals board made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the code official may (a) cause such person to be prosecuted under Section 105.2; or (b) institute any other appropriate actions to abate such building as a public nuisance.

4-605.4 FAILURE TO COMMENCE WORK/ABATE. Whenever the required repair or demolition is not commenced within the specified time of any final notice or order, the code official may institute appropriate action to restrain, correct, or abate the situation.

4-605.5 ABATEMENT OF VIOLATION. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting other appropriate actions to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

NOTICES AND ORDERS

4-606.1 NOTICE to owner or person or persons responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed in Section 4-606.2 and 4-606.3. Notices for condemnation procedures shall also comply with Section 4-608.3.

4-606.2 FORM. Such notice prescribed in Section 4-606.1 shall:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the violation or violations and why the notice is being issued;
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code; and
5. Inform the property owner and/or person responsible of the right to appeal.

4-606.3 NOTIFICATION POLICY. Except for emergency situations and systematic inspections authorized by the City administration, enforcement of the standards of this code will normally consist of the following steps:

4-606.3.1 AN INFORMAL NOTICE TO MAKE REPAIRS OR ABATE. Upon observing the existence of a suspected violation of the standards of this code and its adopting ordinance, the code official within ten days shall send a Notice to Repair or Abate to the responsible party. The Notice to Repair or Abate shall be sent by regular mail and shall:

a. Specify the date of inspection;

b. Specify the address where the violation was found;

c. Include the name and signature of the inspector;

d. Include a description and location of each violation observed;

e. State that each violation is a separate punishable offense;

f. Order the responsible party to correct the listed violations by a specified date;

g. State that a re-inspection will be made to determine whether all violations have been corrected by the specified date; and

h. Notify the responsible party of the right to appeal before the housing advisory and appeals board.

4-606.3.2 A formal violation notice as provided under any applicable provision of this code and its adopting ordinance. A formal notice shall include the items listed in 4-606.3.2 above.

4-606.3.3 PROSECUTION OR OTHER APPROPRIATE LEGAL ACTION.

4-606.3.4 For more serious alleged violations, failure of the code official to utilize the first informal steps of this enforcement process shall not invalidate any enforcement steps authorized by this code, nor shall such omission be used as a ground for appeal to the Housing Advisory and Appeals Board or a court of legal jurisdiction, nor as a defense to any legal action brought for violation of this code.

4-606.4 REASONABLE TIME POLICIES The following time limits shall be utilized as normal guidelines for the correction of violations of this code and its adopting ordinance:

1. Not more than twenty-four hours for an emergency;

2. Not more than fifteen days for securing a vacant building, removing trash or garbage, or correcting hazardous (but non-emergency) conditions;

3. Not less than thirty, nor more than ninety days for all other violations, except as stated in 4 - 6 immediately following;

4. Repair orders issued between November 15 and April 1 for exterior work adversely affected by cold weather, such as painting and concrete work, shall have additional time for repairs, but in no instance longer than May 31;

5. The code official may approve the doubling of the time provided in a written notice when there are extenuating circumstances and where the responsible party has made a substantial, documented effort to correct the violations;

6. No further extensions shall be permitted except by order of the Hearing office for good cause shown. Such extensions would be the exception, and only where there are extenuating circumstances or where the responsible party has made a documented, substantial effort to correct the violations.

4-606.5 SERVICE OF NOTICE AND ORDER. The notice and order (and any amended or supplemental notice and order) shall be served upon the responsible person. A copy shall also be delivered to the record owner of the property. Failure of the code official to serve or relive any person shall not invalidate any proceeding hereunder as to any other person duly served.

4-606.6 METHOD OF SERVICE. Service of formal notices or orders issued pursuant to this code shall be made upon all persons entitled

thereto either personally or by certified mail. If the whereabouts of such persons is unknown and the same cannot be ascertained by the code official after exercise of reasonable diligence, the code Official shall make an affidavit to that effect, and service may be made by publishing the same once each week for two consecutive weeks in the official local newspaper, with a copy posted on the affected premises. Service upon the owner's agent or upon the person responsible for the property shall constitute service of notice upon the owner.

4-606.6.1 NOTICE WHEN DELIVERY REFUSED. Pursuant to K.S.A. 12-1617(e), if the responsible person or owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this Property Maintenance of the Code of the City of Dodge City, Kansas (and associated provisions listed below) during the preceding twenty-four month period, the Code Official as designated agent for the governing body of the City may provide notice of the issuance of any further notices or orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident of Ford County, notice provided by this is a nonresident of Ford County, notice provided by this section shall be given by telephone communication or first class mail.

This alternate method for delivery of notices or orders applies where an owner or agent of an owner of property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order pursuant to associated nuisance codes of the City, specifically:

(1) The Weeds Regulations, Article 3, Chapter VIII;

(2) The Environmental Code, Article 1, Chapter VIII.

4-606.7 PROOF OF SERVICE. Proof of service of the notice and order shall be certified to at the time of service by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the code official.

4-606.8 PROSECUTION RESPONDENT. After an inspection is made and notice delivered, the official respondent to all prosecution proceedings shall be the code official, and/or other persons within the code official’s hierarchy. A citizen complaint shall not be divulged to the public except under judicial order.

UNSAFE STRUCTURES AND EQUIPMENT

4-607.1 GENERAL. When a structure, premises, or equipment is certified by the code official to be unsafe, or when a structure is certified unfit for human occupancy, or is found unlawful, such structure, premises, or equipment shall be condemned pursuant to the provisions of this code.

4-607.1.1 UNSAFE STRUCTURES. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

4-607.1.2 UNSAFE EQUIPMENT. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

4-607.1.3 UNSAFE PREMISES.. Premises are unsafe whenever the code official finds accessory structures and yard areas that provide an attractive nuisance for children; that may become harborage for rodents and other vermin; that may become infested with insects and arachnids; that hold stagnant water; that are health
hazards; and that pose safety hazards to occupants and to the public.

4-607.1.4 STRUCTURE UNFIT FOR HUMAN OCCUPANCY. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

4-607.1.5 UNLAWFUL STRUCTURE. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law, or where a valid permit for work initiated has expired.

4-607.2 CLOSING OF VACANT STRUCTURES. If a structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises

within the time specified in the order, the code official shall cause the premises to be closed through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

4-607.3 NOTICE. Whenever the code official has condemned a structure, premises, or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure, premises, or equipment in accordance with Section 106.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 106.2

4-607.4 PLACARDING. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the words "DO NOT ENTER; UNSAFE TO OCCUPY" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

4-607.5 PROHIBITED OCCUPANCY. Any person who shall occupy placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy

placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

4-607.6 REMOVAL OF PLACARD. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

EMERGENCY MEASURES

4-608.1 IMMINENT DANGER. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "DO NOT ENTER: UNSAFE TO

OCCUPY" It shall be unlawful for any person to enter such structure. With the permission of the code official, such structure may be entered for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

4-608.2 TEMPORARY SAFEGUARDS. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems the minimum necessary to meet such emergency.

4-608.3 CLOSING STREETS. When necessary for the public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

4-608.4 EMERGENCY REPAIRS. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

4-608.5 COST OF EMERGENCY REPAIRS. Costs incurred in the performance of emergency work shall be paid by the City. The legal counsel of the City shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

4-608.6 HEARING. Any person ordered to take emergency measures shall comply with such order forthwith; however, upon petition, shall be granted an informal hearing with the building official as soon as practical. After such hearing the building official may continue, modify, or revoke such emergency order. The reasons for such emergency order shall be corrected within the set time frame. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

4-608.7 DECLARED DISASTERS.. The City Administration shall have authority to suspend certain provisions of this code during a disaster emergency declared by federal, state, or local officials. Such suspension shall be the minimum necessary to accommodate the emergency situation.

DEMOLITION

4-609.1 GENERAL. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous,

unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction or installation of any structure for a period of more than one year, to demolish and remove such structure.

4-609.2 NOTICES AND ORDERS. All notices and orders shall comply with Section 106.

4-609.3 FAILURE TO COMPLY. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

4-609.4 SALVAGE MATERIALS. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, to the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

MEANS OF APPEAL

4-610.1 GENERAL. All persons are encouraged to discuss any notice or order issued under this code with the code official. Any person may appeal from a notice or order or any official action taken under this code. The Director of Development Services for the City of Dodge City is hereby designated as Hearing Officer for this purpose.

4-610.2. PROCESSING OF APPEAL.

(1) Appeals shall be filed within 15 days from receipt of a notice order.

(2) Each appellant shall be given at least 10 days written notice of the time and place of an appeal hearing.

(3) Failure of a person to file an appeal shall constitute a Waiver of the right to an administrative hearing and adjudication of the notice or order, or to any portion thereof.

(4) The hearing of an appeal from a preliminary or informal notice or order shall be considered the same as an appeal from a final notice or order. A second hearing shall not be conducted for identical circumstances based on the formality of the notice or order.

(5) Enforcement of any notice or order shall be stayed during the pendency of an appeal that is properly and timely filed, except for emergency orders issued pursuant to Section 108.

4-610.3 EFFECT OF DECISION TO DISMISS. A final decision to dismiss a violation notice or order issued by the Hearing Officer or a court of competent jurisdiction shall not prevent the code official from enforcing this code to abate future or continuing violations of this code.

4-610.4 EFFECT OF FAILURE TO APPEAL. Failure of a person to file an appeal shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order, or to any portion thereof.

4-610.5 HEARING OFFICE TO HEAR APPEAL ONCE. The hearing of an appeal from a preliminary or informal notice or order shall be considered the same as an appeal from a final or final notice or order. The board shall not conduct a second hearing for identical circumstances based on the formality of notice.

4-610.6 STAYING OF ORDER UNDER APPEAL. Enforcement of any notice and order of the code official issued under this code and its adopting ordinance shall be stayed during the pendency of an appeal therefrom which is properly and timely filed, except for emergency orders issued pursuant to Section 108.

4-610.7 EFFECT OF HEARING OFFICER DECISION. After an appeal hearing, the decision of the Hearing Office is final. Any decision may be appealed to the Ford County District Court within thirty days of the Hearing office decision.

4-610.8 EFFECT OF DECISION TO DISMISS. A final decision to dismiss a violation notice issued by the Appeals Board or a court of competent jurisdiction shall not prevent the code official from enforcing this code to abate future or continuing violations of this code.

INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED

4-611.1 GENERAL. No person shall obstruct, impede, or interfere with any officer, employee, contractor, or authorized representative of the City or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code, or with any

person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of the City, person having an interest or estate in such building or structure, or purchaser is engaged in the work or repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this code.

DEFINITIONS

GENERAL

4-612.1 SCOPE. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

4-612.2 INTERCHANGEABILITY. Words stated in the present tense include the future and past; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

4-612.3 TERMS DEFINED IN OTHER CODES.. Where terms are not defined in this code and are defined in the building, fire prevention, zoning, fire, plumbing or mechanical codes, such terms shall have the meanings ascribed to them as in those codes.

4-612.4 TERMS NOT DEFINED. Where terms are not defined, through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

4-612.5 PARTS. Whenever the words *dwelling unit*, *dwelling*, *premises*, *building*, *rooming house*, *rooming unit*, *story, or structure* are stated in this code, they shall be construed as though they were followed by the words *or any part thereof*.

GENERAL DEFINITIONS

4-613.1 DEFINITIONS.

APPROVED. Approved by the code official.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes.

CODE OFFICIAL. The person charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION. The control and elimination of insects, rats or other vermin by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GOOD REPAIR. For equipment, in a state of reasonably efficient working order without creating hazards. For structural features, relatively free from damage that impairs its use or function.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

IMMINENT HAZARD. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

LABELED. Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

OCCUPANCY. The purpose for which a building of portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building; or having possession of a space within a building.

OPENABLE AREA. The part of window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PREMISES. A lot, plot or parcel of land including any structures thereon. Premises also includes any and all adjoining easements and rights-of way.

PROPER STATE OF REPAIR. See Good Repair.

PROTECTIVE COVERING. Coated with a resistant finish (such as paint) to protect the surface from the elements and deterioration.

RESPONSIBLE PERSON. The person, firm, partnership, corporation or other legal entity responsible for compliance with provisions of this code. This term includes all who facilitate or help facilitate the action, including but not limited to property owners, renters, guests, business employees, corporations, and individual members of corporations.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, construction materials, crockery and dust and other similar materials.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work.

YARD. An open space on the same lot with a structure.

GENERAL REQUIREMENTS

4-614.1 SCOPE. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

4-614.2 RESPONSIBILITY. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in Section 4-618 and 4-619. A person shall not occupy as owner-occupant or permit another person to occupy

premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit or premises that they occupy and control.

4-614.3 VACANT STRUCTURES AND LAND. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem, become an attractive nuisance to children, or adversely affect the public health or safety.

EXTERIOR PROPERTY AREAS

4-615.1 SANITATION. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

4-615.2 GRADING AND DRAINAGE. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

4-615.3 SIDEWALKS, DRIVEWAYS, PARKING AREAS. All sidewalks, walkways, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions and obstructions.

4-615.4 WEEDS. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. All noxious weeds shall be prohibited. Primary responsibility and further details for enforcement of weed control shall be the City Weed Control Ordinance, Chapter 8, Article 3 of the Dodge City Code.

4-615.5 RODENT AND VERMIN HARBORAGE. All structures and exterior property shall be kept free from rodent and vermin harborage and infestation. Where rodents, or vermin are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent and vermin harborage and to prevent reinfestation. Places where mosquitoes are likely to develop shall be eliminated.

4-615.6 EXHAUST VENTS. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors and other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

4-615.7 ACCESSORY STRUCTURES. All accessory structures, including but not limited to detached garages, fences and walls, shall be maintained structurally sound and in good repair.

4-615.7.1 Gates which are required to be self-closing and self-latching in accordance with other codes (such as around swimming pools) shall be maintained such that the gate will positively close and latch when released from a position of 6 inches from the gatepost.

4-615.8 VEHICLE PARKING. Motor vehicles, trailers, campers, recreation vehicles, and boats when parked/stored outdoors between a building wall and the adjacent street pavement (front and side if corner lot) shall only be permitted within designated and approved driveways and parking areas. These provisions are instituted to encourage proper drainage, to help prevent soil erosion and resultant sedimentation onto adjacent streets and properties, to prevent vision hazards, to enhance pedestrian safety, to protect public utilities and facilities, and to protect the public rights-of-way.

4-615.8.1 RESIDENTIAL.

1. Large vehicles (greater than ¾ ton), boats, campers, and trailers shall not be on or overhang the public rights-of-way.
2. All vehicle parking/storage shall not block or encroach upon public sidewalks or walkways.

3. Designated driveways and parking areas shall have access to the street from an approved curb cut and approach where curbs exist.

4. Where no clearly marked driveway/parking area exists, the designated area shall be deemed to be the space that would customarily be such area:
   a. An area perpendicular to the street, no more than 20 feet wide and extending from the approved curb cut and approach at the street toward or beside the building wall.
   b. A circular drive not more than 12 feet wide beginning and ending at an approved curb cut.
   c. Compact off-sets from the above may be approved upon proven need and justification.

4-615.8.2 NONRESIDENTIAL.

1. Vehicles may be outside such designated areas for short periods (less than 24 hours a month) for cleaning and maintenance purposes.
2. When stored in an enclosed structure, these provisions apply only to the access to such structure.
3. Vehicular areas shall not expand onto the public rights-of-way.
4. Curb cuts and approaches shall be clearly identified.
5. All vehicle parking/storage shall not block or encroach upon public sidewalks or walkways.
6. Designated driveways and parking areas shall have access to the street from an approved curb cut and approach where curbs exist.
7. Earth and surfacing materials from drives and parking/storage areas shall not be allowed to erode and deposit on public streets or adjacent properties.

4-615.9 DEFACEMENT OF PROPERTY. No person shall willfully or want only damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner (or tenant if the lease so stipulates) to restore said surface to an approved state of maintenance and repair. The Graffiti Ordinance (Chapter VIII, Article 7 of the Dodge City Code) shall be the primary enforcement mechanism for this provision.

EXTERIOR STRUCTURE

4-616.1 GENERAL. The exterior of all structures shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

4-616.2 PROTECTIVE TREATMENT. To provide weather resistance and to discourage mold and mildew, all exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches and trim, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight.

4-616.2.1 VIOLATION DEFINED. It shall be deemed a violation of this code when a total of more than 100 square feet of a structural surface area or 60 percent of any building element (such as a window frame) is in need of paint or other protective covering.

4-616.3 STREET NUMBERS. Each structure to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public way. All numbers shall be in Arabic numerals at least 3 inches high and ½ inch wide.

4-616.4 STRUCTURAL MEMBERS. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

4-616.5 FOUNDATION WALLS. All foundation walls shall be maintained reasonably plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other vermin.

4-616.6 EXTERIOR WALLS. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

4-616.7 ROOFS AND DRAINAGE.. The roof and flashing shall be sound, tight and not have defects that admit rain, which may cause interior deterioration, mold or mildew. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and down spouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

4-616.8 DECORATIVE FEATURES. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

4-616.9 OVERHANG EXTENSIONS. All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

4-616.10 STAIRS AND WALKING SURFACES. Every stair, ramp, balcony, porch, deck or other walking surface shall comply with the provisions of Section 702.9.

4-616.11 STAIRWAYS, DECKS, PORCHES AND BALCONIES. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and be capable of supporting the imposed loads.

4-616.12 CHIMNEYS AND TOWERS. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by application of weather-coating materials, such as paint or similar surface treatment.

4-616.13 HANDRAILS AND GUARDS. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

4-616.14 WINDOW, SKYLIGHT AND DOOR FRAMES. Every window, skylight, door and their frames shall be kept in sound condition, good repair and weather tight.

4-616.14.1 GLAZING. All glazing materials shall be maintained free from missing panes and holes.

4-616.14.2 OPERABLE WINDOWS. Every window, other than a fixed window, shall be easily operable and capable of being held in position.

4-616.15 INSECT SCREENS. During the period from April 1 to November 15, every outside opening *required for ventilation* of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch, and every swinging door shall have a self-closing device in good working condition.

4-616.16 DOORS. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guest rooms shall tightly secure the door.

4-616.17 BASEMENT HATCHWAYS. Every basement hatchway shall be maintained to prevent the entrance of rodents and other vermin, rain and surface drainage water.

4-616.18 GUARDS FOR BASEMENT WINDOWS. Every basement window that is openable shall be supplied with protection against the entry of rodents and other vermin.

INTERIOR STRUCTURE

4-617.1 GENERAL. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Every occupant shall keep that part of the structure which such occupant occupies or controls in a clean and sanitary condition. Every owner of a structure containing a rooming house, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain in a clean and sanitary condition the shared or public areas of the structure and exterior property.

4-617.2 STURCTURAL MEMBERS. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

4-617.3 INTERIOR SURFACES. In order to provide weather resistance, to diminish possible lead paint exposure, and to diminish mold and mildew, all interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling paint, missing or loose plaster (over two square feet per incident), decayed wood, and other defective surface conditions shall be corrected.

4-617.4 STAIRS AND RAILINGS. All interior stairs and railings shall be maintained in sound condition and good repair.

4-617.5 STAIRS AND WALKING SURFACES. Every stair, ramp, balcony, porch, deck or other walking surface shall comply with the provisions of Section 702.9.

4-617.6 HANDRAILS AND GUARDS. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

4-617.7 INTERIOR DOORS. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

RUBBISH AND GARBAGE

4-618.1 ACCUMULATION OF RUBBISH OR GARBAGE. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage that is or may become a rodent or vermin harborage, a fire or other safety hazard, a health hazard, an attractive nuisance to children, and/or a detriment to neighborhood enjoyment and property values. Residential properties shall not be used for outside storage of any materials not customarily associated with residential yards. Outside storage on nonresidential properties shall not be permitted unless enclosed by a six foot high fence and when within 100 feet of residential zones, screened from view of such residential property.

> Exception: When otherwise specifically permitted by the Dodge City Zoning Ordinance.

4-618.2 DISPOSAL OF RUBBISH. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

4-618.2.1 RUBBISH STORAGE FACILITIES. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner (or tenant if the lease so stipulates) of the premises shall be responsible for the removal of rubbish.

4-618.3 DISPOSAL OF GARBAGE. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

4-618.4 ENFORCEMENT RESPONSIBLITY. The provisions of Section 305 intend to provide general guidelines. Primary enforcement and more detailed regulations of rubbish and garbage storage and disposal are under the jurisdiction of the City Sanitation Department and the Health Department.

EXTERMINATION

4-619.1 INFESTATION. All structures shall be kept reasonably free from insect, rodent and other vermin infestation. All structures in which insects, rodents, or other vermin are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

4-619.2 OWNER. The owner of any structure shall be responsible for extermination within the structure and premises prior to occupying, renting or leasing the structure.

4-619.3 SINGLE OCCUPANT. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

4-619.4 MULTIPLE OCCUPANT. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a multi-tenant nonresidential structure shall be responsible for extermination in the public and shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, said occupant shall be responsible for extermination.

4-619.5 OCCUPANT. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure and premises.

> Exception: Where the infestations are cause by defects in the structure, the owner shall be responsible for extermination.

LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

GENERAL

4-620.1 SCOPE. The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

4-620.2 RESPONSIBILITY.. The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

LIGHT

4-621.1 HABITABLE SPACES. Every habitable space shall have at least one window of approved size facing directly out the outdoors or to a court. The minimum total glazed area for every habitable space shall be eight percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent of the floor area of the interior room or space, but not less than 12 square feet. The exterior glazing area shall be based on the total floor area being served.

Exception: Rooms below grade complying with 4-621.3, except that upon any building permit issued for remodeling below grade areas shall include compliance with 4-621.1.

4-621.2 COMMON HALLS AND STAIRWAYS. Every common interior hall and stairway, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb or equivalent for each 200 square feet of floor area, provided that the space between lights shall not be greater than 30 feet. Every exterior means of egress stairway, other than in one- and two-family dwellings, shall be illuminated.

4-621.3 OTHER SPACES. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

VENTILATION

4-622.1 HABITABLE SPACES. Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

Exception: When rooms and spaces without opening to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least ten percent of the floor area of the interior room or space, but not less than 12 square feet. The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

Exception: Rooms below grade complying with 4-622.3, except that upon any building permit issued for remodeling below grade areas shall include compliance with 4-622.1.

4-622.2 BATHROOMS AND TOILET ROOMS. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

4-622.3 OTHER SPACES. All other spaces shall be provided with natural or artificial ventilation sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

4-622.4 PROCESS VENTILATION. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space. See also 4-615.6.

4-622.5 CLOTHES DRYER EXHAUST. Clothes dryer venting systems shall be independent of all other systems and shall be vented in accordance with the manufacturer's instructions.

OCCUPANCY LIMITATIONS

4-623.1 PRIVACY. Dwelling units, hotel units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

4-623.2 MINIMUM ROOM WIDTHS. A habitable room, other than a kitchen, shall not be less than 7 feet in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet between counter fronts and appliances or counter fronts and walls.

4-623.3 MINIMUM CEILING HEIGHTS. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet.

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet on center and projecting not more than 6 inches below the required ceiling height.
2. Basement rooms in one- and two-family dwellings having a ceiling height of not less than 6 feet 8 inches with not less than 6 feet 4 inches of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet or more shall be included.

4-623.4 ACCESS REQUIREMENTS. Every ~~bedroom~~ dwelling unit, rooming house unit, hotel/motel guestrooms, and dormitory units shall comply with the requirements of Sections 4-623.4.1 through 4-623.4.

4-623.4.1 ACCESS FORM UNITS.. Units shall not constitute the only means of access to other units, bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

4-623.4.2 WATER CLOSET ACCESSIBILITY. Every unit shall have access to at least one water closet and one lavatory without passing through another unit. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

4-623.5 PROHIBITED OCCUPANCY. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

4-623.6 OTHER REQUIREMENTS. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

4-623.7 OVER CROWDING. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 4-623.5.

TABLE 4-623.5 MINIMUM AREA REQUIREMENTS

MINIMUM AREA IN SQUARE FEET SPACE	1-2 occupants	3-5 occupants	6 or more
Living room	100	120	150
Dining area	No requirements	80	100
Kitchen	50	50	60
Bedrooms	70 1st occupant, 100-2 occupants, 50 each additional		

4-623.7.1 COMBINES SPACES. Combined living or kitchen and dining room spaces shall comply with the requirements of Table 4-623.5. The total area shall equal that required for separate rooms if the space is located so as to function as a combination living room/dining room.

4-623.8 EFFICIENCY UNIT. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet. These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
3. The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.

4-623.9 FOOD PREPARATION. All spaces to be occupied for food preparation purposes shall contain suitable space and facilities to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

GENERAL

4-624.1 SCOPE. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

4-624.2 RESPONSIBILITY. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this chapter.

REQUIRED FACILITIES

4-625.1 DWELLING UNITS. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the

same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

4-625.2 ROOMING HOUSES. At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

4-625.3 HOTELS.. Where private water closets, lavatories, and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

4-625.4 EMPLOYEES' FACILITIES. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

4-625.4.1 DRINKING FACILITIES. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler, or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

TOILET ROOMS

4-626.1 PRIVACY. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A closable door and interior locking device(s) shall be provided for all common or shared bathrooms.

4-626.2 LOCATION. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

4-626.3 LOCATION OF EMPLOYEE TOILET FACILITIES. Toilet facilities shall be accessible from the employees' regular working area. The required toilet facilities shall be located not more than one story above or below the employees' regular working area and the path of travel to such facilities shall not exceed a distance of 500 feet. Employee facilities shall either be separate facilities or public customer facilities.

> Exception: Facilities that are required for employees in accessory structures which are located in adjacent lots or structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet from the employees' regular working area to the facilities.

PLUMBING SYSTEMS AND FIXTURES

4-627.1 GENERAL. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

4-627.2 FIXTURES CLEARANCES. Plumbing fixtures shall have adequate clearances for usage and cleaning.

4-627.3 PLUMBING SYSTEM HAZARDS. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

WATER SYSTEM

4-628.1 GENERAL. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot and cold running water in accordance with the plumbing code.

4-628.2 CONTAMINATION. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture.

4-628.3 SUPPLY. The water supply system shall be installed and maintained to provide a safe supply of water to plumbing fixtures, devices and appurtenances.

4-628.4 WATER HEATING FACILITIES. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 102 degrees F. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

SANITARY DRAINAGE SYSTEM

4-629.1 GENERAL. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

4-629.2 MAINTENANCE. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

STORM DRAINAGE

4-630.1 GENERAL. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that may damage structural foundations, cause erosion, create a health hazard through possible ponding, or create a public nuisance.

MECHANICAL AND ELECTRICAL REQUIREMENTS

GENERAL

4-631.1 SCOPE. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

4-631.2 RESPONSIBILITY. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter.

HEATING FACILITIES

4-632.1 FACILITIES REQUIRED. Heating facilities shall be provided in structures as required by this section.

4-632.2 RESIDENTIAL OCCUPANCIES. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 65 degrees F in all habitable rooms, bathrooms and toilet rooms.

4-632.3 OCCUPIABLE WORK SPACES. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65 degrees F during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions

2. Areas in which persons are primarily engaged in vigorous physical activities.

4-632.4 ROOM TEMPERATURE MEASUREMENT. The required room temperatures shall be measured 3 feet above the floor near the center of the room and 2 feet inward from the center of each exterior wall.

MECHANICAL EQUIPMENT

4-633.1 MECHANICAL EQUIPMENT. All mechanical equipment, fireplaces and solid fuel-burning appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

4-633.2 COOKING AND HEATING EQUIPMENT. All cooking and heating equipment, components and accessories in every heating, cooking and water-heating device shall be maintained free from leaks and obstructions.

4-633.2.1 COOKING EQUIPMENT. Cooking appliances shall not be used to provide space heating to meet the minimum requirements of Section 4-632.2.

4-633.3 REMOVAL OF COMBUSTION PRODUCTS. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

Exception: Fuel-burning equipment and appliances which are labeled and approved for unvented operation.

4-633.4 CLEARANCES. All required clearances to combustible materials shall be maintained.

4-633.5 SAFETY CONTROLS. All safety controls for fuel-burning equipment shall be maintained in effective operation.

4-633.6 COMBUSTION AIR. A supply of air for proper combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment. See 403.5 for clothes dryer venting.

4-633.7 ENERGY CONSERVATION DEVICES. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled and approved for such purpose and the installation is specifically approved.

ELECTRICAL FACILITIES

4-634.1 FACILITIES REQUIRED. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 4-635.

4-634.2 SERVICE. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities. Every dwelling shall be served by a main service that is not less than 60 amperes. Any change out of an electrical system shall be upgraded to a minimum 100 amperes.

4-634.3 ELECTRICAL SYSTEM HAZARDS.. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

ELECTRICAL EQUIPMENT

4-635.1 INSTALLATION. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

4-635.2 RECEPTACLES. Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every bathroom shall contain at least one receptacle. Any new receptacle outlets within six feet of water and wet areas shall have ground fault circuit interrupter protection.

4-635.3 LIGHTING FIXTURES. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric lighting fixture.

DUCT SYSTEMS

4-636.1 GENERAL. Duct systems including clothes dryer vents shall be maintained free of all obstructions and shall be capable of providing the required function.

FIRE SAFETY REQUIREMENTS

GENERAL

4-637.1 SCOPE. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

4-637.2 RESPONSIBILITY. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another

person to occupy any premises that do not comply with the requirements of this chapter.

MEANS OF EGRESS

4-638.1 GENERAL. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way.

4-638.2 EXIT CAPACITY. The capacity of the exits serving a floor shall be sufficient for the occupant load thereof as determined by the building code.

4-638.3 NUMBER OF EXITS. In nonresidential buildings, every occupied story more than six stories above grade shall be provided with not less than two independent exits. In residential buildings, every story exceeding two stories above grade shall be provided with not less than two independent exits. In stories where more than one exit is required, all occupants shall have access to at least two exits.

Exception: A single exit is acceptable under any one of the following conditions:

1. Where the building is equipped throughout with an automatic sprinkler system and an automatic fire detection system with smoke detectors located in all corridors, lobbies and common areas.
2. Where the building is equipped throughout with an automatic fire detection system and the exit is an approved smoke proof enclosure or pressurized stairway.
3. Where an existing fire escape conforming to the building code is provided in addition to the single exit.
4. Where permitted by the building code.

4-638.4 ARRANGEMENT. Exits from dwelling units, rooming house units, hotel/motel guestrooms and dormitory units shall not lead through other such units, or through toilet rooms or bathrooms.

4-638.5 EXIT SIGNS. All means of egress shall be indicated with approved "Exit" signs where required by the building code. All "Exit" signs shall be maintained visible and all illuminated "Exit" signs shall be illuminated at all times that the building is occupied.

4-638.6 CORRIDOR ENCLOSURE. All corridors and openings therein serving an occupant load greater than 30 shall provide an effective barrier to resist the movement of smoke. All transoms, louvers, doors and other openings shall be closed or shall be self-closing.

Exceptions:

1. Corridors in occupancies, other than high-hazard occupancies, which are equipped throughout with an automatic sprinkler system.
2. Patient rooms doors in corridors in health care occupancies where smoke barriers are provided in accordance with the fire prevention code, are not required to be self-closing
3. Corridors in educational occupancies where each room that is occupied for instruction or assembly purposes has at least one-half of the required means of egress doors opening directly to the exterior of the building at ground level.
4. Corridors that are in compliance with the building code.

4-638.7 DEAD-END TRAVEL DISTANCE. All corridors that serve more than one exit shall provide direct connection to such exits. The length of a dead-end corridor shall not exceed 35 feet where the building is not equipped throughout with an automatic sprinkler system. The dead-end travel distance limitation shall be increased to 70 feet where the building is equipped throughout with an automatic sprinkler system.

Exception: Dead ends that are in compliance with the building code.

4-638.8 AISLES. Arrangements of chairs or tables and chairs shall provide for ready access by aisle access ways and aisles to each egress door. The minimum clear width of each aisle in assembly, educational and health care occupancies shall be maintained in accordance with the requirements of the building code. In all other occupancies, aisles shall have a minimum required clear width of 44 inches where serving an occupant load greater than 50, and 36 inches where serving an occupant load of 50 or less. The clear width of aisles shall not be obstructed by chairs, tables or other objects.

4-638.9 STAIRWAYS, HANDRAILS AND GUARDS. Every exterior and interior flight of egress stairs serving any building or portion thereof, and more than 48 inches high, shall have a handrail on at least one side of the stairs. Every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 48 inches above the floor or grade shall have guards. Handrails shall not be less than 30 inches nor more than 42 inches high, measured vertically above the nosing of the tread or above the finished floor of the landing or walking surface. Guards shall not be less than 30 inches high above the floor of the landing, balcony, porch, deck, ramp or other walking surface.

Exception: Guards are not required at any location where guards are exempted by the building code.

4-638.10 STAIRWAY IDENTIFICATION. A sign shall be provided at each floor landing in all interior stairways more than three stories above grade, designating the floor level. All elevator lobby call stations on all floor levels shall be identified by approved signs in accordance with the requirements for new buildings in the building code.

Exception: The emergency sign shall not be required for elevators that are part of an accessible means of egress complying with the building code.

4-638.11 LOCKED DOORS. All means of egress doors shall be readily openable from the interior without the need for keys, special knowledge or effort, except as provided for in Section 4-638.11.1.

4-638.11.1 LOCKED PERMITTED. Locks or fasteners shall not be installed on egress doors except in accordance with the following conditions.

1. In mental, penal or other institutions where the security of inmates is necessary, in which case properly trained supervisory personnel shall be continuously on duty and approved provisions are made to remove occupants safely in case of fire or other emergency.
2. In problem security areas, special-purpose door alarms or locking devices shall be approved prior to installation. Manually operated edge or surface-mounted flush bolts are prohibited.
3. Where the door hardware conforms to that permitted by the building code.

4-638.12 EMERGENCY ESCAPE. Every sleeping room located below the third story in residential and group home occupancies shall have at least one openable window or exterior door approved for emergency egress or rescue; or shall have access to not less than two approved independent exits. The exits shall be operable from the interior to provide a clear opening for ready egress.

Exceptions:

Existing Basements, Single Family. Basement sleeping rooms in single family homes existing prior to this code may continue their use.

Existing Basement Apartments. Basement dwelling units existing prior to this code shall have two independent means of approved egress, and approved in this context shall mean that the occupants have ready access to the egress facilities. Building equipped throughout with an automatic fire suppression system.

4-638.12.1 SECURITY. Bars, grilles or screens placed over emergency escape windows shall be releasable or removable from the inside without the use

of a key, tool or force greater than that which is required for normal operation of the window. See 702.11.1 for exceptions.

ACCUMULATIONS AND STORAGE

4-639.1 ACCUMULATIONS. Rubbish, garbage or other materials shall not be stored or allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of egress.

4-639.2 HAZZARDOUS MATERIAL. Combustible, flammable, explosive or other hazardous materials, such as paints, volatile oils and cleaning fluids, or combustible rubbish, such as wastepaper, boxes and rags, shall not be accumulated or stored unless such storage complies with the applicable requirements of the building code and the fire prevention code.

FIRE RESISTANCE RATINGS

4-640.1 GENERAL. The fire resistance rating of floors, walls, ceilings, and other elements and components required by the building code shall be maintained.

4-640.2 MAINTENANCE. All required fire doors and smoke barriers shall be maintained in good working order, including all hardware necessary for the proper operation thereof. Fire doors shall not be held open by door stops, wedges and other unapproved hold-open devices.

FIRE PROTECTION SYSTEMS

4-641.1 GENERAL. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the fire prevention code.

4-641.2 FIRE SUPPRESSION SYSTEM. Fire suppression systems shall be maintained in proper operating condition at all times.

4-641.3 STANDPIPE SYSTEMS. Standpipe systems shall be maintained in proper operating condition at all times. Hose connections shall be unobstructed.

4-641.4 FIRE EXTINGUISHERS. All portable fire extinguishers shall be visible, provided with ready access thereto, and maintained in an efficient and safe operating condition. Extinguisher shall be of an approved type.

4-641.5 SMOKE DETECTORS. A minimum of one approved single-station or multiple-station smoke detector shall be installed in each guestroom,

suite or sleeping area in residential and group home occupancies, and in dwelling units in each bedroom and the immediate vicinity of the bedrooms in occupancies in one- and two-family dwellings and multifamily dwellings. In addition in all residential occupancies, smoke detectors shall be required on every story of the dwelling unit, including basements. In dwelling units with split levels and without an intervening door between the adjacent levels, a smoke detector installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.

4-641.5.1 INSTALLATION. All detectors shall be installed in accordance with the building code and the manufacturer's instructions. When actuated, the smoke detectors shall provide an alarm suitable to warn the occupants within the individual room or dwelling unit.

4-641.5.2 POWER SOURCE. The power source for smoke detectors shall be either an AC primary power source or a monitored battery primary power source.

4-641.5.3 Tampering. Anyone tampering or interfering with the effectiveness of a smoke detector shall be in violation of this code.

4-641.6 FIRE ALARM SYSTEMS. Fire alarm systems shall be in proper operating condition at all time. (Ordinance No. 3327)

ARTICLE 7. DANGEROUS AND UNFIT STRUCTURES

4-701. The 2009 INTERNATIONAL FUEL GAS CODE is hereby adopted as the Fuel Gas Code for the City of Dodge City. All gas piping and gas appliances installed, maintained, altered or repaired within the City of Dodge City shall comply with the provisions of this article.

PURPOSE. This article shall be known as the Minimum Standards Code for Structures, both residential and non-residential for the city. It is the purpose of this article to establish minimum standards for all structures, facility requirements and structural adequacy for all structures residential or non-residential within the city; to provide for administration and enforcement of the article and to specify authority and procedure to be followed in executing the powers established in this article. (Ord. 2866, Sec. 2)

4-702. DEFINITIONS. The following terms wherever used or referred to in this code shall have the following meanings for the purpose of this article.:

(a) CITY - is the City of Dodge City, Ford County, Kansas.
(b) GOVERNING BODY - is the governing body of the City of Dodge City.

(c) PUBLIC OFFICER - is the person designated or appointed by the city manager to exercise the powers prescribed by this article.
(d) A RESIDENTIAL STRUCTURE OR DWELLING - shall mean any structure, or part thereof, used or occupied by person or persons intended to be used, and includes any appurtenances belonging thereto or usually enjoyed therewith and the premises on which such structures are situated.
(e) A NON-RESIDENTIAL STRUCTURE - shall mean any structure which issued for other than residential purposes, or a part of such structure to a structure a part of which is used for other than non-residential purposes and the premises on which such structures are situated.
(f) DILAPIDATION - shall mean a state of disrepair, structural -- decay, or conspicuous lack of maintenance of exterior painting of a structure as to constitute a blighting influence on properties in the neighborhood.
(g) OWNER - is the holder of the record legal title to any structure with or without actual possession thereof.
(h) PARTIES IN INTEREST - shall mean all persons, associations or corporations who have interests of record in a structure and known to the public officer to be entitled to possession thereof.
(i) HABITABLE ROOM - means a room or enclosed floor space arranged for living, eating or sleeping purposes, not including bath or toilet rooms, laundries, pantries, foyers or communication corridors.
(j) ROOMING HOUSE - is a hotel or motel structure containing rooms rented either by the day, week or month and similar structures with similar rooms designed for individual or non-family use and not containing cooking facilities. (Ord. 2866, Sec. 3)

4-703. FINDING THAT HAZARDS EXIST. It is found as a fact that there exists in Dodge City structures which are unfit for human use or habitation due to dilapidation, defects increasing the hazards of fire, accidents, or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions including the following without limitation:

(a) Defects therein increasing the hazards of fire, accident or other calamities.
(b) Lack of adequate ventilation which shall be a minimum of an operable window equal to 10 percent of floor area of each habitable room.
(c) Air pollution by offensive, disagreeable or harmful airborne matter.
(d) Inadequate light or sanitary facilities as defined in section 4-709.
(e) Dilapidation and disrepair; which shall include leaking roofs and improper surface water drainage.
(f) Structural defects which tend to buckle, lean or sway to cause a possibility of collapse.
(g) Overcrowding as defined in item (7), section 4-709.

(h) Uncleanliness and unhealthful conditions which may harbor or spread disease. (4-704)
(i) Inadequate ingress and egress as defined by the building code, which shall be properly maintained without obstructions.
(j) Dead and dying trees, limbs or other unsightly natural growth.
(k) Unsightly appearances that constitute a blight to adjoining property, the neighborhood or the city.
(l) Walls, siding or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood.
(m) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof.
(n) Vermin infestation.
(o) Inadequate drainage or any violation of health, fire, building or zoning regulations, or any other laws or regulations relating to the use of land and the use of occupancy of building and improvements rendering such structures unsafe or unsanitary or dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of such city.
(p) Any structure remaining uncompleted more than one year after issuance of a building permit. (Ord. 2866, Sec. 4.)

4-704. DESIGNATION AND DUTIES OF PUBLIC OFFICER. A public officer shall be designated or appointed by the city manager to exercise the powers prescribed by this article. Whenever a petition is filed with the public officer by at least five residents of the city charging that any structure is unfit for human habitation or whenever it appears the public officer (on his or her own motion, and particularly on vacancy or change of occupancy of a structure) that any structure is unfit for human use or habitation,he or she shall, if his or her preliminary investigation discloses a basis of such charges, issued and cause to be served upon the owner, every mortgagee of record and all parties in interest in such structure (including persons in possession) a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before a hearing officer designated by the city manager and a place therein fixed not less than 10 days nor more than 30 days after the service of the complaint; the owner mortgagee and parties in interest shall be given the right to file an answer to the complaint; the owner mortgagee and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the hearing officer. That if, after such notice and hearing, the hearing officer determines that the structure under consideration is unfit for human use or habitation he or she shall state in writing his or her finding of facts in support of such determination and shall issue and cause to be served upon the owner thereof, and order which:

(a) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure, (which is hereby fixed at not over 100 percent of assessed valuation as reasonable for such purpose), require the owner with the time specified in the order, to repair, alter, or improve such structure to render it fit for human use or habitation or to vacate and close the structure until conformance with the ordinances established under this law;

(b) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure, (which is hereby fixed at not over 200 percent of assessed valuation as reasonable for such purpose), requires the owner, within the time specified in the order, to remove or demolish such structure.

(c) That, if the owner fails to comply with an order to repair, alter or remove the structure, within 15 days after service of the order, the public officer may either cause such structure to be repaired, altered or improved.

(d) That, if the owners fail to comply with an order to remove or demolish the structure within 15 days after service of the order, the public officer may cause such structure to be removed or demolished.

(e) That the amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and such lien, including as part thereof allowance of his or her costs and the necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the city clerk shall at the time of certifying other city taxes, certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls of the county against the lot or parcel of land. If the structure is removed or demolished by the public officer and there are any salvageable materials from the structure which can be sold, he or she shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining it shall be paid to the parties entitled thereto as determined by proper judicial proceedings, including his or her necessary attorney's fees therein as determined by the court.

(f) The hearings officer may determining that a structure or the premises is unfit for human use or habitation if he or she finds that conditions exist in such structure or on the premises which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of such city or which have a blighting influence

on properties in the area. Such conditions may include without limitation any of the conditions described and set out in the section 4-703 hereof, or lack of minimum facilities prescribed in the section 4-709 hereof. (Ord. 2866, Sec.6)

4-705. SERVICE. Complaints or orders issued by the public officer or the hearing officer pursuant to this article shall be served upon persons either personally or by certified mail, if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or other upon such person may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the city. A copy of such complaint shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of the district court of Ford County, Kansas, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (Ord. 2866, Sec. 6)

4-706. APPEAL AND REVIEW. Any person affected by an order issued by the hearing officer may petition the district court of Ford County, Kansas, for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause' provided, however, that within 30 days after the posting and service of the order by the hearing officer such person shall petition such court. Hearing shall be had by the court on such petition as soon thereafter as possible, and shall give preference over other matters on the court's calendar. The courts shall hear and determine the issues raised and shall enter a final order or decree in the proceedings. In all such proceedings the findings of the hearing officer as to facts,if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the herein officer shall be entitled to recover any damages for action taken pursuant to any order of the hearing officer or because of compliance by such person with any order of the hearing officer. All as provided and authorized by K.S.A. 17-4759 and 17-4759a. (Ord. 2866, Sec. 7)

4-707. POWERS OF PUBLIC OFFICER. The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article including the following powers in addition to others herein granted:

(1) To investigate the structure conditions in the municipality in order to determine which structures and dwellings therein are unfit for human use and habitation;
(2) To enter upon premises for the purpose of making examinations, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
(3) To delegate any of his or her functions and powers under this article to such officers, agents and employees as he or she may designate. (Ord. 2866, Sec. 8)

4-708. POWERS OF HEARING OFFICER. The hearing officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article including the following powers in addition to others herein granted:

(1) To administer oaths, affirmations, examine witnesses and receive evidence. (Ord. 2866, Sec. 9)

4-709. MINIMUM STANDARDS FOR DWELLINGS AND ROOMING HOUSES. All dwellings shall have the following minimum facilities in satisfactory operating condition and in compliance with building, electric, plumbing, and fire codes to-wit.
(1) Inside running water and an installed kitchen sink.
(2) Inside bathing facilities which shall consist of an installed tub or shower.
(3) An installed water closet; if such is built on a porch it shall be enclosed for privacy and from the weather. All water closets shall have running water and be connected to sewage disposal in accordance with other codes of the city.
(4) Installed lighting facilities.
(5) Installed heating facilities including arrangements by chimneys or flues in accordance with safety codes and practices.
(6) Screens and other devices to effectively cover openings to the outside of the living and eating portions of such dwelling with mesh of such fineness as to prevent the entrance of flies, mosquitoes, and similar pests.
(7) The gross area per occupant shall be as follows: one occupant -- 125 square feet; the next four occupants 100 square feet each; all additional occupants -- 70 square feet each.
(8) Such other facilities and standards are as required by ordinances and codes of of the city.

Rooming houses shall have the same minimum facilities in satisfactory operating conditions as dwellings except as follows:

(1) Kitchen sink shall only be required in connection with cooking facilities.

(2) Bathing facilities shall be provided in form of a tub or shower for each eight occupants.
(3) A water closet shall be provided for each six occupants and shall be separated from bathing facilities if more than four occupants are served by each. (Ord. 2866, Sec. 10)

4-710. NUISANCES, VIOLATIONS, AND PENALTIES. If any order issued and served in accordance with this article is not complied with within the time specified therein, the structure with respect to which the order has been issued is hereby declared to be a public nuisance, and it shall be unlawful for any person that has knowledge of this issuance of the order to occupy it as a human habitation, or use the structure or any part thereof, or to suffer or permit same, or any part thereof, to be occupied as a human habitation or use therefore, any person violating this article or failing to comply therewith shall, upon conviction, be deemed guilty of an unclassified violation, and shall be punished by a fine of less than $50 for each and every offense, and each day that any such violation or failure to comply continues or is allowed to continue shall constitute and be a separate and distinct offense. (Ord. 2866, Sect. 11)

4-711. DUTIES OF CITY ATTORNEY. The public officer shall promptly report to the city attorney the names and addresses of all persons known to the public officer who have violated or failed to comply with this article, and it shall be the duty of the city attorney to proceed against such persons by civil or criminal action as shall be appropriate. (Ord. 2866, Sec. 12)

4-712. REPORTS OF PUBLIC OFFICER. The public officer shall promptly report structures or conditions which are suspected of being unfit for human habitation to the city manager. (Ord. 2866, Sect. 13)

4-713. MISCELLANEOUS PROVISIONS. The powers conferred upon the public officer by the provisions of this article shall be in addition and supplemental to the powers conferred upon the public officer by any other article. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. The measures and procedures herein provided for do not supersede, and this article does not repeal any measures or procedures which are provided by ordinance or state law for elimination, repair or correction of this conditions herein defined and referred to as objectionable, but the measures and procedures herein provided for shall be in addition thereto. (Ord. 2866, Sect. 14)

ARTICLE 8. MOVING BUILDINGS

4-801. 2009 INTERNATIONAL EXISTING BUILDING CODE. The 2009 International Existing building Code by the City of Dodge City for

regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings of the City of Dodge City; providing for the issuance of permits and collection of fees; including the Appendix.

GENERAL. The Building Official shall be the person charged with the administration and enforcement of this article.

All buildings or structures moved into or within the City limits shall be subject to comply with the provisions of the building, electrical, mechanical and plumbing codes for new buildings or structures.

4-802. CONFORMANCE TO NEW NEIGHBORHOOD. No building shall be moved into, or from one location to another within the City unless the general height and exterior appearance of such building conforms to the other buildings in the block to which it is to be moved and in the block on the opposite side of the street to such an extent that the relocation shall have no substantial adverse effect on property values in the neighborhood.

4-803. PERMITS. It shall be unlawful for any person to move, haul or transport upon or across any street, alley, sidewalk or other public place within the City or to move to a location outside the City, any house, building or other structure which exceeds the height, width, size or weight limitations provided by the laws of the State of Kansas for motor vehicles without first obtaining a permit to do so.

(a) APPLICATION FOR PERMIT. All applications for moving buildings shall be filed a minimum of forty-eight (48) hours before the move is to take place. Applications shall be made in writing on forms provided by the City. Information to be furnished by the applicant shall be existing and proposed addresses, route to be traveled, names of the owners of all facilities such as wires, poles, mast arms or similar equipment which may need temporary adjustment during the move, and the time where the adjustment will need to be made.

In addition to the information required above, the applicant shall furnish the following plans, to scale, relating to the actual structure as it will exist in its new location.

(1) Plot plan showing location on the lot.
(2) Foundation plan.
(3) Drawings showing dimension and spans, of roof rafters or trusses, ceiling joists, floor joists and all structural beams.
(4) Any other drawings or specifications required by the Building Official to show the finished condition, including any additions or accessory structures.
(5) Floor plan including any modifications to be made from original layout.

(6) Electrical plan showing how the building will conform to the current electrical code.
(7) Plumbing plan.
(8) Interior finish material.
(9) Exterior finish material including siding and roofing.

(b) REVIEW OF APPLICATION. The Building Official will review the application and plans and if necessary inspect the building, proposed route and other factors involved in the moving to make a determination as to the building's suitability in the proposed location, the structural quality, whether for any reason persons or property in the city would be endangered by the moving of the building or structure or other ordinances would be violated by the building in its new location, and may issue or deny a permit to move the building. If the permit is denied the Building Official shall provide a brief report, in writing, giving the reasons for the denial. The report shall be furnished to the applicant.

(c) PERMIT FEES. The applicant shall pay a permit fee at the time the application is filed as provided in Article 12 of this chapter.

(d) APPEAL. Should the Building Official deny the permit, the applicant may appeal the decision to the Building Board of Appeals.

4-804. NOTICES.

(a) NOTICES TO OWNERS OF FACILITIES. It shall be the responsibility of the applicant to notify the owners of all existing facilities, including the City, of the facilities which may need to be moved or adjusted along the moving route and to schedule the required adjustments with those owners, including the city departments involved.

(b) NOTIFICATION TO POLICE CHIEF. The police chief shall be notified by the applicant at the time the application is filed. The chief shall examine the proposed route and may, if another route can be used equally well and with less danger and inconvenience to persons and property, then the chief may designate such other route as the one to be used. The police chief may also require such other safety measures to be taken as he shall deem advisable. The chief shall inspect, from time to time, the progress of the move to see that it is being done properly and in accordance with the provisions of this article.

4-805. DUTY OF OWNERS OF WIRES, POLES AND OTHER EQUIPMENT. It shall be the duty of the person, firm or corporation owning or operating any of said poles, wires or other equipment to furnish sufficient and competent linemen or workmen to remove such poles, or raise or move such wires or other equipment as may be necessary to facilitate the moving of such house or structure. The necessary

expense which is incurred thereby shall be paid by the holder of the moving permit.

4-806. DUTIES OF MOVER. The holder of a moving permit granted hereunder shall observe all statutes, ordinances, rules and regulations relating to his/her operations and the relocating of the building in the city, including the cutting and trimming of trees.

4-807. BOND; INSURANCE. All applications for a permit hereunder shall be accompanied by a bond, to be approved by the governing body executed by a bonding or surety company authorized to do business in the State of Kansas, in an amount of not less than $100,000, conditioned upon saving harmless the City of Dodge City from any and all claims for personal injury or property damage caused directly or indirectly by the applicant's operations under a permit granted hereunder, and conditioned further upon the payment by the applicant of any/and all damage to persons or property caused by the negligence of the applicant, his or her agents or employees. A public liability insurance policy, issued by an insurance company authorized to do business in the State of Kansas, and conforming to this section may be permitted in lieu of a bond.

ARTICLE 9.

4-901. **2009 INTERNATIONAL RESIDENTIAL CODE.** The 2009 International Residential Code is hereby adopted as the Residential Code of the City of Dodge City for regulating and governing construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single height with separate means of egress in the City of Dodge City; providing for the issuance of permits and the collections of fees; including appendix.

ARTICLE 10. FENCES

4-1001. (Repealed and Reserved)

4-1002. FENCES; SWIMMING POOLS. All swimming pools in all zoning districts shall have fencing having a minimum height of 6 feet. Swimming pool fences shall have self-closing gates.

(a) **FENCES; SWIMMING POOL DEFINITION.** A swimming pool is any structure intended for swimming or recreational bathing that contains water over twenty-four (24 (610 mm) inches deep. This includes in ground, above ground, and on ground swimming pools, hot tubs, portable and non-portable spas, and fixed in place wading pools.

4-1003. **PERMIT FOR EXTERIOR SPRAY PAINTING.** Any person, prior to engaging in the application of paint by spraying the same outside of an enclosed structure, shall first obtain from the city a permit for each individual job by making application to the Building Official setting forth the name and address of the applicant and the name of the owner and the address of the structure to be painted, and shall pay to the city a permit fee as provided in Article 12 of this chapter.

(a) **INSURANCE REQUIRED.** Prior to the issuance of any permit by the Building Official, a certificate of liability insurance issued by an insurance company authorized to do business within the State of Kansas, in the amount of not less than $5,000 shall be obtained by the applicant for the purpose of securing the payment of any and all damage caused to any persons by reason of such exterior spray painting.

ARTICLE 11. NUMBERING BUILDINGS.

4-1101. **NUMBERING BUILDINGS, GENERAL.** To help protect the health, safety and welfare of the citizens of the city who may need emergency services, such as fire, police and ambulance, to help provide quicker deliveries and to aid visitors to the community, all buildings, existing or being erected in the city shall bear an identification, commonly known as a "house number". Such number shall serve to identify the building as to its location in the block in which it is situated and its relative position in the block.

4-1102. **SAME, METHOD OF NUMBERING.** There is hereby incorporated by Reference for the purpose of regulationg the addressing with in the corporate limits of the City of Dodge City, Kansas, the Ford County 911 Addressing Plan as amended. (Ord.No. 3484)

4-1103. **SAME, SIZE AND LOCATION OF NUMBERS.** The numbers shall be at least three inches tall and shall be placed in a conspicuous place on the building or porch. Numbers on the curbing will be permitted, but only in addition to the number on the building.

4-1104. **SAME, EXPENSE.** The expense incurred in compliance with this article shall be borne by the owner and/or tenant placing the number.

4-1105. **SAME, FAILURE TO NUMBER.** Failure to number a building, after being so ordered by the Building Official, shall be a misdemeanor and upon conviction, any such person shall be punished under the provisions of Chapter I article 1-116 of this code.

ARTICLE 12. FEES.

4-1201. FEES, GENERAL. Fees for permits required by this chapter IV shall be set by the City Commission. The City Commission shall review such permit fees at least every three years and may adjust such fees as necessary to ensure that adequate income is received to cover the cost of administration and enforcement of the various codes and activities regulated herein.

4-1202. SAME, PAYMENT. All fees for permits shall be due and payable at the time a permit is issued. The Building Official may, however, issue permits to established contractors or tradesmen and allow payment in person or by mail after a city bill for such permit fee has been sent to the permittee. All bills for permits shall be due and payable not later than 15 day following the date of such bill. Should the due day fall on a Sunday or a holiday observed by the city, the next regular business day shall be allowed as day of grace for payment. Any person who shall fail, refuse or neglect to pay the billing on or before the due date shall be subject to revocation of the permit and shall be required to pay an additional fee for renewal of such permit.

ARTICLE 13. LICENSING OF CONTRACTORS AND TRADES

4-1301. GENERAL. To protect the health, safety and welfare of the citizens of Dodge City, the city commission deems it necessary to license certain contractors and tradesmen.

4-1302. DEFINITIONS. For the purposes of this article, certain terms, phrases, words and their derivatives shall be construed as specified in this section and elsewhere in this article when specific definitions are provided. Terms, phrases and words used in the singular include the plural and the plural the singular. Terms, phrases and words used in the masculine gender include the feminine and the feminine the masculine.

(a) BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this code, or the building official's duly authorized representative.

(b) CONTRACTOR, GENERAL. Unlimited in scope. Undertakes with or for another, for a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or ability to undertake the construction, repair, alteration, remodeling, addition to, subtraction from, improvement, and demolition of any building or structure. Does not include any electrical, mechanical, plumbing, and natural or liquefied petroleum gas work related thereto.

(c) CONTRACTOR, BUILDING. Limited to construction and remodeling of commercial buildings or multiple-dwelling residential buildings, not exceeding three stories in height. Undertakes with or for another, for a fixed sum price, fee or any

compensation other than wages, advertises, or represents to the public the capacity or ability to undertake the construction, repair, alteration, remodeling, addition to, subtraction from, improvement, and demolition of any building or structure. Does not include any electrical, mechanical, plumbing, and natural or liquefied petroleum gas work related thereto.

(d) CONTRACTOR, RESIDENTIAL. Limited to construction and remodeling, repair or improvement of one or two family residences not exceeding two stories in height. Undertakes with or for another, for a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or ability to undertake the construction, repair, alteration, remodeling, addition to, subtraction from, improvement, and demolition of any building or structure. Does not include any electrical, mechanical, plumbing, and natural or liquefied petroleum gas work related thereto.

(e) CONTRACTOR, LIMITED ROOFING. Undertakes with or for another, for a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or ability to undertake the installation, repair, and replace residential roof coverings. Residential shall be limited up to a duplex. Work may include, fabrication and installation of sheet metal incidental to residential roof coverings and installation of asphalt shingles, asphalt roll roofing materials, clay tile, concrete tile, slate, wood shake or shingles and other prefabricated shingle products.

(f) CONTRACTOR, UNLIMITED ROOFING. Undertakes with or for another, for a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or ability to undertake the installation, repair, and replace of roof coverings. Work may include, but shall not be limited to roof deck insulation, roof coating, painting and covering, including use of sheet metal products incidental to roofing work or other material in connection therewith, or any combination thereof, and including installation of non-structural decking and siding.

(g) CONTRACTOR, ELECTRICAL. Undertakes with or for another, for a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or Ability to undertake the installation, repair, alteration, addition to or change out of any electrical wires, fixtures, appliances, apparatus, raceways, conduit, or any part thereof which generates, transmits, transforms, or utilizes electrical energy in any form for light, heat, power, or communications.

(h) CONTRACTOR, MECHANICAL. Undertakes with or for another, or a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or

ability to undertake the installation, maintenance, repair, fabrication, alteration, or extension of central air conditioning, refrigeration, heating, and ventilating, including duct work and low and high pressure boilers within a complete system unlimited in horsepower or tons, and all appurtenances, apparatus, piping vessels, ducts and insulation used in connection therewith.

(i) CONTRACTOR, PLUMBING / WITH GAS. Undertakes with or for another, for a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or ability to undertake the installation, maintenance, repairs, alterations, or extension of gas piping, piping materials used in waste and vent systems and water piping systems.

(j) CONTRACTOR, WATER CONDITIONING. Undertakes with or for another, for a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or ability to undertake the installation, maintenance, and repairs to machinery, tanks, or devices used to treat water, including water softening equipment.

(k) CONTRACTOR, SIGN HANGER. Those who are qualified to install, repair and replace signs within the jurisdiction. (Ord. No. 3272)

(l) CONTRACTOR, UNDERGROUND SPRINKLER SYSTEMS. Undertakes with or for another, for a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or ability to undertake the installation, maintenance, and repairs to underground water sprinkler systems.

(m) TRADES. As used in this article "trade" shall mean work or services offered or done in the electrical, mechanical and plumbing fields.

(n) TRADESPERSON. Any person who works or offers services for a fixed sum price, fee or any compensation other than wages, advertises, or represents to the public the capacity or ability to undertake repairs, alterations, additions to, or subtraction from any building or structure, in the electrical, mechanical or plumbing field.

(o) APPRENTICE / HELPER. Any person who works for another for a fixed period of time in order to learn a trade or business.

4-1303. LICENSE QUALIFICATIONS FOR CONTRACTORS & TRADESMEN

(a) BUILDING, GENERAL AND RESIDENTIAL CONTRACTORS. All contractors classed as general, building, and residential contractors shall obtain and maintain continuously a license issued by the Building Official after he/she has received written notification that an

applicant has taken the test approved by the State of Kansas and has received a minimum passing grade of seventy-five percent (75%).

(b) **ELECTRICAL, MECHANICAL** AND PLUMBING, CONTRACTORS. **All contractors offering services or who engage in contracting as either a subcontractor or by providing their services to individual persons or firms shall obtain and maintain continuously a license issued by the Building Official after he/she has received written notification that an applicant has taken a test approved by the State of Kansas, and has received a minimum passing grade of seventy-five percent (75%).**

(c) **LIMITED AND UNLIMITED ROOFING CONTRACTORS. All roofing contractors shall obtain and maintain continuously a license issued by the Building Official after he/she has received written notification that an applicant has taken the test approved by the State of Kansas and has received a minimum passing grade of a of seventy-five percent (75%).**

4-1304. EXPERIENCE REQUIREMENTS FOR SERVICE TRADES.

(1) ELECTRICAL.

(A) SAME, JOURNEYMAN. Any person desiring to be licensed as a journeyman electrician shall be required to document a minimum of two years practical experience in the electrical trade while in the employ of a Master Electrician or of a firm who has a Master Electrician in their employ. One year satisfactory work in an accredited trade school may be accepted by the Building Official in lieu of one year practical experience. The applicant shall also take and pass a journeyman's test approved by the State of Kansas, with a minimum passing grade of seventy-five percent (75%).

(B) SAME, MASTER. Any person desiring to be licensed as a Master Electrician shall be required to document a minimum of four years of practical experience in the electrical trade in the employ of a Master Electrician or of a firm who has a Master Electrician in their employ. One year satisfactory work in an accredited trade school may be accepted by the Building Official in lieu of one year practical experience. The applicant shall take and pass a Master Electrical test provided by the State of Kansas, with a minimum passing grad of seventy-five percent (75%).

(2) MECHANICAL.

(A) **SAME, JOURNEYMAN. Any person desiring to be licensed as a journeyman electrician shall be required to document a minimum of two years practical experience in the mechanical trade while in the employ of a Master mechanic or of a firm who has a master in their employ. One year satisfactory work in an accredited trade school may be accepted by the Building Official in lieu of one**

year practical experience. The applicant shall also take and pass a journeyman's test approved by the State of Kansas, with a minimum passing grade of seventy-five percent (75%).

(B) SAME, MASTER. Any person desiring to be licensed as a mechanical master shall be required to document a minimum of four years practical experience under the employ of a master mechanic or of a firm who has a master in their employ.

One year satisfactory work in an accredited trade school may be accepted by the Building Official in lieu of one year practical experience. The applicant shall take and pass a master mechanic test approved by the State of Kansas, with a minimum passing grade of seventy-five percent (75%).

(3) PLUMBING.

(A) SAME, JOURNEYMAN. Any person desiring to be licensed as a plumbing journeyman shall be required to document a minimum of two years practical experience in the plumbing trade while in the employ of a Master Plumber or a firm who has a master in their employ. One year satisfactory work in an accredited trade school may be accepted by the Building Official in lieu of one year practical experience. The applicant shall also take and pass a journeyman's test approved by the State of Kansas, with a minimum passing grade of seventy-five percent (75%).

(B) SAME, MASTER. Any person desiring to be licensed as a plumbing master shall be required to document a minimum of four years practical experience under the employ of a Master Plumber or of a firm who has a Master Plumber in their employ. One year satisfactory work in an accredited trade school may be accepted by the Building Official in lieu of one year practical experience. The applicant shall take and pass a Master Plumber test approved by the State of Kansas, with a minimum passing grade of seventy-five percent (75%).

(4) WATER CONDITIONER INSTALLER

(A) SAME. Any person desiring to be licensed as an installer of water conditioning equipment shall be required to obtain and maintain continuously a license issued by the Building Official after he/she has received written notification that an applicant has taken a test approved by the State of Kansas, with a minimum passing grade of seventy-five percent 75%).

(5) UNDERGROUND WATER SPRINKLER INSTALLER.

(A) SAME. Any person desiring to be licensed as an installer of water shall be required to obtain and maintain continuously a license issued by the Building Official after he/she has received written notification that an applicant has taken a test approved

by the State of Kansas, with a minimum passing grade of seventy-five percent (75%).

4-1305. LICENSE REQUIREMENTS FOR SERVICE TRADES. It shall be unlawful for any person/company employee to do electrical, mechanical, or plumbing trades work for any person or person(s) until such tradesperson shall have first secured a master's or journeymen's license, or is serving as an apprentice/helper directly under the supervision of a duly licensed tradesperson. *

* EXCEPTION: A bona fide owner/occupant of a single family dwelling, residing in said dwelling, or intending to reside in such dwelling if under construction, may be issued a permit under the established guidelines outlined in this chapter.

** EXCEPTION: Work performed by any person employed by the water and sewage department of the City of Dodge City in relation to operation and maintenance of the City-owned water and sewer distribution, collection, and treatment systems.

*** EXCEPTION: Factory Trained Service Technicians called out to service previous installed company brand manufactured equipment in performance with the parent company's guidelines and service pamphlets. Change-outs or repairs requiring permits must follow all city licensing requirements.

Effective Date: Section 4-1305. Provisions for license requirements of on-site journeyman for all trades, shall become effective from and after Nov. 1, 2009, as approved by the City Commission. *

- Exception: Journeyman license requirement extension.

  Business Firms and individual companies, having employees currently on their staff (as of November 2008), who can not meet the years of experience requirement for Journeyman exam testing of service trades (Section 4-1304) after the required effective date, may upon proper verification be granted an extension to the effective date by the Chief Building Official.

  Employees who have the required minimum two years practical experience in their trade field prior to the effective date, shall not be eligible to qualify for the extension clause.

4-1306. GRANDFATHERED SKILLED TRADE LICENSES. Any current trade license issued prior to 19888 by the City of Dodge City based

upon any test or criteria including passage of a standard trade exam prescribed by the State of Kansas shall remain valid and in good standing provided the licensee annually renews said license and all annual renewal requirements of this chapter are met. Failure on the part of the licensee to renew an existing license prior to January 15th of each year, or revocation of any said license by the building official for just cause, shall then require the licensee to re-apply as a new contractor and meet all current chapter requirements. *

* No contractor license may be transferred or assigned.

4-1307. BUSINESS OWNERS LICENSE REQUIREMENTS. Before any person/company employee shall be qualified to provide services as a business representative of a General, Building, Residential, Plumber, Electrician, Mechanical, Limited or Unlimited Roofing, Water Conditioning Installer, Underground Sprinkler Installer, or Sign Hangar Contractor, at least one person shall be in their employ who possess a valid license issued by the city stating that this person has been certified at the highest level in their respective trade.

4-1308. CONTRACTOR LICENSE, APPLICATION AND FEES. A contractor wishing to be licensed, shall complete an application on a form to be supplied by the city for a contractor's license to perform work and pay a licensing fee prior to performing any work as required in this chapter. The application shall include the following information:

a. Name of Applicant

b. License Type Requested

c. Local applicant/ business contact information.

d. If a nonresident, home office, business address, and phone number.

e. Length of time engaged in such trade work.

f. The application shall be signed by the applicant.

4-1309. LICENSE ISSUANCE. Any contractor required to be licensed by this chapter shall provide the following documents at the time of license application:

1. Proof of General Liability Insurance.

The contractor shall secure and file with the city clerk or his/her designee a certificate of insurance providing for public liability insurance coverage including bodily injury and property damage insurance coverage in an amount not less than $ 500,000.00 per occurrence. The required insurance shall be in full force and effect during the calendar year for which the license is issued.

2. Proof of Kansas Sales Tax ID.

3. Proof of License Qualifications.

Qualification established for each trade as outlined herein through the passage of a State of Kansas approved trades examination with a passing grade of 75 percent or greater.

4-1310. APPROVAL OF PPLICATION. All license applications shall be approved by the Chief Building Official or his/her designee.

4-1311. LICENSE DISPLAY REQUIREMENTS. Each license issued pursuant to this article shall set forth the kinds of contract work in which the licensee may engage. All licensee's under this article shall display the license or produce the same on demand of any city officer immediately or within four hours. Failure to comply with the officer's request to provide proof of licensing, the individual shall be subject to penalties as outlined in this chapter.

4-1312. LICENSE RENEWAL. All licenses issued pursuant to this article shall be renewed annually. Licenses expire on December 31st of each year, and renewal fees and application for renewal must be received no later than January 15th of the year for which issued. Failure on the part of the licensee to renew an existing license prior to January 15th, the licensee shall then be required to reapply as a new contractor and meet all current requirements. A grace period, not to exceed 15 days after the license expiration date, shall be granted to all city contractor license holders.

Block & Associates and International Code Council Licenses do not expire on an annual basis, however to obtain city permits or perform work within the city, the licensee must possess a current city issued license.

Additional documents required for all City license renewal:

1. Six (6) hours of continuing education must accompany all renewal applications.

2. Proof of current liability insurance in the amounts set on in this chapter must accompany all renewal applications.

3. Proof of Sales Tax Identification (If Applicable)

4-1313. LICENSE SUSPENSION AND REVOCATION. Any license provided for in the chapter may be refused, suspended or revoked by the Chief Building Official upon the official's own motion for cause or upon a complaint for cause. See penalties – Chapter 4, Article 15.

4-1313.1 CAUSE FOR LICENSE REVOCATION OR SUSPENSION. Any of the following shall be deemed sufficient cause to subject the holder of a license to revocation or suspension:

1. Misrepresentation of a material fact in obtaining a license or permit.

2. Willful or repeated violations of the building or construction code, or failure to comply with any lawful order of the city building official or his/her designee.

3. It shall be unlawful for any person holding a license under the provisions of this chapter, either directly or indirectly, to permit the use of the license by any unlicensed person to secure permits or to do trades work within the city.

4. Abandonment of any contract without legal cause.

5. Bad faith or unreasonable delay in the performance of contracted work.

6. Failure to obtain permits and required inspections.

7. Abusive behavior, and/or physical threats against the orders of an Inspector.

8. Any final judgment rendered under the law against a licensee for the performance of services or failure to perform services under a contract with a property owner and the failure to satisfy said judgments within ten days.

9. Whenever a licensed contractor shall knowingly and willfully violate city ordinance or displays an inability to perform work for which such contractor is licensed.

4-1314. NOTICE OF COMPLAINT. Written notice shall be given to any contractor of said complaint or allegation against such contractor, giving reasonable notice of a place and time for such hearing or review by the Chief Building Official.

4-1315. NOTICE TO APPEAL COMPLAINT. Any licensee may file an appeal in writing to the chairperson of the Building Board of Appeals within 5 business days of any written notice of complaint, or order of suspension by the chief building official. The determination of the Building Board of Appeals shall be final.

4-1316. RECIPROCITY. Any contractor who holds a valid Block & Associates or International Code Council license may, after furnishing proof of such license, be licensed by the Building Official. Should, however, the Building Official determine that the basis for a license from another agency is comparable, it will be only with a letter from either Block & Associates or the International Code Council stating so.

The City of Dodge City will accept applicants from other jurisdictions provided: they have taken a test approved by the jurisdictions provided: they have taken a test approved by the State of Kansas, with a minimum passing grade of seventy-five percent (75%). Such applicants shall provide proof of test scores from the jurisdiction where the examination was taken.

ARTICLE 14. INSPECTIONS

4-1401. REQUIRED INSPECTIONS. The Building Official or his/her assistant(s) shall inspect all new installations of concrete, framing, plumbing, mechanical, gas piping, electrical wiring, roofing or water connections to domestic potable water supply.

(a) NOTIFICATION OF INSPECTIONS. It shall be the responsibility of the each service trade to call for their individual required trade inspections. However, it is the responsibility of the permit holder to schedule and notify the building inspection department for any Certificate of Occupancy.

The Building Official or his/her assistant shall inspect installations within a reasonable time period (not including Saturdays, Sundays or legal holidays) from notice of receipt that same is ready for inspection. *

* *Whenever possible, the inspection department will strive to meet the inspection needs of any licensed contractor.*

Inspections shall be carried out during normal business hours of 8am to 5pm -- Monday through Friday. Non-emergency inspections outside normal business hours are subject to an

additional fee as set out in Appendix B of the fee schedule.

(b) INSPECTION OF WORK INSTALLATIONS. The inspector shall inspect all new alterations, additions, or extensions to any structure within the city limits. He or she shall enforce or cause to be enforced, the provisions of this chapter, and shall have the right during reasonable hours to enter any building for the purpose of making any inspection required by this chapter. When making required inspections it shall be necessary that the representative from the building trade be on-site during the Inspection.

(c) CONCEALMENT OF WORK. No work shall cover or in any manner conceal any required inspection until such inspection shall have been made and approved. No gas piping, framing, plumbing, or mechanical shall be covered or concealed from view, nor concrete poured until the same has been inspected and approved by the inspector. (Ord. 2822, Sec. 2)

4-1402. VIOLATIONS. Violation of requirements listed or against the orders of the Inspection Department will be subject to a Citation.

(a) DEFECTIVE INSTALLATION. In case any work which the inspector is required to inspect shall be found not to comply with the provisions of this article, or to be unsafe or defective, he/she shall at once notify the permit holder of such defect, and order them to change, rearrange, or remove the same. Upon the person's failure or refusal to correct such defect within a reasonable time, such person shall be deemed guilty of a violation of the provisions of this chapter and each and every day which shall elapse after the expiration of the time set for correction without a compliance with the order, shall be considered a separate offense.

4-1403. DOCUMENTATION OF WORK. The inspector shall leave a suitable distinctive marker/tag on or near the job which shall indicate whether the work has been approved or rejected. The inspector shall complete a building inspection record to remain as a permanent attachment to the building department files. Inspection records shall show time and date of all inspections, inspector performing inspections, and any and all violations requiring correction. Upon issuing a Final Certificate of Occupancy, a copy of the finished building department’s inspection record shall be provided to the permit holder.

ARTICLE 15. PENALTIES

4-1501. PENALTIES FOR VIOLATION. Any violation of the provisions of this ordinance shall be deemed to be a misdemeanor and punishable by a fine and/or imprisonment as specified in section 1-116 of chapter I of this code.

(a) After a conviction, any license issued under the provisions of this article may be rescinded by the city commission for the violation by the licensee of any applicable provision of this article, state law or city ordinance.

A license may be rescinded for a period of 30 days for a first offense, 60 days for the second offense, and indefinitely for any offense thereafter.

4-1502. REINSTATING OF LICENSE. Any person who has had their license rescinded for cause shall not be allowed to work in the trade without written recommendation from the Building Board of Appeals and approval from the city commission. Given such recommendation, approval, and payment of the required fee, the Building Official shall reissue the license.

4-1503. APPEAL PROCESS. If there should be a need to appeal any provisions of this chapter, an application to the Building Board of Appeals shall be completed within five working days of the discrepancy and a hearing will be scheduled.

4-1504. SEVERABILITY. If any provision, paragraph, word, phrase or section of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, phrases and sections shall not be affected and shall continue in full force and effect. (Ord #3190, 1997)

ARTICLE 16. UNSAFE OR DANGEROUS STRUCTURE CODE.

4-1600. DANGEROUS STRUCTURES ADOPTION AND INCORPORATION OF ABATEMENT OF UNSAFE OR CODE. There is hereby adopted and incorporated by reference an Abatement of Unsafe or Dangerous Structures Code whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or the occupants may be required to be repaired, vacated or demolished. Such code was developed and published by the Dodge City Development Services and entitled "City of Dodge City, Buildings and Construction, Abatement of Unsafe or Dangerous Structures" dated December 2002. Such Code is hereby made as a part of the ordinances and code of the City as if the same had been set out 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 Code shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable hours of the City business.

4-1601. STATUTORY AUTHORITY. This Abatement of Unsafe of Dangerous Structures Code is established under authority granted by the Kansas Statues, Annotated, section 12-1750 at seq, and the Home Rule authority of the City as granted by the Kansas State Constitution.

4-1602. PENALTIES. The referenced code has provisions of the City to abate any unsafe and dangerous structural conditions within the City. The City has the right under this code to abate such conditions and attach property and/or personal liens for the cost of the action.

4-1603. SEVERABILITY. Each Chapter, Section, Provision, Sentence, Phrase, and Word of this Code is independent of every other Chapter, Section, Provision, Sentence, Phrase, and Word in so far as inducement for the passage of the Ordinance is concerned. If any Chapter, Section, Provision, Sentence, Phrase, and word of the Code or Ordinance were ruled invalidity of the Code and Ordinance as a whole or any other part or provision thereof.

ARTICLE 17. INTERNATIONAL FUEL GAS CODE

4-1701. 2003 INTERNATIONAL FUEL GAS CODE. The 2003 International Building Fuel Gas code is hereby adopted as the Fuel Gas Code of the City of Dodge City. All gas piping and gas appliances installed, maintained altered or repaired within the City of Dodge City shall comply with provisions of this article. Three (3) copies of the Fuel Gas Code are on file and are open for inspection of the public in the office of the City Clerk and made a part hereof as is fully set out in this ordinance.

ARTICLE 18. INTERNATIONAL EXISTING BUILDING CODE

4-1801. 2003 INTERNATIONAL EXISTING BUILDING CODE. The 2003 International Existing Building Code is hereby adopted as the Existing Building Code by the City of Dodge City for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, in the City of Dodge City; providing for the issuance of permits and collection of fees; including Appendix. Three (3) copies of the Existing Building Code are on file and are open for inspection of the public in the office of the City Clerk and made a part hereof as is fully set out in this ordinance.

ARTICLE 19. INTERNATIONAL RESIDENTIAL CODE

4-1901. 2003 INTERNATIONAL RESIDENTIAL CODE. The 2003 International Residential Code is hereby adopted as the Residential Code of the City of Dodge City for regulating and governing construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single height with separate means of egress in the City of Dodge City; providing for the issuance of permits and collection of fees; including Appendix. Three (3) copies of the Residential Code are on file and are open for inspection of the public in the office of the City Clerk and made a part hereof as is fully set out in this ordinance.

CHAPTER V. BUSINESS REGULATIONS

Article 1. General Provisions
Article 2. Signs and Handbills
Article 3. Hotels, Motels and Rooming Houses
Article 4. Junkyards
Article 5. Pawnbrokers and Precious Metal Dealers
Article 6. Temporary Business License/Permits
Article 7. Public Amusements and Devices
Article 8. Taxicabs
Article 9. Scrap Metal Dealers
Article 10. Loudspeakers

ARTICLE 1. GENERAL PROVISION

5-101. **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, to conduct, pursue, carry on or operate any calling, trade, profession or occupation in the city without first paying the license fee prescribed and procuring such a license from the city clerk whenever the procuring of the license is required by the city. (Code 1986)

5-102. **NOT ASSIGNABLE OR TRANSFERABLE.** No license granted by the city shall be assignable or transferable; nor shall such license authorize any person to do business or act under it but the person named therein, nor at more than one place. There shall be no refunds except as specifically provided. (Code 1986)

5-103. **LICENSE PERIOD.** Unless otherwise provided, licenses shall commence and endure from their date of issuance, except that all semiannual licenses issued as provided in this chapter shall expire on the 30th day of June or the 31st day of December, next following the date of their issuance. (Code 1986)

5-104. **EXEMPTION OF FARMERS.** No producer or grower, or his or her agents or employees, selling in the city, farm or garden products or fruits grown by him or her in the state shall be required to pay any license fee or occupation tax imposed by any law of this city, and he or she, his or her agents or employees, are hereby exempt from the payment of any such fees or taxes, or the securing of a license. (K.S.A. 12-1617; Code 1986)

5-105. **LICENSE FEE; WHEN PAYABLE; TIME PERIOD.** All license fees shall be due and payable before the commencement of a trade, occupation, business or profession for which license fees are required. No license shall be issued until the fee is paid. If the license prescribed is for an annual, quarterly, monthly, weekly or daily period, the license

shall not be issued for any part or fraction of the year, quarter, month, week or day, respectively. The license for a day shall expire at midnight. (Code 1986)

5-106. **PAYMENT OF FEES; RECEIPT.** The city clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the licenses issued, the kind of business, for what time, to whom issued, and if possible, the exact location where the business is to be carried on. (Code 1986)

5-107. **CONTENTS OF LICENSE.** Unless otherwise provided all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire; and the person having such license shall be authorized to carry on the business therein named. (Code 1986)

5-108. **RECORD BOOK.** The city clerk shall keep a book in which shall be entered the name of each person licensed, his or her address, the date of the license, the purpose for which it is granted, the amount paid therefor, and the time the same shall expire and within 24 hours after any license has expired, the city clerk shall notify the chief of police of such expiration, unless the same shall have been renewed. (Code 1986)

5-109. **DISPLAY OF LICENSE.** All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place of business are required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the city when lawfully discharging the duties of his or her office. (Code 1986)

5-110. **LATE PERMIT FEE.** (a) Where any permit is required by this code as a condition precedent to doing any work or beginning any undertaking, and such work or undertaking is begun prior to obtaining a permit, the permit fee shall be doubled.

(b) The payment of a double fee shall not relieve any person from complying in full with the requirements of this code, nor shall it bar criminal prosecution. (Code 1983, 1-11)

5-111. **MISREPRESENTATION OF GOODS; PROHIBITED.** It shall be unlawful for any person, running and conducting a public sale within the city of any goods, wares or merchandise, to falsely advertise or misrepresent the same as being imported, or falsely represent the same as to brand, trademark, quality, weight and texture. (Code 1983, 3-6)

5-112. MISLEADING ADVERTISING OR DISPLAY OF GOODS; PROHIBITED. It shall be unlawful for any person, running or conducting any mercantile business in the city, to display in his or her place of business any goods, wares or merchandise which are not in fact priced in good faith and carried in stock for sale. (Code 1983, 3-7)

ARTICLE 2. SIGNS AND HANDBILLS

5-201. SIGNS PROJECTING OVER STATE, FEDERAL HIGHWAYS. (a) No sign, projection or other encroachment upon public rights-of-way shall be erected on, placed upon or extend over the right-of-way of any state or federal highway within the city except as permitted by the State of Kansas. (Ord. 3237, Sec. 1)

5-202. MARKING OF STREETS OR SIDEWALKS; PROHIBITED. It shall be unlawful for any person to advertise, or attempt to advertise, by marking or painting on any of the streets or sidewalks within the city. (Code 1983, 3-5)

5-203. STICKERS; CONSENT REQUIRED. It shall be unlawful for any person to attach any gummed sticker to any automobile without the consent of the owner of such automobile within the city, with the exception of public officials carrying out their duties. (Ord. 3237, Sec. 2)

5-204. POSTING ON PROPERTY OF OTHERS; CONSENT REQUIRED. It shall be unlawful for any person to post any handbills, unlicensed signs, posters, announcement, advertisements, or other written or printed matter on any building, fences, poles, or other property belonging to another without the consent of the owner thereof. Such consent shall be secured in writing, and such written consent shall be exhibited by the person having the same to any law enforcement officer on demand. (Ord. 3237, Sec. 3)

5-205. POSTING ON POLES; PROHIBITED. It shall be unlawful for any person to post any handbills, signs, posters, announcements, advertisements or other written or printed matter on any telephone, electric light or other pole within the City of Dodge City. This section shall not be construed to include public safety signs installed by a governmental agency. Each handbill, sign, poster, announcement, advertisement or other written or printed matter posted in violation of this section shall constitute a separate offense. (Ord. 3237, Sec. 4)

5-206. MUTILATION OF SIGNS; PROHIBITED. It shall be unlawful to tear, deface, mutilate, take down or in

any manner destroy any advertisement, legal, public or private notice lawfully posted for public view within the corporate limits, except that the owner of the property, upon which such advertisement or notice has been posted without his or her permission, may remove the same. (Code 1983, 3-10)

5-207. **(Repealed and Reserved)**

5-208. **(Repealed and Reserved)**

5-209. **DEFINITIONS.** For the purposes of this article, the following definitions shall apply.

(1) Distribute shall mean to hand out, deliver, issue, disperse, leave with or to deposit.
(2) Post shall mean to place, put upon, secure, or fasten.
(3) Person shall mean and include any person, firm, partnership, association, company, corporation or organization of any kind.
(4) Temporary shall mean no more than thirty (30) days from the date a permit is issued.

5-210. **EXCEPTIONS TO ARTICLE PROVISIONS.** The provisions of this article shall in no way affect the usual and customary sales and delivery of newspapers and periodicals, and shall not prevent the distribution of advertising matter in business buildings or private residences. (Code 1983, 3-24)

5-211. **Repealed. (Ord. 3237, Sec. 7)**

5-212. **DISTRIBUTION PERMIT REQUIRED.** (a) It shall be unlawful for any person to distribute or cause to be distributed any handbills, signs, posters, announcements, advertisements or other written or printed matter within the City of Dodge City without having first obtained a permit.

(b) It shall be unlawful to distribute any handbills, signs, posters, announcements, advertisements or other written or printed matter on vehicles within the City of Dodge City. (Ord. 3237, Sec. 8)

5-213. **PERSONS ACTING FOR OTHERS.** It shall be unlawful for any person to distribute or cause to be distributed any handbills, signs, posters, announcements, advertisements or other written or printed matter on behalf of any other person unless such other person shall have first obtained a permit therefore as required by Section 5-212. It shall be the duty of any person making such distribution to inform himself or herself as to whether or not the proper permit has been obtained by such other person. (Ord. 3237, Sec. 9)

5-214. **(Repealed and Reserved)**

5-215. **(Repealed and Reserved)**

5-216. **(Repealed and Reserved)**

5-217. **(Repealed and Reserved)**

5-218. **(Repealed and Reserved)**

5-219. **CONSISTENCY WITH OTHER ORDINANCES.** These regulations supplement, rather than supersede other ordinances of the City of Dodge City regarding signs. (Ord. 3237, Sec. 10)

5-220. **PENALTY.** Any person who shall violate any provision of this ordinance, upon conviction, shall be punished by a fine of not less than $10.00 nor more than $100 or imprisonment not exceeding 10 days, or both such fine and imprisonment. Each day of violation shall be a separate offense. (Ord. 3237, Sec. 11)

ARTICLE 3. HOTELS, MOTELS AND ROOMING HOUSES

5-301. **SMOKING IN BED; PROHIBITED.** It shall be unlawful for any person while in or on a bed in any hotel, motel or rooming house, or similar place of abode within the city to smoke a lighted cigarette, cigar, pipe or tobacco in any form. (Code 1983, 14-15; Code 1986)

5-302. **SAME; CAUSING FIRES.** It shall be unlawful for any person to set fire to, burn, or caused to be burned, any bedding, furniture, curtains, draperies or household furnishings by means of any lighted cigarettes, cigars, pipes or other forms of burning tobacco, or by means of matches, lighters and the like, in lighting or attempting to light, any cigarettes, cigars, pipes or any other form of smoking tobacco, in any hotel, motel or rooming house or similar place of abode within the city. (Code 1983, 14-16; Code 1986)

5-303. **POSTING OF SIGN.** The owner, manager, or person in control of each hotel, motel or rooming house, or similar place of abode within the city shall post, or cause to be posted, conspicuously in each unit of occupancy, a printed notice with the wording, "Smoking in Bed Punishable Under Chapter 5, Article 3 of the Code of the City of Dodge City." (Code 1983, 14-17; Code 1986)

ARTICLE 4. JUNKYARDS

5-401. **COMPLIANCE.** It shall be unlawful for any person to extend, create, install, establish or maintain any junkyard or unsightly store yard for the storage of junk, vehicles or equipment upon any lot, block, tract or parcel of land lying within the city except as provided in this article. (Code 1983, 15-1)

5-402. **EXEMPTIONS.** The provisions of this article shall not apply to, nor act as a prohibition or limitation upon, the maintenance and establishment of premises devoted exclusively to the dismantling or sale of parts from used automobiles, known as the automobile salvage business located in the appropriate zoning district. (Code 1983, 15-2)

5-403. **FENCE REQUIRED.** There shall be constructed around the premises where any business regulated by this article is conducted a solid fence completely screening such premises from the public view and rising from the ground to a uniform height of eight feet. Such fence shall be approved by the building official of the city. (Code 1983, 15-3)

5-404. **CONFORMANCE WITH OTHER REGULATIONS.** In the conduct of any business regulated by this article and the construction of any building or other improvements therewith, neither the building code, the zoning regulations, nor any other applicable provision of this code or city ordinance, nor the laws of the state, shall be violated in any manner. (Code 1983, 15-4)

5-405. **RECORDS.** Every junk dealer, buyer of old iron and other secondhand metals and every buyer of secondhand property, shall keep at his or her place of business a register in which he or she shall enter in writing a minute description of all property taken, purchased or received by him or her in the conduct of his or her business (including the trade name of the article), together with the time of purchase, and the correct legal name and place of residence (giving the street and number if within the city), of the person selling or leaving such property; and also the amount paid for the property. He or she shall make such entries within one hour after the purchase of the property and such entries shall be made in ink and shall not in any manner be erased, obliterated or defaced. (Code 1983, 15-5)

5-406. **FINGERPRINT OF SELLER; EXEMPTION.** Any copy of the register required by section 5-405 shall, in addition to the requirements therefor, bear the right thumb print of the person from whom the property was received or purchased. The thumb print shall be taken in the usual, approved manner and shall not be blurred or obliterated. No thumb print shall be required if the dealer or buyer shall personally

know the person from whom the property is received. (Code 1983, 15-6)

5-407. **REPORT.** Every junk dealer, buyer of old iron and other secondhand metals and every buyer of secondhand or old gold or silver, or of diamonds or other second hand jewelry or clothing of any kind at secondhand shall make out and deliver to the police department, on request by the department, a legible and correct copy from the register required by section 5-405 or 5-513, on a form furnished by the police department, of all property received or purchased during the preceding calendar day, together with the time when received or purchased and a good description of the person from whom the same was purchased. (Code 1983, 15-7)

5-408. **INSPECTION BY POLICE.** The register required by section 5-405 shall at all times be kept open to the members of the police department and any person authorized in writing for that purpose by the chief of police, which authority shall be established to the dealers and buyers. Such dealer or buyer shall also on request exhibit to any such officer for inspection any article so purchased or received by him or her. (Code 1983, 5-8)

5-409. **SAME; CONCEALMENT.** It shall be unlawful for any junk dealer, buyer of old iron and other secondhand metals or buyer of secondhand articles to conceal from sight any article or property purchased or received by him or her. Code 1983, 15-10)

5-410. **RESALE, DISMANTLING.** No junk dealer, buyer of old iron and other secondhand metals or buyer of secondhand articles shall, for a period of three days from the time of purchase of any article or property by him or her, resale, dismantle, overhaul, dispose of, change or alter the same. (Code 1983, 15-11)

5-411. **JUNKYARD PERMIT; REQUIRED.** It shall be unlawful for any person to create, extend, install, establish or maintain any junkyard or storage yard upon any lot, block, tract or parcel of land within the city on which storage, parking or dumping shall be outside of a completely enclosed building without having first obtained a permit so to do. (Code 1983, 15-22)

5-412. **SAME; APPLICATION.** Any person desiring a permit required by this article shall submit under oath and in writing to the city an application for such permit. Such application shall be accompanied by the complete plans and specifications for the proposed yard together with a favorable petition signed by four-fifths (4/5) of the resident property owners within 300 yards in all directions of the lot lines of the lot, block, tract or parcel on which such yard is to be extended, created, installed,

established, or maintained. (Code 1983, 15-23)

5-413. **(Repealed and Reserved)**

5-414. **PUBLIC HEARING.** Within 30 days after receipt of the recommendation of the city planning commission, the city commission shall hold a public hearing relative to the issuance of the permit required by this article, and shall give public notice thereof for three consecutive days in the official city paper. (Code 1983, 15-25)

5-415. **ISSUANCE OR DENIAL.** At the conclusion of the public hearing required by this article, the city shall either grant or deny the permit to create, extend, install, establish or maintain such junk or storage yard. (Code 1983, 15-26)

ARTICLE 5. PAWNBROKERS AND PRECIOUS METAL DEALERS

5-501. **DEFINITIONS.** As used in this article the words:

(a) Pawnbroker shall mean any person who loans money on deposit of pledge of personal property or other valuable thing, other than intangible personal property, or a person that deals in the purchase of personal property on condition of selling the same back again at a stipulated price, but such term shall not include any person operating under the supervision of the State Banking Commissioner, Credit Union Commissioner, or the Consumer Credit Commissioner of the State of Kansas.

(b) Person shall mean any individual, firm, company, partnership, corporation, or association of persons.

(c) Precious metal shall mean gold, silver, or platinum group metals or any used articles or other used personal property containing such metals, but shall not include coins purchased for their numismatic value rather than their metal content or ingots or other industrial residue or byproducts composed of such metals purchased from manufacturing firms.

(d) Precious metal dealer shall mean any person who engages in the business or purchasing precious metal for the purpose of reselling such metal in any form. (Code 1983, 22-1)

5-502. **LICENSE REQUIRED.** No person shall engage or continue in business as a pawnbroker or precious metal dealer without first obtaining a license therefor. He or she shall obtain such license from the city clerk. An application for such license shall be in writing and shall

state the full name and place of residence of the applicant, or if the applicant be a partnership of each member thereof, or, if a corporation or association, of each officer, shareholder, or member thereof, together with the address of the place or places where the business is to be conducted, and the hours of the day and days of the week during which the applicant proposes to engage in the business of pawnbroking or precious metal dealing at each such place, and such other information as may be necessary to determine the applicant's qualifications for a license in accordance with the provisions of this article. Each applicant also shall submit with his or her application:

(a) A statement that he or she is the holder of a valid registration certificate issued by the Director of Revenue pursuant to K.S.A. 79-3608 for each place of business for which application for a license is made; and

(b) A detailed inventory and description of all goods, wares, merchandise or other property held in pawn or for sale at the time of the application at each place of business stated therein, indicating whether the same was received in pawn or purchased as secondhand merchandise.

The application shall be in form approved by the attorney general. Each application shall be accompanied by a fee set out in Chapter 1, Article 9, which fee shall be paid annually upon renewal of the license. All such fees received by the city clerk shall be deposited in the city general fund. (Code 1983, 22-20:21; Code 1985)

5-503. **QUALIFICATIONS.** No license or any renewal thereof shall be granted to:

(a) Any person who is not a citizen of the United States;

(b) Any person who has not been an actual resident of the State of Kansas for at least two years immediately preceding the date of his or her application;

(c) Any person who has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or shall have forfeited his or her bond to appear in court to answer charges for any such offense within the 10 years immediately prior to such person's application for a license;

(d) Any person who has had his or her license revoked for cause under the provisions of this article;

(e) Any person who is not at least 21 years of age;

(f) Any person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

(g) Any person who does not own the premises for which a license is sought, unless he or she has a written lease therefor for at least three-fourths of the period for which the license is to be issued;

(h) Any person whose spouse would be ineligible to receive a license hereunder for any reason other than the age, citizenship, and residence requirements;

(i) Any partnership, unless all the partners shall be eligible to receive a license as an individual; and

(j) A corporation if any officer, manager, director, or stockholder would be ineligible to receive a license as an individual. Code 1985)

5-504. **INVESTIGATION.** After an application for a license required by this article has been filed with the city clerk, the city clerk shall forward the same to the chief of police for investigation of the applicant. (Code 1983, 22-22)

5-505. **ISSUANCE.** Upon the approval of the applicant and the application for a license required by this article by the chief of police, the city clerk shall issue such license. (Code 1983, 22-23)

5-506. **DURATION.** Every license issued under the provisions of this article shall be valid for a period of 12 months from the date of issuance. (Code 1982, 22-24)

5-507. **TRANSFER OF LICENSE.** No license issued under this article may be transferred to another person by the licensee except with the written approval thereof the city commission. (Code 1983, 22-25)

5-508. **SAME; TRANSFER OF STOCK.** It shall be unlawful for any shareholder of a corporate licensee to transfer any stock in the corporation to any person who would be ineligible to receive a license as an individual, and any such transfer shall be null and void; Provided, that if any such stockholder of a corporate licensee shall become deceased, and his or her heirs or devisees to whom such stock descends by descent and distribution or by will shall

be ineligible to receive a license hereunder, then the legal representatives of the deceased stockholder's estate, his or her heirs and devisees shall have 14 months from the date of the death of the stockholder within which to sell such stock to a person eligible to receive a license

hereunder, with such sale to be made in accordance with the provisions of the probate code and any amendments thereto. If the legal representative, heirs, and devisees shall fail, refuse or neglect to so convey the stock within the time hereinbefore prescribed, then the stock shall revert to and become the property of the corporation, for which the corporation shall pay the legal representatives heirs or devisees the book value of such stock. It the stock in any corporation shall be the subject of any trust heretofore or hereafter created, the trustee or trustees and the beneficiaries of each trustee and beneficiary of said trust who is 21 years of age or older must be a person who would be eligible to receive a license or the trustee shall be and he or she is hereby authorized and required within 14 months after the effective date of the trust to sell the stock to a person eligible to receive a license under this article and he or she shall hold and disperse the proceeds thereof in accordance with the terms of the trust or the license of the corporation shall be forfeited. During the 14 month period hereinbefore mentioned a corporation shall not be denied a license or have its license revoked if it meets all of the other requirements necessary to have a license as provided in this article. (Code 1986)

5-509. **LICENSE, POSTED.** The document or other instrument evidencing the license of a pawnbroker or precious metal dealer shall state the address at which the business is to be conducted and shall state fully the name of the licensee. If the licensee is a partnership, the names of the members thereof shall be stated, and if a corporation, the date and place of its incorporation, and the names of all the shareholders thereof. Such license shall be kept conspicuously posted in the place of business of the licensee. Not more than one place of business shall be maintained under the same license, but more than one license may be issued to the same licensee upon compliance with all the provisions of this article governing the issuance of an initial license. (Code 1986)

5-510. **CHANGE OF BUSINESS LOCATION.** Whenever a licensee shall change his or her place of business to another location within the city, he or she shall immediately give written notice thereof to the city clerk who shall then issue a duplicate license which shall show in addition to all the information appearing on the old license a record of the change of location and the date thereof, which new license shall be authority for the operation of such business under such license at such location. The licensee shall return the old license to the city clerk as soon as the new license has been received and the change in location has taken place. (Code 1986)

5-511. **RECORDS AND ACCOUNTS.** Each licensee shall keep and

use in his or her business such books, accounts, and record as will enable the city to determine whether such licensee is complying with the provisions of this article. The city may examine the books, accounts, records and files used by any such licensee or by any other person engaged in the pawnbroking business, irrespective of whether such person, partnership or corporation or shall act or claim to act as principal, agent or broker, or under or without authority of this article. The duly designated representatives of the city, including all city law enforcement officials, shall have and be given free access to all such books, accounts, papers, records, files, safes and vaults. (Code 1986)

5-512. **SUSPENSION OR REVOCATION OF LICENSE.** (a) Any license issued under this article may be suspended or revoked after due notice and a public hearing before the governing body if the licensee:

(1) Failed to pay the annual license fee;
(2) Violated any provision of this article; or
(3) Has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or the United States, or shall have forfeited his or her bond to appear in court to answer charges for any such offense, if such conviction or plea occurred subsequent to or within the 10 years immediately prior to the date of the licensee's application for the license.
(4) Has been convicted of selling any handgun to a minor.

(b) A hearing shall be provided and held within 30 days after notice of an alleged violation, and determined by written order of the governing body within 60 days after such hearing is concluded. No revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower. (Code 1983, 22-26; Code 1986)

5-513. **RECORDS OF TRANSACTIONS.** (a) At the time of making a loan or purchase, a pawnbroker shall enter in a book kept for that purpose:

(1) The date and the amount of every loan or purchase made by the pawnbroker;
(2) A full and accurate description of the property pledged; and
(3) The name, age, residence and drivers' license or other personal identification number of the pledgor or seller.

(b) At the time of purchasing precious metal, a precious metal dealer shall enter in a book kept for that purpose:

(1) The date of the purchase;

(2) A full and accurate description of each item purchased, including any identifying letters, numbers or markers on the item; and

(3) The name, age, residence, and drivers license or other personal identification number of the seller.

(c) The pawnbroker or precious metal dealer shall make such entries within one hour after receiving the property and such entries shall be made in ink and shall not be in any manner erased, obliterated or defaced.

(d) The record required by this section shall be maintained by the pawnbroker or the precious metal dealer at the pawnbroker's or dealer's place of business for not less than one year following the date of the transaction. (Code 1983, 22-2)

5-514. **REPORTS.** (a) It shall be the further duty of every pawnbroker and every precious metal dealer, on a form provided by the police department, to report legibly the description of all property received in pledge or purchased. Such report shall include all property purchased as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale, secondhand merchandise taken in trade and merchandise which the pledger uses as collateral for the loan of money. The report shall also include information to positively identify the pledger or seller. In addition to the information required by section 5-513, this form shall bear the right thumb print of the person from whom the property was received or purchased. The thumb print shall be taken in the usual, approved manner and shall not be blurred or obliterated, provided, however, nor thumb print shall be required if the dealer or buyer shall personally know, by correct name, the person from whom the property is received. No such report need be made concerning property or merchandise acquired from another pawnbroker or precious metal dealer licensed in this state in a transaction involving the purchase or other acquisition from the other pawnbroker or precious metal dealer of the other pawnbroker's or dealer's stock in trade, or a substantial thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to such property or merchandise.

(b) Reports made pursuant to this section will be collected daily by an employee of the police department. The reports collected will be those made during the preceding calendar day of business. These reports shall only be available to law enforcement officers and city and county attorneys and then only for law enforcement purposes.(Code 1983,22-3)

5-515. **INSPECTION BY POLICE.** Law enforcement officers of the city or county shall have access during regular business

hours to the place of business of any pawnbroker or precious metal dealer conducting business in the city. Access shall be for the purpose of periodically inspecting property pledged or purchased in the transaction of the business of the pawnbroker or precious metal dealer, and records relating to those transactions, to determine if the pawnbroker or dealer is complying with the provisions of this article and the laws of the state. (Code 1983, 22-4; Code 1986)

5-516. **MINORS; PROHIBITED TRANSACTIONS.** (a) No pawnbroker shall receive in pledge, or as security for any loan, transfer, service, undertaking or advantage, anything of value from any person under the age of 18 years.

(b) No precious metal dealer shall purchase any precious metal from any person under the age of 18 years.

(c) No pawnbroker or precious metal dealer shall purchase or receive any stolen property or any property which he or she may from any cause have reason to believe or suspect cannot rightfully or lawfully be sold by the person offering it for sale or pledge. (Code 1983, 22-5)

5-517. **RESALE; DISMANTLING.** (a) No pawnbroker shall, for a period of 10 days from the time of purchase of any article or property by him or her, resale, dismantle, overhaul, dispose of, change or alter the same.

(b) Every precious metal dealer shall retain all precious metal purchased as a precious metal dealer, for a period of 10 days, and such metal shall remain in the condition in which it was purchased.

(c) The 10-day period, in subsections (a) and (b), shall commence on the date that the police department received the report of it's acquisition in compliance with section 5-514. If a law enforcement officer has probable cause to believe that any property reported by a dealer has been stolen, the chief of police may give written notice to the dealer to retain such property for an additional period of 15 days. Upon such notice, the dealer shall retain such property in an unaltered condition for the additional 15-day period unless the chief of police notifies the dealer in writing that the waiting period is terminated at an earlier time. (Code 1983, 22-6)

5-518. **TRANSACTIONS IN PRECIOUS METALS; REQUIREMENTS.** A precious metal dealer shall required of every person from whom the dealer purchases precious metal for resale:

(a) Proof of identification, and

(b) A signed statement saying that the seller is the legal owner of the precious metal or is an agent of the legal owner who is authorized to sell such metal and stating when, where, and in what manner such metal was acquired by the seller. (Code 1983, 22-7(a))

5-519. REFUSAL TO REDELIVER STOLEN PROPERTY TO OWNER: EFFECT. When converted or stolen property has been pawned or sold to a pawnbroker or precious metal dealer and the pawnbroker or dealer refuses to redeliver such property to the rightful owner upon demand and presentation of a bill of sale or other property evidence of ownership by the owner, and legal action by the rightful owner to recover the property becomes necessary, the court may assess the pawnbroker or dealer for reasonable attorney's fees incurred by the rightful owner if the court finds that the pawnbroker or dealer wrongfully withheld the converted or stolen property. (Code 1983, 22-7 (b))

5-520. PAWNBROKERS; LOAN PROCEDURES. Every loan made by a pawnbroker for which goods are received in pledge of security shall be evidenced by written contract, in ink, a copy of which shall be furnished to the borrower. The loan contract shall set forth the loan period, which shall be one month, the date on which the loan is due and payable and the charges, and it shall clearly inform the borrower of his or her right to redeem the pledge during the redemption period of two months after due date. Except as otherwise provided herein, the holder of any such contract shall be presumed to be the person entitled to redeem the pledge, and the pawnbroker shall deliver the pledge to the person presenting the contract, upon payment of the principal and charges. Every pawnbroker shall retain in his or her possession, after the date on which the loan became due and payable every article pledged to him or her for a redemption period of two months. During such period, the borrower may redeem the pledged article, upon payment of the principal and charges. It shall be unlawful for any pawnbroker to sell or transfer title or possession of any pledged property until the expiration of such period of redemption. If any pledged article is not redeemed within the redemption period, the pawnbroker shall become vested with all right, title, and interest of the pledgor or his or her assigns to such pledged article, to hold and dispose of his or her own property. Any other provision of law relating to the foreclosure and sale of pledges shall not be applicable to any pledge the title to which is transferred in accordance with this section. (Code 1986)

5-521. SAME; CHARGES. (a) On the effective date of this article no pawnbroker shall contract for, charge, or receive directly or indirectly on or in connection with any pawnbroker transaction any charges, whether for interest,

storage, insurance, service fee, handling, compensation, consideration or expense which in the aggregate are greater than the charges provided and authorized by this article. Any other provisions of law relating to interest, storage, and such charges shall not be applicable to any pawnbroker transaction made in accordance with this article.

(b) Whenever any loan is made by a pawnbroker for which goods are received in pledge, the following maximum amounts may be charged:

(1) On any amount a charge may be added in an amount not to exceed 10% per month or 120 percent per annum of the amount advanced to the borrower; and

(2) The maximum amount of a loan authorized by this article shall not exceed $5,000 per transaction.

(c) The term of any loan made under the provisions of this article shall be one month. Loans may be extended or renewed by the payment of charges herein provided monthly. The charges authorized herein shall be deemed to be earned at the time the loan is made and not be subject to refund. On loans under this article, no insurance charges or any other charges of any nature whatsoever shall be permitted. (Code 1986)

ARTICLE 6. TEMPORARY BUSINESS LICENSE/PERMITS

To do business in Dodge City, you must have a Permit/License.

There shall be two types of temporary business Permit/License.

1. Temporary Businesses needing no Utility Services. These shall obtain a Temporary Business Permit.

2. Temporary Business needing Utility Services. These businesses shall obtain a Temporary Business License.

5-601. **DEFINITIONS**. For the purpose of this Article, the following words shall have the following meanings:

(a) **CHARITABLE** means any activity represented as carried on from unselfish, civic, or humanitarian motives, for the benefit of others, and for private gain, and may include without limitation athletic, benevolent, charitable, civic, cultural, patriotic, educational, fraternal, historical, medical, philanthropic, political, scientific, social service, religious, or welfare activities.

(b) **PEDDLER** shall mean any person, whether a resident of the city or not, traveling by foot, automobile, or any other type of conveyance, from place to place, from house to house or from street to street, or from a temporary location carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automobile, or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this ordinance Shall be deemed a peddler.

(c) **SOLICITOR** means any individual who conducts business by traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, or from street to street, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, tent, hotel room, lodging house, apartment, shop or any other place within the city for the purpose of exhibiting samples and taking orders for future delivery.

(d) **TRANSIENT VENDOR** is defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares, merchandise and services within the City, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant land, motor vehicle, tent, public room in hotels, lodging houses, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, or services either privately or at public auction. The person so engaged shall not be relieved from complying with the provisions of this ordinance merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a partof, or in the name of any local dealer, trader, merchant or auctioneer.

(e) **PERSON** means any individual, firm, partnership, corporation, company, religious sect or denomination, society, organization, or league; and includes any trustee,

receiver, assignee, agent, or other similar representative therof.

(f) **RESIDENCE** shall mean and include every separate living unit occupied for residential purposes by one or more other persons, contained within any type of building or structure.

(g) **PERMIT**-Issued for businesses of a temporary nature that does not need utilities. These will be issued for Peddlers, Solicitors, or Vendors, not to exceed 12 days.

(h) **LICENSE-** Issued for businesses of a seasonal or temporary nature that needs utility services. These tend to be longer in nature than the businesses issued permits. Limited to 90 days. These shall meet all parking, zoning, building and business regulations.

(i) **UTILITY SERVICES**. Electrical hookups, sewer or trash service.

(j) **ICE CREAM VENDORS** means vendors selling ice cream from a truck or cart. These shall be mobile and shall not set in place throughout operation. Must comply with all standard Traffic ordinances.

5-602. RESIDENTIAL PROHIBITION

The practice of going to residences in the City by peddlers, solicitors, and/or transient vendors is prohibited. The following activities are exempt from this prohibition:

(a) Charitable activities as defined above.
(b) Contacts at individual residences where the solicitor, peddler, or transient vendor was invited by the resident.
(c) School age children not working for someone else.
(d) Newspaper carriers

5-603 LICENSE REQUIRED

It shall be unlawful for any person to operate as a peddler, solicitor, or transient vendor defined in the preceding sections of this Article, within the City without then having a current valid license/permit in his or her possession and issued by the City. The license will state the nature of the permitted operation and its expiration date.

It shall be required by any Peddler, Solicitor, or Transient Vendor whose operation does not need any utility services, to secure a Temporary Business Permit. These are for businesses operating temporarily, not to exceed 12 days. All Temporary/Permits shall be displayed clearly so that it can be seen from the street.

5-604. EXEMPTIONS

No Peddlers, Solicitors or Itinerant Vendors license is

required, and no fees shall be charged under this Article, for:

(a) Charitable activities as defined above
(b) School age children (define) not working for someone else
(c) Any Peddler, Solicitor, or Vendors which are part of fairs, festivals, or celebrations sponsored in whole or in part by the City or any other governmental subdivision, or the state.
(d) Any Peddler, Vendor or Solicitor who operates for a registered promoter within the perimeters of a special event or the holder of a valid show, circus, or carnival license issued by the City.
(e) A producer or grower, or his or her agents or employees, selling the City farm or garden Products or fruits grown by him or her in the state of Kansas is required to obtain a license, but no fees will be charged. (K.S.A.-1617)

5-605. APPLICATION

All applicants for Peddlers, Solicitors, or Vendors permits/licenses shall make written application to the City, setting forth the type of operation, the business location, names and addresses of responsible parties, sales tax certificate, drivers license number (if operating a vehicle) Vehicle tag number (if operation from a vehicle) and other information as necessary to implement this program. Written permission from an owner/ocupant is required when the operation will be at a specific location. Where local, state, or national certifications are necessary for a business operation, the applicant shall provide evidence of such. A new application will be required whenever a business changes ownership or relocates to a new location.

5-606. INVESTIGATION AND ISSUANCE

The City shall review a completed application for conformance with all applicable public health, safety, building, zoning, and other development codes of the City and other/or the State of Kansas. Vendors who use a vehicle, when in the course of business is constantly moving shall secure a safety inspection. When all pertinent matters are found to be in order and the appropriate fees paid, a license will be issued to the applicant. There may be a police background check for certain classifications of peddlers, vendors, and itinerant vendors. If no action is taken during a seven day review period, the application is deemed to be approved; and a license will be issued upon payment of applicable fees.

5-607 LICENSE FEE

Temporary Permits are limited to 12 days and shall be $50.00 per day.
Temporary Licenses are issued for up to 90 days and shall be

$50.00 per day, $350.00 per month or $500.00 for 90 days. Ice Cream Vendor-$100.00 per 30 day period.

5-608 LICENSE TENURE AND RENEWAL

(a) The applicant for a Peddlers, Solicitors, or Vendors permits/license shall be valid for the time requested, or as agreed upon by the applicant and the City. Fees will vary according to the tenure of the license.

(b) All temporary business licenses/permits may be renewed upon a showing of compliance with this Article within a six month period of the expiration date. The City need not require an additional application or an additional investigation unless complaints have been received of violations of the conditions under which such license was issued. The City shall not renew any license where there is evidence of any grounds for the revocation of any prior license, and such application shall be required to apply for a license as in the case of an original license.

(c) Permits may be issued for up to 12 days in one location. Licenses may be issued for up to 90 days in one location.

5-609. DENIAL OR REVOCATION OF LICENSE

The City may deny any application or may revoke any license issued under this Article for any of the following causes. Notice of the denial, revocation or suspension of a license shall be given in writing to the applicant or mailed to his or her last known address setting forth the grounds of such denial or revocation.

(a) Fraud, misrepresentation or false statement contained in the application for license.

(b) Fraud, misrepresentation or false statement made in the course of carrying on the business.

(c) Any violation of the City Police, Fire, Zoning, Building and other codes, and business regulations.

(d) Conducting a business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the City.

(e) Upon conviction of the crime of theft, larceny, fraud, embezzlement or any felony, or conviction within two year prior to the application date.

5-610. APPEALS

If the City disapproves any application, or revokes any existing license, the City shall give the reason therefore in writing to the applicant. The applicant may appeal such disapproval by filing a written thereof with the City Clerk within 15 days after notice of disapproval. A hearing on

such appeal shall be held by the governing body of the City no more than 30 days after an appeal in filed. The governing body, after such hearing, may reverse or affirm the administrative decision by a majority vote. Nothing in this provision shall prejudice the right of an applicant to reapply at a later date for a business license.

5-611. USE OF STREETS, SIDEWALKS, OTHER PUBLIC PROPERTY

No Peddler, Solicitor, or Vendor shall be allowed on public streets, sidewalks, parks, or other public space for the purpose of selling or soliciting sales unless the best interest of the City exists and a separate agreement is made with the City of Dodge City.

5-611a. Use of property along Wyatt Earp Boulevard prohibited. No Peddler, Solicitor, or Vendor will be given a license/permit by the City of Dodge City along any property along Wyatt Earp Boulevard in Dodge City. (Ord. 3490)

5-612. DISTURBING THE PEACE

No licensee nor any person in his or her behalf, shall use any sound device, including any loud-speaking radio or sound-amplifiying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such license proposes to sell.

5-613. BUSINESS LICENSES-Some applicants may not fit into the category of a temporary business. If this is the case, the applicant is a permanent business and must comply with all city regulations, health and safety regulations, ect.

5-614. ADMINISTRATIVE DETERMINATIONS

From time to time the City administration will need to make interpretations and clarifications of these provisions as they apply to individual situations. Such determinations will be in writing and will be available for public inspections.

5-615. PENALTIES FOR VIOLATION.

(a) Any person who conducts, pursues, carries on, or operates within the city limits, any peddlers, solicitors, or itinerant venders operation, for which a license is required by this Article after a license should have been obtained shall be deemed to do so unlawfully. Such violation of this Article is a misdemeanor; and upon conviction thereof shall be fined in a sum of not more than $100.00. Each and every day that such violation continues constitutes a separate offense.

(b) The payment of the fine for failure to pay the fee and to secure a license shall not constitute payment of the fee nor excuse the person from making payment, and the city may

proceed by civil action to collect tax.

(c) Nothing herein contained shall prevent the City or other appropriate authority form taking such other lawful action as is necessary to prevent or remedy any violation of this Article. (ORD.#3447)

ARTICLE 7. PUBLIC AMUSEMENTS

5-701. **LIABILITY INSURANCE REQUIRED FOR AMUSEMENT RIDES.** It shall be unlawful for any person to conduct, operate, manage or sponsor any ferris wheel, merry-go-round or other amusement ride operated for hire or for the purpose of promoting or advertising any trade or business, without first filing with the city secretary a policy of liability insurance issued by an insurance company authorized to do business in Kansas evidencing the issuance and current effectiveness of one or more policies of liability insurance having policy limits of not less than $100,000 for each person or aggregate liability of $300,000 for any occurrence. The insurance policy and the entitlement of the issuing company to do business in Kansas shall be approved by the city attorney. (Code 1983, 26-1, 26-2(d); Code 1986)

5-702. **CARNIVALS AND CIRCUSES; PERMIT REQUIRED; FEE.** It shall be unlawful for any person to set up, operate or conduct a circus or a carnival in the city without having first obtained from the city clerk a permit for the same and having paid a permit fee set out in Chapter 1, Article 9, and having satisfied all of the requirements of this section. (Code 1983, 26-2(a))

5-703. **SAME; CLEANUP DEPOSIT.** In addition to the permit fee, provided for in subsection 5-702, the applicant shall deposit with the city clerk the sum of $250, which shall be held until all debris, trash, rubbish or waste has been removed by the permittee from the area upon which the carnival or circus was conducted and upon adjacent areas thereto. The cleanup shall be accomplished to the reasonable satisfaction of the superintendent of the sanitation department of the city. Upon being advised by the superintendent of the sanitation department of a satisfactory cleanup, the city clerk shall then refund the cleanup deposit to the permittee. Should the permittee fail, neglect or refuse to provide a cleanup as required by this section, the cleanup deposit shall be retained by the city and credited to the city department accomplishing the cleanup. (Code 1983, 26-2(b))

5-704. **SAME; LOCATION.** The applicant for a permit, as required by this Section, shall specify the proposed location of the circus or carnival in the application for

permit. The clerk shall not issue a permit until such time as the applicant is in full compliance with all requirements of this Section. The location shall be specified on the permit and shall not be transferable. (Ord. 2976, Sec. 1)

ARTICLE 8. TAXICABS

5-801. **DEFINITION.** For the purposes of this article, the words "taxicab" or "taxi" shall include all motor vehicles engaged in the carriage of passengers for hire. The following vehicles shall not be termed "taxicabs" within the meaning of that word: motor-buses operating under a franchise from the city or operating under the authority and jurisdiction of the state corporation commission; motor vehicles owned by undertakers and used exclusively for funeral or ambulance purposes and motor vehicles for hire being used for services at funerals or weddings. (Code 1983, 29-1)

5-802. **LIABILITY OF CITY.** The city shall not be liable for any reason for amount due to any claim or on account of any act or omission of any officer of the city in connection with any matter relating to taxicabs. (Code 1983, 29-2)

5-803. **IDENTIFICATION.** Every taxicab operated on the streets of the city shall bear on a door of each side of the taxicab, painted in letters not less than three inches in height, the name under which it is operated, which name shall include the word "taxi" or "taxicab"; shall have painted on the front of the taxicab the word "taxi" or "taxicab", or in lieu thereof some distinctive taxicab sign, and shall have painted on the rear of each cab the word "taxi" or "taxicab", or followed by the number assigned to such cab by the city. All lettering on the taxicab shall be in a color contrasting with the general color of the taxicab and so painted as to easily read. (Code 1983, 29-3)

5-804. **MAINTENANCE.** Every taxicab operated on the streets of the city shall be maintained in a clean and serviceable condition and in adequate repair, and the chief of police and the individual members of the police department of the city shall have the right to inspect as often as they deem proper every such taxicab; in order to determine whether it is being maintained in the condition and state of repair required by this article. (Code 1983, 29-4)

5-805. **REFUSAL TO ACCEPT PASSENGERS.** It shall be unlawful for any driver of a taxicab or owner thereof to refuse to make a call or to refuse to pick up a passenger coming from any distant section of the city because of

excessive distance required to be traveled in relation to the amount charged, or for any other reason. (Code 1983, 29-5)

5-806. **PROPERTY LEFT IN VEHICLE; DISPOSITION.** All drivers of taxicabs shall promptly deliver to the police department of the city, or to their employers all property left in such vehicles by passengers. If a driver delivers such article to his or her employer, the latter shall deliver them to the police department. When articles left in taxicabs have been delivered to the office of the chief of police the articles will be received and an official record made of the delivery. If the articles are not claimed by the owner they will be disposed as provided by the law.

5-807. **RECEIVE, DISCHARGE OF PASSENGERS.** No driver of a taxicab shall receive or discharge passengers in the roadway of any street, but shall drive to the right-hand sidewalk, as nearly as possible, or, in the absence of a sidewalk, to the extreme right-hand side of the road, and there receive or discharge passengers. (Code 1983, 29-7)

5-808. **PARKING OF TAXICABS; GENERALLY.** All taxicabs shall be subject to city and state laws concerning parking of motor vehicles. (Code 1983, 29-8)

5-809. **ALCOHOLIC BEVERAGES; GENERALLY.** The violation of any provisions of state of city law, rule or regulation relative to the sale, consumption or possession of alcoholic beverages of any kind by any owner or drive shall, in addition to any other penalty which may be entered, be grounds for the revocation of any license issued under the provisions of this article. (Code 1983, 29-9)

5-810. **STATE CHAUFFEUR'S LICENSE REQUIRED.** It shall be unlawful for any person to drive a taxicab within the city unless he or she is a duly licensed chauffeur under state law. (Code 1983, 29-12)

5-811. **MAXIMUM SEATING.** It shall be unlawful for the owner, operator or driver of any taxicab to transport in any vehicle a greater number of passengers than the number specified by the manufacturer of such vehicle as its maximum passenger capacity. (Code 1983, 29-13)

5-812. **LICENSE REQUIRED.** It shall be unlawful for any person to operate or permit to be operated upon the streets of the city any taxicab without first having procured a license therefor. (Code 1983, 29-24)

5-813. **APPLICATION.** Any person desiring to operate a taxicab in the city shall file with the city clerk a written application setting forth:

(a) The name, age and address of the owner of the taxicab and of the applicant.

(b) The names and addresses of all members of any firm, partnership, or association and of all the officers and directors of any corporation applying.

(c) A complete description of the taxicab proposed to be operated, including motor and serial numbers.

(d) Any other and further information as may be required by the city commission or the city clerk. (Code 1983, 29-25)

5-814. **INSPECTION OF VEHICLE.** Prior to the issuance of any license provided for in this article, the vehicle, which is proposed to be licensed as a taxicab, shall be inspected by the city mechanic, such person as he or she may designate, or state inspection station. In the event the proposed licensed vehicle shall be, in the opinion of the city mechanic, such person as he or she may designate, or state inspection station, defective, no license shall be issued. The holder of a license for the operation of taxicabs shall, at not less than six-month intervals, make the vehicles available to the city mechanic, such person as he or she may designate, or state inspection station, or his or her authorized representative, for inspection. In the event the vehicle is found to be in a defective condition, the license shall be suspended until all defects have been corrected. (Code 1983, 29-26)

5-815. FEES. At the time of making application for a license required by this article, the applicant shall pay to the city on the number of taxicabs to be operated by him or her at a fee set out in Chapter 1, Article 9. (Code 1983, 29-27)

5-816. **APPLICABLE TO SPECIFIC VEHICLE.** Any license issued under the provisions of this article shall apply to and cover only the specific vehicle or vehicles described in the application therefor until and unless, on application duly made by the licensee, the right to transfer such license to another vehicle is granted by the city. (Code 1983, 29-28; Code 1986)

5-817. **ISSUANCE.** Upon the compliance with all provisions of this article by the applicant for a license hereunder, and the approval of the city thereof, the city clerk shall issue such license. (Code 1983, 29-30; Code 1986)

5-818. **TERM.** Every license issued under the provisions of this article shall be valid for the calendar year in which issued. (Code 1983, 29-31)

5-819. **CONTENTS.** Every license issued under this article shall contain the name of the licensee and a description of the taxicab or taxicabs licensed, including the motor and serial numbers thereof. (Code 1983, 29-32)

5-820. **TRANSFER.** No license issued for the operation of a taxicab within the city shall be assigned or transferred to any other person, except upon application for such transfer and approval thereof by the city. Code 1983, 29-33; Code 1986)

5-821. **SUSPENSION, REVOCATION.** Any license issued under the provisions of this article may be suspended or revoked by the city commission, upon five days' notice to the licensee and after a hearing thereon, for the violation by the licensee of any applicable provision of state or city law, rule or regulation. (Code 1983, 29-34)

5-822. **LIABILITY INSURANCE REQUIRED.** It shall be unlawful for any person to operate a taxicab or to permit the same to be operated in the city without first having obtained adequate liability insurance therefore as specified by this article. No license for the operation of a taxicab shall be granted by the city until the applicant for the license therefor shall deposit with the city clerk a policy of liability insurance issued to and covering such applicant and the taxicab described in his or her application, on such form as shall be acceptable to and approved by the city attorney and issued by an insurance company or association approved by the city attorney.
(Code 1983, 29-45; Code 1986)

5-823. **SAME; COVERAGE.** The policy of insurance by section 5-822 shall contain the following minimum coverage for each occurrence:

(a) For injury to or death of one person, the sum of $50,000.

(b) For injury to or death of more than one person, the sum of $100,000.

(c) For damage to property, the sum of $50,000.

(d) For medical expenses, the sum of $2,000. (Code 1983, 29-46)

5-824. **SAME; NOTICE OF CANCELLATION.** The policy of insurance required by this article shall contain a clause or endorsement obligating the insurance company to give 20 days written notice to the city clerk before cancellation of such policy. (Code 1983, 29-47)

5-825. **SAME; EFFECT OF LAPSE OR TERMINATION.** The license to operate a taxicab within the city shall expire upon the lapse of the policy of insurance required by this article, or termination of the same by cancellation, unless in case of notice of cancellation by the insurance company, the holder of a license shall furnish another policy before the cancellation of the current policy becomes final. (Code 1983, 29-48)

5-826. **SAME; PAYMENT OF CLAIM ENDORSEMENT.** All policies of liability insurance issued pursuant to the requirements of this article shall contain, or have attached thereto, an endorsement containing substantially the following provisions to wit:

"In consideration of the premium stated in the policy to which this endorsement is attached, the company hereby agrees to pay any final judgment for personal injury, including death, resulting therefrom, or damage to property, caused by the taxicab license issued by the city within the limits specified in the policy and further agrees that upon its failure to pay any such final judgment, the judgment creditor may maintain an action in any court of competent jurisdiction to compel such payment. Nothing contained in the policy or any endorsement thereon, nor the violation of any of the provisions thereof by the assured, shall relieve the company from liability hereunder or from the payment of such judgment." (Code 1983, 29-49)

ARTICLE 9. SCRAP METAL DEALERS

5-901. **DEFINITIONS:** As used in this section, the following definitions shall apply:

(a) ''Scrap metal dealer'' means any person that operates a Business out of a fixed location, and that is either:

(1) Engaged in the business of buying and dealing in regulated scrap metal;
(2) Purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or
(3) Operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.

(b) ''Regulated scrap metal yard'' means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.

(c) ''Regulated scrap metal'' shall mean wire, cable, bars

ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum; catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers.

(d) ''Bales of regulated metal'' means regulated scrap metal property processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.

(e) ''Ferrous metal'' means a metal that contains iron or steel.

(f) ''Junk vehicle'' means a vehicle not requiring a title as provided in Chapter 8 of the Kansas Statutes Annotated, and amendments thereto, aircraft, boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap.

(g) ''Nonferrous metal'' means a metal that does not contain iron or steel, including but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

(h) ''Tin'' means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.

(i) ''Vehicle part'' means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit' or the rear clip consisting of those body parts behind the rear edge of the black doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit; or any other vehicle part.

5-902. APPLICATION

(a)No business shall purchase any regulated scrap metal without having first registered each place of business with the City Clerk.

(b) The City Clerk shall provide the Chief of Police written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.

(b)A registration for a scrap metal dealer shall be verified and upon a form approved by the Kansas Attorney General and shall contain:

(1) The name and residence of the applicant;

(2) The length of time that the applicant has resided within the State of Kansas and a list of all residences outside the State of Kansas during the previous 10 years.

(3) The particular place of business for which a registration is desired;

(4) The name of the owner of the premises upon which the place of business is located; and

(5) The applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for theft; theft of property lost, mislaid or
delivered by mistake; theft of services; criminal deprivation of property; or any other crime involving possession of stolen property, as defined under Kansas law, or comparable crimes as defined under the laws of any other state.

(d) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of $100.

(e) The City Clerk shall accept a registration for a scrap metal dealer from any scrap metal dealer engaged in business in the city and qualified to file such registration to purchase regulated scrap metals. Such registration shall be issued for a period of 10 years.

(f) If an original registration is accepted, the City Clerk shall grant and issue annual renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The fee for such renewal, which shall be in addition to the fee provided by subsection (d), shall be $25.

(g) No registration issued under this act shall be transferable.

(h) Violation of subsection (a) is a Class C misdemeanor.

(i) This section shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

5-903. QUALIFICATIONS.

(a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the City Clerk shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for;

(1) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under this act.

(2) A person who, within five years immediately preceding the date of filing, has pled guilty to, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of Article 37 of Chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A.21-5801 through 21-5839 and subsection (a)(6) of K.S.A. 21-6412, perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 21-5903, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, K.S.A. 21-5094, interference with judicial process, K.S.A. 21-5905, or any crime involving moral turpitude.

(3) A person who, within the five years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of section 1, and amendments thereto, K.S.A. 50-6,109 et seq., and amendments thereto, the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase of regulated scrap metal three or more times.

(4) A person who within the three years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration

was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three years.

(6) A partnership or limited liability company, unless all members of the partnership or limited company are otherwise qualified to file a registration.

(7) Acorporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under this act.

5-904. SUPENSION, REVOCATION, APPEALS.

(a) The Governing Body, upon five days notice to the persons holding a registration, may suspend the scrap metal dealer's registration for up to 30 days for any one of the following reasons:

(1) The registrant has been convicted of violating any of the provisions of K.S.A 50- 6,109 et seq., and amendments thereto, or any similar ordinance, resolution or rules or regulations made by the board or the city, as the case may be;

(2) the employment or continuation in employment of a person if the registered scrap metal dealer knows such a person has, within the 24 months prior to the notice of suspension or revocation action, been convicted of violating any provisions of this Article, or K.S.A. 50-9,109 et se., and amendments thereto, or the laws of another state comparable to such provisions, or any city or county ordinance or resolution, or regulation controlling scrap metal sale or purchase in Kansas or any other state; or

(3) permitting any criminal activity under the Kansas criminal code or city ordinance in or upon the registrant's place of business.

(b) The Governing Body may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times within a 24-month period.

(c) The Governing Body, upon five days' notice to the person holding the registration, shall revoke or suspend the registration for any one of the following reasons;

(1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;

(2) the registrant has become ineligible to obtain a registration under this act;

(3) the nonpayment of any registration fees after receiving written notice that such registration fees are more than 30 days past due; or

(4) within 20 days after the order of the City Clerk denying, revoking or suspending any registration, the registrant may appeal to the district court and the district court shall proceed to hear such appeal as though the court had original jurisdiction of the matter. Upon request by the registrant, the municipal court may enjoin the revocation or suspension of a registration until final disposition of any action brought under this act.

(d) Any action brought under subsections (a), (b), or (c) shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same individual, company or business entity.

5-905. UNLAWFUL ACTS, SCRAP METAL DEALER REGISTER.

(a) Except as provided in subsection (d), it shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, unless such person presents to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following information: The seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license. The identifying number from an official governmental document for a country other than the

United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

(b) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:

(1) The time, date and place of transaction;

(2) the sell's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;

(3) a copy of the identification card or document containing such identifying number;

(4) the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;

(5) a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;

(6) the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;

(7) if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;

(8) the amount of consideration given in a purchase transaction for the junk vehicle or other regulated scrap metal property; and

(9) the name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase.

(c) The scrap metal dealer's register, including copies of identification cards, may be kept in electronic format.

(d) Not withstanding the foregoing, this section shall not apply to:

(1) transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is $50.00 or less;

(2) transactions involving only catalytic converters for which the total sale price is $30.00 or less;

(3) transactions in which the seller is also a scrap metal dealer; or

(4) transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

(e) The exceptions contained in subsections (d)(1) and (d)(2) shall not apply to any purchase from any seller of the following materials:

(1) Catalytic converters purchased separate from a vehicle;

(2) Coated or insulated wire or stripped wire or burnt wire;

(3) Refrigeration condensing units or air conditioning coils of any type; or

(4) Copper tubing, bars, plate, buss bar and sheet copper.

(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (e)(1) through (4) by any means other than:

(1) A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b); or

(2) a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b).

5-906. UNLAWFUL ACTS, PURCHASE AND SALE OF SCRAP, MANDATORY HOLD.

(a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 50-6.110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 50-6.110, and amendments thereto. All records kept in accordance with the provisions of this act shall be open at all times to peace or law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to peace or law enforcement officers upon request.

(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 50-6.110, and amendments thereto, requires information to be presented by the seller, without obtaining from the seller a signed statement that: (1) each item is the seller's own personal property, is free of encumbrances and is not stolen; or (2) that the seller is acting for the owner and has permission to sell each item.

(c) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 50-6.100, and amendments thereto, requires information to be presented by the seller, without: (1) inspecting the vehicle offered for sale and recording the vehicle identification number; and (2) obtaining an appropriate vehicle title or bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.

(d) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor unless such minor is accompanied by a parent or guardian or such minor is a licensed scrap metal dealer.

(e) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items of regulated scrap metal property without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item of regulated scrap metal property on behalf of the governmental entity, utility provider, railroad, cemetery, civic organization or scrap metal dealer:

(1) Utility access cover;

(2) street light poles or fixtures;

(3) road or bridge guard rails;

(4) highway or street sign;

(5) water meter cover;

(6) traffic directional or traffic control signs;

(7) traffic light signals;

(8) any metal marked with any form of the name or initials of a governmental entity;

(9) property owned and marked by a telephone, cable, electric, water or other utility provider or any such wire or cable that has had the sheathing removed, making ownership identification impossible;

(10) property owned and marked by a railroad;

(11) funeral markers or vases;

(12) historical markers;

(13) bales of regulated metal;

(14) beer kegs;

(15) manhole covers;

(16) fire hydrants or fire hydrant caps;

(17) junk vehicles with missing or altered vehicle identification numbers;

(18) real estate signs;

(19) bleachers or risers, in whole or in part; and

(20) twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge.

(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law

enforcement agency for 30 days, exclusive of weekends and holidays.

5-907. PENALTIES

(a) Except as otherwise provided in subsection (h) of Sec. 5-903 and subsections (b) and (c) of this Section, any person intentionally violating the provisions of the Article, and amendments thereto, shall be guilty of a Class C misdemeanor with a penalty of a minimum fine of $200.

(b) Any person convicted of violating the provisions of this Article, and amendments thereto. For the second time within a two-year period shall be guilty of a Class C misdemeanor with a penalty of a minimum fine of $500.

(c) Any person convicted of violating the provisions of this Article, and amendments thereto, for the third and subsequent times within a two-year period shall be guilty of a Class B misdemeanor with a penalty of a minimum fine of $1000. (ORD. No. 3554)

ARTICLE 10. LOUDSPEAKERS

5-1001. LOUDSPEAKER PERMIT REQUIRED. It shall be unlawful for any person to operate for commercial purposes, any loudspeaker or other similar sound device in a loud and raucous manner in the streets, avenues, alleys, or other public place within the city or near to such public property, outside of a building or within a building when such device is in or near an open window, door or other opening of a building, without first securing a permit from the city to operate such loudspeaker or sound device. (Code 1983, 19-18)

5-1002. SAME; APPLICATION. Any person desiring to operate loudspeaker or sound device within the city shall make written application to the city clerk for a permit stating the location, type of device and its volume of sound. (Code 1983, 19-19)

5-1003. SAME; ISSUANCE. If the city clerk shall find that the operation of the device described in the application for a permit required by this article will not unduly disturb inhabitants of the city, he or she shall, without charge, issue to the applicant a permit good until the next regular meeting of the city commission. (Code 1983, 19-20)

5-1004. SAME; APPEAL UPON DENIAL. If the city clerk shall refuse to issue a permit required by this article, the applicant may appeal such denial to the city commission. (Code 1983, 19-21)

5-1005. **SAME; CONFIRMATION BY COMMISSION.** At its first regular meeting after any temporary permit has been issued by the city clerk under this article, the city commission shall confirm or cancel such permit. (Code 1983, 19-22)

5-1006. **SAME; REVOCATION.** Any permit issued under this article may be canceled for cause by the city commission after five days notice of hearing to the permit holder. (Code 1983, 19-23)

CHAPTER VI. ELECTIONS

Article 1. City Elections
Article 2. Wards

ARTICLE 1. CITY ELECTIONS

6-101. **ELECTION OF GOVERNMENT BODY.** At the regular city election to be held on the second Tuesday of April, 1978, there shall be elected two commissioners for a four-year term and one commissioner for a two-year term. The candidates receiving the largest and second largest number of votes respectively, shall be elected four four-year terms and the candidate receiving the third largest number of votes shall be elected for a two-year term. At succeeding regular city elections to be held on the second Tuesday in April in even-numbered years, there shall be elected two commissioner for four-year terms, and one commissioner for a two-year term. The candidates receiving the largest and second largest number of votes respectively, shall be elected for four-year terms and the candidate receiving the third largest number of votes shall be elected for a two-year term. (C.O. No. 16, Sec. 3)

6-102. **SAME; AMENDED.** (a) The provisions of section 3 of Charter Ordinance No. 16, adopted by the governing body of the City of Dodge City, on January 3, 1977, are amended by the provisions of this charter ordinance.

(b) All regular city elections in the City of Dodge City shall be held on the first Tuesday of the month of April, in even-numbered years.

(C.O. No. 22, Secs. 1:2)

6-103. All elections are held by Ford County.

ARTICLE 2. WARDS

6-201. **WARDS ESTABLISHED.** Wards are established by Ford County

CHAPTER VII. FIRE

Article 1. Fire Department
Article 2. Fire Prevention
Article 3. Firemen's Relief Association
Article 4. Fire Insurance Proceeds Fund

ARTICLE 1. FIRE DEPARTMENT

7-101. **REPORT OF FIRE.** Whenever a fire occurs in any building of any kind it shall be the duty of the owner, manager, or person in charge of such building, upon discovery of the fire, immediately to notify the fire department and to make such report as the fire department may request. The requirement shall not be construed to forbid the owner, manager, or person in charge of the building, after notification of the fire department, from using all diligence necessary to extinguish the fire prior to the arrival of the fire department. (Code 1983, 10-2)

7-102. **MUTUAL PACTS.** The city manager is hereby authorized and directed to enter into mutual assistant pacts with the fire department of such other cities or counties as advisable and upon such conditions as necessary for the purpose of planning in advance what firefighters and equipment of each department will be made mutually available under the authority of state law upon the occurrence of any emergency. (Code 1983, 10-3; Code 1986)

7-103. **COOPERATION WITH CIVIC DEFENSE.** The chief of the fire department is hereby authorized and directed to cooperate with any state, district or local civil defense agency for the purpose of coordinating his or mutual assistance pacts with the overall planning of civilian defense. (Code 1983, 10-4)

7-104. **RETIREMENT.** Provisions for the retirement of the employees of the fire and police departments of the City of Dodge City shall be governed by the provisions of Chapter 74, Article 9, of Kansas Statutes Annotated, as they are now or may be hereafter amended, known as Kansas Public Employees Retirement System. (C.O. No. 17, Sec. 2)

ARTICLE 2. FIRE PREVENTION

7-201. **2009 INTERNATIONAL FIRE CODE** The 2009 edition of the International Fire Code, including all Appendices thereto, regulating and governing the safe-guarding of life and property from fire and explosion hazards arising from the

storage, handling and use of hazardous substances, materials and devises, and from conditions hazardous to life or property in the occupancy of buildings and premises in Dodge City, is hereby adopted.

7-202. **PENALTIES, ENFORCEMENT.** Any person found in violation of the provisions of these adopted Codes or Standards may be punished as provided for in Section 1-116 of this City Code. This does not preclude the Chief of the Fire Department from pursuing other legal remedies for enforcement of these Codes and Standards.

7-203. **SEVERABILITY.** If any provision of the International Fire Code is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, then such provisions shall be considered separate and apart from the remaining provisions; such provision is to be completely severable from the remaining provisions which shall remain in full force and effect.

ARTICLE 3. FIREMEN'S RELIEF ASSOCIATION

7-301. **FIREMENS RELIEF ASSOCIATION.** The administration of the Firemen's Relief Association will conform to applicable Kansas Statutes, rules and regulations of the Kansas Insurance Department and the existing by-laws of the association. (Code 1986)

ARTICLE 4. FIRE INSURANCE PROCEEDS FUND

7-401. **SCOPE AND APPLICATION.** The City is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the City, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this ordinance.

7-402. **LIEN CREATED.** The Governing Body of the City hereby creates a lien in favor of the City on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the City, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other

insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

7-403. **ENCUMBRANCES.** Prior to final settlement on any claim covered by Section 7-402, the insurer or insurers shall contact the County Treasurer, Ford County, Kansas to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the County Treasurer, Ford County, Kansas.

7-404. **PRO RATA BASIS.** Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

7-405. **PROCEDURE.** (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the City Finance Director in an amount equal to the sum of 15 percent of the covered claim payment unless the Chief Building Official of the City has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwiese made the premises safe and secure.

b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the Chief Building Official shall contact the named insured or insureds by registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

7-406. FUND CREATED; DEPOSIT OF MONEYS. The City Finance Director is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the City Finance Director as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

7-407. BUILDING OFFICIAL; INVESTIGATION, REMOVAL OF STRUCTURE. (a) Upon receipt of moneys as provided for by this ordinance, the City Finance Director shall immediately notify the Chief Building Official of said receipt, and transmit all documentation received from the insurance company or companies to the Chief Building Official.

(b) Within 20 days of the receipt of said moneys, the Chief Building Official shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.

(c) Prior to the expiration of the 20 days established by subsection (b) of this section, the Chief Building Official shall notify the City Finance Director whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

(d) If the Chief Building Official has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the City Finance Director.

(e) Upon notification to the City Finance Director by the Chief Building Official that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the City Finance Director shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.

7-408. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the Chief Building Official has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

7-409. SAME; DISPOSITION OF FUNDS. If the Building Official, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Finance Director under the authority of Section 7-405(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the Chief

Building shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the City Finance Director under Section 7-405(a), the Chief Building Official shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such expenses incurred.

7-410. EFFECT UPON INSURANCE POLICIES. This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

7-411. INSURERS; LIABILITY. Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance. (Ord. 3214, 1997)

CHAPTER VIII. HEALTH AND WELFARE

Article 1. Environmental Code
Article 2. Motor Vehicle Nuisances; Abatement
Article 3. Weeds
Article 4. Noise
Article 5. Council on Aging
Article 6. Human Relations
Article 7. Graffiti Nuisance
Article 8. Smoking Restrictions

ARTICLE 1. ENVIRONMENTAL CODE

8-101. **TITLE.** This article shall be known as the "Environmental Code". (Code 1986)

8-102. **LEGISLATIVE FINDING OF FACT.** The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanness; unsightly stored or parked material, equipment, supplied, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided. (Code 1986)

8-103. **PURPOSE.** The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 1986)

8-104. **RULES OF CONSTRUCTION.** For the purpose of this article, the following rules of construction shall apply:

(1) Any part thereof - Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."
(2) Gender - Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.

(3) Number - Words of number shall be construed to mean singular or plural, as may be applicable.
(4) Tense - Words of tense shall be construed to mean present or future, as may be applicable.

(5) Shall - The words shall is mandatory and not permissive.(Code 1986)

8-105. DEFINITIONS. The words and phrases listed below when used in this article shall have the following meanings:

(1) Abandoned Motor Vehicle - any motor vehicle which is not currently tagged, pursuant to K.S.A. 8-126, to 8-149 inclusive, as amended; or parked in violation of the Code; or incapable of moving under its own power; or is in a junked or wrecked condition. (Ord. No. 2944. Sec. 2)

(2) Accessory Structure - a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns, or outbuildings.

(3) Commercial or Industrial - used or intended to be used primarily for other than residential purposes.

(4) Dilapidation, Deterioration or Disrepair - shall mean any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking, peeling, or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.

(5) Exterior - those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.
(6) Garbage - without limitation any accumulation of animal, fruit or vegetable

(7) Premises - any lot, plot or parcel of land including the structures thereon. Premises shall also mean any lot, plot or parcel of land without any structures thereon.

(8) Refuse - garbage and trash.

(9) Residential - used or intended to be used primarily for human habitation.

(10) Structure - anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

(11) Trash - combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers or street rubbish and sweepings.

(12) Weathered - deterioration caused by exposure to the elements.

(13) Yard - the area of the premises not occupied by any structure.(Code 1986)

8-106. **PUBLIC OFFICER.** The city manager shall designate a public officer to be charged with the administration and enforcement of this article. (Code 1986)

8-107. **ENFORCEMENT STANDARDS.** No person shall be found in violation of this article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under section 8-108 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 1986)

8-108. **UNLAWFUL ACTS.** It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a) Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

(1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;

(2) abandoned motor vehicles; or
(3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items or personal property.

(4) nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

(b) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly:

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls or retaining walls.
(Code 1986)

8-109. **NOTICE.** (a) Any person found by the public officer To be in violation of section 8-108 shall be sent a notice of such violation by the public officer. The notice shall be sent by certified mail, postage prepaid, return receipt requested. The notice shall state:
(1) The condition which has caused the violation of this article; and
(2) That the person in violation shall have:

(a) 15 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or; and

(b) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure violation; and

(3) That failure to alleviate the condition may result in prosecution under Section 8-110 and/or Abatement of the condition by the city according to Section 8-111.
(b) When such is deemed by the City Manager to be in the best public interest, the City Manager may delay the sending of the notice provided for in subsection (a) and grant an extension of time to the person in violation of section 8-108 in which to come into compliance with section 8-108. (Ord. No. 2944)

8-110. **PENALTY.** The public officer may file a complaint in the municipal court against any person found to be in violation of Section 8-108, provided however, that such person has first been sent a notice as provided in section 8-109 and that the person has not alleviated the condition causing the alleged violation within the time period specified in section 8-109. Upon such complaint in the municipal court, any person found to be in violation of Section 8-108 shall upon conviction be punished by a fine of not less than $50 nor more than $100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of the article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Ord. No. 2944)

8-111. **ABATEMENT.** In addition to, or as an alternative to prosecution as provided in Section 8-110, the public officer may seek to remedy violations of this article in the following manner: If a person to whom a notice has been sent pursuant to Section 8-109 has not alleviated the conditions causing the alleged violation within the time period specified in Section 8-109, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 20 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the person in violation as provided in Section 8-115. (Ord. No. 2944, Sec. 2)

A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Service be certified mail, postage prepaid, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such conditions exist. (Ord. No. 2944)

8-112. **STORAGE AND DISPOSAL OF PROPERTY.** Whenever the public officer is authorized to abate the conditions causing a violation, as provided in section 8-108, the following procedure shall be observed:

(a) Items confiscated which have no practical value to the person in violation shall be disposed of by the city;

(b) Items confiscated which might reasonably be of some value to the person in violation shall be placed in storage by the city.

The persons in violation shall be informed by certified mail, postage prepaid, return receipt requested, of the disposition or storage of any items confiscated. In the case of items stored, the person in violation shall be further informed that such items shall be stored for a period of 30 days, and further that those items may be claimed by the person upon payment to the city for expenses incurred, as provided in section 8-115. If the items are not claimed within the 30 day period, then the city may sell the items and deduct its expenses, returning the amount in excess of expenses, if any, to the person in violation. (Code 1986)

8-115. **COSTS ASSESSED.** If the city abates the conditions in violation of this article pursuant to section 8-111, the cost of abatement shall be charged against the lot or parcel of ground on which the conditions were located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 1986)

8-116. **CONSTRUCTION.** Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Ord. 1286, Sec. 5(j))

ARTICLE 2. MOTOR VEHICLE NUISANCES; ABATEMENT

8-201. **FINDINGS OF THE GOVERNING BODY.** The Governing Body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

(1) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;

(2) Are a danger to persons, particularly children, because of broken glass, sharp metal

protrusions, insecure mounting on blocks, jacks or other supports;
(3) Are a ready source of fire and explosion;
(4) Encourage pilfering and theft;
(5) Constitute a blighting influence upon the area in which they are located;
(6) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

8-202. **DEFINITIONS.** As used in this section, unless the context clearly indicates otherwise:

(1) Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
(2) Motor vehicle or vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

8-203. **NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS.** It shall be unlawful for any person owning or occupying private property within the City of Dodge City to maintain or permit to be maintained any motor vehicle nuisance on such private property within the city.

(1) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition, regardless of registration or tag. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable condition, regardless of registration or tag. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;

(a) Absence of a current registration plate upon the vehicle;

(b) Placement of the vehicle or parts thereof upon jacks, blocks or other supports;

(c) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon a street or highway.

(2) The provisions of this section shall not apply to:

(a) Any motor vehicle which is enclosed in a garage or other building;

(b) Any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient

size,strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.

8-204. **PUBLIC OFFICER.** The City Manager shall designate a public officer to be charged with the administration and enforcement of this section.

8-205. **COMPLAINTS; INQUIRY AND INSPECTION.** The public officer shall make inquiry and inspection of premises upon receiving a complaint that a nuisance exists. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance without a complaint. Upon making any inquiry and inspection the public officer shall make a written report of findings.

8-206. **RIGHT OF ENTRY.** It shall be a violation of this section to deny the public officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

8-207. **NOTICE.** Any person found by the public officer to be in violation of Section 8-203 shall be served a notice of such violation. The notice shall be served upon the owner and occupant by restricted mail, postage prepaid, return receipt requested, or by personal service. In the event the whereabouts of such person(s) are unknown and the same cannot be ascertained after a diligent search by the public officer, the notice requirements of Section 8-207 shall not apply, and the public officer may proceed with abatement.

8-208. **CONTENTS OF NOTICE.** The notice shall state the condition(s) which is (are) in violation of Section 8-203. The notice shall also inform the person(s) that:

(1) He, she or they shall have 10 days from the date of receipt of the notice to abate the condition(s) in violation of Section 8-203; or

(2) He, she or they have 10 days from the date of receipt of the notice to request a hearing before a hearing officer designated by governing body as provided by Section 8-212;

(3) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 8-209 and/or abatement of the condition(s) by the city as provided by Section 8-210.

8-209. **FAILURE TO COMPLY; PENALTY.** Should the owner

and/or occupant of such property fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a compliant in the municipal court of the city against such person(s) and such person(s) upon conviction of any violation of provisions of Section 8-203, may be fined in an amount not to exceed $100 or be imprisoned. Every day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

8-210. **FAILURE TO COMPLY; ABATEMENT.** In addition to, or as an alternative to prosecution as provided in Section 8-209, the public officer may seek to remedy violations of this article in the following manner. If the person(s) to whom a notice has been sent pursuant to Section 8-207, has neither alleviated the conditions causing the alleged violation nor requested a hearing before the hearing officer within the time period specified in Section 8-208, the public officer may immediately act to abate the nuisance. Abatement shall include removal, impoundment, and sale of the vehicle. The costs incurred by the city in abating the nuisance shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 8-213.

8-211. **DISPOSITION OF VEHICLE.** Disposition of any motor vehicle removed and abated from private property pursuant to this ordinance shall be as follows:
Any motor vehicle which has been impounded as provided in Section 8-210 herein, for thirty (30) days or more, shall be disposed of in the following manner:

If such motor vehicle has displayed thereon a registration plate issued by the Division of Vehicles of the State of Kansas, or a comparable agency in any other state, and has been registered with the Division, the public officer shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and any lien holder of record, stating that if the owner or lien holder does not claim such motor vehicle, and pay the removal and storage charges incurred by the city on the vehicle within fifteen (15) days from the mailing of the notice, that the vehicle will be sold at public auction to the highest bidder for cash. After fifteen (15) days from date of notice, the public officer shall publish a notice once a week for two (2) consecutive weeks in the official city newspaper, which notice shall describe the motor vehicle by name of maker, model, color and serial number, and owner, if known, and state that the motor vehicle has been impounded by the city and that it will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim the motor vehicle within ten (10) days of the date of the second publication of the notice and pay the removal and storage charges, and publication costs incurred by the city.

If the motor vehicle does not display a registration plate issued by the Division and is not registered with the Division, the public officer, after thirty (30) days from date of impoundment, may publish a notice once a week for two (2) consecutive weeks in the official city newspaper, which notice shall describe the motor vehicle by name of maker, model, color and serial number, and shall state that the motor vehicle has been impounded by the city and that it will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim the motor vehicle within ten (10) days of the date of the second publication of the notice and pay the removal and storage charges, and publication costs incurred by the city. When the city has complied with the provisions of this ordinance with respect to a motor vehicle which has been declared to be a nuisance, and has been removed and impounded, and the owner thereof does not claim the vehicle within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the city on the motor vehicle, the city may sell the motor vehicle at public auction to the highest bidder for cash. After any sale pursuant to this ordinance, the city may file proof thereof with the Division and the Division shall issue a certificate of title to the purchaser of the motor vehicle. All funds derived from the sale of motor vehicles pursuant to this ordinance, after payment of the expenses of the abatement, impoundment and sale, shall be paid into the general fund of the city.

8-212. **HEARING.** If a hearing is requested within the 10 day period as provided in Section 8-208, such request shall be made in writing to the City Clerk. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the Hearing Officer. The hearing shall be held by the Hearing Officer as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five (5) days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the Hearing Officer. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the Hearing Officer shall record his/her determination of the matter by means of a written order and serve the order upon the person.

8-213. **COSTS ASSESSED.** If the city abates the nuisance pursuant to Section 8-210, the cost of abatement, impoundment, and sale, shall be charged against the lot or parcel of ground on which the nuisance was located, subject to credit for any funds received from sale of a vehicle. The City Clerk shall, at the time of certifying other taxes

to the County Clerk, certify the costs as provided in this paragraph. The County Clerk shall extend the same on the tax roll and it shall be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. If any assessments for costs of abatement levied by the city in accordance with this ordinance remain unpaid by the owner of a lot or parcel of ground for a period of one (1) year or more after certification of the assessment to the County Clerk, the city may collect the amount due in the same manner as a personal debt of the property owner to the city by bringing an action in the appropriate district court.

8-214. **LIABILITY FOR REMOVAL.** Neither the owner, Lessee nor occupant of the premises from which any abandoned vehicle shall be removed nor the City shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the City or its contractual agents, or as a result of any subsequent disposition of said vehicle.

8-215. **UNLAWFUL ABANDONMENT OF MOTOR VEHICLE.** (a) Any person who abandons and leaves a vehicle on real property, other than public property or property open to use by the public, which is not owned or leased by such person or by the owner of lessee of such vehicle shall be guilty of criminal trespass, as defined by K.S.A. 21-3721, and amendments thereto, and upon request of the owner or occupant of such real property, the public agency in whose jurisdiction such property is situated may remove and dispose of such vehicle in the manner provided in Section 8-211.(b) No person shall abandon and leave a motor vehicle on a roadway or other property open to use by the public within the city for a period of time in excess of forty-eight (48) hours, or when the motor vehicle interferes with the use of the roadway by the public or creates a hazardous condition on said roadway. Upon a violation of this provision the public official or any law enforcement officer may remove the motor vehicle from such roadway or other property and place and impound and dispose of said vehicle in accordance with the provisions of Section 8-211.

(c) Any person removing such vehicle from the real property at the request of such public agency shall have a possessory lien on such vehicle for the costs incurred in removing, towing or storing such vehicle.

8-216. **RESPONSIBILITY OF OWNER OF ABANDONED, JUNKED OR INOPERABLE MOTOR VEHICLE.** (a) No owner shall park or allow to be parked, deposited, placed or located on any property, public or private, within the city, any abandoned, junked or inoperable motor vehicle for a period of time in excess of forty-eight (48) hours.

(b) Notice: The public officer or any law enforcement officer upon receiving a complaint of a violation of this section or upon personal

observation of such violation, shall affix to said vehicle a notice indicating the date, time, place and description of the motor vehicle which is in violation of this section.

(c) Complaint: If the owner of said vehicle to which the notice has been affixed as provided in Section 8-216(b), has not abated the violation of this section within forty-eight (48) hours of the date and time indicated in the notice, the public official or any law enforcement officer may file a complaint with the Municipal Court of the City against the owner of said vehicle and upon conviction of any violation of the provisions of this section, said owner may be fined in an amount not to exceed One Hundred Dollars ($100) or imprison not to exceed thirty (30) days or be both fined and imprisoned. Every day during or on which a violation occurs or conditions after notice has been served shall constitute an additional or separate offense.

(d) Removal of Defacing of Notice: It shall be a violation of this Section for any person without the expressed approval of the public officer to remove, deface, destroy or tamper with any notice affixed to a motor vehicle by the public officer in accordance with Section 8-216(b).

8-217 **VEHICLE PARKING.** Motor vehicles, trailers, campers, recreation vehicles, farm machinery, boats, and other wheeled vehicles when parked/stored outdoors between a building wall and the adjacent street pavement (front and side if corner lot) shall only be permitted within designated and approved driveways And parking areas. These provisions are instituted to encourage proper drainage, to help prevent soil erosion and resultant sedimentation onto adjacent streets and properties, to prevent vision hazards, to enhance pedestrian safety, to protect public utilities and facilities, and to protect the public rights-of-way.

(a) Residential Standards

1. Large vehicles (greater than ¾ ton), trailers, campers, recreation vehicles, and boats shall not be on or overhang the public rights-of-way.
2. All vehicle parking/storage shall not block or encroach upon public sidewalks or walkways.
3. Designated driveways and parking areas shall have access to the street from an approved curb cut and approach where curbs exist.
4. Where no clearly marked driveway/parking area exists, the designated area shall be deemed to be the space that would customarily be such area:

   (a) An area perpendicular to the street, no more than 20 feet wide and extending from the approved curb

cut and approach at the street toward or beside the building wall.

(b) A circular drive not more than 12 feet wide beginning and ending at an approved curb cut.

(c) Compact offsets from the above may be approved upon proven need and justification.

5. When stored in an enclosed structure, these provisions apply only to the access to such structure.

(b) Nonresidential Standards

1. Vehicular areas shall not expand onto the public rights-of-way.

2. Curb cuts and approaches shall be clearly identified.

3. Vehicle parking/storage shall not block or encroach upon public sidewalks or walkways.

4. Designated driveways and parking areas shall have access to the street from an approved curb cut and approach where curbs exist.

5. Earth and surfacing materials from drives and parking/storage areas shall not be allowed to erode and deposit on public streets or adjacent properties.

(c) Enforcement

1. The Development Services Department, Division of Inspections shall have the primary enforcement responsibility for these provisions.

2. These provisions complement and defer to vehicular parking/stopping/standing regulations as specified in the Uniform Public Offense Code and the Standard Traffic Ordinance as adopted by the City of Dodge City.

3. In any prosecution charging a violation of this ordinance, proof that the particular vehicle described in the complaint was in violation of this ordinance, together with proof that the defendant named in the complaint was at the time of the violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

4. Whenever any vehicle without a driver is found standing or stopped in violation of this ordinance, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a Municipal Court citation.

5. City officers will affix a warning to an offending vehicle upon first observation of a violation. Exception: when there is a high-hazard situation such as, but not limited to, a vehicle blocking a sidewalk in a heavy pedestrian area.

6. A violation of these provisions shall be a Class C misdemeanor upon conviction. (ORD.3378)

ARTICLE 3. WEEDS

8-301. **WEEDS TO BE REMOVED.** It shall be unlawful for any owner, agent, lessee, tenant or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

8-302. **DEFINITIONS.** *Weeds* as used herein, means any of the following:

(a) Brush and woody vines shall be classified as weeds;

(b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(c) Weeds which bear or may bear seeds of a downy or wingy nature;

(d) Weeds which are located in an area which harbors rats, insects, animals, reptiles or any other creature which either may or does constitute a menace to health, public safety or welfare;

(d) Weeds and grasses on or about residential property which, because of its height, become a public nuisance.

Such weeds and grasses are declared to be a public nuisance if they exceed 12 inches in height.

(f) These provisions do not apply to land actually used for bona fide agricultural purposes. These provisions do not apply to cultivated and maintained gardens. Areas between property lines and centerlines of adjoining streets, alleys and easements shall comply.

(g) On vacant and undeveloped property, weeds and grasses shall not exceed twelve inches in height for 100 feet inside the perimeter of the property where adjoining an improved street, alley, or developed property (plus any areas between the property lines and centerlines of adjoining streets, alleys and easements). For native prairie gardens, wildflower gardens or other natural areas designated by the Development Services Department Director, weeds and grasses shall not exceed twelve inches in height for 50 feet inside the perimeter of the property where adjoining an improved street, alley or developed property. (Areas between the property lines and centerlines of adjoining streets, alleys, and easements shall comply.) (Ord. 3376)

8-303. PUBLIC OFFICER; NOTICE TO REMOVE.

(a) The Dodge City Commission designates the Chief Building Official to be charged with the administration and enforcement of this article. The Chief Building Official or authorized assistant shall give written notice to the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a nonresident of Ford County, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year.

(b) The notice to be given hereunder shall state:

(1) that the owner, occupant or agent in charge of the property is in violation of the city weed control law;

(2) that the owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within 10 days of the receipt of the notice;

(3) that the owner, occupant or agent in control of the property may request a hearing before the Dodge City Development Services Director (as designated representative of the governing body) within five days of the receipt of the notice or, if the owner is unknown or a nonresident of Ford County, and there is no resident agent, 10 days after notice has been published by the City Clerk in the official city newspaper.

(4) that if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;

(5) that the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

(5) that no further notice will be given during the current calendar year prior to the removal of weeds from the property; and,

(7) that the public officer should be contacted if there are questions regarding the order.

(c) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the City may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this ordinance.

8-304. NOTICE WHEN DELIVERY REFUSED

(a) Pursuant to K.S.A. 12-1617(e), if the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to the Article 3 Chapter VIII of the Code of the City of Dodge City, Kansas (and associated provisions listed below) during the preceding twenty-four month period, the Chief Building Official as designated agent for the governing body of the city may provide notice of the issuance of any further notices or orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident of Ford County, notice provided by this section shall be given by telephone communication or first class mail.

(b) This alternate method for delivery of notice or orders applies where an owner or agent of an owner of property has failed to accept delivery or otherwise failed to effectuate

receipt of a notice or order pursuant to associated nuisance codes of the City, specifically;

(1) The Property Maintenance Code, Article 6, Chapter IV;

(2) The Environmental Code, Article 1, Chapter VIII

8-305. ABATEMENT; ASSESSMENT OF COSTS.

(a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified section 8-303, above, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

(b) If the City abates or removes the nuisance pursuant to this section, the City shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the City. The notice shall also state that the payment is due within 30 days following receipt of the notice. The City also may recover the cost of providing notice, including any postage, required by this section.

(c) The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land which the nuisance was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the County Clerk, shall extend the same on the tax rolls of the County against such lot or parcel of land and it shall be collected by the county treasure and paid to the city as other City taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (K.S.A. 12-1617f)

(d) Cost shall be assessed at rate of the direct charge for cutting/clearing, plus 150% for necessary and reasonable administrative expenses.

8-306. RIGHT OF ENTRY.

The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the in purpose of cutting, destroying and/or removing such weeds in

a manner not inconsistent with this ordinance.

8-307. UNLAWFUL INTERFERENCE.

It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute an ordinance violation.

8-308 NOXIOUS WEEDS.

(a) Nothing in the Ordinance shall affect or impair the rights of the City under the provisions of Chapter 2, Article 13 of the Kansas Statues Annotated, relating to the control and eradication of certain noxious weeds.

(d) For the purpose of this section, the term noxious weeds shall mean kudzu (Pueraria lobata), field bindweed (Convolvulus arvensis), Russian Knapweed (Centaurea picris), hoary cress (Lepidium draba), Canada thistle (Cirsium arvense), quackgrass(Agropyron repens), leafy spurge (Euphorbia esula), burragweed (Franseria tomentosa and discolor), pignut (Hoffmannseggia densiflora), musk (nodding) thistle (Carduus nutans L.), and Johnson grass (Sorghum halepense). (K.S.A.2-1314) (ORD.3376)

ARTICLE 4. NOISE

8-401. DEFINITIONS. The following words and phrases when used in this ordinance shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in this section unless otherwise defined in the text of the section.

(a) Agricultural Area-property zoned AG

(b) Commercial Area-property zoned C-1, C-2,C-0 or property operating under a special use permit for a commercial use.

DB(A) A-weighted sound level measured in decibels by a general purpose, properly calibrated, sound level meter complying with the provisions of the American National Standard Institute.

(c) Emergency Motor Vehicle - a motor vehicle belonging to a fire department or certified private volunteer firefighter or fire fighting association, partnership or corporation, an

ambulance, or a motor vehicle belonging to federal, state, or county or municipal law enforcement agency, provided such vehicle is being used as an emergency vehicle by one

authorized to use such vehicle for that purpose.

(d) Industrial Area - property zoned I-1 or I-2.

(e) Plainly Audible - capable of being heard. It is not necessary to distinguish words or melodies. A plainly audible sound may consist of bass alone.

(f) Property Owner - the named property owner as indicated by the records of the Register of Deeds or Appraiser's Office in Ford County, Kansas.

(g) Residential Area - property zoned R-S, R-1, R-2, R-3 or property upon which a legal nonconforming residential use is operating.

(h) Sound Amplification or Producing Device or Similar Equipment - shall mean radio, radio receiving set, television, phonograph, stereo, tape player, cassette player, computer, compact disc player, "boom box," loudspeaker, drum, juke box, nickelodeon, musical instrument, sound amplifier or other device which produces, reproduces, or amplifies sound.

(i) Tenant - any person who has an interest in real property either by oral or written lease or covenant.

8-402. UNLAWFUL TO CAUSE A NOISE DISTURBANCE

It shall be unlawful to make or cause to be made a noise disturbance within the city. A noise disturbance shall include any or all of the following:

A. A sound registered on a decibel meter from any source not exempted or otherwise regulated by this chapter and which, when measured anywhere off of the property of the sound source, is in excess of the dB(A) established for the time period and zones listed below.

AREA	7:00 a.m.-10:00 p.m.	10:00 p.m.-7:00 a.m.
Residential	60 dB(A)	55 dB(A)
Commercial	65 dB(A)	60 dB(A)
Industrial	85 dB(A)	80 dB(A)
Agricultural	85 dB(A)	80 dB(A)

B. The owning, keeping or harboring of any animal that continuously, repeatedly, or persistently for 15 minutes or more, without provocation by the complainant,

creates a sound which is plainly audible across any property boundary line.

C. A sound resulting from the erecting, constructing, excavating, demolishing, altering or repairing of any structure, or operating, or permitting the operation of any tools or equipment used in construction, drilling, or demolition work in such a manner as to cause a sound plainly audible across any property boundary line between the hours of 10:00 p.m. And 7:00 a.m. Between the hours of 7:00 a.m. and 10:00 p.m., this activity shall not be subject to the time, area and dB(A) limits set forth in subsection A.

D. The repairing, rebuilding, modifying or testing of any motor vehicle, motorcycle, or motorboat in such a manner as to cause a sound plainly audible across any property boundary line between the hours of 10:00 p.m. and 7:00 a.m. Between the hours of 7:00 a.m. And 10:00 p.m., this activity shall not be subject to the time, area and dB(A) limits set forth in subsection A.

E. The operating or occupancy of a vehicle, which is moving or stationary, standing or parked, whether persons are seated in the vehicle or not, from which any sound amplification or producing device or similar equipment is creating a sound that is plainly audible at least fifty(50) feet from the source of sound.

F. The operation of any power tool, garden tool, lawnmower, snow blower or other similar equipment or device in residential areas in such a manner as to cause a sound plainly audible across any property boundary line between the hours of 10:00 p.m. And 7:00 a.m. Between the hours of 7:00 a.m. And 10:00 p.m., this activity shall not be subject to the time, area and dB(A) limits set forth in subsection A.

G. The operating, playing, permitting or causing to be operated or played any sound amplification or producing device or similar equipment in a manner as to cause a sound plainly audible across any property boundary line between the hours of 10:00 p.m. And 7:00 a.m. Between the hours of 7:00 a.m. and 10:00 p.m., this activity is subject to the area and dB(A) limits set forth in subsection A above.

8-403. UNLAWFUL TO ALLOW A NOISE DISTURBANCE; RESPONSIBILITY OR ABATEMENT.

A. It is unlawful for any property owner to tenant, or other person with control, occupancy, or possession of residential property, to allow or permit a person or group of persons to create a noise disturbance as defined in subsections A through G of Dodge City

Municipal Code Section 8-402 on said property.

B. The property owner, tenant or other such person with control, occupancy, or possession of property, shall be responsible for abatement of noise disturbances occurring on that property and failure to do so shall be a violation of this section.

EXEMPTIONS. The following shall not be considered to be noise disturbances for purposes of this ordinance:

(a) Sound from law enforcement motor vehicles and other emergency motor vehicles including, but not limited to, snow-clearing equipment.

(b) Sound from vehicles or equipment belonging to the city, state, county, federal government, school or other governmental agencies or utilities engaged in preparing for or remedying a potentially hazardous situation.

(c) Sound from railway locomotives and cars, railway signaling devices, and aircraft operations.

(d) Recreation and sporting events sponsored by or authorized by a governmental entity or accredited public and private schools.

(e) Bells or chimes associated with houses of worship.

(f) Sound that a person is making or causing to be made when said person has received and maintains a valid license or permit which specifically allows said sound from any department, board or commission of the city authorized to issue such license or permit.

8-404. CLASSIFICATION OF VIOLATION

A. Causing a noise disturbance is a Class C violation as defined by the Uniform Public Offense Code for Kansas Cities. Fines shall not exceed $500.00 for each violation and jail terms shall not exceed 30 days for each violation.

B. Each occurrence of a violation, or in the case of a continuous violation, each day a violation occurs or continues, constitutes a separate offense and shall be punishable as such hereunder. (ORD. 3361)

ARTICLE 5. COUNCIL ON AGING

8-501. **CREATION OF A COUNCIL ON AGING.** A council on Aging of the City of Dodge City, hereafter referred to as the "Council", is hereby established. Said Council shall consist of seven (7) members. All members shall be residents of the City and shall serve without compensation. (Ord. 3240, Sec. 1)

8-502. **MEMBERSHIP OF COUNCIL.** The members of said Council shall be appointed by the Governing Body and shall be representative of the economic, cultural, ethnic and racial groups which comprise the population of the City.

8-503. **TERMS OF OFFICE OF MEMBERS.** The term of office of each member shall be four (4) years. No member may serve more than two (2) consecutive four-year terms. (Ord. 3240, Sec 2)

8-504. **VACANCIES AND REMOVALS.** Vacancies on said Council, from whatever cause, except temporary vacancies as hereinafter provided, shall be filled by the Governing Body for the unexpired term. Any member of the Council may be removed from said Council prior to the expiration of his term by a two-thirds vote of the Governing Body.

8-505. **AUTOMATIC TERMINATION OF APPOINTMENT.** The appointment of any member of the Council who has been absent from three (3) consecutive or special meetings without valid cause shall automatically terminate as hereinafter set forth.

(a) The Secretary of the Council shall report the attendance records of each member of said Council to the Governing Body at the first Governing Body meeting at each January and July. The appointment of any member who was absent from three (3) consecutive regular or special meetings as defined in Section 8-505, shall be terminated on the date said report is filed.

8-506. **OFFICERS, MEETINGS, PROCEDURES, AND APPOINTMENTS.** The Council shall elect one (1) of its members President, one (1) of its members Vice-President, one (1) of its members Secretary, and one (1) of its members Treasurer who shall hold office for two (2) years until their successors are elected unless their terms as a member of the Council expire sooner. The President, Vice-President, Secretary and Treasurer shall be elected at the first meeting after the adoption of this ordinance and thereafter each January every two (2) years, commencing with January 1991. No officer shall serve more than two 92) consecutive two-year terms.

(a) The Council shall establish a regular time and place of meeting and shall hold at least one (1) meeting each month. Special meetings shall be called by the President, or by any two members of the Council upon written

request being delivered personally to the President. Members shall be notified personally or by mail at least twenty-four (24) hours prior to such special meeting.

(b) The council may make and alter rules governing its organization and procedures which are not inconsistent with this or any other applicable ordinance of the City.

(c) Four (4) members shall constitute a quorum and the affirmative vote of the majority of all members is required to take any action. The Council shall keep an accurate record of its proceedings and transactions and shall submit reports to the Governing Body and other officials so designated after each Council meeting. (Ord. 3240, Sec. 3)

(d) The Council shall appoint a representative to attend meeting of the Ford County Council on Aging and report back to the Council. Said representative shall be appointed in February 1989 and each January every two (2) years, commencing with January 1991.

8-507. **EXPENDITURES AND AUDIT.** The council shall annually prepare and submit for approval by the Governing Body its proposed work program along with a detailed budget showing all sources of income and all purposes for which income will be expended. Any proposed changes after a work program has been approved shall be submitted for reapproval by the Governing Body. The financial records of the Council shall be made available for auditing at the time of the annual audit of the City of Dodge City.

8-508. **FUNCTIONS OF THE COUNCIL.** The functions of the Council shall be to:

(a) Identify the needs of the aging of the community, create a citizen awareness of these needs, and promote the positive aspects of growing older in Dodge City.

(b) Advocate for older adults--

1. Identify needs of older adults

2. Identify interests of older adults

3. Act as a sounding board for ideas

4. Educate the public regarding older adults

5. Create interest

6. Be a political presence and activity for older adults.

(c) Coordinate services for older adults--

1. Interpret needs, interests, and programs for older adults;

2. Relate to agencies regarding older adult Services;

3. Solicit cooperation of agencies within the City.

(d) Plan programs-—

1. Prioritize needs

2. Educate the Governing Body and the public regarding programs for older adults.

3. Seek funding sources for these programs.

(e) Perform such other activities and duties as may be directed by the Governing Body.

(f) Improve the quality of life for all older individuals of the City of Dodge City.

8-509. **INTENT.** In prescribing the above duties and functions of the Council, it is not the intent of this Council to duplicate or overlap the functions, duties or responsibilities heretofore or hereafter assigned to any other City board or commission or to a City department. As to such functions or responsibilities above set forth which are partially or wholly the responsibilities of another board of commission or of a department of a City, the Council will render assistance and advice to such board, commission or department as may be requested.

8-510. **SEVERABILITY.** If for any reason any section, subsection, sentence, clause or phrase of this ordinance is declared to be unconstitutional or invalid, such decision shall not affect the validity of any remaining section, subsection, sentence, clause or phrase of this ordinance. (Ord. 2893)

ARTICLE 6. HUMAN RELATIONS

8-601. **Declaration of policy.** (a) The practice or policy of discrimination against individuals by reason of race, sex, familial status, disability, religion, age, color, national

origin or ancestry is a matter of concern to the city since such discrimination threatens not only the rights and privileges of the inhabitants of the city but menaces the institutions and foundations of a free democratic state. It is hereby declared to be the policy of the city to eliminate and prevent discrimination in all employment relations, to eliminate and prevent discrimination, segregation or separation in all areas of public accommodations, and to eliminate and prevent discrimination, segregation or separation in housing as provided in this chapter.

(b) It is also declared to be the policy of city to assure equal opportunities and encouragement to every citizen regardless of race, sex, disability, religion, age, color, national origin or ancestry, in securing and holding without discrimination, employment in any field of work or labor for which a person is properly qualified or qualifiable, to assure equal opportunity to all persons within the city to full and equal public accommodations, and to assure equal opportunities in housing without distinction on account of race, sex, familial status, disability, religion, color, national origin or ancestry. It is further declared that the opportunity to secure and to hold employment, the opportunity for full and equal public accommodations as covered by this chapter and the opportunity for full and equal housing are civil rights of every citizen. To protect these rights, it is hereby declared to be the purpose of this chapter to establish and to provide a city human relations commission and a human relations department.

8-602. **Definitions.** When used in this chapter, the words and phrases defined in the following sections shall have the meaning indicated. This chapter prohibits discrimination based upon sex, and accordingly, the personal pronouns and gender of nouns used in this chapter shall not be construed as limiting the provisions of this chapter to one or to the other sex.

'Age' means an age of forty (40) or more years but less than seventy (70) years.

'Chairperson' means the person chairing the human relations commission created by this chapter.

'Commission' means the human relations commission created by this chapter.

'Complainant' means any person claiming to be aggrieved by any unlawful discriminatory practice or violation of this chapter.

'Contract' means any contract entered into by the City of Dodge City or any of its agencies.

'Contractor' means any individual, partnership, corporation, association or other entities entering into a contract with the City of Dodge City and who is an employer as herein defined.

'Director' means the director of human relations department.

'Disability' means, with respect to an individual:

(a) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
(b) a record of such an impairment; or
(c) being regarded as having such an impairment by the person or entity alleged to have committed the unlawful discriminatory practice complained of.

'Disability' does not include current, illegal use of a controlled substance as defined in Section 102 of the federal controlled substance act (21 U.S.C. 802), in housing discrimination. In employment and public accommodation discrimination, 'disability' does not include an individual who is currently engaging in the illegal use of drugs where possession or distribution of such drugs is unlawful under the controlled substance act (21 U.S.C. 812), when the covered entity acts on the basis of such use.

'Dwelling' means any building, structure or portion thereof which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

'Employee' means any person employed by an employer but does not include any individual employed by such individual's parents, spouse, or child or in the domestic service of any person.

'Employer' includes any person in the city employing four (4) or more persons, and any person acting, directly or indirectly for an employer, labor organizations, nonsectarian corporations, organizations engaged in social service work, and the City of Dodge City and all political and municipal subdivisions thereof, but shall not include a nonprofit fraternal or social association or corporation.

'Employment agency' includes any person or governmental agency undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer or place employees.

'Familial status' means having one or more individuals less than eighteen (18) years of age domiciled with:

(1) A parent or another person having legal custody of such individual or individuals; or

(2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections against discrimination afforded individuals on the basis of familial status shall apply to any person who is pregnant or is in the processing of securing legal custody of any individual who has not attained the age of eighteen (18) years.

'Financial Institution' means any person regularly engaged in the business of lending money or guaranteeing loans on housing accommodations or real property.

'Hotel' means every building or other structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient guests and in which four or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a cabin camp, tourist cabin, motel or other type of lodging unit.

'Housing accommodation' means:

a. Any building or portion thereof which is used or intended for use as the residence or sleeping place of one or more persons.

b. The term 'housing accommodations' shall not mean or include:

1. The rental of a dwelling, or a portion thereof, containing accommodations for no more than two (2) families, one of which is occupied by the owner or his family at the time of rental;

2. The rental of less than four (4) rooms in a one-family dwelling to another person or persons by the owner or occupant of such accommodations in which he or members of his family reside.

'Labor organization' includes any organization which exists for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in relation to employment.

'Occupational qualifications' as used herein, are those qualifications which can be shown to be demonstrably valid to the normal operation or performance of a particular job, business or enterprise.

'Owner' shall mean and include the owner, lessee, sublessee, assignee, manager, agent, or other person, firm or corporation having the right to sell, rent or lease any housing accommodation or real property within the corporate limits of the City of Dodge City.

'Person' includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, quasi-municipal corporations, governmental agencies, public bodies, legal representatives, trustees trustees in bankruptcy, receivers, fiduciaries, mutual companies or unincorporated organizations.

'Person aggrieved' means any person who claims to have been injured by a discriminatory act or practice or believes that such person will be injured by a discriminatory act or practice that is about to occur.

'Probable cause' means the presence of a reasonable ground for belief in the existence of the allegation of a violation of any statute, ordinance, or other authority, orders, rules or regulations.

'Public accommodations' shall include any person who caters or offers goods, services, facilities and accommodations to the public. Public accommodations include, but are not limited to, any lodging establishment or food service establishment, as defined by K.S.A. 36-501 and amendments thereto; any bar, tavern, barbershop, beauty parlor, theater, skating rink bowling alley, billiard parlor, amusement park, recreation park, swimming pool, lake, gymnasium, mortuary or cemetery which is open to the public; or any public transportation facility. Public accommodations do not include a religious or nonprofit fraternal or social association or corporation.

'Real estate broker' means any person who, for a fee or other valuable consideration, sells, purchases, exchanges, rents, negotiates, offers or attempts to negotiate the sale, purchase, exchange or rental of housing accommodations or real property of another person.

'Real estate salesman or agent' means any person employed by a real estate broker to perform, or to assist in the performance of, any or all of the functions of a real estate broker.

'Reasonable accommodation' means:

(a) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(b) job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or

modifications of examination, training materials or policies; provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

'Restaurant' means any place in which food is served or is prepared for sale or service on the premises or elsewhere. Such term shall include, but not be limited to, fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, private club, roadside stand, industrial feeding establishment, catering kitchen, commissary and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

'Respondent' means any person alleged to have committed any unlawful act or violation of this chapter.

'Subcontractor' means any individual, partnership, corporation, association, or other entity, or any combination of the foregoing which shall undertake, by virtue of a separate contract with a contractor as defined herein to fulfill all or any part of any contractor's obligation under a contract with the City of Dodge City, or who shall exercise any right granted to a franchise holder, and who is an employer as herein defined.

'To rent' means to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

8-603 **Construction.** (a) The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any other law of this city relating to discrimination because of race, religion, color, sex, disability, national origin or ancestry, unless the same is specifically repealed by this chapter.
(b) Nothing in this chapter shall be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel, or discharge qualified or competent personnel.

8-604. **Invalidity of part.** If any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this chapter and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered and the persons or circumstances involved. It is

hereby declared to be the legislative intent that this chapter would have been adopted had such provisions not been included.

8-605. **Reserved.**

SECTION II HUMAN RELATIONS COMMISSION

8-606. **Created.** There is hereby created the Human Relations Commission.

8-607. **Composition, Appointment.** The Human Relations Commission shall consist of nine (9) members, at lease three (3) of whom shall be members of a significant ethnic or minority group within the community, who shall be appointed by the mayor, with the consent of the board of commissioners.
shall be for one (1), two (2), and three (3) year terms, and thereafter all appointments shall be for a term of three (3) years and until a successor is qualified, provided; however, no person shall serve for more than eight (8) consecutive years. The term of office of each chairperson and vice chairperson shall be for one (1) year, and no person shall serve for more than two (2) consecutive terms in the same office, unless such election to the immediately subsequent term is made by members of the commission by unanimous vote.

8-609. **Compensation.** The members of the Human Relations Commission shall serve without compensation.

8-610. **Officers.** The human relations commission shall elect one of its members as chairperson, who shall preside at all meetings of the commission and perform all the normal duties and functions of the chairperson. The mayor shall convene the first meeting of the commission and conduct the election of the chairperson. The commission shall elect, in the same manner, one of its members as vice chairperson who shall act as chairperson during the absence or incapacity of the chairperson and, when so acting, the member so designated shall have and perform all the duties and functions of the chairperson of the commission. In such event, the commission shall elect another member as a replacement for the unexpired term.

8-611. **Quorum.** A majority of the presently serving members of the Human Relations Commission shall constitute a quorum for the purpose of conducting its business.

8-612. **Powers and duties.** The commission shall have the following functions, powers and duties:
(1) To receive, initiate, investigate and pass upon complaints alleging discrimination in employment, public accommodations and housing because of race, religion color, sex, disability, national origin or ancestry and complaints alleging discrimination in housing because of familial status.

(2) To subpoena witnesses, compel their appearance and require the production for examination of records, documents and other evidence or possible sources of evidence and to examine, record and copy such materials and take and record the testimony of such persons. The commission may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoena or interrogatories were issued or served in aid of a civil action in the district court. The commission shall have access at all reasonable times to premises and may compel such access by application to a court of competent jurisdiction; provided that the commission first complies with the provisions of Article 15 of the Kansas Bill of Rights and the Fourth Amendment to the United States Constitution relating to unreasonable searches and seizures.
(3) To hold public hearing, administer oaths, and take depositions to the same extent and subject to the same limitations as would apply if the deposition was taken in aid of a civil action in the district court. In case of the refusal of any person to comply with any subpoena, interrogatory or search warrant issued hereunder, the human relations commission may make application to the district court to compel compliance pursuant to state law.

(4) To act in concert with other parties in interest in order to eliminate and prevent discrimination and segregation, prohibited by this chapter, by including any term in a conciliation agreement as could be included in a final order under this chapter.

(5) To apply to the district court for enforcement of any conciliation agreement by seeking specific performance of such agreement.

(6) To issue such final orders after public hearing as may remedy any existing situation found to violate this chapter and prevent its recurrence; and if necessary, to seek enforcement of such final orders pursuant to federal and state law.

(7) To endeavor to eliminate prejudice among the various ethnic groups and people with disabilities in the city and to further good will among such groups.

(8) To create such advisory agencies and conciliation councils, as in its judgment will aid in effectuating the purposes of this chapter; to study the problem of discrimination in all or specific fields or instances of discrimination because of race, religion, color, sex, disability, national origin or ancestry; to foster, through community effort or otherwise, good will, cooperation and conciliation among the groups and elements of the population of

the city; and to made recommendations to the commission for the development of policies and procedures, and for programs of formal and informal education, which the commission may recommend to the city commission. Such advisory agencies and conciliation shall be composed of representative citizens serving without pay. The commission may itself make the studies and perform the acts authorized by this paragraph. It may, by voluntary conferences with parties in interest, endeavor by conciliation and persuasion to eliminate ddiscrimination in all the stated fields and to foster good will and cooperation among all elements of the population of the city.

(9) To accept contributions from any person to assist in the effectuation of this chapter and to seek and enlist the cooperation of private, charitable, religious, labor, civic and benevolent organizations for the purposes of this chapter.

(10) To issue such publications and such results of investigation and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, sex, disability, national origin or ancestry.

(11) To render each year to the city manager and to the city commission a full written report of all of its activities and of its recommendations.

(12) To receive and accept federal funds to effectuate the purposes of this chapter and to enter into agreements with any federal agency for such purpose.

8-613. **Creation of department.** There is hereby created a Human Relations Department for the purpose of administering and enforcing the provisions of this chapter or as hereafter amended.

8-614. **Position of Director of Human Relations created; appointment, salary.** There is hereby created the position of Director of Human Relations of the City of Dodge City to be appointed by and directly responsible to the City Manager. The Human Relations Commission of applicants for this position, but merit and fitness shall be the governing criteria in the selection of the Director of Human Relations.

8-615. **Duties, responsibilities, and authority of the Human Relations Director**
The director shall have the following duties, responsibilities and authority: The administration of this chapter shall be the responsibility of the director of the Human relations department and his designated staff. The director shall promulgate procedure to implement, expedite, and effectuate the provisions of this chapter. In addition to any powers and responsibilities heretofore conferred in the director, the director shall have the power and responsibility to:

(1) Seek to eliminate and prevent discrimination in employment because of race, sex, religion, age, color, national origin, ancestry, disability, or familial status, by employers, labor organizations, employment agencies, or other persons, and to take other actions against discrimination because of race, sex, religion, age, color, national origin, ancestry, disability, or familial status, as provided herein;

(2) Effectuate the purposes of this chapter first by conference, conciliation, and persuasion so that persons may be guaranteed their civil rights and good will fostered;

(3) Seek cooperation from, and upon request, make technical assistance available to all city government departments and agencies;

(4) Receive, investigate, initiate and attempt to conciliate complaints alleging discrimination in employment, housing and public accommodations because of race, sex, religion, age, color, national origin, ancestry, disability, or familial status;

(5) Pursue the goals of affirmative action implementation within municipal government and external to municipal government through continued dialogue and technical assistance;

(6) In conducting an investigation, the director or his staff shall have access at all reasonable times to premises, records, documents, and other evidence or possible sources of evidence, and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation. In case of the refusal of any person to comply with any subpoena issued by the local human relations commission, or to testify to any matter regarding which such person may be lawfully questioned, the district court of Ford County may, upon application of the local human relations department, order such person to comply with such subpoena and to testify to the extent such person could be so compelled pursuant to the provisions of Section 8-612 and state law.

(7) Request that the city attorney apply to the district court of Ford County, Kansas for temporary or permanent injunctive relief to enjoin violation of this chapter;

(8) Request that the city attorney apply to the district court of Ford County, Kansas for enforcement of any conciliation agreement by seeking specific performance of such agreement;

(9) Attend all meetings and serve as secretary of the human relations commission; provide necessary reports, such as agenda, minutes, and schedules of commission meetings to the

commission, to the governing body, and to the city manager; advise the local news media of commission meetings and agenda.

8-616. **Reserved.**

SECTION III. UNLAWFUL PRACTICES

8-617. **Unlawful employment practices.** (a) It shall be an unlawful employment practice:

(1) For an employer, because of the race, religion, age, color, sex, disability, national origin or ancestry of any person to refuse to hire or employ such person to bar or discharge such person from employment or to otherwise discriminate against such person in compensation or in terms, conditions or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business necessity.

(2) For a labor organization, because of the race, religion, age, color, sex, disability, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.

(3) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to made any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, age, color, sex, disability, national origin or ancestry, or any intent to made any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

(4) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this chapter or because such person has filed a complaint, testified or assisted in any proceeding under this chapter.

(5) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of such person's race, religion, age, color, sex, disability, national origin or ancestry; or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any

limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or ancestry.

(6) or an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job, or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of race, religion, age, color, sex, disability, national origin or ancestry, in admission, hiring, assignments, upgrading transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

(7) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter, or attempt to do so.

(8) For an employer, labor organization, employment agency or joint labor-management committee to:

a. limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

b. participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this chapter;

c. utilize standards criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control;

d. exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

e. not make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such employer, labor organization, employment agency or joint labor-management committee can demonstrate that the accommodation would impose an undue hardship on the operation of the business thereof;

f. deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

g. use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used, is shown to be job-related for the position in questions and is consistent with business necessity; or

h. fail to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(b) It shall not be an unlawful employment practice to fill vacancies in such way as to eliminate or reduce imbalance with respect to race, religion, age, color, sex, disability, national origin or ancestry.

8-618. **Unlawful public accommodation practices.** It shall be an unlawful public accommodation practice:

(1) For any person, as defined herein being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or made a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this chapter because of race, religion, color, sex, disability, national origin or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.

(2) For any person, whether or not specifically enjoined from discriminating under any provisions of this chapter, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter, or to attempt to do so.

(3) For any person, to refuse, deny, make a distinction, directly or indirectly, or discriminate in any way against persons because of the race, religion, color, sex, disability, national origin or ancestry of such persons in the full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof.

(4) Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting its offerings of goods, services, facilities, and accommodations, to persons of the same religion, or from giving preference to such persons, provided that such offerings above mentioned are not, in fact, offered for commercial purposes.

8-619. **Unlawful housing practices.** Those acts which are unlawful housing practices are set forth in Section V of this chapter.

SECTION IV
COMPLAINT PROCEDURES

8-620. **Filing of complaint.** (a) Any person claiming to be aggrieved by an alleged unlawful act or practice may, personally or by an attorney-at-law, make, sign and file with the commission a verified complaint in writing which shall state the name and address of the person alleged to have committed the unlawful practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission. The director or commission upon its own initiative, or the city attorney, may in like manner, make, sign, and file such complaint.

(b) In the event a complaint is against the City or any of its officials or employees, the complaint will be referred to the Kansas Commission on Civil Rights.

8-621. **Time for filing complaint.** Any complaint filed pursuant to this chapter, except as otherwise provided in the case of an alleged discriminatory housing practice, must be so filed within six (6) months after the alleged unlawful act or practice, unless the act complained of consists of a continuing pattern or practice of discrimination in which event it will be from the last act of discrimination.

8-622. **Submission of a false, misleading or incomplete** Complaint, statement, response or report. Any person who knowingly and intentionally submits or files or causes to be submitted or filed, a false, misleading, or incomplete complaint, statement, response or report with the commission, the director or any of the department's personnel, shall be guilty of a misdemeanor.

8-623. **Investigation by commission.** Whenever the commission has, in

its own judgment, reason to believe that nay person has engaged in a practice in violation of this chapter, or has engaged in a pattern or practice of discrimination, the commission may conduct an investigation without filing a complaint and shall have the same powers during such investigation as provided for in the investigation prior to its commencement. The purpose of the investigation shall be to resolve any such problems promptly. In the event such problems cannot be resolved within a reasonable time, the commission may issue a complaint whenever the investigation has revealed a violation of this chapter has occurred. The information gathered in the course of the first investigation may be used in processing the complaint.

8-624. **Conciliation.** (a) During the period beginning with the filing of such complaint and ending with the commencement of an administrative hearing or a dismissal of the complaint, the director shall, to the extent feasible, engage in conciliation with respect to such complaint.

(b) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the director. Such agreements may include in the provisions thereof any terms or condition which may be included in a final order of the commission.

(c) In a manner consistent with K.S.A. 44-1019(f)(1) and amendments thereto, each conciliation agreement shall be made public unless the person aggrieved and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this article.

(d) Any of the parties to a conciliation agreement may apply to the Ford County District Court for specific performance of any such agreement.

8-625. **Notice and investigation**. After the filing of any complaint by an aggrieved individual, by the commission, or by the city attorney, the commission shall within ten (10) days after the filing of the complaint, serve a copy on each of the parties alleged to have violated this chapter. The director shall then make, with the assistance of staff, a prompt investigation of the alleged unlawful act or practice.

8-626. **Probable cause; conciliation.** (a) Upon completion of the investigation, two commissioners will be assigned by the chairperson to determine, with the advice of the city prosecutor, whether probable cause exists based upon the documented results of the investigation. If the two commissioners are unable to agree on whether probable cause exists, the city prosecutor shall determine the matter.

(b) if it is determined that no probable cause exists for crediting the allegations of the complaint, the director within ten (10) business days from such determination shall cause to be issued and served upon the complainant and respondent written notice of such determination. The director shall then administratively close the commission's complaint file.

8-627. **Administrative hearing.** In case of failure to eliminate the unlawful act or practice complained of by conference and conciliation within the time allowed under Section 8-625, or in advance thereof, if in the judgment of the commission circumstances so warrant, the commission shall commence a hearing in accordance with the provisions of the Kansas administrative procedures act naming as parties the complainant and the person(s), named in such complain, hereinafter referred to as respondent. A copy of the notice of hearing shall be served on the respondent. The municipal judge shall serve as the hearing officer.

8-628. **Subpoenas.** The complainant or respondent may apply to the director with a request that the commission issue subpoenas for the attendance of any person or the production or examination of any books, records or documents pertinent to the proceeding at the hearing. Upon such application the commission shall issue such subpoenas.

8-629. **Presentation of case.** The case in support of the complaint shall be presented before the hearing officer by the city attorney or city prosecutor, or by private counsel of the complainant. Any endeavors at conciliation shall not be received in evidence.

8-630. **Order.** (a) If the hearing officer finds a respondent has engaged in or is engaging in any unlawful employment practice or unlawful discriminatory practice as defined in this chapter, the hearing officer shall render an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including but not limited to the hiring reinstatement, or upgrading of employees, with or without back pay, and the admission or restoration to membership in any respondent labor organizations, the admission to and full and equal enjoyment of the goods, services, facilities, and accommodations offered by any respondent place of public accommodation denied in violation of this chapter, as, in the judgment of the hearing officer, will effectuate the purposes of this chapter, including a requirement for report of the manner of compliance. such order may also include an award of compensatory damages and damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of two thousand dollars ($2,000).

(b) The order of the hearing officer shall be deemed an order o the commission.

(c) The commission's order shall be subject to enforcement and review pursuant to K.S.A 12-16,106 amendments thereto.

(d) Within fifteen (15) days after the hearing officer's order is served by the commission requiring or prohibiting action by a respondent, the respondent shall notify the commission in writing of the manner in which the respondent has complied with the order.

(e) In the case of an order with respect to a discriminatory practice that occurred in the course of a business subject to a licensing or regulation by a state agency, the commission may, not later than (30) days after the respondent has complied with the order, or, if such order is judicially reviewed under subparagraph (c) above, thirty (30) days after such order is in substance affirmed upon such review:

(1) Send copies of the findings of fact, conclusions of law, and the order, to that agency; and

(2) recommend to the agency appropriate disciplinary action, including, where appropriate, the suspension or revocation of the license of the respondent.

8-631. **Dismissal.** If the hearing officer finds that a respondent has not engaged in an unlawful discriminatory practice, the hearing officer shall render an order dismissing the complaint as to such respondent.

8-632. **Rules.** The commission is hereby authorized to adopt rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder.

SECTION V. HOUSING

8-633. **Unlawful discriminatory housing practices.** Subject to the provisions of Section 8-636 and amendments thereto, it shall be unlawful for any person:

(1) To refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of

race, religion, color, sex, disability, familial status, national origin or ancestry.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(3) To make, print, publish, disseminate or use, or cause to be made, printed, published, disseminated or used, any notice, statement, advertisement or application, with respect to the sale or rental of a dwelling that indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, disability, familial status, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.

(4) To represent to any person because of race, religion, color, sex, disability, familial status, national origin or ancestry that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, disability, familial status, national origin or ancestry.

(6) To deny any person access to or membership or participation in any multiple-listing service real estate brokers' organization or other service, organization or facility relating to the business of selling or renting a dwelling, or to discriminate against such person in the terms or conditions of such access, membership or participation, because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(7) To discriminate against any person in such person's use or occupancy of a dwelling because of the race, religion, color, sex, disability, familial status, national origin or ancestry of the people with whom such person associates.

(8) (a) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(1) That buyer or renter;

(2) a person residing in or intending to reside in that dwelling after it is sold, rented or made available; or

(3) any person associated with that buyer or

renter.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with such dwelling because of a disability of:

(1) That person:

(2) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

(3) any person associated with that person.

(c) For purposes of this subsection (8), discrimination includes:

(1) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that in the case of a rental, the landlord may where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) a refusal to make reasonable accommodations in the rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(3) in connection with the design and construction of covered multifamily dwellings for first occupancy on and after August 17, 1992, a failure to design and construct such dwelling in such a manner that:

(a) The public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities;

(b) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with disabilities

who are in wheelchairs; and

(c) all premises within such dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling;

2. light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

3. reinforcements in bathroom walls to allow later installation of grab bars; and

4. usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(d) Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physical handicapped people, commonly cited as 'ANSI A 117.1' suffices to satisfy the requirements of subsection (8)(c)(3)c.

(e) As used in this subsection (8), 'covered 'multifamily dwellings' means:

(1) Buildings consisting of four or more units if such buildings have one or more elevators; and
(2) ground floor units in other buildings consisting of four or more units.

(f) Nothing in this chapter shall be construed to invalidate or limit any state law or ordinance that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this chapter.

(g) Nothing in this subsection (8) requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

8-634. **Real estate transactions.** (a) It shall be unlawful for any person or other entity whose business includes engaging in real estate related transactions to discriminate against any person making available such a transaction, or in the terms or conditions of such a transaction, because of the race, religion, color, sex, disability, familial status, national origin or ancestry of such person or of any

person associated with such person in connection with any real estate related transaction.

(b) As used in this section, "real estate related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

a. For purchasing, constructing, improving, repairing or maintaining a dwelling; or
b. secured by residential real estate.

(2) The selling, brokering or appraising of residential real property.

(c) Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, religion, color, sex, disability, familial status, national origin or ancestry.

8-635. **Intimidation, interference.** It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of such person's having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Section 8-633 or 8-634 and amendments thereto.

8-636. **Limitations.** (a) Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or ancestry. Not shall anything in this chapter prohibit a nonprofit private club in fact no open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other

than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members,

(b) Nothing in this chapter, other than the prohibitions against discriminatory advertising as provided in subparagraph (3) of Section 8-633, and amendments thereto, shall apply to:

(1) The sale or rental of any single family house by an owner, provided the following conditions are met:

a. The owner does not own or have any interest in more than three single family houses at any one time; and

b. the house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this subsection applies to only one such sale in any 24-month period; or

(2) rooms or units in buildings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as the owner's residence.

(c) (1) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this chapter regarding familial status apply with respect to housing for older persons.

(2) As used in this subsection 'housing for older persons means housing:

a. provided under any State or Federal program that the Commission determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal Program); or

b. intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

c. intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Commission shall develop regulations which require at least the following factors:

(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provisions of such facilities and services is not

practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(ii) that at least eight percent (80%) of the units are occupied by at least one person fifty-five (55) years of age or older per unit; and

(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

(3) Housing shall not fail to meeting the requirements for housing for older persons by reason of:

a. persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2)(B) or (c); provided, that new occupants of such housing meet the age requirements of sections (2)(B) or (C); or

b. Unoccupied units; provided, that such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(B) or (C).

(d) Nothing in this chapter prohibits conduct against a person because such person has been convicted two or more times by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the federal controlled substances act (21 U.S.C. 802).

8-637. **Administration.** (a) The authority and responsibility for administering this article shall be in the commission. The complaint procedure set forth in Section IV of this chapter shall apply to complaints filed under this article, except to the extent rights of the parties and the applicable procedures are more specifically addressed herein.

8-638. **Complaints.** (a) Any person aggrieved may file a verified complaint with the commission. Such complaints shall be in writing, shall state the facts upon which the allegations of a discriminatory housing practice are based and shall contain such other information and be in such form as the commission may require. Complaints must be filed within one (1) year after the alleged discriminatory housing practice occurred, but may be reasonable and fairly amended at any time. The commission upon its own initiative or the city attorney may, in like manner, make, sign and file such complaint.

(b) Upon receipt of any such complaint the commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice o forums provided under this article. Within ten (10) days after the filing of the complaint the director shall serve on the respondent a notice identifying the alleged discriminatory housing practice and advising the respondent of respondent's procedural tights and obligations under this article, together with a copy of the original complaint. Service of the notice shall be made in the manner prescribed by the code of civil procedure.

(c) A respondent may file an answer to the complaint with the commission no later than ten (10) days after service of the notice of the complaint.

(d) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under subsections (a) and (b), to such person, from the commission.

8-639 Conciliation. (a) During the period beginning with the filing of such complaint and ending with the commencement of an administrative hearing or a dismissal of the complain, the director shall, to the extent feasible, engage in conciliation with respect to such complaint.

(b) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the director. Such agreements may include in the provisions thereof any terms or condition which may be included in a final order of the commission.

(c) In a manner consistent with K.S.A. 44-1019(f)(1) and amendments thereto, each conciliation agreement shall be made public unless the person aggrieved and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this article.

(d) any of the parties to a conciliation agreement may apply to the Ford County District Court for specific performance of any such agreement.

8-640. **Investigation.** After the commission assumes jurisdiction of a complaint, the commission shall within thirty (30) days after receipt of the complaint commence an investigation thereof, and complete such investigation, including conciliation, within one hundred (100) days after the filing of the complaint, unless it is impracticable to do so. If the commission is unable to complete the investigation within one hundred (100) days, the commission shall inform the parties in writing of the reasons for not doing so.

8-641. **Prompt judicial action.** If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the commission may bring a civil action in the district court of Ford County, for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Any temporary restraining order other order granting preliminary or temporary relief shall be issued in accordance with the rules of civil procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this article.

8-642. **Final administrative disposition.** The commission shall make final administrative disposition within one (1) year after the filing of the complaint unless it is impracticable to do so. If the commission is unable to make final administrative disposition of the complaint within one (1) year of the date of filing, the commission shall inform the parties in writing of the reasons for not doing so.

8-643. **Probable cause, conciliation.** (a) Upon completion of the investigation, two commissioners will be assigned by the chairperson to determine, with the advice of the city prosecutor, whether probable cause exists based upon the documented results of the investigation. If the two commissioners are unable to agree on whether probable cause exists, the city prosecutor shall determine the matter.
(b) If it is determined that no probable cause exists for crediting the allegations of the complaint, the director within ten (10) business days from such determination shall cause to be issued and served upon the complainant and respondent written notice of such determination. The director shall then administratively close the commission's complaint file.
(c) If it is determined that probable cause exists for crediting the allegations of the complaint, the commission shall serve written notice of such determination on the person

aggrieved. The commission shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion which shall be held, insofar as possible.

8-644. **Conciliation failure.** If the commission is unable to resolve the alleged unlawful discriminatory housing practice, it shall notify the parties in writing that conciliation efforts have failed.

8-645. **Election for civil action.** (a) After the commission has issued a notice of conciliation failure pursuant to Section 8-644 of this Article, the complainant, the respondent, or the commission may elect to have the claims and issues asserted in

the reasonable grounds determination decided in a civil action commenced and maintained by the commission.

(1) An election for a civil action under this subsection shall be made no later than twenty (20) days after an electing complainant or respondent receives the notice of conciliation failure, or if the commission makes the election, not more than twenty (20) days after the notice of conciliation failure is issued. A complainant or respondent who makes an election for a civil action pursuant to this subsection shall give notice to the commission. If the commission makes an election, it shall notify all complainants and respondents of the election.

(2) If an election is made under this subsection, no later than sixty (60) days after the election is made the commission shall commence a civil action in the federal district court in its own name on behalf of the complainant. In such an action, the commission shall be represented by an attorney employed by the commission.

(b) In a civil action brought under this section, the rights and remedies of the parties shall be determined by applicable federal law.

8-646. **Administrative hearing.** If the commission is unable to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion, and if an election for a civil action is not made pursuant to Section 8-645, a hearing shall be held before a hearing officer in the manner provided in Section 8-626 through 8-628 and the amendments thereto, for holding hearings under this chapter. In any such hearing, the burden of proof shall be on the complainant.

8-647. **Order.** (a) If the hearing officer shall find that a respondent has engaged in or is engaging in any discriminatory housing practice, the hearing officer shall render an order requiring the respondent to ease and desist from such discriminatory housing practice, and such order may direct a respondent to take such affirmative action as the hearing officer deems necessary to effectuate the intent and purposes of this article, including, but not limited to, the selling or renting of specified real property ad the lending of money for the acquisition, construction, rehabilitation, repair or maintenance of real property. Such order may also include an award of compensatory damages and of damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of two thousand dollars ($2,000). Such order may also, to vindicate the public interest, assess

A civil penalty against the respondent in an amount not exceeding two thousand dollars ($2,000). Such civil penalties shall be paid into the city treasury to the credit of the city general fund.

(b) The order of the hearing officer shall be deemed an order of the commission.

(c) The commission's order shall be subject to enforcement and review pursuant to K.S.A. 12-16, 106 and amendments thereto.

(d) Within fifteen (15) days after the hearing officer's order is served by the commission requiring or prohibiting action by a respondent, the respondent shall notify the commission in writing of the manner in which the respondent has complied with the order.

(e) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a state agency, the commission, may, not later than thirty (30) days after the respondent has complied with the order, or, if such order is judicially reviewed under subparagraph (c) above, thirty (30) days after such order is in substance affirmed upon such review:

(1) Send copies of the findings of fact, conclusions of law, and the order, to that agency; and

(2) recommend to the agency appropriate disciplinary action, including, where appropriate, the suspension or revocation of the license of the respondent.

8-648. **Dismissal.** If the hearing officer finds that a respondent has not engaged in an unlawful discriminatory housing practice, the hearing officer shall render an order dismissing the complaint as to such respondent.

8-649. **Rules.** The commission is hereby authorized to adopt rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder.

SECTION VI PUBLIC CONTRACTS.

8-650. **Required contract provision.** (a) Every contract for or on behalf of the city of Dodge City or any agency thereof, for construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies, or services, shall contain provisions by which the contractor and any subcontractors agree that:

(1) The contractor and subcontractor shall observe the provisions of this chapter and shall not discriminate against any person in the performance of work under the present contract because of race, sex, religion, age, color, national origin, ancestry or disability.

(2) In all solicitations, or advertisements for employees, the contractor shall include the phrase equal opportunity employer, or a similar phrase to be approved by the director.

(b) In any contract entered into by the City of Dodge City or any of its agencies or departments, there shall be included a provision that during the performance of the contract, the contractor will not discriminate against any employee or applicant for employment in the performance of the contract and every contractor shall include similar provisions in all subcontract under such person's contract with the City of Dodge City.

8-651. **Affirmative action by contractors required.** (a) Any contractor entering into a contract with the city and such person's subcontractor shall take affirmative action to insure that employees are treated equally without regard to their race, sex, religion, age, color, national origin, ancestry or disability. Such affirmative action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor and subcontractor shall agree to pose, in conspicuous places available to employees and applicants for employment, notices to be provided by the director setting forth provisions of this article. The contractor and such person's subcontractors shall provide all affirmative action information and necessary documents to implement the compliance with the requirements of all federal, state and local laws and ordinances.

(b) It shall be no excuse that the employer has a collective bargaining agreement with any union providing for exclusive referral or approval systems. The failure of the contractor or subcontractors to comply with the requirements of this article shall be grounds for cancellation, termination, or suspension of the contract, in whole or in part, by the board of commissioners with the contractor or subcontractors until satisfactory proof with intent to comply will be submitted to and accepted by the board of commissioners.

8-652. **Affirmative action plan.** Every contractor and subcontractor prior to entering into a contract with the city shall submit to the director of human relations an acceptable written affirmative action plan which shall:

(1) Identify areas of employment, employment policies, and employment, and employment practices which require action by the contractor or subcontractor to assure equal employment opportunity;

(2) Analyze these areas, policies and practices to determine what actions by said contractor or subcontractor will be most effective;

(3) Establish a plan with goals and timetables designed to achieve equal employment opportunity; and

(4) Include provisions for implementation, monitoring, and periodic evaluation in order to insure that it continues to be a valid plan.

8-653. **Exemptions.** The provisions of this Article shall not apply to:

(1) Contractors or suppliers who would not be considered as an 'employer' as defined in Section

(2) Contracts and subcontracts not exceeding twenty thousand dollars ($20,000.00); and

(3) Call type or purchase order agreements which do not exceed twenty thousand dollars ($20,000.00) in total per calendar year; provided, vendors, contractors and suppliers who will supply or expect to supply the city with goods or services exceeding twenty thousand dollars ($20,000.00) during the subsequent calendar year not be exempt from the requirements of this article;

provided, the above exemption shall not conflict with applicable state or federal laws.

SECTION VII THE ORGANIZATIONAL STRUCTURE AND RESPONSIBILITIES FOR CARRYING OUT THE CITY'S COMMITMENT TO THE PRINCIPLE OF NONDISCRIMINATION IN CITY EMPLOYMENT.

8-654. **Definitions.** The words and phrases defined in the following sections, when used in this article, shall have the meanings indicated.

'Directors' means the director of personnel and the director of human relations.

'Minority' as defined by the federal EEOC are members of racial or ethnic groups which have encountered, or now encounter, employment or the discrimination in our society because of such

group membership or affiliations. Ethnic categories as defined by federal EEOC are:

a. The category 'white' should include persons of Indo-European descent, including Pakistani and East Indian.

b. The category 'black' should include persons of African descent as well as those identified as Jamaican, Trinidadian and West Indian.

c. The category 'Spanish Surnamed' should include persons of Mexican, Puerto Rican, Cuban, Central, South or Latin American or Spanish descent.

d. The category 'American Indian' or 'Alaskan Native' should include persons having origin in any of the 'original peoples' of North America, and who maintain cultural identification through tribal affiliation.

e. The category 'Asian American' or 'Pacific Islander' should include persons having origins in any of the 'original peoples' of the Far East, the Indian subcontinent or the Pacific Islands. This are includes China, India, Japan, Korea, Malaysia, Thailand, the Philippine Islands and Samoa.

'Program' means the affirmative action program.

8-655. **Administration.** The administration of this article shall be the responsibility of the city manager.

8-656. **Selection standards.** (a) The directors will cause a review of all job specifications to assure that requirements contained therein are job related and do not present unreasonable barriers for entry by minority, female or disabled applicants.

(b) The directors will cause a review of all written examinations administered to assure that they do not have a discriminatory effect on minority, female or disabled applicants.

(c) As new classifications are established, or new selection standards utilized, the directors will review each standard to assure its nondiscriminatory nature.

8-657. **Recruiting and advertising.** (a) In order to insure nondiscrimination in employment opportunities, the director of personnel shall promptly notify the director of human relations of any vacancy to be filled. The director of human relations shall, upon receiving any job vacancy listing, promptly post notice of such in public locations in at least three (3) places throughout the city. The director of personnel shall be responsible for seeing that an advertisement is given publication in at least one (1) and not

more than three (3) periodical news agencies with general circulation in the city. The city shall be responsible for the payment of all advertising costs. No person shall be employed to fill any vacancy, within ten (10) days after the vacancy is listed with the director of human relations, unless in the opinion of the city manager, an emergency exists. Vacancies in the 'semiskilled' and 'laborer-type' category may be filled after publication of the vacancy. All applications for employment shall be filled with the director of personnel.

(b) Recruiting efforts shall be directed toward educational institutions having minority and/or female or disabled enrollment.
(c) Communications and referral relationships to be established and maintained with groups and organizations likely to yield minority, female or disabled applicants.
(d) Advertising for applicants shall be done in the manner most likely to reflect the city's affirmative desire to attract minority, female and disable applicants.

8-658. **Affirmative management.** (a) It shall be unlawful for The head of any department, official agent, or employee of the city or of any department thereof acting for or on behalf of said city in any manner involving employment by the city to discriminate against any person otherwise qualified in employment or in tenure, terms or conditions of employment, or to discriminate in promotion or increase in compensation; or to publish offers of or to offer employment based upon such discrimination; or to adopt or enforce any rule or employment policy which discriminates between employees or prospective employees; or to seek information relating to age, race, sex, religion, color, national origin, ancestry or disability from any person or employee, as a condition of employment, tenure, terms or in connection with conditions of employment, promotion
increase in compensation unless such information is demonstrably valid as being as essential qualification, or to discriminate in the selection of personnel for training.

(b) The directors will work closely with each department head in the following areas:

(1) Classification plan: Analyze and restructure where justified to provide maximum opportunity for applicants to qualify for employment, as well as, for employees to advance.

(2) Staff orientation: Initiate programs to assure that all personnel responsible for selection and supervision are award of and provided with training to develop skill in implementing the affirmative action program.

(3) Identify areas for concentrated efforts: The

directors shall develop statistical information relative to the utilization of minorities, females and disabled in all department of the city, identify areas of deficiency, and develop goals and methods for correcting such deficiencies.

8-659. **Evaluation.** (a) There is hereby established an affirmative action evaluation committee composed of the city manager or his designee, the director of personnel, the director of human relations and other department heads as the city manager may deem appropriate. The city manager or his designee shall serve as chairman of the committee.

(b) The committee shall advise the department heads on implementation procedures, identification of areas for concentrated efforts, and aid in other matters related to implementation of the program.

(c) The committee shall meet not less than quarterly to review overall progress on implementation of the program. They shall make any modifications as may be necessary to assure maximum, effective implementation of the program.

8-660. **Training for upward mobility.** The city manager will take measures to assure that maximum opportunity is afforded to minorities, women and disabled for entry into training or educational programs which will enhance their employment for upward mobility potential.

8-661. **Reports.** The city manager will submit an annual report to the board of commissioners on the status of the affirmative action program. (Rod. 3014, 1992)

ARTICLE 7. GRAFFITI NUISANCE

8-701. **LEGISLATIVE INTENT.** The City Commission of the City of Dodge City finds and declares that defacing of public or private property by painting, drawing, writing, etching, or carving, by use of paint, spray paint, ink, knife, or any similar method, commonly referred to as "graffiti vandalism", constitutes a serious and growing menace, injurious to the public health, safety, morals, and general welfare of the residents of the city; that graffiti vandalism contributes substantially to the spread of violence and crime; and that prompt eradication of graffiti vandalism is necessary to control the spread of graffiti vandalism, and promote the public health, safety, morals and general welfare of the residents of the city.

8-702. **DEFINITIONS.** As used in this Chapter, the following terms shall have the meanings indicated:

(a) City means the City of Dodge City, Kansas.
(b) Deface means to mare the appearance of something by removing, distorting, adding to, or covering all or a part of.
(c) Graffiti vandalism means any unauthorized defacement of public or private property by means of painting, drawing, writing, etching, or carving, by use of paint, spray paint, ink, knife, or any similar method.
(d) Owner means any person having the right to possession and/or control of any property, real or personal, located within the city boundaries.

8-703. DECLARATION OF PUBLIC NUISANCE. All property defaced by graffiti vandalism which is visible to public view is hereby declared to be a public nuisance, and it shall be the duty of the owner of any building or property that has been defaced by graffiti to clean up or otherwise cover such graffiti, and the graffiti shall be eradicated as set forth in this chapter. Notification to the police department is desirable.

8-704. IMMEDIATE REMOVAL OF GRAFFITI WITHOUT NOTICE AUTHORIZED. Whenever any city employee authorized to enforce this chapter finds graffiti on any property within the city which can be seen by any person using any public right-of-way, such authorized employee may forthwith temporarily obliterate such graffiti, or cause the same to be temporarily obliterated, by the least destructive or damaging means then available.

8-705. CONCURRENT REMEDIES. The abatement procedures set forth in this Chapter for defaced property shall not be exclusive and shall not restrict the city from concurrently enforcing other city ordinances, or pursuing any other remedy provided by law.

8-706. ENFORCEMENT - PERSONNEL AUTHORIZED. In addition to all law enforcement officers, the following personnel employed by the city shall have the power to enforce the provisions of this chapter.

(1) All authorized personnel under the direction of the City Manager.

8-707. RIGHT OF ENTRY. The authorized personnel are hereby expressly authorized to enter upon private property at all reasonable hours, as defined from sunrise to sunset, for the purpose of eradicating such graffiti in a manner not inconsistent with this ordinance.

8-708. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the authorized personnel from entering upon any such lot or piece of ground or from proceeding with such eradication and removal. Such interference shall constitute an ordinance

violation. (Ord. 3168)

ARTICLE 8 SMOKING RESTRICTIONS

Ordinance No. 3491 of the City of Dodge City adopts the provisions of State of Kansas House Bill No. 2221 to regulate smoking within the City of Dodge City.

CHAPTER IX. MUNICIPAL COURT

ARTICLE 1. GENERAL PROVISIONS

9-101. **MUNICIPAL COURT ESTABLISHED.** There is hereby established a municipal court for the City of Dodge City, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the laws of the city. (Code 1986)

9-102. **SAME; PRACTICE AND PROCEDURE.** The Kansas code of procedure for municipal courts, as set forth in K.S.A. 12-4101 et. seq. and all acts amendatory or supplemental thereto, shall govern the practice and procedure in all cases in the municipal court. (Code 1986)

9-103. **MUNICIPAL JUDGE; APPOINTMENT AND QUALIFICATIONS.** The municipal court shall be presided over by a municipal judge. The city manager shall appoint the judge of the municipal court who shall be an attorney currently licensed to practice law in the State of Kansas; the person appointed as municipal judge shall, in the opinion of the city manager, possess the personal characteristics and knowledge of the laws of the State of Kansas and the laws of the City of Dodge City so as to provide for a smooth and efficient functioning of the municipal court.

9-104. **SAME; POWERS AND DUTIES.** The municipal court judge shall hear cases brought before the municipal court and shall perform any related duties as may be required by the City Code, State or Federal statutes or regulations. The municipal judge shall schedule court dates at such times as to prevent an undue backlog of cases and to provide swift and fair administration of justice. The scheduling of the court shall be coordinated between the judge and the city manager so as to prevent any conflicts in the use of court facilities.

9-105. **SAME; TERM.** The municipal judge shall not be considered an employee of the city, but rather an independent contractor who shall serve in such capacity at the pleasure of the city manager. The municipal court judge shall be appointed for a for a term of two (2) years, subject however, to earlier termination upon written notice of the city manager, which two (2) year term may be renewed at the pleasure of the city manager.

9-106. **SAME; FACILITIES.** The city shall provide facilities for the conduct of the court. In addition to the physical facilities provided, the city shall provide the municipal

judge with a current copy of the Kansas Statutes Annotated and a copy of the Dodge City, City Code and shall pay the expense of annually updating these reference materials, which materials shall remain the property of the city and shall be returned to the city in the event of resignation or termination of the appointment. The city shall further provide such clerical services and court supplies as may be necessary, in the opinion of the city manager, for the operation of the municipal court.

9-107. **COMPENSATION.** The city manager shall, on behalf of the city, enter into a written professional services contract with the municipal judge and establish the compensation for the services rendered by the judge.

9-108. **CONFLICT OF INTEREST.** The municipal judge shall not accept any business which would place the municipal judge in a conflict of interest. The municipal judge shall not hear any cases involving present clients of the judge or any law firm with which the judge is associated; members of the firm with which the municipal judge is associated, if any, shall not practice before the municipal court; neither the Judge nor any law firm with which he is associated shall handle any dispute against the city.

Should a conflict arise in a particular case before the municipal court, the municipal judge shall disqualify himself from hearing the case and shall arrange to have a judge pro tem assigned to hear and decide the pending case. (Ord. No. 3021)

9-109. **ABSENCE; VACANCY; APPOINTMENT OF JUDGE PRO TEM.** In the event the municipal judge is temporarily unable to preside due to absence, illness or disqualification, the municipal judge shall designate an attorney, currently licensed to practice law in the State of Kansas, to act as a judge pro tem. In the event the municipal judge fails to appoint a judge pro tem, the city manager shall make such appointment. The judge pro tem shall receive compensation as established by mutual agreement with the city manager.

In the event of the vacancy occurring in the office of municipal judge, a successor shall be appointed to fill the unexpired term and shall function as the municipal judge under the terms and conditions established herein. (Ord. 3021)

9-110. **FAILURE TO APPEAR.** (a) Failure to appear shall be defined as willfully incurring a forfeiture of an appearance bond and failure to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a violation of the laws of the city and has been released on bond for appearance before the municipal court for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and

failing to surrender oneself within 30 days after his or her conviction of a violation of the laws of the city, has become final by one who has been released on an appearance bond by any court of this state.

(b) Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons, notice to appear, or traffic citation duly served upon his or her personally shall be deemed a person released on bond for appearance within the meaning of subsection (a) of this section.

(c) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to $250. (Code 1986)

9-111. **COURT COSTS.** (a) In each case filed in Municipal Court, where there is a finding of guilty, a plea of guilty, a plea of no contest, forfeiture of bond or a diversion agreement filed, the defendant shall be assessed costs for the administration of justice as follows:

$60 for any violation of any ordinance of this city regulating traffic on streets and highways as defined in subsection (c) of K.S.A. 8-2118 and amendments thereto, and any cigarette, tobacco or curfew infraction.

$25 for any violation related to parking ordinances.

$120 for all violations of the Uniform Public Offense Code adopted by the city; all violations of the Standard Traffic Ordinances adopted by the city which are punishable by both fine and imprisonment and all violations of the Dodge City Municipal Code which are punishable by both fine and imprisonment.

(b) In addition to costs set forth in Section (a) above, in each case filed in Municipal Court charging a drug or alcohol related offense, including but not necessarily limited to the following: driving under the influence of alcohol or drugs, transporting an open container of alcohol, pedestrian under the influence, minor in possession of alcohol or cereal malt beverage, possession of drug paraphernalia, possession of a controlled substance, and any drug or alcohol related offense, where there is a finding of guilty, or a plea of guilty, or a plea of no contest, forfeiture of bond or a diversion, a sum of in the amount of $10.00 shall be assessed and such assessment shall be credited to a Project Fund as approved by the City Clerk that promotes drug and alcohol awareness and education.

(c) A Project Fund shall be established in the General Ledger of the City of Dodge City and shall, unless ordered otherwise by the Municipal Court Judge, credit to such fund all costs assessed in accordance with Section (b) above.

(d) Mileage, Witness and State Fees. In addition to the costs for witness fees and mileage set forth in K.S.A. 12-4411 and amendments thereof; and other costs for Judicial training and other specified funds set forth in K.S.A. 12-4117, as amended, shall be assessed and disbursed or credited in accordance with said statutes.

(e) Warrant Fees. A fee of $50 shall be assessed for each warrant issued, unless waived for good cause by the municipal court judge.

(f) Incarceration Fees. Unless waived for a good cause by the municipal court judge, a fee for incarceration expenses shall be assessed against a defendant in each case in which said defendant is incarcerated pursuant to an order of the municipal court judge. The incarceration fee shall be determined by multiplying the then current daily rate of incarceration charged to the City of Dodge City by the Ford County Sheriff, by the number of days or partial days actually served by the defendant at the Ford County Detention Center or at Ford County Work Release Center.

(g) Probation Fees. Unless waived or reduced for good cause by the municipal court judge, a fee of $125 shall be assessed by the court against a defendant placed on probation from a sentence of imprisonment imposed by the judge.

(h) Court-Appointed Attorney Fees. Unless waived or reduced for good cause by the municipal court judge, court-appointed attorney fees shall be assessed by the court against a defendant in each case in which the judge appoints counsel for said defendant.

(i) Miscellaneous Fees and Fees Costs. Additional costs and fees may be assessed by the municipal court for service or process, experts and depositions, commission on collections and credit/debit card transactions.

(j) Except as provided herein, the Judge or Clerk of the Municipal Court shall remit at least monthly the appropriate assessments received pursuant to this section as required by state law, supreme court order or City of Dodge City ordinance.

(k) For the purpose of determining the amounts to be assessed according to this section, if more than one complaint is filed against an individual arising out of the same incident, all such complaints shall be considered as one case. (Ord. No. 3519)

9-112. PUBLIC SERVICE OPTION. The judge of the municipal court, in his or her discretion, may permit persons who have been sentenced by the court to the payment of fines

following conviction of violations of the code of the city, to perform public service work of a type to be designated by the judge and to provide for the crediting of each hour of work performed to the payment of the fine in such an amount as the judge shall determine to be fair and equitable. (Ord 2828, Sec. 1)

CHAPTER X. POLICE

Article 1. Police Department
Article 2. Property in Police Custody
Article 3. Reserve Police Force
Article 4. Citizen Police Auxiliary

ARTICLE 1. POLICE DEPARTMENT

10-101. **POLICE DEPARTMENT.** The law enforcement department of this city shall consist of a chief of police and such number of regular and reserve law enforcement officers as shall be appointed as provided by K.S.A. 13-2101 and amendments thereto. (Code 1983, 25-23; Code 1986)

10-102. **LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES.** It shall be the general duty of the chief of police and all sworn law enforcement personnel to the best of their ability to preserve good order, peace and quiet throughout the city as provided by law or ordinance.

The chief of police and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the State of Kansas or laws of the city and in accordance with Article 42 of Chapter 12 of the Kansas Statutes Annotated, and to keep all persons so arrested, unless admitted to bail, in the city jail, county jail or other proper place to prevent their escape until their trail can be had before the proper officer.

All persons arrested for violation of any law of the state and who shall not be charged with an offense under any law of the city shall be released to the custody of the sheriff of the county and such arrest shall be reported to the county attorney. (Code 1983, 25-4:12, 25-25; Code 1986)

10-103. **CONTROL GENERALLY.** The chief of police shall have general charge and control of the police department. (Code 1983, 25-24; Code 1986)

10-104. **RULES AND REGULATIONS.** The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. Such rules and regulations shall be approved by the city manager. (Code 1983, 25-26; Code 1986)

ARTICLE 2. PROPERTY IN POLICE CUSTODY

10-201. **REGULATIONS.** The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 1986)

10-202. **DISPOSITION.** Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Code 1986)

10-203. **SAME; EXEMPT PROPERTY.** The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:

(a) Cash money shall be turned over the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-202.

(b) Firearms which are available for disposition may be dealt with in the following manner:

(1) If compatible with law enforcement usage, they may be turned over to the police department inventory.
(2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
(3) They may be destroyed.
(4) In no case shall firearms be sold at public auction.

(c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.

(d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.

(e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.

(f) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.
(g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.

(h) Items with a value in excess of $500 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid. (Code 1986)

10-204. CLAIMING PROPERTY. The police department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner. (Code 1986)

10-205. PROOF OF OWNERSHIP. Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 1986)

10-206. AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the police department. Notice of an auction shall be published at least twice in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the police department and any claims on property must be made prior to the start of the auction. (Code 1986)

ARTICLE 3. RESERVE POLICE FORCE

10-301. ESTABLISHED. A reserve police force is hereby established within the police department of the city. (Code 1983, 25-50)

10-302. APPOINTMENT; POWERS AND AUTHORITY; SUBJECT TO CONTROL AND ORDERS OF CHIEF OF POLICE. The members of the reserve police force shall be appointed by the city manager upon the recommendation of the chief of police and shall serve on a voluntary basis, with compensation, within the corporate limits of the city. (Code 1983,25-51; Code 1986)

10-303. MEMBERS NOT CITY EMPLOYEES AND NOT ENTITLED TO EMPLOYEES BENEFITS, ETC. The members of the reserve police force shall not be employees of the city and shall not receive compensation, allowances or employee benefits of any nature or tenure.

10-304. RULES AND REGULATIONS FOR CONDUCT AND CONTROL. The chief of police, with the approval of the city manager,

shall prescribe rules and regulations for the conduct and control of the members of the reserve police force. (Code 1983, 25-53)

ARTICLE 5. CITIZEN POLICE AUXILIARY

10-401. ESTABLISHED. A Citizen Police Auxiliary is hereby established within the Police Department of the City.

10-402. APPOINTMENT, POWERS AND AUTHORITY; SUBJECT TO CONTROL. The Citizen Police Auxiliary will serve as a volunteer support service to the Dodge City Police Department, enhancing their effectiveness of community policing through the provision of administrative, patrol, and support services when requested or required by the department. Membership and admission procedure is outlined in the BY LAWS OF THE DODGE CITY CITIZEN POLICE AUXILIARY. Guidelines of Conduct are also outlined in the BYLAWS OF THE DODGE CITY CITIZEN POLICE AUXILIARY. Auxiliary members shall coordinate their activities with full knowledge of the Dodge City Police Department and be assigned their duties by the Chief of Police or his designee. (Ord. 3219, Section 2,)

CHAPTER XI. PUBLIC OFFENSES

Article 1. Uniform Offense Code
Article 2. Local Regulations
Article 3. Unlawful Use of Specific Elements and Compounds
Article 4. Narcotics and Drugs
Article 5. Juvenile Curfew Ordinance
Article 6. Public Nudity

ARTICLE 1. UNIFORM PUBLIC OFFENSE CODE

11-101 INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by Reference for the purpose of regulating public offenses within the corporate limits of the City of Dodge City, Kansas, that certain code known as the "Uniform Public Offense Code, "Edition of 2013, prepared and published in book form by the League of Kansas Municipalities, Topeka Kansas. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 3571" and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

11-102. FURNISHING CEREAL MALT BEVERAGE TO A MINOR.

(a) Furnishing cereal malt beverage to a minor is buying for or selling, giving or furnishing, whether directly or indirectly, any cereal malt beverage to a person under 21 years of age.

(b) This section shall not apply to the furnishing of cereal malt beverage by the parent or legal guardian to such parent's child or such guardian's ward when:

(c) It shall be a defense to a prosecution under this section if:

(1) The defendant is a licensed retailer or an employee thereof;

(2) The defendant sold the cereal malt beverage to the person with reasonable cause to believe that such person was 21 or more years of age; and

(3) To purchase the cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official document

containing a photograph of the minor purporting to establish that such person was 21 or more years of age.

Furnishing cereal malt beverage to a minor is a Class B violation for which the minimum fine is $200.

ARTICLE 2. LOCAL REGULATIONS

11-201. OBSTRUCTING GUTTERS. It shall be unlawful for any person to place any obstruction in any gutter or culvert, or do any act to prevent the flow of water through any gutter, drain or culvert in the city. (Code 1983, 20-14, Code 1986)

11-202. ELECTRIC FENCE PROHIBITED. It shall be unlawful for any person to construct, set up or maintain any electrically charged fence or wire contiguous to or along any street, alley, public ground or sidewalk within the city. (Code 1983, 20-17; Code 1986)

11-203. DISTURBING WARNING DEVICES. It shall be unlawful for any person to move any flare, light, or warning device placed upon a street, sidewalk, alley, or other public way within the city which has been placed on the street, sidewalk, alley, or other public way for the purpose of directing persons or traffic away from dangerous conditions. (Code 1983, 20-18)

11-204. FIREARMS; INFORMATION TO BE FURNISHED POLICE DEPARTMENT AFTER SALE. It shall be unlawful for any person who is in the business of selling pistols or revolvers or any other type of firearms with an over-all length of less than 13 inches within the city to fail to make a record of each sale or fail to furnish such record to the police department whenever requested to do so by the chief of police. (Code 1983, 20-123; Code 1986)

11-205. DANGEROUS MISSILES. It shall be unlawful for any person to throw or project any ball, stone, brick, piece of wood, clay or other hard substance along, over, or upon any street or alley, sidewalk or public ground, or at or against any house, building, vehicle, or at or towards any person within the city. (Code 1983, 20-125; Code 1986)

11-206. URINATION; DEFECATION. (a) Urination and defecation at, in, within or upon any public place in the city is hereby prohibited.

(b) For the purpose of this section, urination is the elimination of discharge of any non-solid biological bodily waste.

(c) For the purpose of this section, defecation is the elimination or discharge of fecal matter.

(d) For the purpose of this section, a public place is any street, alley, sidewalk or other public way, or any place, public or private, accessible to the public or open to public view. (Ord. 2721, Secs. 1:4)

11-207. LOITERING AROUND SCHOOLS. It shall be unlawful for any person not having lawful business in connection with the school or employees thereof, to do the following:

(a) Loiter in the vicinity of any school in the city.
(b) Do any act or be guilty of any conduct that disturbs the orderly conduct of the school.
(c) Annoy or molest any student or employee of the school.
(d) Be guilty of any lewd or wanton conduct in the vicinity of said school.
(e) Move or park any vehicle in the vicinity of any school in the city for the purpose of annoying or molesting any student or employee of the school. (Code 1983, 20-20)

11-208. LITTERING. It shall be unlawful for any person to throw, drop, cast or deposit upon any street, alley, sidewalk, or any yard or premises, public or private, any filth of any king, which may consist of, but not be limited to, cans, paper, trash, paper containers, rubbish, bottles, wood shavings, brush, tree trimmings, or any other form of litter or waste. Littering shall be an unclassified violation and subject to a minimum fine of $100. (Ord. 2825, Secs. 1:2)

11-209. LAWFUL OPERATION OF BOWS AND ARROWS. (a) Bows and arrows may be operated for the purpose of archery practice,

provided an adequate backstop is provided to prevent arrows going into adjacent property or public right-of-way which shall consist of the side of a building without openings, a solid fence or wall not less than six (6) feet in height which will prevent the passage of an arrow.

(b) In open areas a backstop shall be provided of sufficient thickness to prevent the passage of arrows and shall be equipped with a top and wings to be not less than the width or height of the target backstop nor less than forty-eight (48) inches extending above or on the sides of the target or backstop at an angle of not less than 45 degrees or more than 85 degrees, constructed of wood or metal of sufficient thickness to prevent the passage of arrows through the material.

(c) The design, construction and materials to be used in tops and wings shall have the prior approval of the Building Inspector of the City of Dodge City. (Ord. 2930, Sec. 1)

11-210. PROHIBITING SALE OR GIFT OF SPRAY PAINT TO MINORS.

(a) It shall be unlawful for any person to sell or give any spray paint to any person under 18 years of age.

(b) It shall be unlawful for any person to knowingly permit any person under 18 years of age to purchase any spray paint.

(c) It shall be unlawful for any person under 18 years of age to possess any spray paint unless under the direct supervision of a parent or guardian.

(d) Any violation of this ordinance would be considered a Class C violation. (Ord. 3128)

11-211. SLAUGHTERING OF ANIMALS IN THE CITY LIMITS OF DODGE CITY, KANSAS. (a) It shall be unlawful to slaughter a domestic or wild animal within the corporate limits of Dodge City, Kansas. The prohibition shall apply whether the animal was dead upon being brought into the City.

(b) This ordinance shall not apply to commercial slaughter houses now located or existing within the City, to commercial slaughter facilities hereafter located in areas appropriately zoned for slaughter facilities within the City pursuant to the zoning ordinance of the City of Dodge City, Kansas, or to game birds or fish legally harvested pursuant to the laws of Kansas.

(c) Slaughtering of Animal - Defined: The act of killing a live animal; or the bleeding of or removal of the internal organs, viscera or entrials of a dead animal. (Ord. 3177)

ARTICLE 3. UNLAWFUL USE OF SPECIFIC ELEMENTS AND COMPOUNDS

11-301. DEFINITION. For the purpose of this article, elements, compounds or combinations of both elements and compounds shall be defined as any material in a liquid, solid or gaseous state, which contains one or more of the following chemical materials: Hydrocarbons, to include but limited to propane, benzene, tuluene; alcohol's, to include but not limited to ethyl, acetate, butyl acetate, amyl acetate,; ketoses, to include but not limited to acetone, methyl ethyl ketone, methyl isobutyl ketone; halogenated hydrocarbons, to include but not be limited to chloroform, ethylene dichloride, freon; halogenated derivatives of hydrocarbons, to include but not limited to pentachlorophenol; ethers, to include but not limited to ethyl ethers; and any elements, compounds or combination of both elements and compounds that produce a condition of intoxication, hallucination, inebriation, excitement, stupefaction or the dulling of the brain or nervous system. (Code 1983, 20-141)

11-302. INHALATION UNLAWFUL; EXCEPTIONS. It is unlawful for any person within the city limits to smell or inhale the fumes

from any elements, compounds or combinations of both elements and compounds as defined in section 11-301, for the purpose of causing a condition of intoxication, hallucination, inebriation, excitement, stupefaction or the dulling of the brain or nervous system; provided, that nothing in this article shall be interpreted as applying to the inhalation of any anesthesia for medical or dental purposes and prescribed or administered by duly authorized personnel. (Code 1983, 20-142)

11-303. **POSSESSION.** No person shall, for the purpose of violating section 11-301, use or possess for the purpose of so using, any of the elements, compounds or combination of both elements and compounds as defined in section 11-301. (Code 1983, 20-143)

11-304. **SALE.** No person shall sell, give or offer to sell or give to any other person any of the elements, compounds or combinations of both elements and compounds as defined in section 11-301, if he or she has knowledge that the product sold, given or offered to be sold or given will be used for the purpose set forth in section 11-301.(Code 1983, 20-144)

ARTICLE 4. NARCOTICS AND DRUGS

APPLICATION: The habit forming and dangerous drugs subject to the provisions of this article are:

(a) Barbituric acid or any of its derivatives, commonly called barbiturates, or any compound or mixture of them, except mixtures with other drugs in such proportions that the mixture cannot produce the hypnotic action of the barbiturates;

(b) Paraldehyde;

(c) Chloral hydrate, except in mixtures in which the proportions are such that the mixture cannot produce the hypnotic action of chloral hydrate;

(d) Amphetamine and any of its derivatives, except mixtures in which the proportions are such that the stimulating action of amphetamine cannot be produced by use of the mixture. (Code 11983, 20-134)

11-402. **SALE, POSSESSION, USE RESTRICTED.** No person within the city shall possess, offer for sale, sell, prepare for use or give to any other person, any of the drugs described in section 11-401, except as provided in this article. (Code 1983, 20-135)

11-403. WHO MAY DISPENSE. The manufacture, sale, keeping for sale, dispensing or prescribing of drugs listed in section 11-401 shall be limited to duly licensed doctors of medicine, dentists, veterinarians, and pharmacists who may possess and sell said drugs in the proper and legal courses of the practice of their professions; provided, however, it shall not be unlawful to possess for the purposes of medication drugs listed in section 11-401 which have been dispensed by a duly licensed doctor of medicine, dentist or veterinarian, or which have been dispensed by a duly licensed pharmacist on the prescription of a duly licensed doctor of medicine, dentist, or veterinarian; provided further, that this section shall not apply to common carriers or warehousemen engaged in lawfully transporting or storing such drugs as are listed in section 11-401, or to any employee of such common carriers or warehousemen within the scope of his employment or to public officers or employees in the performance of official duties requiring possession or control of such drugs or to persons aiding such officers or employees in the performance of such duties; and provided further, that nothing contained in this section shall be construed as prohibiting a hospital licensed by the state board of health from keeping such drugs and supplying such drugs to its patients on the prescription or order of a duly licensed doctor of medicine or dentist. (K.S.A. 65-4116; Code 1983, 20-136)

11-404. PEYOTE; MESCAL BUTTON; INDIAN HEMP; CANNABIS. It shall be unlawful for any person to plant, cultivate, protect, harvest, cure, prepare, barter, sell, give away or use, or offer to sell, furnish or give away, or to have in his or its possession peyote (pellote), botanically known as Lophophora williamsii; or Agave americana, commonly known as mescal button; or Cannabis indica, Cannabis sativa, commonly called Indian hemp (Marijuana); or any drug or preparation made from any species or variety of the botanical genus Cannabis; or any compound, derivative or preparation of the above-mentioned plants. (K.S.A. 65-4127a; 65-4127b; Code 1983, 20-137)

11-405. SIMULATED CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA; USE OR POSSESSION PROHIBITED. No person shall use or possess with intent to use:

(a) Any simulated controlled substance; or

(b) Any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the uniform controlled substances act. (K.S.A. 65-4152; Code 1986)

11-406. SAME; DELIVERY, POSSESSION OR MANUFACTURE PROHIBITED. No person shall deliver, possess with intent to deliver,

manufacture with intent to deliver or cause to be delivered within this state:

(a) Any simulated controlled substance; or

(b) Any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the uniform controlled substances act.(K.S.A. 65-4153; Code 1986)

11-407. REPRESENTATION THAT NON CONTROLLED SUBSTANCE IS CONTROLLED SUBSTANCE; PROHIBITIONS. (a) No person shall knowingly deliver or cause to be delivered in this state any substance which is not a controlled substance:

(1) Upon an express representation that the substance is a controlled substance or that the substance is of such nature or appearance that the recipient will be able to distribute the substance as a controlled substance; or

(2) Under the circumstances which would give a reasonable person reason to believe that the substance is a controlled substance.

(b) If any one of the following factors is established, there shall be a presumption that delivery of a substance was under circumstances which would give a reasonable person reason to believe that a substance is a controlled substance:

(1) The substance was packaged in a manner normally used for the illegal delivery of controlled substances.

(2) The delivery of the substance included an exchange of or demand for money or other consideration for delivery of the substance, and the amount of the consideration was substantially in excess of the reasonable value of the substance.

(3) The physical appearance of the capsule or other material containing the substance is substantially identical to a specific controlled substance.

(K.S.A. 65-4155; Code 1986)

11-408. FORFEITURE OF DRUG PARAPHERNALIA AND SIMULATED CONTROLLED SUBSTANCE. (a) All drug paraphernalia and simulated controlled substances are subject to forfeiture as provided in this section.

(b) Property subject to forfeiture under this section may be seized by any law enforcement officer upon process issued by any district court having jurisdiction over the property.

(c) In the event of seizure pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly.

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement agency seizing it, subject only to the orders of the district court having jurisdiction over the forfeiture proceedings. When property is seized

under this section, the law enforcement agency seizing it may:

(1) Place the property under seal;

(2) Remove the property to a place designated by it; or

(3) Require the state board of pharmacy to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(e) When property if forfeited under this section the law enforcement agency having custody of it may:

(1) Retain it for official use;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public, with the proceeds to be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;

(3) Transfer it for medical or scientific use to any state agency;

(4) Require the sheriff of the county in which the property is located to take custody of the property and remove it to an appropriate location for disposition in accordance with law; or

(5) Forward it to the Kansas Bureau of Investigation for disposition. (K.S.A. 65-4156; Code 1986)

ARTICLE 5. JUVENILE CURFEW

FINDINGS AND PURPOSE

11-501. (a) The Commission of the City of Dodge City (Commission) has determined that persons under the age of 17 years are particularly susceptible, because of their lack of maturity and experience, to participate in unlawful and gang-related activities and to be the victims of older perpetrators of crime.

(b) The Commission has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for, children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

(c) The Commission has found that there has been a significant breakdown in the supervision and guidance normally provided by parents of minor children resulting in an increase in crimes and other unacceptable behavior including vandalism, public drinking and littering, drug use and breaking and entering and harassment of residents.

(d) The Commission has determined that parental responsibility for the whereabouts of their children is the accepted norm and legal sanctions to enforce such responsibility will increase parental responsibility for

minor children within their control and decrease juvenile delinquency.

(e) The Commission has determined that a curfew for those under the age of 17 years will be in the interest of the public health, safety, and general welfare and will help to attain these objectives and to diminish the undesirable impact of this conduct on the citizens of the City of Dodge City.

(f) The Commission determines that passage of a curfew ordinance will protect the welfare of minors by:

(1) Reducing the likelihood that minors will be the victims of criminal acts during the curfew hours;
(2) Reducing the likelihood that minors will become involved in criminal acts or exposed to narcotics trafficking during the curfew hours; and
(3) Aiding parents or guardians in carrying out their responsibility to exercise reasonable supervision of minors entrusted to their care.

11-502. **DEFINITIONS.** For the purposes of this Ordinance, the term:

(a) "Curfew hours" means from 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 6:00 a.m. on the following day, and from 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday. During the months of June, July, and August, the term "curfew hours" mean from 12:01 until 6:00 a.m.

(b) "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation that requires immediate action to prevent serious body injury or loss of life.

(c) "Establishment" means any privately-owned place of business operated for profit to which the public is invited, including, but not limited to, any place of amusement or entertainment and parking lots adjacent thereto.

(d) "Guardian" means a person who, under court order, is the guardian of the person or a minor or a public or private agency with whom a minor has been placed by the court.

(e) "Minor" means any person under the age of 17 years, but does not include a judicially emancipated minor or a married minor.

(f) "Operator" means any individual, firm, association, partnership, or corporation operation, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(g) "Parent" means a natural parent, adoptive parent or stepparent, or any person who has legal custody by court order or marriage, or any person not less than 21 years of age who is authorized by the natural parent,

adoptive parent, stepparent or custodial parent of a child to be a caretaker for the child.

(h) "Public place" means any place to which the public, or a substantial group of the public, has access, and includes, but is not limited to, streets, highways, parking lots and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(i) "Remain" means to:

(a) linger or stay; or

(b) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(j) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

11-503. CURFEW OFFENSES.

(a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

(b) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(c) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

11-504. DEFENSES.

It is a defense to prosecution under this ordinance that the minor was:

(a) Accompanied by the minor's parent or guardian;

(b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(c) In a motor vehicle, train, or bus involved in interstate travel;

(d) Engaged in an employment activity, or going to, or returning home from, an employment activity, without detour or stop;

(e) Involved in an emergency;

(f) On the sidewalk that abuts the minor's residence or that abuts the residence of a next-door neighbor, if the neighbor did not complain to the Dodge City Police Department about the minor's presence;

(g) In attendance at an official school, religious, or other recreational activity sponsored by the City of Dodge

City, a civic organization, Or other similar entity that takes responsibility for a minor. Or going to, or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Dodge City, a civic organization, or other similar entity that takes responsibility for a minor;

(h) Exercising First Amendment rights protected by the United States Constitution, including free exercise of religion, freedom of speech, and the right of assembly;

(i) It is a defense to prosecution under this ordinance that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

11-505. ENFORCEMENT.

(a) Before taking any enforcement action under this section, a police officer shall ask the apparent minor's age and reason for being in the public place or establishment during curfew hours. The officer shall not take any enforcement action under this section unless the officer reasonably believes that a violation of this ordinance has occurred and that, based on any response and other circumstances, no defense as setout in Section 3 is proffered or is present.

(b) If a police officer reasonably believes that a minor is in a public place or establishment in violation of this ordinance, the officer shall notify the minor that he/she is in violation of curfew hours and shall require the minor to provide his/her name, address, telephone number and how to contact his/her parent or guardian. In determining the age of the minor and in the absence of convincing evidence, a police officer shall use his/her best judgment in determining age.

11-506. PENALTIES.

(a) A person who violates any provision setout in Section 3 of this ordinance is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed $500.00. Offenses.

(b) The Judge of the Municipal Court, upon finding a parent or guardian guilty of a violation of Section 3.B. Of this ordinance, shall sentence the parent to pay the appropriate fine and may require the parent or guardian to complete parenting classes at the Dodge City Area Mental Health Center or Department of Social and Rehabilitation Services.

(c) Any minor who shall violate curfew hours more

than three (3) times may be reported by the Chief of Police to the Department of Social and Rehabilitation Services as a minor in need of care and the Chief of Police may proceed to file an appropriate complaint with juvenile authorities.

11-507. REPORTS.

The City Manager shall report to the Commission every six months after the effective date of this act, on the curfew's effectiveness. (Ord. 3434)

ARTICLE 6. PUBLIC NUDITY

11-601. The City of Dodge City has an important governmental interest in:

(a) protecting order and morality The City recognizes the societal disapproval of nudity in public places and among strangers;

(b) combating the secondary effects associated with nudity in public places, and has the constitutional power to combat these societal evils. The City desires to minimize and control these societal evils and thereby protect the health, safety, welfare and morals of the citizenry; to protect citizens from increased crime; preserve the quality of life; preserve property values, preserve the character of the City's neighborhoods and deter the spread of blight. It is not the intent of the City to suppress any free expression protected by the First Amendment to the United States Constitution, but to enact a content neutral ordinance which addresses the societal evils of public nudity and its related secondary effects with only incidental restrictions upon protected expression.

11-602. PUBLIC NUDITY PROHIBITED.

(a) Public nudity is any person knowingly and intentionally, in a public place;

(1) engaging in actual or simulated sexual intercourse masturbation, sodomy, or any sex act which is prohibited by law,

(2) appearing in a state of nudity; or

(3) fondling the genitals of himself, herself, or another person. It is unlawful for any person to engage in public nudity within the corporate limits of the city.

(b) **DEFINITIONS.**

(1) ''Nudity'' means the showing, in a public place, of

the human male or female genitals, anus, anal cleft or cleavage or the showing of the female breast below a horizontal line across the top of the areola at it's highest point with less than a fully opaque covering. This definition shall include the entire lower portion of he human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part. ''Nudity'' also means the showing, in a public place, of the covered male genitals in a discernibly turgid state.

(2)''Public place'' means any location frequented by the public, or where the public is present or likely to be present. Public place includes but is not limited to, streets, sidewalks, parks, and business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement).

11-603. PERMITTING PUBIC NUDITY PROHIBITED. It is unlawful for any supervisor, manager, property owner, business owner, or employer to knowingly suffer or permit any person to engage in public nudity on premises under their control, or to knowingly suffer or permit any person to remain on such premises after that person has, while on the premises, engaged in public nudity.

11-604. EXCEPTIONS. (a) The provisions of Section 602(a) of Chapter 11, Article 6 of the Code of the City of Dodge City shall not apply to any theatrical production that has serious literary, artistic, scientific or political value.

(b) The provisions of Section 602 (1)(2) of Chapter 11, Article 6 of the Code of the City of Dodge City shall not apply to:

(1) a child under the age of ten years.

(2) a person appearing in a state of nudity modeling in an art class operated by:

(A) a proprietary school licensed by the state;

(B) a college, community college or university supported entirely or primarily by taxation;

(C) an accredited private college or university, or

(D) a nonprofit educational or artistic organization:

(i) held within a structure in which no sign or advertising is visible on or from the exterior of the structure that indicates a nude person is available on the premises for viewing;

(ii) where in order to attend, a student must enroll at least three days in advance; and

(iii) where no more than one nude model appears in the studio at one time

(c) The provisions of Section 601 (b)(2) of Chapter 11, Article 6 of the Code of the City of Dodge City shall not apply to:

(1) enclosed single sex public restrooms or restrooms designed for family use;

(2) enclosed single sex functional baths, showers, locker and/or dressing room facilities;

(3) enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations; and

(4) medical facilities, hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home.

11-605. VIOLATION, PENALTY. Upon conviction of a violation of Sections 602 or 603 of Chapter 11, Article 6 of the Code of the City of Dodge City, a person shall be guilty of a misdemeanor, and shall be punished by a fine of not more than two thousand five hundred dollars or one year of imprisonment, or both such fine and imprisonment.

11-606. SEVERABILITY. If any section, subsection or clause of the ordinance codified in Sections 601 through 606 shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected. (Ord. 3316)

CHAPTER XII. PUBLIC BUILDINGS AND GROUNDS

ARTICLE 1. CEMETERIES
ARTICLE 2. CIVIC CENTER
ARTICLE 3. LIBRARIES
ARTICLE 4. PARKS AND RECREATION

ARTICLE 1. CEMETERIES

12-101. **STATE LAW ADOPTED.** The city hereby elects to come under the provisions of K.S.A. 12-1437 through 12-1439 and hereby ratifies all acts of the city of the cemetery board of directors in the acceptance and use prior to this time of funds received or used for the maintenance and care of the cemetery or lots therein. (Code 1983, 8-34)

12-102. **AUTHORITY TO ACCEPT TRUST FUNDS.** The city is hereby authorized to accept donations and bequests from individuals for the upkeep of burial lots. (Code 1983, 8-35)

ARTICLE 2. CIVIC CENTER

12-201. **RATES AND CHARGES; SCHOOL EVENTS.** School athletic events and drama events shall be held on the basis of the rates and charges established in the fee schedule set out in Article 9 of Chapter 1. (Code 1986)

12-203. **FLOOR COVERING; CACTUS ROOM.** (a) Any event for which the civic center supervisor deems it necessary to cover the floor shall be assessed an additional charge as established in the fee schedule set out in Article 9 of Chapter 1.

(b) The cactus room shall be available for rental, separate from the rest of the facility, for a fee as established in the fee schedule set out in Article 9 of Chapter 1. (Code 1983, 8 1/2 - 16; Code 1986)

12-204. **TABLES, CHAIRS AND RISERS.** Tables and risers may be used on a limited basis by the community outside the civic center at a cost established in the fee schedule set out in Article 9 of Chapter 1. Chairs may be also be used at a cost established in the fee schedule set out in Article 9 of Chapter 1. The Director of Public Buildings and Grounds or his designate may arrange for delivery of chairs, tables and risers. Use of chairs, tables and risers in the civic center will be at no charge. (Code 1983, 8 1/2 - 17)

ARTICLE 3. LIBRARIES

12-301. **USE OF LIBRARY GENERALLY.** Every library and reading room established in the city under this article shall be forever free to the use of the inhabitants of the city, subject always to such reasonable rules and regulations as the library board of directors may adopt, in order to render the use of the library and reading room of the greatest benefit to the greatest number. The board may exclude fromthe use of such library and reading room any and all persons who shall willfully violate such rules. The board may extend the privileges and use of such library and reading room to persons residing outside of the city upon such terms and conditions as the board may from time to time by its regulations prescribe. (Code 1983, 16-1)

12-302. **DONATIONS TO LIBRARY.** Any person desiring to make donations of money, personal property or real estate for the benefit of the city library, shall have the right to invest the title to the money or real estate for the benefit of the city library, shall have the right to invest the title to the money or real estate so donated in the library board of directors, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devices or bequest of such property; and as to such property, the board shall be held and considered to be the special trustee. (Code 1983, 16-2)

12-303. **BOARD OF DIRECTORS; CREATED.** There is hereby created in and for the city a board of directors for the city library. (Code 1983, 16-13)

12-304. **SAME COMPOSITION.** The library board of directors shall be composed of nine members selected from the residents of the city at large with reference to their fitness for such office. (Code 1983, 16-14)

12-305. **SAME; EX OFFICIO MEMBER.** The mayor shall serve as one of the members of the library board of directors in an ex officio capacity. (Code 1983, 16-15)

12-306. **SAME; APPOINTMENT.** The members of the library board of directors shall be appointed by the city commission; provided that no person holding any official position with the city shall be appointed as a director while holding such office. (Code 1983, 16-16; code 1986)

12-307. **SAME; TERMS OF OFFICE.** The members of the library board of directors shall serve a term of office of four years; provided that the directors shall be appointed in such fashion as to cause two directors to be appointed each year. (Code 1983, 16-17)

12-308. **SAME; COMPENSATION.** The members of the library board of directors shall serve without any compensation. (Code 1983, 16-18)

12-309. **SAME; REMOVAL OF MEMBERS.** The Mayor may by and with the consent of the city commission, remove any member of the library board of directors for misconduct or neglect of duty. (Code 1983, 16-19)

12-310. **SAME; FILLING OF VACANCIES.** Vacancies occurring in the library board of directors, occasioned by removal, resignation or otherwise, shall be filled in the same manner or original appointments. (Code 1983, 16-20)

12-311. **SAME; ORGANIZATION.** The library board of directors shall organize by the election of one of their members as president and the election of such other officers as they may deem necessary. (Code 1983, 16-21)

12-312. **SAME; BYLAWS, RULES, REGULATIONS.** The library board of directors shall make and adopt such bylaws, rules and regulations for their own guidance and for the government of the library as may be expedient.

SAME; POWERS, DUTIES GENERALLY. The library board of directors shall have charge of the construction of any library building within the city, and the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose. Such board shall have the power to purchase or lease grounds, to occupy, lease or erect an appropriate building or buildings for the use of the library; the board shall also purchase such books, magazines, papers etc., as shall in their judgment be advisable. (Code 1983, 16-23)

12-314. **SAME; LIBRARIAN, ASSISTANTS.** The library board of directors shall have the power to appoint a suitable necessary, fix their compensation, and remove such employees for cause. (Code 1983, 16-24)

12-315. **SAME; CONTROL OF LIBRARY FUND.** The library board of directors shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, which fund shall be kept in the city treasury to the credit of such fund, and shall be kept separate and apart from other funds, and drawn upon by the library board of directors or its proper officer. (Code 1983, 16-25)

12-316. **SAME; ANNUAL REPORT.** The library board of directors shall, on or before the 15th day of January of each year, make an annual report to the city commission, stating the condition of their trust on the 31st day of December of

the year next preceding, the various sums of money received from the library fund, and from other sources, and how such moneys have been expended, and for what purposes; the number of books and periodicals on hand; the number added by purchase, gift or otherwise during the year; the number lost or missing; the number of visitors attending; the number of books loaned out, and the general character and kind of such books, with such other statistics, information and suggestions as they may deem of general interest. Such a report shall be verified by affidavit of the president and secretary. (Code 1983, 16-26)

12-317. TREASURER; ELECTION. It shall be the duty of the library board of directors to elect a treasurer of such board. (Code 1983, 16-32)

12-318. SAME; TERMS OF OFFICE. The treasurer of the library board of directors shall hold office for a term of two years and until his or her successor is elected and qualified. (Code 1983, 16-33)

12-319. SAME; BOND. The treasurer of the library board of directors shall give bond, to be approved by the city commission, for the safekeeping and due disbursement of all funds that may come into the hands of such treasurer, in such amount as the board may direct. (Code 1983, 16-34)

12-320. SAME; DUTIES AND FUNCTIONS GENERALLY. The library treasurer shall pay out the funds of the public library upon orders drawn on such treasurer by the secretary of the library board of directors countersigned by the president thereof. Such treasurer shall keep a book in which he or she shall enter all moneys received and disbursed by him or her, specifying the person to whom and the object for which the same has been paid out. He or she shall present to the board, whenever required, a statement of all moneys received by him or her from whatever source and of the disbursements made by him or her with the items of such disbursements, and attach the vouchers therefor which record shall be received and filed by the board. Whenever required by the board he or she shall settle in full, and hand over to his or her successor the book and all receipts, vouchers, orders and papers coming into his or her hands as treasurer, together with all moneys remaining in his or her hands as such treasurer. (Code 1983, 16-36)

ARTICLE 4. PARKS AND RECREATION

12-401. CLOSING OF PARKS. (a) Between the hours of midnight and 7:00 a.m., with the exception of Wright Park, all city parks shall be closed to all vehicular and pedestrian

traffic and no person shall be permitted to remain in the park between the hours.

(b) Any person convicted of a violation of the provisions of this section shall be subject to the penalties provided by this code. (Code 1983, 21-1; Code 1986)

(c) Wright Park shall be closed as posted on the main gates of the park to vehicular and pedestrian traffic and no person shall be permitted to remain in the park after posted closing times, except by special permission of the City manager or his designate. (Code 1983, 21-1; Code 1986)

12-402. RECREATION COMMISSION; TERMINATION. Pursuant to the provisions of K.S.A. 12-1933, the Governing Body of the City of Dodge City is authorized to enter into an agreement on behalf of the City of Dodge City with the Governing Body of Unified School District 443, to terminate the Recreation Commission jointly established by the City of Dodge City and Unified School District 443. (Ord 2942, Sec. 1)

12-403. RECREATION DIVISION; CREATED. The City of Dodge City is authorized to establish a Recreation Division within the Park Department of the City of Dodge City. (Ord 2942, Sec. 2)

12-404. PROVISIONS. The agreement between the City of Dodge City and Unified School District 443, may include provisions for the use of school property for recreation purposes. (Ord. 2942, Sec. 3)

CHAPTER XIII. STREETS AND SIDEWALKS

Article 1. In General
Article 2. Sidewalks
Article 3. Streets (Excavation)
Article 4. Trees and Shrubs
Article 5. Stormwater and Drainage
Article 6. Streets (National Discharge Elimination System)

ARTICLE 1. IN GENERAL

13-101. **OBSTRUCTING STREETS.** Any person who shall obstruct any street, avenue, sidewalk or public place in the city shall be deemed guilty of a violation of this code; provided,that upon application being made, the city commission may issue a permit for use of such parts of such public property as the commission deems necessary, during a reasonable time, for building, construction or repair, under such terms and conditions as the commission shall require. (Code 1983, 28-1)

13-102. **BRIDGING OR DRIVING ON CURB.** It is hereby declared unlawful for any person to maintain a bridge or driveway from the gutter over and curbing, to damage, drive over or against the corner of any curbing in the city. (Code 1983, 28-4)

13-103. **CONSTRUCTION AND MAINTENANCE OF CROSSINGS, CULVERTS AND WATERWAYS BY RAILROAD COMPANIES.**

(a) Railroad company to keep streets, alleys properly drained and lighted. All railway companies operating within the corporate limits of the city are hereby required to keep the streets and alleys over which they run properly drained and light the same whenever directed by resolution of the governing body of the city, to construct and keep in repair to their full width in a safe and smooth condition all crossings over all streets and alleys and to construct and maintain drains and culverts where crossed by any line of the railways on all streets and alleys over which they run, to conform their tracks to the grade of the streets and alleys over which they run so as to make the top of the rails level with the grade of the street of alley established by the city.

(b) Paving between rails of tracks. Every railway company which has heretofore or shall hereafter construct a railway track or tracks across or along any street or alley within the city shall have between the rails of the tracks and between the tracks and to a distance of 18 inches outside of the outermost rail on each side of the tracks

with the same kind and quality of material with which such street or alley is paved or with such other suitable material as may be approved by the city engineer and keep the same in repair in the condition and at the grade required in subsection (a), and in the event of the removal of a rail or track, shall fill, repair and repave the excavation or other damage caused thereby with the same quality of materials and same manner of construction as the street or alley from which removal is had.

(c) Grading, paving at railway company expense. Each of the railway companies referred to in the preceding subsections shall pay the cost of grading, paving, repaving, draining and repair of that portion of the streets and alleys deemed used or occupied by each of such railway companies as described in subsection (b) of this section, and any railway company occupying any street or alley already occupied by another railway company, in addition to paying for such paving or repaving shall pay one-half of the cost of paving or repaving between the tracks of the two railway companies.

(d) Street, alley crossings properly repaired. In the event any street or alley crossing by the tracks of any railway company within the city shall become defective so that it is dangerous or hazardous to the traveling public, or so impedes vehicular traffic as to cause obstruction or slowing of such traffic to the detriment of public welfare and safety and such railway company shall fail and neglect or refuse to lay, relay, construct or reconstruct or repair its railway track or tracks or crossing to correct such defect within 90 days after notice in writing to do so has been served upon an agent of such railway company, the city may make the necessary construction and repair of the track, tracks or crossing and the costs and expense of the same shall be a lien upon the property of such railway company in the same manner as other taxes are assessed, levied and collected. The notice or repairs, or reconstruction shall be ordered by the governing body, signed by the mayor, attested by the city clerk and the city's seal affixed thereto and served by any police officer of the city or by certified mail with return receipt requested.
(Code 1983, 28-5)

ARTICLE 2. SIDEWALKS

13-201. PERMIT REQUIRED FOR CONSTRUCTION OF SIDEWALK.

(a) No sidewalk located within a public right-of-way shall be constructed in the City without first securing a permit from the City.

(b) As a condition of securing such permit, the applicant shall provide proof that he has one of the

following:

(1) A contractor shall provide proof of liability insurance coverage, as required by Section 4-117 of the Code of the City of Dodge City.

(2) A property owner doing work adjacent to property under his ownership shall provide proof of liability insurance of not less than $100,000/$300,000 or post a sidewalk work is completed and approved by the Building Official or his representative. (Ord No. 2939)

13-202. **LOCATION AND GRADE.** (a) No sidewalks shall be constructed within public right-of-ways until the City Engineer shall first establish grade lines and set sufficient grade and line stakes for the construction thereof.

(b) Sidewalks shall be located as follows:

(1) In areas where sidewalks have been constructed, new or replacement walks shall first establish grade lines and set sufficient grade and line stakes for the construction thereof.

(2) In areas where sidewalks do not exist, subject to the approval of the City Engineer, new sidewalks may be constructed adjacent to the curb line, or if desired, new walks may be constructed at a location behind the curb line to provide a parking or planting strip. In all cases, the width of the parking strip shall be not less than 5 feet, nor shall the back of the sidewalk be constructed closer than 1 foot to the fight-of-way line or property line. (Ord. 2939)

13-203. **SPECIFICATIONS.** All sidewalks shall be constructed of portland cement concrete, and when constructed over vaults, manholes, areaways or other excavations shall have sufficient steel reinforcing bars to carry the load superimposed thereon. No sidewalk shall be constructed until the materials, plans and specifications thereof have been approved by the city engineer. (Code 1983, 28-17)

13-204. **BRICK, STONE MATERIALS.** No permit shall be issued under the provisions of this article for the construction or reconstruction of a brick or stone sidewalk of any nature, within a public right-of-way, unless the plans and specifications have been approved by the City Engineer. In all cases, such brick or stone sidewalks shall only be constructed or reconstructed on a portland cement concrete base having a minimum thickness of not less than 3 inches, and having a minimum compressive strength at 28 days of 2500 psi. The surface of the individual bricks or stones in such sidewalks shall not vary more than 1/8 inch per foot in elevation, and shall be bedded and maintained so that the surface tolerances are maintained at all times. (Ord. No. 2939)

13-205. SNOW, ICE, SLEET AND MUD. It shall be unlawful for any person who owns, leases or occupies a lot or lots in the city to permit any snow, ice, sleet, mud or dirt to remain for longer than 24 hours on any sidewalk in front of or along the side of such lot or lots. (Code 1983, 28-20)

13-206. CONDEMNATION AND RECONSTRUCTION. When any sidewalk,in the opinion of the governing body, becomes inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such walk and providing for the construction of a new walk in place of the walk condemned. (Code 1983, 28-23)

13-207. NOTICE TO ABUTTING OWNER; PUBLICATION; CONTRACT CONSTRUCTION, WHEN. The resolution providing for the construction or reconstruction of a sidewalk shall give the owner of the abutting property not less than 30 days, nor more than 60 days after its publication in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. Such resolution shall be published once in the official city paper. If the sidewalk is not constructed or reconstructed by the property owner within the time specified, the governing body shall cause the work to be done by contract. (Code 1983, 28-24)

13-208. CONSTRUCTION BY ABUTTING OWNERS; REQUEST TO CITY, WHEN. Nothing herein shall prohibit the owner of property abutting on a street who desires to construct or reconstruct a sidewalk from doing so without any petition or condemning resolution, if the owner does so at the owner's own expense and in accordance with plans and specifications adopted by the city and meeting all other requirements as would have been met if the sidewalk were constructed or reconstructed by the city. If the property owner desires the walk to be constructed or reconstructed by the city, and an assessment levy as provided in other cases, the owner shall file a request with the governing body and it may, in its discretion, provide for the construction or reconstruction of the sidewalk in the same manner as in cases where citizens or taxpayers file petitions in accordance with the provisions of K.S.A. 12-1803.
(Code 1983, 28-25)

13-209. REPAIRS: NOTICE; SPECIAL ASSESSMENT; PAYMENT. (a) It shall be the duty of the owner of the abutting property to keep the sidewalk in repair and the city engineer may, after giving five days' notice to the owner or his or her agent, if known, of the necessity therefor and without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. Repairs may be made by force account or by contract and the account of the cost thereof shall be kept and reported to the governing body.

(b) The city shall, by ordinance, levy a special assessment against the lot or piece of land abutting on the sidewalk so repaired for the cost of repairs and if the abutting property does not pay the assessment within 30 days upon the city clerk mailing to the owner or his or her agent, if known a printed or written notice of the amount of such repairs, the full amount shall be certified by the city clerk to the county clerk to be put on the tax rolls for collection like other taxes. The temporary financing of repairs may be borne by the city out of the fund for maintaining streets or out of the general fund or general improvement fund. (Code 1983, 28-26)

13-210. INCORPORATION OF K.S.A. 12-1809 THROUGH 12-1814. The provisions of K.S.A. 12-1809 through 12-1814, are incorporated into and made a part of this division by reference. (Code 1983, 28-27)

ARTICLE 3. STREETS

13-301. **EXCAVATIONS; PERMIT REQUIRED.** (a) No person including public utility corporations and municipally owned utilities, shall dig or open any hole, ditch, trench, tunnel, of make any excavation in any public place, or make any connections with, or lay any utility service or utility main, or any conduits of any kind in any public place in the City, without first having obtained a permit. Contractors having contracts with the City for construction or reconstruction of waterlines, storm drains, and/or sanitary sewers, as well as the complete repairing or resurfacing of an existing paved street shall be exempt from these provisions.

(b) SAME: EXCEPTION: The installation of services to individual structures shall not require a permit as long as the installation is made without the need to remove a portion of the pavement in any public place nor the use of an excavation or trench more than 6 inches in width within unpaved public places. All such service installations shall be repaired as required to eliminate settlement or problems for users of the public place.

(c) SAME: EXCEPTION: Public utility corporations and electrical and plumbing contractors are exempt when required to make emergency repairs to service and may proceed with repairs of damaged utilities during periods other than normal working hours, but shall obtain the required permit on the following working day.

(d) SAME, EXCEPTION: The installation of utility poles and the installation of sign posts which are permitted in public places and used for informing the motoring public of traffic regulations, restrictions, and the like shall

not require a permit.

(e) DEFINITIONS. For the purpose of this Chapter, the following words and terms as used herein are defined to mean the following:

Building Official shall mean the same as in the Uniform Building Code, Section 403, the Edition currently being used in the City.

Director of Public Works shall be the Director of Public Works for the City of Dodge City and shall include persons acting in such capacity in the absence of, or as appointed by the Director of Public Works as his/her representative.

Emergency shall mean the occasion when an existing facility including utility services, has been disrupted by accident or an act of natural occurrence requiring immediate repair to restore service.

Excavation means any opening in the surface of a public place, made in any manner whatsoever, except an opening into a lawful structure below the surface of the public place, such as a manhole or vault, the top of which is flush with the adjoining surface and so constructed as to permit opening without damage or injury of the public place.

Parking Strip means that unpaved area between the street curbs and the sidewalks, or between the street curbs and the adjacent street right-of-way line. On uncurbed streets, the area between the pavement edge and the adjacent ditch shall not be considered as included in the parking strip.

Person means any person, firm, partnership, association, corporation, company, or organization of any kind.

Public place shall mean any public street right-of-way, grounds, place, parking, alley, sidewalk, park, square, plaza, easement across private property, or any other public property owned or controlled by any governmental agency in a governmental capacity.

13-302. **APPLICATIONS FOR PERMIT.** (a) Public utility corporations: permits required by this article shall be issued to any public utility corporation upon completion of the necessary review and the approval of an application for such permit. Those public utility corporations having franchises to operate within the City shall be given consideration over other public utility corporations not franchised to operate within the City, but

who have a desire or need to make certain installations within the City.

(b) PLUMBERS, ELECTRICIANS, CONTRACTORS, OTHER PERSONS: licensed plumbers, electricians, contractors, and other persons having a need to make excavations in any public place may be issued a permit, subject to making application, and after review and approval of such application.

The Director of Public Works may deny a permit if he/she is not convinced that the applicant is qualified, either by experience, lack of equipment, or other valid reasons, and may require the applicant to have a licensed person do the work. The Director of Public Works may consult with the Building Official or other persons in making a determination about the qualifications of the applicant.

(c) INFORMATION TO ACCOMPANY APPLICATION. An accurate map or diagram showing the location of the proposed construction or work, including a reference to nearby properties by street addresses and/or legal descriptions, engineer's stations, ties to street intersections, and similar information shall be included to closely identify the locations where the work is to be done. Freehand sketches shall not be considered as being suitable for providing the information required. Maps and diagrams shall be drawn to scale or schematically to depict the actual conditions, and shall be on a minimum sheet size of 8 1/2" x 11".

The types of street surfacing, sidewalks, curbs, obstacles, including but not limited to trees, culverts, other utility facilities, or structures which may effect the utility construction shall be shown on the plans.

The dimensions of such construction or excavation, along with the specifications for the proposed work including the materials to be used in repairing the public place shall be provided. Repairs and replacement, including materials, shall conform to, or exceed the specifications of the City of Dodge City. The project specifications shall cover all work to be done in excavating, backfilling and restoring the surface along the excavation. The Director of Public Works may require the applicant to furnish specifications on conduit and/or pipe materials, if warranted.

The Applicant shall provide a plan for signing, traffic control, and/or detour routing, along with a work schedule. Such signing, detour routes, and scheduling shall be approved by the Public Works Director prior to

issuance of a permit. If detours are to be used, it shall be the responsibility of the Permittee to maintain such routes and restore the detour to its original condition after the excavation is completed.
An essential part of the information furnished when applying for a permit under this Ordinance shall be the furnishing of the name and phone number of a local representative who will be responsible for after hours calls, barricades and signs should problems occur.

13-303. **SAME; INSURANCE REQUIREMENTS.** Prior to the issuance of a permit, the Applicant, including any person not a licensed contractor, or a franchised utility corporation shall provide proof of general liability insurance in the amount of at least $500,000 combined single limit including, but not limited to, contractual liability, independent contractors, and completed operations. Those persons who are licensed by the City as plumbers, electricians, or contractors shall annually provide proof of the required insurance coverage.

13-304. **SAME; FEES.** (a) Before any permit shall be issued under the provisions of this Article, the Applicant shall pay to the City a fee in the amount established by the City Commission. In the event any reinspection of the work, done under the permit, becomes necessary, the Permittee shall pay a fee in the amount established in the fee schedule for such reinspection.
(b) Exception: Fees for permits issued to public utility corporations having a franchise to operate within the City, or Contractors who are established in the City may be billed to the applicant. Said fees shall be paid within 45 days after being billed by the City Clerk's Office.
(c) Fees shall be set by resolution of the City Commission, and may be revised from time to time as the Commission deems necessary to cover the City's costs for administration and inspection.

13-305. **ISSUANCE OF PERMIT.** Upon the approval of the application for a permit required by this article, the payment of the required fees and the posting of the required insurance certificate, the Director of Public Works shall issue the Applicant a permit for the work.

13-306. **CONSTRUCTION STANDARDS.** (a) After the issuance of a permit, all Permittees shall construct the facility, or do the work in conformance with the approved plans and specifications. To that end, all excavations, bores, tunnels, and similar work of any kind shall be done so that cut-lines are parallel and/or perpendicular to the street centerline, unless specifically approved otherwise by the Director of Public Works. The practice of installing or allowing the installation of underground

facilities in random curves to avoid obstacles such as trees, mailboxes, fire hydrants, culverts, or other existing facilities shall not be permitted. If the Permittee discovers such obstacles after the start of the construction, the problem shall only be bypassed by deepening the trench to go under the obstacle, boring under such obstacle or by removing and replacing the obstacle in a suitable location after approval by the Director of Public Works. If relocation of the existing obstacle is not practical, the utility or Permittee may use standard fittings to make such bends as are necessary to accomplish the necessary bypass, if approved by the Director of Public Works. Failure to comply with these provisions shall be grounds to require the new facility to be removed and reinstalled in compliance with the approved plans and specifications.

(b) All utilities, service connections, and similar facilities which cannot be traced with currently available electronic equipment shall have an American Public Works Association (APWA) standard color coded metallic strip installed in accordance to the manufacturers specifications approximately 12 inches above the facility as the trench is backfilled.

13-307. LIABILITY, SUPERVISION AND INSPECTION. (a) The Permittee, Public Utility Corporations, and their contractors and/or subcontractors, where involved, shall each be responsible for carrying out the provisions of this Article.

(b) All work shall be done under the supervision and inspection of qualified persons engaged by the Permittee or Public Utility Corporation and/or contractors.

(c) The Permittee shall give at least 24 hours notice to the Director of Public Works prior to starting the work. The Permittee shall also advise of any changes in schedules or completion dates. The Director of Public Works shall provide periodic inspection(s) of the work to determine compliance with the approved plans and specifications. If any person fails, refuses, or neglects to comply with any of the provisions of this Article, or to comply with the provisions of the plans and specifications, or reasonable orders or directions of the City, the City shall prohibit further excavations until compliance has been achieved. Compliance may require the removal of all, or a portion of any facility installed and not conforming to the terms of the permit; the removal and replacement of backfill in excavations and/or pavement, curb and gutter; or other structures which do not comply with the terms of the permit.

Inspection by the Public Works Director, or his/her

authorized representative shall not relieve the Permittee or his/her responsibility to comply fully with the provisions of this article.

(d) The Permittee shall deliver notices to each address along the route of the proposed work, describing in general the work to be done and the general location and schedule of said work. Should the Permittee be required to modify the construction schedule, notice of such changes shall also be delivered to each address impacted by the change.

(e) Issuance of a permit by the City shall not relieve the Permittee of the responsibility to obtain all other permits required by other agencies. All work to be done within Kansas Department of Transportation (KDOT) rights-of-ways shall have both the City's and KDOT's approval prior to starting the work.

13-308. SAME; PROTECTION OF TRAFFIC, LIABILITY OF PERMITTEE, PRESERVING ACCESS TO ABUTTING PROPERTY. (a) Any person who establishes a work zone in or upon any public place shall, at all times after such work is commenced, up to and including when the work is completed and accepted by the City, either as completed or for replacement or repair, as provided for in this Article, maintain traffic control as provided in the current edition of the MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES published by the U.S. Department of Transportation, Federal Highway Administration, which is by reference adopted and incorporated in, and hereby made a part of this Chapter as fully as though set out at length herein. All signs, barricades, lights, and other devices used to establish a work zone in any public place shall be furnished by the Permittee or their Contractor who established the work zone.

(b) Any person establishing a work zone in or upon any public place mentioned in subsection (a) of this section, shall be liable for all damages to persons or property resulting from negligence in protecting the work zone, and shall hold the City harmless from all suits, claims, or judgment for damages growing out of any negligent act of commission or omission on the part of any person in making cuts, excavations, erection of barricades, lights, or other work under this Chapter.

(c) Any person doing work under this Article, shall take special care to preserve access to abutting properties as much as practical, and to permit uninterrupted passage of water along the gutters, pipes, ditches, and natural areas. Should it be necessary to close off access to abutting property, a minimum of 24 hours notice shall be given to the occupants of such property.

(d) It shall be the responsibility of the person doing excavation work under this Article to notify all emergency services, the Division of Streets, and the Sanitation Division a minimum of 24 hours prior to the closure of any public place, including alleys.
For emergency work, only the emergency services need to be advised immediately. All agencies shall be notified as soon as the work is complete and travel ways, including alleys, are open to traffic.

13-309. SAME; PROTECTION OF EXISTING FACILITIES, BACKFILLING, RESTORATION OF SURFACES, INCLUDING PAVEMENT, CLEANUP, AUTHORITY OF THE DIRECTOR OF PUBLIC WORKS.

(a) The Permittee shall be responsible for protecting all facilities existing in the work area, including but not limited to: irrigation or watering systems, pipes, cables, conduits, water lines, sewers, drains, and similar facilities. Damage to such facilities shall be repaired at the Permittee's own expense.

(b) (1) BACKFILL. Excavations made in the parking, or outside paved limits of any public place, but not including unpaved shoulders, shall be backfilled in lifts not to exceed eight inches in depth, and compacted to approximately the same density as the soils in the general vicinity. Native materials may be reused as long as the backfill can be compacted to the required density. Compaction of such backfill by flooding with water may be acceptable, subject to the repair of any settlement by the Permittee within 5 working days of notification to make repairs.

(2) Excavations made within any paved areas or in unpaved shoulder areas of any public place shall be backfilled in lifts not to exceed eight inches in depth and compacted to minimum density of 95% of standard proctor density at optimum moisture content. If required by the Director of Public Works, compaction test results shall be furnished to verify the adequacy of the backfill.

(3) The Director of Public Works may require the backfill to be made with an approved granular backfill or by the use of a low strength concrete mix, commonly known as "flowable fill," which will allow traffic to be restored within the earliest possible time should there be a need to reopen the street to accommodate traffic.

(c) RESTORATION OF SURFACES. (1) UNPAVED. In unpaved public places, the surface shall be graded to conform to the existing contours and left smooth without clods, mounds, berms, or irregularities in the surface. Lawn and sodded areas shall be finished as specified herein and reseeded or sodded to match the conditions existing prior

to the Permittee's work. Should it be necessary to haul in earth or soil from other locations to restore such areas, such earth or soil shall be free of noxious weeds, construction debris or other unsuitable material.

(2) PAVEMENTS. All pavement cuts shall be restored with the same type of pavement as original. In all cases, except for brick surfaces, the pavement shall be replaced to a saw-cut line.

(2.1) Asphaltic concrete type streets shall be restored by using compacted hot mix asphaltic concrete, having finished thickness as the adjacent pavement, whichever is greater, placed in lifts not to exceed three inches in depth. Each lift shall be compacted to a minimum of 95% of laboratory Marshall density. Should hot mix not be available, a cold mix temporary patch may be used, but shall be replaced as soon as a permanent hot mix patch can be made. Should it be necessary to use cold mix, it shall be the responsibility of the Permittee to maintain the patch.

(2.2) Portland cement concrete streets shall be restored by using concrete having a minimum compressive strength of 3500 psi at 28 days. Such concrete shall be cured and protected for a minimum of seven (7) days before traffic is permitted. Curing and protection of concrete shall be one of the methods specified in the City's STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION for concrete construction. The minimum thickness of the patch shall be six inches or the same thickness as the adjacent pavement, whichever is greater. The Director of Public Works may require doweling into adjacent concrete, reinforcing, or any combination thereof, to ensure the integrity of the pavement after the work is completed. In addition, in highly congested areas, or in streets carrying a significant volume of traffic, the Director of Public Works may require the use of concrete capable of reaching a compressive strength of 3,500 psi in the shortest possible time. All joints in concrete streets shall be sealed with a joint sealing method approved by the City.

(2.3) Should it be necessary to remove sidewalks or curb and gutter sections, such facilities shall be replaced in accordance with the City's STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION.

(2.4) Brick streets shall be restored in kind. The portland cement concrete base shall be restored to not less than 6 inches or to the original depth, whichever is greater. A sand leveling course shall be used to level and grade the original street bricks which shall be salvaged, cleaned and reused for paving. After the bricks have been replaced, a slurry of sand and cement shall be

squeegeed or broomed into the interstices between the brick to seal the surface. Care shall be taken to use only the amount of joint sealing material necessary to accomplish a seal. Any excess shall be removed at the Permittee's expense.
In highly congested areas, or in streets carrying a significant volume of traffic, the Director of Public Works may require the use of a high-early strength concrete for concrete pavement for the brick pavement base. High-early strength concrete shall be proportioned to achieve 3500 psi in the shortest possible time.

(d) REPLACEMENT OF PAVEMENT BY CITY FORCES. Under certain circumstances, when it may be very difficult for a Permittee to repair the pavement surface in a timely manner, they may attempt to make arrangement with the Public Works Superintendent for City forces to make such repairs. In such cases, the Permittee shall pay to the City a sum equal to the cost of labor, material, and equipment used therein, and, in addition thereto, an administrative charge to cover the cost of supervision, coordination, billing, and related costs.

Traffic control, barricades, and signs shall continue to be the responsibility of the person making the excavation even though arrangements have been made to have City forces make the pavement repairs. Once the repairs are completed, the traffic control, barricades, and signs shall be removed by the Permittee.

(e) CLEANUP. It shall be the responsibility of the Permittee to remove from the site and dispose of all excess soil, dirt, broken pavement, forms, and debris which results from the work. Cleanup work shall be completed before the City accepts the work as completed.

13-310. SAME; REPAIR OF SETTLEMENTS, DAMAGE, AND MAINTENANCE. (a) Any person who makes an excavation in any public place is hereby obligated to repair any sinking or damage to the backfill, surface or improvement thereon which results from such excavation. Repairs to such failures shall include traffic protection as required in Section 13-308 hereinabove.

(b) In the event the backfill or surface in any public place or any improvement thereon settle, break, or otherwise fail wholly or in part, as a result of a prior excavation, then the person who made such excavation shall be notified and directed to repair the same. Such notice shall be deemed given if properly mailed to the last know address of such person. If such person shall fail or refuse to make the necessary repairs within five normal working days thereafter, then the Director of Public Works shall either have the work performed by the City forces,

or shall privately contract the work and shall charge such work to the Permittee.

Should such failure endanger life and/or property, the Director of Public Works shall authorize and/or make emergency repairs and bill the entire cost, including signs, barricades, and other safety materials to the responsible party. Should the responsibility party fail to make the requested repairs, the Building Official shall refuse to issue any addition permits to the responsible party until such repairs are completed.
(Ord. 3090, Sec. 2)

13-311. CURBCUTS, DRIVEWAYS AND DRAINAGE SYSTEMS; DEFINITIONS. For the purpose of this article, the following definitions shall apply:

Driveway. A place on private property for the operation and/or parking of automobiles and other vehicles.

Driveway approach. An area constructed between the roadway of a public street and private property intended to provide access for vehicles from such roadway to private property. For convenience and safety the minimum width of the driveway approach shall be not less than 12 feet when measured from the lowest ends of the transition curbs.

Front sidewalk line. A line parallel with the property line along the edge of the sidewalk nearest the street roadway or curb; or where no sidewalk exists, a line within the street right-of-way parallel to and at least five feet from the property line.

Corner. The point of intersection of the lines of two street curb faces extended into the street intersection.

Parcel of land. A lot or lots, or a tract officially registered under one ownership.
Curb return. That portion of a curb next to a driveway approach which includes the radius of curvature to connect the driveway approach to the street curb.

Curb transition. That portion of a curb on each side of a driveway approach which slopes from full height to meet and connect the driveway approach to the street curb.

Residential driveway approach. A driveway approach

providing ingress and egress to any residential property.

Business driveway approach. A driveway approach providing ingress and egress to any property other than residential property.

Person. Every natural person, firm, partnership, association or corporation.
(Code 1983, 28-52)

13-312. SAME; PERMIT REQUIRED. (a) It shall be unlawful for any person to cut, break out or remove any curb along a street or alley without first obtaining a permit for a driveway approach as hereinafter provided.

(b) It shall be unlawful to construct, alter or extend any driveway approach without first obtaining a permit for the work as hereinafter provided.

(c) It shall be unlawful to construct, reconstruct or alter any drainage structure or culvert to serve a

(d) Driveway approaches to adjacent properties or to a property and an alley shall be separated by a section of full height curb having a length of not less than six inches, unless agreed to in writing by both abutting owners or by the abutting owner and the city manager in the case of a property and an alley.
(Code 1983, 28-53)

13-313. SAME; APPLICATION FOR PERMIT. Any person desiring to construct, alter or extend a driveway approach across any curbing, parking, sidewalk or sidewalk space, shall first make application to the building inspector for a permit therefor. Such application shall be in writing upon a form provided by the city, and made available at the inspector's office. The application shall show the type of construction, the width of the proposed driveway approach, drainage structures or culverts, if any, including size and length, location of driveway approach by lot and block number and addition or plat name, as well as by street and house number and shall also include a drawing, to scale, which also shows any adjacent driveway approaches within 25 feet of that proposed and such other information as may be required by the city engineer or the building inspector. The application shall be filed by the property owner or the agent of the owner desiring to construct the driveway approach. (Code 1983, 28-54)

13-314. SAME; ISSUANCE OF PERMIT. A permit shall be issued by the inspector after the inspector has determined that the applicant has complied with the terms of this article and paid the permit fee hereinafter specified.
(Code 1983, 28-55)

13-315. **SAME; PERMIT FEES.** The fees for permits for the construction of driveway approaches provided for herein shall be as established in the fee schedule set out in Article 9 of Chapter 1. (Code 1983, 28-56)

13-316. **SAME; SUPERVISION.** All work done under a permit issued in compliance with this article shall be under the direction and supervision of the building inspector. In addition, the city engineer shall make the rules, regulations and specifications with respect to materials for and methods of construction of driveway approaches. A permit issued under the provisions of this article may be revoked by the building inspector at any time the city engineer or building inspector is satisfied that the work is not being performed according to the provisions hereof. (Code 1983, 28-57)

13-317. **SAME; CONSTRUCTION.** In addition to the rules, regulations and specifications promulgated by the city engineer with respect to driveway approaches, the following requirements shall be met in all work done under the provisions of this article:

(a) Slope of driveway approaches:

(1) The driveway approach shall run at a maximum 10 percent slope upward from the curb cut to the front sidewalk line. The approach shall have a slope of not greater than 1/4 inch per foot upward across the sidewalk and shall continue from the back of the walk to the property line, sloping up at a grade of not less than 1/4 inch per foot nor more than 10 percent. In the case where the lot or building site lies at a lower elevation than the street or curb grade, the driveway approach shall slope upward at a slope of not less than 1/4 inch per foot from the gutter to the property line before it can begin any downward slope. In no case shall a driveway approach slope downward from the back of the sidewalk to the property line.

(2) In the event a sidewalk grade has not been or cannot be established the driveway approach shall slope upward from the edge of the roadway to the property line at a slope of not less than 1/4 inch per foot nor greater than 10 percent. In no case shall a driveway approach slope downward from the edge of the roadway to the property line.

(b) Failure by or inability of the city to establish street or sidewalk grades shall not constitute liability for the city in the event future development or events requires a change in a street grade or elevation which may require the reconstruction of any existing driveway approach to comply with the provisions of subsections (a)(1) and (2) hereinabove.

(c) No curb cuts shall be made beyond any property line as projected except when consent to in writing by the adjoining property owner involved.

(d) All curb returns and transition curbs shall be constructed according to specifications provided by the city engineer and which are available at the building inspector's office.

(e) The owner or his or contractor shall protect the public from injury or damage during the construction of driveway approaches by providing barricades, flashing lights and other devices to properly secure the work area within the street right-of-way, and which are substantially in conformance with the "Manual of Uniform Traffic Control Devices".

(f) Before the building inspector may issue a permit for construction of a driveway approach and before any work may begin, the owner or his or her contractor shall provide a bond in the amount of not less than $2,000 as required by section 13-303 of this code.

(g) Surfacing of driveway approaches:

(1) On all driveway approaches on streets with curbs the following shall apply:

(A) Residential driveway approaches shall be paved with a minimum of six inches of portland cement concrete from the back of the curb to the property line, including the sidewalk area. If circumstances are such that reinforcing is required, the city engineer or building inspector may require the use of reinforcing.

(B) Business driveway approaches shall be paved with a minimum of six inches of reinforced portland cement concrete from the back of the curb to the property line, including the sidewalk area. The minimum allowable reinforcing shall be six-inch by six-inch #6 welded wire fabric.

(2) On all driveway approaches on streets without curbs and where street grades have not been established both residential and business driveway approaches shall be paved or surfaced with either an asphaltic surfacing over an adequate base or with portland cement concrete as approved by the city engineer. Where street grades have been established, driveway approaches shall be constructed as specified in subsection (g)(1)(A) and (B) above.

(h) On streets without curbs and where street or roadside ditches exist, drainage structures or culverts having a minimum length of at least five feet

longer than the width of the driveway approach at the location of the culvert shall be provided by the owner. The culvert length may be decreased by the construction of headwalls which meet the approval of the city engineer. The size of such drainage structures or culverts shall be determined by the city engineer and shall in no case be less than 12 inches in diameter or have an equivalent end area. (Code 1983, 28-58)

13-318. **SAME; MAINTENANCE AND APPROVAL.** Every driveway approach or entrance, and any related drainage structure or culvert serving abutting property shall be maintained and kept in a safe condition by the owner of the abutting property or by his or her agent, and any such driveway approach which shall not be so maintained and kept or which shall interfere with or obstruct the drainage carried by such street or ditch or the use of such street for the purpose of travel shall be repaired or replaced to conform with the specifications of this article and of the city engineer, or be removed. Upon the removal of any such driveway approaches, that portion of the street and related ditches occupied by the approach shall be restored as nearly as practical to its former condition and all curbing and/or ditches shall be replaced by and at the expense of the owner of the abutting property. Should the abutting owner fail to comply with these provisions, the city may do the work by force account or by contract and place a lien against the abutting property for the cost of the work including engineering and administrative costs. (Code 1983, 28-59)

13-319. **SAME; UNUSUAL CONDITIONS.** The city engineer and building inspector are hereby authorized to jointly grant in writing variances from the strict provisions of this article, provided that they first determine that the following conditions are present:

(1) The exception or variance desired arises from peculiar physical conditions not ordinarily existing in similar districts in the city or is due to the nature of the business of operation on the abutting property;

(2) The exception or variance desired is not against the public interest, particularly safety, convenience and general welfare;

(3) The granting of the permit for the exception or variance will not adversely affect the rights of adjacent property owners or tenants. (Code 1983, 28-60)

ARTICLE 4. TREES AND SHRUBS

13-401. SHADE TREE COMMISSION; CREATION AND ESTABLISHMENT OF A SHADE TREE COMMISSION. There is hereby created and established a seven member shade tree commission for the City. These shall be citizens and residents of this city, and shall be appointed by the mayor with the approval of the commission.

13-402. SAME; TERM OF OFFICE. The term of the seven persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

13-403. SAME; COMPENSATION. Members of the board shall serve without compensation.

13-404. SAME; DUTIES AND RESPONSIBILITIES. It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, and in other public areas. Such plan will be presented annually to the city commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city.

The board when requested by the city commission, shall consider, investigate, make finding, report and recommend upon any special matter of questions coming within the scope of its work.

13-405. SAME; OPERATION. The board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of he members shall be a quorum for the transaction of business.

13-406. SAME; DEFINITIONS. Park Trees are herein defines as trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the city, or to which the public has free access as a park.

Sight triangles are herein defined as the line of sight between 3 points. These points are the center of the intersection and 2 points measured at right angles along the streets a distance of 120 feet on arterial streets and 90 feet on secondary streets.

Street trees are herein defined as trees, shrubs, bushes and all other woody vegetation with a mature height in excess of 18 inches on land lying between property lines on either side of all streets, avenues or ways within the city.

Topping is defined as the severe cutting back of

limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

13-407. **STREET TREES; LIST.** A list of preferred and recommended street tree species, which shall consist of small, medium and large trees, shall be established from time to time by the shade tree commission, and a copy of the current list shall be maintained in the office of the director of parks and recreation and the ford county extension council and copies of the list shall be provided without charge to persons requesting the same.

13-408. **TRIMMING REQUIRED.** It is hereby made the duty of the owner or occupant of any premises abutting on any street, avenue or alley in the city to cut, trim or remove, in accordance with the provisions of this article, all trees and shrubbery growing in the city which may constitute any hazard or any sight obstruction to any vehicular or pedestrian traffic upon the streets or sidewalks.

13-409. **MINIMUM HEIGHT.** The limbs, trees or shrubbery abutting on any street, avenue or alley in the city shall be trimmed or cut so that the same shall not be less than eight (8) feet above the sidewalks, twelve (12) feet above the streets or avenues over which they hang.

13-410. **DISTANCE FROM LIGHT POLES AND FIREPLUGS.** All trees and shrubbery which are greater than 18 inches in height are prohibited within 20 feet of street lighting poles or within 10 feet of fire hydrants.

13-411. **NOTICE TO OWNER, OCCUPANT.** Notice to cut any trees, boughs, shrubbery or limbs to conform to the provisions of the article shall be served by the duly appointed public officer upon the owner or occupant of the abutting premises.

13-412. **ABATEMENT BY CITY.** If such owner or occupant shall not within five (5) days thereafter cause such obstructing trees, boughs, shrubbery or limbs to be removed as provided in accordance with the provisions of this article, then the city shall forthwith remove them. This section, however, shall not be construed as waiving the rights of the city to prosecute under the provisions of this article.

13-413. **ASSESSMENT OF COSTS.** The costs of abatement of any condition prohibited by this article by the city shall be assessed and charged against the lot or parcel of ground on which the condition existed.

13-414. **COLLECTION OF COSTS.** The city clerk shall, at the time of certifying other city taxes to the county clerk,

certify the costs of abatement of any condition prohibited by this article by the city; and the county clerk shall extend the same on the tax roll of the county against the property upon which such condition existed. Such costs shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

13-415. STREET TREES; SPACING. The spacing of street trees shall be in accordance with the tree species size classes listed in the "Street Tree"; List" section of this article and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet, except in special plantings approved by the shade tree commission, landscape coordinator or forester.

13-416. SAME; DISTANCE FROM CURB AND SIDEWALK. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the "Street Trees; List" size classes and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet. Exceptions can be granted by the landscape coordinator, forester or shade tree commission.

13-417. SIGHT TRIANGLE. No street trees shall be planted within the sight triangle of an intersection as defined in the "Shade Tree Commission; Definitions" section of this article.

13-418. UTILITIES. No street trees other than those species listed as small trees in the "Street Trees; List" section of this article may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

13-419. PUBLIC TREE CARE. The city shall have the right to plant, prune, maintain and remove trees, plants, shrubs and tree stumps, within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

13-420. TREE TOPPING. It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions, where other pruning practices are impractical may be exempted from this

article at the determination of the shade tree commission.

13-421. **PRUNING, CORNER CLEARANCE.** Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall have a clear space of eight (8) feet above the surface of the sidewalk and twelve (12) feet above the surface of the street. The owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. It shall be unlawful to permit any hedge or shrub to grow over any sidewalk, street or alley.

13-422. **DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.** The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The shade tree commission will notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within 30 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

13-423. **PERMIT TO PLANT, PRUNE OR REMOVE TREES ON EASEMENTS.** It shall be unlawful for a person without a written permit to plant, prune, remove or cut any tree or shrub in any part of the streets, avenues or public grounds. The permit shall state specifically the work to be done under it, and shall be void after ten (10) days from the date thereof. Permit is to be obtained from the City.

13-424. **TREE PROTECTION.** (a) It shall be unlawful for any person to attach wire, rope, chain, sign or any other material to any tree on any public street, alley or other public property. (b) Any person constructing, repairing or razing any building or structure shall use sufficient guards, barriers or protectors to prevent injury to any tree on any street, alley or public property, and all building materials, dirt or other debris shall be kept outside the barrier. The guard shall be a fence, frame or box not less than 4 feet high and 8 feet square. (c) The landscape coordinator, forester or shade tree commission may exempt certain trees on any street, alley or public property from protection and have them removed when in the way of public improvements.

13-425. REMOVAL OF STUMPS FROM STREET EASEMENTS. Any tree, tree stump, shrub or vine that shall be removed from any of the streets, avenues, alleys or public ways shall be removed

below the surface of the ground so that the top of the stump

removed shall not project above the surface of the ground.

13-426. **INTERFERENCE WITH SHADE TREE COMMISSION.** It shall be unlawful for any person to prevent, delay or interfere with the shade tree commission, except the city commission or their agent, or any of his or her agents, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this article.

13-427. **ARBORISTS LICENSE.** It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing trees within the city without first having obtained a license. Said license shall not be transferable when there is a change in the business status of the licensee.

13-428. **SAME; QUALIFICATIONS.** Licenses required by this ordinance shall be issued at the parks and recreation office. The applicant shall meet the following requirements:

1) Provide current name, business address and phone number.
2) Filing of certificate of liability insurance.
3) Payment of required license fee.
4) Passing score of at least 70% on city test; or
4a) Proof of new or renewed certification from Kansas Arborist Association or equivalent.
5) No license shall be required for any city employee doing such work in the pursuit of their public service endeavors.

13-429. **SAME; FEE.** The fee for a license shall be as established in the fee schedule set out in Article 9 of Chapter 1 of the city code. The license fee, or a portion of, may be waived, if the applicant completes an approved course as prescribed by the shade tree commission and the Kansas Arborist Association or equivalent.

13-430. **SAME; INSURANCE.** Prior to the issuance of any license, each applicant shall first file evidence of possession of liability insurance in the minimum amount of $500,000 per occurrence, indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Ord. No. 3053, 1993)

13-431. **ON-SITE INSPECTIONS.** The shade tree commission or a duly authorized agent of the city may inspect the work of all commercial, private or contracting arborists performing tree pruning on public property to insure that proper pruning practices are being followed. Inspections shall be random and without notice.
Arborists found in violation of proper pruning procedures

shall be notified verbally and in writing by the city. Such violations shall be corrected if possible and future pruning shall comply with approved practices.

14-432. **PENALTY.** The public officer may file a complaint in the municipal court against any person or commercial, private or contracting arborist found to be in violation of the provisions of this article, provide that the person or arborist shall first have been sent a notice. The notice shall state:

(1) The condition which has caused the violation of this article; and
(2) That the person in violation shall have:
    (a) 5 days from date of deliverance of the notice to alleviate the obstructing violation; or
    (b) 30 days from date of deliverance of the notice to alleviate the hazardous or harboring condition; and
(3) That failure to alleviate the condition or to request a hearing may result in prosecution and/or abatement of the condition by the city with the cost assessed against the property.

Upon such complaint in the municipal court, any person or commercial, private or contracting arborists found to be in violation of the provisions of this article shall upon conviction be punished by a fine of not less than $50 nor more than $100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purpose of this article, a separate offense shall be deemed committed for each tree on which such violation exists.

13-433. **REVIEW; BY GOVERNING BODY.** The governing body shall have the right to review the conduct, acts and decisions of the shade tree commission. Any person may appeal from any ruling or order of the shade tree commission to the governing body who may hear the matter and make final decision. (Ord. No. 3028)

ARTICLE 5. STORMWATER AND DRAINAGE

13-501. **GENERAL.** (a) PURPOSE. The purpose of this Section is to reduce or eliminate hazards to the public health, safety and welfare caused by excessive stormwater runoff, reduce economic losses to individuals and the community at large, enhance broader social and economic objectives and protect, conserve and promote the orderly development of land and water resources. The provisions of this Section further supplement ordinances regulating:

(1) The subdivision, layout and improvement of lands located within the corporate limits of the City of Dodge City.

(2) The excavating, filling and grading of lots and other parcels or areas.
(3) The construction of buildings and the drainage of the sites on which those structures are located, including parking lots and other paved areas.
(4) The design, construction and maintenance of stormwater drainage facilities and systems.

(b) CONFLICTING ORDINANCES. The provisions of this Section shall be deemed as additional requirements to standards required by other Ordinances of the City of Dodge City. In case of conflicting requirements, the most restrictive shall apply.

(c) PERMITS. Before starting any activities regulated by this Section, an applicant shall comply with the requirements set forth in other applicable Sections with respect to the submission and approval of preliminary and final subdivision plats, improvements plans, building and zoning permits, inspections, appeals and similar matters, along with those set forth in this Section and as may be required by State Statutes and the regulations of any department of the State of Kansas.

(d) DEFINITIONS. Unless specifically defined hereinbelow, words or phrases used in this Section shall be defined so as to give them the same meaning they have in common usage and so as to give this Section its most reasonable application. Words used in the present tense shall include the future tense, words used in the singular shall include the plural and words in the plural shall include the singular; the word "shall" is always mandatory.

The following definitions shall apply in the interpretation and enforcement of this Chapter unless specifically stated:
(1) Administrator shall mean the City Engineer of the City of Dodge City or his/her duly authorized representative.
(2) Critical Drainage Basin shall mean a drainage basin or sub-basin within which there are homes or businesses (including accessory structures) that have sustained, or nearly sustained, flood damage or there have been significant property damage losses. These critical basins shall be defined by the City Engineer on maps available for inspection in the Engineering Department.
(3) Design Manual shall mean the current edition of the STORMWATER MANAGEMENT DESIGN MANUAL.
(4) Developer shall mean any person who acts on his/her own behalf or as the agent or an owner of property and engages in alteration of land or vegetation in preparation for construction activities.
(5) Development shall mean any activity which results in an alteration of either land or vegetation.

(6) Detention Facility shall mean a facility which provides for storage of stormwater runoff and controlled release of this runoff during and after a flood or storm.

(7) Drainage System shall mean the surface and subsurface system for the removal of water from the land, including both natural and artificial water courses.

(8) Erosion for the purposes of this Chapter shall mean the general process whereby soils are moved by flowing surface or subsurface water.

(9) Flood shall mean a temporary rise in the level of water which results in inundation of areas not ordinarily covered by water.

(10) Issuing Authority shall mean the City Engineer of the City of Dodge City, Kansas.

(11) Master Plan shall mean the STORMWATER MANAGEMENT MASTER PLAN dated May 1986.

(12) Natural Conditions shall mean those conditions which exist within the watershed prior to any man-made activities. For the purposes of computing surface runoff, and appropriate Soil Conservation Service (SCS) a Soil Complex Number shall be selected from the Design Manual. The Soil Complex Number selected shall be subject to approval by the City Engineer.

(13) Permit shall mean the authorization necessary to proceed with development activities under the provisions of this Chapter.

(14) Plan shall mean a plan for the control of excess stormwater runoff resulting from development activities. It may also be known as a Stormwater Management Plan.

(15) Rainfall Frequency shall mean a precipitation event having a specified number of hours duration and having a specified percent chance of occurring in any one year.

(16) Runoff shall mean that portion of precipitation on the land which reaches the drainage systems.

(17) Sedimentation shall mean the process wherein water deposits soils, debris and other materials on ground surfaces or in water channels.

(18) Stream shall mean a natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.

(19) Stormwater Release Rate shall mean the rate at which Stormwater runoff is released from dominant to servient land.

13-502. DESIGN CRITERIA AND PERFORMANCE STANDARDS;

APPLICABILITY. A Stormwater Management Plan shall be required for any new one and two family residential

subdivision and for any new multi-family, commercial, industrial or institutional development. No final

subdivision plat, shall be approved and no building permits shall be issued until the Stormwater management plan has been reviewed and approved by the City Engineer.

(1) A plan shall accompany any preliminary plat for any new subdivision.

(2) A plan shall accompany the final plat for a portion of a subdivision which has had the preliminary plat approved prior to the adoption of this Ordinance.

(3) A plan shall accompany a replat of an existing subdivision when a new preliminary plat is required because roads, streets, drainage facilities and similar items are changed.

(4) A plan shall be submitted in cases where a commercial, industrial or multiple family development expansion or modification will cause a significant increase in stormwater runoff.

(b) STORMWATER MANAGEMENT PLANS. The Stormwater Management Plan for the City of Dodge City shall be the STORMWATER MANAGEMENT MASTER PLAN, dated May 1986,including plan and profile sheets relating to said MASTER PLAN, and which are hereby made a part of this Chapter.
Should anyone desire to utilize different procedures or solutions to stormwater management for areas within the City or to plan for areas not covered by the Stormwater Management Plan they shall receive permission from the City Engineering before proceeding.

The required Stormwater Management Plan shall identify means for controlling the stormwater runoff release rate from the development and providing storage potential for any excess stormwater runoff. All computations, plans and specifications relating to the implementation of this Chapter shall be prepared and sealed by a professional engineer registered in the State of Kansas.
The Stormwater Management Plan shall contain but not be limited to the following information unless specifically excluded by the City Engineer.

(1) A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of flood plains and the calculated highwater elevations, the shoreline of lakes, ponds, swamps and detention facilities including their inflow and outflow structures, if any.

(2) The location and flowline elevation of all existing sanitary and storm sewers.

(3) Detailed determination of runoff anticipated for the entire project site following development indicating design volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine said runoff volumes and rates and restatement of the criteria which has been used by the design engineer throughout his/her calculations.

(4) A layout of the proposed stormwater management system

including the location and size of all drainage structures, storm sewers, channels and channel sections; detention facilities and analysis regarding the effect said improvements will have upon the receiving channel and its high water elevation.

(5) The slope, type and size of all existing and proposed storm sewers and other waterways.

(6) For all detention facilities, a plot or tabulation of storage volumes with corresponding water surface elevations and of the facility out flow rates for those water surface elevations.

(7) For all detention facilities, design hydrographs of inflow and outflow for the design runoff events for the site under developed conditions and the calculated peak flows from the site under natural and developed conditions for the same events as provided for in the DESIGN MANUAL.

(8) A profile and one or more cross sections of all existing and proposed channels or other open drainage facilities, including both major and minor facilities, showing existing conditions and the proposed changes thereto, together with the high water elevations expected from the stormwater runoff under the controlled conditions called for by these regulations and the relationship of structures, streets and other utilities to such channels.

(c) DESIGN CRITERIA. The STORMWATER MANAGEMENT DESIGN MANUAL, dated December 1985, shall be the design criteria for the City of Dodge City, and is hereby made a part of this Chapter.

Should any person desire to utilize different criteria than that included in this Chapter, they shall provide written justification, including all calculations, to the City Engineer for evaluation. The City Engineer will approve or disapprove the alternate criteria based on his evaluation of the circumstances and area involved.

(1) RUNOFF RATES AND VOLUMES. Drainage and storage facilities shall be designed using the methods approved hereinabove for calculating runoff discharge rate and total volume.

(2) RELEASE RATES. Release rates for all developments described in 13-502 that are located in a critical drainage basin shall not exceed the release rate of the property in its natural condition. Release rates for all multi-family (greater than 2 family living units), commercial, industrial, or institutional development, not located in a critical drainage basin, shall not exceed the release rate of the property in its natural condition if forty percent (40%) or more of the project site is impervious.

The detention of Stormwater to meet the release rate requirements will not be required on any subdivision or building site that is located in the lower one-third (1/3)

of any major drainage basin, as defined on maps available in the City Engineer's Office.

The detention of Stormwater to meet the release rate requirements may be waived by the City Engineer in situations where the new development is located as a part of an existing development that does not contain detention, and the design engineer certifies that the installation of a detention structure (or lack thereof) will have virtually no impact on downstream peak flows.

In the event the natural downstream channel or storm sewer system is inadequate to accommodate the release rate provided above, then the allowable release rate shall be reduced to that rate permitted by the capacity of the downstream channel or storm sewer system. Such reduced release rate shall be approved by the City Engineer prior to final approval of the Plan.

(3) DEVELOPMENT DESIGNS. Development design of streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to minimize the velocity of overland flow and allow maximum opportunity for infiltration of stormwater into the ground, and to preserve and utilize existing and planned streams, channels and detention basins, and include, whenever possible, streams and floodplain within parks and other public grounds.

(4) DETENTION. The increased stormwater runoff resulting from the proposed development may be accommodated by the provision of appropriate detention facilities including wet or dry bottom reservoirs, flat roofs, parking lots or streets. The following shall govern the design of detention facilities:

(a) VOLUME. The volume of storage potential provided in detention facilities shall be sufficient to control the excess stormwater runoff, as determined to be the difference between the stormwater quantity from the site in its developed state as determined by the DESIGN MANUAL procedures, less the allowable release rate as set forth in Section 13-502 (c) (2). The allowable stormwater release rate shall not be exceeded regardless of the depth of stormwater contained in the required stormwater detention facility.

(b) RELEASE RATE. At no time during the design storm shall the Stormwater runoff release rate exceed the allowable release rate as set forth in Section 13-502 (c) (2).

(c) RELEASE VELOCITY. Detention facilities shall release Stormwater at a non-erosive velocity. Channels receiving detention discharge shall incorporate features to reduce velocity to non-erosive levels at the point where such discharge enters the unprotected channel. If release is into a subsurface conduit, the energy gradient in the receiving facility shall not be increased beyond the slope of the conduit.

Minimum release velocities shall be maintained to

reduce the chances of sedimentation of the channel or pipe. Such velocities shall be based on sound engineering practice, taking into regard the type of facility under consideration.

(d) SPILLWAYS. Emergency spillways shall be provided to permit the safe passage of runoff generated from the design storm as defined by the DESIGN MANUAL or greater if required by State law.

(e) FREEBOARD. Detention facilities shall have adequate capacity to contain the storage volume of tributary stormwater runoff with at least one (1) foot of freeboard above the water surface of flow in the emergency spillway in the design storm as defined by the DESIGN MANUAL or as required by State law.

(5) PERFORMANCE STANDARDS: (1) STORMWATER CHANNEL LOCATION. Generally acceptable locations of stormwater channels in the design of subdivisions may include, but are not limited to, the following:

(a) Adjacent to roadways;

(b) In a depressed median of a double roadway, street or parkway provided the median is wide enough to permit slopes of one foot vertical in six feet horizontal or flatter;

(c) Centered on lot lines or entirely within the rear yards of a single row of lots or parcels;

(d) In each of the foregoing cases, a drainage easement with sufficient width to facilitate maintenance and design flow shall be provided and shown on the plat.

(e) In all cases, access for personnel and equipment shall be provided for in easements. In the case of structures, lined channels and ditches or similar facilities, suitable access structures, ramps or the like shall be provided at frequent, convenient locations to allow personnel and equipment access for operations and maintenance.

(2) STORM SEWER OUTFALL. The storm sewer outfall shall be designed to provide adequate protection against downstream erosion and scouring.

(3) LOT LINES. Whenever the plans call for the passage and/or storage of stormwater runoff along lot lines, the grading of all such lots shall be prescribed and established for the passage and/or storage of waters, and no structure or vegetation which would obstruct the flow of stormwater shall be allowed, nor shall any change be made to the proscribed grades and contours of the specified stormwater channels.

(4) MANHOLES. All utility sewer manholes constructed in an area designed for the storage or passage of stormwater shall be provided with either a watertight manhole cover or be constructed with a rim elevation having a minimum of one (1) foot above the high water elevation of the design storm.

(5) EASEMENTS. Permanent easements for the

detention and conveyance of stormwater, including easements for access to structures and facilities, shall be dedicated as part of the platting process.

(6) OBSTRUCTION OF DRAINAGE. The keeping or disposal of grass clippings, trash, debris, obstructions or unwanted material into the storm drains or within or along Stormwater channels or in adjacent flood plain areas which may wash into drains and channels is prohibited.

(7) MAINTENANCE. Provisions acceptable to the City of Dodge City for perpetual maintenance of detention facilities, outlet works and all appurtenances shall be made, as provided in 13-503 of this Chapter.

13-503. OPERATIONS AND MAINTENANCE AGREEMENT. A maintenance agreement approved by the City assuring perpetual maintenance of stormwater management improvements shall be provided to the City by the property owner. Such agreement shall clearly define the responsibilities of the owner and/or the successor(s) in title.

If warranted, a maintenance agreement may be entered into between the Applicant and the City, whereby the City will provide the maintenance on the storm drainage facilities. Such an agreement will clearly define the responsibilities of both the City and the Applicant and/or the Successor(s) of the Applicant, including the funding responsibilities for both parties.

(A) MAINTENANCE ELEMENTS. As a minimum, the operations and maintenance agreement shall cover each element or facility incorporated in the plan including, but not limited to, the following:

1) Structural repairs such as bank stabilization, pipe repair or replacement, pump repair or replacement;

2) Dredging to remove sediments form channels or detention facilities, pipe cleaning and similar activities;

3) Removal of debris to ensure inflow and discharge of Stormwater;

4) "Housekeeping" maintenance such as mowing, weed and brush removal and control, fence repair, litter removal;

5) Mosquito and/or other insect control by approved means.

(B) INSPECTION AND REPAIR OF FACILITIES. As storm drainage facilities are designed and constructed to handle water drainage for extended periods of time, it is essential that operation and maintenance activities be adequate to preserve the design capacities. For that purpose, the administrator, or his representative shall have the right to inspect all drainage facilities and may perform surveys and measurements as are reasonable necessary to determine whether operation and maintenance efforts are preserving the designed capacities. Said inspection may include, but is not limited to, making surveys and measurements of any part of the facility.

Should the administrator determine, after inspection, that operation and maintenance activities have not maintained the facility at the design capacity, the administrator shall, by certified mail, notify the owner of repairs which are necessary and the owner shall immediately make repairs which are necessary to restore the design capacity. Should the owner fail, refuse or neglect to make repairs reasonable determined by the administrator to be necessary, the administrator may proceed to make necessary repairs, either by force account or by contract, and an account of cost thereof shall be maintained and billed to the owner of record of the property not properly maintained. In the event the owner fails to pay, in full, the cost of such work within thirty (30) days from receipt of the billing, the administrator may assess such costs in the manner provided by Section 13-209(b) of the Code of the City of Dodge City.

13-504. ADMINISTRATION. (a) RESPONSIBILITY. The administration of this Chapter shall be the responsibility of the City Engineer of the City of Dodge City, Kansas.

(b) VARIANCES. (1) STANDARDS FOR VARIANCES. Variations from these standards, provisions and specifications may be granted by the City Engineer when it can be demonstrated satisfactorily that, owing to special conditions or circumstances, a strict adherence to the provisions of this Chapter will result in unnecessary hardship and that the spirit and intent of the Chapter will be observed.

(2) A request for a variance shall be filed by the applicant, or his agent, seeking to develop or change the use of the property in questions, with the City Engineer. The City Engineer shall study the merits of the requested variance and make his/her decision. The request for variation shall be in writing and shall state specifically what variance is sought and how the public interest will be provided if the variance is granted.

(c) OFFICIAL MAPS. Responsibility for all official maps and profiles shall remain the responsibility of the City Engineer.

(d) INTERPRETATION. In the interpretation and application of this Chapter, the provisions expressed herein shall be held to be the minimum requirements and shall be liberally construed in favor of the City of Dodge City and shall not be deemed a limitation or repeal of any other powers granted by the State of Kansas or exercised by the City in its application of its home rule powers.

13-505. ADMINISTRATION AND ENFORCEMENT.

(a) INSPECTION.

The City Engineer shall be responsible for determining whether the Stormwater Management Plan is in conformance with the requirements of this Chapter and whether development is proceeding in accordance with the approved

plan. Periodic inspection of the development site shall be made by the City Engineer, or representatives, to ensure that the plan is properly implemented.
The City Engineer or authorized representatives, shall be permitted to enter the premises and properties for the purpose of inspection, observation and measurement in accordance with the provisions of this Chapter.

(b) ENFORCEMENT. (1) WORK SUSPENSION. In the event that work performed does not conform to the provisions of the approved plans and specifications, a written notice to comply shall be served upon the developer. Such notice shall set forth the nature of correction required and the time within which corrections shall be made. Failure to comply with such notice shall result in the issuance of stop-work order applicable to all construction activity except that necessary for correction of the violation. Upon correction of the violation the stop-work order shall be voided by the City Engineer and construction may resume.

PENALTIES FOR VIOLATIONS. Any person, firm or corporation who violates or fails to comply with any of the provisions of this Ordinance shall be guilty of a public offense, and upon conviction, shall be subject to the penalties as specified in Section 1-116 of the Code of Dodge City. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. The City of Dodge City reserves the right to other remedies as provided by other laws and Ordinances.

SEPARABILITY. If any provision, paragraph or section of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs and sections shall not be affected and shall continue in full force and effect. All other Ordinances and/or parts of Ordinances conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

ARTICLE 6 STREETS

13-601. GENERAL PROVISIONS.

A. PURPOSE: The purpose and objective of this chapter are as follows:

1. To maintain and improve the quality of surface water and groundwater within the city;

2. To prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential, and construction sites into the

municipal separate storm sewer system (MS4) and natural water ways within the city;

3. To promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the storm sewers of the city;
4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products;
5. To facilitate compliance with state and federal standards and permits by owners of industrial and construction sites within the city;
6. To enable the city to comply with all federal and state laws and regulations applicable to its NPDES permit for stromwater discharges.

B. ADMINISTRATION: Except as otherwise provide herein, the Director of Engineering Services, Chief Building Official, or other appointed representative, shall administer, implement and enforce the provisions of this chapter.

C. ABBREVIATIONS: The following abbreviations when used in this chapter shall have the designated meanings:

BMP - Best Management Practices
CFR - Code of Federal Regulations
EPA - U.S. Environmental Protection Agency
HHW - Hazardous Household Waste
mg/1 - Milligrams per liter
MS4 - Municipal Separate Storm Sewer System
NOI - Notice of Intent
NPDES- National Pollutant Discharge Elimination System
PST - Petroleum Storage Tank
SWPPP- Stormwater Pollution Prevention Plan
USC - United States Code

D. DEFINITIONS: Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings herinafter designated.

1. "Best Management Practices" (BMP) means schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States or the city's MS4. Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas. The BMP's required in this chapter will be sufficient to prevent or reduce the likelihood of pollutants entering storm sewers,

ditches, or ponds.

2. "City" means the City of City of Dodge City, Kansas
3. "Commencement of construction" means the disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
4. "Commercial" means pertaining to any business, trade, industry, or other activity engaged in for profit.
5. "Construction general permit" See "Kansas General Permit for Stormwater Discharges from Construction Sites."
6. "Contractor" means any person or firm performing construction work at a construction site, including any general contractor and subcontractors. Also I includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical, landscaping contractors, and material suppliers delivering materials to the site.
7. "Director " means the person appointed to the position of director of engineering services by the city manager, or his/her duly authorized representative. "Building Official" means the persons appointed to the position of chief building official by the city manager, or his/her duly authorized representative.
8. "Discharge" means any addition or introduction of any pollutant, stormwater, or any other substances whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.
9. "Discharger" means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.
10. "Domestic sewage" means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, that is free from industrial waste.
11. "Earthwork" means the disturbance of soils on a site with clearing, grading, or excavation activities.
12. "Environmental Protection Agency" (EPA) means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.
13. "Extremely hazardous substance" means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.
14. "Facility" means any building, structure,

installation, process, or activity from which there is or may be a discharge of a pollutant.

15. "Fertilizer" means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.
16. "Final stabilization" means the status when all soil-disturbing activities at a site have been completed. This would establish a uniform perennial vegetative cover with a density of seventy percent coverage for unpaved areas and those not covered by permanent structures or equivalent permanent stabilization measures (by employing riprap, gabions, or geotextiles).
17. "Fire protection water" means any water, and any substances or materials contained therein, used by any person to control or extinguish a fire, or to inspect or test fire equipment.
18. "Garbage" means putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.
19. "Harmful quantity" means the amount of any substance that will cause a violation of a State Water Quality Standard or any adverse impact to the city's drainage system.
20. "Hazardous household waste" (HHW) means any material generated in a household (including single and multiple residences) by a consumer which, except for The exclusion provided in 40 CFR Section 261.4 (b)(1), would be classified as a hazardous waste under 40 CFR Part 261.
21. "Hazardous substance" means any substance listed in Table 302.4 of 40 CFR Part 302.
22. "Hazardous waste" means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
23. "Hazardous waste treatment, disposal, and recovery facility" means all contiguous land, and structures, other appurtenances and improvements on the land used for the treatment, disposal, or recovery of hazardous waste.
24. "Individual building sites" means and includes sites of building construction or earthwork activities that are not a part of a new subdivision development and any individual lot within a newly developing subdivision.
25. "Industrial General Permit" See Kansas General Permit for Stormwater Discharges Associated with Industrial

Activity."

26. "Industrial waste" means any waterborne liquid or solid substance that result from any process of industry, manufacturing, mining, production, trade, or business.
27. "Industry" means and includes: (a) municipal landfills; (b) hazardous waste treatment, disposal, and recovery facilities; (c) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, U.S.C. Section 11023; industrial facilities required to obtain NPDES stormwater discharge permits due to their Standard Industrial Classification or narrative description; and (d) industrial facilities that the Director determines are contributing a substantial pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity.
28. "Kansas General Permit for Stormwater Discharges Associated with Industrial Activity" and "Industrial general permit" mean the industrial general permit issued by KDHE and any subsequent modifications or amendments therto, including group permits.
29. "Kansas General Permit for Stormwater Discharges from Construction Sites and "Construction General Permit" mean the construction general permit issued by KDHE and any subsequent modifications or amendments thereto, including group permits.
30. "Landfill" means an area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment facility, a surface impoundment, or an injection well.
31. "Municipal separate storm sewer system" (MS4) means the system of conveyances, (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or torm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

32. "Municipal solid waste" means solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial waste.
33. "NPDES permit" means for the purpose of this chapter, this is a permit issued by EPA or the state of Kansas that authorizes the discharge of stormwater pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

34. "Nonpoint source" means the source of any discharge of a pollutant that is not a point source.
35. "Notice of intent" (NOI) means the notice of intent that is required by either the industrial general permit or the construction general permit.
36. "Notice of termination" (NOT) means the notice of termination that is required by either the industrial general permit or the construction general permit.
37. "Notice of violation" means a written notice provided to the owner or contractor detailing any violations of this chapter and any clean-up action expected of the violators.
38. "Oil" means any kind of oil in any form, including but not limited to: petroleum, fuel oil, crude oil any fraction thereof, which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.
39. "Owner" means the person who owns a facility, part of a facility, or land.
40. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local government entities.
41. "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest or substances intended for use as a plant regulator, defoliant, or desiccant.
42. "Petroleum product" means a petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle, or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.
43. "Petroleum storage tank" (PST) means anyone or combination of aboveground or underground storage tanks that contain petroleum product and any connecting underground pipes.

44. "Point source" means any discernable, confined and discrete conveyance including, but not limited to: any pipe, ditch, channel, tunnel, conduit, well discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.
45. "Pollutant" means dredged spoil, spoil waste,

incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, and yard waste, hazardous household wastes, used motor oil, anti-freeze, litter, and industrial, municipal, and agricultural waste discharged into water.

46. "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
47. "Qualified personnel" means person who posses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity.
48. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or the waters of the United States.
49. "Reportable quantity" (RQ) means, for any hazardous substance, the quantity established and listed in Table 302.4 of 40 CFR Part 302; for any extremely hazardous substance, the quantity established in 40 CFR Part 355.
50. "Rubbish" means nonputrescrible solid waste, excluding ashes, that consist of: (a) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (b) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (one thousand six hundred to one thousand eight hundred degrees Fahrenheit).
51. "Sanitary sewer" means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial building industrial and manufacturing facilities, and institutions, whether treated or untreated, to the city sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).
52. "Septic tank waste" means any domestic sewage from

holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

53. "Service station" means any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from pumps.
54. "Sewage" means the domestic sewage mid and/or industrial waste that is discharged into the city sanitary sewer system and passes through the sanitary sewer system to the city sewage treatment plant for treatment.
55. "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
56. "Solid waste" means any garbage, rubbish, refuse, sludge from a waste treatment plait, water supply treatment plant, or air pollution control facility, and other discarded material including: solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal commercial, mining, agricultural operations, and community and institutional activities.
57. "State" means the state of Kansas.
58. "Stormwater" means stromwater runoff, snowmelt runoff, and surface runoff and drainage.
59. "Stormwater discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is listed as one of the categories of facilities in 40 CFR Section 122.26(b)(14), and which is not excluded from EPA's definition of the same term.
60. "Stromwater pollution prevention Plan "(SWPPP) means a plan required by an NPDES stormwater permit and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity.
61. "Subdivision development" means and includes activities associated with the platting of any parcel of land into two or more lots and includes all construction activity taking place thereon.
62. "Used oil (or used motor oil)" means any oil that has been refined from crude oil or a synthetic oil that, because of use, storage, or handling; has become unsuitable for its original purpose because of impurities or the loss of original properties.
63. "Water of the state" (or water)" mean any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the state, and all

other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

64. "Water quality standard" means the designation of a body or segment of surface water in the state for desirable uses and the narrative and numerical criteria deemed by the state to be necessary to protect those uses.
65. "Waters of the United States" means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.
66. "Wetland" means any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
67. "Yard waste" means leaves, grass clippings, yard and garden debris, and brush that result from landscaping maintenance and land-clearing operations.

13-602 GENERAL PROHIBITION:

A. No person shall introduce or cause to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of stormwater, except as allowed in subsection B.
B. The following nonstormwater discharges are deemed acceptable and not a violation of this section:
   1. A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from MS4);
   2. A discharge or flow resulting from emergency fire fighting;
   3. A discharge or flow of fire protection water that

does not contain oil or hazardous substances or materials;

4. A discharge from water line flushing;
5. A discharge or flow from lawn watering, landscape irrigation, or other irrigation water;
6. A discharge or flow from a diverted stream flow or natural spring;
7. A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
8. Uncontaminated groundwater infiltration;
9. Uncontaminated discharges or flow from a foundation drain, crawl space pump, footing drain, or sump pump;
10. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
11. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
12. A discharge or flow from individual residential car washing;
13. A discharge or flow from a riparian habitat or wetland or natural spring;
14. A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any harmful cleaning substance;
15. A discharge that is a result of an emergency condition to mitigate damage to life or property;
16. Stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant;
17. Swimming pool water, excluding filter backwash; that has been dechlorinated so that it contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
18. Heat pump discharge waters (residential only).

C. Not withstanding the provisions of subsection B of this section, any discharge shall be prohibited by this section if the discharge in question has been determined by the Director of Engineering Services to be a source of pollutants to the waters of the United States or to the MS4, written notice of such determination has been provided to the discharger, and the discharge has continued or occurred more than ten days after such notice has been provided.

13-603. SPECIFIC PROHIBITIONS AND REQUIREMENTS:

A. The specific prohibitions and requirements in this section are not necessarily inclusive of all the discharges prohibited by the general prohibition in Section 13-602

B. No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the city to violate a KDHE water quality standard, the city's NPDES stormwater permit, or any state-issued discharge permit for discharges from its MS4.

C. No person shall dump, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced the following substances into the MS4, wetlands, waters of the state or other water bodies:

1. Any used motor oil, antifreeze or any other petroleum product or waste;
2. A harmful quantity of industrial waste;
3. Any hazardous waste, including household hazardous waste
4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
5. Any garbage, rubbish, or yard waste;
6. Wastewater that contains a harmful quantity of soap, detergent, degreaser, solvent, or surfactant based cleaner from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment, by a business or public entity that operates more than five such vehicles;
7. Wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
8. Wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any harmful quantity of soap, detergent, degreaser, solvent, or any surfactant based cleaner;
9. Any wastewater from commercial floor, rug, or carpet cleaning;
10. Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent solvent, degreaser, emulsifier, or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
11. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter, or

the blowdown from a boiler;

12. Any ready-mixed concrete, mortar, ceramic, asphalt base material or hydromulch material, or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;
13. Any runoff, washdown water or waste from any animal pen, kennel, fowl or livestock containment area;
14. Any filter backwash from a swimming pool or fountain;
15. Any swimming pool water containing a harmful level of chlorine, muriatic acid or other chemical used in the treatment of disinfection of the swimming pool water or in pool cleaning;
16. Any discharge from water line disinfection by super chlorination if it contains a harmful level of chlorine at the point of entry into the MS4 or waters of the United States;
17. Any water from a water curtain in a spray room used for painting vehicles or equipment;
18. Any contaminated runoff from a vehicle wrecking yard;
19. Any substances or material that will damage, block, or clog the MS4; or
20. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge has received an NPDES permit from the state.

D. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured on site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.

E. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.

F. Regulations of Pesticides and Fertilizers.

1. No person shall use or cause to be used any pesticide or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide or fertilizer to enter the MS4 or waters of the United States.
2. No person shall dispose of, discard, store, or transport a pesticide or fertilizer, or its container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide of fertilizer to enter the MS4 or waters of the United States.

G. Used Oil Regulation.

1. No person shall discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or watercourse.

H. Cleanup, Should it be determined that any person or business has allowed any pollutant into the MS4 or waters of the United States, immediate measures will be taken by the responsible party to remove the pollutants. If the pollutants are not removed within the time period specified by the Director of Engineering Services, the city may remove the pollutants and assess the cost thereof to the responsible party. The city may use any legal means to collect said cost, should the responsible party fail to pay said cost within forty five days.

13-604. RELEASE REPORTING AND CLEANUP

A. Any person responsible for any release of any hazardous material that may flow, leach, enter, or otherwise be introduce into the MS4 or waters of the United States shall comply with all state, federal, and any other local law requiring reporting, clean-up, containment, and any other appropriate remedial action in response to the release.

B. Within thirty days following such release, the City of Dodge City Fire Department shall submit a written report to the Director of Engineering Services detailing spill information and the methods used to remedy the problem.

13-605. STORMWATER DISCHARGERS FROM CONSTRUCTION ACTIVITIES.

A. General Requirements

1. The owners of construction sites shall ensure that best management practices are used to control and reduce the discharge of pollutants into the MS4 and waters of the United States to the maximum extent possible under the circumstances.
2. Qualified personnel (provided by the owner of the construction site) shall inspect disturbed areas that have not been finally stabilized areas used for storage of materials that are exposed to precipitation,structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within twenty-four hours of the end of a storm that is one-half or greater. All erosion and sediment control measures and other identified best management practices shall be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, the best management practices shall be revised as appropriate as soon as practicable. These inspections, along with a description of revisions, will be documented in writing and available for inspection by the director or building official or his representative

upon request.

3. Should it be found that soil or pollutants have already or may be carried into the MS4 or waters of the United States, immediate measures will be taken by the owner to remedy the violation and /or remove the pollutants. If the owner fails to remove pollutants within the time period prescribed in the notice of violation from the city, the city may remove the pollutants and assess the cost thereof to the responsible owner. Failure of the owner to pay said costs will be grounds for the denial of further approvals or the withholding of occupancy certificates.
4. When determined to be necessary for the effective implementation of this section, the director may require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the best management practices required by subsection A.1 of this section above that will be implemented at the construction site. Should the proper BMP's not be installed or if the BMP's are ineffective, upon reasonable notice to the owner, the city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city approval necessary to commence or continue construction, or to assume occupancy.
5. Any contractor on a construction site will also be required to use best management practices to minimize pollutants that enter into the MS4.
6. All persons shall avoid damaging BMP devices once in place. Any person damaging a BMP device shall be responsible for the repair of the damaged BMP device. Intentional destruction of a BMP device or failure of such responsible person to repair BMP device will be deemed a violation of this chapter.

B. Sites Requiring State NPDES Stormwater Discharge Permits. All owners of and contractors on sites of construction activity, that require a federal or state NPDES stormwater discharge permit, or that are part of a common plan of development or sale requiring said permit(s), shall comply with the following requirements (in addition to those in subsection A):

1. Any owner who intends to obtain coverage for stormwater discharges from a construction site under the Kansas General Permit for Stromwater Discharges From Construction Sites ("the construction general permit") shall submit a signed copy of its notice of intent (NOI) to the Chief Building Official when a building permit application is made. If the construction activity is already underway upon the effective date of this chapter, the NOI shall be submitted within thirty days. When ownership of the construction site changes, a revised NOI shall be submitted within fifteen days of the change of ownership.

2. A stormwater pollution prevention plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the construction general permit or any individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this chapter and any other city chapter.
3. The SWPPP shall be prepared by a Kansas Licensed Engineer and shall comply with State NPDES requirements. The signature of the preparer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the permit issued.
4. The SWPPP shall be completed prior to the submittal of the NOI to the Building Official and for new construction, prior to the commencement of construction activities. The SWPPP shall be updated and modified as appropriate and as required by the NPDES permit.
5. The director and/or building official may require any owner who is required by subsection B.2 of this section to prepare a SWPPP, to submit the SWPPP, and any modifications thereto, to the director and /or building official for review at any time. The SWPPP and any modifications shall be available for review at the construction site at all times.
6. Upon the director's or building official's review of the SWPPP and any site inspection that he/she may conduct, if the SWPPP is not being fully implemented, the Chief Building Official or his/her representative may upon reasonable notice to the owner, deny approval of any building permit, grading permit, site development plan, final occupancy certificate, or any other city approval necessary to commence or continue construction. A stop work order may also be issued.
7. All contractors working on a site subject to an NPDES permit shall sign a copy of the following certification statement before beginning work on the site:
"I certify under penalty of law, that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this Certification. I understand that I am legally required under the Clean Water Act to ensure compliance with the terms and conditions of NPDES storm water CGP and this Storm Water Pollution Prevention Plan (SWPPP). I understand that I am full responsible for all subcontractors who perform work activities on the construction site, to comply with all provisions and requirements of the NPDES storm water CGP and this SWPPP." The certification must include the name and title of the person providing the signature; the name, address, and telephone number of the contracting firm; the address (or other identifying description) of the

site; and the date the certification is made. All contractors will be responsible for their own activities to ensure that they comply with the owners' SWPPP. Failure to comply with the SWPPP or intentional destruction of BMP devices is hereby deemed a violation of this chapter. The SWPPP and the certifications of contractors required by subsection B.7 of this section, and with any modifications attached, shall be retained at the construction site from the date of construction commencement through the date of final stabilization.

9. The director and/or building official may notify the owner at any time that the SWPPP does not meet the requirements of the NPDES permit issued or any additional requirement imposed by or under this chapter. Such notification shall identify those provisions of the permit or these chapters, which are not being met by the SWPPP, and identify which provisions of the SWPPP, require modification in order to meet such requirements. Within thirty days of such notification from the director, the owner shall make the required changes to the SWPPP and shall submit to the Chief Building Official a written certification from the owner that the requested changes have been made.
10. The owner shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges.
11. Qualified personel (provided by the owner of the construction site) shall inspect disturbed areas that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen(14) calender days and within twenty-four hours of the end of the storm that is one-half (0.5) inch or greater. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.
12. Based on the results of the inspections required by

subsection B.11 of this section, the pollution prevention measures identified in the SWPPP shall be revised as appropriate. Such modifications shall provide for timely implementation of any changes to the SWPPP within seven (7) calender days following the inspection.

13. A report summarizing the scope of any inspection required by subsection B.11 of this section, and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with subsection B.12 of this section above shall be made and retained on site or at a local office in Dodge City as part of the SWPPP. Such report shall identify any incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility complies with the SWPPP, the facility's NPDES permit, and this chapter. The report shall be certified and signed by the person responsible for making the inspection.

14. The owner shall retain copies of any SWPPP and all reports required by this chapter or by the NPDES permit for the site, and records of all data used to complete the NOI for a period of at least three years from the date that the site is finally stabilized.

15. Upon final stabilization of the construction site, the owner shall submit written certification to the Chief Building Official that the site has been finally stabilized. The city may withhold the final occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the Chief Building Official has determined, following any appropriate inspection, that final stabilization has occurred and that any required permanent structural controls have been completed.

13-606. STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY

A. All operators of: (1) municipal landfills; (2) hazardous waste treatment, disposal, and recovery facilities; (3) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and reauthorization Act of 1986 (SARA) 42, U.S.C. Section 11023; industrial facilities required to obtain NPDES stormwater discharge permits due to their Standard Industrial Classification of narrative description; and (4) industrial facilities that the Director determines are contributing a substantial pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity, shall comply with the following requirements:

1. Any owner who intends, after the effective date of this chapter, to obtain coverage for a stormwater discharge associated with industrial activity under the Kansas

General Permit for Stormwawter Discharges Associated With Industrial Activity ("the industrial general permit") shall submit a signed copy of its notice of intent (NOI) to the Director of Engineering Services.

2. When required by their NPDES permit, all industries listed in this section shall prepare a stormwater pollution prevention plan (SWPPP) and implement said plan in accordance with the requirements of their state or federal NPDES permit.
3. The SWPPP, when required, shall be prepared and signed by a qualified individual and will comply with all state NPDES requirements. The signature of the preparer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the NPDES permit.
4. The SWPPP, when required, shall be updated and modified as appropriate and as required by the NPDES permit and this chapter.
5. A copy of any NOI that is required by subsection A.1 of this section shall be submitted to the city in conjunction with any application for a permit or any other city aprroval necessary to commence or continue operation of the industrial facility.
6. The director may require any operator who is required by subsection A.2 of this section to prepare a SWPPP, to submit the SWPPP, and any modifications thereto, to the director or building official for review.
7. Upon the Director's review of the SWPPP and any site inspection that he/she may conduct, the Director may upon reasonable notice to the owner deny approval necessary to commence or continue operation of the facility, on the grounds that the SWPPP does not comply with the requirements of the NPDES permit, or any additional requirement imposed by or under this chapter. Also, if at any time the director determines that the SWPPP is not being fully implemented, upon reasonable notice to owner, he/she may deny approval of any application for a permit or other city approval necessary to commence or continue operation of the facility.
8. The SWPPP, if required, with any modifications attached, shall be retained at the industrial facility from the date of commencement of operations until all stormwater discharges associated with industrial activity at the facility are eliminated and the required notice of termination (NOT) has been submitted.
9. The director may notify the owner at any time that the SWPPP does not meet the requirements of the NPDES permit, or any additional requirements imposed by or under this chapter. Such notification shall identify those provisions of the permit or chapter, which are not being met by the SWPPP, and identify which provisions require modification in order to meet such requirements. Upon thirty days of such notification from the Director, the owner shall submit to the Director a written

certification that the requested changes have been made.

10. The owner shall amend the SWPPP, if required, whenever there is a change in design, construction, operation, or maintenance, which has a sinificant effect on the potential for the discharge of pollutants to the MS4 or the waters of the United States, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges.
11. As may be required by the facilities NPDES permit, qualified personnel (provided by the owner) shall inspect equipment and areas of the facility specified in the SWPPP at appropriate intervals or as may be specified in their NPDES permit. A set of tracking or followup procedures shall be used to ensure that appreciate actions ae taken in response to the inspections. Records of inspections shall be maintained.
12. Industrial facilities will implement a sampling and testing program as required by their individual NPDES permits. The director may require written reports of any such monitoring and testing to be submitted to him/her.
13. The owner shall retain the SWPPP and all sampling and testing reports until a least one year after stormwater discharges associated with industrial activity at the facility are eliminated, or the operator is no longer operating the facility, and a notice of termination (NOT) has been submitted.
14. For discharges subject to the semi-annual or annual monitoring requirements of the industrial general permit, in addition to the records-retention requirements of the paragraph above, owners are required To retain for a six-year period from the date of sample collection, records of all sampling and testing information collected. Owners must submit such monitoring results, and/or a summary therof, to the Director upon his/her request.
15. After the effective date of this chapter, no stormwater, discharge shall contain any hazardous metals in a concentration that would result in the violation of any Kansas Surface Water Quality Standard.

13-607. DITCHES AND PONDS.

A. Duty to Maintain. The owner of any private drainage ditch or pond that empties into the city's MS4 or the waters of the United States has a duty to use BMP's on the ditches or pond to minimize the pollutant levels downstream. Such BMP's include, but are not limited to, removing excessive build-up of silt, repairing bank erosion, maintaining vegetative cover, the cleaning of inlet and outlet works, and the like.

B. Inspection and Notice by City. The city will periodically inspect these privately owned ditches and ponds. Should conditions be found that cause the pollution of downstream

receiving waters, the director shall so notify the owners, and state what actions are expected by the owners to remedy the problem.

C. Failure to Repair. Should the owners fail to make the necessary repair within one hundred twenty days after notice, the city is authorized to do the repairs at the expense of the owner. Should the owner fail to reimburse the city for the cost of the repairs upon demand, the city may assess the cost therof to the owner and initiate any collection proceedings authorized by law.

13-608. COMPLIANCE MONITORING

A. Right of Entry. The director and building official or their authorized representatives, shall have the right to enter the premises of any person discharging stormwater to the municipal separate storm sewer system (MS4) or to waters of the United States at any reasonable time to determine if the discharger is complying with all requirements of this chapter, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the inspectors ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. No adverse action will be taken against any property owner or resident who refuses to grant such right-of-entry.

B. Records. Subject to the requirements of subsection A, dischargers shall make available, upon request, any SWPPP's modifications thereto, self-inspection reports, monitoring Records, compliance evaluations, notices of intent, and other records, reports, and other documents related to compliance with this chapter and with any state or federal discharge permit.

C. Sampling. The director shall have the right to set up on the discharger's property such devices that are necessary to conduct sampling of stormwater discharges.

13-609. SUBDIVISION DEVELOPMENT.

A. The developer of any subdivision requiring a federal or state NPDES stromwater discharge permit will be responsible for obtaining the required permit and developing and implementing an overall SWPPP for the subdivision. Said SWPPP shall include BMP's to be used on individual lot building sites.

B. City contractors installing public streets; water, sanitary, sewer, storm sewer lines; and/or sidewalks will be required to comply with the developers SWPPP"S and sign the appropriate contractor certification statement. For city contracted work in public right-of-way or easements requiring a federal or state NPDES stormwater discharge permit, the city shall be responsible for obtaining the required permit and preparing and implementing the required SWPPP's.

C. Any utility company installing utilities within a new subdivision will also be required to comply with the developers SWPPP's and sign the appropriate contractor certification statement. For work in public rights-of-way or easements requiring a federal or state NPDES stormwater discharge permit, the utility company shall be responsible for obtaing the required permit and preparing and implementing the required SWPPP's

D. The purchasers of individual lots within the subdivision for construction purposes shall comply with the developers SWPPP and shall sign a certification statement (as provided) in the City of Dodge City's Best Management Practices Manual) agreeing to do so.

13-610. ENFORCEMENT ACTIONS

A. The discharge of, or potential discharge of, any pollutant to the MS4 or waters of the United States; failure to obtain a federal or state stromwater discharge permit; the failure to prepare or implement a SWPPP when required by a federal or state permit; the failure to use effective BMP devices; the intentional destruction of BMP devices; failure to repair BMP devices; the failure to comply with any directive, citation, or order issued under this chapter; are violations of this chapter for which enforcement action may be taken.

B. Prior to taking any enforcement action as specified in this section, a violator will be issued a notice of violation that will detail the nature of the violation, actions to be taken to remedy the violation, actions to be taken to clean-up any pollutants, and any specific time periods within which to accomplish said actions.

C. The enforcement actins to be taken under this chapter are as follows:

1. Criminal Penalty. Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction there for shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Each and every day during which any violation of any provision of this chapter is committed, continued, or permitted is a separate violation.

2. Stop Work Order. Not withstanding other penalties provided by this chapter, whenever the director or building official, or their designees, finds that any owner or contractor on a construction site has violated, or continues to violate, any provisions of this chapter or any order issued thereunder, the director of building official may after reasonable notice to the owner or contractor issue a stop work order to the owner and contractors by posting such order at the construction site. Said order shall also be distributed to all city departments and divisions

whose decisions may effect any activity at the site. Unless express written exception is made, the stop work order shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the city associated with the building permit, grading permit, site development plan approval, or any other approval necessary to commence or to continue construction or to assume occupancy at the site. Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the violator. Failure to comply with the requirements of any stop work order is a violation of this chapter.

3. Administrative Penalty Process.
   a. When the director finds that any stormwater discharger has violated or continues to violate the provisions set forth in this chapter, or the discharger's NPDES permit or any order issued thereunder, the director may issue an order for compliance to the discharge. Such orders may contain any requirements as might be reasonably necessary and appropriate to address noncompliance including, but not limited to, the installation of best management practices, additional self-monitoring, and/or disconnection from the MS4.
   b. The director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any industrial discharger responsible for noncompliance. Such orders shall include specific action to be taken by the discharger to correct the noncompliance within a time period specified by the order.
   C. Not withstanding any other remedies or procedures available to the city, any discharger who is found to have violated any provision of this chapter, or any NPDES permit or any order issued under this chapter, may be assessed an administrative penalty as follows:
      (1) Failure to obtain required NPDES permit: up to two thousand five hundred dollars per violation;
      (2) Failure to prepare stormwater pollution prevention plan: up to two thousand five hundred dollars per violation:
      (3) Failure to install best management practices: up to one thousand dollars per violation;
      (4) Failure to maintain best management practices: up to one thousand dollars per violation;
      (5) Failure to perform required sampling and testing or provide testing reports: up to one thousand dollars per violation.

Each day on which noncompliance shall occur or continue shall Be deemed a separate and distinct violation. Upon assessment of

any administrative penalty, the city will bill the violator for said charge and the director or building official shall have such collection remedies as are available by law.

13-611. APPLICABILITY OF ENFORCEMENT ACTIONS.

A. Illegal dumping will be subject to the criminal penalties process.
B. Illegal connections will be subject to the administrative penalty process.
C. Industrial violations will be subject to the administrative penalty process.
D. Individual building sites not requiring a state NPDES permit will be subject to the criminal penalty and the stop work order processes; however, any owner or contractor of such sites found guilty of multiple violations of this chapter will also be subject to the administrative penalty process.
E. Individual building sites requiring a state NPDES permit will be subject to the administrative penalty process.
F. Subdivision developers in subdivisions not requiring a state NPDES permit will be subject to the criminal penalty and stop work order processes; however, any such developer found guilty of multiple violations of this chapter will also be subject to the administrative penalty process.
G. Subdivision developers of subdivisions requiring a state NPDDES permit will be subject to the administrative penalty process.
H. City contractors and utility companies working on projects not requiring a state NPDES permit will be subject to the criminal penalty process.
I. City contractors and utility companies working on projects requiring state NPDES permit will be subject to the administrative penalty process.

13-612. HEARING AND APPEAL

A. Any violator that is subjected to the administrative penalty or stop work order processes may request a hearing and appeal as follows;
   1. Any party affected by a penalty, order, directive or determinations issued or made pursuant to this chapter may, within seven days of the issuance of such penalty, order, directive, or determination request a hearing before the director to show cause why such should be modified or made to not apply to such person. Such request shall be in writing and addressed to the Director of Engineering Services at 806 2nd Avenue, Dodge City, Kansas 67801. The director of his designee shall hold the requested hearing as soon as practical a after receiving the request, at which time the person affected shall have an opportunity to be heard. At the conclusion of the hearing, the director shall issue a written response to the person requesting the hearing affirming, modifying, or rescinding the penalty, order,

directive, or determination issued or made.

2. Any party aggrieved by the decision of the director may appeal such decision to the city manager within seven days of receipt of the decision by filing notice of appeal with the city clerk. Upon hearing, the city manager may affirm, modify, or reverse the decision of the director. Any appeal of the manager's decision shall be as provided by state law.

13-613. ENFORCEMENT PERSONNEL AUTHORIZED.

A. The following personnel employed by the city shall have the power to issue notices of violations, criminal citations and implement other enforcement actions under this chapter:
   1. All authorized personnel under the supervision of the Chief Building Official;
   2. All authorized personnel under the supervision of the Director of Engineering Services.

13-614. OTHER LEGAL ACTIONS.

Notwithstanding any other remedies or procedures available to the city, if any person discharges into the MS4 in a manner that is contrary to the provisions of this chapter, or any NPDES permit or order issued hereunder, the city attorney may commence an action for appropriate legal and equitable relief including damages and costs in the district court of Ford County. The city attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

13-615. FALSIFYING INFORMATION.

Falsifying information is a separate offense and deemed a misdemeanor. Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter or any NPDES permit, or who falsifies, or tampers with any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or by both.

13-616. SUPPLEMENTAL ENFORCEMENT ACTIONS.

A. Performance Bonds. Where necessary for the reasonable implementation of this chapter, the director may, by written notice, order any owner of a source of stormwater discharge associated with construction or industrial activity effected by this chapter to file a satisfactory

bond, payable to the city, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance with this chapter. The city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city permit or approval necessary to commence or continue construction or industrial activity at the site, or to assume occupancy, until such a performance bond has been filed.

B. Liability Insurance. Where necessary for the reasonable implementation of this chapter, the director may, by written notice, order any owner of a source of stormwater discharge associated with construction or industrial activity effected by this chapter to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value reasonably determined by the director, that is sufficient to remediate, restore, and abate any damage to the MS4, the waters of the United States, or any other aspect of the environment that is causes by the discharge.

13-617. SEVERITY.

If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect.
(Ord. 3466)

CHAPTER XIV. TRAFFIC

Article 1. Standard Traffic Ordinance
Article 2. Local Traffic Regulations
Article 3. Impoundment of Motor Vehicles
Article 4. Hazardous Materials
Article 5. School Zones
Article 6. Micro Utility Trucks

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Dodge City, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2013, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three copies of said Standard Traffic Ordinance for Kansas Cities, shall be marked or stamped "Official Copy" as adopted by Ordinance No.3570, and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with enforcement of the ordinance shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient. (ORD.3570)

14-102. TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES. (a) An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118. (b) All traffic violations which are included within this ordinance, and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses. (Ord. 3570)

14-103 PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense will be established by the municipal judge in a fine schedule. A person tried and convicted for violation of an

ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed $500.00 (ORD. 3442)

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

14-201. TRAFFIC CONTROL DEVICES AND MARKINGS. The Standard Traffic Ordinance as adopted is hereby modified by adding thereto the following:

> The governing body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this chapter, other traffic ordinances and the state laws. The city shall place and maintain such traffic control signs, signals and devices when and as may be required by the authority of the governing body to make effective the provisions of this chapter and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this section shall be marked and labeled on a map of the City of Dodge City for the purpose of displaying all such traffic control devices and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business. (Code 1986)

14-202. STOPPING, STANDING, PARKING; STORAGE. No motor vehicle sales agent, dealer or other person dealing in motor vehicles shall park any automobile in any of the streets of this city for the purpose of storing same or displaying same for sale. (Code 1983, 30-45)

14-203. SAME; NEAR RAILROAD TRACK. It shall be unlawful for the operator of a vehicle to stop, stand or park such vehicle within six feet of a railroad track lying within any street, alley, public property or way within the city. (Code 1983, 30-46)

14-204. SAME; PARKING OF MOTOR VEHICLES ON CERTAIN SURFACES; PARKING OF TRAILERS, ETC. (a) It shall be unlawful for any person to park, cause to be parked or permit to remain parked on any of the streets of the city which are surfaced with asphalt type paving or with bituminous oil mats, any type of motor vehicle other than a regular passenger vehicle, commonly known as an automobile, or a truck with a manufacturer's rated carrying capacity of three-fourths of a ton or less. Any truck of a greater rated capacity, truck trailer, trailer, semitrailer, bus, or bus type motor vehicle equipped for the housing of persons, either temporarily or permanently, is expressly prohibited.

(b) It shall be unlawful for any person to park, cause to be parked or permit to remain parked upon any of the public streets of the city for a period in excess of 24 hours, any trailer or semitrailer or any motor vehicle or vehicles equipped as a trailer and equipped for either the temporary or permanent occupancy of the same by persons; by way of illustration and not limitation, this section applies to camper trailers, designed to be towed by a motor vehicle and to home campers, buses or vehicles of a bus configuration converted or manufactured to provide for the transportation of persons and for the temporary or permanent living of persons inside of such vehicle.

(c) Nothing in this section shall prohibit any of the vehicles, herein before described, from parking temporarily for the purposes of loading or unloading.

(d) The governing body declares that it is its intention in enacting this section to preserve the streets of the city for vehicular traffic and to remove therefrom motor vehicles and mobile equipment of such size and weight as will contribute to the rapid deterioration of the public streets or to impede the normal flow of traffic or to obstruct the vision of motorists upon the streets. It is further the express purpose of this ordinance to prevent persons from utilizing the streets of the city for the storage of camping and sporting equipment, other than as may be required for loading and unloading.

(Code 1983, 30-47)

14-205. PARKING VIOLATIONS. The fine for parking in a handicapped parking stall shall be $100.

14-206. PARKING METERS; DEFINITIONS. For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

Individual parking space. A portion of the paved surface of the street of sufficient length and depth from the sidewalk curb to accommodate a vehicle to be parked as shall be specified and marked off by the city.

(Code 1983, 30-59; Code 1986)

14-207. SAME; DESIGNATION OF INDIVIDUAL PARKING SPACES. The city engineer is hereby authorized and directed to designate and mark off such individual parking spaces as he or she deems proper along the streets for the parking of vehicles. At each place where individual parking is so marked off, each vehicle shall be parked entirely within an individual parking space.(Code 1983, 30-61; Code 1986)

14-208. SAME; POLICE REGULATIONS. The city shall have the power to make additional regulations necessary to make effective the provisions of this section. (Code 1983, 30-90; Code 1986)

14-209. EMERGENCY SNOW REGULATIONS; FINDING OF GOVERNING BODY. The commission finds that parking and operation of vehicles on certain streets covered by a heavy accumulation of snow is a matter affecting the health, safety and welfare of the citizens of Dodge City for the reason that parked and stalled vehicles impede snow removal operations and cause serious traffic congestion. (Code 1983, 30-111)

14-210. SAME; DECLARATION OF TRAFFIC EMERGENCY. Whenever snow has accumulated or there is a possibility that snow will accumulate to such a depth that snow removal operations will be required, the city manager may declare a traffic emergency and until such traffic emergency is terminated it shall be unlawful:

(a) To park a vehicle on any street designated an emergency snow route in section 14-213 of this article; or

(b) To operate a motor vehicle on any emergency snow route without first having equipped such vehicle with tire chains or snow tires, excepting that motor vehicles with four wheel drive need not be equipped with tire chains or snow tires.

(Code 1983, 30-112)

14-211. SAME; NOTICE OF PARKING EMERGENCY TERMINATION. Upon declaring a traffic emergency the city manager shall forthwith cause appropriate notice thereof to be given through the local press, radio, or other media. The parking emergency shall be terminated by notice given substantially in the same manner as the parking emergency was declared. (Code 1983, 30-113)

14-212. REMOVAL OF PARKED VEHICLES. All vehicles parked on emergency snow routes must be removed within two hours after notice of a traffic emergency has been given. Any vehicle parked on an emergency snow route after such period of time may be removed or caused to be removed by a police officer to a place of safety and the vehicle may not be recovered until the towing and storage charges are paid by the person claiming the vehicle. (Code 1983, 30-114)

14-213. SAME; EMERGENCY SNOW ROUTES; ESTABLISHMENT; SIGNS. The following streets are hereby established as emergency snow routes within the city:

Ash;
Avenue C;
Avenue F;

Avenue H;
Besson Road;
Brier;
Campus Drive;
Cedar, Second to Sixth;
Central
Commence, Sixth to Center;
Division, Sixth to Seventh;
Fifth, Watt Earp to Cedar;
Fourteenth Street;
Front Street;
Highway 50;
Highway 56;
Kinkaid;
LaVista;
Melencamp;
Morgan, Sixth to Central;
Ninth;
Second Avenue;
Sixth;
Soule;
Spruce;
University;
Woodrow;
Wyatt Earp Boulevard.

The City Manager shall cause appropriate signs to be installed along each of the streets designated emergency snow routes. (Code 1983, 30-115; Code 1986)

14-214. SAME; PARKING AND STANDING. Parking or standing of vehicles, except for school buses, is prohibited on any snow route from 8:30 a.m. to 3:30 p.m., Monday through Friday inclusive. (Ord. 2689, Sec. 2; Code 1986)

14-215. DRIVING MOTOR VEHICLE UPON, ACROSS OR THROUGH PRIVATE PROPERTY; PARKING UPON PRIVATE PROPERTY. (a) It shall be unlawful for any person being the operator of a motor vehicle to drive the motor vehicle upon, across or through the property of another without consent of the owner, tenant or person in actual possession of the property.

(b) It shall be unlawful for any person operating a motor vehicle to park the motor vehicle upon any private property without the consent of the owner or person in actual possession of the private property. (Code 1983, 20-53; Code 1986)

14-216. PARKING OF DISABLED VEHICLES. (a) Disabled means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned, or unable to perform the functions or purposes for which a vehicle was originally constructed.

(b) Vehicle means any automobile, truck, tractor or motorcycle which was originally designed containing an engine, regardless of whether it at any other time contains an engine.

(c) No person, firm or corporation shall park or store any dead, damaged, inoperable or disabled automobile or vehicle or farm machinery, trailer or semi trailer of any kind or parts of the same, or any junk automobile or vehicles or farm machinery or trailers or semi trailers in the roadway of any street or between the property line or sidewalk and curb line of any street.

(d) The existence of any one of the following conditions shall give rise to a presumption that a vehicle is disabled or inoperable:

(1) Absence of a legally sufficient and valid registration plate from such vehicle;

(2) Placement of the vehicle or parts thereof upon jacks, blocks, chains or other support;

(3) The absence of any one or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways of the city and of the State of Kansas.

(e) All vehicles or other devices enumerated in subsection (c), which are parked or stored in violation of the provisions of this section shall be removed under the direction and supervision of the chief of police of the city and held and impounded to be returned to the person legally entitled to the possession thereof upon proof of such right and upon payment of the charges for towing and impoundment provided for in this section.

(f) The person seeking to recover any vehicle or other device impounded by virtue of the provisions of this section shall first pay to the city or such person as may, by contract with the city, provide tow in and impoundment services the following fees:

Tow in (6:00 a.m. to 6:00 p.m.) - $15;
Tow in (6:00 a.m. to 6:00 a.m.) - $20;

Imounded charges, 3 hours or less, first day only-$.75;
Inside storage, per day or part of a day - $1;
Outside storage, per day or part of a day - $.50.

(g) All vehicles impounded by virtue of the provisions of this section and not claimed by the owner or person entitled to the possession thereof and the payment of all charges as provided by this section may be disposed of in accordance with state law. (Code 1983, 30-49)

14-217. TRUCK; WEIGHT. It shall be unlawful for any truck having a licensed or registered gross vehicle weight of more than twenty-four thousand (24,000) pounds to enter upon or to be operated upon any street or alley within the city except on

the following roadways:

US283/US56 from US400 to Highway 50/56 (commonly referred to as the overpass road); and,

Trail Street from the junction of US283/US56/US400 west to Juneau Avenue; and,

US50 from the western city limits to the eastern city limits. (Ord. 3505, Sec. 1)

14-218. SAME; APPLICATION. The provisions of sections 14-217 shall not be applicable to those trucks engaged in repairing, maintaining or constructing streets, alleys, utility services, conducting refuse and solid waste collections, or other city-owned trucks. Further, the provisions of 14-217 shall not be applicable to those trucks carrying goods, wares, merchandise or other articles to and/or from any house, residence or business establishment within the city, nor shall the provisions of 14-217 be applicable to trucks in the process of obtaining fuel, maintenance or repairs, provided all such trucks take the most direct route to and from the said locations on the routes designated in section 14-217. (Ord. 3505, Sec. 2)

14-219. PENALTY. A violation of Section 217 of this Article is designated as a nonmoving traffic infraction and the penalty shall not exceed a fine of $500. (Ord. No.3518)

14-220. SAME; SIGNAGE. The streets designated in section 14-217 shall be properly identified and posted as truck routes within the city. (Ord. 2812, Sec. 4)

14-221. SAME; POLICE. (a) Any police officer or properly designated City employee having reason to believe that the gross weight of a vehicle or combination of vehicles or the gross weight on any axle or tandem axles is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable scales or stationary scales and may require that such vehicle be driven to any scales suitable for this purpose within the city limits. When portable scales are used for weighing for the purpose of this section, the location of such portable scales shall be not more than four miles from any stationary scales whose accuracy is certified in accordance with the law.

(b) Whenever a police officer or properly designated city employee, upon weighing a vehicle or combination of vehicles, determines that the weight is unlawful, such officer or employee may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle or combination of vehicles, or remove or redistribute the gross weight on any axle or tandem axles to such limit as permitted in section 14-217.

All material so unloaded shall be cared for by the owner, lessee or operator of such vehicle at the risk of such owner, lessee or operator.

(c) Any driver of a vehicle or combination of vehicles who fails or refuses to stop and submit to weighing as provided in this section or who fails or refuses, when directed by an officer or properly designated city employee, to comply with the provisions of this section shall be guilty of a violation of this code.

(d) the city manager for the city is hereby authorized to designate certain city employees upon each of whom there is hereby conferred the authority of a police officer to control, direct and to weigh traffic on the streets and highways and to make arrests for violations of the vehicle laws relating to the weight and load of vehicles and combinations of vehicles. The authority of such employees shall be limited to the enforcement of sections 14-217:221 and other vehicle laws of the city as shall be designated by the city manager. The authority conferred by this section shall not be construed to limit or impair in any way the existing authority or duties of any police officer. (Ord. 1812, Sec. 6)

14-222 LOADING ZONE ESTABLISHED. (a) A loading zone is hereby established on the north side of Poplar Street east of Second Avenue. The loading zone shall begin at the end of the curb return on Poplar Street and extend east along the north curb of Poplar Street for a distance of 65 feet.

14-223. JAKE BREAKING. (a) It shall be unlawful for the driver of any vehicle to use or cause to be used or operated within the City of Dodge City, Kansas, any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle which results in the excessive, loud, unusual or explosive noise from such vehicle, or otherwise known as Jake-braking.

(b) Any person convicted of a violation of this ordinance shall be punished for a first conviction thereof by a fine of not more than One Hundred Dollars ($100.00) or by imprisonment for a period not exceeding ten (10) days, or by both such fine and imprisonment, for a second such conviction within one (1) year thereafter, such person shall be punished by a fine of not more than Two Hundred Dollars $200.00) or by imprisonment for not more than twenty (20) days or both such fine and imprisonment. Upon the third and subsequent conviction within one (1) year after the first conviction, such person shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than six months or both such fine and imprisonment. (Ord. 3279)

ARTICLE 3. IMPOUNDMENT OF MOTOR VEHICLES

14-301. DEFINITIONS. For the purpose of this article, the following terms, phrases, words and their derivations shall have the following meanings:

Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word "highway" or the word "street" is used in this article, it means street, avenue, boulevard, thoroughfare, alley, and other public way for vehicular travel by whatever name, unless the context clearly indicates otherwise.

Motor Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

Owner or Occupant. A party having fee simple title in the real property, or a party having a leasehold interest in the real property, or a party who is the beneficiary of a private easement for the purpose of egress or ingress to or from said real property. (Code 1986)

14-302. IMPOUNDING VEHICLES. The police department may cause to be impounded:

(a) Any motor vehicle unlawfully parked on a highway in violation of any provision of a city ordinance which prohibits the parking of vehicles at the place where or time when the impounded motor vehicle is found.

(b) Any motor vehicle that has been abandoned and left on a highway or other property open to use by the public for a period in excess of 48 hours pursuant to K.S.A. 8-1102.

(c) Any motor vehicle which:

(1) Is subject to removal pursuant to K.S.A. 8-1570, or 8-1102, or
(2) Is subject to seizure and forfeiture under the laws of the state, or
(3) Is subject to being held for use as evidence in a criminal trial, or
(4) Any motor vehicle operated or parked upon any highway, which is not registered, or which registration has expired or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the Kansas Division of Motor Vehicles or by any other state for the current registration year, including any registration decal required to be affixed to each license plate pursuant to K.S.A. 8-134, and amendments thereto, subject to the exemptions allowed in K.S.A. 8-135, 8-198, and

8-1751 (a) and amendments thereto. No impoundment

is authorized for an expired license plate, unless the plate has expired for a least 90 days. (ORD. 3454)

(d) Any motor vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety or to the motor vehicle.

(e) Any motor vehicle which has been abandoned or parked on any real property, other than public property or property open to use by the public, may be moved and disposed of in accordance with the terms of this article by the police department upon the request of the owner or occupant of such real property. The real property referred to herein shall not be owned or leased by the person who abandons or parks said vehicle or by the owner or lessee of such vehicle. The City of Dodge City, Kansas; or any person, partnership, corporation or their agent conducting a business enterprise for the purpose of towing vehicles which removes such vehicle from the real property at the request of the police department shall have a possessory lien on such vehicle for the cost incurred in removing, towing and storing such vehicle. For purposes of this article, common areas shall be construed not to mean public property or property open to the public. (Code 1986)

14-303. SAME. The police department may authorize storage of such impounded motor vehicles at any location, public or private, which is zoned for the storage of motor vehicles. (Code 1986)

14-304. NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE. (a) When Owner Present. When the police department intends to impound a motor vehicle pursuant to section 14-302 and the owner of the motor vehicle is then present, the police department shall before the motor vehicle is removed, provide the owner with a notice, in the form prescribed by the police department that the motor vehicle is being impounded, that towing and storage charges will be assessed against the impounded motor vehicle, that the owner may claim and regain possession of the impounded motor vehicle at the location to which it is being removed for storage without prepayment of towing and storage charges and that the owner may request a hearing as to the propriety of the impoundment and as to the amount of and the owner's liability for the towing and storage charges. The notice shall also state the location where the impounded motor vehicle will be stored and the place where the owner may make his or her request for the hearing. The notice shall also state, in prominent language, the failure by the owner to request a hearing within five days after receipt of the notice may act as a waiver of his or her right to a hearing and that this may result in the placing of a lien against the motor vehicle for the towing and storage charges without further notice to

the owner; and that the motor vehicle be sold at public auction to the highest bidder for cash after 15 days from the date of the mailing of the notice. The owner of the impounded motor vehicle shall sign the notice as an acknowledgment that he or she has received a copy of the notice and a copy of the notice shall be provided to the owner.

(b) When Owner not Present. (1) When the police department impounds and remove a motor vehicle pursuant to section 14-302(a) and the owner of the motor vehicle is not present at the time of the impoundment, the police department shall, if such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with said division, mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lien holder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall be in the form prescribed by the police department containing the same information as required by section 14-304(a). The police department shall use reasonable diligence in determining the title owner, or if from a non-title state, the registered owner, of the vehicle, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lien holders of record. If the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the vehicle registration and there is no other known address of the owner, the owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

If the owner does not reside in the state, as appears from the motor vehicle registration and the owner cannot be served by certified mail a the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed a nonresident of the state and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

(c) Failure or Refusal to Sign Notice. If any person required by this section to sign a notice of impoundment willfully fails or refuses to do so, or if such person cannot be found, the police department shall note this fact on the face of the notice, which shall constitute prima facial evidence of delivery or service of notice as required by this section. (Code 1986)

14-305. IMPOUNDMENT AFTER REQUEST TO LEAVE MOTOR VEHICLE. In all cases wherein the owner or operator of a motor vehicle which is on a public street has requested that the motor vehicle be left unattended at that location, in lieu of impoundment of the motor vehicle pursuant to section 14-302

the police department may honor said request for a period of time not exceeding 24 hours, after which time the motor vehicle shall either be removed from the location by the owner or operator or be impounded by the police department pursuant to section 14-304. The police department shall be immune from liability for any damage, loss or destruction of the motor vehicle occasioned by its being left unattended pursuant to the request of the owner or operator thereof, in lieu of impoundment. Nothing in this section shall be construed to limit the authority of the police department to order the removal of a motor vehicle by its owner or operator or to impound a motor vehicle pursuant to section 14-304 at any time whenever in his or her judgment the presence of the unattended motor vehicle constitutes a danger to the public safety. (Code 1986)

14-306. RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT. (a) Generally. Unless the vehicle is impounded pursuant to section 14-302(b) herein, the owner of an impounded motor vehicle may secure the release of the motor vehicle from impoundment upon requesting such release and presenting proof of ownership satisfactory to the custodian of the place where the motor vehicle is stored. If the custodian is satisfied that the person making the request is the owner or his or her authorized agent, he or she shall release the motor vehicle to the owner or his or her agent. Nothing in the preceding sentence shall preclude the owner of the impounded motor vehicle or his or her agent from paying any towing and storage charges that may be assessed against the motor vehicle, but neither the police department nor the custodian of the storage space may require payment of any towing or storage charges as a condition precedent to such release. At the same time as the owner or his or her agent requests release of the impounded motor vehicle, and if such request is made with 40 days after the owner receives a copy of the notice of impoundment, the police department shall provide him or her an opportunity to make a request for a hearing on the propriety of the impoundment and on the amount and his or her liability for the towing and storage charges occasioned by the impoundment; provided, that if the owner or his or her agent requests release of the impounded motor vehicle more than 40 days after the owner receives a copy of the notice of impoundment, no hearing may be requested on the impoundment or on the towing and storage charges and the owner shall be conclusively presumed to have consented to the impoundment and to the amount of and his or her liability for the towing and storage charges.

(b) Security for Payment of Charges. If the ownership of the impounded motor vehicle is evidenced by a title certificate issued by the Kansas Department of Highway Safety and Motor Vehicles, the owner or his or her agent may secure the release of the motor vehicle from impoundment without the payment of any towing or storage charges or the

deposit of any security for the payment thereof. If the ownership of the impounded motor vehicle is evidenced by a foreign title instrument, or if the jurisdiction in which title is recorded is not evidenced from the document establishing ownership, the owner or his or her agent, before the custodian of the place where the motor vehicle is stored authorizes release of the motor vehicle from impoundment, shall deposit with the custodian cash in the amount of the towing and storage charges to the date of the request. If the owner or his or her agent refuses to provide the cash deposit, the custodian shall not authorize release of the impounded motor vehicle but if the request is timely made, a date shall be set for the hearing on the impoundment and charges. (Code 1986)

14-307. HEARING. If the owner of an impounded motor vehicle or his or her agent timely request the release of the motor vehicle from impoundment and a hearing on the impoundment and charges, as provided in section 14-306, a date shall be set, not more than five days after the date of request, for the hearing. The city attorney shall provide a hearing examiner to conduct the hearings required by this section. At the hearing, the owner, his or her agent, or his or her attorney shall be afforded an opportunity to present, by oral testimony or documentary evidence, his or her objections to (a) the impoundment of the motor vehicle and (b) (1) the amount of the towing and storage charges and (2) his or her liability for the payment thereof. If the owner or his or her agent requested the hearing more than five days but not more than 40 days after the owner received a copy of the notice of impoundment, the owner, his or her agent or his or her attorney shall be required at the hearing, as a condition precedent to the presentation of any objections by the owner, to show good cause for the delay in making the request more than five days after the owner received a copy of the notice of impoundment: if good cause cannot be shown, the hearing officer shall dismiss the hearing and make the finding stated in subsection (b) below; otherwise, the hearing examiner shall proceed to hear the owner's objections. At the conclusion of the hearing on the owner's objections, the hearing examiner shall render his or her decision if the hearing examiner:

(a) Finds that the impoundment was improper, he or she shall:

(1) Find that the owner is not liable for any towing or storage charges occasioned by the impoundment and

(2) Determine whether and to what extent the city shall be the expense of the towing and storage charges; or

(b) Finds that the impoundment was proper, he or she shall establish:

(1) The amount of the towing and storage charges to be assessed against the impounded motor vehicle and

(2) The extent of the liability of the owner for payment of the towing and storage charges so established.

The decision of the hearing examiner shall be final, and a copy of the decision shall be furnished to the owner of the impounded motor vehicle, to the custodian of the place where the motor vehicle is stored and to the city attorney.

In the event that the impoundment was pursuant to K.S.A. 8-1102(6), the owner or occupant of the real property upon which the abandoned vehicle was located shall not be assessed the cost of towing and storage of the vehicle. Further, nothing within this article shall be construed to modify or effect the validity of the possessory lien of the person removing such vehicle from the real property established by K.S.A. 8-1102(b). (Code 1986)

14-308. CHARGES CONSTITUTE A LIEN. A towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-302 shall be and constitute a lien upon the impounded motor vehicle, except as provided in this section. If the hearing examiner finds pursuant to section 14-307 that the impoundment was improper and if he or she determines that the city shall bear part or all of the towing and storage charges, the lien created by this section shall be discharged. If the hearing examiner finds pursuant to section 14-306 that the impoundment was proper but that the towing and storage charges should be in an amount less than the amount of the lien, the lien created by this section shall be discharged to the extent that it exceeds the amount established by the hearing examiner. The holder of a lien created by this section may perfect such lien in any manner provided by law, but he or she may not retain possession of the motor vehicle when it has been released pursuant to section 14-306(a). In the event that the impounded motor vehicle is released from impoundment and the owner or his or her agent has provided security for payment of charges as required by section 14-306(b), the lien created by this section shall also be a lien against the security so provided, subject to being wholly or partially discharged as provided in this section. (Code 1986)

14-309. SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE. The holder of a lien against a motor vehicle created by section 14-308,to to the extent that such lien has not been discharged as provided in section 14-308 or otherwise satisfied, may enforce such lien in any manner provided by law after 60 days from the date the motor vehicle is impounded by the police department. If the owner of the motor vehicle or his or her agent has provided in section 14-306(b), the lien shall first be satisfied out of the security so provided and, if any portion of the lien remains unsatisfied and undischarged, may then be enforced in any manner provided by law. If the motor vehicle against which the lien is created pursuant to section 14-308 is still under impoundment 60 days from the date it is impounded by the police department and the owner has not requested release of the motor vehicle from impoundment nor paid the towing and storage charges

that are the basis for the lien, the motor vehicle shall be sold at public sale to the highest and best bidder for cash to satisfy the lien. Notice of the sale shall be given in accordance with K.S.A. 8-1102. Publication, required by K.S.A. 8-1102, may be made before the termination of the 60 day period for a sale thereafter. (Code 1986)

14-310. REDEMPTION. If the city is to conduct the sale:

(a) Any holder of a recorded lien or retained title on a motor vehicle to be sold by the city under the provisions of section 14-309 may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the police department and the deposit with the police department of sufficient assurance by surety bond or otherwise, approved by the city attorney, that the motor vehicle will be forthcoming for public sale thereof or upon claim of the rightful owner prior to the sale. The police department shall, within three days, make a report to the city treasurer and deliver the charges and costs so paid to the city treasurer, taking a receipt therefor and filing it, together with a duplicate copy of the report to the city treasurer, with the records in his or her office. The funds shall be held in a trust account until final disposition of the motor vehicle. Not less than five days before the date for sale of the motor vehicle, the police department shall notify the lien holder or retained titleholder of the time and place for the sale, and the lien holder or retained titleholder shall deliver such motor vehicle to the police department at or before 12:00 noon of the day before the sale. At the sale the amount paid shall be credited on the bid of the lien holder or retained titleholder. If the lien holder or retained titleholder is the successful bidder for the motor vehicle, the police department shall report this fact to the city treasurer and then the funds previously paid by the lien holder or retained titleholder shall be relieved of the trust previously impressed and become the same as other funds received by the city for storage and costs of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other than the lien holder or retained titleholder, the police department shall report this fact to the city treasurer and the lien holder or retained titleholder shall be refunded the amount previously paid by him out of the trust account.

(b) And if the rightful owner of the motor vehicle claims the same before the sale by payment of the accrued charges, the police department shall immediately notify the lien holder or retained titleholder in possession of the motor vehicle and he or she shall return the same to the police department within 12 hours. The police department shall report this redemption by the rightful owner to the city treasurer and the lien holder or retained titleholder shall be refunded the amount previously paid by him or her out of the trust account. (Code 1986)

14-311. SALE PROCEEDS. The proceeds of a public sale held pursuant to section 14-308 whether such sale was conducted by the city or by any other person, after payment of the towing and storage charges and costs and expenses incident to the sale, shall be deposited with the city treasurer, if the owner of the motor vehicle is absent from the sale, for credit to the trust account. The funds deposited in the trust account pursuant to this section shall remain in the account subject to the order of the person legally entitled thereto, but if no claim is made for the funds within a period of one year after the sale, the funds shall become the property of the city, be released from the trust account and be paid into the general fund as miscellaneous revenues. (Code 1986)

14-312. STATUTORY PROCEDURES. Nothing in this article shall be construed to augment, diminish, supersede or otherwise interfere with any statutory procedure established by the legislature for the collection of unpaid towing and storage charges. The procedures in this article are supplementary and cumulative to any statutory procedures. (Code 1986)

14-313. IMPLEMENTATION OF ARTICLE. The police department and city treasurer are authorized to make rules for the implementation and administration of this article. (Code 1986)

14-314. REIMBURSEMENT FOR DISCHARGED LIENS. If a lien created by section 14-308 and held for a private wrecker or towing firm is discharged by section 14-308 pursuant to a determination by a hearing examiner that an impoundment was improper and that the city shall bear part or all of the towing and storage charges, the city shall pay to the firm the amount determined by the hearing examiner. No payment shall be made until it is authorized by the city attorney. (Code 1986)

ARTICLE 4. HAZARDOUS MATERIALS

14-401. HAZARDOUS MATERIAL DEFINED. As used in this article, the term hazardous material shall mean any compressed gas, explosive, flammable liquid, flammable solid, oxidiser, poison, radioactive material or any substance that due to its nature may cause death or disability injury upon contact therewith. (Code 1986)

14-402. SAME; EXCEPTIONS. The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. These provisions shall also not apply to vehicles, trailers, containers or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes

when such vehicles, trailers, containers or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container or tank by any farmers cooperative, elevator company or farm supply store located within the city limits. (Code 1986)

14-403. TRANSPORTATION OF HAZARDOUS MATERIALS. Except as provided in section 14-404 it shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any other public right-of-way in the city. (Code 1986)

14-404. HAZARDOUS MATERIALS ROUTES. It shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any public right-of-way in the City of Dodge City except the following routes:

(a) Highway US 50 ByPass from the west city limits to the east city limits.
(b) Fourteenth Avenue from US 56 to US 50 Business (Wyatt Earp Boulevard)
(c) Highway US 50 Business (Wyatt Earp Boulevard) from Fourteenth Avenue to the west city limits and from US 400 (Landfill Road) to the east city limits.
(d) Highway US 56 between US 283 (South Second) and US 400.
(e) Highway US 400 between Trail Street and US 50 Business.
(f) US Highway 400 from US 56 to east city limits.

The streets designated in this section shall be properly identified and posted as hazardous material routes. Any person found guilty shall be subject to penalties provided by the Code of the City of Dodge City. (Ord. #3198, Sections 3 & 4)

14-405. PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS. (a) Except as provided in subsections (b) and(c), it shall be unlawful for any person, firm, corporation or other entity to park any vehicle, trailer or semi-trailer carrying any hazardous material within any of the following city zoning districts as defined in Chapter 16 of this code:

(b) Subsection (a) shall not apply to vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 14-404 of this code.
(c) Subsection (a) shall not apply to any vehicle, trailer or semi-trailer carrying any hazardous material where such vehicle, trailer or semi-trailer

is not parked within 500 feet of any structure used for human habitation.
(Code 1983, 30-48; Code 1986)

14-406. REMOVAL OF ILLEGALLY PARKED TRAILERS. If any vehicle, trailer or a semi-trailer is found parked in violation of the provisions of this article, the city may require the owner, operator or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury or damage to persons or property. (Code 1986)

ARTICLE 5. SCHOOL ZONES

14-501. SCHOOL ZONES, DEFINED. As used in this Article, the term school zone shall mean an area along a street in the vicinity of any public or parochial school where concentrations of children or other pedestrians may travel to and from the school along such streets.

14-502. SAME, ESTABLISHED. (a) The following school zones are hereby established:

(1) Northwest School,Intermediate Center, and the Dodge City Middle School:

(i) On Morgan Boulevard from 500 feet west of the west curb line of First Avenue extending westerly along Morgan Boulevard to the west curb of Sixth Avenue.

(ii) On Soule Street from the east curb line of Post Avenue and extending westerly to 20 feet east of the east curb line of Hart Avenue.

(iii) On Sixth Avenue from 370 feet south of the south curb line of Arapahoe Street and extending northerly to a point 85 feet south of the south curb line of Kinkead Street.

(iv) On Arapahoe Street from the centerline of the alley between Sixth Avenue and Hart Avenue and extending easterly to the east centerline of Sixth Avenue.

(v) On Cheyenne Street from the centerline of the alley between Sixth Avenue and Hart Avenue and extending easterly to the east curb line of Sixth Avenue.

(2) Comanche Intermediate Center:

(i) On Comanche Street from the west curb line of Central Avenue and extending westerly to the centerline of the alley between Second and Third Avenues.

(ii) On Mulberry Street from the centerline of the alley between First and Central Avenues and extending westerly to the centerline of the alley between Second and Third Avenues.

(iii) On Magnolia from the centerline of the alley between First and Central Avenues and extending westerly to the centerline of the alley between Second and Third Avenues.

(iv) On Second Avenue from the north curb line of Comanche and extending southerly to a point 236 feet south of the north curb line of Mulberry Street.

(v) On First Avenue from a point of 420 feet north of the north curb line on Aspen Street and extending southerly to a point 200 feet south of the south curb line of Mulberry.

(vi) On Aspen Street from the alley between Central Avenue and First Avenue westerly to First Avenue.

(3) Central School:

(i) On Central Avenue from the north line of Cedar Street and extending northerly to a point 65 feet north of the north curb line of Oak Street; beginning south of Sacred Heart and continuing north of Central School.

(ii) On Avenue A from 70 feet south of the south curb line of Ash Street to the north curb line of Elm Street.

(iii) On Oak Street from the centerline of the alley between Avenue A and Avenue B and extending westerly to the centerline of the alley between Central and First Avenue.

(iv) On Division Street from the centerline of the alley between Avenue A and Avenue B and extending westerly to the west curb line of Central Avenue.

(4) Sacred Heart School:

(i) On First Avenue from 150 feet north of the north curb line of Elm Street and extending southerly to a point 150 feet south of the south curb line of Cedar Street.

(ii) On Elm Street from the centerline of the alley

between Central Avenue and Avenue A and extending westerly to the centerline of the alley between First and Second Avenues.

(iii) On Cedar Street form the centerline of the alley between Central Avenue and Avenue A and extending westerly to the centerline of the alley between First and Second Avenues.

(5) Linn Street School:

(i) On Linn Street from the west curb line of LaSalle and extending westerly to the west right-of-way line of Overhill Road.

(ii) On Overhill from the north curb line of Division and extending northerly to the north curb line of Linn Street.

(iii) On Johnson Avenue from 150 feet south of the south curb line of Linn Street to Linn Street.

(iv) On Johnson Avenue from 150 north of the north curb line of Linn Street to Linn Street.

(v) On LaSalle Street beginning at the south curb line of Linn Street and extending northerly 25 feet.

(vi) On LaSalle Street beginning at the north curb line of Linn Street and extending northerly 25 feet.

(6) Sunnyside School:

(i) On Sunnyside Avenue from the south right-of-way line of the Railroad extending southerly to the north curb line of Market Street.

(7) Miller School:

(i) On Oak Street from the centerline of the alley between Avenue F and Avenue G and extending easterly to the centerline of the alley between Avenue H and Avenue I.

(ii) On Avenue G from the north curb line of Ash Street and extending southerly to the north curb line of Cedar Street.

(iii) On Avenue H from the north curb line of Ash Street and extending southerly to a point 100 feet north of the north curb line of Cedar Street.

(iv) On Elm Street from the centerline of the alley between Avenue F and Avenue G and extending easterly to the centerline of the alley between Avenue H and Avenue I.

(v) On Division Street from the centerline of the

alley between Avenue F and Avenue G and extending easterly to the centerline of the alley between Avenue H and Avenue I.

(8) Beeson School:

(i) On Beeson Road from 360 feet east of the east curb line of Wooden Road and extending westerly to a point 350 feet east of the centerline of May Street.

(ii) On Wooden Road from 100 feet south of the south curb line of Beeson Road to Beeson Road.

(9) Ross Elementary School:

(i) On Sixth Avenue, beginning 720 feet from the south curb return of Sixth Avenue and Ross Boulevard and proceeding north to Ross Boulevard.

(ii) On Ross Boulevard, beginning 187 feet west of the west curb return of Ross Boulevard and Sixth Avenue and proceeding east to a point 187 feet east of the east curb return of Ross Boulevard and Sixth Avenue.

(iii) On Sierra Drive, beginning 95 feet east of the east curb return of Sixth Avenue and Sierra Drive and proceeding west to Sixth Avenue.

(iv) On Sunset Drive, beginning 95 feet east of the east curb return of Sixth Avenue and Sunset Drive and proceeding west to Sixth Avenue.

(b) The speed limit on all streets designated as a school zone shall be 20 miles per hour Monday through Friday, during the time of day posted or other wise designated in each school zone by the appropriate signage.

14-503. SAME, PENALTIES: Any person convicted on the violation of the provisions of this ordinance shall be subject to penalties provided in Chapter I, Article 1, Section 116 of this Code. (Ord. 3330, Ord. 3335)

ARTICLE 6 MICRO UTILITY TRUCKS

14-601. OPERATION OF MICRO UTILITY TRUCKS; PENALTY.

(a) Micro Utility Trucks may be operated upon the Public highways, streets, roads and alleys within the corporate limits of the City.

(b) "Micro Utility Truck" means any motor vehicle which

is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 inches, has an

unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab.

(c) No Micro Utility Truck shall be operated on any public highway, street, road or alley unless such vehicle shall comply with the equipment requirements under the provisions of Article 17, Chapter 8 of the Kansas Statutes Annotated.

(d) Every person operating a Micro Utility Truck on the public highways, streets, roads and alleys of the City shall be subject to all of the duties applicable to a driver of a vehilce imposed by law.

(e) A violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2008 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the City may then have in effect.

14-602 SAME: VALID DRIVER'S LICENSE REQUIRED; PENALTY. No person shall operate a Micro Utility Truck on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than $1,000.00 or by imprisonment for not more than six months or by both such fine and imprisonment.

14-603 SAME: MOTOR VEHICLE LIABILITY INSURANCE REQUIRED. The provisions of Section 200 of the *Standard Traffic Ordinance for Kansas Cities*, as adopted by the City of Dodge City apply to Micro Utility Trucks.

14-604 SAME LICENSE PLATE REQUIRED; PENALTY.

(a) It shall be unlawful for any person to:

(1) Operate, or for the owner thereof knowingly to permit the operation, upon the public highways, streets, roads and alleys within the corporate limits of the city, of any Micro Utility Truck which a certificate of title has not been issued or which does not have attached thereto and displayed thereon a license plate assigned thereto by the City for the current registration year.

(2) No person charged with violating the provision regarding the issuance of a certificate of title shall be convicted, if such person produces in court, within ten days of the date of arrest or of the issuance of the citation, the certificate of title to said micro utility vehicle which was valid at the time of arrest or of issuance of the citation.

(3) Display or cause or permit to be displayed, or to have in possession, any certificate of title, registration license plate knowing the same to be fictitious or to have been assigned to another micro utility truck.

(4) Lend to or knowingly permit the use by one not entitled thereto any certificate of title or registration license plate issued to the person so lending or permitting the use therof.

(5) Remove, conceal, alter, mark or deface the registration license plate. License plates shall be kept clean and shall be placed on all micro utility trucks within the city on the rear of the vehicle so as to be plainly legible.

(6) Carry or display a registered license plate upon any micro utility truck not lawfully issued by the City for such a vehicle.

(b) Every owner of a micro utility truck, before operating said vehicle on the public highways, streets, roads or alleys within the corporate limits of the city, shall register said vehicle with the city and obtain a registration license plate for that vehicle. The registration license plate issued by the City Clerk shall be valid through December 31 of the year for which it is issued.

(c) Before the City Clerk will issue any annual registration license plate for a micro utility truck, the owner of said vehicle must provide:

(1) A certificate of title to the vehicle showing ownership;

(2) Proof of motor vehicle liability insurance in accordance with the Kansas Automobile Injury Reparations Act.

(3) Payment of the annual registration license plate fee of $25.00.

(d) A violation of this section shall be deemed a Class C misdemeanor, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one(1) month or punishable by fine in a sum not exceeding $500.00 or by both such fine and imprisonment.(Ord. 3460)

CHAPTER XV. UTILITIES

Article 1. General Provisions
Article 2. Residential and Commercial Sewers and Wastewater
Article 3. Industrial Wastewater
Article 4. Water Supply and Distribution
Article 5. Solid Waste Collection and Disposal
Article 6. Storm Water Utility

ARTICLE 1. GENERAL PROVISIONS

15-101. **DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

(a) City Manager shall mean a person designated by the City to supervise the operation of City functions, and who is charged with certain duties and responsibilities by this Code or his duly authorized representative.

(b) Dwellings shall include all single family residences, duplexes or two family dwellings.

(c) Industrial Wastewater shall mean the liquid wastes from industrial processes as distinct from domestic or commercial wastewater and solid wastes. Industrial wastes predominate the composition of the wastewater.

(d) Milligrams per liter (mg/l) shall mean a weight to volume ratio; the milligrams per liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

(e) Multiple Family Dwellings shall mean all residential buildings, except hotels or motels having three or more separate living unit.

(f) Normal strength sewage shall mean sewage that has concentrations not exceeding the following parameters:

Biochemical Oxygen Demand, 5 day (BOD)	300 mg/l
Total Suspended Solids (TSS)	200 mg/l
Total Dissolved Solids (TDS)	700 mg/l

(g) Operation and maintenance shall mean all expenditures made during the useful life of a facility used to supply or distribute water or to collect and treat wastewater including materials, labor, utilities, and other items which are necessary for managing and maintaining the facility to achieve the capacity and performance for which such facility was designed and constructed.

(h) Publicly Owned Treatment Works (POTW) shall mean a treatment works as defined by Section 212 of the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et. seq., and may also be known as the Wastewater Treatment System (WWTS) and shall mean any devices and systems for the collection, storage, treatment, recycling, and reclamation of wastewater or necessary to recycle or reuse water at the most economical cost over the useful life of the works.

These include intercepting sewers, outfall sewers, wastewater collection systems, pumping, treatment and other facilities which are an integral part of the wastewater collection and treatment processes or are used for ultimate disposal of residues resulting from such treatment.

(i) Replacement shall mean expenditures for Obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the water or wastewater facilities to maintain the capacity and performance for which such works facilities designed and constructed.

(j) Service Charge, Monthly shall mean the total monthly charge to be levied against users and shall consist of any or all of charges related to billing, small collector mains, customer related infiltration/inflow (I/I), volume charges related to contributed volume, volume related I/I and domestic levels of strength, and in the case of industrial customers shall include a service charge to recover billing, a volume charge to recover volume related costs, and one or more strength charges including, but not limited to, biochemical oxygen demand (BOD), and total dissolved solids (TDS).

(k) Standard Methods shall mean the examination and analytical procedures set forth in the latest edition at the time of analysis of "Standard Methods for the Examination of Water and Wastewater" as prepared, approved, and published jointly by the American Water Works Association, the American Public Health Association, and the Water Pollution Control Federation.

(l) Toxic Pollutant shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency (EPA) under the provisions of Section 307(a) of the Clean Water Act, or other Acts.

(m) Useful Life shall mean the estimated period during which a water or wastewater facility will be operated.

(n) User shall mean a person or legal entity connected to the water system who uses water or treatment works which produces or causes to be produced wastewater requiring processing and treatment to remove pollutants.

(o) Utility shall mean and include the water supply and distribution system, the sewer collection system, the wastewater treatment system, and the solid waste collection system and/or any other utility service furnished by the . City of Dodge City to the users thereof.

(p) Wastewater is synonymous with sewage and the two terms may be interchanged without altering the meaning of either.

15-102. DEPARTMENT ESTABLISHED. The City departments concerned with the municipal water supply and distribution, collection and treatment of wastewater, collection and

hauling of trash and refuse of the city are hereby established as and shall constitute the Utilities Departments of the City in accordance with the provisions of K.S.A. 12-856 through 12-869, inclusive.

15-103. **UTILITY DEPARTMENT; OFFICERS AND EMPLOYEES.** The Governing Body shall provide for such officers and employees as may be necessary for the purpose of operation of the Utility Department and shall establish rates and charges, the collection of charges for service and the imposition of liens upon real property as provided by K.S.A. 12-860.

15-104. **UTILITY SYSTEMS; SPECIAL ASSESSMENTS.** The City may, for the purpose of the proper operation of its utility systems, levy special assessments against property in benefited districts and to issue bonds therefor in accordance with the provisions of K.S.A. 12-861.

15-105. **SAME; REVENUE BONDS.** The Governing Body, for the proper operation of its utility systems, may issue revenue bonds in accordance with the provisions of K.S.A. 12-863, and do all things permitted by law for the proper operation of its utility systems in accordance with the provisions of K.S.A. 12-856, through 12-869, inclusive, all of which the sections of Kansas Statutes Annotated are incorporated into and made a part of this article.

15-106. **SCOPE OF CHAPTER PROVISIONS.** All pertinent provisions of this chapter are hereby made a part of the terms and conditions whereby the City shall furnish any utility service to any person; or whereby the City shall make any utility connections, or perform any work of any kind in connection with the furnishing of any utility service.

15-107. **SERVICE TO COMPLY WITH TECHNICAL REGULATIONS.** Any utility service furnished under the provisions of this chapter shall be in accordance with and compliance with all applicable technical provisions of this code, state law and city ordinances, specifications, rules and regulations.

15-108. **TERMINATION FOR NONCOMPLIANCE WITH PROVISIONS.** The City shall have the right to disconnect or refuse to connect or reconnect any utility service which does not meet the applicable provisions of this code, state law or city ordinances, specifications, rules and regulations.

15-109. **SALE OF SERVICE BY CUSTOMER.** It shall be unlawful for any person to resell any utility service obtained from the City to others except by units of local government or recognized and licensed utility companies, and then only by special arrangement with the City of Dodge City.

15-110. **LIABILITY OF CITY FOR DAMAGE.** The City shall not be liable for any damage to the property of any customer of any utility service furnished by the City due to backflow of the sewerage system, failure of the sewer or water supply, interruption of service or any other cause outside the direct control of the City.

15-111. **TEMPORARY INTERRUPTION OF SERVICE.** The City reserves the right to cut off any utility service without notice in case of emergencies. When an interruption in service is necessary for maintenance and improvement to the utility system, affected customers will be notified as circumstances permit.

15-112. **USE WITHOUT PERMIT PROHIBITED.** It shall be unlawful for any person not having a permit to use any utility service offered by the City or to make any connection thereto.

15-113. **UTILITY SERVICE; APPLICATION REQUIRED.** Any person desiring any utility service furnished by the City shall make application for the same to the city department designated by the City Manager on a form provided by the City. Such application shall contain the applicant's name, address and the uses for which such utility service is desired.

15-114. **SAME; PERMIT.** Upon the approval of the application for any utility service, a permit therefor shall be issued by the department designated by the City Manager.

15-115. **SAME; USES CONTRARY TO PERMIT, PROHIBITED.** Any person having a permit from the City for the use of any utility service offered by the City who shall use such utility service for any purpose other than mentioned in such permit shall be guilty of a violation of this code.

15-116. **SAME; USE ASSUMED.** All premises connected to any utility service of the City shall be assumed to be using such utility service and the owner or occupant will be charged therefor so long as such premises shall remain connected with the utility service.

15-117. **SAME; RESTRICTED TO ONE APPLICANT.** It shall be unlawful for any person obtaining any utility service from the City to habitually permit any other person to use such utility service.

15-118. **SAME; SEPARATE CONNECTIONS.** (a) Every building, structure or consumer in the City shall have separate water and sanitary sewer service connections.

(b) All multiple family rental structures having four living units or less, shall have separate water meters and separate sanitary sewer connections for each living unit.

The sewer connections shall lead either to a private sewer collection system having a minimum diameter of six inches or to the public sanitary sewer system.

(c) All structures containing or designed to contain condominiums and/or townhouse living units shall have separate water meters and separate sanitary sewer service connections for each living unit. The sewer connections shall lead either to a private sewer collection system having a minimum diameter of six inches or to the public sanitary sewer system.

(d) The requirements stated in subsection (b) and (c) hereinabove shall not apply to existing situations except as follows:

(1) In the event that one or more owners or tenants shall fail to pay any fees or charges which may be due for more than 30 days or fail to provide adequate maintenance which may cause backup, flooding, or other damage to adjacent living units or property, the City shall have the right to discontinue utility service including disconnection of water service and/or disconnection of the sewer service and shall not provide utility service until such time as the owner(s) provide separate water and/or sewer services to each living unit.

(2) In addition, should it become necessary at any time to repair, remodel, or change any structure covered by (b) and (c) hereinabove, which requires the issuance of a permit to cover the work, separate water and sewer services shall be provided at that time.

15-119. SAME; CONNECTIONS TO SERVICE. Connections for any utility service furnished by the City shall be made only by the City under the supervision of the authorized City representatives.

15-120. PLUMBING INSPECTION OUTSIDE OF CITY. In order to protect the city water supply the City will not make any water or sewer taps outside the city limits until the plumbing system of the premises involved has been inspected and approved by the City. Such inspection will be made only after deposit of the stipulated fee for the inspection by the affected property owner. The plumbing system shall be in accordance with the plumbing code of the City.

15-121. UTILITY SERVICE; USERS TO MAINTAIN OWN SERVICE. (a) All persons taking water utility service from the City shall keep their own service pipes, curb boxes, cocks and apparatus in good repair, and protect same from the frost at their own risk and expense, and shall prevent all unnecessary waste.

(b) All persons taking sanitary sewer service from the City shall keep their own building sewer or service lateral in good repair from the building to the city main

line and protect same from the intrusion of roots, collapse, or freezing, all at their expense.

15-122. **LIABILITY OF PROPERTY OWNER; LIEN.** (a) Lessors of leased premises served by utility service furnished by the City shall be ultimately liable for payment of the cost of any utility service furnished by the City to such leased premises, whether the service is furnished upon the application and request of the lessor or the lessee of such premises.

(b) If utility service is furnished by the City to leased premises, upon the application and request of the lessee, then all billings for such service furnished shall be made to the lessee. However, if the cost of such service is not paid, as and when they become payable, the lessor of the premises served shall be liable for the payment of such cost, plus all interest and penalties as provided by the laws of the City. The lessor shall be notified in writing by first class mail within 10 days after a billing becomes delinquent.

(c) If utility service is furnished to leased premises on the application and request of the lessor of the premises, then all billings for utilities furnished to such leased premises shall be made directly to the lessor, and the lessor shall be fully liable for the cost of service furnished.

(d) Such charges shall constitute a lien upon the real estate served, and shall be certified by the City Clerk to the County Clerk, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes collectible by law.

15-123. **UTILITY RATES.** (a) Rates for utility services or usage for all users or customers of city utilities shall be set by the City Commission by resolution. The City Commission shall review such utility rates on an annual basis and shall adjust such rates as necessary to ensure that adequate income is received to proportionally recover the cost of operation and maintenance, replacement, and financing the individual utility services.

(b) SAME; CPI ADJUSTMENT. (1) As a minimum, the rates set for each utility and the users or customers thereof shall be adjusted by the amount of change in the Consumer Price Index (CPI) for the Midwestern part of the United States as published by the Federal Department of the Treasury for the calendar year just past.

(2) Any excess revenue collected from a class of users shall be applied to the costs of operation, maintenance, and replacement needs attributable to that class for the next year.

(3) The City shall notify each user annually in conjunction with a regular bill of the rate being charged for operation, maintenance, and replacement costs of each utility service.

(c) SAME; CLAIM FOR ADJUSTMENT OF UTILITY RATES. Any claim for adjustment or recomputation of charges made under this section shall be made within 60 days from the first day of the month of which the adjustment or recomputation or charges is desired. Failure to file such claim within 60 days shall be presumed that the billing is accurate and binding upon the user and the City.

15-124. PAYMENTS; WHEN DUE. (a) All bills for utility services furnished by the City shall be due and payable prior to midnight of the 15th day following the date of such bill. Should the due day fall on a Sunday or a holiday observed by the City, the next following business day shall be allowed as a day of grace for payment.

(b) All charges for City utility services shall be made and billed monthly.

15-125. SAME; PENALTY FOR DELINQUENCY. Any person who fails, refuses or neglects to pay the billing for any utility service required by this article shall be subject to a charge equal to 10% of the amount of such bill.

15-126. DELINQUENCY AND TERMINATION NOTICE: RIGHT TO HEARING; PROCEDURE; DISCONNECTION. (a) A delinquency and termination notice shall be issued five days after a bill is delinquent. The notice shall provide the customer in whose name the service is provided according to the records in the Utility Department with the following information:

(1) The amount due on any unpaid balance, plus interest;

(2) The customer's right to a hearing before a Hearing Officer of the City prior to termination of service;

(3) Notice that all utility services will be terminated if the bill remains unpaid.

(b) If the customer, according to the records in the office of the Utility Department, is not the occupant where utility services are provided, similar notice shall be given to the occupant of the premises. A request for a hearing must be made not later than three working days prior to the date of termination. Such hearing will be conducted by the City Manager or such other person or persons as may be designated by the City Manager. Upon receipt of a request for a hearing, the City may not discontinue service until the hearing is completed, unless public health, safety or welfare is endangered. After the hearing, the City Manager shall render his or her decision and if it is determined that service should be discontinued, the City is authorized to discontinue and disconnect utility services for any customer who shall be delinquent in the payment of bills. Customers are responsible for furnishing the utility department with their correct addresses for

billing and notification purposes.

15-127. **RESTORATION OF SERVICE AFTER DISCONTINUANCE:** In the event that utility service is discontinued for any reason, the consumer thereof shall have the right to have the same restored only upon the payment of all rates, charges, and penalties due theron, and in addition, a delinquency fee to be set by City Commission Resolution will be charged if the past due amount on the account is not paid by the reminder due date. (ORD.3425)

15-128. **PENALTY.** Any person found to be in violation of Articles 1, 2, 3, 4, 5, and 6 of this Chapter shall upon conviction be punished by a fine of not less than $100.00 nor more than $500.00, or by imprisomnent, for not more that 30 days, or by both such fine and imprisonment for each offense. For the purpose of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist.

ARTICLE 2. RESIDENTIAL AND COMMERCIAL SEWERS AND WASTEWATER

15-201. **CLASSIFICATION OF USERS.** All users of the sewers and wastewater treatment system of the city are hereby classified as follows:

(a) Residential User shall mean any user whose lot, parcel, real estate, or building is used for residential purposes only, including apartments having two or more living units, but not including motels and hotels.

(b) Commercial Users shall mean any business or service, including motels and hotels.

(c) Infiltration and Inflow (I/I) shall mean flow not specifically contributed by the City's customers, but rather which enters the wastewater system through defective pipes, pipe joints, building sewers or connections, roof drains, manhole covers, and area drains.

(d) Industrial Users shall mean all establishments which are a source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to Section 402 of the Clean Water Act (33 USC 1342).

(e) All Industrial Users shall be governed by the Industrial Wastewater Code as included hereinafter.

15-202. **SEWERS, GENERAL.** (a) CONNECTIONS REQUIRED. To protect the public health and welfare, all persons and property owners who own buildings and structures used for residential, commercial, or industrial purposes within the City and which are located within 150 feet of a city sewer,

or in any block through which a city sewer extends, shall be required to make connection with the City sewer system for the purpose of disposing of the substances from any such building, premises, or grounds and which may lawfully and properly disposed of by means of the city sewer system.

(b) SAME; CITY EMPLOYEES TO MAKE CONNECTIONS, COSTS. All connections to the sanitary sewer shall be made by employees of the City. In addition to all other charges, the person desiring the sewer connection shall pay to the City a sum equal to the actual cost of all labor, material, and equipment used in making the connection and an additional amount equal to 10% thereof for administrative costs such as, but not limited to, checking applications, writing permits, inspections, if necessary, and other miscellaneous costs.

15-203. **SEWER CONNECTION, PERMIT FEE.** (a) The following fees shall be paid to the City by any person for a permit to connect to any sanitary sewer of the city sewerage system:

Within the city limits - $300.00

Outside the City limits - $400.00

Such permit fees for connections shall be charged regardless of whether or not such connection is to be made within an established sewer district, such connection fee to be considered as an equitable payment for the extra costs of construction and for the operation and maintenance of such system by all current or previous users.

(b) SAME; CITY MAY CONNECT, COST. If any person shall fail, neglect, or refuse to connect any residential building, grounds or premises with the city sewer system within 10 days after being notified in writing by the City to do so, then the City is hereby empowered and directed to cause and have such building, premises or grounds connected with the city sewer system. The City is also hereby authorized to:

(1) Advertise by one publication in the official city paper, describing the premises, and giving at least 10 days' notice for bids for the construction and maintaining of such sewer connection; and

(2) Contract therefor with the lowest responsible bidder or bidders; and

(3) Cause such premises to be connected with the city sewer system; and

(4) Assess the cost and expenses thereof, including the sewer connection fee, against the property and premises so connected. Such assessment to be made in the same manner as other special assessments are made.

(c) SAME; COLLECTION OF COST. The City shall report and certify the cost and expenses of sewer connections, made by its order as provided by this Article, to the City Clerk, and the cost and expenses of the sewer connection shall be addressed and charged against the lots or parcels

of ground or premises and the buildings and improvements thereon. The City Clerk, at the time of certifying other city taxes to the County Clerk, shall certify the aforesaid costs and expenses, on the tax roll of the county against the lot or parcel of grounds, or premises, and the building and improvements thereon, and it shall be collected by the County Treasurer and paid to the city as other taxes are collected and paid, as by law provided.

(d) SAME; CERTAIN CONNECTIONS PROHIBITED. It shall be unlawful for any person to connect open gutters, storm drains, including roof drains and gutters or privies to the public sewers of the City.

(e) SAME; REFUSE PROHIBITED. It shall be unlawful for any person to cause any surface water or the overflow of any cistern to enter any sewer or to throw or deposit or cause or permit to be thrown or deposited in any receptacle connected with the sewer any garbage, hair, ashes, fruit or vegetable peelings, or refuse, rags, cotton, cinders, sticks or any other matter or thing whatsoever except feces, urine and necessary closet and liquid house slops; except for materials that are normally disposed of through garbage disposals.

(f) SAME; INJURY, DAMAGE TO. Any person who shall willfully injure or destroy any public sewer or who shall molest any sewer or any part of the sewer or sewer system or who cleans out a private sewer line which is connected to the public sewer system without first contacting the Utility Department for authority to do so shall be deemed guilty of a violation of this code. Any person violating the provisions of the section shall be punished as provided in Section 15-128.

(g) SAME; TERMINATION OF SERVICE FOR VIOLATIONS. The City Manager may, upon reasonable belief that any person is depositing sewage in violation of the provisions of the article, recommend to the City Commission, the suspension or revocation of the right of any person to discharge sewage into the sanitary sewers or wastewater treatment system of the City until proof satisfactory to the City Manager shall be supplied establishing that effective means have been taken to prevent the discharge of sewage in violation of this article.

15-204. **CESSPOOLS AND PRIVIES PROHIBITED.** It shall be unlawful for any person to build, erect, construct or keep and maintain, or cause to be built, erected, constructed or kept and maintained, any cesspool, privy, privy vault or surface closet on any lot or premises within the city.

15-205. **SEPTIC TANKS.** (a) No septic tank shall be installed within the city limits if sewer service is currently

available within 150 feet or in any portion of the block in which the connection can be located.

(b) SAME; APPLICATION. Application to install septic tank systems shall be submitted for approval by the City Building Official. Such plans shall be in accordance with the rules and regulations of the Kansas Department of Health and Environment (KDHE) and shall include a soils percolation test to be used to determine the amount of drain field necessary to serve the septic tank.

(c) SAME; ABANDON UPON AVAILABILITY OR SANITARY SEWER. Upon the availability of a city sewer, residents using septic system shall abandon them and make connections to the city sewer within six months.

15-206. **SEWER SERVICE OUTSIDE THE CITY.** Sewer service and the use of the City wastewater treatment system may be provided outside the city limits at the discretion of the City Commission and subject to the provisions and charges established therefor.

15-207. **INTERCEPTORS AND/OR TRAPS FOR SAND, MUD, GREASES,** OILS, ETC. (a) Garages, Service Stations. It shall be unlawful for any garage, automobile service station, wash rack, whether public or private, or other location to allow waste material containing grease, oil, sand, mud, or other similar substances, to enter the sanitary sewers in the city, except through a sand trap, approved by the Building Official. The sand trap shall be constructed, installed, and maintained in such a manner so as to prevent any substantial amount of such materials from entering the sewers. Where available, such sand traps shall be connected to a storm drain system.

All materials deposited in such sand traps shall be dispos products and shall not be flushed into the sanitary sewer or storm drain system.

(b) SAME; DEFINITIONS. For the purpose of this Code, the following terms shall have the meanings indicated herein below:

(1) Kitchen, Commercial shall mean any kitchen in a restaurant, cafe, cafeteria, lunch counter, bar, club, institution or commercial building where food is served in quantity. This definition shall include fast-food establishments specializing in hamburgers, pizza, chicken, tacos, or any combinations or variations of such items.

(2) Kitchen, Limited or single service kitchen shall mean any kitchen where food is prepared for consumption off-premise or for both off-premise consumption and incidental consumption in-house. This definition shall

include establishments such as quick-shops and donut shops.

(c) SAME; GREASE INTERCEPTION FACILITIES. Where problems are currently being experienced with the discharge of greases by kitchens into the sewers, and in all new or remodeled Commercial or Limited Service Kitchens, the Building Official shall require the installation of a grease trap as required by Section 711 of the Uniform Plumbing Code (UPC) or the installation of a grease interceptor, as required by Section 712 of the UPC. The use of either a trap or interceptor shall depend on the number of fixtures, volume of water and grease being discharged, number of meals being served, and may also include the use of prior knowledge about similar kitchen facilities.

(1) Grease Traps. Grease traps may be permitted in locations where the Building Official determines that the number of fixtures, discharge volumes, and grease retention capacity will comply with Section 711 of the UPC.

(2) Grease Interceptors. Grease interceptors shall be installed in all other locations. Grease interceptors shall be sized according to the following formula:

$$V = N \times Q \times T \times S; \text{ where}$$

V = Interceptor size in gallons

N = Number of meals served at Peak Hour

Q = Waste Flow Rate

a. With Dishwashing Machine	6 gal./min.
b. Without Dishwashing Machine	5 gal./min.
c. Limited or Single Service Kitchen	2 gal./min.
d. Food Waste Disposal	1 gal./min.

T = Retention Times

a. Commercial Kitchen Waste with Dishwasher	2.5 Hours
b. Limited or Single Service Kitchen, per single serving	1.5 Hours

S = Storage Factor

Fully Equipped Commercial Kitchen	
a. 8 hour operation	1
b. 16 hour operation	2
c. 24 hour operation	3
Limited or Single Service Kitchen	1.5

For the purposes of this Section, it shall be assumed that the Number of Meals per Peak Hour (N) for a limited or single service kitchen shall be a minimum of 10, whether

seating is provided or not, and shall be increased by one meal for every 30 square feet over 300 square feet of additional seating area or fraction thereof.

(d) SAME; MAINTENANCE. It shall be the responsibility of the owner of a grease trap or interceptor to have the facility cleaned of accumulated grease at regular intervals in order to provide for an efficient operating condition at all times. No such collected grease shall be introduced into any drainage pipe or public or private sewer.

(e) SAME; EXISTING KITCHENS. Any establishment having either a Commercial or Limited Kitchen which is found to be discharging greases into the Sanitary Sewer System shall install either a grease trap or grease interceptor, as appropriate to the size of the kitchen, within one (1) year of the date that the Owner or Operator is notified of the violation. Such trap or interceptor shall be approved by the Building Official and a plumbing permit issued before such installation.

15-208. AGREEMENT TO SEWER REGULATIONS; RATES; INSPECTIONS.

(a) All persons by connecting to the sewers of the City do by such act agree to be bound by all rules, regulations, and rates which may be established by the City.

(b) Any person residing within or without the City who receives water from the Utility Department of the City shall be subject to the rates, rules, and regulations provided for in the use of the sewer system unless the water user can prove that it is not making use of the sanitary sewer facilities of the city.

15-209. INSPECTIONS. (a) The City Engineer and other duly authorized employees of the City shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this section.

(b) For the purpose of making all inspections provided for in this chapter and in determining whether or not a water user is a sewer user, the Engineering Department of the City shall make all necessary inspections and determinations and shall, for that purpose, be authorized to enter upon premises of any user at all reasonable times. If a representative of the Engineering Department is refused access to any premises where a claim is made that no sewer service is being used for the purpose of determining such user, the appropriate sewage charge shall be made upon the property until proof sufficient to the inspection department has been supplied.

15-210. SEWER SERVICE CHARGES; RESIDENTIAL AND COMMERCIAL USERS: (a) All users shall pay a monthly service charge

based upon the lesser of the average monthly billable water usage during the months of December through February, inclusive, or January through March, inclusive, depending on the reading cycle. All users for which an average cannot be established from usage for one or the other of the two reading cycles shall be billed on the basis of their monthly consumption of water until such average can be established.

(b) If a sewer user obtains water from a source other than the City water system, the sewer service charge to be made against such premises shall be based on the quantity of water received on the premises as established by separate metering facilities installed by such user at his or her own expense.

(1) Such metering facilities shall be approved by the City prior to installation. Such metering facility shall measure the volume of liquid actually discharged unto the sanitary sewer system from the premises. Such metering facility shall be maintained and calibrated for accuracy by the City at the users' expense and the readings from the metering facility shall be taken by the City at not less than monthly intervals.

(2) In lieu of a sewage meter and with the approval of the City Manager, the user may install auxiliary water meter(s) to measure that portion of water used which is diverted from entering the sewer system. In the event auxiliary water meters are installed, the volume of water metered by such meter(s) shall be deducted from the total volume of water before the sewer service charge schedule is applied. Such meters shall be maintained and calibrated as in Section 15-210 (b) (1) above.

(3) In the event that the City determines, for whatever reason, the auxiliary meters are not providing correct information, the City Manager shall have the right to require the user to install a sewage meter as specified in Section 15-210 (b) above.

15-211. **SAME; SCHEDULE OF CHARGES.** A schedule of charges shall be adopted by City Commission Resolution and shall contain the following elements:

(a) A monthly service charge to recover the costs associated with billings, the collection system, and customer related infiltration and inflow (I/I).

(b) A volume charge to recover the costs associated with volume contributed by residential and commercial customers, volume related to I/I and strength levels related to residential and commercial wastewater.

(c) Any users of the POTW or person liable for the payment of sewage service charges may appeal to the City Manager the reasonableness of sewage charges.

(d) Any person desiring to use the POTW of the City by transporting of liquid matter to the POTW by means other than through the sewer system of the City may do so if the quantity, quality, type and character is of a type

permitted under the laws of the City, and consists solely of organic and biodegradable wastes from septic tanks and cesspools; such person shall pay a charge for each 1,000 gallons or fraction thereof of the waste. Such charges shall be established by the City Commission as set forth hereinafter.

(1) The charge shall be based on both the volume of the waste and the five day biochemical oxygen demand (BOD). If, at any time, the wastewater is found to have a BOD of more than 300 mg/l a strength charge shall be charged for the entire BOD loading as follows:

$$S_{BOD} = V_s \times 8.34 \times C_{BOD} \times BOD$$

Where:

S_{BOD} = Strength charge attributable to Biochemical Oxygen Demand.

V_s - Sewage volume in million gallons

8.34 = Pounds per gallon of water

C_{BOD} = Unit charge for BOD in dollars per pound (set by City Commission)

BOD = Five-day BOD in mg/l.

ARTICLE 3. INDUSTRIAL WASTEWATER

15-300. **WASTEWATER CODE INCORPORATED.** There is hereby incorporated by reference as if set out fully herein, the Industrial Wastewater Code adopted by the Governing Body of the City of Dodge City, Kansas, as prepared by the City and consisting of Ordinance No. _2998_ and entitled AN ORDINANCE ESTABLISHING AN INDUSTRIAL WASTEWATER CODE RELATING TO THE SEWERAGE SYSTEM OF THE CITY OF DODGE CITY, KANSAS, PROVIDING FOR REGULATIONS FOR THE TREATMENT OF INDUSTRIAL WASTEWATER, PROVIDING PRETREATMENT PROVISIONS, ESTABLISHING WASTEWATER CONTRIBUTION PERMITS, REPEALING ORDINANCE NO. 2831, ADOPTED ON THE 14TH DAY OF MAY, 1987, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE. No fewer than three copies of the Industrial Wastewater Code marked "Official Copy as incorporated by the Code of the City of Dodge City" and to which there shall be a published copy of this section attached, shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours.

15-301. **DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

Abbreviations - the following abbreviations shall mean:

APHA - American Public Health Association
AWWA - American Water Works Association
BOD - Biochemical Oxygen Demand
CFR - Code of Federal Regulations
COD - Chemical Oxygen Demand
EPA - Environmental Protection Agency
FOG - Fats, Oils, and Greases
KDHE - Kansas Department of Health and Environment
LEL - Lower Explosive Limit
l - Liter
mg - Milligrams
mg/l - Milligrams per Liter
NPDES - National Pollutant Discharge Elimination System
POTW - Publicly Owned Treatment Works
SIC - Standard Industrial Classification
SIU - Significant Industrial User
SWDA - Solid Waste Disposal Act, 42 USC 6901, et. seq.
TDS - Total Dissolved Solids
TSS - Total Suspended Solids
USC - United States Code
WPCF - Water Pollution Control Federation
WWTS - Wastewater Treatment System

Act or "the Act" - Federal Water Pollution Control Act, also known as Clean Water Act, as amended, 33 USC 1251, et. seq.

Approval Authority - The Environmental Protection Agency (EPA), or if the pretreatment program has been formally delegated to the Kansas Department of Health and Environment (KDHE), it shall mean the Director of the Division of Environment of KDHE.

Authorized Representative of Industrial User - may be any one of the following: (1) A principal executive officer of at least the level of vice-president, if a corporation; (2) A general partner or proprietor if a partnership or proprietorship, respectively; (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BOD (Biochemical Oxygen Demand) - quantity of oxygen utilized in the aerobic oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter, or as pounds per million gallons of water.

Building Inspector - person designated by the City to issue building permits and to process sewer connection permits.

Building Sewer - a sewer conveying wastewater from the premises of a User to a publicly owned sewer or to the POTW.

Certified Laboratory - a laboratory certified by the Kansas Department of Health and Environment (KDHE) for any parameters to be tested under the requirements of the Clean Water Act, as amended, per the Kansas Administrative Regulations and as specified by K.S.A. 65-171(l), as amended.

City - the City of Dodge City, Kansas

City Engineer - a licensed professional engineer employed by the City as a staff member or as a consultant.

City Manager - a person designated by the City to supervise operation of City functions, including the Publicly Owned Treatment Works (POTW) and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.

COD (Chemical Oxygen Demand) - quantity of oxygen required to oxidize matter in a waste sample, under specific conditions of oxidizing agent, temperature and time.

Cooling Water, Non-Contact - water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Control Authority - the "approval authority" as defined hereinabove, or the City's City Manager if the City has adopted a local Pretreatment Program under the provisions of this Ordinance.

Discharge, Direct - discharge of treated or untreated wastewater directly to the waters of the State.

Discharge, Indirect - discharge or introduction of non-domestic pollutants from any source regulated under Section 307 (b) or (c) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system).

Domestic (Sewage) Wastewater - liquid and water borne waste derived principally from dwellings, business buildings, institutions, and the like; free from industrial wastes, and of such character as to permit satisfactory disposal without special treatment into the public sewer or by means of a private sewage disposal system.
Effluent - the wastewater or other liquid, whether raw, partially or completely treated, flowing from a basin, treatment process or treatment facility.

Environmental Protection Agency (EPA) - the United States Environmental Protection Agency, or other duly authorized official of said agency.

Garbage - solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, processing, storage and sale of food products and produce.

Governing Body - City Commission of the City.

Holding Tank Waste - any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Industrial User - a source of Indirect Discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act (33 USC 1342).

Industrial User Representative - Industrial Users shall be represented by an Authorized Representative as defined in Section 1.4 hereinabove; or by a duly authorized representative of the individual designated according to conditions stated in said Section 1.4. 1.25 Industrial

Wastewater - liquid wastes from industrial processes as distinct from domestic wastewater and solid wastes. Industrial wastes predominate the composition of the wastewater.

Interference - inhibition or disruption of POTW treatment processes or operations which contributes to a violation of any requirement of the City's Kansas Water Pollution Control Permit No. M-UA11-N001. The term includes prevention of wastewater use or disposal of sewage sludge use or disposal by the POTW in accordance with Kansas Permit No. M-UA11-N001 issued pursuant to the provisions of Kansas Statutes Annotated 65-164 and 65-165, as amended or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act(SWDA), Clean Air Act, Toxic Substances Control Act, or more stringent State criteria.

Living Quarters - one or more habitable rooms occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, bathing, and cooking.

National Categorical Pretreatment Standard or Pretreatment Standard - any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of Industrial Users.

National Pollutant Discharge Elimination System (NPDES Permit) - permit issued by KDHE pursuant to Section 402 of the Act (33 USC 1342) to Direct Dischargers.

National Prohibitive Discharge Standard or Prohibitive Discharge Standard - any regulation developed under the authority of Section 307(b) of the Act (40 CFR, Part 403.5).

New Source - any source, the construction of which is commenced after the publication of proposed regulations prescribed in 40 CFR, Part 403.3(k), as revised on July 10, 1984 (49 Federal Register 28058) and October 17, 1988 (53 Federal Register 40610); Categorical Pretreatment Standards; and July 24, 1990 (55 Federal Register 30128) Categorical Pretreatment Standards, 40 CFR Part 403.6. A new source means any source, the construction of which is commenced after the date of promulgation of the standards referred to herein.

Permit - a properly prepared and executed form authorizing a User to connect to the POTW and public sewer system under terms and conditions defined by the City. The holder of a permit for purposes of this Ordinance is called a Permittee.

Person - any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. Masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

pH - the reciprocal of the logarithm (Base 10) of the hydrogen-ion concentration in grams per liter of solution.

Pollutant - any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, industrial, municipal, and agricultural wastes discharged into water.

Pollution - man-made or-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pretreatment or Treatment - reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes and other means, except as prohibited by 40 CFR Part 403.6(d).

Pretreatment Program, Approved - A program developed by the City and formally approved by EPA, complying with the requirements of 40 CFR, Part 403.8. The City currently does not have an approved program.

Pretreatment Program, Local - A program developed by the City with or without the formal approval of KDHE or EPA, which will allow the City to control and/or require certain industries to meet local pretreatment standards or which will allow the City to provide pretreatment for an industry. Should the City provide pretreatment, the industry shall pay pretreatment fees over and above the normal service fees.

Pretreatment Requirements - any substantive or procedural requirement related to pretreatment, imposed on an industrial user to cause modification of the effluent from that User.

Properly Shredded Garbage - wastes from preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

Publicly Owned Treatment Works (POTW) - a treatment works as defined by Section 212 of the Act (33 USC 1292) which is owned in this instance by the City. For purposes of this Ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons inside or outside the City of Dodge City who are, by contract or agreement with the City, Users of the POTW. For purposes of this Ordinance, the POTW includes the following components:

a. Laterals - branches of the sewer system which receives discharge from a building sewer and conveys it to a main sewer line of the system.

b. Main - the artery of the sewer system which receives discharge from lateral sewers and conveys it to the Primary Pump Station.

c. Force Main - a main through which sewage is conveyed by pressure.

d. Pump Station/Lift Station - a facility for the elevation of wastewater from a lower level for purposes of permitting sewage flows.

e. The Transmission System: The Primary Pump Station, Equalization Basin, Booster Pump Station, and the pipe lines from the Primary Pump Station to the Pretreatment and Storage Site;

f. The Pretreatment and Storage Site: The Anaerobic Lagoons, Aeration Basins, Facultative Reservoirs and appurtenances thereto which treat and store the wastewater for future land application.

g. The Land Application System: the Irrigation Pump Station, irrigation pipe lines, sprinklers, and the soil and the crops grown thereon, which are in effect the final treatment and reuse of the wastewater.

Sample, Composite - for purposes of this Ordinance a composite sample shall mean a number of samples, collected over a fixed period of time, at specified intervals, which represent a proportional amount of the flow at the time the sample is taken.

Sample, Grab - a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time. Individual grab samples, unless mixed with a series of such samples, to form a composite sample, shall not be used to determine extra strength surcharges.

Sanitary Sewer - a sewer which carries wastewater (sewage) and to which storm, surface, and ground waters are not intentionally admitted.

Shall - the word "shall" is a mandatory term.

Significant Industrial User - any Industrial User of the City POTW who is:

a. A categorical industry by definition of the Federal standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, or:

b. Has a process discharge flow of 25,000 gallons or more per average work day; or

c. Has a flow greater than 5% of the flow in the City wastewater system; or

d. Has in their wastes toxic pollutants as defined pursuant to Section 307 of the Act; or

e. Is found by the City or the EPA to have significant impact either singly or in combination with other contributing industries, on the POTW, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

Significant Non-compliance - any Industrial User whose violation(s) meets one or more of the following criteria:

a. Chronic violations of discharge limits in which 67% or more of all measurements taken during a 6-month period exceed the daily maximum limit or the average limit for the same pollutant parameter;

b. Violations in which 33% or more of all measurements for each pollutant parameter taken during a 6-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable criteria [Criteria = 1.4 factor for BOD, TDS,

TSS, fats, oils, greases; and, 1.2 factor for all other pollutants except pH];
c. Any other violation of a pretreatment effluent limit (daily maximum or average) which the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under Section 9.2, Emergency Discontinuations;

e. Failure to meet, within 90 days after the Federal schedule date, a compliance schedule contained in a local permit or enforcement order for starting construction, completing construction, or attaining final compliance;

f. Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

g. Failure to accurately report noncompliance;
h. Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Slug - any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five(5) times the average twenty-four (24) hour period.

State - State of Kansas.

Standard Industrial Classification (SIC) - a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

STANDARD METHODS - shall mean the current edition of STANDARD METHODS FOR THE EXAMINATION OF WATER AND WASTEWATER as published jointly by AWWA, APHA, WPCF.

Storm Water - any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suspended Solids - solids that either float on the surface or are suspended in water, wastewater, or other liquids, and which are largely removable by laboratory filtering; or the quantity of material removed from wastewater in a laboratory, as prescribed in STANDARD METHODS and referred to as

nonfilterable residue, expressed in milligrams per liter or pounds per million gallons of water.

Total Dissolved Solids - a measure in weight (mg/l) of the mineral matter dissolved in water. This figure multiplied by 8.34 gives pounds of mineral matter per million gallons of water.

Toxic Pollutant - any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provision of Section 307(a) of the Act, or other Acts.

User - any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

Wastewater Contribution Permit - a Permit issued by the City to an Industrial User which sets forth requirements for discharging into the POTW and specifies limitations in accordance with the conditions of this Ordinance.

Wastewater Treatment System (WWTS) - used synonymously with POTW throughout this Ordinance.

Waters of the State - all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or manmade, public or private, which are contained within, flow through, or border on the State.

15-302. DISCHARGE OF WATERS OR WASTES TO POTW: GENERAL DISCHARGE PROHIBITIONS: GENERAL PRETREATMENT REGULATIONS: This Ordinance sets forth uniform requirements for direct and indirect contributors into the POTW and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 as amended, and to protect the POTW. This section provides for regulation of direct and indirect contributors to the POTW through issuance of Permits to certain Users and through enforcement of general requirements for all other Users. Monitoring and enforcement activities are auhorized. Certain User reporting is required. It is assumed that existing Users of the POTW will not have their use preempted so long as such users do not exceed the POTW capability to treat wastewater. This section shall apply to the City of Dodge City and to persons inside or outside the City, who are by contract or agreement with the City, Users of the POTW. This section, except as otherwise provided herein, shall be administered, implemented, and enforced by the City Manager or his authorized representative.

15-303. THE OBJECTIVES OF THIS ORDINANCE ARE:

a. To prevent introduction of pollutants into the POTW which will interfere with operation of the POTW or contaminate resulting water or sludge for land application;

b. To prevent introduction of pollutants which will pass through the system, inadequately treated, into the land application system or the atmosphere or otherwise be incompatible with the POTW;

c. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

d. To provide for equitable distribution of the costs of operation, maintenance, and the replacement of the POTW.

15-304. No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all Users of the POTW whether or not the User is subject to National Categorical Pretreatment Standards or Requirements, or any similar standards or requirements that may be established by the State or the City.

15-305. A User shall not contribute the following substances to the POTW:

a. Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues,sludges, or scums, to be unsuitable for reclamation and reuse or which may interfere with the reclamation process, shall not be discharged into the POTW.

b. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with water or sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; and criteria, guidelines, or regulations affecting water or sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the wastewater management method being used; or which will cause the POTW to violate its Kansas Water Pollution Control Use Permit or damage the receiving land.

c. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire, explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%), nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene,

ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorate, bromates, carbides, hydrides, and sulfides.

d. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: fats, oils, greases, garbage with particles greater than one-half inch (1/2") in any dimension, animal intestines, entrails, or tissues, paunch manure, bones, hair, hides or fleshings, whole blood, feathers.

e. Any wastewater having ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

f. Any wastewater having a pH less than 6.0, or more than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

g. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect to the lands receiving the final waters from the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to pollutants identified pursuant to Section 307(a) of the Act.

h. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

i. Any wastewater or vapor having a temperature which will damage the PVC pipe lines or which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Centigrade (104 degrees F).

j. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more

than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

k. Any wastewater containing radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Manager in compliance with applicable State or Federal regulations.

l. Any wastewater which causes hazard to human life or creates a public nuisance.

Upon determination by the City that a User(s):

a. Is contributing to the POTW, or appears likely to contribute, any of the above enumerated substances in such amounts as to interfere with operation of the POTW; or

b. Has violated any term or condition of the user's Wastewater Contribution Permit; or

c. Has violated any term or condition of this Ordinance including, but not limited to, the falsification of information in contravention to Section 12.3 of this Ordinance; or

d. Has caused or appears likely to cause the City to violate its Kansas Water Pollution Control Use Permit; or

e. Has violated any filing, inspection, reporting, or monitoring requirements of this Ordinance;
The City Manager may, in addition to any other action or penalty provided herein, take any one or more of the following actions:

(1) Reject the waste.

(2) Suspend and/or revoke the User's Wastewater Contribution Permit if the User has discharged or appears likely to discharge waters, wastes, or materials into the POTW in violation of Sections 2.0 and 3.0 of this Ordinance or has caused or appears likely to cause the City to violate its Kansas Water Pollution Control Permit; or

(3) Sever the User's sewer or water connection; or

(4) After conferring with the City Attorney request the City Attorney to commence an action in the District Court of Ford County, Kansas, for appropriate legal and/or equitable relief, including damages; or

(5) Levy a civil penalty in an amount of not less than $500.00 nor more than $1,000.00 for each violation and, in the case of a continuing violation every day such violation continues shall, for the purpose of this Ordinance,

be deemed a separate violation. Upon imposition of such a penalty the User shall have the right to appeal the same by filing a written notice with the City Manager not more than ten (10) days after notice of the penalty. The City Manager shall, in that event, appoint a Hearing Officer to receive the User's appeal and affirm, reverse, or modify the penalty and shall specify the reasons therefor. If the User is aggrieved by the order of the City Manager, the User may file an appeal in the District Court of Ford County, Kansas, within thirty (30) days after the rendition of said order.

15-306. Any User aggrieved by the action of the City Manager resulting in the suspension or revocation of the User's Permit or severance of the User's sewer or water connection may file an appeal in the District Court of Ford County, Kansas, within thirty (30) days after the taking of such action.

15-307. Upon promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this Ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this Ordinance. The City Manager shall notify KDHE, who will in turn notify all affected Users of the applicable reporting requirements under 40 CFR, Part 403.12.

15-308. State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this Ordinance.

15-309. The City reserves the right to establish by Ordinance more stringent limitations or requirements on discharges to the POTW system if deemed necessary to comply with objectives set forth in Section 2.1 of this Ordinance. The City will, at some future time when standards have been published, limit the discharge of metals.

15-310. In terms of excessive or accidental discharges, no User shall ever increase the use of process water, or in any way, attempt to dilute a discharge as partial or complete substitute for adequate treatment to achieve compliance with limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State.

15-311. Each User shall provide protection from accidental discharge of prohibited materials or other substances

regulated by this Ordinance. Facilities to prevent accidental discharge or prohibited materials shall be provided and maintained at the User's own cost and expense.

a. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City Manager for review, before construction of the facility.

b. All existing Users shall complete such a plan by the first anniversary renewal date of their existing Wastewater Contribution Permits.

c. No User who commences contribution to the POTW after the effective date of this Ordinance shall be permitted to introduce pollutants into the POTW until accidental discharge procedures have been approved by the City Manager. Review and approval of such plans and operating procedures shall not relieve the Users from responsibility to modify the User's facility as necessary to meet requirements of this Ordinance.

15-312. In the case of an accidental discharge, it is the User's responsibility to immediately telephone and notify the City Manager. Notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

a. Written Notice. Within five (5) days following an accidental discharge; the User shall submit to the City Manager a detailed written report describing the cause of the discharge and measures to be taken by the User to prevent similar occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this Ordinance or other applicable law.

b. Notice to Employees. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedures.

15-313. **DISCHARGE OF CONTROLLED MATERIALS TO POTW:** No User shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the City Manager that such wastes can harm either the sanitary sewers, wastewater treatment system, or equipment, have an adverse effect on

the land receiving the treated wastewater, or which can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the

acceptability of these waters, the City Manager will give consideration to such factors as the quantities of such wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment system, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors.

15-314. A User shall not contribute the following substances to any POTW unless specifically allowed by Permit:

a. Any garbage not properly shredded.

b. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

c. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting excessive chlorine requirements, to such degree that any such material received in the composite sewage at the POTW exceeds limits established by the City Manager for such materials.

d. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentration exceeding limits which are established by the City Manager as necessary after treatment of the composite sewage, to meet requirements of State, Federal, or other agencies of jurisdiction for sludge management and disposal of effluent.

e. Materials or commercial and/or industrial processes which exert or cause unusual concentrations of inert suspended solids; such as, but not limited to: Fullers earth, lime slurries, and lime residues; or of dissolved solids; such as, but not limited to: sodium chloride or sodium sulfate or colloidal clays.

f. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet requirements of other agencies having jurisdiction over disposal of effluent or agricultural use of the treated wastewater.

g. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

h. Any wastewater contributing mud, sand, soils, silts, or clays shall be required to incorporate an effective facility for removal of such solids as defined herein under total suspended solids in Section 1.0 of this Ordinance.

15-315. If any waters or wastes are discharged, or are proposed to be discharged to the POTW, which waters contain the substances or possess the characteristics enumerated in Section 3.1 hereof, and which in the judgment of the City Manager have a deleterious effect upon the sewerage system, processes, equipment, or receiving lands, or which otherwise create a hazard to life or constitute a public nuisance, the City Manager may:

a. Reject the wastes;

b. Require pretreatment to an acceptable condition before discharge to the public sewers;

c. Require control over the quantities and rates of discharge;

d. Permit pretreatment and/or equalization of waste flows, providing that the design and installation of the system shall be subject to review and approval of the City, and subject to requirements of applicable codes, ordinances, laws, and permits;

15-316. RECOVERY OF COSTS; ESTABLISHING PRETREATMENT FEES: It is the purpose of this Section to provide for recovery of costs from Users of the City's POTW for implementation of the Local Pretreatment Program established herein. Applicable charges or fees shall be set forth by Governing Body Resolution as part of the City's Schedule of Charges and Fees. Fees associated with enforcement and administration of the Local Pretreatment Program are separate from all other fees chargeable by the City.

The City Governing Body has the authority to establish charges and fees by Resolution which may include fees for the following items:

a. Added costs of handling and treating wastes not covered by the service charges or User charges; such as assessed surcharges established by Governing Body Resolution, according to procedures set forth in Section 11.0 of this Ordinance, for any of the following contribution situations;

(1) Any waters or wastes containing fats, wax, grease, or oils, whether emulsified or not, in excess of one thousand (1,000) mg/l or containing substances which may solidify or become viscous at temperatures between zero degrees and 60 degrees Centigrade (32 degrees and 140 degrees F).

(2) Any waters or wastes having BOD greater than three hundred (300) mg/l by weight; or (a) containing more than two hundred (200) mg/l by weight of suspended solids; or

(b) containing more than seven hundred (700) mg/l by weight of dissolved solids; or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City.

b. Processing of Wastewater Contribution Permit applications;

c. Reimbursement of costs for setting up and operating the City's Pretreatment Program;

d. Monitoring, inspections and surveillance procedures;

e. Reviewing accidental discharge procedures and construction;

f. Costs of analytical testing conducted with the use of a laboratory certified by KDHE where such tests are required by the City and according to methods as specified by K.S.A. 65-171(l);

g. Filing appeals;

h. Other fees the City may deem necessary to carry out the requirements contained herein.

15-317. Where preliminary treatment, pretreatment, or flow-equalization facilities are provided for by a Permittee for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the Permittee's or Owner's expense. Such facilities shall be subject to inspection by the City at any time. Such facilities' condition of operation and analytical test results following treatment shall be made a part of the required compliance reports submitted to the City by the Permittee.

15-318. INDUSTRIAL WASTEWATER: INDUSTRIAL USERS: SIGNIFICANT INDUSTRIAL USERS: WASTEWATER CONTRIBUTION PERMITS: All Significant Industrial Users proposing to connect to or to contribute to the POTW shall obtain a Wastewater Contribution Permit before connecting to or contributing to the POTW.

15-319. All existing Significant Industrial Users connected to or contributing to the POTW shall obtain a Permit within ninety (90) days after the effective date of this Ordinance, and shall submit a plan showing facilities and operating procedures providing for accidental discharge protection to the City at the same time the Permit application is filed.

15-320. Other Industrial Users are required to make application for a Permit within thirty (30) days after the effective date of this Ordinance, and proposed new Users shall make application for a Permit at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the Permit application, the User shall submit The following information:

a. Name, address, location (if different from address);

b. SIC number according to Standard Industrial Classification Manual, Bureau of Budget, 1972, as amended;

c. Wastewater constituents and characteristics including, but not limited to those mentioned in Sections 2.0, and 3.0 of this Ordinance as determined by a laboratory certified by KDHE whether such tests are performed by the City or on a self-monitoring basis as specified by K.S.A. 65-171(l); sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;

d. Time and duration of contribution;

e. Average daily and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, connections, and appurtenances by the size, location, and elevation;

g. Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

h. Where known, the nature and concentration of any pollutants in discharge which are limited by City, State, or Federal Pretreatment Standards, and a statement regarding whether or not Pretreatment Standards are being met on a consistent basis, and if not, whether additional Operation and Maintenance and/or additional pretreatment is required;

i. If additional pretreatment and/or Operation and Maintenance will be required to meet the Pretreatment Standards or City requirements; the shortest schedule by which the User will provide such additional pretreatment. The completion date of the User's schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for commencement and completion of major events leading to construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards or City requirements (e.g., hiring an engineer, completing design plans, completing final plans, executing contract for installation, commencing construction, completing construction, completing inspection, etc.).

(2) No time increment referred to in Section 5.2.i.(1) above shall exceed six (6) months or 180 calendar days.

(3) Not later than fourteen (14) days following each date in the schedule and final date for compliance, the User shall submit a progress report to the City Manager including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply. In no event shall more than six (6) months or 180 calendar days elapse between progress reports to the City Manager.

j. Each product produced by type, amount, process or processes, and rate of production;

k. Type and amount of raw materials processed (average and maximum per day);

l. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system; and

m. Any other information as may be deemed by the City to be necessary to evaluate the Permit application.

n. Any changes in the industrial processes, flows, discharge constituents, and potential contaminants must be submitted to the City in writing prior to instituting such changes.

15-321. The City Manager shall evaluate data furnished by the User and may require additional information. After evaluation and acceptance of the data furnished, the City Manager may issue a Permit subject to terms and conditions provided herein. Within six (6) months or 180 calendar days of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit of any Users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard.

a. Where a User, subject to a National Categorical

Pretreatment Standard, has not previously submitted an application for a Permit as required by Section 5.2, the User shall apply for a Permit within six (6) months or 180 calendar days after promulgation of the applicable National Categorical Pretreatment Standard.

b. The User with an existing Permit shall submit to the City Manager within six (6) months or 180 calendar days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by items "h." and "i." of Section 5.2.

15-322. Wastewater Contribution Permits shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, User charges, and fees established by the City. Said permits shall contain the following provisions:

a. Limits on average and maximum wastewater constituents and characteristics;

b. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

c. Requirements for installation and maintenance of inspection and sampling facilities;

d. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedules and that such specifications shall comply with Section 6.0 of this Ordinance;

e. Compliance schedules;

f. Requirements for submission of technical reports or discharge reports such as those identified in Section 6.0 of this Ordinance;

g. Requirements for maintaining and retaining plant records relating to wastewater discharges for a minimum period of three (3) years, and affording City access thereto;

h. Requirements for notification of the City of any new introduction of wastewater constituents or any substantial change in volume or character of discharge being introduced into the POTW system;

i. Requirements for notification of slug discharges as per Sections 2.0 and 3.0 of this Ordinance;

j. Other conditions as deemed appropriate by the City to insure compliance with this Ordinance.

k. All Wastewater Contribution Permits shall be modified to address the minimum Federal, State, or City requirements placed upon Industrial Users and Significant Industrial Users.

15-323. Duration of Wastewater Contribution Permits shall be for a specified time period as designated by the City Manager.

a. Said Permit may be issued for a period less than a year or may be stated to expire on a specific date not exceeding five (5) years.

b. Terms and conditions of the Permit may be subject to modification by the City during the term of the Permit as limitations or requirements as identified in Sections 2.0, 3.0, and 4.0 are modified or other just cause exists. The User shall be informed of any proposed changes in his Permit at least forty-five (45) days prior to the effective date of change. Any changes or new conditions in the Permit shall include reasonable time for a compliance schedule.

c. The User shall apply for Permit reissuance a minimum of ninety (90) days prior to the expiration of the Permittee's existing Permit.

15-324. A Wastewater Contribution Permit shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation without approval of the City Manager. Any succeeding owner or User shall also comply with terms and conditions of the existing Permit. Permits are issued to a specific User for a specific operation.

15-325. **MEASUREMENTS, TESTS, ANALYSIS; REPORTING REQUIREMENTS** FOR PERMITTED INDUSTRIES: The Owner/User of any property serviced by a building sewer carrying industrial waste shall install a suitable control facility together with such necessary meters and other appurtenances in the building sewer to facilitate observations, sampling and measurement of the wastes.

15-326. When required by the City Manager all measurements, tests, and analyses of characteristics of waters and wastes shall be conducted with the use of a laboratory certified by KDHE whether such tests are performed by the City or on a self-monitoring basis as specified by K.S.A. 65-171(l); and, shall be by procedures established by the Approval Authority pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended; and, shall be determined at the control manhole or control facility provided, or upon suitable samples taken at said control manhole or control

facility.

15-327. Such control manhole or control facility, when required, shall be accessible, safely located, and shall be constructed in accordance with plans approved by the City Manager. The manhole or facility shall be installed by the User at his expense and shall be maintained by him so as to be safe and accessible at all times. Should the User fail to maintain the control manhole or facility as required, the City Manager may cause the necessary service and maintenance work to be done and to recover such expenses in the form of additional charges added to the monthly fees. In the event no special manhole or facility has been required, the control manhole or facility shall be the nearest downstream manhole in the sanitary sewer to the point at which the building sewer is connected. Sampling shall be carried out by customary methods to determine hazards to life, limb and property.

15-328. Any User subject to Pretreatment Standards and Requirements shall submit to the City Manager a compliance report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements, and the average and maximum daily flow for these process units in the User facility which are limited by such Pretreatment Standards and Requirements.

a. This compliance report shall be submitted within sixty (60) days following the date for final compliance with applicable Pretreatment Standards, or in the case of a New Source, following commencement of the introduction of wastewater into the POTW. Any subsequent compliance reports shall be submitted to the City Manager during the months of June and December of each calendar year, unless required more frequently in the User's Wastewater Contribution Permit.

b. The compliance report shall state whether the applicable Pretreatment Standards are being met on a consistent basis and, if not, what additional Operation and Maintenance and/or pretreatment is necessary to bring the User into compliance with applicable Pretreatment Standards or Requirements. This statement and the compliance reports shall be signed as described in 40 CFR 403.12(l) by an authorized representative of the User and shall contain a certification statement as set forth in 40 CFR 403.6(a)(2)(ii).

c. If sampling performed by the Industrial User indicates a violation, the User shall notify the control authority within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and submit the results to the control authority within fourteen

(14) days after becoming aware of the violation in accordance with 40 CFR 403.12(g).

d. Any User subject to a specific Pretreatment Standard, after the compliance date of such Pretreatment Standard or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the City Manager every three (3) months unless required more frequently by the permit, the Pretreatment Standard, or by the City Manager a report indicating the nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standards.

e. At the discretion of the City Manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the City Manager may agree to alter the months during which the above reports are to be submitted. The City Manager may impose mass limitations on Users, where imposition of mass limitations are appropriate, to meet applicable Pretreatment Standards or Requirements. All analysis shall be performed with the use of a laboratory certified by KDHE whether such tests are performed by the City or on a self-monitoring basis as specified by K.S.A. 65-171(l); in accordance with procedures established by the Approval Authority pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended. Sampling shall be performed in accordance with techniques approved by the Approval Authority; and, with regard to determining hazards to life, limb, and property.

15-329. **INSPECTION AND SAMPLING**: ENTRANCE TO PROPERTIES: CONFIDENTIAL INFORMATION OF USER: The City Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for purposes of inspection, observation, measurement, sampling, and testing in accordance with provisions of this Ordinance. Data concerning wastewater constituents and characteristics will not be recognized as confidential information.

15-330. The City may inspect the facilities of any User to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City ready access at all reasonable times to all parts of the premises for purposes of inspection, sampling, records examination, copying of records, or in the performance of any of their duties.

a. The City, KDHE, and EPA shall have the right to install on the User's property such devices as are necessary to

conduct sampling, inspection, compliance monitoring and/or metering operations.

b. Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with security guards so personnel with proper identification and clearance may have entry to the premises.

15-331. All costs associated with this Section 7.0 shall be borne by the User. Data obtained from a User in the form of reports, questionnaires, Permit application, Permits, or monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, for a period of three (3) years, unless the User specifically requests and is able to demonstrate to the satisfaction of the City Manager that the release of such information would divulge information, processes or methods of production entitled to protection as "trade secrets" of the User.

a. When requested to withhold portions of a report which might disclose "trade secrets" the City Manager shall comply with such request. If the data requested has been classed as confidential, but is necessary for compliance with the City's Kansas Water Pollution Control Use Permit No. M-UA11-N001, or Local Pretreatment Program Requirements, the data shall be provided to the appropriate public agency making a written request and such data shall be stamped as confidential. However, as stated in paragraph 1 of this Section 7.0 wastewater constituents and characteristics will not be recognized as confidential information.

15-332. While performing the necessary work on private properties referred to above, the duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death of the City employees. The City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

15-333. The duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds negotiated easements for purposes of, but not limited to, inspection, testing, observation, measurement, sampling, repair, and maintenance of any portion of the sewer system lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance

with terms of the duly negotiated easement pertaining to the private property involved. Such work shall include television (TV) inspection and grouting repair of sewer lines. For purposes of implementing and enforcing the City's Local Pretreatment Program, the City Manager and other duly authorized employees of the City shall have unrestricted right of entry to accomplish monitoring, inspections, testing, or sampling of wastes generated by any industry which is discharging to the POTW.

15-334. **PRETREATMENT:** Users shall provide necessary wastewater treatment or pretreatment as required to comply with this Ordinance.

15-335. Any facility required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the User's expense. Plans showing pretreatment facilities and operating procedures shall be submitted to the City Manager for review before construction of the facility. Review of such plans and operating procedures will in no way relieve the User from responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under provisions of this Ordinance. Any subsequent changes in pretreatment facilities or method of operation shall be reported to the City Manager prior to the User's initiation of changes.

15-336. **NOTICE OF VIOLATION, HARMFUL CONTRIBUTIONS, ENFORCEMENT, REVOCATION OF WASTEWATER CONTRIBUTION PERMIT OR SERVICES:** Whenever the City finds that any User has violated or is violating this Ordinance, their Water Pollution Control Permit, or causing the City to violate its Kansas Wastewater User Permit, or any prohibition, limitation of requirements contained herein, the City shall serve upon such a person a written notice stating the nature of the violation.

15-337. Any User who violates the following conditions of this Ordinance, or applicable State and Federal Regulations, is subject to having his Wastewater Contribution Permit revoked in accordance with procedures set forth herein.

a. Failure of a User to factually report the wastewater constituents and characteristics of his discharge;

b. Failure of the User to report significant changes in operations, or wastewater constituents and characteristics.

c. Refusal of reasonable access to the User's premises for purposes of inspection, testing, or monitoring; or

d. Violation of conditions of the Wastewater Contribution Permit.

15-338. If harmful contributions by Users are involved, the City may suspend the wastewater treatment service and/or a Wastewater Contribution Permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, danger to the environment, causes interference to the POTW, or causes the City to violate any condition of the City's Kansas Wastewater User Permit.

a. When the danger to the City POTW appears imminent, no notice shall be required prior to discontinuation of service.

b. Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the violating contribution.

c. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate disconnection of water service or severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals.

d. The City shall reinstate the Wastewater Contribution Permit and/or the wastewater treatment service upon proof of elimination of the non-complying discharge.

e. A detailed written statement submitted by the User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen (15) days of the date of occurrence.

15-339. **SHOW CAUSE HEARING BY INDUSTRIAL USERS:** LEGAL ACTIONS: The City may order any User who causes or allows an unauthorized discharge to enter the POTW to show cause why the proposed enforcement action should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to hearing. Service may be made on any agent or officer of a corporation.

15-340. The Governing Body may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the assigned department to:

a. Issue in the name of the Governing Body notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

b. Take the evidence;

c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Governing Body for action thereon.

15-341. At any hearing held pursuant to this Ordinance, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

15-342. After the Governing Body has reviewed the evidence, it may issue an order to the User responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

15-343. If any User discharges wastewater, industrial wastes or other wastes into the City's POTW including any portion of the sewerage system contrary to the provisions of this Ordinance, Federal or State Pretreatment Requirements, or any order of the City Manager, the City Attorney may commence an action for appropriate legal and/or equitable relief in the District Courts of the State of Kansas.

15-344. **INDUSTRIAL WASTEWATER RATES, FEES, AND EXTRA STRENGTH CHARGES, BASIS FOR CHARGES, REVISION OF RATES:** The Governing Body of the City of Dodge City, Kansas, hereby finds and determines that under K.S.A. 12-860 the rates, fees or charges for use of services rendered by the sewerage system of said City, in order to fully meet the requirements of said Statute, will be as hereinafter specified; subject however, to an annual review and re-evaluation of the Sewer Service Charges and other changes related to sewerage use in order to provide for continuation of proper operation and maintenance of the POTW, and further, subject to such changes and revisions thereof as may be made from time to time by the Governing Body of the City of Dodge City, Kansas. The Governing Body shall set fees and charges as herein required by Resolution of the Governing Body.

15-345. **ALL USERS:** Normally, all bills shall be computed

from the monthly water meter readings and such other parameters as appropriate to compensate for the services performed.

If, on any User's premises connected to the POTW, some water is obtained from a source other than the City's water system, then the sewerage service charge to be made against such premises shall be based on the aggregate quantity of water received on the premises from the City's water supply and all other sources as established by separated approved meter installed by such User at his own expense.

15-346. If a User desires to establish eligibility for a sewage service volume base which is less than one hundred (100) percent of monthly water usage, he shall at his sole expense:

a. Install a wastewater flow meter approved by the City Manager to measure the volume of liquid actually discharged into the sewerage system from his premises. Such meter shall be maintained and calibrated by the City at the User's expense and readings from the meter shall be taken by the City monthly. In the event a flow meter is installed, a sewerage service schedule as set forth herein shall be applied to the volume of wastewater entering the POTW as measured by the meter each month.

b. In lieu of a wastewater flow meter and with the City Manager's written approval, the User may install auxiliary water meter(s) to measure that portion of water used which is diverted from entering the POTW. In the event an auxiliary water meter is installed, the volume of water metered by such meter(s) shall be deducted from the total volume of water usage before the sewerage service charge schedule is applied. Such meters shall be maintained and calibrated as in 11.2.a. above. All readings shall be made by the City.

In the event that the City determines, for whatever reason, the auxiliary meters are not providing correct information, the City Manager shall have the right to require the User to

install a wastewater flow meter as specified in 11.2.a. above.

15-347. **SCHEDULE OF CHARGES:** A schedule of service charges shall be adopted by Governing Body Resolution and shall include any or all of the following elements:

a. "Monthly Service Charge", which is designed to recover billing costs.

b. A "Volume Charge" based on the amount of wastewater released into the sewerage system. Such "Volume Charge" shall recover volume related costs of the system.

c. "Strength Charges" to recover costs related to the biological or chemical makeup of the wastewaters. Such "Strength Charges" shall include, but not be limited to, biochemical oxygen demand (BOD), total dissolved solids (TDS), total suspended solids (TSS) or other parameters, as necessary, which are known to impact the sewerage system or the POTW.

d. Any User of the POTW or sewerage system or person liable for the payment of sewage service charges may appeal to the City Manager the reasonableness of such charges.

e. Any person desiring to use the POTW of the City of Dodge City by the transporting of liquid matter to said treatment facilities by means other than through the sewerage system of the City of Dodge City may do so if the quantity, quality, type, and character of the waste to be deposited in the sewerage system is of a type permitted under the provisions of the Ordinances of the City, and consists solely of organic and biodegradable wastes from septic tanks and cesspools, or similar facilities; such person shall pay a charge which shall be adopted by Governing Body Resolution in the same manner as fees and charges as described hereinabove.

15-348. **STRENGTH CHARGE:** Wastewater discharged to the POTW from any User shall be subject to the payment of a strength charge when the strength of the waste exceeds the concentrations of sewage as listed herein.

Domestic Strength Sewage

Parameter	Domestic Strength mg/l
Biochemical Oxygen Demand (BOD)	300.
Total Suspended Solids (TSS)	200.
Total Dissolved Solids (TDS)	700.
Fats, Oils, and Greases (FOG)	1,000.
Sodium	200.
Chlorides	200.
pH	more than 6.5 or less than 9.0

15-349. **STRENGTH CHARGES CALCULATION:** Strength Charges for industrial wastewater shall be calculated based on one-

hundred (100) percent of metered water use, except as otherwise provided in Section 11.1 and 11.2 of this Ordinance, in accordance with the following formulas:

$$S\ BOD = V\ s \times 8.34 \times C\ BOD \times BOD$$
$$S\ TSS = V\ s \times 8.34 \times C\ TSS \times TSS$$
$$S\ TDS = V\ s \times 8.34 \times C\ TDS \times TDS$$
$$S\ FOG = V\ s \times 8.34 \times C\ FOG \times FOG$$
$$S\ T = S\ BOD + S\ TSS + S\ TDS + S\ FOG$$

Where:

S BOD shall be the strength charge attributable to Biochemical Oxygen Demand.

S TSS shall be the strength charge attributable to the Total Suspended Solids.

S TDS shall be the strength charge attributable to the Total Dissolved Solids.

S FOG shall be the strength charge attributable to the Fats, Oils, and Greases.

S T shall be the sum of S BOD + S TSS + S TDS + S FOG
V S shall be the wastewater volume in millon gallons.
8.34 shall be the weight of water, pounds per gallon.
C BOD shall be the unit charge for Biochemical Oxygen Demand in dollars per pound.

C TSS shall be the unit charge for Total Suspended Solids in dollars per pound.

C TDS shall be the unit charge for Total Dissolved Solids in dollars per pound.

C FOG shall be the unit charge for Fats, Oils, and Greases in dollars per pound.

a. All analysis shall be performed on composite samples collected at not less than hourly intervals over a 24-hour period. All sampling and testing shall be the

responsibility of the City utilizing designated control manholes or facilities.

b. Nothing contained in this Section shall be construed as permitting any firm or Industrial User to exceed the maximum limits for wastewaters as established in Section 2.3 of this Ordinance.

c. The individual surcharge for each of C BOD, C TSS, C TDS, and C FOG shall be established by the City Governing Body and shall be reviewed annually, and shall be adjusted

annually. In all cases, the rates shall be adjusted not less than the changes in the consumer price index (CPI) as published for the Midwestern United States by the Federal Department of the Treasury for the calendar year just past.

15-350. **BILLINGS AND PAYMENTS:** All charges for City wastewater treatment services shall be made and billed monthly.

a. All bills for wastewater treatment services furnished by the City shall be due and payable prior to midnight of the fifteenth day following the date of such bill.

b. Should the due day fall on Sunday or a holiday observed by the City, the next following business day shall be allowed as a day of grace for payment.

15-351. **PENALTY FOR VIOLATIONS:** ACTION: Any violation of any provision of this Ordinance, rules, regulations, and permits issued hereunder, shall be deemed to be a misdemeanor and punishable by imprisonment not exceeding one (1) year or by fine not less than $500.00 nor more than $1,000.00 or both, for each violation or offense.

15-352. Each day a violation is allowed to continue or exist shall be deemed to be a separate offense, and the Governing Body shall have the authority to maintain suit or action in any Court of competent jurisdiction to enforce this Ordinance affecting the City, and to abate nuisances maintained in violation thereof.

In addition to penalties provided herein, the City may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit at law against the violator(s).

15-353. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure appurtenance, or equipment which is part of the public sewer system. Any person violating

this provision shall be subject to immediate arrest under the charge of disorderly conduct.

15-354. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan, permit, or other document filed or required to be maintained pursuant to this Ordinance, or Wastewater Contribution Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, shall, upon conviction, thereof be punishable by imprisonment not exceeding one (1)

year or by fine not less than $500.00 nor more than $1,000.00 or both, for each violation or offense.

15-355. **SEVERABILITY: CONFLICT:** If any provision, paragraph, word, phrase, or section of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, phrases, sections, and references shall not be affected and shall continue in full force and effect. All other Ordinances and/or parts of Ordinances conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

ARTICLE 4. WATER SUPPLY AND DISTRIBUTION

15-400. **WATER SYSTEM, GENERAL.** The following provisions shall govern the use by all customers of the water supply and distribution system, both within and without the City of Dodge City.

15-401. **SAME; PROTECTION OF SYSTEM.**

(a) INJURY, TAKING WATER FROM WATER PIPES. Any person who shall willfully destroy, injure, or take water from any water pipe or hydrant placed in the City for their use, or for the use of the public, without authority from the City shall be deemed guilty of a violation of this code.

(b) TAPS TO BE CLOSED. All persons using water supplied by the City shall keep the hydrant, tap, hose, water closets, urinals, bath or other fixtures allotted to their use closed except when obtaining water for use and shall be responsible for any damage or injury that may result to others from the improper use of water.

(c) INJURY TO WATERWORKS. Any person who shall cast anything of substance whatever into the storage reservoir, wells or Water Towers of the City's water supply and distribution system, or who shall bathe or swim therein, or in any manner pollute the water therein or who shall in any manner injure or deface the walls thereof, or without right or proper authority enter into, climb upon or in any manner ascend or mount the structure thereof, shall be guilty of a violation of this code.

(d) INJURY, TAMPERING WITH WATER METERS. It shall be unlawful for any person other than a duly authorized employee of the city to alter, change, deface, remove, bypass, interfere with, open, or in any way molest any meter situated or being in or without the city and used in or for the supplying of water service to any customer thereof.

(e) PROHIBITED CONNECTIONS. No attachment, tap or connection shall be allowed between the corporation cock and the meter.

15-402. **WATER METERS.** Water meters shall be required for all water services and may be required for sewer utility service if deemed necessary by the city, where such services are provided by the city.

15-403. **OVERSIZE METERS.** If any person desires a meter larger than a 5/8" meter, the person shall be required to pay the cost of such meter and may, at the discretion of the City Manager, be required to pay the cost of material and labor necessary to keep such meter in good repair.

15-404. **WATER CONNECTION FEES.** The following fees shall be paid to the city by any person for a permit to connect to any water line of the city water distribution:

Within the city limits: $300.00
Outside the city limits: $400.00

Such permit fees for connection shall be considered as an equitable payment for the extra costs of construction and for the operation and maintenance of such system by all current and previous users.

15-405. **METER INSTALLATION COSTS.** (a) The cost of installing a standard 5/8" residential meter shall be considered as included in the water connection fee set forth in Section 15-404.

(b) The cost of installing all new oversized meters, including the cost of piping shall be determined by adding the actual cost of labor, material, and equipment employed in the work and a sum equal to ten percent (10%) thereof, and the same shall be paid by the applicant requesting such service.

(c) A deposit equal to the estimated cost of the total installation shall be made in advance of making said installation. The City shall refund any amount in excess of the actual cost of installation. Should the amount of the deposit be less than the actual installation cost, the balance of the cost shall be billed to the applicant. If said balance is not paid within 30 days from the date of billing, the same shall be charged to the utilities bill of the benefited property and shall be due and payable and collectable as though a part of the charge for water consumed.

(d) The City may permit the installation of meters and necessary appurtenances by a licensed plumber(s) but all such work shall be done under the direction and supervision of city staff.

(e) Initial water service shall be in the name of the general contractor. Water service will be changed over to the owner's name upon presentation of a certificate of occupancy. In the event the property owner is acting as general contractor for his or her construction, he or she shall not occupy the structure until a certificate of occupancy is obtained. Failure to do so will result in the

turning off or disconnecting of the water service.

15-406. CROSS-CONNECTIONS: GENERAL. (a) PURPOSE. (1) To protect the public potable water supply of the City of Dodge City from pollution or contamination due to cross-connection.

(2) To prohibit and eliminate all cross-connections within the public potable water supply.

(3) To provide for the maintenance of a continuing effective cross-connection control program and thus protect the public health, safety, and welfare.

(b) RESPONSIBILITY. The Building Official shall be responsible for effectively conducting the cross-connection control program of the City of Dodge City public potable water supply. If, in the judgment of said Building Official, an approved backflow prevention is required, the Building Official or his agent shall give notice in writing to the customer to install the proper device. The customer shall immediately install the proper device at the customer's expense. Failure to comply shall be grounds for discontinuing water service to said customer until the device is properly installed.

(c) DEFINITIONS. In addition to those terms defined in the Uniform Plumbing Code as adopted by Chapter IV, Article 3, of the Code of Dodge City, for the purposes of this Section, the following terms shall be hereby defined to mean:

(1) Agency. The Inspection Department of the City of Dodge City is hereby invested with the responsibility for enforcement of this Section of the Code.

(2) Air Gap. The unobstructed vertical distance at least twice the diameter of the supply line and no less than one inch, through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

(3) Approved Device. Shall mean devices tested and accepted by a recognized testing laboratory and approved by the Kansas Department of Health and Environment and the Inspection Department.

(4) Backflow. The flow of water or other substances into the distribution system of a potable supply of water from any source other than its intended source. Backsiphonage is one type of backflow.

(5) Backflow Preventer. A device or means to prevent backflow.

(6) Backsiphonage. The flowing back of

substances, whether contaminated or polluted or not, from a plumbing fixture or any vessel or source into the potable water supply system due to negative pressure in said system.

(7) Contaminant. Any substance that, upon entering the potable water supply, would render it a danger to the health, safety, or welfare of the consumer.

(8) Critical Level. The Critical Level (C-L) is defined as the level to which the vacuum breaker may be submerged before backflow will occur. Where the C-L is not specified on the preventer, the bottom of the device shall be taken as the C-L.

(9) Cross Connection. Any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other which contains water or any substance of unknown or questionable quality whereby there may be flow from one system to the other.

(10) Double Check Valve Assembly. A device consisting of two internally loaded soft seated check valves with positive shut-off valves on both upstream and downstream ends, and equipped with properly located test ports.

(11) Dual Check Valve. A device consisting of two internally loaded soft seated check valves. This device does not contain test ports and is acceptable for use only at the meter of residential customers. Should a dual check valve device be required on any residential customers' system, an approved thermal expansion protection device shall be installed at the same time as the dual check valve device.

(12) Free Water Surface. A water surface at atmospheric pressure.

(13) Flood Level Rim. The edge of the receptacle from which water overflows.

(14) Frost Proof Closet. A hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

(15) KDHE. The Kansas Department of Health and Environment.

(16) Plumbing. The practice, materials, and fixtures used in the installation, maintenance, extension and alteration of all piping fixtures, appliances and appurtenances.

(17) Pollution. The presence of any foreign substance (organic, inorganic, or biological) in water which

tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely affect the water.

(18) Reduced Pressure Zone Backflow Preventer. An assembly of two independently acting soft seated approved check valves together with a hydraulically operating mechanically independent differential pressure relief valve located between the check valves and at the same time below the first check valve. The unit shall contain properly located test cocks and resilient seated shut-off valves at each end of the assembly. To be approved these assemblies must be accessible for inspection and testing and shall be installed in an above ground location where no part of the assembly will be submerged.

(19) Tester. A trained technician certified in the testing and repair of backflow preventers.

(20) Vacuum. Any absolute pressure less than that exerted by the atmosphere.

(21) Vacuum Breaker. A device that permits entrance of air into the water supply distribution line to prevent backsiphonage.

(22) Water, Potable. Water free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its quality shall conform to Kansas Department of Health and Environment requirements for public water supplies.

(23) Water, Non Potable. Water that is not safe for human consumption or that is of questionably potability.

(d) REQUIREMENTS. (1) General. A public potable water supply system shall be designed, installed, and maintained in such a manner as to prevent contamination from non potable sources through cross connections or any piping connection to the system.

(2) Cross Connections Prohibited. Cross connections are prohibited except when and where, as approved by Building Official, suitable backflow preventers are properly installed, tested, and maintained to ensure proper operation on a continuing basis.

(3) Interconnections. Interconnection between two or more public water supplies shall be permitted only with the approval of the Kansas Department of Health and Environment. (K.S.A. 65-163 {a})

(4) Individual Water Supplies. Connections between a private water supply and the public potable water are prohibited. (K.S.A. 65-163 {a})

(5) Connections to Boilers. Potable water connections to boiler feed water systems in which boiler conditioning chemicals are or can be introduced shall be made through an air gap or through a reduced pressure zone principal backflow preventer located in the potable water line before the point where such chemicals may be introduced.

(e) PROHIBITED CONNECTIONS. Connection to the public potable water supply system for the following is prohibited unless properly protected by the appropriate backflow prevention device.

(1) Bidets

(2) Operating, dissection, embalming, and mortuary tables or similar equipment. In such installations, the hose used for water supply shall terminate at least 12 inches away from every point of the table or attachments.

(3) Pumps for non potable water, chemicals, or other substances. Priming connections shall be made through an air gap or an approved reduced pressure zone backflow preventer.

(4) Building drains, sewers, or vent systems.

(5) Commercial buildings or industrial plants manufacturing or otherwise using polluting or contaminating substances.

(6) Any fixture or similar hazard.

(f) REFRIGERATION UNIT CONDENSERS AND COOLING JACKETS. Except when potable water provided for a refrigeration condenser or cooling jacket is entirely outside the piping or tank containing a toxic refrigerant, the inlet connection shall be provided with an approved backflow preventer. Heat exchangers used to heat water for potable use or used for cooling shall be of the double wall type, and shall not discharge back into the potable water supply.

(g) PROTECTIVE DEVICES REQUIRED. The type of protective device required under this ordinance shall be determined by the degree of hazard which exists as follows:

(1) Premises having an auxiliary water supply shall protect the public system by either an approved air gap or an approved reduced pressure principle backflow prevention assembly.

(2) Premises having water or substances which would be non hazardous to the health and well-being of the consumers shall protect the public system with no less than an approved double check valve assembly.

(3) Premises where material dangerous to health is handled in a manner which creates an actual or potential hazard shall protect the public system by an approved air gap or an approved reduced pressure principle backflow prevention assembly.

(4) Premises where cross connections are uncontrolled shall protect the public water supply by installing an approved air gap or an approved reduced pressure principle backflow prevention device at the service connection.

(5) Premises where because of security requirements or other prohibitions it is impossible to complete an in plant cross connection inspection, the public system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly.

(h) PREMISES REQUIRING PROTECTION. Premises which may fall into one or more of the above mentioned categories may be, but are not limited to the following:

(1) Beverage bottling plants
(2) Buildings - Hotels, Apartments, Public or private buildings, or other structures having actual or potential cross connections.
(3) Car wash facilities
(4) Chemical manufacturing, handling, or processing plants.
(5) Chemically contaminated water.
(6) Dairies and cold storage facilities.
(7) Film or photography processing laboratories
(8) Fire systems
(9) Hospitals, Medical Centers, Morgues, Mortuaries, Autopsy facilities, Clinics, or Nursing and Convalescent homes.
(10) Irrigation systems
(11) Laundries
(12) Metal cleaning, processing, or fabricating plants
(13) Oil and gas production, storage, or transmission facilities
(14) Packing or food processing plants.
(15) Paper and paper products plants
(16) Power plants
(17) Radioactive materials plants or handling facilities
(18) Restricted or classified facilities
(19) Rubber plants
(20) Sand, Gravel, or Asphalt plants
(21) Schools or Colleges
(22) Sewage and storm drainage facilities and reclaimed water systems
(23) Solar heating systems
(24) Temporary service - fire hydrants, air valves, blow-offs, and other outlets
(25) Water from marinas.

(i) INSTALLATION. Approved devices shall be installed at all fixtures and equipment where backflow or backsiphonage may occur and where a minimum air gap between potable water outlet and the fixture or equipment flood-level rim cannot be maintained. Backflow and backsiphonage devices of all types shall be in an accessible location. Installation in pits or any other location not properly drained shall be prohibited, except that dual check valves may be installed in the meter box.

(j) CONNECTIONS NOT SUBJECT TO BACK PRESSURE. Where a water connection is not subject to back pressure, a vacuum breaker shall be installed on the discharge side of the last valve on the line serving the fixture or equipment. A list of some conditions requiring protective devices of this kind and the Critical Level (C-L) settings are given as follows:

Fixtures and Equipment	Method of Installation
Aspirators and ejectors	C-L at least 6 inches above flood level of receptacle served.
Dental units	On models without built-in vacuum breakers C-L at least 6 inches above flood level rim of bowl.
Commercial dish washing machine	C-L at least 6 inches above flood level of machine. Installed on both hot and cold water supply lines.
Garbage can cleaning machines	C-L at least 6 inches above flood level of machine. Installed on both hot and cold water supply lines.
Hose Outlets	C-L at least 6 inches above highest point on hose line.
Commercial laundry machines	C-L at least 6 inches above flood level of machine. Installed on both hot and cold water supply lines.

Lawn sprinklers	C-L at least 6 inches above highest sprinkler head or discharge outlet.
Steam tables	C-L at least 6 inches above flood level rim.
Tanks and vats	C-L at least 6 inches above flood level rim or line.
Trough urinals	C-L at least 30 inches above perforated flush pipe.
Flush tanks	Equipment with approved ball cock, installed according to manufacturer's instructions.
Hose bibs	C-L at least 6 inches above flood level of receptacle served.

(k) CONNECTIONS SUBJECT TO BACK PRESSURE. Where a potable water connection is made to a line, fixture, tank, vat, pump, or other equipment with a hazard of backflow or backsiphonage where the water connection is subject to backpressure, and an air gap cannot be installed, the Building Official may require the use of an approved reduced pressure principle backflow preventer. A partial list of such connections subject to back pressure is shown as follows:

(1) Chemical lines
(2) Dock water outlets
(3) Hose bibs
(4) Individual water supplies
(5) Industrial process water lines
(6) Irrigation Systems with Chemical Feed Lines
(7) Pressure tanks
(8) Pumps
(9) Steam Lines
(10) Swimming pools
(11) Tanks and Vats - bottom inlets

(l) BAROMETRIC LOOP. Water connections where an actual or potential backsiphonage hazard exists may, in lieu of devices specified above, be provided with a barometric loop. Barometric loops shall precede the point of connection and shall have no source of back pressure.

(m) DUAL CHECK VALVE. Dual Check valves may be installed at the meter. These valves shall be inspected and repaired not less frequently than every third year.

These valves shall be installed only in situations where the Building Official is assured that only non contaminating substances are subject to backflow into the potable system.

(n) VACUUM BREAKERS. Atmospheric vacuum breakers shall be installed with the critical level at least six inches above the flood rim of the fixture they serve and on the discharge side of the last control valve to the fixture. No shut off valve or faucet shall be installed beyond the atmospheric vacuum breaker.

Pressure vacuum breakers shall be installed with the critical level at least twelve inches above the flood rim but may have control valves down stream from the vacuum breaker. For closed equipment or vessels such as pressure sterilizers, the top of the vessel shall be considered the flood level rim and a check valve shall be installed on the discharge side of the pressure vacuum breaker.

(o) MAINTENANCE AND REPAIR. (1) It shall be the responsibility of building and premise owners to maintain all backflow preventers and vacuum breakers within the building or on the premises in good working order and to make sure no piping or other arrangements have been installed for the purpose of bypassing the backflow devices. Testing and repair of these devices shall be made by qualified technicians. (Qualified technicians are those technicians who have completed a Kansas Department of Health and Environment approved training course and have passed a written examination such as the American Backflow Prevention Association device testers examination.) The Building Official shall certify the device testers after ascertaining the technician meets the above qualifications. The Building Official will also assure the proper installation of all backflow preventers and will set appropriate testing and overhaul schedules for such devices. Testing intervals shall not exceed one (1) year and overhaul intervals shall not exceed five (5) years.

(2) Certified Tester/Repair Technicians. All certified tester/repair technicians shall be re-certified at not less than three year intervals. Persons certified as tester/repair technicians at the time of the adoption of this ordinance shall continue to be certified for a period of not more than three (3) years as determined by the Building Official.

(p) ADMINISTRATIVE. (1) Surveys and Investigations. It shall be the duty of the Building Official to cause surveys and investigations to be made of all properties served by the city water system where private, auxiliary or emergency water supplies other

than the city water system are known to exist or where such supplies are likely to exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the Building Official shall deem necessary.

(2) Right of entry, information. The Building Official or this agent shall have the right to enter, at any reasonable time, any property served by a connection to the city water system for the purpose of inspecting the piping system or systems thereof. On demand, the owner or occupants of any property so served shall furnish to the Building Official such information as he or she may request regarding the piping system or systems and any private, auxiliary or emergency water supply used or useful on such property. The refusal of the owner or occupant of such property to supply such information shall be prima facie evidence of the presence of improper connections which are subject to this article.

(3) Discontinuance of service authorized. The City is hereby authorized and directed to discontinue water service to any property whereon any connection in violation of the provisions of this article is known to exist or is believed to exist by virtue of the provisions of Section 15-406(p)(1), and to take such other precautionary measures as he or she may deem necessary to eliminate the danger of contamination of the City water system. Water service to such property shall not be restored until such connection or connections shall have been eliminated and corrected in compliance with the provisions of this article and the established charge for a reconnection paid by the person desiring water service.

(4) Emergency Discontinuations; Notice. When the danger of contamination to the city water system appears eminent, no notice shall be required prior to discontinuance of water service. In all other cases, service shall be disconnected following twenty-four hours notice in writing.

(5) Fire Suppression Systems. (A) All new

installations of automatic fire suppression systems of 15 heads or more or having a fire department connection shall be protected from backflow with an approved check valve assembly. Any fire suppression system into which chemicals of any type (corrosion, anti-freeze, etc.) can be added shall be protected at the service connection with an approved reduced pressure zone backflow preventer. In lieu of such protection, an anti-freeze loop may be individually protected with an approved reduced pressure zone backflow preventer, in

addition to proper service line protection.

(B) All existing fire suppression systems shall be retrofitted by licensed plumbing contractors within five (5) years of the passage of this article to meet the requirements provided herein.

(q) PENALTIES FOR VIOLATIONS. Any violation of any provision of this ordinance, rules, regulations, and permits issued hereunder shall be deemed to be a misdemeanor.

(1) Each day a violation is allowed to continue or exist shall be deemed to be a separate offense.

(2) Misdemeanor, as defined herein, shall be punishable by imprisonment not exceeding one (1) year, or by fine not less than $100.00 or both such fine and imprisonment, for each separate offense.

(3) In addition to penalties provided herein, the City may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit at law against the violator(s).

15-407. **WATER EMERGENCY.** (a) PURPOSE. The purpose of this section is to provide for the declaration of a water supply emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such emergency is declared.

(b) DEFINITIONS. For the purpose of this article, the following words shall be considered to have the following meanings:

(1) "Water", as the term is used in this article, shall mean water available to the City of Dodge City for treatment by virtue of its water rights or any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.

(2) "Customer", as the term is used in this article, shall mean the customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(3) "Waste of water", as the term is used in this article, includes, but is not limited to (1) permitting water to escape down a gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.

CLASS 1: Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational area; or the washing of motor

vehicles, boats, trailers, or the exterior of any building or structure.

CLASS 2: Water used for any commercial or industrial, including agricultural, purposes: except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

CLASS 3: Domestic usage, other than that which would be included in either Classes 1 or 2.

CLASS 4: Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

(c) DECLARATION OF A WATER EMERGENCY. Whenever the Governing Body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will encourage voluntary water conservation or impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper.

(d) VOLUNTARY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in Section 15-407(c), the City Manager is authorized to call on all water consumers to employ voluntary water measures to limit or eliminate nonessential water uses including, but not limited to, limitation on the following uses:

(1) Sprinkling of water on lawns, shrubs or trees (including golf courses served by the city).
(2) Washing of automobiles.
(3) Use of water in swimming pools, fountains and evaporative air conditioning systems.
(4) Waste of water.

(e) MANDATORY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in Section 15-407(c), the City Manager is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

(1) Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;

(2) Restrictions on the uses of water in one or more classes of water use, wholly or in part;

(3) Restrictions on the sales of water at coin-operated facilities or sites;

(4) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;

(5) Complete or partial bans on the waste of water; and;

(6) Any combination of the foregoing measures.

(f) EMERGENCY WATER RATES. Upon the declaration of a water supply emergency as provided in Section 15-407(c), the governing body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to: (1) higher charges for increasing usage per unit of use (increasing block rates); (2) uniform charges for water usage per unit of use (uniform unit rate); or (3) extra charges in excess of a specified level of water use (excess demand surcharge).

(g) REGULATIONS. During the effective period of any water supply emergency as provided for in Section 15-407(c), the City Manager is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the Governing Body at its next regular or special meeting.

(h) VIOLATIONS, DISCONNECTIONS AND PENALTIES. (1) If the Mayor, City Manager, Director of Public Works, Utility Superintendent, or other city official or officials charged with implementation and enforcement of this article or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to Sections 15-407(e) or 15-407(g) of this article, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the City may terminate water service to the customer subject to the following procedures:

(A) The City shall give the customer notice by mail or actual notice that water service will be discontinued with a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City Hearings Officer, as designated by the City Manager.

(B) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; unless there is a significant misappropriation of water occurring, such as a substantial leak in the service line leading up to the property of the customer or a similar situation.

(2) A fee of $50 shall be paid for the reconnection of any water service terminated pursuant to Section 15-407(h)(1). In the event of subsequent violations, the reconnection fee shall be $200 for the second violation and $300 for any additional violations.

(3) Violation of this ordinance shall be a municipal offense and may be prosecuted in Municipal Court. Any person so charged and found guilty in Municipal Court of violating the provisions of this ordinance shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of $100. In addition, such customer may be required by the Court to serve a definite term of confinement in the city or county jail which shall be fixed by the Court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be mandatory fine of $200. In addition, such customer shall serve a definite term of confinement in the city or county jail which shall be fixed by the Court and which shall not exceed 30 days.

(i) EMERGENCY TERMINATION. Nothing in this article shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public.

ARTICLE 5. SOLID WASTE COLLECTION AND DISPOSAL

15-500. SOLID WASTE, GENERAL.

(a) This Article shall govern solid waste and the collection and disposal of solid wastes, whether such

service is provided by the City or by private collector's licensed by the City.

(b) To protect the health, safety, and welfare of the people of Dodge City, all owners and/or occupants of residences or businesses shall have solid waste collection service, whether such service is provided by the City, by a private collector, or by other means approved by the City.

(c) It shall be unlawful for the owner and/or

occupant of any dwelling unit, apartment house, or business to dispose of their solid wastes by placing such wastes in a publicly or privately owned container, bin, or other receptacle without receiving the express approval of the owner or such container, bin or receptacle. It shall be unlawful to bring any sold waste material into the city from outside the city, or to transport solid waste from one property to another within the city. for the purpose of collection and removal.

(d) It shall be unlawful to accumulate or burn any solid waste or recyclable material on any land whether privately or publicly owned anywhere in the city, except as provided by other City Ordinances. All solid waste shall be collected and removed in accordance with the provisions of this chapter. An existing accumulation of solid waste shall be removed within two days after actual notice by the City to do so.

(e) No person shall bury any debris or materials which are subject to decomposition or erosion or that encourage the presence of termites, insects or vermin anywhere within the city other than in an authorized dumping area. Debris and materials shall include, but not be limited to, trees or parts thereof, brush, roofing materials, plaster products, lumber, automobile parts and bodies, any waste which may accumulate as a result of construction or manufacturing processes wood and paper boxes, wrapping materials, wastes, and paper products.

(f) Unless otherwise permitted by the City of Dodge City, all residential buildings or portion of buildings used or intended to be used as residential units not being served by a private collector on or before May 4, 1984, shall have solid waste collection services provided by the City of Dodge City. The City shall service residences in areas annexed to the City within one year of annexation. Determination of whether an account is residential or business shall be the decision of the Director of Public Works of the City.

(g) Unless otherwise agreed between the City and private collector(s), the City will not provide collection to business or industrial accounts.

(h) It shall be unlawful for any person to enter a dumpster or polykart for any reason unless the person doing so is the user of the dumpster or has been authorized to do so by the Sanitation Foreman. Solid waste shall become the property of the City when placed by the consumer for collection in an approved container provided by the City of Dodge City.

15-501. DEFINITIONS. For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them:

AUTHORIZED private solid waste hauler shall mean any person duly qualified and operating under a license issued by the City in accordance with the provisions of this article or the licensee's duly authorized representative.

BIN, CART, DUMPSTER, KART OR POLYKART means any container that is owned by the City or licensed trash provider and provided to the customer for the collection and removal of garbage.

BUSINESS shall mean any building or portion thereof which does not fall under the definition of residential.

CREW means Community Recycling Environmental Waste. This Division is responsible for all recycling efforts for the City of Dodge City.

CONSTRUCTION DEBRIS means discarded building materials and rubble including but not limited to earth, cement, brick, wire, cans, flooring material, lumber, plaster, roofing materials and any other waste resulting from construction, remodeling, repair or demolition of any structure or payment.

CUSTOMER shall mean the utility service account holder of record.

PERSON shall mean natural persons and all corporations, partnerships, associations and all other types and kinds of organizations and entities, without limitations.

RESIDENTIAL shall mean any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied as a home, and/or sleeping place. This shall include, but not be limited to single-family homes, apartments, duplexes, boarding houses. For the purpose of this definition, hotels and motels are not considered to be residential.

(1) Dwellings shall include all single family dwellings and duplexes or two-family dwellings.

(2) Apartments shall be all residential buildings, except hotels and motels, having three or more separate living units.

(i) SOLID WASTE shall mean garbage, refuse and trash as defined herein as:

(a) Brush shall mean small quantities of tree trimmings or branches that can be loaded manually by a single person. Large accumulation or branches too large for manual pickup will be considered bulky material.

(b) Bulky Material means refuse in quantities exceeding those normally collected and may include such items as rocks, bricks, concrete and other building materials, furniture, fixtures, plumbing, plastic, and metal objects, appliances, white goods and tree limbs.

(c) Garbage means any waste accumulation of animal, fruit or vegetable matter used or intended for food and any waste, which accompanies the preparation, handling or storage of food. Animal carcasses or animal parts resulting from butchering or rendering shall not be considered garbage.

(d) Hazardous Material shall include items such as lead batteries, waste oil, paint, pesticides, fertilizers and other items that may be dispose of at the county's household Hazardous waste facility.

(e) Household Trash means all solid waste such that would fit into a 30 gallon type trash bag emanating from a residence, excluding garbage, metal goods, construction debris, yard trash, hazardous materials, brush, bulky materials, appliances and white goods.

(f) Metal goods means discarded equipment, furnishings and building supplies made primarily of a metallic substance such as aluminum, iron, steel and copper. Appliances such as stoves, refrigerators, washing machines and dryers shall be considered white goods material.

(g) Recyclable material means glass, plastic, metal and paper waste generated by either a household or business that is capable of being recycled by the City of Dodge City and is on Crew's list of acceptable material.

(h) White goods means appliances such as stoves, refrigerators, dishwashers, washing machines and dryers.

(i) Yard waste shall mean grass clippings, leaves, weeds and garden waste which can be composted.

(j) Solid wastes as used herin shall not include earth and wastes from building construction or remodeling operations, rocks, concrete, solid dry wastes resulting from industrial or manufacturing processes or operations, tires, ashes, hazardous waste medical waste or other materials that cannot be disposed of at the Ford County Landfill.

15-502. ENFORCEMENT AND PENALTY

It shall be unlawful for any person to fail, neglect or refuse to comply with and abide by each provision of this chapter or any lawful order of the supervisor/code enforcer. The performance on each day of any prohibited act or practice, or the failure to perform on each day any required act or practices, shall constitute a separate offense and shall be punishable as such.

15-503. RATES FOR SOLID WASTE SERVICE

Rates for collection of solid waste for all residents of the City shall be set by resolution and published one time in the official city newspaper.

(a) Special fees. In addition to the base rates provided, there shall be an additional charge in those cases where the Sanitation Department personnel must collect any type of solid waste at a location other than an alley, curb, or other normal solid waste vehicle collection point. Sanitation department personnel shall not collect solid waste located more than 80 feet from a normal vehicle collection point (without imposing a special handling fee.)

(b) Special Handling. Special handling costs, as determined by the Director of Public Works and approved by the Governing Body, shall be charged to those customers for whom the Solid Waste Collection personnel must spend extra time, use special equipment or where special conditions warrant the imposition of special handling fees to cover the costs of collecting and disposing of large accumulations of demolition debris, large amounts of tree trimmings by one or more owner or residents, and similar circumstances.

(c) Where the use of City-owned containers causes unusual wear or damage to the containers, a special fee based on an accelerated depreciation shall be levied against such user to ensure adequate funds for maintenance and replacement of such containers.

(d) The Director of Public Works shall determine the rates to be charged for any special conditions not included in the above rates.

15-504. OCCUPANT AND OWNER RESPONSIBLE FOR COMPLIANCE

The occupant and the owner of real property served with solid waste removal by the City or by other approved private solid waste collectors are jointly and individually responsible for compliance with the provisions of this chapter. Consumers shall correct all violations within 24 hours of notification by the City. If an inspection reveals that a violation continues beyond 24 hours, the City shall take such action as is necessary to abate the violation including code enforcement proceedings and prosecution.

15-504.1. DUTY OF BUSINESS OWNERS, OCCUPANTS

Generally. The owner or occupant of any store or other place of business situated within the city shall exercise reasonable diligence at all times to keep his or her premises clean of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials thrown or left on the premises by its customers, and to take reasonable measures to prevent the same drifting or blowing to adjoining premises.

Receptacles. Receptacles of sufficient size and number shall be placed on the premises accessible to the customers of such business where the above referred to articles of waste may be disposed of.

Signs. Each and every business establishment shall place upon its premises in a conspicuous place or places in close proximity to the receptacle or receptacles above referred to, a sign or signs which shall, in essence, convey to its customers a request that they use such receptacles for the disposal of waste material.

Level of Service. The owner or his agent of every mobile home park, multiple family dwelling, business establishment, industrial concern and all residential buildings shall subscribe to and utilize the services of either the City solid waste collection service or that of a private collector as described herein above.

(a) Such service shall include the use of a publicly or privately owned container, bin, or other approved receptacle.

(b) In the case of mobile home parks and multiple family dwellings, the owner or his agent shall provide a minimum of 0.75 cubic yard capacity for each mobile home space in the park or each living unit in the multiple family dwelling, located not more that 150 feet from each and every unit in the park or dwelling unless permitted otherwise by the city.

(c) No owner of any mobile home park or multiple family dwelling or any business or industrial concern shall allow old furniture, appliances, beds, boxes or other material to accumulate or to deposit such material on or about his premises or on any public way without having first made arrangements for the collection service to pick up and dispose of such material. Pick up arrangements may include the payment of appropriate fees.

15-504.2 SAME; DUTY OF CUSTOMERS

It shall be unlawful for any customer going upon the premises of another to in any manner dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials except in receptacles provided for such purposes.

15-504.3 SAME; LITTERING PROHIBITED.

It shall be unlawful for any person to throw, drop, place, cast, deposit or leave or cause to be thrown, dropped, placed, cast, deposited or left upon any public street, alley, sidewalk, park, thoroughfare or public place or upon any yard, lot or premises, either public or private, any filth of any kind, dirt, cans, trash, paper, containers, rubbish, bottles, wood shavings or debris, brush, tree trimmings, dung, excrement, compost manure, ashes or litter of any kind.

15-504.4 SAME; ACCUMULATION, COLLECTION, GENERALLY.

(a) The emptying or disposing of any garbage, trash, refuse or rubbish, or the accumulation of any such matters, in any place within the city is hereby prohibited, and no one except the duly authorized agents and employees of the city shall collect garbage and refuse or empty cans containing garbage or refuse substances, or convey or transport garbage or refuse substances on the streets, alleys and public thoroughfares of the city, except as otherwise expressly provided hereinbelow in Section 15-509 of this Article.

(b) DISPOSITION OF HEAVY ACCUMULATIONS. Heavy accumulations, such as brick, broken concrete, lumber, ashes, dirt and plaster, sand or gravel, automobile frames and parts, dead trees, and other bulky, heavy material, shall be disposed of at the expense of the owner or person controlling same under the supervision of the City.

(c) DISPOSITION OF WHOLESALE ACCUMULATIONS. Places of wholesale accumulations, such as killing and dressing plants for fowl, wholesale fruit and vegetable houses, where the daily accumulation of kitchen garbage, trash and rubbish is more than the ordinary quantities, shall make special

arrangements with the person furnishing solid waste collection for commercial and industrial firms. Such collections shall be subject to review by the Director of Public Works, and if the frequency of collection is found to be inadequate, the Director shall have the authority to direct the owner or operator of the business to have additional containers added and/or the collections made more frequently as the case may be.

(d) DISPOSITION OF CERTAIN WASTES. Manure from cow lots, horse stables, poultry yards, pigeon lofts, and waste oils from garages or filling stations shall be disposed of at the expense of the party responsible for same under the direction of the Director of Public Works.

15-506. BURNING PROHIBITED.

No garbage, trash or refuse shall be burned in the streets and alleys of the city under any circumstances, and no garbage, trash or refuse shall be burned on private property except by permission of the Fire Department in burners approved by the City.

15-507. PREPARATION AND DISPOSAL OF GARBAGE FOR RESIDENTIAL CUSTOMERS.

Household trash and garbage shall be drained of all fluid and placed in bags for collection. Bags shall be airtight, securely tied and placed in the approved kart(s) or dumpster(s) for collection. Garbage must be placed in the karts or dumpsters for collection and removal by the City provider. When placed in a kart for collection, the kart and contents shall not weigh more that 150 pounds. Only approved containers that are provided by the City are to be used for the disposal of garbage. The kart is to be rolled out to the curbside by 7:00 a.m. on the morning of the collection day. The kart should not be placed upon any street or sidewalk nor within five feet of any wall, fence, guy wire, vehicle or other obstruction so as to impede collection.
The kart must be rolled back to the house and not left out on the curbside on days other than the day of pickup.
The lid shall be secured at all times. The resident is responsible to keep the kart clean.
The kart is not to be used for rocks, hot coals or ashes, heavy building materials, tree limbs, dirt, sod or hazardous materials.
Pet waste must be tagged.
Solid waste shall not be placed in the alleys.
Solid waste shall not be placed on or around the dumpster.
White goods, brush, yard waste, furniture, tires, ect. Shall not be placed in either the kart or dumpster.
Those residence that are furnished a kart may reserve an additional kart should they not be able to contain their

garbage in one kart. There will be an additional charge for each kart required.
Residents that are provided a kart are responsible to pay the city for any kart that is lost.
Residents shall not take the kart to another address when moving without making arrangements with the Public Works Department.

PREPARATION OF YARD WASTE

Yard waste shall not be placed for collection with garbage or household trash. Yard waste shall be placed for collection at the front of the property producing the yard trash but not upon a street or sidewalk, nor within five feet of a fence, guy wire, vehicle or other obstruction that might impede collection.
The City shall provide a grass kart for use by each resident that wishes to pay for this service.
Grass karts can be distinguished from the karts provided for Garbage pickup by the blue lid.
Grass karts must be rented for a minimum of three months.
Grass karts will be emptied weekly.
Grass karts must be placed at the curb on the morning of the scheduled collection by 7:00 a.m. and must not be left at the
In lieu of the grass kart, residents may place bags of yard waste at the curb for pickup. An additional fee as established by resolution will be charged and added to the residents' monthly bill.
The bags of yard waste shall not exceed 40 pounds.
Residents may haul their own yard waste to the landfill.
The resident will be responsible to pay any tipping fees associated with the disposal of the yard waste.

PREPARATION OF BRUSH/LUMBER

Service is provided for small quantities of brush and lumber that can be picked up easily by an individual sanitation worker.
All brush and lumber shall be separated from other items and placed by the street for weekly pickup.
all brush and lumber must be cut to lengths of 4-6 feet to be considered a small quantity.
Large amounts of brush that cannot be picked up easily by an

individual sanitation worker will require the use of special equipment and must be scheduled by calling the Public Works Department with a possible additional charge.
Brush and lumber must be separated from all other solid waste.
Any commingled waste will be considered a special pickup and a fee may be assessed.
Any brush or lumber placed in the alley will be considered a violation of this code and may result in a fine or special handling fee.

PREPARATION OF METAL GOODS, WHITE GOODS AND OTHER BULKY ITEMS

Metal goods, white goods and bulky items are collected by special equipment and must be scheduled by calling the Public Works Department. All metal and white goods shall be separated from all other solid waste. Bulky items should also be separated from all other solid waste. Any commingled items will be considered a special pickup and a fee may be assessed.

Refrigerators, freezers and air conditioners require special handling and must be scheduled for pickup by calling the Public Works Department. All metal and white goods and other bulky items shall be placed for collection at the front of the property. Items placed for disposal shall not be placed more than two days in advance of the pickup unless prior arrangements have been made with the Public Works Department. Any metal, white goods, bulky items, refrigerators, freezers, heaters or air conditioners placed in the alley will be considered a violation of this code and may result in a fine and/or special handling fee.

Fees for disposal of metal and white goods are determined by a separate resolution and shall be approved annually by the City Commission.

SPECIAL PICKUPS

Special pickups of solid waste including household trash, metal goods, white goods, bulky items and tires shall be made in accordance with this chapter and as determined by the Public Works Director or his designee. Large and heavy accumulations associated with an owner or renter moving out shall be considered a special pickup. Accumulation of more than three items will be considered as bulky items and will be subject to a special handling fee as set forth by resolution. The Public Works Director or his designee shall establish any fee not described in the fee resolution of the City Commission based upon actual City costs of collection and disposal of the solid waste.

Solid waste that is generated as the result of a code violation notice or citation shall be the responsibility of the owner/occupant to dispose of. Failure of the owner/occupant to dispose of the solid waste will be considered a separate violation. Any cost associated with the removal of Solid Waste by the City of Dodge City will be billed to the owner/occupant of the property.

CONSTRUCTION DEBRIS AND YARD WASTE AND BRUSH GENERATED BY A LANDSCAPING BUSINESS

Landscaping businesses, such as tree trimmers, tree surgeons and yard and lawn services shall remove yard waste created by their work. The consumer shall be responsible to pay the costs of yard waste collection by the City for yard trash

created by a landscape business.

15-508. MINIMUM STANDARDS FOR TRANSPORTATION OF SOLID WASTE.

The following minimum standards and requirements are hereby established for the sanitary transportation of solid waste:

(a) Every vehicle used for the transportation of solid waste shall display a valid unrevoked permit, issued by the City to transport solid waste, unless exempted in accordance with the provisions of this article.

(b) Every vehicle shall be provided with a means of covering the solid waste to be hauled and of keeping the contents securely contained. Covers shall be of metal, wood, or canvas providing that the contents of the body are securely held.

(c) Every vehicle shall be kept well painted, clean and in good repair.

(d) Every vehicle shall be cleaned as often as may be necessary to prevent odors and attraction of flies and Vermin.

(e) The vehicle licensed under the provisions of this article shall carry an identifying sign on each side and the rear thereof in letters not less than two inches in height and one inch in width, which shall be clearly legible and shall include the name under which the vehicle is licensed.

(f) No vehicle shall be loaded with solid waste in any manner which will permit the material to fall from the vehicle while the same is in motion. All solid waste materials being transported shall be adequately secured against any wind dispersal, jiggling or jarring which might allow such material to fall from the vehicle.

(g) Any vehicle used for the transportation of or containers holding undrained garbage, swill or offal shall be constructed and maintained so as to prevent splash, spillage, drippage or leakage of liquid from the vehicle.

15-509. DISPOSITION OF TRASH OR REFUSE. All licensees shall only deliver solid waste to areas designated or approved by the City or the State Department of Health and Environment and shall not dispose of any solid waste by depositing or dumping the same in or upon any street,avenue, boulevard, alley, park or public grounds, or along the banks of any river, stream, drainage, canal, drainage ditch or natural water course within or without the City limits or in any unlicensed privately owned disposal area except as may be

directed in areas designated by the City or the State Department of Health and Environment.

15-510. REGULATION OF PRIVATE SOLID WASTE COLLECTORS:

(a) LICENSE REQUIRED; EXCEPTIONS. It shall be unlawful for any person to collect, transport, or haul on any streets or alleys in the City or to dispose in any manner of any refuse accumulated in the City without first having obtained a private trash hauler's license in accordance with the terms of this article. Provided, this section shall not apply with the following:

(1) The sanitation department or other departments of the City.
(2) Any and all governmental agencies
(3) Persons who collect and transport refuse produced on premises owned or occupied by the person.
(4) Builders, wrecking or demolition contractor or other persons engaged in construction or similar occupations.
(5) Persons, firms, or corporations engaged in occupations known as tree trimmers or tree surgeons, agriculture, arboriculture, horticulture, gardening, lawn care, landscaping, nursery work or similar occupations.
(6) Provided, however, that such persons are not required to obtain a license under the provisions of this article shall comply with all other provisions of this article regulating the transportation of solid waste over and upon the streets and alleys of the City.

(b) PRIVATE SOLID WASTE COLLECTORS shall have the capability of providing a complete solid waste collection service to businesses. Complete service shall mean adequate numbers of staff, trucks, containers and related equipment to provide the service required by each customer without solid wastes accumulating in objectionable quantities. Complete service shall also include office and facilities to provide maintenance of collection vehicles, and equipment to provide backup service in the event of breakdowns, delays because of inclement weather, closure of the landfill or other reasons so that solid wastes do not accumulate in objectionable quantities. (ORD. 3365)

(c) SAME; LICENSE FEES. Effective January 1, 1985, License Fees for Private Collectors shall be set by Resolution of the City Commission but in no case shall such fee be less than 5% of the gross revenue derived from the sale of solid waste collection service within the corporate limits of the City as they exist from time to time. Such license fee shall be paid to the city each calendar quarter

on the tenth business day after the first days of January, March, July, and October of each year.

(d) ADJUSTMENT. The amount of such license fee based on gross revenue may be changed by Resolution of the City Commission at any time, provided that such resolution shall be passed 30 days in advance of its effective date. Following its passage, the licensee shall be advised of the change by the City. Such change in percentage shall be effective with the next billing date following the effective date of said resolution. The City shall also publish a public announcement of the fee to be imposed in a newspaper of general circulation in the City.

(e) COLLECTOR'S RECORDS. The Collector shall provide at the time of payment a signed statement indicating the gross receipts based on charges within the corporate limits within the City of Dodge City. The City shall have the right to request any necessary records from the Collector to substantiate those receipts if it deems necessary. For the purpose of determining whether or not each and every residential or business account is paying the required service fee, the City shall also have the right to request and receive, after giving reasonable notice, names and addresses of all customers serviced by Private Collectors.

(f) INSURANCE COVERAGE. Insurance coverage for Private Collectors shall be issued by a company authorized to do business in Kansas and shall provide liability insurance in the aggregate of not less than the maximum liability of a government for claims arising out of a single occurrence as provided by the Kansas Tort Claims Act or other similar future law, said maximum limit now established at $500,000. A certificate of insurance shall be furnished to the City Clerk and said certificate or endorsement thereto shall contain a provision that the issuer will not cancel or terminate the policy as filed with the City Clerk without giving of not less than 30 days notice of its intention to cancel or terminate to the City Clerk for and on behalf of the City of Dodge City.

(g) PRORATION OR REFUNDING OF LICENSE FEE. No license shall be issued for less than the annual fee provided for by this article and no portion of the license fee shall be prorated or refunded.

(h) COLLECTION OF LICENSE FEES. The City Clerk shall collect all license fees and deposit the same to the Sanitation Fund.

(i) INDEMNIFICATION OF THE CITY. Private Collectors shall, at all times, protect and hold the City harmless from all claims, action, suits, liability, loss,

expense or damages of every kind and description, including investigation costs, court costs, and reasonable attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of said Private Collector in the ownership, maintenance, and operation of said solid waste collection business, and by reason of any license, property right or system used in the operation of said business, providing the City gives the Private Collector(s) prompt notice of any such claims, actions and suits, without limitation, in writing.

(j) LOCATION OF EQUIPMENT. The location of waste containers and the duration of use at such location shall be approved in advance by the City's Public Works Director. Containers shall be placed on private property and shall not interfere with the solid waste removal services provided by the City. The City shall have the right to , if necessary, direct the location of collection equipment, i.e. containers, ect.if those items cause a problem with regard to engress or egress to and from properties or other collection or operational activities of the City or other utility.

(k) MAXIMUM SERVICE FEES. Maximum service fees charged by the collector shall be filed with the City of Dodge City at times of annual licensing or other times that fees are adjusted for the various levels of service provided by the collector. If the City determines that it does not believe the rates filed are reasonable, it may request financial information from the private collector, justifying the reason for the rate level.

(l) REVOCATION OF LICENSE. Any license issued by virtue of the provisions of this article may be revoked by the Governing Body upon conviction of the licensee of the violation of any of the provisions of this article, the Code of the City, or the laws of the State of Kansas pertaining to the operation of a motor vehicle, or the transportation and disposal of solid waste.

15-511. RATES FOR COLLECTION OF SOLID WASTE. Rates for collection of solid waste for all residents of the city shall be set by resolution and published one time in the official city newspaper.

(a) SPECIAL FEES IN ADDITION TO THE BASE RATES PROVIDED. There shall be an additional Charge in those cases where the Sanitation Department personnel must collect any type of solid waste at a location other than an alley, curb, or other normal solid waste vehicle collection point. Sanitation Department personnel shall not collect solid waste located more than 80 feet from a normal vehicle collection point.

(b) SPECIAL HANDLING. Special handling costs, as determined by the Director of Public Works and approved by the Governing Body, shall be charged to those customers for whom the Solid Waste Collection personnel must spend extra time, use special equipment or where special conditions warrant the imposition of special handling fees to cover the costs of collecting and disposing of large accumulations of demolition debris, large amounts of tree trimmings by one or more owner or residents, and similar circumstances.

(1) Where the use of City-owned containers causes unusual wear or damage to the containers, a special fee based on an accelerated depreciation shall be levied against such user to ensure adequate funds for maintenance and replace of such containers.

(2) Any special conditions not included in the above rates shall be determined by the Director of Public Works.

(c) SAME; HOME OCCUPATIONS. Home occupations shall pay both a monthly charge for the home and an added monthly charge for the home occupation or business. (Ord. No. 2997) (Ord.No. 3365)

ARTICLE 6. STORM WATER UTILITY

15-601. **DEFINITIONS.** In addition to the words, terms and phrases elsewhere defined in this Chapter, the following words, terms and phrases as used in this Chapter shall have the following meanings:

A. "BONDS" - means revenue or general obligation bonds or notes heretofore or hereafter issued to finance the costs of improvements.

B. "COSTS OF CAPITAL IMPROVEMENTS" - means costs incurred in providing capital improvements to the storm water management system or any portion thereof, including professional services and studies connected thereto, payment of principal and interest on bonds, heretofore or hereafter issued, including payment of delinquencies of principal and interest due on bonds that are not otherwise payable from special assessments; studies related to the operation of the system; and the costs of any studies performed heretofore in relation to the establishment of the storm utility and other start-up costs of the Storm Water Utility.

C. "DEBT SERVICE" - means an amount equal to the sum of:

(i) all interest payable on bonds during a fiscal year, plus

(ii) any principal installments payable on such bonds during such fiscal year.

D. "DWELLING UNIT" - means a single structure used as permanent housing for a single family.

E. "DEVELOPED PROPERTY" - means real property other than undeveloped property.

F. "DRAINAGE FEE" - or "DRAINAGE FEES" - means a monetary fee authorized by resolution of the City Commission, which may be amended from time to time by the Commission, that has been established to pay operation and maintenance, extension and replacement, costs of capital improvements, and debt service associated with the storm water management system.

G. "EXEMPT PROPERTY" - means public right-of-way, public streets, public alleys, public sidewalks, and other property as may be exempted from time to time by Storm Water Appeal Board; it also means public property upon which publicly owned and maintained storm drainage facilities are constructed.

H. "EXTENSION AND REPLACEMENT" - means costs of extension, addition and capital improvements to, or the renewal and replacement of capital units of, or purchasing and installing of equipment for, the storm water management system, or land acquisition for the storm water management system and any related costs thereto, or paying extraordinary maintenance and repairs, including the costs of capital improvement or other expenses that are not costs of operation and maintenance or debt service.

I. "COMMERCIAL AND INDUSTRIAL DEVELOPED PROPERTY" - means developed property other than residential developed property and includes multi-family residential developed property for three family units or more.

J. "OPERATION AND MAINTENANCE" - means without limitation the current expenses, paid or accrued, of operation, maintenance, and current repair of the system, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, equipment costs, labor coasts, and the cost of materials and supplies used for current operations.

K. "RESIDENTIAL DEVELOPED PROPERTY" - means developed property used for a single family dwelling unit or two family duplexes.

L. "REVENUES" - means all notes, fees, assessments, rents, or other charges of income received by the Storm Water Utility in connection with the management and operation of the Storm Water Utility system, including amounts received from the investment or deposit of monies in an fund or account, and bond revenues.

M. "STORM WATER MANAGEMENT SYSTEM", "SEWER SYSTEM", or "SYSTEM" - means storm sewers and related facilities that exist at the time of the adoption of this ordinance or that are hereafter established and all appurtenances necessary in the maintaining and operating of the same, including, but not limited to, pumping stations, lateral sewers, main sewers, interceptor, sewers, out-fall sewers, drain channels, rivers, streams, and other flood control facilities and works for the collection, transportation, pumping, treatment, and disposing of storm or surface water.

N. "STORM WATER UTILITY" or "UTILITY" - means the utility created by this ordinance to operate, maintain, and improve the storm water management system, and for such other purposes as are set forth in this ordinance.

O. "UNDEVELOPED PROPERTY" - means real property which has not been altered from its natural condition in a manner which disturbs or alters the topography or soil on the property to the degree that the entrance of water into the soil mantle is prevented or retarded.

15-602. **CREATION OF STORM WATER UTILITY.** In order to protect life and property throughout the City from the hazards and potential damage form storm water runoff, there is hereby established a Storm Water Utility and Management System,the purpose of which is to assist the City of Dodge City in its responsibility for the operation, construction, maintenance, and repair of storm water drainage system facilities to provide adequate systems of collection, conveyance, detention, treatment, and release of storm water.

15-603. **PROGRAM RESPONSIBILITY.** The City Manager shall be empowered to administer the Storm Water Utility and Management System may delegate such duty and responsibility as is necessary to carry out the provisions of this ordinance within the limits of the budget, directives, and storm drainage regulations adopted by the City Commission for this utility. The City Manager or his designee shall have the following responsibilities:

(a) To develop a plan for construction, operation, reconstruction, repair and maintenance of the various facilities that make up the City's storm drainage and sewer system including but not limited to curbs and gutters, storm drain inlets, storm drainpipes, ditches, culverts, canals, detention basins, berms and levees;

(b) To develop a recommended five (5) year capital improvement plan for needed improvements to existing facilities and/or development of new facilities;

(c) To carry out a program of work directives, and resolutions as adopted by the City Commission;

(d) To enforce all regulations pertaining to storm water including the retention of or discharge from private property;

(e) Review private systems as necessary to determine the compliance of such systems with this Chapter;

(f) Advise the Mayor, City Commission, and staff on matters relating to this utility;

(g) Prepare and review a comprehensive drainage plan for the City of Dodge City;

(h) Review plans and approve, deny, inspect, and accept extensions and connections to the system;

(i) To analyze the costs of services and benefits provided and to recommend fees, charges, fines, and other revenues of the Storm Water Utility.

15-604. **OPERATING BUDGET.** The City shall adopt an operating budget for each fiscal year for said Storm Water Utility. The operating budget shall set forth for each fiscal year the estimated revenues and the estimated costs for operation and maintenance, extension, replacement, and debt service. The initial operating budget shall be for the fiscal year commencing January 1, 1996.

15-605. **DRAINAGE UNIT ASSESSMENT.** (a) There is hereby established for each and every residential developed property, and commercial and industrial developed property within the City, other than property declared exempt by the provisions of this Chapter, a drainage assessment. Such drainage assessment shall be established based on the following formula:

(i) Drainage Assessment for Residential Developed Property: All residential developed property shall be assessed one drainage unit.

(ii) Drainage Assessment for Commercial and Industrial Developed Property: All such property shall be assessed drainage units based on the following Table:

BUILDING SITE AREA	DRAINAGE UNITS
Less than 20,000 SF	2.50
20,000 to 39,999 SF	3.40
40,000 to 59,999 SF	6.80
60,000 to 79,999 SF	10.20
80,000 to 99,999 SF	13.60
100,000 to 119,999 SF	17.00
120,000 to 139,999 SF	20.40

140,000 to 159,999 SF	23.80
160,000 to 179,999 SF	27.30
180,000 to 199,999 SF	30.70
200,000 to 219,999 SF	34.10
220,000 to 239,999 SF	37.50
240,000 to 259,999 SF	40.90
260,000 to 279,000 SF	44.30
280,000 to 299,999 SF	47.70
300,000 to 319,999 SF	51.10
320,000 to 339,000 SF	54.50
340,000 to 359,999 SF	57.90
360,000 to 379,999 SF	61.30
380,000 to 399,999 SF	64.80
400,000 to 419,999 SF	68.20
420,000 to 439,999 SF	71.60
440,000 to 459,999 SF	75.00
460,000 to 479,999 SF	78.40
480,000 to 499,999 SF	81.80
500,000 SF and Greater	85.20

The drainage unit rate for commercial and industrial property is proportional to the runoff volume generated from such property compared to the typical residential lot. A runoff coefficient of 0.60 was used. For commercial and industrial property with 120,000 SF area or greater, with an impervious area of less than 40%, the Public Works Director may adjust the drainage assessment to more accurately reflect the proportionate runoff.

(iii) Undeveloped property in its natural state with no building or hard-surfaced areas will not be assessed a drainage unit.

15-606. **APPEAL PROCEDURE.** Any person disagreeing with the calculations of the drainage unit assessment or disagreeing with whether storm water or surface water from their property flows into a facility maintained by the Storm Water Utility may appeal such determination to the Director of Public Works. Any appeal must be in writing. The Director of Public Works or his/her designee shall thereupon hold an informal hearing. The Director or designee, prior to such hearing, may request that the appealing party provide information concerning the basis of the appeal, including a land survey prepared by a registered surveyor of the area in question, if such information is deemed to be material by the Director or designee. Based upon information provided, the Director or designee shall make a determination of the drainage assessment for such property. The Director shall notify the parties in writing of the Director's decision.

(b) A person shall have the right to appeal the decision of the Director to the Storm Water Appeal Board. Such appeal shall be made within twenty (20) days of the date of the Director's notification of the decision in the

informal proceedings. Such appeals shall be in writing and shall be filed with the Director.

(c) The Storm Water Appeal Board shall consist of the following members:

City Manager or designee
City Engineer
Director of Planning

(d) A hearing on such appeal shall be held within thirty (30) days from the date the notice of appeal is received and the appealing party shall be given seven (7) days advance notice of the time and date of the appeal hearing. At such hearing, the appealing party shall present evidence concerning the drainage assessment for the property in question and the Director of Public Works or his or her designee shall present evidence concerning their findings from the informal proceedings. The Storm Water Appeal Board shall render a decision in writing that sets forth such findings that support their decision within seven (7) days of the hearing. The decision of the Storm Water Appeals Board shall be final and any further appeal of such decision shall be to the District Court of Ford County, Kansas, in accordance with the provisions of K.S.A. 60-2101(D).

15-607. **FEE SCHEDULE ESTABLISHED.** There is hereby imposed on all residential developed property, and commercial and industrial developed property within the City, except property declared exempt under the provisions of this Chapter, a Storm Water Utility fee. The amount of the Storm Water Utility fee for such property shall be based on the number of drainage units assessed against the property and shall be set by Commission Resolution, as stated in Section 1-123 of Chapter 15, Dodge City Code, and may be amended hereafter from time to time by the Commission.

15-608. **STORM WATER UTILITY FEE COLLECTION.** (a) Storm Water Utility fees shall be billed and collected monthly with the monthly water and sewer utility for those properties utilizing such City utilities and shall be billed and collected separately at intervals as set by the Director for those properties not utilizing such City utilities. The Storm Water Utility fee for those properties utilizing City utilities shall be part of a consolidated statement for utility customers which shall be paid in a single payment. In the event that a partial payment is received, the payment shall be applied proportionately between all accounts appearing on the consolidated billing. Unless otherwise provided for herein, all billings for drainage fees shall become due and payable in accordance with sections of the Code of the City and with rules and regulations which Pertain to City utilities that relate to collection of utility charges. Storm Water Utility fee billing for any given property shall initially be the responsibility of the

person who is paying for water and/or sewer service for the property. If the property is not using water and/or sewer services, then drainage fees shall be the responsibility of the person in possession of the property. If no person is in possession of the property, the drainage fee shall be the responsibility of the property owner. The property owner is responsible for Storm Water Utility fees not paid by the occupant.

(b) Storm Water Utility fees shall be subject to a penalty for late payment which is the same as that imposed for late payment of water and sewer utility charges. In addition to any other remedies or penalties provided by this Chapter or any other ordinance of the City, failure of any user of the Storm Water Management System to pay said charges promptly when due shall subject such user to discontinuance of city utility services and the City Manager of the City, or the City Manager's designee, is hereby empowered and directed to enforce this provision as to any and all delinquent users in accordance with provisions set forth in the City Code. Users shall be entitled to notice before city utility services are disconnected for failure to pay Storm Water Utility fees.

(c) Storm Water Utility fees authorized to be charged in this Chapter when delinquent may be certified by the Clerk of the City to the County Clerk of Ford County, Kansas, to be placed on the tax roll for collection, subject to the same penalties and be collected in like manner as other taxes, and such charges shall, thereafter, constitute a lien upon real estate served by the Storm Water Utility and against which such charges were made, regardless of whether the drainage fees were incurred when a property owner was in possession of the property or a non-owner was in possession of the property.

15-609. **STORM WATER UTILITY FUND.** (a) All Storm Water Utility fees collected shall be paid into an Enterprise Fund which is hereby created to be known as the Storm Water Utility Fund. Such funds shall be used for the purpose of paying the costs of operation, capital improvements, construction, reconstruction, repair and maintenance of the storm water facilities of the City and to carry out all other purposes of this utility. To the extent that the Storm Water Utility fees collected are insufficient to construct the needed storm water drainage facilities, the cost of same may be paid from such City funds as may be determined by the City Commission, but the City may order reimbursement of such fund if additional fees are thereafter collected. When the fund has surplus dollars on hand in excess of current needs, the surplus dollars shall be invested to return the highest yield consistent with proper safeguards. Any interest earned on invested funds, bond

revenues, and other revenues shall be placed in the Storm Water Utility fund.

(b) Storm Water Utility fees and charges paid and other revenue received shall not be used for general or other governmental or proprietary purposes of the City.

(c) Nothing in this Chapter shall be so construed as to limit or restrict the planning, engineering, capital improvements, construction, reconstruction, repair, operation, or maintenance of storm water facilities through other means including but not limited to other City fees and taxes, bonds, grants, special improvement districts, contributions from other agencies, interlocal cooperation agreements, or private contributions. (C.O. No. 33)

CHAPTER XVI. ZONING AND PLANNING

Article 1. Zoning Regulations
Article 2. Municipal Airport Zoning
Article 3. Subdivision Regulations
Article 4. Board of Zoning Appeals
Article 5. Flood Plain Management
Article 6. Comprehenisve Plan

ARTICLE 1. ZONING REGULATIONS

16-101. **ZONING REGULATIONS INCORPORATED.** There is hereby adopted and incorporated by reference for the purposes of governing the development and use of land within the City of Dodge City, and providing for the administration, enforcement, and amendment thereof, a Zoning Ordinance developed and published by the Dodge City Development Services Department entitled the Year 2000 Dodge City Zoning Ordinance, dated March 2000. Such Zoning Ordinance is hereby made as a part of the ordinances and Code of the City as if the same had been set out in full herein, all as authorized and in the manner prescribed 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 Zoning 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.

16-102. **STATUTORY AUTHORITY.** This Zoning Ordinance is established under authority granted by the Kansas Statutes Annotated, Chapter 12 and the Home Rule authority of the City as granted by the Kansas State Constitution.

16-103. **PENALTIES.** Any violation of any provision of this Zoning Ordinance shall be a misdemeanor and punishable by a fine not to exceed five hundred dollars 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 action as necessary to prevent or remedy any violation. (Ord. #3267)

16-104. **ESTABLISHMENT OF PLANNING COMMISSION.** There is hereby created a Planning Commission for the City of Dodge City,

16-105. **COMPOSITION AND QUALIFICATIONS OF MEMBERS.** The Dodge City Planning Commission shall consist of seven members. Members shall be residents of the City of Dodge City, and shall be appointed by the Mayor with the concurrence of the City Commission. Members shall serve

without compensation, but may receive reimbursement for expenses incurred.

16-106. **TERMS OF OFFICE.** Planning Commission members shall serve for three year terms. The initial Board shall have: Two members serve though January 31, 2014, two members serve through January 31, 2015, and one member serve through January 31, 2016.

16-107. **VACANCIES.** Vacancies on the Planning Commission for any reason shall be filled by the Governing Body for the unexpired term.

16-108. **REMOVAL OF MEMBERS.** The Governing Body may remove any Planning Commission member who has three consecutive unexcused absences, or has six absences in any twelve month period for any reason, from Planning Commission meetings. The Governing Body may remove a member for participating in issues when a certified conflict of interest exists.

16-109. **POWERS AND DUTIES.** The Planning Commission shall perform those duties and functions as set forth in the relevant State Statues and the City Zoning Ordinance.

16-110. **BOARD OF ZONING APPEALS ESTABLISHED.** Pursuant to K.S.A. 12-759 the Dodge City Planning Commission will also serve as the Board of Zoning Appeals. All rules and regulation established and governing the Board of Zoning Appeals shall be adopted as set forth in Article X of the Dodge City Zoning Ordinance adopted in 2000.

16-111. **CONDUCT OF BUSINESS.** The Planning Commission establish By-laws setting forth rules for the conduct of their business. (Ord. #3551)

ARTICLE 2. MUNICIPAL AIRPORT ZONING

16-201. **SHORT TITLE.** This article shall be known and may be cited as "Dodge City Municipal Airport Zoning Regulations." (Code 1983, App. 3, Sec. 1; Code 1985)

16-202. **DEFINITIONS.** As used in this article, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them herein:

(a) Airport means the Dodge City Municipal Airport.

(b) Airport authority means a person or persons designated by the city manager to be in charge of maintenance, operation, and control of the municipal airport.

(c) Airport elevation means the established elevation of the highest point on the usable landing area.

(d) Airport hazard means any structure, tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport.

(e) Airport reference point means the point established as the approximate geographic center of the airport landing area and so designated.

(f) Height means for the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

(g) Landing area means the area of the airport used for the landing, taking off or taxiing of aircraft.

(h) Nonconforming use means any pre-existing structure, tree, natural growth or use of land which is inconsistent with the provisions of this article or an amendment thereto.

(i) Non-instrument runway means a runway other than an instrument runway.

(j) Person means an individual, firm, partnership, corporation, company, association, joint stock association or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

(k) Runway means the paved surface of an airport landing strip.

(l) Structure means an object constructed or installed by man, including, but without limitation, building, towers, smokestacks and overhead transmission lines.

(m) Tree means any object of natural growth.

(Code 1983, App. C, Sec. 2; Code 1985)

16-203. ZONES. In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying within the instrument approach zones, non-instrument approach zones, transition zones, horizontal zone and conical zone. Such areas and zones are shown on Dodge City Municipal Airport Zoning Map consisting of one sheet, prepared by the city engineer, and dated October 10, 1969, which is attached to this article and made a part hereof. The various zones are hereby established and defined as follows:

(a) Instrument approach zone. The approach zone for runway 14/32 shall have a width of 500 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 2500 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 2400 feet at a distance of 10,200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

(b) Transition zones. Transition zones are hereby established adjacent to each instrument runway and approach zone as indicated on the zoning map. Transition zones symmetrically located on either side of runways have

variable widths as shown on the zoning map. Transition zones extend outward from a line 250 feet on either side of the centerline of runway 14/32 and 200 feet either side of runway 2/20, for the length of each runway plus 200 feet on each end and are parallel and level with such runway centerline. The transition zones along such runways slope upward and outward one foot vertically for each seven feet horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to the non-instrument approach zone for the entire length of the approach zone. This transition zone has variable widths, as shown on the zoning map. Such transition zone flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one foot vertically for each seven feet horizontally to the points where they intersect the surfaces of the horizontal and conical zones.

(c) Horizontal zone. A horizontal zone is hereby established as the area within a circle with its center at the airport reference point and having a radius of 7,000 feet. The horizontal zone does not include the instrument approach zones and the transition zones.

(d) Concial zone. A concial zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of 5,000 feet. The conical zone does not include the instrument approach zones and transition zones.

(Code 1983, App. C, Sec. 3)

16-204. HEIGHT LIMITATIONS. Except as otherwise provided in this article, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this article to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

(a) Non-instrument approach zones. One foot in height of each 40 feet in horizontal distance beginning at a point 200 feet from and at the centerline elevation of the end of the non-instrument runway and extending to a point 10,200 feet from the end of the runway.

(b) Transition zones. One foot in height for each seven feet in horizontal distance beginning at any point 250 feet normal to and at the elevation of the centerline of runway 14/32 and 200 feet normal to and at the elevation of the centerline or runway 2/20 extending 200 feet beyond each end thereof, extending to a height of 150 feet above the airport elevation which is 2,594 feet above mean sea level. In addition to the foregoing, there are established height limits of one foot vertical height for each seven feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces.

(c) Horizontal zone. One hundred fifty feet above the airport elevation or a height of 2,744 feet above mean sea level.

(d) Conial zone. One foot in height for each 20 feet of horizontal distance beginning at the periphery of the horizontal zone, extending to a height of 400 feet above the airport elevation.

(e) Excepted height limitations. Nothing in this article shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 35 feet above the surface of the land.

Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail. (Code 1983, App. C, Sec. 4)

16-205. USE RESTRICTIONS. Notwithstanding any other provisions of this article, no use may be made of land within any zone established by this article in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking off, maneuvering of aircraft. (Code 1983, App. C, Sec. 5)

16-206. NONCONFORMING USES. (a) Regulations not retroactive. The regulations prescribed by this article shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this article, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this article, and is diligently prosecuted.

(b) Marking and lighting. Notwithstanding the preceding provisions of this section, the owner of any nonconforming structure or trees is hereby required to permit the installation, operation, and maintenance thereof of such markers and lights as shall be deemed necessary by the airport authorities to indicate to the operators of aircraft in the vicinity of the airport, the present of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the airport authority of the city. (Code 1983, App. C, Sec. 6)

16-207. PERMITS. (a) Future uses. Except as specifically provided in subsections (1), (2) and (3) hereunder, no material change shall be made in the use of the land and no structure or tree shall be erected, altered planted or

otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularly to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(1) In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.

(2) In the areas lying within the limits of the instrument and non-instrument approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure would extend above the height limit prescribed for such instrument or non-instrument approach zone.

(3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intended to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this article except as set forth in this section.

(b) Existing uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this article or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(c) Nonconforming uses abandoned or destroyed. Whenever the zoning administrator determines that a nonconforming structure or tree has been abandoned or more than 80% torn down, physically deteriorated, or decayed no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his or her property, not in accordance with the regulations prescribed in this article, may apply

to the Dodge City-Ford County Metropolitan Area Planning Commission for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this article.

(e) Hazard marking and lighting. Any permit or variance granted, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the airport authority of the city at its own expense, to install operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the present of an airport hazard. (Code 1983, App. C, Sec. 7)

16-208. **ENFORCEMENT.** It shall be the duty of the zoning administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the zoning administrator upon a form furnished by him or her. Applications required by this article to be submitted to the zoning administrator shall be promptly considered and granted or denied by him or her. Applications for action by the Dodge City-Ford County Metropolitan Area Planning Commission shall be forthwith transmitted by the zoning administrator. (Code 1983, App. C, Sec. 8)

16-209. **ADJUSTMENT OF APPEALS.** (a) The Dodge City-Ford County Metropolitan Area Planning Commission shall be authorized to have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this article;

(2) To hear and decide special exceptions to the terms of this article upon which the Dodge City-Ford County Metropolitan Area Planning Commission under such regulations may be required to pass;

(3) To hear and decide specific variances.

(b) The Dodge City-Ford County Metropolitan Area Planning Commission shall hear and decide matters relative to this article at their regularly scheduled meeting, however, special meetings may be held at the call of the chairperson. All meetings shall be public. All proceedings shall be recorded, all of which shall immediately be filed in the office of the zoning administrator and shall be a public record. (Code 1983, App. C, Sec. 9)

16-210. **APPEALS.** (a) Any person aggrieved, or any taxpayer affected, by any decision of the zoning administrator made in his or her administration of this article, may appeal to the Dodge City-Ford County Metropolitan Area Planning Commission.

(b) All appeals hereunder must be taken within a reasonable time by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the Metropolitan Area Planning Commission all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the Metropolitan Area Planning Commission after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Metropolitan Area Planning Commission on notice to the zoning administrator and on due cause shown.

(d) The Metropolitan Area Planning Commission shall fix a reasonable time for hearing appeals, give public notice according to K.S.A. 12-708 and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(e) The Metropolitan Area Planning Commission may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances. (Code 1983, App. C, Sec. 10)

16-211. **JUDICIAL REVIEW.** Any person aggrieved, or any taxpayer affected, by any decision of the Metropolitan Area Planning Commission may appeal to the courts as provided by the laws of Kansas. (Code 1983, App. C, Sec. 11)

16-212. **CONFLICTING REGULATIONS.** Where there exists a conflict between any of the regulations or limitations prescribed in this article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. (Code 1983, App. C, Sec. 13)

16-213. **SEVERABILITY.** If any of the provisions of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable. (Code 1983, App. C, Sec. 14)

16-214. **EFFECTIVE DATE.** Whereas, the immediate operations of the provisions of this article is necessary for the preservation of the public health, public safety, and

general welfare, an emergency is hereby declared to exist, and this article shall be in full force and effect from and after its passage by the governing body of the city and publication as required by law. (Code 1983, App. C, Sec. 15)

ARTICLE 3. SUBDIVISION REGULATIONS

16-301. **ADOPTION OF REGULATIONS.** There is hereby adopted and incorporated by reference, for the purpose of regulating the development and subdivision of land, a set of regulations developed by the Dodge City/Ford County Planning Commission known as "Subdivision Regulations of Dodge City/Ford County", dated 1996; such regulations being made as a part of the ordinances and Code of the City as if the same had been set out in full herein, all as authorized and in the manner prescribed by K.S.A. 12-3009 through 12-3012, and 12-3301 through 12-3302. No fewer than three copies of the "Subdivision Regulations of Dodge City/Ford County" shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Dodge City and shall be filed with the City Clerk to be open for inspection and available to the public during reasonable business hours.

16-302. **LEGAL AUTHORITY.** The Dodge City/Ford County Planning Commission developed these 1986 Subdivision Regulations pursuant to authority granted by K.S.A. 12-749 through 12-752. A duly advertised and conducted public hearing was held on July 8, 1996 with a recommendation for approval forwarded to the Dodge City Commission. (Ord. #3192)

ARTICLE 4. BOARD OF ZONING APPEALS

16-401. **ESTABLISHMENT OF BOARD OF ZONING APPEALS.** There is hereby created a Board of Zoning appeals for the City of Dodge City, pursuant to legislative authority from KSA 12-741 et seq., an Interlocal Planning and Zoning Agreement among Ford County, Dodge City and other municipalities within Ford County approved by the City of Dodge City by Resolution No. 97-14; and the Zoning Ordinance of the City.

16-402. **COMPOSITION AND QUALIFICATIONS OF MEMBERS.** The Dodge City Board of Zoning appeals shall consist of five members. Members shall be residents of the City, and shall be appointed by the Mayor with the concurrence of the City Commission. Members shall serve without compensation, but may receive reimbursement for expenses incurred.

16-403. **TERMS OF OFFICE.** Board members shall serve for three year terms. The initial Board shall have: Two members shall serve through January 31, 1998, two members through

January 31, 1999, and one member through January 31, 2000. Members may be re-appointed for successive terms.

16-404. **VACANCIES.** Vacancies on the Board for any reason shall be filled by the Governing Body for the unexpired term.

16-405. **REMOVAL OF MEMBERS.** The Governing Body may remove any Board Member who has three consecutive unexcused absences, or has six absences in any twelve month period for any reason from Board Meetings. The Governing Body may remove a member for participating in issues when a certified conflict of interest exists.

16-406. **POWERS AND DUTIES.** The Board shall perform those duties and functions as set forth in the relevant state statutes and City Zoning Ordinance. The Board shall perform additional duties as ordained by the Governing Body.

16-407. **CONDUCT OF BUSINESS.** The Board shall establish By-laws setting forth rules for the conduct of their business. (Ord. #3210)

ARTICLE 5. FLOODPLAIN MANAGEMENT

16-501. **ADOPTION AND INCORPORATION OF FLOODPLAIN MANAGEMENT ORDINANCE.** Pursuant to the provisions of K.S.A. 12-3009, 12-3010 and 12-3301, there is hereby incorporated by reference for the purpose of providing floodplain regulations within the City of Dodge City, Kansas, all of the zoning regulation contained in that document thereafter known and referred to as the **"Floodplain Management Ordinance for the City of Dodge City, Kansas,"** which is based upon and modeled after the Model Floodplain Management Ordinance as approved and recommended by the Federal Emergency Management Agency Region VII and the Kansas Department of Agriculture, Division of Water Resources, Flood Plain Program.

No fewer than three copies of the Floodplain Management Ordinance for the City of Dodge City, Kansas, shall be marked or stamped **"Official Copy as incorporated by Ordinance No. 3477 of the City of Dodge City, Kansas,"** and such copies shall be filed with the City clerk to be open to inspection and available to the public at all reasonable business hours, provided that such official copies may not be removed from City Hall.

16-502. **PENALTIES FOR VIOLATIONS.** Violation of the provisions of this referenced ordinance or failure to

comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this referenced ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Dodge City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. #3477)

ARTICLE 6. COMPREHENSIVE PLAN

16-601 ADOPTION OF THE "DODGE CITY COMPREHENSIVE PLAN 2003-2020"

There is hereby incorporated by reference, for the purposes of guiding public action to ensure coordinated and harmonious development or redevelopment which will best promote the health, safety, morals, order, convenience, prosperity, and general welfare as well as wise and efficient expenditure of public funds, the "City of Dodge City Comprehensive Plan 203-2020," prepared, compiled, published and promulgated by the City of Dodge City in code form as that term is defined in K.S.A. 12-3301(c), such incorporation by reference being authorized by K.S.A. 12-3009 through 12-3012. No fewer than three copies of the "Dodge City Comprehensive Plan 2003-2020" shall be marked or Stamped "Official Copy as Incorporated by the Code of the City of Dodge City," and shall be filed with the City Clerk to be open for inspection and available to the public during reasonable business hours. (ORD. 3362)

APPENDIX A FEES

ANIMAL FEES:

Registration - $5.00 per animal
Impoundment - $30.00 plus cost of feeding and maintaining:
$4.00 minimum (code 1983, 6-15, 6-28, 6-31; Ord. 2766,
Section 1; code 1986, Ord. 3119, 1995)

Adoption Fees: As set out in Resolution No. 2001-02

BEVERAGE FEES:

Alcoholic liquor distributor's license - $600.00
Beer Distributor's license (wholesale) - $75.00
Retailer's license of alcoholic liquors - $300.00
Retailer's license for cereal malt beverage:
Off premise consumption, in original container -
($50.00 + 25.00 State Fees) = $75.00
On premises consumption - ($200.00 + $25.00 State Fees) = $225.00
Class A and Class B private club license - $250.00
(K.S.A. 41-310; C.O. 12, Sec. 4; Code 1983, 5-39; Code 1986)

Subdivision & Zoning Fees:

ZONING MAP AMENDMENT	$200.00
ZONING PERMIT/CERTIFICATE	$50.00
PLAT REVIEW FEE (+ filing fee):	
Lot split	$50.00
Minor Plat	$50.00
Major Plat	$100.00 + 5.00/Lot with Max
BOARD OF ZONING APPEALS	
Appeals	$50.00
Variance	$200.00
Minor Variance	$50.00
Conditional Use	$200.00
FLOOD PLAIN DEVELOPMENT PERMIT	$100.00
SIGN PERMITS:	
Permanent	$50.00
($200.00 max. per property)	
Portable Commercial & Residential	$25.00
Portable Non-Profit	0.00
SIGN HANGER CONTRACTOR	
Annual License	$25.00
FENCE PERMIT:	$25.00
DOMESTIC ANIMAL/KENNEL PERMIT	$20.00
(Renewed Annually)	

BUILDING PERMITS FEES:

RESIDENTIAL	$30.00 Min. Fee
New Homes/Additions	$00.42/sq ft

Decks, porches, carports	$00.14/sq ft
Storage Sheds without required foundations	$00.14/sq ft
Minor remodel	$00.35/sq ft
Major remodel	$00.35/sq ft
Manufactured Housing/ Residential Design and Modular Housing	$00.35/sq ft
Water Heater up to 30 gallons	$30.00
Heat/AC change	$60.00
Residential Electric Service	$35.00

COMMERCIAL (prices include plan review) $30.00 Min Fee

Assembly	$00.45/sq ft
Hotel/Motel	$00.40/sq ft
Restaurants	$00.90/sq ft
Office/Retail	$00.40/sq ft
Minor remodel	$00.30/sq ft
Major remodel	$00.40/sq ft
Commercial Boiler	$50.00
Water heater over 50 gal	$50.00
Heat/AC change	$75.00
Commercial Electric service	$50.00

ROOFING FEES:

Residential	$3.00/sq (10'x10')
Commercial	
Composite shingles	$4.00/sq (10'x10')
Overlay (membrane/ gravel/rubber	$2.50/sq (10'x10')
Complete reconstruction (removal of decking)	$5.00/sq (10'x10')

OTHER INSPECTIONS

Exterior Spray Painting:	$25.00
Moving Building Permit:	$25.00
Excavation Permit:	$25.00
Mobile Home Permit: (Mobile Home Park)	$50.00
Master Water Treatment Permit:(Installed)	$75.00
Gas Pressure Check	$30.00
Backflow Preventer	$25.00
Water Service	$40.00
Sewer Service	$40.00
Ice Machine/Condenser	$30.00
New Establishment Agreement	$50.00
DEMOLITION PERMIT/INSPECTION FEE	$30.00
INSPECTIONS OUTSIDE OF NORMAL BUSINESS HRS	$50.00/hr

ANNUAL LICENSE FEE FOR RENEWAL:

Master License Renewal - $75.00
Journeyman License Renewal - $35.00

Apprentice License Renewal - $5.00
Roofing Unlimited License Renewal - $75.00
Limited Roofing License Renewal - $35.00

Business Occupational Fees:

TEMPORARY BUSINESS PERMITS - $50.00 per day
TEMPORARY BUSINESS LICENSE - $50.00 per day, $350.00 per month, $500.00 for 90 days.

CARNIVAL OR CIRCUS - $75.00 per day
Amusement device annual license - $20.00 a year

TAXICAB - first cab - $100.00
each additional cab - $50.00

ARBORIST ANNUAL LICENSE - $50.00

PAWNBROKERS/PRECIOUS METAL DEALER - $25.00

(Code 1983, 22-20:21)

PUBLIC FACILITIES:

HOOVER PAVILION:

Rental Type		FEES
Full Rental	Includes Thursday from 4pm until Monday at 8 am	$750.00
Daily Rental	Monday – Friday Half Day (less than four hours	$300.00/day $200
	Saturday or Sunday	$500/day

Res. 2012-16

OTHER CHARGES

Damage Deposit - $500.00
Move in Move out - $150.00 per day
Security charge - Functions where alcohol is served and available, requires on-site supervision - Charge actual costs

WRIGHT PARK: **$20.00 deposit per day**
BANDSHELL: **$20.00 deposit per day**

MARIAH HILLS GOLF COURSE:

Juniors - Shall be defined as anyone seventeen (17) years of age and younger.
Family - Family's shall be immediate family and limited to husband and wife, and all children 22 years of age and younger living in the home or enrolled as a full time student.
Senior - Seniors shall be defined as anyone 62 years of age and older.

Daily Fees:

Monday through Friday:	$19/person
Weekends and Holidays:	$22/person
Twilight Fees:	$12/person
Junior Fees:	$9/person

Surcharge:

players with Adult memberships	$3/person
players with Junior memberships	$1/person

Season Passes: Memberships

Single 7 day	$440/year
Family	$650/year
Senior	$340/year
Senior Family	$550/year
Junior	$150/year
Gold Single	$1,100.00
Gold Family	$1,350.00
Gold Senior	$1000.00
Gold Family	$1,200.00

Other Charges

Golf Cart Rental (18)	$14.00
Golf Cart Rental (9)	$10.00
Trail Fee/day	$10.00

*Gold Passes include season pass, cart rental/fee, and Unlimited driving range privileges. Gold passes are exempt from surcharges.

School Team Membership: (Exempt from daily surcharges)

1. High School Team Members and Coaches - $75.00 per player. (Valid Mon-Fri for team practices and Events during team's practice and regular season.)
2. College Team Members and Coaches - $275.00 per player. (Valid every day during Fall-Spring semester)

Special Promotions

Tournament Rates: $15.00 per player (any event with 50 or more players)

SHERIDAN ACTIVITY CENTER FEES: As of January 1, 2013 YMCA has taken management and operations of the Sheridan Activity Center. Check YMCA's website for information.

Daily Fees:

Pool/Gym Only	Full Facility	
Adult (16 & older)	$2.00	$4.00
Youth (13 to 15)	$1.00	$3.00
Youth (12 and under)	$1.00	N/A
Seniors	$1.50	$3.00

Membership Fees:

	1 month	3 month	6 month
Adult	$25.00	$ 60.00	$100.00
Family	$40.00	$100.00	$160.00

Senior	$18.00	$ 45.00	$ 75.00
Senior Family	$30.00	$ 60.00	$120.00
Youth	$10.00	$ 25.00	$ 40.00

Group Memberships Available

ATHLETIC FIELDS:

DAILY RENTAL FEES

FIELD	HALF DAY	FULL DAY
Cavalier Field	$80	$120
Legends Park (1st field)	$60	$90
Thurow Park (1st field)	$35	$60
Youth Complex (1st field)	$35	$60
St Mary Soccer, Field 1	$80	$120
St Mary Soccer, Field 2-6	$60	$90
Additional Fields(each)	$n/a	$40

Fees and charges apply to both tournament events and daily rentals.
Initial Field Prep - $20.00
Light usage (per field per hour): $20
Damage Deposit $100.00

MUNICIPAL OUTDOOR POOL FEES: Check YMCA's website for information.

Daily Fees:

Children (5 & under)	$ 1.50
General (6-59)	$ 2.00
Seniors (60 & over)	$ 1.50
Lap Swim	$ 2.00

Seasonal Passes:

Children	$30.00
General	$40.00
Seniors	$30.00
Family	$80.00
Lap Swim	10 punches For $15

Rental Rates outside of regular operating hours:
$25.00 per hour plus $10.00 per guard.
(Res. No. 2001-01)

CEMETERY FEES:

GRAVE SPACES

Baby grave space, no charge to residents of Ford County if space is available for infants less than one (1) year of age.
Casket shall not be more than 36 inches in length.
Standard single grave space - $500.00
Space opening and closing for crematory urns - $50.00

WEST MAUSOLEUM FEES:

Top Row - $1,000.00
Middle Row - $1,200.00
Bottom Row - $1,000.00

Scroggins Mausoleum Niches

(a) Pedestal $1,000.00
(b) Foyer $750.00
(c) Glass
(i) 12 x 12 $900.00
(ii) 12 x 15 $1,200.00
(iii) 12 x 24 $1,200.00

Interments

(a) Standard Grave Service $350.00
(b) Baby Grave Service $100.00
(c) Cremation Urns $150.00

Disinterment

(a) Traditional grave $1000.00
(b) Cremations $300.00

Other Charges

(a) Scroggins Chapel Rental $50.00

Monument Permits

(a) Single headstone $15.00
(b) Double headstone $25.00

Scroggins Mausoleum Crypts

	Chapel Crypts (Inside)		Patio Crypts (Outside)	
	Side by Side	End to End	Side by Side	End to End
Level E	$2,000.00	$1,800.00	$1,600.00	$1,400.00
Level D	$2,100.00	$1,900.00	$1,700.00	$1,500.00
Level C	$2,350.00	$2,150.00	$1,950.00	$1,750.00
Level B	$2,500.00	$2,300.00	$2,100.00	$1,900.00
Level A	$2,300.00	$2,100.00	$1,900.00	$1,700.00

(Res 2013-03)

POLICE DEPARTMENT FEES

Report Copies - $1.00 per page
Complete Reports - $5.00 (plus postage if necessary)
Bicycle License - $.50
Fingerprints - $10.00
Video Copies and Photo CD's - $15.00 per copy
Funeral Escorts - $50.00
POLICE OFFICER SECURITY (for private business, certain events and other requests approved by Chief of Police).

1. Hourly rate for officer(s) figured at time and a half of the officer's hourly salary plus 30% for benefits.

2. Any request for over three (3) uniformed officers requires a supervisor assigned at the supervisor's hourly rate figured at time and a half plus 30% for benefits. (Res 2008-14)

PUBLIC RECORD:

INSPECTION AND COPYING CHARGES:
Inspection of records: $10.00 per hour per employee engaged in the record search.
$10.00 minimum charge for each inspection request.
Copying records: $.25 per page. (Code 1986)
No charge shall be made to persons receiving copies of records dealing with the investigation of a violation by that person and prosecution in Municipal Court of ordinances of the City of Dodge City. (Ord 2954)

WATER UTILITY RATES:

RESIDENTS:

New Service Connection fee	$26.00
After normal business hours, Saturdays, Sundays and Holidays	$52.00
MONTHLY ADMINISTRATION FEE	$ 7.93
Cost per thousand gallons water	$ 2.13
Kansas Water Protection fee per thousand gallons water	$ .032

WRIGHT RESIDENTS: Same as listed above plus any additional fees that were established when the City of Wright's Water Service was established through the City of Dodge City.

Late Fee: 10% of the bill.

Delinquency Fee to Restore Service:

Normal business hours - 40.00

After normal business hours - $55.00
Saturdays, Sundays and Holidays

Shut off Water Service for repairs - $25.00

SOLID WASTE & COLLECTION SERVICE RATES:

SERVICE TO DWELLINGS:

Single family residences, dwellings & 2 family dwellings = $16.52 + $1.28 for recycling = $17.80 per month per dwelling.

Multiple family dwellings - $16.36 + $1.27 recycling fee = $17.80 per month for first dwelling unit. $11.14 + $1.28 recycling = 12.42 per month for each additional dwelling.

Special fees for some items are as follows:

ITEM	FEES
Refrigerators	$5.00 plus any fee for disposal of compressor of refrigerant
Freezers	$5.00 plus any fee for disposal of compressor or refrigerant
Air Conditioners	$5.00 plus any fee for disposal of compressor or refrigerant
Stoves, dishwashers or other white goods	$5.00 per item
Metal goods	$5.00 per item
Furniture, Mattresses, Carpet, or other large household items	$5.00 per item
Bagged or loose trash not in poly-kart or dumpster	$1.00 per 40 lb. Bag
Should there be more than three (3) items placed at curb for special pickup, these items will be considered as a bulky accumulation and subject to that charge.	
Trees and other large brush accumulations and other bulky large accumulations	Minimum of $25.00 per load plus $12.50 per hour plus landfill charges
Alley Clean Up	Minimum of $25.00 per load plus $12.50 per hour plus landfill charges
Late Pickup	A $2.00 charge for pickup of items and karts not placed at the curb by $7:00 a.m. On the scheduled day for pickup
Commercial Rates as follows:	
Large accumulations of brush, loose or bagged household trash, and other bulky large accumulations	$40.00 per load plus $25.00 per hour plus landfill fees
Special Cleanup Fee	$100. Per hour equipment fee plus $25 per hour staff fee plus landfill charges and any other costs associated to the cleanup

SERVICE TO HOME OCCUPATIONS:

Home Occupations and similar activities, but not including Child Care Facilities, shall pay an additional $16.52 per + $1.28 recycling = $17.80 per month

Special Conditions - Any special conditions not included in the above rate schedule shall be determined by the Superintendent of Public Works subject to the approval of the Governing Body.

YARD WASTE - $2.64 per month fee per container.
$1.00 per bag, not to exceed 40 lbs in weight.
(Res. 2014-08)

SANITARY SEWER RATES:

Residential Customers:

Monthly service charge $15.96

Monthly volume charge per 1,000 gallons $2.16

Mobile Home Parks served by master meter(s)

Monthly service charge $15.96

Master meter monthly accumulative Reading, Q, multiplied by $2.14 per 1,000 gallons $A=\frac{(Q)(2.14)}{(1000)}$

Total Bill = T = 15.96 + A

Commercial Customers with Wastewater having strengths not exceeding 300 mg/1 of five day biological oxygen demand (BOD) or 700 mg/1 of total dissolved solids (TDS) per day:

Monthly Service Charge	$15.96
Monthly Volume Charge per 1,000 gallons	$2.16

Industrial Customers and Commercial Customers exceeding the BOD and TDS limits set forth in 2.3 hereinabove but not using the City sewer system:

Monthly Service Charge	$15.96
Monthly Volume Charge per 1,000 gallons	$2.16
Monthly 5 day BOD charge per lb.	$0.1122
Monthly TDS charge, per lb.	$0.0690

Industrial Customers and Commercial customers exceeding the BOD and TDS limits set forth in 2.3 herin above and who use the City sewer system shall pay both a monthly service charge, and a monthly volume and strength charge as specified:

Monthly Service Charge	$15.96
Monthly Volume Charge	$2.16
Monthly 5 day BOD Charge per lb.	$0.1122
Monthly TDS Charge, per lb.	$0.0690

The calculation of the strength charges for BOD and TDS shall be made as follows:

SBOD - Vs x 8.34 x CBOD x BOD

STDS = Vs x 8.34 x CTDS x TDS

ST = SBOD + STDS

Where:

- SBOD shall be the strength charge attributable to 5 day Biochemical demand
- STDS shall be the strength charge attributable to the Total Dissolved Solids Vs shall be the wastewater volume in Million gallons 8.34 shall be the weight of water, pounds per gallon
- CBOD shall be the unit charge for 5 day Biochemical Oxygen Demand in dollars per pound
- CTDS shall be the unit charge for Total Dissolved Solids in dollars per pound
- BOD shall mean five day BOD in mg/1
- TDS shall mean Total Dissolved Solids in mg/1

NATIONAL BEEF, which is an industrial customer, has negotiated the following rate to discharge a high volume of wastewater that may exceed the limits allowed for industrial customers. The rate is based on a daily discharge of wastewater regardless of flow.

Volume charge regardless of flow per month	$1203.01 per million gallons
BOD_5>2,889.866 lbs per month	$1,203.01 per pound above parameter
TSS>2,281,0146 lbs per month	$0.0310 per pound above parameter
TDS>1,521,238 lbs per month	$0.0310 per pound above parameter
O&G>1,155,946 lbs per month	$0.0310 per pound above parameter

MID-AMERICA WASHOUT, which is an industrial customer, has negotiated the following rate to discharge a high volume of wastewater that may exceed the limits allowed for industrial customers. The rate is based on a daily discharge of 50,000 gallons of wastewater.

Volume charge if flow<=1.5 million gallons per month	$1,565.50 per million gallons
Bolume charge if flow >1.5 million gallons per month	$2,348.25 per million gallons
BOD > 25,020 lbs. per month	$0.0555 per pound above parameter
TSS > 20,016 lbs. per month	$0.0555 per pound above parameter
TDS > 13,448 lbs. per month	$0.0555 per pound above parameter

Fees will be one and one half times outside the corporate limits of Dodge City.

(Res. No. 2014-07)

OTHER TYPES OF CONTRIBUTORS

Septage Disposal Fees:

Flat fee for administration and testing	$35.45
Volume charge	$ 0.1519 per gallon

(Res. No. 2014-07)

Monitoring of Waste Water Fee:
Actual Cost & 10% administration cost.

Wastewater contribution Permit: $100.00

(RES. 2014-07)

Storm Water Utility Fees & Rates for:

All properties are assessed $1.18 per Drainage Unit per month.
A Drainage unit has been established by Charter Ordinance No.33.

(Res. 2014-09)

CHARTER ORDINANCES

NOTE: The charter ordinances included in this appendix are for informational purposes only. Each of them contains the substance as passed by the city governing body, but enacting clauses, publication clauses and signatures have been omitted. Complete copies of each ordinance as passed are on file in the office of the City Clerk. Copies of charter ordinances also are on file with the secretary of state. Date of passage is shown in parentheses at the end of the text.

CHARTER ORDINANCE NO. 1

(No record remains of this document)

CHARTER ORDINANCE NO. 2

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY, KANSAS, FROM THOSE PARTS OF K.S.A. 12-110b WHICH LIMIT THE ANNUAL TAX LEVY FOR A FIREFIGHTING EQUIPMENT FUND TO A MAXIMUM OF.50 MILL AN SPECIFY THE TYPES OF OBLIGATIONS IN WHICH SAID FUND MAY BE INVESTED, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. Exemption from K.S.A. 12-110b. The City of Dodge City by the power vested in it by article 12, section five of the Constitution of the State of Kansas, hereby elects to make inapplicable to the city and to exempt the city from those parts of K.S.A. 12-110b which limit the annual tax levy for a firefighting equipment (fund) to a maximum of .50 mill an specify the types of obligations in which said fund may be invested, which statute applies to said city but not uniformly to all cities and the city hereinafter provides substitute and additional provisions on the same subject.

Section 2. Tax levy for firefighting. The governing body is hereby authorized to make an annual levy of not to exceed .50 mill upon all the taxable tangible property in the city for the purpose of creating and providing a special fund to be used for the purchase of firefighting (equipment) for such city. The governing body is authorized to invest any portion of such special firefighting equipment fund which is not currently needed in any of the following: Direct obligations of the United States Government which are guaranteed as to principal by the United States Government, temporary notes of the City of Dodge City issued pursuant to K.S.A. 10-123, or no fund warrants of the City of Dodge City. The tax levy herein authorized shall be in addition to all other levies and

authorized or limited by law and shall be outside of the aggregate limitation provided by K.S.A. 79-1952 and K.S.A. 9165 Supp. 79-1953. (3-30-66)

CHARTER ORDINANCE NO. 3

(Superseded by Charter Ordinance No. 4)

CHARTER ORDINANCE NO. 4

(Repealed by Charter Ordinance No. 13)

CHARTER ORDINANCE NO. 5

(Reserved)

CHARTER ORDINANCE NO. 6

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 12-1503, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS UPON THE SAME SUBJECT BY PROVIDING FOR A BOARD OF PLUMBING EXAMINERS, PROVIDING FOR THE NUMBER OF MEMBERS UPON SAID BOARD, PRESCRIBING QUALIFICATIONS FOR MEMBERSHIP AND FOR THE APPOINTMENT OF MEMBERS, THEIR TERMS OF OFFICE AND COMPENSATION.

Section 1. Exemption from K.S.A. 12-1503. The City of Dodge City, being a city of the second class by virtue of the power conferred by Article 12, Section 5, of the Constitution of Kansas, hereby elects to exempt and does exempt itself from and make inapplicable to it the provisions of K.S.A. 12-1503, and statute not applying uniformly to all cities and providing substitute and additional provisions as hereinafter set out.

Section 2. Board of plumbing examiners. A board of plumbing examiners is hereby created which shall consist of five members, one of whom shall be a master plumber, the second member shall be a journeyman plumber, both certificated by the City of Dodge City, the third member shall be the building inspector of the City of Dodge City; the two remaining members shall be appointed from the public at large and shall represent the interests of the public.

Section 3. Appointment of members of plumbing board. The members of the plumbing board, with the exception of the building inspector, shall be appointed by the mayor with approval of the commission upon the effective date of this ordinance and shall hold office for a period of one year or until their successors are appointed.

Section 4. Examinations. Examinations shall be given in accordance with K.S.A. 12-1502, and 12-1504, and

certificates in compliance with the provisions of said statutes shall be issued to persons successfully completing the examination.

Section 5. Application of Article 15, Chapter 12, K.S.A. Except as herein modified, all of the provisions of Article 15, Chapter 12, of the Kansas Statutes Annotated shall apply to persons subject to regulation under this ordinance. (6-22-70)

CHARTER ORDINANCE NO. 7

(Repealed by Charter Ordinance No. 16)

CHARTER ORDINANCE NO. 8

Section 1. Exemption from K.S.A. Section 13-1024a. The City of Dodge City, by virtue of the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and to exempt itself from Section 13-1024a, Kansas Statutes Annotated, and supplements thereto, which applies to said city but not uniformly to all cites, and provide substitute and additional provisions on the same subject as set out in Section 2 of this ordinance.

Section 2. General improvements; acquisition of land, borrowing of money, issuance of bonds. For the purpose of paying for or improving any bridge, viaduct, public building, including the land necessary therefor, for lands for public parks and developing the same, within or without the city, for the establishment and construction of crematories, desiccating or reduction works, including the land necessary therefor, within or without the city, or for the improvement, repair or extension of any waterworks, sewage disposal plant, electric light plan, gas utility plant, utility distribution system, municipal airport, public transportation facility or improvement, crematory, desiccating or reduction work or other public utility plant owned by the city, and for the purpose of rebuilding, adding to or extending to the same from time to time, as the necessities of the city may require, the city may borrow money and issue its bonds for the same; provided, that the city may issue the bonds of such city for the purpose of paying for any of the improvements mentioned in this section and the land necessary therefor without such bonds having been authorized by a vote of the people, but the total amount of bonds issued for purposes shall not exceed the sum of $100,000 in any one year. (11-22-71)

CHARTER ORDINANCE NO. 9

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 12-1420, THROUGH 12-1427, AND REPEALING SECTIONS 8-11, THROUGH 8-23, BEING ARTICLE II, OF CHAPTER 8, OF THE CODE OF THE CITY OF DODGE CITY, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE OPERATIONS OF THE MUNICIPAL CEMETERY.

Section 1. Exemptions from K.S.A. 12-1420 through 12-1427. In accordance with the authority granted to municipalities by Article 12, Section 5, of the Constitution of the State of Kansas, the City of dodge City hereby elects to exempt itself from and to make inapplicable to the City of Dodge City, the provisions of K.S.A. 12-1420 through 12-1427, and to provide substitute and additional provisions as are set out in this ordinance. The provisions of the above mentioned statutes apply to the City of Dodge City, but do not apply uniformly to all cities in Kansas.

Section 2. Code sections 8-11 through 8-23 repealed. Sections 8-11, through 8-23, being Article II, of Chapter 8, of the Code of the City of Dodge City, are hereby repealed.

Section 3. Transfer of functions of cemetery board. All of the functions of the cemetery board, the directors thereof, the secretary, treasurer, sexton and assistants, and all other officers and agents of said cemetery board are hereby transferred to the park department of the City of Dodge City.

Section 4. Transfer of books, records, etc. From and after the effective date of this ordinance, the cemetery board and all personnel, provided therefor by ordinance, shall no longer serve in the capacities designated by ordinance and they shall, upon the effective date of this ordinance, transfer all books, records, accounts equipment, materials and other tangibles in their possession, to the park department of the City of Dodge City.

Section 5. Special trust fund unaffected. The special trust fund, provided for by the provisions of Article III, Chapter 8, of the Code of the City of Dodge City, shall not be affected by the provisions of this ordinance. (5-7-73)

CHARTER ORDINANCE NO. 10

(Repealed by Charter Ordinance No. 27)

CHARTER ORDINANCE NO. 11

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 17-4756(a) AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE EXERCISE OF URBAN RENEWAL POWERS BY CITIES.

Section 1. Exemption from K.S.A. 17-4756(a). The City of Dodge City, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from, and make inapplicable to it, the provisions of K.S.A. 17-4756(a) and provide substitute and additional provisions as hereinafter set forth in this ordinance. Such referenced provision is either an enactment or a part thereof which is applicable to this city, but is not applicable uniformly to all cities.

Section 2. Adoption of provisions in lieu of K.S.A 17-4757(a). A municipality may itself exercise its urban renewal project powers (as herein defined) or may, if the governing body of the municipality by resolution determines such action to be in the public interest, elect to have such powers exercised by the urban renewal agency created by K.S.A. 17-4757, except the municipality makes such determination, the urban renewal agency shall be vested with all of the urban renewal powers in the same manner as though all such powers were conferred on such agency or authority instead of the municipality. The governing body of any municipality which has elected to have such powers exercised by an urban renewal agency may, when it shall deem such action to be in the best interest of the municipality, elect by resolution to divest such agency of the powers previously conferred upon it and restore such powers to the municipality. The governing body electing to divest any urban renewal agency of urban renewal project powers to exercise the same shall assume, on behalf of the municipality, all debts, contracts and obligations lawfully incurred or entered into by the urban renewal agency during the period such powers were exercised by such agency. (10-20-75)

CHARTER ORDINANCE NO. 12

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY, FROM K.S.A. 41-2702 and K.S.A. 41-2703, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; PROHIBITING THE RETAIL SALE OF CEREAL MALT BEVERAGES WITHOUT FIRST SECURING A LICENSE THEREFOR; AND ESTABLISHING THE PROCEDURE AND FEES FOR SECURING SUCH LICENSE.

Section 1. Exempting from K.S.A. 41-2702,41-2703. The City of Dodge City, a city of the second class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt and does exempt itself from and makes inapplicable to it the

provisions of K.S.A. 41-2702 and 41-2703, which is not applicable uniformly to all cities, and provide substitute and additional provisions as hereinafter set forth in this ordinance.

Section 2. Adoption of definitions. For the purposes of this ordinance, all words, terms and phrases shall have the meanings ascribed to them by K.S.A. 41-2701, where the same are defined in such statute.

Section 3. Application for sale of cereal malt beverages; required information. No person shall sell any cereal malt beverage at retail in the City of Dodge City without first securing a license for each place of business as herein provided. The application for such license shall be made to the governing body and file with the city clerk of said city. The application shall be verified and upon a form prepared by the attorney general of the State of Kansas shall contain:

(a) The name and residence of the applicant and how long he has resided within the State of Kansas;

(b) The particular place for which a license is desired;

(c) The name of the owner of the premises upon which the place of business is located;

(d) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.

(e) Such additional information as may be required by the governing body by ordinance.

Section 4. License fee. All applications for a license to sell cereal malt beverage at retail in original and unopened containers and not for consumption on the premises shall be accompanied by a license fee of $100, and all application for the sale of cereal malt beverage for consumption on the premises shall be accompanied by a fee of $100.

Section 5. Cause for denial of issuance of license. Following examination of the application, the governing body may, at its discretion, issue a license to an applicant. No license shall be issued to:

(a) A person who is not a resident of the county in which the premises covered by the license are located, and who has not been a resident in good faith of the State of Kansas for at least one year prior to said application and a

resident of the county in which said place of business is to be operated for at least six months;

(b) A person who is not a good character and reputation in the community in which he resides;

(c) A person who is not a citizen of the United States;

(d) A person who within two years immediately preceding the date of making application has been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor, or the violation of any other intoxicating liquor law of any state or of the United States;

(e) A copartnership, unless one of the copartners is a resident of the county in which the premises covered by the license is located and unless all the members of such copartnership shall otherwise be qualified to obtain a license.

(f) A corporation, if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than nonresidence within the city or county;

(g) A person who place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the licensee.

Section 6. Term of license. All licenses issued in accordance with the provisions of this ordinance shall be for a term of one year and shall not be transferable to another person or to another location. (5-3-76)

CHARTER ORDINANCE NO. 13

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 4, AND EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. SUPP. 79-1951, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND REMOVING ANY LIMITATION OF TAX LEVY.
(Repealed by C.O No. 24)

CHARTER ORDINANCE NO. 14

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 13-1017, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE MAKING OF PUBLIC IMPROVEMENTS.

Section 1. Exemption. In accordance with the authority granted by Article 12, Section 5, of the Constitution of the State of Kansas, the City of Dodge City, hereby elects to exempt itself from and to make inapplicable

to the City of Dodge City, the provisions of K.S.A. 13-1017, and to provide substitute and additional provisions as are contained in this ordinance. The provisions of the above mentioned statute apply to the City of Dodge City, but do not apply uniformly to all cities in Kansas.

Section 2. Cost estimate. Before undertaking the construction or reconstruction of any sidewalk, curb, gutter, bridge, pavement, sewer or any other public improvement in any street, highway or public grounds, or of any public building or facility of any other kind of public improvement in the City of Dodge City shall be commenced or ordered by the governing body or under its authority, a detailed estimate of the cost of such improvement shall be made by the city engineer or some other competent person appointed for such purpose by the governing body and said estimate shall be submitted to the governing body for its action thereof.

Section 3. Funds. Before any type of public improvement shall be commenced, the money to pay for the same must be available in the city treasury as provided by law; or provision may be made for the issuance of internal improvement bonds to pay for such improvement as provided by law; provided, that this section shall not be construed to include any repair or maintenance work not amounting to substantial alteration, addition or change in any structure, street or facility and "public improvement" as used herein shall not include the making of repairs or the maintenance of any building, street, sidewalk or other public facility in the City of Dodge City, by employees of the City of Dodge City, or the making of any expenditures from the city budget for such purpose. (1-3-77)

CHARTER ORDINANCE NO. 15

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A.13-1808 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE POWERS AND DUTIES OF COMMISSIONERS AND PROVIDING FOR THE OFFICE OF MAYOR.

Section 1. Exemption. In accordance with the authority granted by Article 12, Section 5, of the Constitution of the State of Kansas, the City of Dodge City, hereby elects to exempt itself from and to make inapplicable to the City of Dodge City, the provisions of K.S.A. 13-1808, and provide substitute and additional provisions as contained in this ordinance. The provisions of the above mentioned statute apply to the City of Dodge City but do not apply uniformly to all cities in Kansas.

Section 2. Governing body. The governing body of the City of Dodge City shall consist of give commissioners, one of whom shall be elected annually to serve as mayor and one of whom shall be elected annually to serve as vice mayor.

Section 3. City departments. None of the members of the governing body of the City of Dodge City shall have under his or her special charge or supervision any responsibility for any of the departments of the government of the City of Dodge City. (1-3-77)

CHARTER ORDINANCE NO. 16

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 12-1004, 13-1702, 13-1706 AND13-1708 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS OF THE SAME SUBJECT RELATING TO THE NUMBER OF COMMISSIONERS OF THE CITY OF DODGE CITY, THEIR TENURE AND ELECTION AND REPEALING CHARTER ORDINANCE NO. 7.

Section 1. Exemption. In accordance with the authority granted by Article 12, Section 5, of the Constitution of the State of Kansas, the City of Dodge City, hereby elects to exempt itself from and to make inapplicable to the City of Dodge City, K.S.A. 12-1004, 13-1702, and 13-1706 and 13-1708 and provide substitute and additional provisions as are contained in this ordinance. The provisions of the above mentioned statutes apply to the City of Dodge City, but do not apply uniformly to all cities in Kansas.

Section 2. Governing body. The governing body of the City of Dodge City shall consist of five commissioners.

Section 3. Terms. At the regular city election to be held on the second Tuesday of April, 1978, there shall be elected two commissioners for a four year term and one commissioner for a two year term. The candidates receiving the largest and second largest number of votes respectively, shall be elected for four year terms and the candidate receiving the third largest number of votes shall be elected for a two year term. At succeeding regular city elections to be held on the second Tuesday in April in even numbered years, there shall be elected two commissioners for four year terms, and one commissioner for a two year term. The candidates receiving the largest and second largest number of votes respectively, shall be elected for four year terms and the candidate receiving the third largest number of votes shall be elected for a two year term.

Section 4. Repealed. Charter Ordinance No. 7 of the City of Dodge City is hereby repealed.
(1-3-77)

CHARTER ORDINANCE NO. 17

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. CHAPTER 13, ARTICLE 14a, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO RETIREMENT PROVISIONS FOR MEMBERS OF THE FIRE AND POLICE DEPARTMENTS OF THE CITY OF DODGE CITY.

Section 1. Exemption. In accordance with the authority granted by Article 12, Section 5, of the Constitution of the State of Kansas, the City of Dodge City, hereby elects to exempt itself from and to make inapplicable to the City of Dodge City, the provisions of K.S.A. Chapter 13, Article 14a, and to provide substitute and additional provisions as contained in this ordinance. The provisions of the above mentioned statute apply to the City of Dodge city, but do not apply uniformly to all cities in Kansas.

Section 2. Retirement. Provisions for the retirement of the employees of the fire and police departments of the City of Dodge City shall be governed by the provisions of Chapter 74, Article 9, of Kansas Statutes Annotated, as they are now or may be hereafter amended, known as Kansas Public Employees Retirement System.
(1-3-77)

CHARTER ORDINANCE NO. 18

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 12-1009 AND 13-1810, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE REGULAR MEETINGS OF THE GOVERNING BODY OF THE CITY OF DODGE CITY.

Section 1. Exemption. In accordance with the authority granted by Article 12, Section 5, of the Constitution of the State of Kansas, the City of Dodge City, hereby elects to exempt itself from and to make inapplicable to the City of Dodge City, the provisions of K.S.A. 12-1009 and 13-1810, and provide substitute and additional provisions as contained in this ordinance. The provisions of the above mentioned statutes apply to the City of Dodge City, but do not apply uniformly to all cities in Kansas.

Section 2. Governing body; meetings. The governing body of the City of Dodge City shall hold regular public meetings in the city hall on the first and third Mondays of each month, at such time as shall be fixed by the governing body, to consider and take under advisement and act upon such business as may come before it. The majority of said governing body shall constitute a quorum for the transaction of business. (1-3-77)

CHARTER ORDINANCE NO. 19

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 12-1008, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE FIXING OF THE COMPENSATION FOR THE MEMBERS OF THE GOVERNING BODY OF THE CITY OF DODGE CITY.

Section 1. Exemption. In accordance with the authority granted by Article 12, Section 5, of the Constitution of the State of Kansas, the City of Dodge City, hereby elects to exempt itself from and to make inapplicable to the City of Dodge City, the provisions of K.S.A. 12-1008, and provide substitute and additional provisions as contained in this ordinance. The provisions of the above mentioned statute apply to the City of Dodge City, but do not apply uniformly to all cities in Kansas.

Section 2. Governing body; compensation generally. The compensation of the members of the governing body shall be fixed by ordinance and shall be paid at intervals provided for by section 2-212(d), of the Code of the City of Dodge City.

Section 3. Same Maximum. The salaries so fixed shall not exceed the sum of $200 per month, as defined by ordinance, for the mayor, and $200 per month for each commissioners.
(1-3-77)

CHARTER ORDINANCE NO. 20

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 12-3001, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE ADOPTION OF ORDINANCES BY THE GOVERNING BODY OF THE CITY OF DODGE CITY.

Section 1. Exemption. In accordance with the authority granted by Article 12, Section 5, of the Constitution of the State of Kansas, the City of Dodge City, hereby elects to exempt itself from and to make inapplicable to the City of Dodge City, the provisions of K.S.A. 12-3001, and provide substitute and additional provisions as contained in this ordinance. The provisions of the above mentioned statute apply to the City of Dodge City but do not apply uniformly to all cities in Kansas.

Section 2. Ordinances. All ordinances of the City of Dodge City shall be considered at a public meeting of the governing body, except where a statute provides a different procedure for an ordinance for a specific

purpose. Any ordinance may be passed finally on the day it is introduced.
(1-3-77)

CHARTER ORDINANCE NO. 21

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 12-1737, AND PROVIDING SUBSTITUTE PROVISIONS ON THE SAME SUBJECT RELATING TO THE METHODS OF FINANCING THE ACQUISITION OR CONSTRUCTION OF PUBLIC BUILDINGS, TAX LEVIES AND INVESTMENT OF BUILDING FUNDS AND INTEREST.

Section 1. Exemption. The City of Dodge City, by authority vested in it by Article 12, of Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from the provisions of K.S.A. 12-1737, which applies to the City of Dodge City, but not uniformly to all cities, and provide a substitute provision on the same subject as hereinafter set forth in this charter ordinance.

Section 2. Powers of the governing body. The governing body of the City of Dodge City may, for the purposes authorized and provided for by K.S.A. 12-1736, and all acts supplemental and amendatory thereto:

(a) Receive and expend gifts;

(b) Receive and expend grants in aid of state or federal funds;

(c) Issue bonds of the city;

(d) Make an annual tax levy upon all taxable tangible property in the City of Dodge City for the purpose of creating a building fund to be used for the purposes authorized and provided for by K.S.A. 12-1736, and all acts supplemental and amendatory thereto;

(e) Issue no fund warrants;

(f) Use moneys from the general operating fund or other appropriate budgeted fund when such is available;

(g) Use moneys received from the sale of public buildings or buildings and sites;

(h) May combine any two or more of such methods of financing for the purposes herein authorized; Provided, the city shall first use funds received from the payment of insurance claims for damages sustained byany such public buildings before restoring to methods of financing herein authorized.

Section 3. Ordinance required. No levies shall be made for the purpose of creating a building fund under the provisions of this charter ordinance until an ordinance authorizing the making of such levies shall annually be

passed by the governing body.

Section 4. City authorized to invest building funds. The levy herein authorized shall be in addition to and not limited by any other act authorizing or limiting the tax levies of the city. The city is hereby authorized to invest any portion of the special building funds which is not currently needed in direct obligations of the United States maturing or redeemable at par and accrued interest within one year from the date of purchase, the principal and interest whereof is guaranteed by the United States and in time certificates of deposit pursuant to the laws of the State of Kansas and the ordinances of the City of Dodge City. All interest received on such investments shall upon receipt thereof be credited to the special building fund.

Section 5. No fund warrants. No fund warrants issued under the authority of this ordinance shall be issued in the manner and form and bear interest and be redeemed as prescribed by section 79-2940, Kansas Statutes Annotated, as amended. The governing body shall make a tax levy at the first tax levying period after such warrants are issued sufficient to pay such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and none of the tax limitations provided by Article 19 of Chapter 79 of Kansas Statutes Annotated, as amended, shall apply to such levies. (1-16-78)

CHARTER ORDINANCE NO. 22

A CHARTER ORDINANCE AMENDING THE PROVISIONS OF CHARTER ORDINANCE NO. 16, BY PROVIDING FOR THE HOLDING OF MUNICIPAL ELECTIONS ON THE FIRST TUESDAY OF APRIL, IN EVEN NUMBERED YEARS.

Section 1. Charter Ordinance No. 16, Section 3, amended. The provisions of Section 3, of Charter Ordinance No. 16, adopted by the governing body of the City of Dodge City, on January 3, 1977, are amended by the provisions of this charter ordinance.

Section 2. When regular city elections to be held. All regular city elections in the City of Dodge city shall be held on the first Tuesday of the month of April, in even numbered years.

Section 3. Charter Ordinance No. 16, as amended, affirmed and ratified. Charter Ordinance No. 16, shall remain in full force and effect except only as said Charter Ordinance No. 16, is modified and amended by Section 2, of this charter ordinance and subject to the amendment provided for in this ordinance, Charter Ordinance No. 16 is

affirmed and ratified.
(1-14-80)

CHARTER ORDINANCE NO. 23

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 41-719, WHICH PROHIBITS THE SALE OF ALCOHOLIC LIQUORS UPON PROPERTY OWNED BY THE CITY OF DODGE CITY AND PROVIDING A SUBSTITUTE PROVISION ON THE SAME SUBJECT.

Section 1. Exemption from K.S.A. 41-719. The City of Dodge City under the authority of Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and to make inapplicable to it the provisions of K.S.A. 41-719, which apply to said city, but which do not apply uniformly to all cities and to provide substitute provisions on the same subject.

Section 2. Specific exemption. The area comprising the Mariah Hills Municipal Golf Course is hereby exempt from the limitation and restrictions of K.S.A. 41-719. All other provisions of K.S.A. 41-719 shall remain in effect.
(3-16-81)

CHARTER ORDINANCE NO. 24

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 13 AND EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. SUPPLEMENT 79-5001 THROUGH 79-5017 AND PROVIDING FOR SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND REMOVING ANY LIMITATION OF TAX LEVY.

Section 1. Exemption from K.S.A. 79-5001 through 79-5017. In accordance with the authority granted to municipalities by Article 12, Section 5 of the constitution of the State of Kansas, the City of Dodge City hereby elects to exempt itself from and to make inapplicable to the City of Dodge City, the provisions of K.S.A. Supplement 79-5001 through 79-5017 and to provide substitute and additional provisions as are set out in this ordinance. The provisions of the above mentioned statutes apply to the City of Dodge City but do not apply uniformly to all cities in Kansas.

Section 2. Charter Ordinance No. 13 Repealed. Charter Ordinance Number 13 of the City of Dodge City, adopted January 3, 1977, is hereby repealed.

Section 3. Governing Body. The governing body of the City of Dodge City is hereby authorized and empowered to levy taxes in each year for the general fund and such other city purposes without limitation as to the rate of levy in

any one year on each dollar of assessed valuation. Said purposes shall include all of the operations of the city except as limited by the provisions of Section 4 of this Ordinance. The governing body may levy an amount necessary to meet the requirements of it's adopted budget.

Section 4. Rate of Levy. The rate of levy for the following purposes shall not exceed, for the library, four mills; for the noxious weed fund, one mill; for the band, one mill.
(5-4-87)

CHARTER ORDINANCE NO. 25

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 13, AND EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. SUPP. 79-1951, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND REMOVING ANY LIMITATION OF TAX LEVY.

Section 1. Exemption from K.S.A. 79-1951. In accordance with the authority granted to municipalities by Article 12, Section 5, of the Constitution of the State of Kansas, the City of Dodge City hereby elects to exempt itself from and to make inapplicable to the City of Dodge City, the Provisions of K.S.A. Supp. 79-1951, and to provide substitute and additional provisions as are set out in this ordinance. The provisions of the above mentioned statute apply to the City of Dodge City, but do not apply uniformly to all cities in Kansas.

Section 2. Charter Ordinance No. 13 Repealed. Charter Ordinance No. 13, is hereby repealed.

Section 3. Governing Body. The Governing Body of the City of Dodge City is hereby authorized and empowered to levy taxes in each year for the General Fund and other City purposes without limitation as to the rate of levy in any one year on each dollar of assessed valuation. Such purposes shall include all of the operation of the City, except as limited by the provisions of Section 4, of this Ordinance. The Governing Body may levy an amount necessary to meet the requirements of its adopted budgets.

Section 4. Rate of Levy. The rate of levy for Library purposes shall not exceed four and one half (4.5) mills. (6-6-88)

CHARTER ORDINANCE NO. 26

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY, FROM THE PROVISIONS OF K.S.A. 12-1696, 12-1697 and 12-16, 101, AND K.S.A. 1985 SUPP. 12-1698, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE LEVY OF A TRANSIENT GUEST TAX AND PROVIDING FOR PURPOSES FOR EXPENDITURE OF SUCH FUNDS.

(Repealed by Charter Ordinance No. 28)

CHARTER ORDINANCE NO. 27

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF K.S.A. 12-4112, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AUTHORIZING THE ASSESSMENT OF COURT COSTS FOR CASES HEARD IN THE MUNICIPAL COURT OF THE CITY OF DODGE CITY

SECTION 1: Exemption. The City of Dodge City, a city of the first class, by virtue of the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and make inapplicable to it the provisions of K.S.A. 12-4112, which is not uniformly applicable to all cities, the legislature having made special provisions applying to certain classes of cities in said enactment.

SECTION 2: Charter Ordinance No. 10 Repealed. Charter Ordinance No. 10 is hereby repealed.

SECTION 3: Provisions. In lieu of the provisions of K.S.A. 12-4112, the Governing Body of the City of Dodge City hereby adopts the following provisions:

> "Every person found guilty of a violation of the ordinances of the City of Dodge City shall be assessed costs for the administration of justice in the Municipal Court of the City of Dodge City, in an amount which shall be established by resolution of the Governing Body." (6-5-89)

CHARTER ORDINANCE NO. 28

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY, FROM THE PROVISIONS OF K.S.A. 12-1696, AND 12-16, 101, AND K.S.A. 1990 SUPP. 12-1697 AND 1698 AND REPEALING CHARTER ORDINANCE NO. 26, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE LEVY OF A TRANSIENT GUEST TAX AND PROVIDING FOR PURPOSES FOR EXPENDITURES OF SUCH FUNDS.

SECTION 1: Exemption. The City of Dodge City, a city of the first class, by the power vested in it by Article 12, Section 5, of the Constitution of the State

of Kansas, hereby elects to exempt itself from and makes inapplicable to it, the provision of K.S.A. 12-1296, and 12-16, 101 and K.S.A. 1990 supp. 12-1697 and 12-1698 and provides substitute and additional provisions as hereinafter set forth in this ordinance. Such referenced provisions are either enactments or a part thereof, which are applicable to this City, but no applicable uniformly to all cities. The City of Dodge City does hereby repeal Charter Ordinance No. 26, effective upon the effective date of this ordinance.

SECTION 2: Terms. As used in this ordinance, the following words and phrases shall have the meaning respectively ascribed to them therein:

(a) "Person" means an individual, firm partnership, corporation, joint venture or other association of persons:

(b) "Hotel, motel or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having more than eight (8) bedrooms furnished for the accommodation of such guests;

(c) "Transient guest" means a person who occupies a room in a hotel, motel or tourist court for not more than twenty-eight (28) consecutive days;

(d) "Business" means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel, or tourist court.

SECTION 3: Tax Levy. That a transient guest tax of six percent (6%) shall be levied in the City of Dodge City, Kansas, upon the gross rental receipts derived from or paid by transient guest for lodging or sleeping accommodations, exclusive of charges for incidental services on facilities, in any hotel, motel, or tourist court. The effective date of this tax shall be on the first day of the calendar quarter next following the thirtieth (30th) day after the date of the receipt by the Department of Revenue of this ordinance, subject to the conditions and provisions of Section 13 of this ordinance.

SECTION 4: Base of Transient Guest Tax. The transient guest tax levied pursuant to this ordinance shall be based upon the gross rental receipts collected by any business.

SECTION 5: Collection. The tax levied pursuant to this ordinance shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any

such tax, or an amount equal as nearly possible or practicable to the average equivalent thereto. Each business collecting the tax levied hereunder shall be responsible for paying over the same to the State Department of Revenue in the manner prescribed by this ordinance, and the State Department of revenue shall administer and enforce the collection of such tax.

SECTION 6: Payment Schedule. The tax levied and collected pursuant to Section 3 of this ordinance shall become due and payable by the business monthly, on or before the last day of the month immediately succeeding the month in which it is last collected, with the first payment due and payable on or before the day upon which remittance of sales tax is due to the Department of Revenue, subject to the conditions and provisions of Section 13 herein, but any person filing an annual or quarterly return under the Kansas Retailer's Tax Act, as prescribed in K.S.A. 79-3607, may, with the approval of the Secretary of Revenue and upon such conditions as the Secretary of Revenue may prescribe, pay the tax required by this ordinance on the same basis and at the same time he or she pays said retailer's sales tax. Each business shall made a true report to the Department of Revenue, on a form prescribed by the Secretary of Revenue, providing such information as may be necessary to determine the amounts to which such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein.

SECTION 7: Inspection. The Secretary of Revenue or the Secretary's authorized representative shall have the right at all reasonable times during business hours to made such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports.

SECTION 8: Penalties. If, with respect to Section 3 through 7 herein, inclusive, any taxpayer shall fail to pay any tax levied, fail to file a return, fail to supply information necessary to determine the accuracy of the taxpayer's returns, files a false or fraudulent return, or willfully violates regulations of the Secretary of Revenue, then such taxpayer shall be subject to interest and penalties as set out in K.S.A. 1990 Supp. 12-1698a.

SECTION 9: Administration. The administration and collection of said tax shall be by the Secretary of Revenue, as provided in subsection (c) of K.S.A. 1990 Supp. 12-1698 and herein.

SECTION 10: Special Revenue Fund Established. There is hereby established within the City financial records a special revenue fund to be designated as the Transient Guest Tax Fund. All moneys received by the City from the Secretary of Revenue of the State of Kansas, as provided herein, shall be credited to the Transient Guest Tax Fund.

SECTION 11: Use of Tax. The moneys on deposit in the Transient Guest Tax Fund, subject to lawful budget appropriations may be used for the following purposes:

(1) to contract with any agency, organization or group of firms to promote conventions and tourism with the City and its environs;

(2) to provide for the operation, maintenance, expansion or development of City facilities connected with convention and tourism;

(3) to establish a facilities renovation fund from which businesses subject to the tax levied herein may utilize such monies upon such terms and conditions as may be established by the the City for the purpose of renovation of such businesses, hotel, motel and tourist court facilities;

(4) to create innovative projects and activities promoting conventions and tourism;

(5) to promote the general economic welfare of the City and its environs, including the attraction of industry. (2-18-91)

CHARTER ORDINANCE NO. 29

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY, KANSAS, FROM THE PROVISIONS OF K.S.A. 79-5028, AS AMENDED BY 1991 HOUSE BILL NO. 2222, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

(Repealed by Charter Ordinance No. 31)

CHARTER ORDINANCE NO. 30

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY, KANSAS, FROM THE PROVISIONS OF K.S.A. 79-5028, AS AMENDED BY 1991 HOUSE BILL NO. 2222, AND PROVIDING SUBSTITUTE AND

ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

SECTION 1: Exemption. The City of Dodge City, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas and as provided by K.S.A 79-5036(a), as amended by 1991 House Bill No. 2222 hereby elects to exempt itself from the provisions of K.S.A. 79-5028, as amended by 1991 House Bill No. 2222. K.S.A. 79-5028, as amended, is part of an enactment commonly known as the Kansas property tax lid law, which enactment applies to this City but does not apply uniformly to all cities.

SECTION 2: Provisions. The following is hereby substituted for the provisions of K.S.A. 79-5028, as amended: The provisions of K.S.A. 79-5021 to 79-5035, inclusive, and amendments thereto, shall not limit the levy of taxes by the Governing Body of the City of Dodge City. (7-6-92)

CHARTER ORDINANCE NO. 31

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 29

SECTION 1: The City of Dodge City, by the power vested in it under Article 12, Section 5 of the Constitution of the State of Kansas, previously adopted Charter Ordinance No. 29, which ordinance exempted the City of Dodge City from the provisions of K.S.A. 79-5028, as amended by 1991 House Bill No. 2222, which is part of an enactment commonly known as the Kansas property tax lid law.

SECTION 2: The City of Dodge City finds it to be in the best interests of the City to repeal Charter Ordinance No. 29, and does hereby, pursuant to Article 12, Section 5(c)(4) of the Constitution of the State of Kansas, repeal Charter Ordinance No. 29. (7-14-94)

CHARTER ORDINANCE NO. 32

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-1017, AS AMENDED.

SECTION 1: Election to Exempt. The City of Dodge City, Kansas, by the power vested in it in Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from the provisions of K.S.A. 13-1017, as amended, part of an enactment which applies to this City, but does not apply uniformly to all cities. (11-20-95)

CHARTER ORDINANCE NO. 33

A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY FROM THE PROVISIONS OF THE WATER POLLUTION ACT AS CONTAINED IN K.S.A. 12-3101 ET. SEQ BY PROVIDING ADDITIONAL PROVISIONS RELATING TO THE ESTABLISHMENT, OPERATION, AND MAINTENANCE OF A STORM WATER UTILITY THEREBY ADDING CHAPTER XV, ARTICLE 6 TO THE DODGE CITY MUNICIPAL CODE.

SECTION 1: The City of Dodge City, Kansas, by virtue of the powers vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from the provisions of the Water Pollution Act as contained in K.S.A. 12-3101 et seq. and in lieu thereof does here adopt the following provisions relating to the establishment, operation, and maintenance of a Storm Water Utility thereby adding Chapter XV, Article 6 to the City Code, creating a Storm Water Utility. (12-18-95)

CHARTER ORDINANCE NO. 34

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 25; AND PROVIDING FOR A TAX LEVY LIMITATION FOR THE LIBRARY.

SECTION 1. Charter Ordinance N0. 25 is hereby Prepealed.

SECTION 2. The Governing Body of the City of Dodge City is hereby authorized and empowered to levy taxes in each year for the General Fund and other City purposes without limitation as to the rate of levy in any one year on each dollar of assessed valuation. Such purposes shall include all of the operation of the City, except as limited by the provisions of Section 3, of this Ordinance.

SECTION 3. The rate of levy for Library purposes shall not exceed four and eight tenths (4.8) mills.

SECTION 4. This ordinance shall take effect sixty-one (61) days following final publication, unless a sufficient petition for a referendum is filed requiring a referendum be held on this ordinance as provided in Article 12, Section 5, Subsection C-3 of the Constitution of the State of Kansas in which case the ordinance shall be effective if approved by a mahority of the electors voting thereon.

CHARTER ORDINANCE NO. 35

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO 34, AND PROVIDING FOR A TAX LEVY LIMITATION FOR THE LIBRARY.

SECTION 1. Charter Ordinance No 34 hereby repealed

SECTION 2. The Governing Body of the City of Dodge City is hereby authorized and empowered to levy taxes in each year for the General Fund and other City purposes without limitation as to the rate of levy in any one year on each dollar of assessed valuation. Such purposes shall include all of the operation of the City, except as limited by the provisions of Section 3, of this Ordinance.

SECTION 3. The rate of levy for Library purposes shall not exceed five and two tenths (5.2) mills.

SECTION 4. This ordinance shall take effect sixty-one (61) days following final publication, unless a sufficient petition for a referendum is filed requiring a referendum to be held on this ordinance as provided in Article 12, Section 5, Subsection C-3 of the Constitution of the State of Kansas in which case the ordinance shall be effective if approved by a mahority of the electors voting thereon.

CHARTER ORDINANCE NO. 36

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 35, AND PROVIDING FOR A TAX LEVY LIMITATION FOR THE LIBRARY.

SECTION 1. Charter Ordinance No 34 hereby repealed.

SECTION 2. The Governing Body of the City of Dodge City is hereby authorized and empowered to levy taxes in each year for the General Fund and other City purposes without limitation as to the rate of levy in any one year on each dollar of assessed valuation. Such purposes shall include all of the operation of the City, except as limited by the provisions of Section 3, of this Ordinance.

SECTION 3. The rate levy for Library purposes shall not exceed (6) mills.

SECTION 4. This ordinance shall take effect sixty-one (61) days following final publication, unless a sufficient petition for a referendum is filed requiring a referendum to be held on this ordinance as provided in Article 12, Section 5, Subsection C-3 of the Constitution of the State of Kansas in which case the ordinance shall be effective if approved by a majority of the electors voting thereon.

CHARTER ORDINANCE NO. 37

A CHARTER ORDINANCE AMENDING CHARTER ORDINANCE NO. 28 RELATING TO THE INCREASE OF THE AMOUNT OF THE LEVY OF A TRANSIENT GUEST TAX.

SECTION 1:Charter Ordinance No.28 is hereby amended in the following respects:

(a)Section 1 is hereby amended by deleting from the fourth line of said Section the phrase ''KSA 12-1296'' and inserting in lieu thereof the phrase ''KSA 12-1696''.

(b)Section 3 is hereby amended by deleting the phrase ''six percent (6%)'' in the first sentence of said Section and inserting in lieu thereof the phrase ''eight percent(8%)''.

(c) All other provisions of Charter Ordinance No. 28 shall remain in full force and effect.

SECTION 2: This ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

SECTION 3: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, subdivision (c)(3) of the Constitution of the State of Kansas, in which case, the Ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body of the City of Dodge City, not less than two-thirds of the members elect voting in favor of this ordinance, this 1st day of April, 2013.