

CITY COMMISSION MEETING AGENDA

City Hall Commission Chambers

806 N 2nd Avenue

Monday, July 15, 2024

7:00 p.m.

MEETING #5285

Public is welcome although seats are limited for social distancing; or you can view as follows:

1. Watch live on our Facebook page at www.facebook.com/cityofdodgecity

2. Or watch it on our Vimeo page at www.vimeo.com/cityofdodgecity.

The meeting will be archived on both sites to be viewed after the live video has ended.

CALL TO ORDER

ROLL CALL

INVOCATION BY Pastor Josh Smith, Cross Connection Church

PLEDGE OF ALLEGIENCE

APPROVAL OF AGENDA

PETITIONS & PROCLAMATIONS

National Day of the Cowboy Proclamation

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

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, July 1, 2024.
2. Appropriation, Ordinance No.16, July 15, 2024.
3. Cereal Malt Beverage Applications: (On file in City Clerks Office)
 - a. Spee-D-Stop. 2307 Central Avenue.
 - b. River Stop, 705 S. 14th Avenue.
 - c. Kate's 305 E. Trail Street.
4. Approve the Bid for the Renovation of 1114 Longbranch, for the Community Development Block Grant through the Kansas Department of Commerce.

5. Approve the Bid for the Renovation of 1002 Harris St., for the Community Development Block Grant through the Kansas Department of Commerce.
6. Approve Change Order #1 for US 50 Mill & Inlay Project.

ORDINANCES & RESOLUTIONS

Ordinance No. 3812: An Ordinance Adopting a Historic Resources Preservation Ordinance by Reference for the City of Dodge City, Kansas; Establishing Penalties for Violations Thereof; and Repealing and Replacing all Other Ordinances and Provisions of Ordinances in Conflict Herewith. Report by Nathan Littrell, Planning and Zoning Administrator.

Ordinance No. 3813: An Ordinance Adding to Chapter III of the Code of the City of Dodge City a New Article 8, Establishing Sidewalk Café Licenses and Conditions Pertaining Thereto Within the City Limits of Dodge City, Kansas. Report by Josh Adams, Director of Development Services.

Resolution No. 2024-12: A Resolution Establishing Guidelines and Requirements for Applicants Seeking Sidewalk Café License Agreement. Report by Josh Adams, Director of Development Services.

UNFINISHED BUSINESS

1. Approval of the Notice of Revenue Neutral Rate Intent to exceed the Revenue Neutral Rate. Report by Nicole May, Finance Director.

NEW BUSINESS

OTHER BUSINESS

STAFF REPORTS

EXECUTIVE SESSION

Consultation with an Attorney on Matters that would be Deemed Privileged in an Attorney-Client Relationship, KSA 75-4319(b) (2).

ADJOURNMENT

NATIONAL DAY OF THE
COWBOY

PROCLAMATION

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas approximately 800,000 ranchers are conducting business in all 50 States and are contributing to the economic well being of nearly every county in the Nation making the cowboy an excellent steward of the land and its creatures; and

Whereas the cowboy is an American icon; cowboy traditions have long been part of the American landscape and culture and today's cowboys and cowgirls continue to strive to preserve and perpetuate this unique element of American heritage; and

Whereas to recognize the American cowboy is to acknowledge the ongoing commitment of the United States to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged:

Now, therefore, be it resolved, that Dodge City and Ford County supports the Senate of the United States in their quest to designate and celebrate the 4th Saturday in July each year, and this year designates July 27, 2024, as

National Day of the Cowboy

Be it further resolved that the Convention and Visitors Bureau, will hold a mustache contest and celebration **on July 27th from 12:00 PM to 12:45 PM** during the Dodge City Days Party in the Park, in observance of National Day of the Cowboy, and encourages the people of Dodge City, Ford County, and the United States to observe the day with appropriate ceremonies and activities.

IN WITNESS THEREOF, I have hereunto set my hand this 15th day of July 2024.

Chuck Taylor, Mayor

Attest: Connie Marquez, City Clerk

CITY COMMISSION WORK SESSION MINUTES

City Hall Commission Chambers

Monday, July 1, 2024

5:00 p.m.

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CALL OR ORDER

ROLL CALL Mayor Chuck Taylor, Commissioners Jeff Reinert, Rick Sowers, Michael Burns, Daniel Pogue

WORK SESSION

Burns & McDonnell Representatives, Jake White, Brian Meier Tracy Streeter gave a presentation on the Aquifer Recharge Project. The Aquifer will ensure a sustainable source of water for the City of Dodge City.

ADJOURNMENT

Commissioner Jeff Reinert made a motion to adjourn the meeting. Commissioner Daniel Pogue seconded the motion. The motion carried 5 – 0.

ATTEST:

Mayor

City Clerk

CITY COMMISSION MEETING AGENDA MINUTES

City Hall Commission Chambers

806 N 2nd Avenue

Monday, July 1, 2024

7:00 p.m.

MEETING #5284

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CALL TO ORDER

ROLL CALL Mayor Chuck Taylor, Commissioners Jeff Reinert, Rick Sowers, Michael Burns, Daniel Pogue

INVOCATION BY Pastor Josh Smith, Cross Connection Church

PLEDGE OF ALLEGIENCE

APPROVAL OF AGENDA

Mayor Chuck Taylor moved to amend the agenda removing Ordinance No. 3812. Commissioner Daniel Pogue made a motion to approve the agenda with the change. Commissioner Jeff Reinert seconded the motion. The motion carried 5 - 0.

PETITIONS & PROCLAMATIONS

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

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, June 17, 2024.
2. Appropriation, Ordinance No. 15, July 1, 2024.

Commissioner Michael Burns moved to approve the consent calendar as presented. Commissioner Jeff Reinert seconded the motion. The motion carried 5 - 0.

ORDINANCES & RESOLUTIONS

UNFINISHED BUSINESS

NEW BUSINESS

1. Commissioner Michael Burns moved to approve Change Order #15 for the addition of a Heat Exchanger/Chiller Unit to the Industrial Raw Biogas line in the amount of \$542,810. Commissioner Daniel Pogue seconded the motion. The motion carried 5 - 0.

OTHER BUSINESS

STAFF REPORTS

ADJOURNMENT

Commissioner Jeff Reinert moved to adjourn the meeting. Commissioner Daniel Pogue seconded the motion. The motion carried 5 - 0.

ATTEST:

Mayor

City Clerk



Memorandum

To: City Manager, City Commissioners
From: Mollea Wainscott, Assistant Director of Economic Development
Date: 07/15/24
Subject: CDBG Bid Approval
Agenda Item: Consent Calendar

Recommendation: Staff recommends approving the attached bid from L.R. Lee Contracting for the renovation of 1114 Longbranch, for the Community Development Block Grant through the Kansas Department of Commerce in the amount of \$19,732.40

Background: On August 16, 2021, the City of Dodge City approved Resolution number 2021-20, approving the application for assistance for a Community Development Block Grant. The Kansas Department of Commerce approved the City of Dodge City's project application for \$300,000.

On April 4, 2022, the City of Dodge City approved the Contractor Guidelines for the CDBG grant. The City of Dodge City has four approved contractors on the bidders list.

On June 12, 2024, all contractors on the approved bidders list received a bid specification and proposal form for the renovations at 1114 Longbranch. The City received a bid from L.R. Lee Contracting.

Justification: Housing continues to be a constant challenge in the Dodge City/Ford County area. The City of Dodge City recognizes the need to use strategic rehabilitation and housing conservation to strengthen home values in our aging neighborhoods.

Financial Considerations: None at this time.

Purpose/Mission: To provide adequate housing in order for the City to accommodate present and future growth.

Legal Considerations: None

Attachments: Bids



Lic. G.C. since 1983

P.O. Box 997
1200 13th Ave
Dodge City Ks, 67801
Phone #: 620-227-6683
Toll Free #: 866-354-6683
Fax #: 620-227-6689

June 25, 2024

CDBG Bid
Donald & Julia Kessen
1114 Longbranch
Dodge City Ks. 67801

Work Items as listed.

1. Down stairs sink leak, Replace drain nut attachment **\$ 55.00**
2. North basement wall termite damage, demo paneling. Sheetrock finish and paint.
\$1722.00
3. Install washer plumbing box, and patch sheetrock at old faucets. No painting. **\$ 326.40**
5. Replace front door & storm door, custom size. **\$ 5,615.00** (Superior Home)
6. Replace south living room windows. **\$ 2,947.00** (Superior Home)
7. Install hand rail at back outside steps. **\$ 200.00**
8. Fix leak at back Hydrant. **\$ 15.00**

Electrical, Mike Stegman

10. Upgrade electric service, and replace service to the back garage. **\$ 7,875.00**
11. Smoke detector in each bedroom and 1 CO on each floor. **\$ 227.00**
- *. LSWP **\$ 750.00**

Authorized signature: 
Leon R Lee.

Note: This estimate may be withdrawn, if not accepted within **5 days**.
Acceptance of this Estimate, sign and date

Date: _____ Signature: _____

Payment in full, to be made upon completion of work.

Late payment will be charged interest of 2% per month, 24% per Annum starting 30 days after completion



Memorandum

To: City Manager, City Commissioners
From: Mollea Wainscott, Assistant Director of Economic Development
Date: 07/15/24
Subject: CDBG Bid Approval
Agenda Item: Consent Calendar

Recommendation: Staff recommends approving the attached bid from L.R. Lee Contracting for the renovation of 1002 Harris St., for the Community Development Block Grant through the Kansas Department of Commerce in the amount of \$12,562.00

Background: On August 16, 2021, the City of Dodge City approved Resolution number 2021-20, approving the application for assistance for a Community Development Block Grant. The Kansas Department of Commerce approved the City of Dodge City's project application for \$300,000.

On April 4, 2022, the City of Dodge City approved the Contractor Guidelines for the CDBG grant. The City of Dodge City has four approved contractors on the bidders list.

On June 12, 2024, all contractors on the approved bidders list received a bid specification and proposal form for the renovations at 1002 Harris Street. The City received a bid from L.R. Lee Contracting.

Justification: Housing continues to be a constant challenge in the Dodge City/Ford County area. The City of Dodge City recognizes the need to use strategic rehabilitation and housing conservation to strengthen home values in our aging neighborhoods.

Financial Considerations: None at this time.

Purpose/Mission: To provide adequate housing in order for the City to accommodate present and future growth.

Legal Considerations: None

Attachments: Bids



Lic. G.C. since 1983

P.O. Box 997
1200 13th Ave
Dodge City Ks, 67801
Phone #: 620-227-6683
Toll Free #: 866-354-6683
Fax #: 620-227-6689

June 27, 2024

CDBG Bid
Jesus Quezada & Zoila H. Garcia-Dequezada
1002 Harris St.
Dodge City Ks. 67801

Work Items as listed.

1. Re Plumb Kitchen sink. **\$225.00**
5. Fix roof pipe leak. **\$ 75.00**

Electrical

2. Add GFCI to countertop
6. Replace receptacle under the electrical service
10. Upgrade service and add disconnect
11. Upgrade interior panel
12. Add conduit to AC disconnect
13. Properly run circuit's for washer and dryer
15. Fix misc. loose light switches throughout house

Electric total \$ 2,200.00

Balance of items.

14. Add smoke detectors in bedrooms and one CO detector per floor. **\$ 227.00**
18. Vent furnace outside **\$ 298.00**
19. Add new dryer vent and make-up air for fireplace **\$ 35700**
20. Disconnect old well from main water line **\$ 65.00**
21. Water hammer issue, Add 4 Vacuum release only bath & kitchen **\$ 470.00**
22. Add walk-in shower **\$ 7,291.00**
23. Replace 2 faucets, supply lines & shut off's in the main bathrooms **\$ 604.00**
- LSWP **\$ 750.00**

Authorized signature: 
Leon R Lee.

Note: This estimate may be withdrawn, if not accepted within **5 days**.
Acceptance of this Estimate, sign and date

Date: _____ Signature: _____

****Payment in full, to be made upon completion of work.****

Late payment will be charged interest of 2% per month, 24% per Annum starting 30 days after completion



Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Ray Slattery, PE, Director of Engineering Services
Date: July 15, 2024
Subject: Change Order #1, US50 Highway CCLIP (SP) Mill & Inlay, ST 2207
Agenda Item: Consent Calendar

Purpose: To approve the field changes made during the construction of the US 50 Mill & Inlay Project.

Recommendation: Approve Change Order #1 for US 50 Mill & Inlay Project in the amount of \$92,606.50.

Background: At the November 6, 2023, Commission Meeting, the Commission awarded APAC Kansas, Inc., Shears Division the construction of the US 50 Mill & Inlay Project which is part of KDOT's CCLIP Pavement Preservation program. The KDOT's CCLIP program would reimburse the City 85% of the project cost up to \$400,000. The total cost of the project, including Change Order #1 is \$711,977.90. With that said, KDOT's share will be \$400,000 for this project. The City will be responsible for \$311,977.90. We had budgeted \$400,000.00 from the Street Sales Tax fund for the project.

The overrun in quantities was due to adding the approaches to the project to provide a more complete job. Originally, the project only included the driving lanes of US 50. However, since the project was bid, staff determined it would be beneficial for the approaches leading up to US 50 be included in the mill & overlay.

These items were increased with the paving of the approaches to US 50

- An additional 3 Tons of Asphalt Patching
- An additional 511.3 Tons of Milling
- An additional 511.3 Tons of HMA commercial Grade Asphalt
- An additional 938 L.F. of 6" White Line
- An additional 624.0 L.F. of 4" Yellow Line
- An additional 160 of 2' wide White Type II Crosswalk
- An additional 209 of 2' wide White Stop Bar
- An additional 8 Left Turn Arrows

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: Change Order #1 is for an increase of \$92,606.50. Funding for this project is from the Street Sales Tax.

Amount \$: \$92,606.50

Fund: 12730300 - 442004

Budgeted Expense Grant Bonds Other Street Sales Tax

Legal Considerations: By approving the Change Order with APAC Kansas, Inc., Shears Division, the contract dollar amount will be amended.

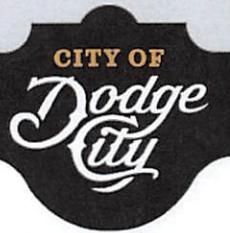
Mission/Values: The completion of this project aligns with the City's Core Value of Ongoing Improvement, Safety, Working Towards Excellence.

Attachments: Change Order #1

Approved for the Agenda by:

A handwritten signature in blue ink that reads "Ray Slattery, PE". The signature is written in a cursive style.

Ray Slattery, PE, Dir. of Engineering Services



Memorandum

To: Nick Hernandez, City Manager and City Commission

From: Nathan Littrell, Planning & Zoning Administrator

Date: July 15, 2024

Subject: Ord. No. 3812

Agenda Item: Ordinances and Resolutions

Purpose: City staff are proposing to revise the Dodge City Historic Resources Preservation Ordinance to add regulations for the Downtown Historic District as well as increase the enforceability of the Ordinance.

Recommendation: City Staff and the Historic Landmark Commission recommend approval of this ordinance.

Background: The Downtown Historic District was listed on the State register in May 2009 and the National Register in November 2009. The City of Dodge City has had a Historic Landmark Commission and procedures for nominating and preserving structures, places and districts since 1967. There have been multiple ordinances and revisions to the ordinances in the decades since. The current Historic Resources Preservation Ordinance was adopted in 2015. City administration and staff as well as SHPO have reviewed the current Historic Resources Preservation Ordinance and have determined that it still meets National, State and Local requirements, but propose to make some additions. Those additions are:

- Definitions. Definitions for "Owner," "Public Right of Way," "Public Structure" and "Sign" were added.
- Section 8: Downtown Historic District Regulations
 - Window Signage
 - Windows and Doors
 - Exterior Colors
 - Mechanical, Electrical, Plumbing and Telecommunications
 - Public Right of Way and Public Structures
 - Minimum Maintenance Standards
- Penalties Section was revised to better align with Municipal Code.
- Added map of Downtown Historic District

These proposed regulations are intended to address some current issues in the Downtown Historic District that are not covered by existing standards and regulations.

In addition, on May 28, 2024, the Historic Landmark Commission reviewed and voted 4-0 to recommend approval of the revised Historic Preservation Ordinance with recommendations. The proposed revisions have also been reviewed by the Kansas State Historic Preservation Office (SHPO).

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: None for the City. However, property owners will have costs associated with remaining in compliance and those that alter, develop or demolish the property without a certificate of appropriateness and prior approval will be subject to fines.

Legal Considerations: The City Attorney and City Prosecutor have reviewed this ordinance. Their revisions have been implemented. Adopting this ordinance will update the City Code.

Mission/Values: Approving this Historic Preservation Ordinance meets with the City's Core Values of Ongoing Improvement and Working Towards Excellence. It also supports the Mission Statement by Preserving our Heritage to Foster a Better Future.

Attachments:

- Ordinance #3812, Adopting Dodge City Historic Resources Preservation Ordinance.
- Text of 2024 Historic Preservation Ordinance.
- Previous (2015) version of the same ordinance
- Compare Doc (Redline) showing changes between 2015 and 2024 version of ordinance.

Approved for the Agenda by:



Josh Adams, Development Services Director

ORDINANCE NO. 3812

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

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

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

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

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

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

There is hereby adopted and incorporated by reference for the purpose of identifying, preserving, and regulating changes to historic structures, places, and districts within the City of Dodge City, and providing for the administration and enforcement thereof a Historic Resources Preservation Ordinance developed and published by the Dodge City Development Services Department, dated July, 2024. Such Historic Resources Preservation Ordinance is hereby made as part of the ordinance and code of the City as if the same had been set in full herein, all as authorized and in the manner proscribed by K.S.A. 12-3009 through 12-3012, and K.S.A. 12-3301 through 12-3302, including any amendments thereto. No fewer than three copies of said Historic Resources Preservation Ordinance shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable hours of City Business.

SECTION 2: STATUTORY AUTHORITY.

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

SECTION 3: PENALITIES.

Adoption of this Historic Preservation Ordinance hereby establishes and updates Section Five (5) of the previously existing Historic Preservation Ordinance, outlining the Administration and Enforcement procedures for the Ordinance.

In addition, adoption of this Historic Preservation Ordinance establishes Section 7.14 which states "Altering, developing, or demolishing without a Certificate of Appropriateness (COA) or acting without or contrary to a decision of the Landmark Commission under this Section 7 shall be a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed thirty (30) days and/or a fine not exceeding Five Hundred Dollars (\$500.00)."

Furthermore, adoption of this Historic Preservation Ordinance establishes Section 8.10 which states, “Any person violating the provisions of Section Eight (8) of this ordinance shall be guilty of a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed thirty (30) days and/or a fine not exceeding Five Hundred Dollars (\$500.00).”

SECTION 4: REPEAL.

Adoption of this Historic Resources Preservation Ordinance hereby repeals the City of Dodge City Ordinance NO. 3598 and repeals all other ordinances of provisions of ordinances in conflict herewith to the extent of conflict only.

SECTION 5: ACCRUED RIGHTS AND LIABILITIES SAVED.

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

SECTION 6: SEVERABILITY.

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

SECTION 7: EFFECTIVE DATE.

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

PASSED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS IN REGULAR SESSION, AND APPROVED BY THE MAYOR, THIS FIFTEENTH DAY OF JULY, 2024.

CHUCK TAYLOR, MAYOR

ATTEST:

CONNIE MARQUEZ, CITY CLERK

DODGE CITY HISTORIC RESOURCES PRESERVATION ORDINANCE

Section 1: Purpose & Applicability

Section 2: Definitions

Section 3: Dodge City Landmark Commission

Section 4: Promotion and Other Functions

Section 5: Administration and Enforcement

Section 6: Landmarks Survey, Nomination, and Designation Process

Section 7: Certificate of Appropriateness Required

Section 8: Downtown Historic District Regulations

Section 9: Landmark Designation Process

Section 10: Appeal and Variance Procedure

Section 11: Severability

Section 1: Purpose & Applicability

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

Section 2: Definitions

- 2.01 For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense include the future; words in the singular include the plural. The word “shall” is mandatory while “should” and “may” are permissive. Any words not defined herein shall carry and convey the meaning ascribed by a common English language dictionary.
- a) **Alteration**: Any change or rearrangement to the structural parts of an existing building, structure, or property. Any enlargement, whether by height or dimension, shall be considered an alteration.

- b) **Applicant:** The owner or duly designated representative of a building, structure, or property seeking nomination of such to the Dodge City Landmark list or seeking approval of plans under the COA process.
- c) **Building:** A structure, including but not limited to a house, barn, church, hotel, courthouse, city hall, social hall, commercial building, library, factory, mill, train depot, theater, school, store, warehouse, or other building created to shelter human activity. The term may also refer to a small group of buildings consisting of a primary and one or more accessory structures in a historically, functionally related manner such as a mansion and a carriage house, a church and rectory, or a farmhouse and agricultural structures.
- d) **Certificate of Appropriateness or “COA”:** A certificate issued by the City approving plans for alteration, construction, demolition, or other matters relating to various historic properties.
- e) **COA-Major:** A Certificate of Appropriateness which may only be granted by the Landmark Commission or, on appeal, by the City Commission.
- f) **COA-Minor:** A Certificate of Appropriateness which may be granted by certain designated City staff for non-exterior repairs or for non-registered properties which have no adverse impact on historic properties.
- g) **City:** The City of Dodge City, Kansas
- h) **City Commission:** The governing body of the City of Dodge City, Kansas.
- i) **Contributing/Key Contributing:** A building, site, structure, or object adding to the historical significance of a property. This term can pertain to a single property but most commonly is used in cases of historic districts.
- j) **Design Guideline:** Guidelines developed by the Landmark Commission, and approved by the City Commission, for use by the Landmark Commission and Department staff for reviewing project under the COA process in addition to the Sec. of the Interior’s Standards for Rehabilitation.
- k) **Development Permit:** A permit issued by the Dodge City Development Services Department authorizing construction or other land development activity, including but not limited to building, curb cut, electrical, excavating, zoning, certificate of occupancy, business license, and sign permits.
- l) **Director:** The director of the Dodge City Development Services Department or his/her authorized representative.
- m) **District:** An area that possesses a significant concentration, relationship among, or continuity of sites, buildings, structures, or objects united historically or architecturally by plan or physical development. Districts include college campuses, downtown areas, residential areas, industrial complexes, civic centers, government reservations, planned street systems, and parks. The term may also be applied to individual associated or functionally related sites, buildings, structures, or objects that are geographically separated. In such cases, visual continuity should not be necessary to convey the historic relationship of a goal of related resources.

- n) **Dodge City Landmark List:** A district, site, structure or object designated as a landmark by ordinance of the City, deemed worthy of preservation because of its historic, archaeological and/or architectural significance to the City, state or nation.
- o) **Exterior Architecture/Feature:** The character and composition of the exterior of the structure or building, including but not limited to the kind, color, and texture of the building material, and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements, and the elements and components of the outer surface of a structure including windows, doors, light fixtures, signs, fences, hitching posts, decorations, chimneys, false fronts, parapets, flag poles, landscaping, retaining walls, and related materials.
- p) **Historic District:** An area designated as an historic district and which may contain within definable geographic boundaries one or more significant sites, structure features, or objects and which may have such other structures which contribute to the overall visual characteristics of the significant structures or objects located within the designated area, and are relatively free from non-contributing structures which detract from the historic properties.
- q) **Historic Property:** Historic properties that are over fifty years old that may have significance to the history of Dodge City, but have not been designated as landmarks.
- r) **Historic Preservation:** The study, identification, protection, restoration, and rehabilitation of buildings, sites, structures, objects, districts, and areas significant to the history, architecture, archaeology, or culture of the city, state or nation. Preservation may include work to halt the process of decay, normal maintenance work, and other measures to retain and sustain the nature, form, material, and integrity of historically or architecturally important properties, structures, buildings, objects, or historical districts.
- s) **National Register:** The current National Register of Historic Places established by the National Preservation Act, as may be amended.
- t) **Non-contributing:** A building, site, structure, or object that does not add to the historic significance of a property.
- u) **Normal maintenance/repair:** Any work designated to correct damage or deterioration to the condition that existed prior thereto. "Normal maintenance" includes all work performed by a property owner which does not require a development permit as prescribed by the City's development regulations.
- v) **Owner:** An individual, association, partnership, corporation, or any other entity capable of having legal or equitable title to land other than legal title held only for the purpose of security. For the purpose of notice, the Owner may be determined using Ford County Appraiser's Parcel Data.
- w) **Public Structure:** Any building, facility, or physical construction that is owned, operated, maintained, or otherwise controlled by a government entity or public body.
- x) **Public Right-of-Way:** an area of land owned, maintained, or controlled by a government entity, used for public purposes including but not limited to transportation, public use, or utilities.
- y) **Secretary of Interior's Standards for Rehabilitation:** These are a set of 10 standards and their accompanying guidelines as issued by the Secretary of the Interior which the Landmark Commission and Department staff shall use for reviewing projects under the COA process.

- z) **Sign:** Any object, device, display, or structure, or any part thereof, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, service, event, organization, business, product, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.
- aa) **Site:** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archeological value.
- bb) **State Historic Preservation Office or “SHPO”:** The office, under direction of the State Historic Preservation Officer as designated by law and by the Governor of the State of Kansas to administer the State Historic Preservation Program.
- cc) **State Register:** The current Register of Historic Kansas Places as prepared, approved, and amended by the State Historic Sites Board of Review and authorized by K.S.A. 752701, et seq., as may be amended.
- dd) **Structure:** A functional construction made for purposes other than creating shelter, such as a bridge.
- ee) **Variance:** A variation from a specific requirement of the adopted design standards, as applied to a specific structure or property.

Section 3: Dodge City Landmark Commission

- 3.01 **Creation** - The Landmark Commission is hereby created to inventory, promote, list, record, protect, preserve, and enhance places, areas, features, or sites within the City that have special architectural, archeological, cultural, or historical significance. The Landmark Commission shall advise the City Commission and cooperate with other historic agencies and organizations concerning preservation of the City’s historic and cultural heritage.
- 3.02 **Membership** - The Landmark Commission shall consist of seven (7) Dodge City residents appointed by the Mayor with concurrence of the City Commission. All members shall have interest, knowledge, or training in preservation related fields. Three (3) members shall represent preservation related professions such as architecture, law, historian, real estate, finance, museum curator, planning, and/or building trades. Appointments shall be for a term of three (3) years, except that the first Landmark Commission shall be appointed as follows: three (3) members for three-year terms, two (2) members for two-year terms and two (2) members for one-year terms. The Mayor, with City Commission concurrence, may remove any member of the board for cause. Vacancies shall be filled by appointment as above for the remainder of the unexpired term.
- 3.03 **Rules of Procedure** - The Landmark Commission shall adopt bylaws or rules of procedure for its efficient operation. Minutes of the Landmark Commission’s meetings will be distributed to Landmark Commission members, the City Commission, the Kansas State Historic Preservation Office (SHPO) and others upon request.
- 3.04 **Annual Report** - The Landmark Commission shall prepare an annual report of its activities to be submitted to the City Commission and SHPO. The report shall include an account of the number and type of cases reviewed and their disposition, a listing of new designations made during the year, and a record of members’ attendance at meetings and training sessions. The report shall also assess progress in preserving historically important properties, and districts, and assess the need for

future changes to this ordinance and program. The report shall include a statement of goals for the ensuing year and shall be duly approved by the Landmark Commission.

3.05 **Authority and Responsibilities**

- a) The geographic area of authority shall be the area within the Dodge City corporate limits.
- b) The Landmark Commission's central purpose is the designation and the protection of Historic Properties and Historic Districts and to serve as an advisory board for the City Commission. The Landmark Commission shall review all proposed nominations for Dodge City Landmark status, state, and national registers of Historic Properties. A professional in an applicable specific relevant discipline shall evaluate all nominations, if not represented on the Landmark Commission, prior to board recommendation.
- c) The Landmark Commission may recommend to the City entering into certain agreements with the SHPO.
- d) Each commission member shall attend at least one (1) information or training meeting each year as approved by the SHPO.
- e) A survey shall be used to gather information about properties and areas that might be eligible for listing in the Landmark list (and/or the state and national register).
- f) The City shall provide for adequate public participation in all aspects of the implementation of this ordinance. All meetings shall be open to the public pursuant to K.S.A. 75-4318. The Landmark Commission shall meet at least four (4) times each year. Agenda materials provided to members shall be open to the public. Decisions shall be made in a public forum and minutes of all meetings shall be kept on file and available for public inspection.
- g) The Landmark Commission may establish other programs and services such as:
 - (i) create public information programs;
 - (ii) promote preservation activities with public and/or private funds;
 - (iii) review development plans that may affect Historic Properties;
 - (iv) cooperate with local groups or agencies to provide the widest possible promotion of historic programs and places, and
 - (v) similar activities to promote the intent of this ordinance.
- h) The Landmark Commission shall review and recommend local incentives to encourage landmarks and districts designation in Dodge City. These may be in the form of retail discounts, tax rebates, conservation easements, permit fee waivers, utility reductions, and other means to stimulate interest in historic preservation.
- i) The Landmark Commission may review and recommend policies regarding historically compatible public streetscapes, lighting, and signage in the immediate vicinity of Historic Properties and in Historic Districts. Resources available to create such improvements may include general or special tax authority as well as special assessment processes.
- j) The Landmark Commission may prepare applications for City Commission approval for any gift, grant, bequest, devise, lease, fee, development right, easement, covenant, or conveyance for the purpose of historic preservation.

- k) The Landmark Commission shall review the provisions of this ordinance periodically to recommend comprehensive or individual changes as deemed appropriate.
- l) Landmark Commission members shall serve without compensation. The City Commission shall establish budget authority to provide for historic preservation administration and promotion activities.

Section 4: Promotion and Other Functions

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

Section 5: Administration and Enforcement

- 5.01 **Department** - The Dodge City Development Services Department (the "Department") shall be responsible for the administration of this ordinance and performing staff functions for the Landmark Commission. The Department is authorized to develop application forms and procedures consistent with this ordinance, and to enforce its provisions. The Dodge City Police Department may also enforce this ordinance when called upon by the Dodge City Development Services Department.
- 5.03 **Fees** - Fees shall be set by the City Commission. Fees shall be set for the following activities: request for a Variance from provisions of this ordinance; and application to appeal denial of a COA for the improvement or demolition as indicated in the development permit application.
- 5.04 **Enforcement** - The Director, upon discovery that a violation of this ordinance has occurred, shall issue a notice to cease to the owner and shall take all appropriate measures to prevent such unlawful act. Such notice shall explain the nature of the violation in clear terms and shall allow the owner to give satisfactory evidence that the action will be corrected within thirty (30) days or that appropriate action to comply with the provisions of this ordinance will be initiated. Failure to comply may result in citation to municipal court and may result in the City taking corrective action to abate the offense and assess the costs of such abatement to the owner. Such notice and order may be appealed; however, the alleged violating work shall cease until the matter is finally resolved. The City may pursue all other available legal remedies to correct a violation of this ordinance.

- 5.05 **Abatement Assessment of Costs** - If the City has filed proper notice and the time has elapsed for the correction by the owner, the City may take corrective action as necessary. All costs incurred by the City under the provisions of this Section shall be assessed against each lot or piece of ground chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.

Section 6: Landmarks Survey, Nomination, and Designation Process

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

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

- 7.01 Upon receipt of an application for any demolition, alteration or expansion of a landmark and properties within landmark historic districts, the Landmark Commission and Department shall initiate a process to determine if such permitted action is appropriate. All applications shall be reviewed, approved, or denied in accordance with the process outlined below.
- 7.02 **Department Director** - The Development Services Department Director (the "Director") or designated representative shall review all development permit applications and other pertinent information to determine if a Landmark historic Property or historic district may be affected by a proposed development or activity. If so, the Director shall follow the procedure to either issue a Minor COA or begin a review process in accordance with the provisions of this ordinance. The Director shall forward the Landmark Commission's recommendations to the City Commission, record and file all landmark designations, maintain the Map of Landmarks, and keep all agendas, minutes, reports, findings, determinations, and correspondence for the Landmark Commission. Applications that cannot be approved by the Director may be referred to the Landmark Commission by the applicant as a Major COA.
- 7.03 **Determination of Appropriateness** - Department staff shall prepare a COA before any alteration, development, or demolition permit may be issued for any Landmark historic property or Landmark historic district. COA shall be classified as either a Minor COA or a Major COA.
- 7.04 **Variations** - Any Historic Property owner (or authorized representative) may apply for a Variance from specific standards or guidelines for historic preservation as set and amended by the Landmark Commission and the City. Such request for Variance shall be made using the process identified in Section 8 of this ordinance.

- 7.05 **Normal Maintenance Exempt** - Normal property maintenance shall be exempt from the provisions of this ordinance, unless and/or until a development permit for is required by other City development regulations.
- 7.06 **Minor Certificates of Appropriateness** - A Minor COA shall be issued for any demolition or alteration work involving the following types of activities which can be demonstrated by the owner to have no adverse effect on a Historic Property or Historic District:
- a) Most interior improvements except those noted as a pertinent to a landmark designation.
 - b) Changes to accessory structures, landscaping features, signs, fences, public walkways, public streets, public alleys, retaining walls and utilities that do not contribute to the historic character of a Historic Property or Historic District.

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

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

and/or Historic District, then the applicant may file an appeal, in writing, within thirty (30) days asking that the application be reconsidered by the City Commission. (See Section 9)

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

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

- a) Design Criteria. Specific design criteria for exterior alterations of Historic Properties, or Properties in Historic Districts, shall be based on the U.S. Secretary of the Interior's Standards for Rehabilitation as referenced in the Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings at <http://www.nps.gov/tps/standards/rehabilitation/rehab/guide.htm>.
- b) Guidelines for New Construction and Additions. New construction and additions to existing Historic Properties guidelines shall be taken into consideration above and beyond the Standards noted above.

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

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

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

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

- b) Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Non-contributory structures shall not distract from the Historic Property or Historic District.
 - c) Design criteria are more stringently applied to projects/properties of greater significance.
 - d) Accessory structures and landscaping features requiring a Major COA are not subject to the public hearing process and will be reviewed at the next regular Landmark Commission meeting with appeal to the City Commission if denied. Appeals must be submitted in writing within thirty (30) days of date of denial.
- 7.12 Normal property maintenance shall be exempt from the provisions of this ordinance unless or until a development permit for work is required by other City development regulations.
- 7.13 Demolition applications for a Historic Property or a Property in a Landmark Historic District, which includes non-contributing properties, shall be denied for a period not to exceed one hundred eighty (180) days if a proposed public or private re-use of the property is unknown. The maximum period of delay may be reduced whenever the Landmark Commission determines the owner will suffer extreme hardship or will be deprived of all beneficial use of the property by virtue of the delay. In either instance, the Landmark Commission shall use the delay to negotiate with the owner and interested parties to find a means to preserve the Historic Property or the Property in the Historic District. If the proposed re-use of the property is known, the use will be examined for relationship and compatibility with the Historic Property or Historic District before demolition may proceed. This provision also applies to Properties nominated for landmarks or historic district designation. Once redevelopment plans are known, the Landmark Commission may determine appropriateness pursuant to Section 7 of this ordinance.
- 7.14 **Penalties.** Altering, developing, or demolishing without a COA or acting without or contrary to a decision of the Landmark Commission under this Section 7 shall be a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed thirty (30) days and/or a fine not exceeding Five Hundred Dollars (\$500.00).

Section 8: Downtown Historic District Regulations

8.01 **Downtown Historic District.** The Downtown Historic District is roughly bounded by Front Street on the south, Third (3rd) Avenue on the west, Vine Street on the north, and Central Avenue on the east. The provisions of this Section 8 shall apply to all property within the Downtown Historic District and may be enforced against the owners or tenants of property within said district. The boundaries of the Downtown Historic District are shown in the image incorporated to this Section



- 8.02 **Design Criteria.** Specific design criteria for exterior alterations of Historic Properties, or Properties in Historic Districts, shall be based on the U.S. Secretary of the Interior’s Standards for Rehabilitation as referenced in the Secretary of the Interior’s Guidelines for Rehabilitating Historic Buildings at <http://www.nps.gov/tps/standards/rehabilitation/rehab/guide.htm>.
- 8.03 In addition to the U.S. Secretary of the Interior’s Standards, the Landmark Commission has adopted additional regulations for the Downtown Historic District and are as follows:
- 8.04 **Window Signage.** Window Signage shall be subject to the following definitions and requirements:
- a) **Window Signs.** “Window signs” means any sign that is attached to, placed upon, or painted on the interior or exterior of a window or within a certain distance from a window, and is visible from the exterior of the building. This can include, but is not limited to, posters, decals, banners, paint, vinyl, or other signage intended to be viewed from outside the premises.
 - b) **Coverage.** Window signs shall not cover more than thirty percent (30%) of the window area.
 - c) **Opacity.** No person or entity shall place window signs constructed of opaque materials that obscure views into and out of windows, either partially or completely.
 - d) **Lighting.** No person or entity shall install, display, or operate any lighting device that emits flashing or steady light output from any window or door in any building or structure located within the boundaries of the Downtown Historic District.
 - (i) **Flashing Light** shall mean any light that intermittently turns on and off, or changes intensity or color, in a manner that creates a flashing effect.
 - (ii) **Steady light output** shall mean any continuous light emission that is projected from a window or door, regardless of changes in color or intensity, that remains on for an extended period.
 - (iii) The use of lighting devices that produce flashing effects, including but not limited to strobe lights, LED displays with intermittent illumination, and other similar devices, is strictly prohibited.
 - (iv) The use of lighting devices that produce a continuous, steady light output visible from the exterior of the building, including but not limited to neon signs, LED strips, and other similar devices, is strictly prohibited.
 - (v) **Exemptions.**
 - (A) **Holiday Displays.** Temporary holiday lighting displays that do not exceed a period of thirty (30) days and are in keeping with the character of the historic district are exempt from this provision.
 - (B) **Emergency Lighting.** Lighting necessary for public safety or emergency purposes, including exit signs and security lighting, is exempt from this provision.
 - (C) **Approved Lighting Plans.** Lighting that has been explicitly approved as part of a lighting plan by the Dodge City Development Services Department may be exempt from this provision if deemed consistent with the historical character of the district.

- e) Removal. Non-compliant window signage must be removed within sixty (60) days of ordinance adoption.

8.05 **Windows and Doors.** Windows and doors shall be subject to the following definitions and requirements:

- a) Historical Integrity of Windows and Doors. Windows and doors must be maintained in a manner that preserves their historical integrity. Original windows and doors should remain in place and in good restoration whenever possible. Owners or tenants seeking to repair or replace windows and doors must obtain a COA prior to proceeding with repair and replacement.
- b) Obstruction. Windows on first floor levels shall be free of obstruction. Curtains, blinds, merchandise, or other material shall not obstruct view in or out of windows. Curtains and blinds may be appropriate for second floor and above levels, but placement of curtains and blinds should be done in consultation with the Dodge City Development Services Department and owners and tenants should be aware that curtains or blinds placed without prior approval may be subject to citation pursuant to this ordinance.
- c) Lighting. Window and door lighting in the downtown historic district shall be subject to the provisions of section 8.4(d) herein.
- d) Security bars, mesh, etc., are prohibited on all exterior doors and windows.
- e) Removal. All non-compliant signage, decoration, obstruction, lighting, or security apparatus must be removed within 60 days of ordinance adoption.

8.06 **Exterior Colors**

- a) Exterior colors for properties located within the Downtown Historic District, including but not limited to paint, signage, awnings, window coverings, etc., shall be appropriate for the district. A COA is required for all exterior paint.
- b) Bright colors and other colors that would not have been found in the District's period of significance (typically 1910s-1930s) are not appropriate for exterior colors in the Downtown Historic District.
- c) Exterior colors violating this section must be painted with compliant colors within six (6) months of adoption of this ordinance.

8.07 **Mechanical, Electrical, Plumbing and Telecommunications**

- a) Prohibition on exterior air conditioning units. No air conditioning units may be installed in windows or attached to the exterior wall of building. All non-compliant air conditioning units must be removed within six (6) months of ordinance adoption.
- b) Electrical and plumbing lines and conduit should not be placed on exterior walls with street frontage, whenever possible. Owners seeking continued use of electrical and plumbing lines and conduits placed on exterior walls must obtain a COA and must begin the process of obtaining a COA within thirty (30) days of ordinance adoption.
- c) Satellite dishes and other telecommunications equipment shall not be attached to awnings or exterior walls with street frontage. Non-compliant equipment must be removed within sixty (60) days of ordinance adoption.

- d) Cables and lines shall not be placed on exterior walls with street frontage whenever possible. Cables and lines must be removed when no longer in use. Cables and lines not in use must be removed within sixty (60) days of ordinance adoption. Owners seeking to continue use of cables and lines must obtain a COA and must begin the process of obtaining a COA within thirty (30) days of ordinance adoption.

8.08 **Public Right of Way and Public Structures**

- a) No signage, equipment or other objects may be placed on or attached to Public Structures or Public Rights-of-Way within the Historic Downtown District, including City owned and maintained awnings without a COA.
- b) Authority to Remove. The City shall have the authority to remove any signage, equipment, or other object attached to a Public Structure or placed within a Public Right-of-Way, including upon city-owned awnings without prior notice to the owner of the building, the tenant occupying the building, or any other person or entity. This provision shall exempt the City from the notice requirements of Section 5, above.
- c) Liability. The City shall not be held liable for any damage that occurs to any signage, equipment, or other object during the removal process. By placing or attaching items within a Public Right-of-Way or to a Public Structure, the person or entity placing said item assumes all risk of loss or damage.
- d) Disposal of Removed Items. Items removed by the City under this section will not be stored or returned to the owner or tenant. All removed items shall be immediately disposed of in a manner determined by the City.

8.09 **Minimum Maintenance Standards**

- a) Properties must be maintained in accordance with the provisions of the adopted International Property Maintenance Code.
- b) Exterior areas. Exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
- c) Exterior structure. The exterior of the structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
- d) Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences, 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. 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 watertight.
- e) Structural members. Structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.
- f) Exterior walls. 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.

- g) Window, skylight, and door frames. Every window, skylight, door, and frame shall be kept in sound condition, good repair, and weather tight.
- h) Glazing. Glazing materials shall be maintained free from cracks and holes.
- i) 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.
- j) Infestation. Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

8.10 **Penalties** - Any person violating the provisions of Section Eight (8) of this ordinance shall be guilty of a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed thirty (30) days and/or a fine not exceeding Five Hundred Dollars (\$500.00).

Section 9: Landmark Designation Process

9.01 Except where otherwise specifically herein, the following process shall be used whenever Historic Properties or Historic Districts are nominated for the Dodge City Landmark designation.

9.02 **Landmark Nominations** - Landmark nominations shall be processed as follows:

- a) The Development Department will provide the necessary forms for the landmark nomination. Then, the Landmark Commission or Department generates or receives a nomination and determines the appropriateness of the nomination based on age and character of the property or district being nominated. All applications shall be submitted to the Development Department.
- b) Nominations for landmark or Landmark historic district designations shall be made by application submitted by the owner of a nominated landmark or by written consent signed and acknowledged by seventy-five percent (75%) of the owners within the boundaries of a defined proposed Landmark historic district. Each owner or owners of any legal parcel of record shall have one voice in the district per parcel, regardless of parcel size to determine this threshold.
- c) The Department shall provide notice of the date, time, place, and purpose of the public hearing at least twenty (20) days prior to the date set and shall notify all affected property owners.
- d) The Landmark Commission shall conduct the hearing and make a recommendation to the City Commission. The meeting may be recessed for further deliberation. A recommendation shall be made within sixty (60) days from the time a complete application is received.
- e) Within thirty (30) days after close of the public hearing, the Landmark Commission shall submit its recommendation to the City Commission that the nominated property does or does not meet the criteria for placement on the Dodge City Landmarks list.
- f) The City Commission shall consider the nomination and recommendation at the next available regular commission meeting. The City Commission shall approve acceptable nominations by ordinance. Denials may be by simple motion and recorded vote. The City Commission may:
 - (i) Accept or reverse the Landmark Commission recommendation.

- (ii) Amend by reduction of a proposed historic district area or other types of nominated properties.
- (iii) Refer the matter back to the Landmark Commission for further study.
- g) If approved, proper notifications shall be made and the property or historic district is declared a Landmark Historic Property or Landmark Historic District.
- h) If denied, the reasons shall be presented to the applicant, in writing. If applicable the applicant may resubmit in a future nomination of the same property.

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

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

Section 10: Appeal and Variance Procedure

10.01 **Appeals** - Any Historic Property owner aggrieved by the administration and enforcement of this ordinance may appeal (see Section 3) to the Landmark Commission. Any decision of the Landmark Commission may be further appealed to the City Commission. The Landmark Commission (and City Commission) shall act in a quasi-judicial capacity when deciding appeals. They shall make specific findings of fact and derive conclusions from such findings. All rulings by the City Commission shall be final and binding on all parties unless appealed to, and overturned by, the District Court of Ford County, Kansas.

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

10.03 The Landmark Commission will conduct a public hearing on the case at the advertised place and time. A recommendation may be made immediately after the public hearing, or the Landmark

Commission may recess the meeting for further deliberation. This recommendation will be presented to the City Commission at the next regularly scheduled Commission meeting. Failure to render a decision within sixty (60) days from the time a complete application was submitted shall be deemed to be approval, unless an extension is agreed upon by both the Applicant, and the Landmark Commission.

- 10.04 An Applicant may further appeal the City Commission decision to the District Court of Ford County, Kansas. Such appeal shall be filed with the court within thirty (30) days of the City Commission's decision.
- 10.05 Variance applications shall be reviewed by the Landmark Commission. The Landmark Commission may grant a variance from the specific regulation upon a finding that such variance:
- a) Would not be contrary to the health, safety or best interest of the public; **and**
 - b) A literal enforcement of the provision will result in an unnecessary hardship to the owner; **and**
 - c) There is a condition unique to the property which was not created by the property owner; **and**
 - d) There is no adverse effect on surrounding properties; **and**
 - e) The Variance would not be contrary to the general spirit or intent of this ordinance.

All five (5) conditions must be affirmed with specific findings of fact before granting the Variance.

- 10.06 An Applicant for a Variance may appeal the Landmark Commission decision to the City Commission. Such appeal must be filed with the City Commission within thirty (30) days of the Landmark Commission's decision.

Section 11: Severability

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

DODGE CITY HISTORIC RESOURCES PRESERVATION ORDINANCE

Section 1: Purpose & Applicability

Section 2: Definitions

Section 3: Dodge City Landmark Commission

Section 4: Promotion and Other Functions

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Section 6: Landmarks Survey, Nomination, and Designation Process

Section 7: Certificate of Appropriateness Required

Section 8: Landmark Designation Process

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Section 1: Purpose & Applicability

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

Section 2: Definitions

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

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

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

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

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

Section 3: Dodge City Landmark Commission

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

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

- 3.03 **Rules of Procedure** - The Landmark Commission shall adopt bylaws or rules of procedure for its efficient operation. Minutes of the Landmark Commission's meetings will be distributed to Landmark Commission members, the City Commission, the Kansas State Historic Preservation Office (SHPO) and others upon request.
- 3.04 **Annual Report** - The Landmark Commission shall prepare an annual report of its activities to be submitted to the City Commission and SHPO. The report shall include an account of the number and type of cases reviewed and their disposition, a listing of new designations made during the year, and a record of members' attendance at meetings and training sessions. The report shall also assess progress in preserving historically important properties, and districts, and assess the need for future changes to this ordinance and program. The report shall include a statement of goals for the ensuing year and shall be duly approved by the Landmark Commission.
- 3.05 **Authority and Responsibilities**
- a) The geographic area of authority shall be the area within the Dodge City corporate limits.
 - b) The Landmark Commission's central purpose is the designation and the protection of Historic Properties and Historic Districts and to serve as an advisory board for the City Commission. The Landmark Commission shall review all proposed nominations for Dodge City Landmark status, state, and national registers of Historic Properties. A professional in an applicable specific relevant discipline shall evaluate all nominations, if not represented on the Landmark Commission, prior to board recommendation.
 - c) The Landmark Commission may recommend to the City entering into certain agreements with the SHPO
 - d) Each commission member shall attend at least one (1) information or training meeting each year as approved by the SHPO.
 - e) A survey shall be used to gather information about properties and areas that might be eligible for listing in the Landmark list (and/or the state and national register).
 - f) The City shall provide for adequate public participation in all aspects of the implementation of this ordinance. All meetings shall be open to the public pursuant to K.S.A. 75-4318. The Landmark Commission shall meet at least four (4) times each year. Agenda materials provided to members shall be open to the public. Decisions shall be made in a public forum and minutes of all meetings shall be kept on file and available for public inspection.
 - g) The Landmark Commission may establish other programs and services such as:
 - create public information programs;
 - promote preservation activities with public and/or private funds;
 - review development plans that may affect Historic Properties;
 - cooperate with local groups or agencies to provide the widest possible promotion of historic programs and places, and
 - similar activities to promote the intent of this ordinance.
 - h) The Landmark Commission shall review and recommend local incentives to encourage landmarks and districts designation in Dodge City. These may be in the form of retail discounts,

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

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

Section 4: Promotion and Other Functions

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

Section 5: Administration and Enforcement

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

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

- 5.05 Abatement Assessment of Costs If the City has filed proper notice and the time has elapsed for the correction by the owner, the City may take corrective action as necessary. Any and all costs incurred by the City under the provisions of this Section shall be assessed against each lot or piece of ground chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.
- 5.06 Penalties - Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed one hundred eighty (180) days and/or a fine not exceeding Four Hundred and Ninety-Nine Dollars (\$499.00).

Section 6: Landmarks Survey, Nomination, and Designation Process

- 6.01 Historic Resources Survey - The Landmark Commission shall annually update the historical resources inventory to identify historical properties, and historical districts that may have archeological, historical, cultural, or architectural importance to the community. As part of the survey, the Landmark Commission shall evaluate studies by other organizations and compile appropriate descriptions, facts, and photographs. All such materials shall be documented in accordance with the survey manual prepared by SHPO.
- 6.02 Identification of Landmarks and Historic Districts - The Landmark Commission shall keep a Dodge City Landmarks Register. Said register will contain a complete description of all historical properties, and historical districts designated as landmarks and a description of boundaries on the Map of Landmarks, on file in the office of the City Clerk and the Department.
- 6 .03 Nomination of Landmarks and Historic Districts - The Landmark Commission shall review nominations for Landmark Historic Districts to the local, state, and national historic registers.

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

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

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

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

- 7.07 Major Certificate of Appropriateness - A Major COA shall be subject to review and approval by the Landmark Commission and may be authorized for the following types of permits:
- Interior space rehabilitation where such space was an important component in approval of the landmark nomination;
 - Any demolition, exterior alteration or expansion of a Historic Property or within an Historic District;
 - Any proposed new construction on a Historic Property or within an Historic District;
 - Demolition of part or all of a Historic Property or Landmark property in an Landmark historic district; and
 - Other items not covered by a Minor COA.

- 7.08 The review process for a Major COA is:
- a) The Department receives application for permit which triggers the determinations warranting a Major COA and notifies the applicant that a formal review is required before a COA can be issued.
 - b) The applicant submits a request for review in writing on provided forms and with all the required information.
 - c) A completed request is placed on the Landmark Commission agenda or within thirty (30) days of the submittal. The Department prepares and publishes notice of time, date, place, and purpose of public hearing, such notice to be published at least twenty (20) days prior to the date of the hearing. Notice is also sent by regular mail to all affected property owners located where the project is taking place.
 - d) The Landmark Commission conducts the public hearing and determines if the COA can be issued and submits its written decision, with appropriate documentation, to the applicant. If the

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

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

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

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

Guidelines for New Construction and Additions:

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

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

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

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

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

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

Section 8: Landmark Designation Process

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

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

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

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

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

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

Section 9: Appeal and Variance Procedure

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

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

903 The Landmark Commission will conduct a public hearing on the case at the advertised place and time. A recommendation may be made immediately after the public hearing, or the Landmark Commission may recess the meeting for further deliberation. This recommendation will be presented to the City Commission at the next regularly scheduled Commission meeting. Failure to render a decision within sixty (60) days from the time a complete application was submitted shall be deemed to be approval, unless an extension is agreed upon by both the Applicant, and the Landmark Commission.

904 An Applicant may further appeal the City Commission decision to the District Court of Ford County, Kansas. Such appeal shall be filed with the court within thirty (30) days of the City Commission's decision.

905 Variance applications shall be reviewed by the Landmark Commission. The Landmark Commission may grant a variance from the specific regulation upon a finding that such Variance:

- a) Would not be contrary to the health, safety or best interest of the public; **and**
- b) A literal enforcement of the provision will result in an unnecessary hardship to the owner; **and**
- c) There is a condition unique to the property which was not created by the property owner; **and**
- d) There is no adverse effect on surrounding properties; **and**
- e) The Variance would not be contrary to the general spirit or intent of this ordinance.

All five (5) conditions must be affirmed with specific findings of fact before granting the Variance.

906 An Applicant for a Variance may appeal the Landmark Commission decision to the City Commission. Such appeal must be filed with the City Commission within thirty (30) days of the Landmark Commission's decision.

Section 10: Severability

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

DODGE CITY HISTORIC RESOURCES PRESERVATION ORDINANCE

Section 1: Purpose & Applicability

Section 2: Definitions

Section 3: Dodge City Landmarks Commission

Section 4: Promotion and Other Functions

Section 5: Administration and Enforcement

Section 6: Landmarks Survey, Nomination, and Designation Process

Section 7: Certificate of Appropriateness Required

Section 8: Downtown Historic District Regulations

Section 9: Landmark Designation Process

~~Section 9:10: Appeal and Variance Procedure~~

~~Section 10:11: Severability~~

Section 1: Purpose & Applicability

~~1.01~~ 1.01 **Title** - This ordinance shall be known as the “Dodge City Historic Resources Preservation Ordinance,” and may be cited as such and will be referred to below as “this~~”~~ ordinance~~.”~~”

~~1.02~~ ~~—1.02~~ **Purpose** - The purpose of this ordinance is to establish an historic preservation commission called the Dodge City Historic Landmarks Commission, hereafter referred to as the “Landmarks Commission”, to preserve and promote the preservation of prehistoric and historic sites, structures, objects, buildings (collectively “Properties”) and historic districts in the City. This ordinance is intended to enhance and promote Dodge City’s contribution to the history and architecture of the State of Kansas, as well as to this ~~nation~~Nation.

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~~1.04~~ 1.04 **Statutory Authority** - This ordinance is established under the Home Rule authority of the City of Dodge City as granted by the Kansas State Constitution.

Section 2: Definitions

~~2.01~~ 2.01 For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense include the future; words in the singular include the plural. The word “shall” is mandatory while “should” and “may” are permissive. Any words not defined herein shall carry and convey the meaning ascribed by a common English language dictionary.

- a) **Alteration:** Any change or rearrangement to the structural parts of an existing building, structure, or property. Any enlargement, whether by height or dimension, shall be considered an alteration.

- b) **Applicant:** The owner or duly designated representative of a building, structure, or property seeking nomination of such to the Dodge City Landmark list or seeking approval of plans under the COA process.
- e) ~~**Building:**~~ A structure, ~~such as~~including but not limited to a house, barn, church, hotel, court-house, city hall, social hall, commercial building, library, factory, mill, train depot, theater, school, store, warehouse, or other building created to shelter human activity. The term may also refer to a small group of
 - c) buildings consisting of a primary and one or more accessory structures in a historically, functionally related manner such as a mansion and a carriage house, a church and rectory, or a ~~farm house~~farmhouse and agricultural structures.
- d) **Certificate of Appropriateness or “COA”:** A certificate issued by the City approving plans for alteration, construction, demolition, or other matters relating to various historic properties.
- e) **COA-Major:** A Certificate of Appropriateness which may only be granted by the Landmarks Commission or, on appeal, by the City Commission.
- f) **COA-Minor:** A Certificate of Appropriateness which may be granted by certain designated City staff for non-exterior repairs or for non-registered properties which have no adverse impact on historic properties.
- g) **City:** The City of Dodge City, Kansas.
- h) **City Commission:** The governing body of the City of Dodge City, Kansas.
- i) **Contributing/Key Contributing:** A building, site, structure, or object adding to the historical significance of a property. This term can pertain to a single property but most commonly is used in cases of historic districts.
- j) **Design Guideline:** Guidelines developed by the Landmarks Commission, and approved by the City Commission, for use by the Landmarks Commission and Department staff for reviewing project under the COA process in addition to the Sec. of the Interior’s Standards for Rehabilitation.
- k) **Development Permit:** A permit issued by the Dodge City Development Services Department authorizing construction or other land development activity, including but not limited to building, curb cut, electrical, excavating, zoning, certificate of occupancy, business license, and sign permits.
- l) **Director:** The director of the Dodge City Development Services Department or his/her authorized representative.
- m) **District:** An area that possesses a significant concentration, relationship among, or continuity of sites, buildings, structures, or objects united historically or architecturally by plan or physical development. Districts include college campuses, downtown areas, residential areas, industrial complexes, civic centers, government reservations, planned street systems, and parks. The term may also be applied to individual associated or functionally related sites, buildings, structures, or objects that are geographically separated. In such cases, visual continuity should not be necessary to convey the historic relationship of a goal of related resources.
- n) **Dodge City Landmark List:** A district, site, structure or object designated as a landmark by ordinance of the City, deemed worthy of preservation because of its historic, archaeological and/or architectural significance to the City, state or nation.

- o) **Exterior Architecture/Feature:** The character and composition of the exterior of the structure or building, including but not limited to the kind, color, and texture of the building material, and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements, and the elements and components of the outer surface of a structure including windows, doors, light fixtures, signs, fences, hitching posts, decorations, chimneys, false fronts, parapets, flag poles, landscaping, retaining walls, and related materials.
- ~~p)~~ **Historic District:** An area designated as an historic district and which may contain within definable geographic boundaries one or more significant sites, structure features, or objects and which may have such other structures which contribute to the overall visual characteristics of

- p) the significant structures or objects located within the designated area, and are relatively free from non-contributing structures which detract from the historic properties.
- q) **Historic Property:** Historic properties that are over fifty years old that may have significance to the history of Dodge City, but have not been designated as Landmarks.
- r) **Historic Preservation:** The study, identification, protection, restoration, and rehabilitation of buildings, sites, structures, objects, districts, and areas significant to the history, architecture, archaeology, or culture of the city, state or nation. Preservation may include work to halt the process of decay, normal maintenance work, and other measures to retain and sustain the nature, form, material, and integrity of historically or architecturally important properties, structures, buildings, objects, or historical districts.
- s) **National Register:** The current National Register of Historic Places established by the National Preservation act of 1966, 80 Stat. 915.16 USC 470 et seq., as may be amended.
- t) **Non-contributing:** A building, site, structure, or object that does not add to the historic significance of a property.
- u) **Normal maintenance/repair:** Any work designated to correct damage or deterioration to the condition that existed prior thereto. "Normal maintenance" includes all work performed by a property owner which does not require a development permit as prescribed by the City's development regulations.
- v) **Owner:** An individual, association, partnership, corporation, or any other entity capable of having legal or equitable title to land other than legal title held only for the purpose of security. For the purpose of notice, the Owner may be determined using Ford County Appraiser's Parcel Data.
- w) **Public Structure:** Any building, facility, or physical construction that is owned, operated, maintained, or otherwise controlled by a government entity or public body.
- x) **Public Right-of-Way:** an area of land owned, maintained, or controlled by a government entity, used for public purposes including but not limited to transportation, public use, or utilities.
- y) **Secretary of Interior's Standards for Rehabilitation:** These are a set of 10 standards and their accompanying guidelines as issued by the Secretary of the Interior which the Landmarks Commission and Department staff shall use for reviewing projects under the COA process.
- z) **Sign:** Any object, devise, display, or structure, or any part thereof, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, service, event, organization, business, product, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.
- w)aa) **Site:** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archeological value.
- x)bb) **State Historic Preservation Officer/Office or "SHPO":** The ~~person who has been office,~~ under direction of the State Historic Preservation Officer as designated by law and by the Governor of the State of Kansas to administer the State Historic Preservation Program.
- y)cc) **State Register:** The current Register of Historic Kansas Places as prepared, approved, and amended by the State Historic Sites Board of Review and authorized by K.S.A. 752701, et seq., as may be amended.

~~z)dd)~~ **Structure:** A functional construction made for purposes other than creating shelter, such as a bridge.

~~aa)ee)~~ **Variance:** A variation from a specific requirement of the adopted design standards, as applied to a specific structure or property.

Section 3: Dodge City Landmarks Commission

~~3.01~~ 3.01 **Creation** - The Landmarks Commission is hereby created to inventory, promote, list, record, protect, preserve, and enhance places, areas, features, or sites within the City that have special architectural, archeological, cultural, or historical significance. The Landmarks Commission shall advise the City Commission and cooperate with other historic agencies and organizations concerning preservation of the City's historic and cultural heritage.

~~concerning preservation of the City's historic and cultural heritage.~~

~~3.02~~ 3.02 **Membership** - The Landmarks Commission shall consist of seven (7) Dodge City residents appointed by the Mayor with concurrence of the City Commission. All members shall have interest, knowledge, or training in preservation related fields. Three (3) members shall represent preservation related professions such as architecture, law, historian, real estate, finance, museum

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

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

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

~~3.05~~ 3.05 **Authority and Responsibilities**

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

•(v) similar activities to promote the intent of this ordinance.

~~h)~~ The Landmarks Commission shall review and recommend local incentives to encourage landmarks and districts designation in Dodge City. These may be in the form of retail discounts,

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

Section 4: Promotion and Other Functions

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

Section 5: Administration and Enforcement

- ~~5.01~~ 5.01 **Department** - The Dodge City Development Services Department (the “Department”) shall be responsible for the administration of this ordinance and performing staff functions for the Landmarks Commission. The Department is authorized to develop application forms and procedures consistent with this ordinance, and to enforce its provisions. The Dodge City Police Department may also enforce this ordinance when called upon by the Dodge City Development Services Department.
- ~~5.03~~ 5.03 **Fees** - Fees shall be set by the City Commission. Fees shall be set for the following activities: request for a Variance from provisions of this ordinance; and application to appeal denial of a COA for the improvement or demolition as indicated in the development permit application.
- ~~5.04~~ 5.04 **Enforcement** - The Director, upon discovery that a ~~project subject to the COA process~~ violation of this ordinance has ~~begun without the appropriate review and permits occurred~~, shall

issue a notice to cease to the owner and shall take all appropriate measures to prevent such unlawful act. Such notice shall explain the nature of the violation in clear terms and shall allow the owner to give satisfactory evidence that the action will be corrected within thirty (30) days or that appropriate action to comply

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

~~5.05~~ **5.05 Abatement Assessment of Costs** - If the City has filed proper notice and the time has elapsed for the correction by the owner, the City may take corrective action as necessary. ~~Any and all~~ **All** costs incurred by the City under the provisions of this Section shall be assessed against each lot or piece of ground chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.

~~5.06~~ ~~Penalties~~ - ~~Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed one hundred eighty (180) days and/or a fine not exceeding Four Hundred and Ninety Nine Dollars (\$499.00).~~

Section 6: Landmarks Survey, Nomination, and Designation Process

~~6.01~~ **6.01 Historic Resources Survey** - The Landmarks Commission shall annually update the historical resources inventory to identify historical properties, and historical districts that may have archeological, historical, cultural, or architectural importance to the community. As part of the survey, the Landmarks Commission shall evaluate studies by other organizations and compile appropriate descriptions, facts, and photographs. All such materials shall be documented in accordance with the survey manual prepared by SHPO.

~~6.02~~ **6.02 Identification of Landmarks and Historic Districts** - The Landmarks Commission shall keep a Dodge City Landmarks Register. Said register will contain a complete description of all historical properties, and historical districts designated as landmarks and a description of boundaries on the Map of Landmarks, on file in the office of the City Clerk and the Department.

~~6.03~~ **6.03 Nomination of Landmarks and Historic Districts** - The Landmarks Commission shall review nominations for Landmark Historic Districts to the local, state, and national historic registers.

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

~~7.01~~ **7.01** Upon receipt of an application for any demolition, alteration or expansion of a Landmarks and properties within Landmark historic districts, the Landmarks Commission and Department shall initiate a process to determine if such permitted action is appropriate. All applications shall be reviewed, approved, or denied in accordance with the process outlined below.

~~7.02~~ **7.02 Department Director** - The Development Services Department Director (the "Director") or designated representative shall review all development permit applications and other pertinent information to determine if a Landmark historic Property or historic district may be affected by a proposed development or activity. If so, the Director shall follow the procedure to either issue a Minor COA or begin a review process in accordance with the provisions of this ordinance. The Director shall forward the Landmarks Commission's recommendations to the City Commission, record and file all landmark designations, maintain the Map of Landmarks, and keep all agendas, minutes, reports, findings, determinations, and correspondence for the Landmarks Commission. Applications that cannot be approved by the Director may be referred to the Landmarks Commission by the applicant as a Major COA.

~~7.03~~ **7.03 Determination of Appropriateness** - Department staff shall prepare a COA before any alteration, development, or demolition permit may be issued for any Landmark historic property or Landmark historic district. COA shall be classified as either a Minor COA or a Major COA.

~~7.04~~ **7.04 Variances** - Any Historic Property owner (or authorized representative) may apply for a Variance from specific standards or guidelines for historic preservation as set and amended by the Landmarks Commission and the City. Such request for Variance shall be made using the process identified in Section 8 of this ordinance.

~~7.05~~ **7.05 Normal Maintenance Exempt** - Normal property maintenance shall be exempt from the provisions of this ordinance, unless and/or until a development permit for is required by other City development regulations.

~~7.06~~ **7.06 Minor Certificates of Appropriateness** - A Minor COA shall be issued for any demolition or alteration work involving the following types of activities which can be demonstrated by the owner to have no adverse effect on a Historic Property or Historic District:

- a) Most interior improvements except those noted as a pertinent to a landmark designation.
- b) Changes to accessory structures, landscaping features, signs, fences, public walkways, public streets, public alleys, retaining walls and utilities that do not contribute to the historic character of a Historic Property or Historic District.

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

~~7.07~~ **7.07 Major Certificate of Appropriateness** - A Major COA shall be subject to review and approval by the Landmarks Commission and may be authorized for the following types of permits:

- a) Interior space rehabilitation where such space was an important component in approval of the landmark nomination;
- b) Any demolition, exterior alteration or expansion of a Historic Property or within an Historic District;
- c) Any proposed new construction on a Historic Property or within an Historic District;
- d) Demolition of part or all of a Historic Property or Landmark property in an Landmark historic district; and
- e) Other items not covered by a Minor COA.

~~7.08~~ **7.08** The review process for a Major COA is:

- a) The Department receives application for permit which triggers the determinations warranting a Major COA and notifies the applicant that a formal review is required before a COA can be issued.
- b) The applicant submits a request for review in writing on provided forms and with all the required information.
- c) A completed request is placed on the Landmarks Committee agenda or within thirty (30) days of the submittal. The Department prepares and publishes notice of time, date, place, and purpose of public hearing, such notice to be published at least twenty (20) days prior to the date of the

hearing. Notice is also sent by regular mail to all affected property owners located where the project is taking place.

- ~~d)~~ The Landmarks Commission conducts the public hearing and determines if the COA can be issued and submits its written decision, with appropriate documentation, to the applicant. If the

COA can be issued, the development permit may be granted by the Department. If the requested action is determined not appropriate ~~in order~~ to protect the historic character or integrity of the property and/or Historic District, then the applicant may file an appeal, in writing, within thirty

~~d)~~ (30) days asking that the application be reconsidered by the City Commission. (See Section 9)

e) A decision may be made immediately after the public hearing, or the Landmarks Commission may recess the meeting for further deliberation. Failure to render a decision within thirty (30) days from the time a complete application was submitted shall be deemed to be approval, unless an extension is agreed upon by both the applicant and the Landmarks Commission.

f) The decision of the Landmarks Commission (or City Commission) is conveyed in writing to the Applicant. If the COA is issued, the Department may grant a development permit as long all other city ordinance requirements are met.

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

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

Guidelines for New Construction and Additions:

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

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

a) Signs shall be relative to the scale of the site, and shall not block, obscure or distract from the Historic Property's or Historic District's significant design elements.

b) Wherever possible, actual historic signage should be maintained and restored to original condition regarding design, materials, craftsmanship or placement.

c) Illuminated signs shall be designed to reduce glare and shall not detract from the Historic Property's or Historic District's historic character.

d) Freestanding signs and monument placards explaining the Historic Property's or Historic District's significance, or age shall be compatible with the Historic Property or Historic District, but are otherwise encouraged.

e) Signs requiring a Major COA are not subject to the public hearing process and will be reviewed at the next regular Landmarks Commission meeting with appeal to the City Commission, if denied. Appeals must be submitted in writing within thirty (30) days of denial.

~~7.11~~ **7.11 Retention of Accessory Structures and Landscaping** - Accessory structures such as out-buildings and existing site characteristics such as trees, other significant landscaping, walls,

stairs, paving materials, fencing, walkways, and other site features that reflect the Historic Property's or

Historic District's significance shall be retained and protected from demolition or alteration.

- a) Landscaping shall be appropriate to the scale, era, and features of the Historic Property or Historic District.
- b) Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Non-contributory structures shall not distract from the Historic Property or Historic District.
- c) Design criteria are more stringently applied to projects/properties of greater significance.
- d) Accessory structures and landscaping features requiring a Major COA are not subject to the public hearing process and will be reviewed at the next regular Landmarks Commission meeting with appeal to the City Commission if denied. Appeals must be submitted in writing within thirty (30) days of date of denial.

~~7.12~~ 7.12 Normal property maintenance shall be exempt from the provisions of this ordinance unless or until a development permit for work is required by other City development regulations.

~~7.13~~ 7.13 Demolition applications for a Historic Property or a Property in a Landmark Historic District which includes non-contributing properties shall be denied for a period not to exceed one hundred eighty

(180) days if a proposed public or private re-use of the property is unknown. The maximum period of delay may be reduced whenever the Landmarks Commission determines the owner will suffer extreme hardship or will be deprived of all beneficial use of the property by virtue of the delay. In either instance, the Landmarks Commission shall use the delay to negotiate with the owner and interested parties to find a means to preserve the Historic Property or the Property in the Historic District. If the proposed re-use of the property is known, the use will be examined for relationship and compatibility with the Historic Property or Historic District before demolition may proceed. This provision also applies to Properties nominated for landmarks or historic district designation. Once redevelopment plans are known, the Landmarks Commission may determine appropriateness pursuant to Section 6 of this ordinance.

7.14 **Penalties.** Altering, developing, or demolishing without a COA or acting without or contrary to a decision of the Landmarks Commission under this Section 7 shall be a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed thirty (30) days and/or a fine not exceeding Five Hundred Dollars (\$500.00).

Section 8: Downtown Historic District Regulations

8.01 Downtown Historic District. The Downtown Historic District is roughly bounded by Front Street on the south, Third (3rd) Avenue on the west, Vine Street on the north, and Central Avenue on the east. The provisions of this Section 8 shall apply to all property within the Downtown Historic District and may be enforced against the owners or tenants of property within said district. The boundaries of the Downtown Historic District are shown in the image incorporated to this Section



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

8.03 In addition to the U.S. Secretary of the Interior’s Standards, the Landmarks Commission has adopted additional regulations for the Downtown Historic District and are as follows:

8.04 **Window Signage.** Window Signage shall be subject to the following definitions and requirements:

a) Window Signs. “Window signs” means any sign that is attached to, placed upon, or painted on the interior or exterior of a window or within a certain distance from a window, and is visible from the exterior of the building. This can include, but is not limited to, posters, decals, banners, paint, vinyl, or other signage intended to be viewed from outside the premises.

b) Coverage. Window signs shall not cover more than thirty percent (30%) of the window area.

c) Opacity. No person or entity shall place window signs constructed of opaque materials that obscure views into and out of windows, either partially or completely.

d) Lighting. No person or entity shall install, display, or operate any lighting device that emits flashing or steady light output from any window or door in any building or structure located within the boundaries of the Downtown Historic District.

(i) Flashing Light shall mean any light that intermittently turns on and off, or changes intensity or color, in a manner that creates a flashing effect.

(ii) Steady light output shall mean any continuous light emission that is projected from a window or door, regardless of changes in color or intensity, that remains on for an extended period.

(iii) The use of lighting devices that produce flashing effects, including but not limited to strobe lights, LED displays with intermittent illumination, and other similar devices, is strictly prohibited.

(iv) The use of lighting devices that produce a continuous, steady light output visible from the exterior of the building, including but not limited to neon signs, LED strips, and other similar devices, is strictly prohibited.

(v) Exemptions.

(A) Holiday Displays. Temporary holiday lighting displays that do not exceed a period of thirty (30) days and are in keeping with the character of the historic district are exempt from this provision.

(B) Emergency Lighting. Lighting necessary for public safety or emergency purposes, including exit signs and security lighting, is exempt from this provision.

(C) Approved Lighting Plans. Lighting that has been explicitly approved as part of a lighting plan by the Dodge City Development Services Department may be exempt from this provision if deemed consistent with the historical character of the district.

e) Removal. Non-compliant window signage must be removed within sixty (60) days of ordinance adoption.

8.05 Windows and Doors. Windows and doors shall be subject to the following definitions and requirements:

- a) Historical Integrity of Windows and Doors. Windows and doors must be maintained in a manner that preserves their historical integrity. Original windows and doors should remain in place and in good restoration whenever possible. Owners or tenants seeking to repair or replace windows and doors must obtain a COA prior to proceeding with repair and replacement.
- b) Obstruction. Windows on first floor levels shall be free of obstruction. Curtains, blinds, merchandise, or other material shall not obstruct view in or out of windows. Curtains and blinds may be appropriate for second floor and above levels, but placement of curtains and blinds should be done in consultation with the Dodge City Development Services Department and owners and tenants should be aware that curtains or blinds placed without prior approval may be subject to citation pursuant to this ordinance.
- c) Lighting. Window and door lighting in the downtown historic district shall be subject to the provisions of section 8.4(d) herein.
- d) Security bars, mesh, etc., are prohibited on all exterior doors and windows.
- e) Removal. All non-compliant signage, decoration, obstruction, lighting, or security apparatus must be removed within 60 days of ordinance adoption.

8.06 Exterior Colors

- a) Exterior colors for properties located within the Downtown Historic District, including but not limited to paint, signage, awnings, window coverings, etc., shall be appropriate for the district. A COA is required for all exterior paint.
- b) Bright colors and other colors that would not have been found in the District's period of significance (typically 1910s-1930s) are not appropriate for exterior colors in the Downtown Historic District.
- c) Exterior colors violating this section must be painted with compliant colors within six (6) months of adoption of this ordinance.

8.07 Mechanical, Electrical, Plumbing and Telecommunications

- a) Prohibition on exterior air conditioning units. No air conditioning units may be installed in windows or attached to the exterior wall of building. All non-compliant air conditioning units must be removed within six (6) months of ordinance adoption.
- b) Electrical and plumbing lines and conduit should not be placed on exterior walls with street frontage, whenever possible. Owners seeking continued use of electrical and plumbing lines and conduits placed on exterior walls must obtain a COA and must begin the process of obtaining a COA within thirty (30) days of ordinance adoption.
- c) Satellite dishes and other telecommunications equipment shall not be attached to awnings or exterior walls with street frontage. Non-compliant equipment must be removed within sixty (60) days of ordinance adoption.
- d) Cables and lines shall not be placed on exterior walls with street frontage whenever possible. Cables and lines must be removed when no longer in use. Cables and lines not in use must be removed within sixty (60) days of ordinance adoption. Owners seeking to continue use of cables

and lines must obtain a COA and must begin the process of obtaining a COA within thirty (30) days of ordinance adoption.

8.08 Public Right of Way and Public Structures

- a) No signage, equipment or other objects may be placed on or attached to Public Structures or Public Rights-of-Way within the Historic Downtown District, including City owned and maintained awnings without a COA.
- b) Authority to Remove. The City shall have the authority to remove any signage, equipment, or other object attached to a Public Structure or placed within a Public Right-of-Way, including upon city-owned awnings without prior notice to the owner of the building, the tenant occupying the building, or any other person or entity. This provision shall exempt the City from the notice requirements of Section 5, above.
- c) Liability. The City shall not be held liable for any damage that occurs to any signage, equipment, or other object during the removal process. By placing or attaching items within a Public Right-of-Way or to a Public Structure, the person or entity placing said item assumes all risk of loss or damage.
- d) Disposal of Removed Items. Items removed by the City under this section will not be stored or returned to the owner or tenant. All removed items shall be immediately disposed of in a manner determined by the City.

8.09 Minimum Maintenance Standards

- a) Properties must be maintained in accordance with the provisions of the adopted International Property Maintenance Code.
- b) Exterior areas. Exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
- c) Exterior structure. The exterior of the structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
- d) Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences, 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. 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 watertight.
- e) Structural members. Structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.
- f) Exterior walls. 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.
- g) Window, skylight, and door frames. Every window, skylight, door, and frame shall be kept in sound condition, good repair, and weather tight.
- h) Glazing. Glazing materials shall be maintained free from cracks and holes.

- i) 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.
- j) Infestation. Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

8.10 Penalties - Any person violating the provisions of Section Eight (8) of this ordinance shall be guilty of a misdemeanor, each day or portion thereof constituting a separate offense. Each offense may be punishable by a term of jail confinement not to exceed thirty (30) days and/or a fine not exceeding Five Hundred Dollars (\$500.00).

Section 9: Landmark Designation Process

~~8.01~~ 9.01 Except where otherwise specifically herein, the following process shall be used whenever Historic Properties or Historic Districts are nominated for the Dodge City Landmark designation.

~~8.02~~ 9.02 **Landmark Nominations** - Landmark nominations shall be processed as follows:

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

- f) The City Commission shall consider the nomination and recommendation at the next available regular commission meeting. The City Commission shall approve acceptable nominations by ordinance. Denials may be by simple motion and recorded vote. The City Commission may:
- (i) Accept or reverse the Landmarks Commission recommendation.
 - (ii) Amend by reduction of a proposed historic district area or other types of nominated properties.
 - (iii) Refer the matter back to the Landmarks Commission for further study.
- g) If approved, proper notifications shall be made and the property or historic district is declared a Landmark Historic Property or Landmark Historic District.
- h) If denied, the reasons shall be presented to the applicant, in writing. If applicable the applicant may resubmit in a future nomination of the same property.

~~8.03~~ **9.03 Landmark Eligibility Criteria** - The Landmarks Commission and City Council may approve a property for Landmark Listing using the following criteria to judge the property's historical significance:

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

Section ~~910~~: Appeal and Variance Procedure

~~901~~ **10.01 Appeals** - Any Historic Property owner aggrieved by the administration and enforcement of this ordinance may appeal (see Section 8) to the Landmarks Commission. Any decision of the Landmarks Commission may be further appealed to the City Commission. The Landmarks Commission (and City Commission) shall act in a quasi-judicial capacity when deciding appeals. They shall make specific findings of fact and derive conclusions from such findings. All rulings by the City Commission shall be final and binding on all parties unless appealed to, and overturned by, the District Court of Ford County, Kansas.

~~902~~ **10.02** Applications for an appeal or Variance under the COA process or when nominations for a landmark shall be filed with the Department. The Director shall assure that all documentation and forms are properly submitted, and prepared notices for a public hearing before the Landmarks

Commission. Notice shall be published in the newspaper and mailed to all affected property owners at least twenty (20) days prior to the public hearing.

~~903~~ 10.03 The Landmarks Commission will conduct a public hearing on the case at the advertised place and time. A recommendation may be made immediately after the public hearing, or the Landmarks Commission may recess the meeting for further deliberation. This recommendation will be presented to the City Commission at the next regularly scheduled Commission meeting. Failure to render a decision within sixty (60) days from the time a complete application was submitted shall be deemed to be approval, unless an extension is agreed upon by both the Applicant, and the Landmarks Commission.

~~904~~ 10.04 An Applicant may further appeal the City Commission decision to the District Court of Ford County, Kansas. Such appeal shall be filed with the court within thirty (30) days of the City Commission's decision.

~~905~~ 10.05 Variance applications shall be reviewed by the Landmarks Commission. The Landmarks Commission may grant a variance from the specific regulation upon a finding that such ~~Variance~~variance:

a) Would not be contrary to the health, safety or best interest of the public; **and**

b) A literal enforcement of the provision will result in an unnecessary hardship to the owner; **and**

and

~~e)~~—There is a condition unique to the property which was not created by the property owner;

~~c)~~ **and**

d) There is no adverse effect on surrounding properties; **and**

e) The Variance would not be contrary to the general spirit or intent of this ordinance.

All five (5) conditions must be affirmed with specific findings of fact before granting the Variance.

~~906~~ 10.06 An Applicant for a Variance may appeal the Landmarks Commission decision to the City Commission. Such appeal must be filed with the City Commission within thirty (30) days of the Landmarks Commission's decision.

Section ~~10.11~~: Severability

~~10.01~~ 11.01 If any section, provision, sentence, clause or phrase of this ordinance, or its application in a specific instance, is found to be invalid, the remainder of this ordinance and its application shall remain in full force and effect.



Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Josh Adams, Director of Development Services
Date: 7/15/24
Subject: Ordinance No. 3813 & Resolution No. 2024-12
Agenda Item: Ordinances and Resolutions

Purpose: City Staff are proposing to adopt Resolution No. 2024-12, repeal Ordinance No. 3719 and adopt Ordinance No. 3813. Ordinance No. 3719 pertains to downtown sidewalk cafés. Ordinance No. 3813 will replace Ordinance No. 3719. Resolution No. 2024-12 establishes new requirements for sidewalk cafés.

Recommendation: City Staff recommend approval of the change to the ordinance and approval of the resolution.

Background: The ordinance was adopted in 2019 to allow for outdoor dining options Downtown. With the Streetscape project and the new boardwalk, we want to add requirements to keep the area looking good. The requirements in the resolution will add uniformity and a cleaner look to Downtown. Reference to resolution 2024-12 has been added to Ordinance No. 3813. Proposed requirements include egress paths, barriers, planters, umbrellas, and menu displays.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: Barriers will be paid for by the City and reimbursed by owners/tenants over time through a separate agreement.

Legal Considerations: None

Mission/Values: This Ordinance and Resolution will contribute to the ongoing improvement of the Heritage District.

Attachments: Ordinance No. 3719, Ordinance No. 3813 & Resolution 2024-12

Approved for the Agenda by:


Josh Adams, Director of Development Services

ORDINANCE NO. 3719

AN ORDINANCE ADDING TO CHAPTER III OF THE CODE OF THE CITY OF DODGE CITY A NEW ARTICLE 8, ESTABLISHING SIDEWALK CAFE LICENSES AND CONDITIONS PERTAINING THERETO WITHIN THE CITY LIMITS OF DODGE CITY, KANSAS.

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

Section 1 Repeal: Any ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 2 Amendment: A new Chapter III, Article 8, Sidewalk Cafes, Section 3-801 through 3-813, inclusive, is hereby adopted to read as follows:

3-801 Definitions

As used in this article, unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section:

- (1) "Adjoining sidewalk" means the area of sidewalk located within the area defined by the projection of the angle of the exterior walls of a restaurant building. If a restaurant building has adjoining sidewalk on connecting sides, the area between the two resulting segments of adjoining sidewalk may be included in the "adjoining sidewalk" for purposes of determining the sidewalk dining area.
- (2) "Applicant" means the owner of a restaurant who has filed with the City an application for a sidewalk café license agreement.
- (3) "Application" means the completed city form and any accompanying documentation filed with the City by the Applicant for the purpose of obtaining a sidewalk café license agreement.
- (4) "Heritage District" means the geographic area defined in the Diagrammatic Map found in Exhibit A of the Heritage District Overlay Guidelines.
- (5) "Extended sidewalk" means the area of sidewalk connected to and uninterrupted extending from the adjoining sidewalk.
- (6) "Licensee" means the owner of a restaurant authorized under this article to use adjoining sidewalk for sidewalk dining pursuant to a sidewalk café license agreement.
- (7) "Restaurant" means a public eating establishment except drive-ins in which the primary function is the preparation and serving of food on the premises.

(8) "Sidewalk dining" means the consumption of food, beverages (including, but not limited to, alcoholic liquor or cereal malt beverage), or both, by patrons of a restaurant outdoors on a specific area of adjoining sidewalk set aside for that purpose.

(9) "Restaurant building" means the building in which a restaurant is located within the Heritage District.

(10) "Sidewalk café license agreement" means the agreement between the City and the Licensee stating the terms under which the Licensee may utilize the sidewalk dining area for sidewalk dining.

(11) "Sidewalk dining area" means that portion of the adjoining sidewalk and, if applicable, the extended sidewalk which has been approved by the City for sidewalk dining pursuant to a sidewalk café license agreement.

(12) "Unobstructed walkway" means the area of sidewalk to remain open for unobstructed pedestrian traffic between the sidewalk dining area and street curb, permanent plantings, permanent street lighting, or other permanent obstructions.

3-802 Sidewalk café license agreement required; sidewalk dining prohibited outside of the Heritage District.

No owner or manager of a restaurant shall permit sidewalk dining without first obtaining a sidewalk café license agreement. No sidewalk café license agreement shall be issued for an establishment that does not meet the definition of "Restaurant" or for a Restaurant located outside of the Heritage District. Additionally, no sidewalk café license agreement shall be issued to applicants with applications failing to meet the requirements and specifications of Resolution No. 2024-12.

3-803. Sidewalk café license agreement fees.

(1) Application fee. Each applicant seeking to obtain a new sidewalk café license agreement shall pay a non-refundable fee to the City Clerk in an amount determined pursuant to Appendix A. Such fee shall be paid regardless of whether an Applicant has obtained an executed sidewalk café license agreement in the past.

(2) Renewal fee. Following approval of a sidewalk café license agreement, a Licensee shall pay a non-refundable annual renewal fee to the City Clerk in an amount determined pursuant to the Appendix A prior to renewal of the sidewalk café license agreement.

3-804. Applications.

The Application for a sidewalk café license agreement shall contain, without limitation, the following information:

(1) Applicant's name and the names of any other persons or entities who own the restaurant for which applicant is submitting the application, as well as such persons' email address(es), business address(es), business telephone number(s) and mailing address(es).

(2) The name of the manager of the Restaurant for which the application is being submitted, his or her telephone number, mailing address, and email address.

(3) A copy of a certificate of insurance, in accordance with Section 8, establishing that the Applicant has procured appropriate liability insurance and that such insurance is current.

(4) A copy of the Applicant's current State liquor license, if applicable.

(5) A sidewalk café license agreement signed by the Applicant.

(6) An approved City fencing permit.

(7) The Applicant's signature and the date of signature.

3-805. Application approval or denial.

(1) Review by City Clerk. An Application shall be referred to the City Clerk for review. The City Clerk shall review such Application within a reasonable time thereafter.

(2) Recommendation to City Commission; City Commission review. After reviewing an Application, the City Clerk shall submit a written recommendation to the City Commission, which may adopt, modify, or reject the recommendation of the City Clerk, or may return the Application to the City Clerk for further consideration together with a statement specifying the basis therefor. If the City Commission chooses to approve an Application, subject to its modifications, if any, and to execute the Sidewalk Café License Agreement, the Application shall be incorporated into said agreement.

(3) Denial authority.

(a) The above notwithstanding, the City Clerk is authorized to deny an Application if one of the following conditions are satisfied by mailing a notice of denial to the Applicant at the Applicant's address provided in the Application, stating the reason for the denial and that the Applicant has the right to appeal such denial:

i. The Application is incomplete;

ii. The Applicant does not meet the definition of a Restaurant; or,

iii. The applicant has had a Sidewalk Café License Agreement terminated by the City for any reason within two (2) years prior to submission of the Application.

Provided, however, that if the sole basis for denial is an incomplete Application, the City Clerk will allow the Applicant additional time to complete the Application.

(b) If the City Clerk denies an Application, the Applicant may appeal the denial to the City Commission by filing a notice of appeal in the office of the City Clerk on a form provided by that office. The notice of appeal must be filed within fourteen (14) calendar days of the date of the City Clerk's decision and shall state the basis for the appeal. The City Commission shall review such denial within a reasonable time thereafter and may affirm or overrule the denial of the City Clerk, may approve the Sidewalk Café License Agreement with additional conditions, or may return the Application to the City Clerk for further consideration together with a statement specifying the basis therefor.

3-806. Sidewalk Café License Agreement; term.

(1) Content. Upon approval of an Application, a Sidewalk Café License Agreement shall be executed in a form provided by the City, which, without limitation, shall contain the name and mailing address of the Applicant, a statement of terms and conditions consistent with this article, and the term of the Sidewalk Café License Agreement.

(2) Term. A Sidewalk Café License Agreement will be effective on the date of execution and will expire at midnight on the subsequent December 31.

3-807. Sidewalk café license agreement renewal; denial.

(1) Renewals.

(a) Payment of fee and certificate of insurance. The City Clerk shall grant an annual renewal of a sidewalk café license agreement then in effect for an existing or reduced sidewalk dining area, upon submission by the Applicant to the City Clerk of a renewal application form, along with payment of the renewal fee and submission of a certificate of insurance establishing that the Applicant has procured appropriate liability insurance and that such insurance is current, in accordance with Section 8, unless as otherwise provided in subsection (b) below.

(b) Payment deadline. Payment of the renewal fee and submission of a certificate of insurance must be delivered to the City Clerk by January 1. If an Applicant fails to make the renewal payment and/or to provide an adequate certificate of insurance by January 1, the Applicant must pay a Fifty dollar (\$50.00) penalty prior to February 1 to be eligible for an annual renewal of a sidewalk café license agreement, in addition to satisfying other renewal requirements under this section.

(2) Denial authority.

(a) Grounds. The City Clerk shall not grant an annual renewal and shall mail a notice of denial to the Licensee at the Licensee's address shown on the renewal application, stating the reason for the non-renewal and that the Licensee has the right to appeal such non-renewal, if:

- i. The Licensee has failed to pay the appropriate renewal fee and/or has failed to submit to the City Clerk the requisite certificate of insurance by the deadlines set forth above; or,
- ii. The City Commission has directed that such renewal shall not be issued.

(b) Effect. If the City Clerk does not grant a renewal, the sidewalk café license agreement will terminate on May 1.

(3) Appeals.

(a) City Commission hearing. If the City Clerk declines to renew a sidewalk café license agreement, the Licensee may appeal the decision of the City Clerk to the City Commission by filing a notice of appeal in the office of the City Clerk. The notice of appeal must be filed within fourteen (14) calendar days of the date of the City Clerk's decision and, and such written request shall state the basis for the appeal. The City Commission shall review the City Clerk's decision within a reasonable time thereafter and may affirm or overrule the decision of the City Clerk, may renew the sidewalk café license agreement with additional conditions, or may return the issue of renewal to the City Clerk for further consideration together with a statement specifying the basis therefor.

(b) Pendency of appeal. The term of the sidewalk café license agreement shall be extended during the pendency of any appeal to the City Commission under this section, provided that the basis for the 's decision is not based, in whole or in part, upon the Licensee's failure to submit to the City Clerk the requisite certificate of insurance.

3-808. Sidewalk dining conditions.

A Licensee shall, without limitation, comply with the following provisions:

(1) Compliance.

(a) Compliance with sidewalk café license agreement. The Licensee shall comply with all terms of the sidewalk café license agreement.

(b) Compliance with applicable law. The use of the sidewalk dining area for sidewalk dining shall be in conformance with zoning law governing the real property upon which the Licensee's Restaurant is located, laws governing service of food and beverages, laws governing alcoholic liquor and/or cereal malt beverages, the provisions of this article or administrative regulations adopted pursuant thereto, and any other law pertaining to sidewalk dining or a Licensee's use of sidewalk.

(c) Limited use. The use of the sidewalk dining area shall be limited to sidewalk dining as part of the business of the Licensee's Restaurant. Without limitation, food preparation, mixing alcoholic liquor or cereal malt beverages, and tending bar is not permitted in the sidewalk dining area.

(2) Alcoholic liquor and cereal malt beverages.

(a) Compliance with alcoholic liquor and cereal malt beverage laws and regulations. A Licensee may serve seated patrons and a Licensee's seated patrons may purchase, possess, and consume alcoholic liquor and/or cereal malt beverages within the sidewalk dining area in accordance with chapter III of this Code and other applicable law, including, but not limited to Kansas alcoholic beverage control regulations on serving alcoholic liquor and/or cereal malt beverages in the Sidewalk Dining Area.

(b) Limited hours of sale. A Licensee shall not serve alcoholic liquor nor cereal malt beverages or allow alcoholic liquor or cereal malt beverages to be consumed in the Sidewalk Dining Area after 10:00 p.m. or before 11:00 a.m. on any day. In no event shall this subsection be construed to expand the permitted hours for sale of alcoholic liquor or cereal malt beverages beyond what is otherwise permitted under chapter III of this Code and other applicable law.

(c) Fencing required. Licensees cannot serve alcoholic liquor and/or cereal malt beverages within the Sidewalk Dining Area unless the Sidewalk Dining Area is separated from the unobstructed walkway by a barrier that has been previously approved by the Director of Development Services.

(3) Maintenance costs. Licensees are responsible for all construction and maintenance costs associated with installing barriers or any other improvements that may be necessary to develop and maintain the Sidewalk Dining Area in accordance with the terms of this article or any administrative regulations adopted pursuant to this article.

(4) Liability and insurance.

(a) Insurance.

i. Type and amount of coverage. A Licensee shall carry an insurance policy that insures a Licensee in an amount not less than \$500,000 per single incident for any liability associated with the failure of a Licensee, its officers, employees, agents, servants, invitees, patrons or contractors, to exercise reasonable care and diligence in the use of the sidewalk during the term of its Sidewalk Café License Agreement and for as long as a Licensee continues to occupy the sidewalk following termination of its Sidewalk Café License Agreement. Failure of a Licensee to comply with these requirements shall not be construed as a waiver of these requirements or provisions and shall not relieve a Licensee of liability.

ii. Rating. All insurance policies shall be issued by insurance companies rated no less than A- VII in the most recent "A.M. Bests" insurance guide and admitted in the state of Kansas. All such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved.

iii. Certificate of insurance. A Licensee shall provide the City with a certificate of insurance listing the City as the certificate holder and evidencing compliance with the insurance requirements in this article and in the Sidewalk Café License Agreement. The City has the

right to require complete certified copies of all insurance policies procured by a Licensee pursuant to this article and the Sidewalk Café License Agreement, including any and all endorsements affecting the coverage required hereunder. The certificate of insurance shall also require the insurance carrier to notify the City at least thirty (30) days in advance of any change in terms and conditions of the policy, including cancellation for any reason, and in advance of any expiration of the policy term.

(b) Indemnification. To the fullest extent permitted by law, a Licensee shall defend, indemnify and hold harmless the City, its agents, representatives, officers, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees and court costs) attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, to the extent that such claims, damages, losses, and expenses relate to, arise out of, or are alleged to have resulted from the acts, errors, or omissions of a Licensee, its officers, employees, agents, servants, invitees, patrons, and contractors to construct, maintain, or use the Sidewalk Dining Area, and for as long as a Licensee continues to occupy the sidewalk following termination of its Sidewalk Café License Agreement.

(5) No representation by the City. The City makes no representations with respect to the Sidewalk Dining Area or its condition. A Sidewalk Café License Agreement grants a Licensee a contractual license to use the sidewalk in the Sidewalk Dining Area in its present condition, "as is," without any warranties, representations, or assurances from the City.

(6) Removal of fixtures. The City may require, at any time and for any reason, the temporary removal of any fixtures or objects placed on the sidewalk for a reasonable period of time. Licensees shall be responsible for any costs incurred in the removal of fixtures and shall, at the City's option, return the sidewalk to City pavement standards. If, at the time that removal is required, the Licensee is no longer the tenant of the real property on which the restaurant that used the Sidewalk Dining Area was located, then the owner(s) of record of the real property on which the Restaurant that used the Sidewalk Dining Area was located shall be responsible for any costs incurred in removing the fixtures and in returning the sidewalk to City pavement standards.

(7) Sidewalk café license agreement maintained at the restaurant. A Licensee shall retain a copy of the executed Sidewalk Café License agreement on the real property upon which the Licensee's Restaurant is located.

(8) Sidewalk café license agreement non-assignable. Licensees shall not attempt to transfer, assign, sublet or convey any rights in the Sidewalk Dining Area that are given to a Licensee pursuant to a Sidewalk Café License Agreement. Sidewalk Café License Agreements may not be assigned in any form.

(9) Sidewalk café license agreement confers no real property rights on Licensees. While a Licensee may control the Sidewalk Dining Area to the extent necessary to conduct activities authorized by this article or a Sidewalk Café License Agreement, a Licensee shall not be considered to be a real property tenant or lessee. Nothing in this article and regulations

adopted pursuant thereto, or a sidewalk Café License Agreement, shall be construed to convey any interest in the real property comprising the Sidewalk Dining Area except a contractual license.

3-809. Violations and termination of sidewalk café license agreement.

(1) Violations and cure period.

(a) Violation notice. Whenever it appears that there has been a violation of this article, administrative regulations adopted pursuant to this article, or the sidewalk café license agreement, a written notice of violation and order to cure (“Notice and Order”) may be served upon the Licensee according to subsection (d).

(b) Cure period. The notice and order shall provide information sufficient to reasonably allow the Licensee to determine the nature of the actions required to cure the violation and shall specify a reasonable time period to cure the violation.

(2) Continued operation contrary to public interest. If continued sidewalk dining on a Sidewalk Dining Area is contrary to the health, safety, and welfare of the public, a written notice of this determination shall be issued to the Licensee (“Termination Notice”), which shall provide the date upon which the sidewalk café license agreement will be terminated. A sidewalk café license agreement that is terminated under this subsection shall not terminate less than thirty (30) days from the date of the Termination Notice.

(3) Form. The Notice and Order or the Termination Notice, as applicable, shall:

(a) Identification. Include a description of the subject Sidewalk Dining Area sufficient for identification.

(b) Basis.

i. In the case of a Notice and Order, include a statement of the nature of the violation and references to relevant laws, ordinances, regulations, and/or sidewalk café license agreement provisions with sufficient information that would reasonably allow the Licensee to determine the nature of the violation to allow a Licensee to cure the violation; or

ii. In the case of a Termination Notice, include a detailed explanation as to why continued sidewalk dining on the subject Sidewalk Dining Area is contrary to the health, safety, and welfare of the public.

(c) Timing.

i. In the case of a Notice and Order, include a deadline for a Licensee to cure a violation that allows a reasonable time to take the actions required, and include a statement that failure to comply may result in the City terminating the Sidewalk Café License Agreement; or

ii. In the case of a Termination Notice, include a statement of when the sidewalk café license agreement will be terminated, which shall not be less than thirty (30) days from the date of the Termination Notice.

(d) Right to appeal hearing. Inform the Licensee of the right to an appeal hearing before the City Commission if the Licensee files a written request for hearing within fourteen (14) days from the date of issuance listed on the Notice and Order or the Termination Notice.

(4) Service. A Notice and Order and/or Termination Notice may be served by regular mail to the address indicated in the sidewalk café license agreement.

(5) Termination by City. In addition to any provisions in the sidewalk café license agreement, if the Licensee fails to cure a violation in the period of time designated in the Notice and Order, or the date designated within the Termination Notice has passed, then the Sidewalk Café License Agreement then in effect shall be terminated, unless a request for an appeal hearing has been filed with the City Commission, in which case the Sidewalk Café License Agreement shall terminate according to the order of the City Commission.

(6) Termination by Licensee. If a Licensee discontinues use of the Sidewalk Dining Area or provides written notification of the same, the Licensee's Sidewalk Café License Agreement shall terminate immediately.

(7) Responsibilities upon termination.

(a) Removal of obstructions. If a Sidewalk Café License Agreement is terminated for any reason, a Licensee shall remove all objects, including but not limited to fencing and furniture, that occupy the Sidewalk Dining Area under the Sidewalk Café License Agreement, and shall restore the sidewalk in and surrounding the Sidewalk Dining Area to city pavement standards. Such removal and/or restoration shall occur prior to termination of the sidewalk café license agreement.

(b) Failure to remove or restore. If the Licensee fails to remove objects or fails to restore the sidewalk according to subsection (i) above, then the City may remove such objects and restore the sidewalk in addition to any other applicable remedies. In the event that the City removes such objects or restores the sidewalk following termination, the City shall be able to assess all costs associated with such action, including, but not limited to reasonable costs associated with repairing sidewalk that may be damaged in such removal, according to the provisions of chapter XIII, and all amendments thereto, except that it shall be sufficient for the City to serve notice of costs by regular mail to the address indicated on the sidewalk café license agreement.

(8) Appeals.

(a) City Commission hearing. A Licensee may appeal a Notice and Order or a Termination Notice by filing a notice of appeal in the office of the City Clerk on a form provided by that office. The notice of appeal must be filed within fourteen (14) calendar days from the date of issuance listed on the Notice and Order or the Termination Notice and shall state the

basis for the appeal. The City Commission shall review the findings within a reasonable time thereafter and may affirm (with or without modification) or overrule the determinations.

(b) Pendency of appeal. The term of the sidewalk café license agreement shall be extended during the pendency of any appeal to the City Commission under this section, provided that the findings are not based, in whole or in part, upon the Licensee's failure to maintain requisite insurance coverage.

(c) Time extension. Should the City Commission issue a ruling adverse to the Licensee, the City Commission shall afford the Licensee a reasonable period of time to cure the violation in the case of a Notice and Order appeal, or to make necessary arrangements prior to termination of the sidewalk café license agreement, in the case of a Termination Notice appeal. In the case of a Notice and Order appeal, if the licensee fails to cure the violation within the time specified by the City Commission, the sidewalk café license agreement shall terminate.

(9) Additional and alternative remedies. In addition to or as an alternative to remedies provided in this article or the Sidewalk Café License Agreement, the City may cause to be instituted any appropriate proceeding at law or in equity to restrain, correct or abate any violation of the provisions of this article or of any order or direction made pursuant thereto.

3-810. Policy and regulations.

The City Manager is authorized to propose administrative regulations regarding sidewalk café license agreements and sidewalk dining as the City Manager deems necessary for public safety and welfare for adoption by resolution of the City Commission. All Licensees shall comply with all regulations adopted pursuant to this article. Failure to comply with such regulations shall be grounds for the issuance of a Notice and Order pursuant to Section 3-809, and possible termination of the sidewalk café license agreement.

3-811. City's rights to execute other license agreements unaffected.

Nothing in this article shall be construed to limit the City's right to execute license agreements outside the Heritage District or to execute license agreements not relating to sidewalk dining in the Heritage District.

3-812. Severability.

If any section, clause, sentence, or phrase of this article is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such finding shall not affect the validity of any remaining provisions of this article.

~~3-813 Sidewalk Café Requirements~~

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~~Outdoor Food & Beverage Use – Public Right-of-Way or City Owned Property~~

~~The following requirements must be adhered to:~~

- ~~Completed Application for Licensing Agreement submitted to City Clerk~~
- ~~Site Plan of Outdoor Area to be Submitted to and Approved by Development Services Department~~
- ~~Payment~~
- ~~Provide appropriate amount of Insurance Listing the City of Dodge City as Additional Insured~~
- ~~Compliance with the Guidelines for Barriers, Furniture and Pedestrian Access as Outlined in the Policy~~
- ~~Maximum Hours of Outdoor Area Daily is from 11:00 AM to 10:00 PM~~
- ~~Signed Agreement for City Provided Barriers~~

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~~Authority~~

~~These Sidewalk Café Requirements are promulgated pursuant to Chapter 3 Article 8 of the Dodge City Code of Ordinances. All food and beverage service establishments who seek to have outdoor dining on City sidewalks or other public right-of-way must obtain a licensing agreement from the City of Dodge City and must name the City of Dodge City as an additional insured for the public area to be used. Additionally, all food and beverage service establishments must submit a site plan for the public area to be used and must demarcate the area to be used with appropriate elements outlined within this guide.~~

~~Definition~~

~~Sidewalk Café means any group of tables, chairs, or other seating fixtures and all related appurtenances maintained within the public sidewalk and intended for the purpose of consumption of food and or beverage by patrons, when such is located adjacent to a food or beverage service establishment having the same operator.~~

~~More Information~~

~~Applicants may also contact the City of Dodge City Clerk 620-225-8100 option # 6 or Development Services Department at 620-225-8100 option #3.~~

Purpose

Sidewalk cafés are temporary dining areas that occupy part of the public right of way during eating establishment hours. This document is a guide to creating temporary sidewalk cafés that are safe and attractive to restaurant patrons and pedestrians.

The City of Dodge City Sidewalk Café Requirements provide acceptable dimensions for café access and for public rights-of-way, sidewalk café barriers, and the layout of outdoor service areas. The City of Dodge City requires the use of durable and high-quality outdoor furnishings and materials to increase the safety and comfort of patrons of sidewalk cafes. The diagrams in this document illustrate examples of sidewalk café design and photographs show acceptable sidewalk café furnishings.

Sidewalk cafés enhance the public realm and motivate people to patronize Dodge City establishments. Licensed businesses offering sidewalk cafés shall comply by these requirements, which are applicable in the Heritage District.

Sidewalk Café Elements

Elements of a typical sidewalk café include:

- Barriers
- Planters
- Umbrellas
- Menu Display
- Heat Lamps
- Access Point

A sidewalk café is not required to have every single element, however, certain elements are required. Please see the following guidelines for these specifications. If a licensee wishes to use elements not described as acceptable herein, a written proposal must be submitted to the Director of Development Services for approval with a picture of the proposed elements. Acceptance or denial will be provided in writing.

Section 1: Barriers

Barriers Required

The perimeter of all sidewalk cafés that extend into the public right of way shall be enclosed by barriers that are durable, removable, maintained in good condition and adhere to design guidelines.

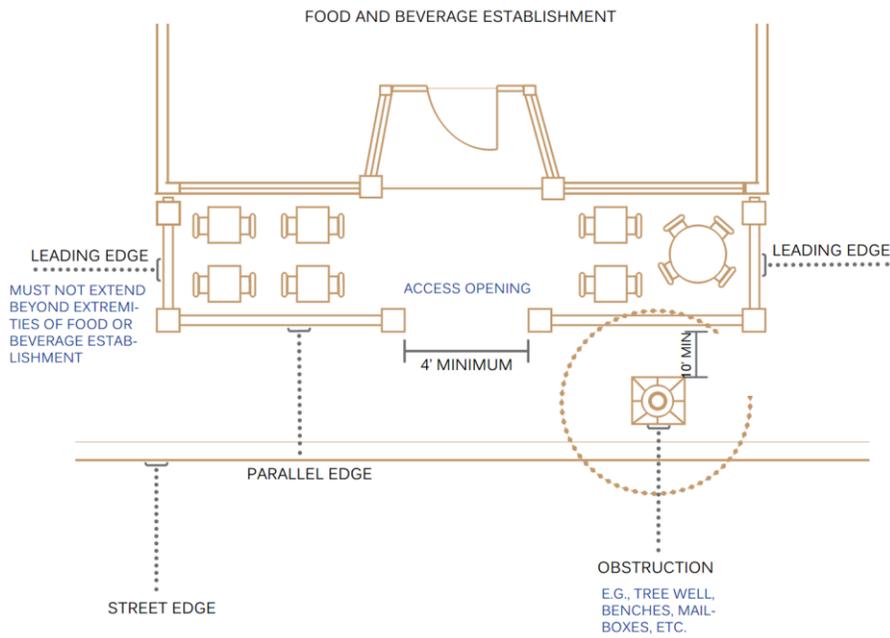


Diagram 2: Plan view of a sidewalk café.

Drawing is not to scale.

Barrier Design

The barrier will be provided through a separate agreement by the City of Dodge City. No barrier is permitted except what is provided.

A. Types of Barriers

1. ~~Planters: Outdoor planters may be used as a barrier element and should be placed at the corners and entry of the sidewalk café. Planters must be no more than 3' in height and shall be kept in a clean condition.~~

B. Barrier Qualities

1. ~~Signage: No signs may be hung, tied to, or in any way incorporated into a barrier.~~

Barrier Measurements

The following barrier measurements should be utilized to guide pedestrian traffic and establish the separation of sidewalk cafés from the rest of the boardwalk:

~~Open Appearance: Sidewalk café fences shall allow patrons and pedestrians to see from the café to the street and vice versa.~~

Access Openings

~~Location: The access opening shall be located along the front or parallel edge of the sidewalk café barrier. The access opening MUST be kept clear of other materials.~~

~~Minimum Access Width: All access openings shall measure no less than 4' in width.~~

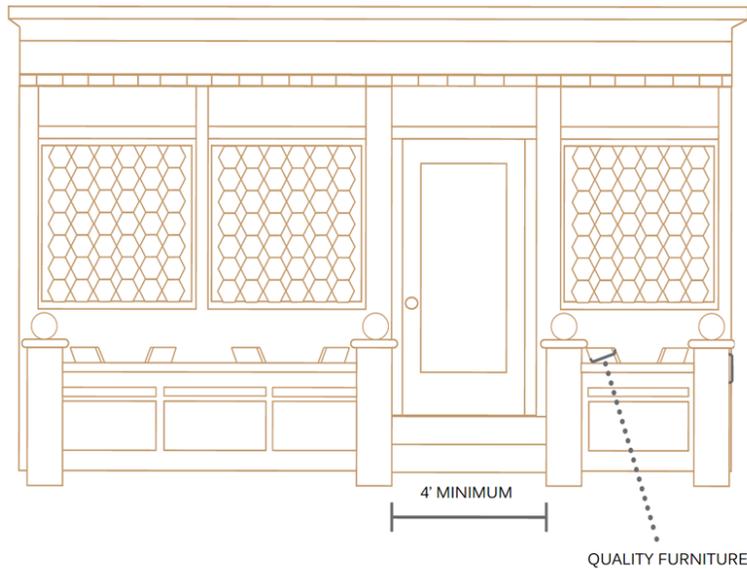


Diagram 3: Elevation view of sidewalk café showing café elements requirements and measurement restrictions to barriers and access opening.

Drawing is not to scale.

Planters & Planter Boxes

Planters or planter boxes are an appealing barrier element in sidewalk cafés.

Maximum Height: Planters may be no more than 3' in height; planted materials may be up to 3' tall. Planter boxes may be installed on 3' high barriers.

Planted Materials: Planters and the plants they contain should be well maintained and kept free of litter and debris.



Images 13-14: Planters should be no more than 3' in height. Planted materials may be up to 6' in height. Image does not show a 6' plant, rather, where the measurement of where the planted material begins.



Images 15-16: Planters must contain plants and be well-maintained and kept free of litter and debris. These images are examples of unacceptable uses and maintenance of planters.

Section 2: Furniture and Fixtures

~~It is essential for sidewalk cafés to utilize quality furniture and fixtures that contribute to the safety and attractiveness of the public realm. Furniture and fixtures must be made durable and of sturdy construction: able to withstand severe weather without blowing over.~~

~~Sidewalk cafés influence the character of the Heritage District, and restaurant owners should be mindful of the surroundings when planning outdoor service areas. While a variety of tables, chairs, and umbrellas are acceptable, operators are advised to consider the character of the district and nearby buildings when making decisions concerning furniture and fixtures. A range of furniture styles, colors and materials are permitted; however, furniture and fixtures must be clean and free of fading, corrosion, splinters, dents,~~

tears, and chipped paint. The following is a guide to appropriate sidewalk café furniture and fixtures:

Discouraged Types of Furniture

Prohibited Furniture: Sidewalk cafés are non-permanent eating areas, and furniture that is permanently affixed to the boardwalk or exterior of a building is prohibited. Tables, chairs, umbrellas, heat lamps, menu displays, and barrier elements are the only acceptable outdoor furniture items.

Prohibited Café Elements: Shelves, waste receptacles, serving stations, sofas, and televisions.



Images 17-19: Examples of prohibited materials for sidewalk cafés. From left to right, unfinished wood materials, flimsy plastic table and chairs, and sofas are examples of prohibited furniture types.

Freestanding: Neither furniture nor other sidewalk café elements may be tied or otherwise secured to trees, lamp posts, street signs, or hydrants at any time.

Tables

Tables must be functional and well-maintained. Table may be any shape. Table and chair colors are subject to approval from the City. Smaller tables are encouraged, as they provide more layout flexibility. Square or rectangular tables can be combined to create a larger table if necessary. Table edges and corners should be safe for customers and passing pedestrians.

Encouraged Table Materials: Finished metals, finish grade woods, sturdy recycled materials.

Prohibited Table Materials: Plastic resin, unfinished lumber, bare metals.



Images 20-23: Examples of acceptable sidewalk café tables and chairs, which may be in a variety of shapes, materials and colors.

Chairs

Durability: Chairs should be able to withstand weather conditions such as sun, rain, and wind and remain in good condition. Chairs should be of sturdy construction. Chairs should not show evidence of deterioration or damage to structures or finishes.

Fabrication: Chairs may be fabricated of metal, finish grade wood, or composite material. Chairs may incorporate fabric elements or may be upholstered but must be maintained in clean condition. For upholstered chairs, water resistant textiles are required.

Color: The color of the chairs is the owner's choice, and subject to the approval of the City. Chairs may be painted, stained or unpainted in color, but must have surfaces that are properly finished such that there is no rust, splintering, or other deterioration.

Umbrellas

Functional and aesthetically pleasing umbrellas provide shade and enclosure for patrons of sidewalk cafés. Umbrellas must be contained within the defined sidewalk café area. Square

or rectangular market-style umbrellas are recommended for space-efficient design. No lettering is permitted on sidewalk café umbrellas.

Height: When open, umbrella canopies should be between 7' and 10' tall.

Materials & Design: Umbrellas should be suitable for outdoor patio use. Canvas is preferred. Umbrella colors are the owner's choice and should be compatible with the approved sidewalk café furniture.

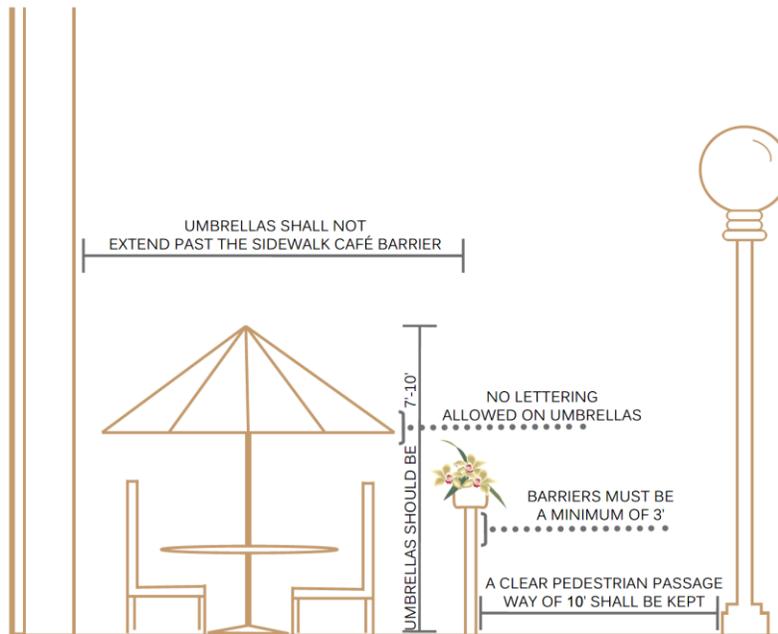


Diagram 4: Sidewalk café section, with height restrictions, and pedestrian passage requirements.

Drawing is not to scale.

Sidewalk Coverings

No alterations or coverings shall be made to sidewalks or placed over the sidewalk café space. Platforms, artificial turf, paint, or carpet in sidewalk café areas are prohibited.



Images 30: Example of a platform in the sidewalk café area, that is prohibited.

Displays

~~All menu displays must be located within the sidewalk café area enclosure.~~



Images 31-32: Examples of freestanding menu displays that are acceptable sidewalk café signage.

Sidewalk Café Area

~~Sidewalk café barriers will be placed 10' parallel to the building. No element of the sidewalk café, including umbrellas, plants, or barriers, may extend past 10'. Sidewalk cafés are only allowed in front of the restaurant.~~

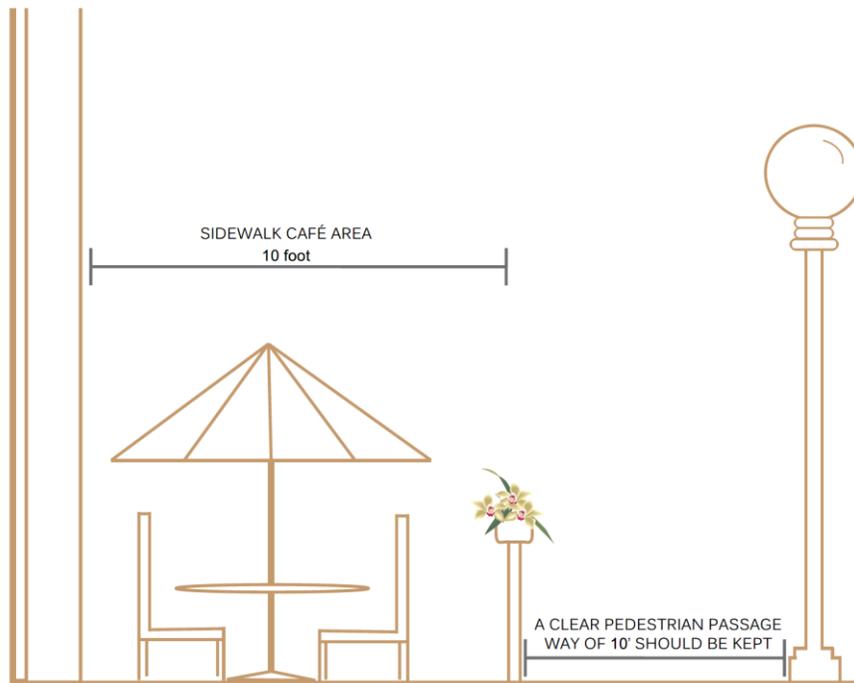


Diagram 5: Sidewalk café section and pedestrian passage way unobstructed from the edge of the café to permanent objects on the sidewalk or the back of the curb, to include light poles and other permanent items.

Drawing is not to scale.

Site Plan

A site plan indicating the layout of the sidewalk café is required with submittal of the application. Site plans must be clearly drawn and include the following:

- Building wall and any entrance(s) to/from the building
- Boundary and dimensions of the proposed dining area
- Illustration or pictures of elements that will be used with the sidewalk café (tables, chairs, planters, umbrellas, barriers, etc.).

Sample: Site Plan

Public Right-of-Way or City Owned Property

Site plans for public right-of-way or City owned property must include the following:

- Building wall and any entrance(s) to/from the building
- Boundary and dimensions of the proposed dining area
- Distance from the dining area to street edge
- Distance from the dining area to any fixed sidewalk element (light poles, planters, etc.)
- Illustration of elements that will be used within the sidewalk café (tables, planters, barriers, etc.)
- Drawing scale
- North arrow
- Dimensions of sidewalk café elements (barrier height, planter height, etc.)

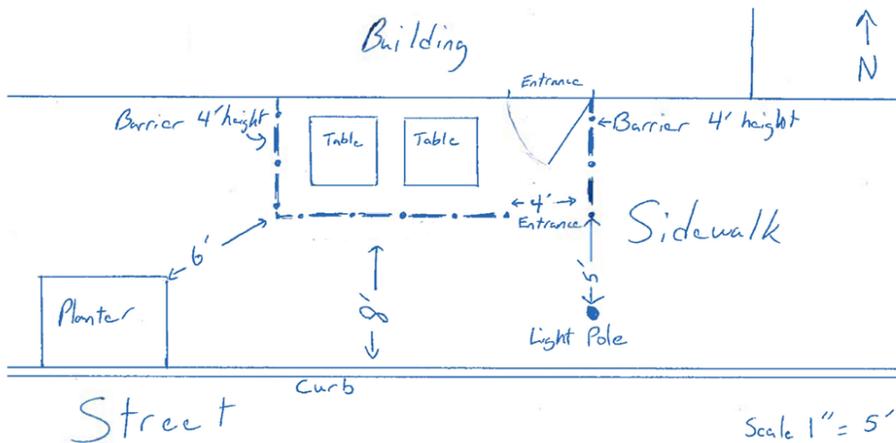


Diagram 9: Basic hand drawn site plan illustrating dimensions, proposed dining area, element dimensions, distances from dining area to fixed sidewalk elements, and dimensions of entrance opening.

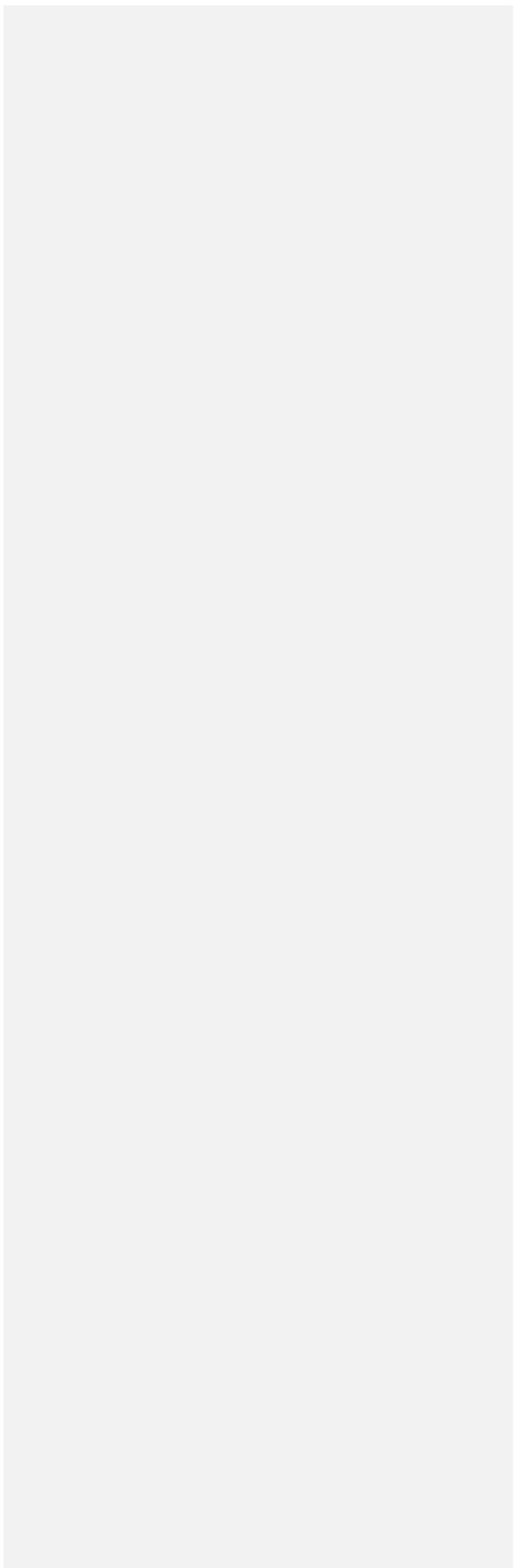
This Ordinance shall take effect and be in full force from and after its publication in the official city newspaper.

Passed by the Governing Body and Approved by the Mayor on this 1st day of July, 2024.

Chuck Taylor, Mayor

ATTEST:

Connie Marquez
City Clerk



ORDINANCE NO. 3813

AN ORDINANCE ADDING TO CHAPTER III OF THE CODE OF THE CITY OF DODGE CITY A NEW ARTICLE 8, ESTABLISHING SIDEWALK CAFE LICENSES AND CONDITIONS PERTAINING THERETO WITHIN THE CITY LIMITS OF DODGE CITY, KANSAS.

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

Section 1 Repeal: Any ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 2 Amendment: A new Chapter III, Article 8, Sidewalk Cafes, Section 3-801 through 3-813, inclusive, is hereby adopted to read as follows:

3-801 Definitions

As used in this article, unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section:

- (1) "Adjoining sidewalk" means the area of sidewalk located within the area defined by the projection of the angle of the exterior walls of a restaurant building. If a restaurant building has adjoining sidewalk on connecting sides, the area between the two resulting segments of adjoining sidewalk may be included in the "adjoining sidewalk" for purposes of determining the sidewalk dining area.
- (2) "Applicant" means the owner of a restaurant who has filed with the City an application for a sidewalk café license agreement.
- (3) "Application" means the completed city form and any accompanying documentation filed with the City by the Applicant for the purpose of obtaining a sidewalk café license agreement.
- (4) "Heritage District" means the geographic area defined in the Diagrammatic Map found in Exhibit A of the Heritage District Overlay Guidelines.
- (5) "Extended sidewalk" means the area of sidewalk connected to and uninterruptedly extending from the adjoining sidewalk.
- (6) "Licensee" means the owner of a restaurant authorized under this article to use adjoining sidewalk for sidewalk dining pursuant to a sidewalk café license agreement.
- (7) "Restaurant" means a public eating establishment except drive-ins in which the primary function is the preparation and serving of food on the premises.

(8) "Sidewalk dining" means the consumption of food, beverages (including, but not limited to, alcoholic liquor or cereal malt beverage), or both, by patrons of a restaurant outdoors on a specific area of adjoining sidewalk set aside for that purpose.

(9) "Restaurant building" means the building in which a restaurant is located within the Heritage District.

(10) "Sidewalk café license agreement" means the agreement between the City and the Licensee stating the terms under which the Licensee may utilize the sidewalk dining area for sidewalk dining.

(11) "Sidewalk dining area" means that portion of the adjoining sidewalk and, if applicable, the extended sidewalk which has been approved by the City for sidewalk dining pursuant to a sidewalk café license agreement.

(12) "Unobstructed walkway" means the area of sidewalk to remain open for unobstructed pedestrian traffic between the sidewalk dining area and street curb, permanent plantings, permanent street lighting, or other permanent obstructions.

3-802 Sidewalk café license agreement required; sidewalk dining prohibited outside of the Heritage District.

No owner or manager of a restaurant shall permit sidewalk dining without first obtaining a sidewalk café license agreement. No sidewalk café license agreement shall be issued for an establishment that does not meet the definition of "Restaurant" or for a Restaurant located outside of the Heritage District. Additionally, no sidewalk café license agreement shall be issued to applicants with applications failing to meet the requirements and specifications of Resolution No. 2024-12.

3-803. Sidewalk café license agreement fees.

(1) Application fee. Each applicant seeking to obtain a new sidewalk café license agreement shall pay a non-refundable fee to the City Clerk in an amount determined pursuant to Appendix A. Such fee shall be paid regardless of whether an Applicant has obtained an executed sidewalk café license agreement in the past.

(2) Renewal fee. Following approval of a sidewalk café license agreement, a Licensee shall pay a non-refundable annual renewal fee to the City Clerk in an amount determined pursuant to the Appendix A prior to renewal of the sidewalk café license agreement.

3-804. Applications.

The Application for a sidewalk café license agreement shall contain, without limitation, the following information:

(1) Applicant's name and the names of any other persons or entities who own the restaurant for which applicant is submitting the application, as well as such persons' email address(es), business address(es), business telephone number(s) and mailing address(es).

(2) The name of the manager of the Restaurant for which the application is being submitted, his or her telephone number, mailing address, and email address.

(3) A copy of a certificate of insurance, in accordance with Section 8, establishing that the Applicant has procured appropriate liability insurance and that such insurance is current.

(4) A copy of the Applicant's current State liquor license, if applicable.

(5) A sidewalk café license agreement signed by the Applicant.

(6) An approved City fencing permit.

(7) The Applicant's signature and the date of signature.

3-805. Application approval or denial.

(1) Review by City Clerk. An Application shall be referred to the City Clerk for review. The City Clerk shall review such Application within a reasonable time thereafter.

(2) Recommendation to City Commission; City Commission review. After reviewing an Application, the City Clerk shall submit a written recommendation to the City Commission, which may adopt, modify, or reject the recommendation of the City Clerk, or may return the Application to the City Clerk for further consideration together with a statement specifying the basis therefor. If the City Commission chooses to approve an Application, subject to its modifications, if any, and to execute the Sidewalk Café License Agreement, the Application shall be incorporated into said agreement.

(3) Denial authority.

(a) The above notwithstanding, the City Clerk is authorized to deny an Application if one of the following conditions are satisfied by mailing a notice of denial to the Applicant at the Applicant's address provided in the Application, stating the reason for the denial and that the Applicant has the right to appeal such denial:

i. The Application is incomplete;

ii. The Applicant does not meet the definition of a Restaurant; or,

iii. The applicant has had a Sidewalk Café License Agreement terminated by the City for any reason within two (2) years prior to submission of the Application.

Provided, however, that if the sole basis for denial is an incomplete Application, the City Clerk will allow the Applicant additional time to complete the Application.

(b) If the City Clerk denies an Application, the Applicant may appeal the denial to the City Commission by filing a notice of appeal in the office of the City Clerk on a form provided by that office. The notice of appeal must be filed within fourteen (14) calendar days of the date of the City Clerk's decision and shall state the basis for the appeal. The City Commission shall review such denial within a reasonable time thereafter and may affirm or overrule the denial of the City Clerk, may approve the Sidewalk Café License Agreement with additional conditions, or may return the Application to the City Clerk for further consideration together with a statement specifying the basis therefor.

3-806. Sidewalk Café License Agreement; term.

(1) Content. Upon approval of an Application, a Sidewalk Café License Agreement shall be executed in a form provided by the City, which, without limitation, shall contain the name and mailing address of the Applicant, a statement of terms and conditions consistent with this article, and the term of the Sidewalk Café License Agreement.

(2) Term. A Sidewalk Café License Agreement will be effective on the date of execution and will expire at midnight on the subsequent December 31.

3-807. Sidewalk café license agreement renewal; denial.

(1) Renewals.

(a) Payment of fee and certificate of insurance. The City Clerk shall grant an annual renewal of a sidewalk café license agreement then in effect for an existing or reduced sidewalk dining area, upon submission by the Applicant to the City Clerk of a renewal application form, along with payment of the renewal fee and submission of a certificate of insurance establishing that the Applicant has procured appropriate liability insurance and that such insurance is current, in accordance with Section 8, unless as otherwise provided in subsection (b) below.

(b) Payment deadline. Payment of the renewal fee and submission of a certificate of insurance must be delivered to the City Clerk by January 1. If an Applicant fails to make the renewal payment and/or to provide an adequate certificate of insurance by January 1, the Applicant must pay a Fifty dollar (\$50.00) penalty prior to February 1 to be eligible for an annual renewal of a sidewalk café license agreement, in addition to satisfying other renewal requirements under this section.

(2) Denial authority.

(a) Grounds. The City Clerk shall not grant an annual renewal and shall mail a notice of denial to the Licensee at the Licensee's address shown on the renewal application, stating the reason for the non-renewal and that the Licensee has the right to appeal such non-renewal, if:

i. The Licensee has failed to pay the appropriate renewal fee and/or has failed to submit to the City Clerk the requisite certificate of insurance by the deadlines set forth above; or,

ii. The City Commission has directed that such renewal shall not be issued.

(b) Effect. If the City Clerk does not grant a renewal, the sidewalk café license agreement will terminate on May 1.

(3) Appeals.

(a) City Commission hearing. If the City Clerk declines to renew a sidewalk café license agreement, the Licensee may appeal the decision of the City Clerk to the City Commission by filing a notice of appeal in the office of the City Clerk. The notice of appeal must be filed within fourteen (14) calendar days of the date of the City Clerk's decision and, and such written request shall state the basis for the appeal. The City Commission shall review the City Clerk's decision within a reasonable time thereafter and may affirm or overrule the decision of the City Clerk, may renew the sidewalk café license agreement with additional conditions, or may return the issue of renewal to the City Clerk for further consideration together with a statement specifying the basis therefor.

(b) Pendency of appeal. The term of the sidewalk café license agreement shall be extended during the pendency of any appeal to the City Commission under this section, provided that the basis for the 's decision is not based, in whole or in part, upon the Licensee's failure to submit to the City Clerk the requisite certificate of insurance.

3-808. Sidewalk dining conditions.

A Licensee shall, without limitation, comply with the following provisions:

(1) Compliance.

(a) Compliance with sidewalk café license agreement. The Licensee shall comply with all terms of the sidewalk café license agreement.

(b) Compliance with applicable law. The use of the sidewalk dining area for sidewalk dining shall be in conformance with zoning law governing the real property upon which the Licensee's Restaurant is located, laws governing service of food and beverages, laws governing alcoholic liquor and/or cereal malt beverages, the provisions of this article or administrative regulations adopted pursuant thereto, and any other law pertaining to sidewalk dining or a Licensee's use of sidewalk.

(c) Limited use. The use of the sidewalk dining area shall be limited to sidewalk dining as part of the business of the Licensee's Restaurant. Without limitation, food preparation, mixing alcoholic liquor or cereal malt beverages, and tending bar is not permitted in the sidewalk dining area.

(2) Alcoholic liquor and cereal malt beverages.

(a) Compliance with alcoholic liquor and cereal malt beverage laws and regulations. A Licensee may serve seated patrons and a Licensee's seated patrons may purchase, possess, and consume alcoholic liquor and/or cereal malt beverages within the sidewalk dining area in accordance with chapter III of this Code and other applicable law, including, but not limited to Kansas alcoholic beverage control regulations on serving alcoholic liquor and/or cereal malt beverages in the Sidewalk Dining Area.

(b) Limited hours of sale. A Licensee shall not serve alcoholic liquor nor cereal malt beverages or allow alcoholic liquor or cereal malt beverages to be consumed in the Sidewalk Dining Area after 10:00 p.m. or before 11:00 a.m. on any day. In no event shall this subsection be construed to expand the permitted hours for sale of alcoholic liquor or cereal malt beverages beyond what is otherwise permitted under chapter III of this Code and other applicable law.

(c) Fencing required. Licensees cannot serve alcoholic liquor and/or cereal malt beverages within the Sidewalk Dining Area unless the Sidewalk Dining Area is separated from the unobstructed walkway by a barrier that has been previously approved by the Director of Development Services.

(3) Maintenance costs. Licensees are responsible for all construction and maintenance costs associated with installing barriers or any other improvements that may be necessary to develop and maintain the Sidewalk Dining Area in accordance with the terms of this article or any administrative regulations adopted pursuant to this article.

(4) Liability and insurance.

(a) Insurance.

i. Type and amount of coverage. A Licensee shall carry an insurance policy that insures a Licensee in an amount not less than \$500,000 per single incident for any liability associated with the failure of a Licensee, its officers, employees, agents, servants, invitees, patrons or contractors, to exercise reasonable care and diligence in the use of the sidewalk during the term of its Sidewalk Café License Agreement and for as long as a Licensee continues to occupy the sidewalk following termination of its Sidewalk Café License Agreement. Failure of a Licensee to comply with these requirements shall not be construed as a waiver of these requirements or provisions and shall not relieve a Licensee of liability.

ii. Rating. All insurance policies shall be issued by insurance companies rated no less than A- VII in the most recent "A.M. Bests" insurance guide and admitted in the state of Kansas. All such

policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved.

iii. Certificate of insurance. A Licensee shall provide the City with a certificate of insurance listing the City as the certificate holder and evidencing compliance with the insurance requirements in this article and in the Sidewalk Café License Agreement. The City has the right to require complete certified copies of all insurance policies procured by a Licensee pursuant to this article and the Sidewalk Café License Agreement, including any and all endorsements affecting the coverage required hereunder. The certificate of insurance shall also require the insurance carrier to notify the City at least thirty (30) days in advance of any change in terms and conditions of the policy, including cancellation for any reason, and in advance of any expiration of the policy term.

(b) Indemnification. To the fullest extent permitted by law, a Licensee shall defend, indemnify and hold harmless the City, its agents, representatives, officers, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees and court costs) attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, to the extent that such claims, damages, losses, and expenses relate to, arise out of, or are alleged to have resulted from the acts, errors, or omissions of a Licensee, its officers, employees, agents, servants, invitees, patrons, and contractors to construct, maintain, or use the Sidewalk Dining Area, and for as long as a Licensee continues to occupy the sidewalk following termination of its Sidewalk Café License Agreement.

(5) No representation by the City. The City makes no representations with respect to the Sidewalk Dining Area or its condition. A Sidewalk Café License Agreement grants a Licensee a contractual license to use the sidewalk in the Sidewalk Dining Area in its present condition, “as is,” without any warranties, representations, or assurances from the City.

(6) Removal of fixtures. The City may require, at any time and for any reason, the temporary removal of any fixtures or objects placed on the sidewalk for a reasonable period of time. Licensees shall be responsible for any costs incurred in the removal of fixtures and shall, at the City’s option, return the sidewalk to City pavement standards. If, at the time that removal is required, the Licensee is no longer the tenant of the real property on which the restaurant that used the Sidewalk Dining Area was located, then the owner(s) of record of the real property on which the Restaurant that used the Sidewalk Dining Area was located shall be responsible for any costs incurred in removing the fixtures and in returning the sidewalk to City pavement standards.

(7) Sidewalk café license agreement maintained at the restaurant. A Licensee shall retain a copy of the executed Sidewalk Café License agreement on the real property upon which the Licensee’s Restaurant is located.

(8) Sidewalk café license agreement non-assignable. Licensees shall not attempt to transfer, assign, sublet or convey any rights in the Sidewalk Dining Area that are given to a Licensee

pursuant to a Sidewalk Café License Agreement. Sidewalk Café License Agreements may not be assigned in any form.

(9) Sidewalk café license agreement confers no real property rights on Licensees. While a Licensee may control the Sidewalk Dining Area to the extent necessary to conduct activities authorized by this article or a Sidewalk Café License Agreement, a Licensee shall not be considered to be a real property tenant or lessee. Nothing in this article and regulations adopted pursuant thereto, or a sidewalk Café License Agreement, shall be construed to convey any interest in the real property comprising the Sidewalk Dining Area except a contractual license.

3-809. Violations and termination of sidewalk café license agreement.

(1) Violations and cure period.

(a) Violation notice. Whenever it appears that there has been a violation of this article, administrative regulations adopted pursuant to this article, or the sidewalk café license agreement, a written notice of violation and order to cure (“Notice and Order”) may be served upon the Licensee according to subsection (d).

(b) Cure period. The notice and order shall provide information sufficient to reasonably allow the Licensee to determine the nature of the actions required to cure the violation and shall specify a reasonable time period to cure the violation.

(2) Continued operation contrary to public interest. If continued sidewalk dining on a Sidewalk Dining Area is contrary to the health, safety, and welfare of the public, a written notice of this determination shall be issued to the Licensee (“Termination Notice”), which shall provide the date upon which the sidewalk café license agreement will be terminated. A sidewalk café license agreement that is terminated under this subsection shall not terminate less than thirty (30) days from the date of the Termination Notice.

(3) Form. The Notice and Order or the Termination Notice, as applicable, shall:

(a) Identification. Include a description of the subject Sidewalk Dining Area sufficient for identification.

(b) Basis.

i. In the case of a Notice and Order, include a statement of the nature of the violation and references to relevant laws, ordinances, regulations, and/or sidewalk café license agreement provisions with sufficient information that would reasonably allow the Licensee to determine the nature of the violation to allow a Licensee to cure the violation; or

ii. In the case of a Termination Notice, include a detailed explanation as to why continued sidewalk dining on the subject Sidewalk Dining Area is contrary to the health, safety, and welfare of the public.

(c) Timing.

i. In the case of a Notice and Order, include a deadline for a Licensee to cure a violation that allows a reasonable time to take the actions required, and include a statement that failure to comply may result in the City terminating the Sidewalk Café License Agreement; or

ii. In the case of a Termination Notice, include a statement of when the sidewalk café license agreement will be terminated, which shall not be less than thirty (30) days from the date of the Termination Notice.

(d) Right to appeal hearing. Inform the Licensee of the right to an appeal hearing before the City Commission if the Licensee files a written request for hearing within fourteen (14) days from the date of issuance listed on the Notice and Order or the Termination Notice.

(4) Service. A Notice and Order and/or Termination Notice may be served by regular mail to the address indicated in the sidewalk café license agreement.

(5) Termination by City. In addition to any provisions in the sidewalk café license agreement, if the Licensee fails to cure a violation in the period of time designated in the Notice and Order, or the date designated within the Termination Notice has passed, then the Sidewalk Café License Agreement then in effect shall be terminated, unless a request for an appeal hearing has been filed with the City Commission, in which case the Sidewalk Café License Agreement shall terminate according to the order of the City Commission.

(6) Termination by Licensee. If a Licensee discontinues use of the Sidewalk Dining Area or provides written notification of the same, the Licensee's Sidewalk Café License Agreement shall terminate immediately.

(7) Responsibilities upon termination.

(a) Removal of obstructions. If a Sidewalk Café License Agreement is terminated for any reason, a Licensee shall remove all objects, including but not limited to fencing and furniture, that occupy the Sidewalk Dining Area under the Sidewalk Café License Agreement, and shall restore the sidewalk in and surrounding the Sidewalk Dining Area to city pavement standards. Such removal and/or restoration shall occur prior to termination of the sidewalk café license agreement.

(b) Failure to remove or restore. If the Licensee fails to remove objects or fails to restore the sidewalk according to subsection (i) above, then the City may remove such objects and restore the sidewalk in addition to any other applicable remedies. In the event that the City removes such objects or restores the sidewalk following termination, the City shall be able to assess all costs associated with such action, including, but not limited to reasonable costs associated with

repairing sidewalk that may be damaged in such removal, according to the provisions of chapter XIII, and all amendments thereto, except that it shall be sufficient for the City to serve notice of costs by regular mail to the address indicated on the sidewalk café license agreement.

(8) Appeals.

(a) City Commission hearing. A Licensee may appeal a Notice and Order or a Termination Notice by filing a notice of appeal in the office of the City Clerk on a form provided by that office. The notice of appeal must be filed within fourteen (14) calendar days from the date of issuance listed on the Notice and Order or the Termination Notice and shall state the basis for the appeal. The City Commission shall review the findings within a reasonable time thereafter and may affirm (with or without modification) or overrule the determinations.

(b) Pendency of appeal. The term of the sidewalk café license agreement shall be extended during the pendency of any appeal to the City Commission under this section, provided that the findings are not based, in whole or in part, upon the Licensee's failure to maintain requisite insurance coverage.

(c) Time extension. Should the City Commission issue a ruling adverse to the Licensee, the City Commission shall afford the Licensee a reasonable period of time to cure the violation in the case of a Notice and Order appeal, or to make necessary arrangements prior to termination of the sidewalk café license agreement, in the case of a Termination Notice appeal. In the case of a Notice and Order appeal, if the licensee fails to cure the violation within the time specified by the City Commission, the sidewalk café license agreement shall terminate.

(9) Additional and alternative remedies. In addition to or as an alternative to remedies provided in this article or the Sidewalk Café License Agreement, the City may cause to be instituted any appropriate proceeding at law or in equity to restrain, correct or abate any violation of the provisions of this article or of any order or direction made pursuant thereto.

3-810. Policy and regulations.

The City Manager is authorized to propose administrative regulations regarding sidewalk café license agreements and sidewalk dining as the City Manager deems necessary for public safety and welfare for adoption by resolution of the City Commission. All Licensees shall comply with all regulations adopted pursuant to this article. Failure to comply with such regulations shall be grounds for the issuance of a Notice and Order pursuant to Section 3-809, and possible termination of the sidewalk café license agreement.

3-811. City's rights to execute other license agreements unaffected.

Nothing in this article shall be construed to limit the City's right to execute license agreements outside the Heritage District or to execute license agreements not relating to sidewalk dining in the Heritage District.

3-812. Severability.

If any section, clause, sentence, or phrase of this article is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such finding shall not affect the validity of any remaining provisions of this article.

This Ordinance shall take effect and be in full force from and after its publication in the official city newspaper.

Passed by the Governing Body and Approved by the Mayor on this 15th day of July, 2024.

Chuck Taylor, Mayor

ATTEST:

Connie Marquez
City Clerk

Resolution No. 2024-12

A RESOLUTION ESTABLISHING GUIDELINES AND REQUIREMENTS FOR
APPLICANTS SEEKING SIDEWALK CAFÉ LICENSE AGREEMENT

Sidewalk Café Requirements

Outdoor Food & Beverage Use – Public Right-of-Way or City Owned Property

Section 1: Purpose

The purpose of this Resolution shall be to set out guidelines and requirements the City of Dodge City shall utilize when reviewing applications for sidewalk café license agreements.

Sidewalk cafés are temporary dining areas that occupy part of the public right-of-way during eating establishment hours. This document is a guide to creating temporary sidewalk cafés that are safe and attractive to restaurant patrons and pedestrians. Sidewalk cafés enhance the public realm and motivate people to patronize Dodge City establishments. Licensed businesses offering sidewalk cafés shall comply by these requirements, which are applicable in the Heritage District.

This Resolution provides acceptable dimensions for café access and for public rights-of-way, sidewalk café barriers, and the layout of outdoor service areas. The City of Dodge City requires the use of durable and high-quality outdoor furnishings and materials to increase the safety and comfort of patrons of sidewalk cafes. The diagrams in this document illustrate examples of sidewalk café design and photographs show acceptable sidewalk café furnishings.

Section 2: Ordinance No. 3813

In addition to this Resolution, Applicants seeking a sidewalk café license agreement shall be subject to all provisions of Ordinance No. 3813. The City of Dodge City must utilize Ordinance No. 3813 in evaluating applications for Sidewalk Café License Agreements.

Section 3: Requirements For Sidewalk Café License Agreement

The following requirements must be adhered to:

- (a) Completed Application for Licensing Agreement submitted to City Clerk

- (b) Site Plan of Outdoor Area to be Submitted to and Approved by Development Services Department
- (c) Payment
- (d) Provide appropriate amount of Insurance Listing the City of Dodge City as Additional Insured
- (e) Compliance with the Guidelines for Barriers, Furniture and Pedestrian Access as Outlined in the Policy
- (f) Maximum Hours of Outdoor Area Daily is from 11:00 AM to 10:00 PM
- (g) Signed Agreement for City Provided Barriers

Section 4: Authority

These Sidewalk Café Requirements are promulgated pursuant to Chapter 3 Article 8 of the Dodge City Code of Ordinances. All food and beverage service establishments who seek to have outdoor dining on City sidewalks or other public right-of-way must obtain a licensing agreement from the City of Dodge City and must name the City of Dodge City as an additional insured for the public area to be used. Additionally, all food and beverage service establishments must submit a site plan for the public area to be used and must demarcate the area to be used with appropriate elements outlined within this guide.

Section 5: More Information

Applicants may also contact the City of Dodge City Clerk 620-225-8100 option # 6 or Development Services Department at 620-225-8100 option #3 for additional information.

Section 6: Sidewalk Café Elements

Elements of a sidewalk café may include:

- (a) Barriers
- (b) Planters
- (c) Umbrellas
- (d) Menu Display
- (e) Heat Lamps
- (f) Access Point

A sidewalk café is not required to have every single element; however, certain elements are required. Please see the following guidelines for these

specifications. If a licensee wishes to use elements not described as acceptable herein, a written proposal must be submitted to the Director of Development Services for approval with a picture of the proposed elements. Acceptance or denial will be provided in writing.

Section 7: Barriers

7.1 Barriers Required

The perimeter of all sidewalk cafés that extend into the public right-of-way shall be enclosed by barriers that are durable, removable, maintained in good condition and adhere to design guidelines.

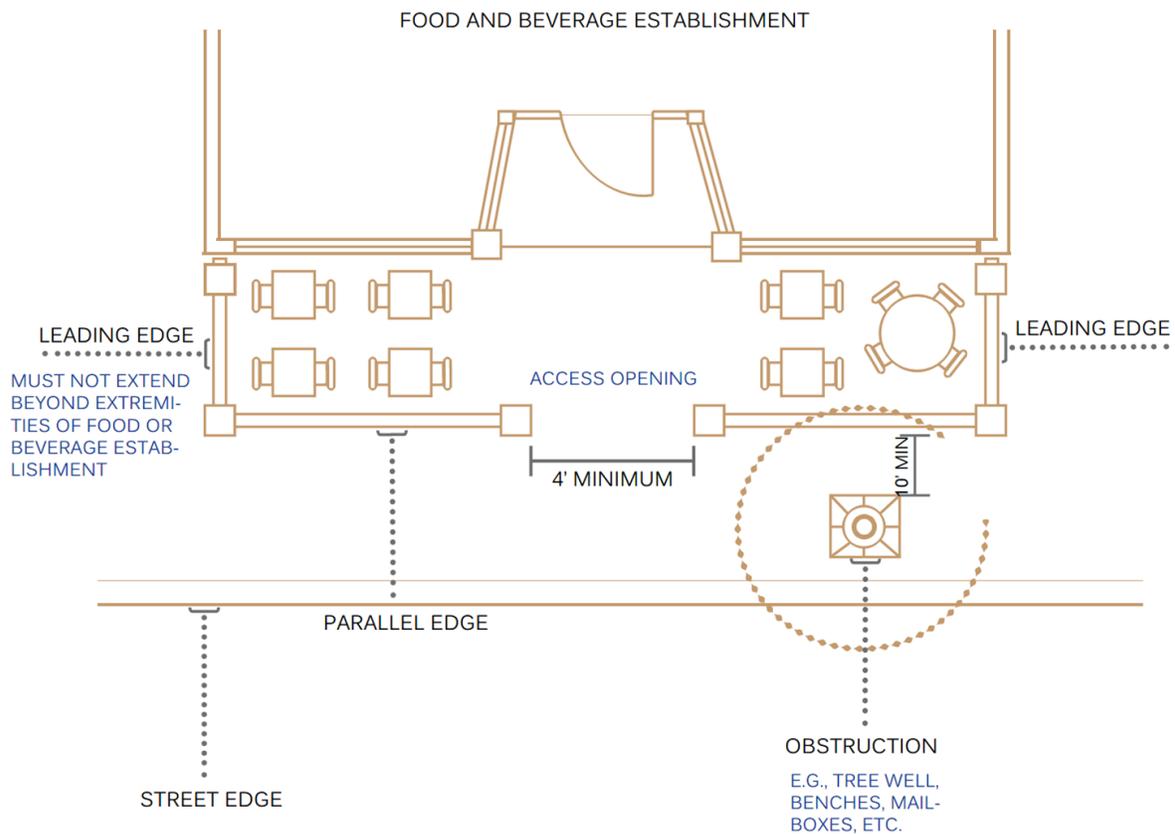


Diagram 2: Plan view of a sidewalk café.

Drawing is not to scale.

7.2 Barrier Design

The barrier will be provided through a separate agreement by the City of Dodge City. No barrier is permitted except what is provided.

A. Types of Barriers

1. Planters: Outdoor planters may be used as a barrier element and should be placed at the corners and entry of the sidewalk café. Planters must be no more than 3' in height and shall be kept in a clean condition.

B. Barrier Qualities

1. Signage: No signs may be hung, tied to, or in any way incorporated into a barrier.

7.3 Barrier Appearance

Open Appearance: Sidewalk café fences shall allow patrons and pedestrians to see from the café to the street and vice versa.

7.4 Access Openings

Location: The access opening shall be located along the front or parallel edge of the sidewalk café barrier. The access opening MUST be kept clear of other materials.

Minimum Access Width: All access openings shall measure no less than 4' in width.

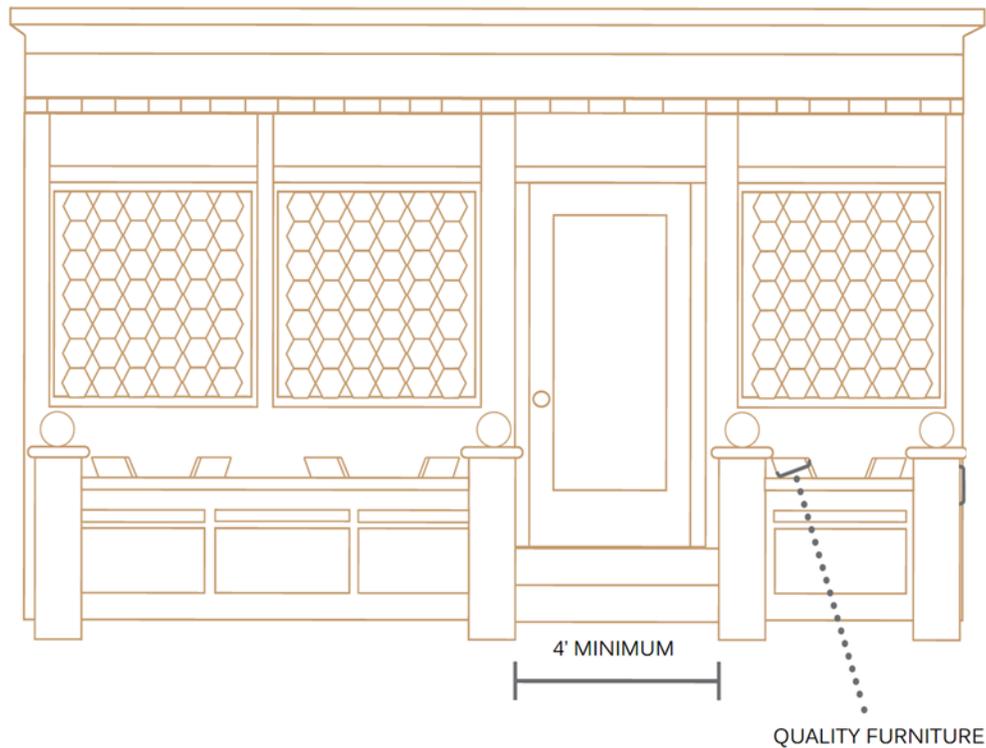


Diagram 3: Elevation view of sidewalk café showing café elements requirements and measurement restrictions to barriers and access opening.

Drawing is not to scale.

7.5 Planters & Planter Boxes

Planters or planter boxes are an appealing barrier element in sidewalk cafés.

Maximum Height: Planters may be no more than 3' in height; planted materials may be up to 3' tall. Planter boxes may be installed on 3' high barriers.

Planted Materials: Planters and the plants they contain should be well maintained and kept free of litter and debris.



Images 13-14: Planters should be no more than 3' in height. Planted materials may be up to 6' in height. Image does not show a 6' plant, rather, where the measurement of where the planted material begins.



Images 15-16: Planters must contain plants and be well-maintained and kept free of litter and debris. These images are examples of unacceptable uses and maintenance of planters.

Section 8: Furniture and Fixtures

It is essential for sidewalk cafés to utilize quality furniture and fixtures that contribute to the safety and attractiveness of the public realm. Furniture and fixtures must be made durable and of sturdy construction: able to withstand severe weather without blowing over.

Sidewalk cafés influence the character of the Heritage District, and restaurant owners should be mindful of the surroundings when planning outdoor service areas. While a variety of tables, chairs, and umbrellas are acceptable, operators are advised to consider the character of the district and nearby buildings when making decisions concerning furniture and fixtures. A range of furniture styles,

colors and materials are permitted; however, furniture and fixtures must be clean and free of fading, corrosion, splinters, dents, tears, and chipped paint. The following is a guide to appropriate sidewalk café furniture and fixtures.

8.1 Discouraged Types of Furniture

Prohibited Furniture: Sidewalk cafés are non-permanent eating areas, and furniture that is permanently affixed to the boardwalk or exterior of a building is prohibited. Tables, chairs, umbrellas, heat lamps, menu displays, and barrier elements are the only acceptable outdoor furniture items.

Prohibited Café Elements: Shelves, waste receptacles, serving stations, sofas, and televisions.



Images 17-19: Examples of prohibited materials for sidewalk cafés. From left to right, unfinished wood materials, flimsy plastic table and chairs, and sofas are examples of prohibited furniture types.

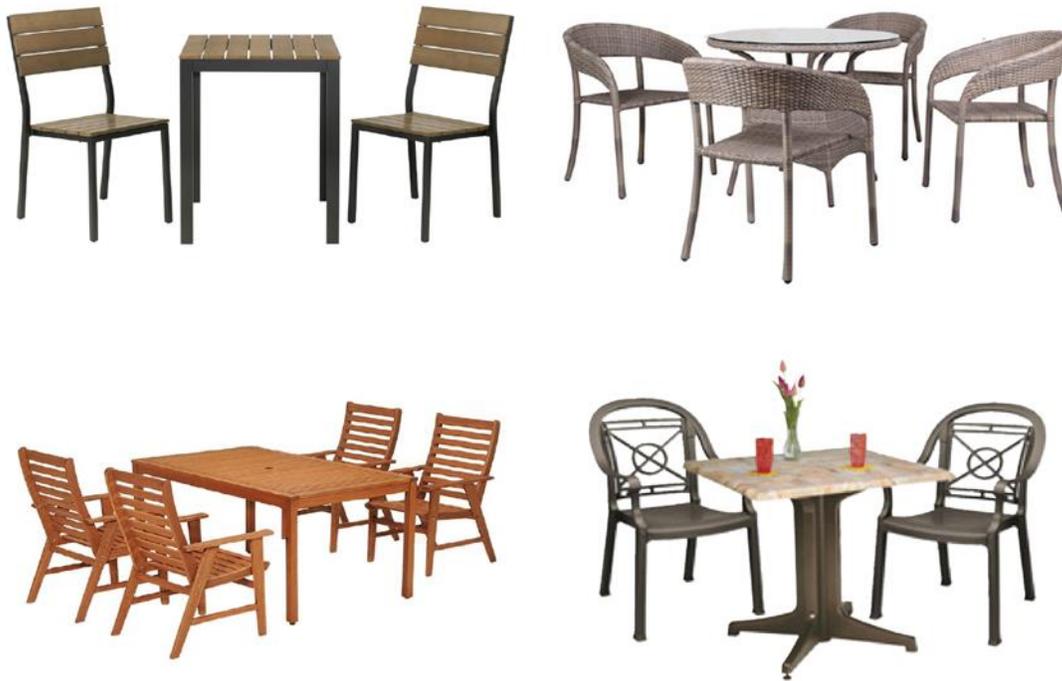
Freestanding: Neither furniture nor other sidewalk café elements may be tied or otherwise secured to trees, lamp posts, street signs, or hydrants at any time.

8.2 Tables

Tables must be functional and well-maintained. Table may be any shape. Table and chair colors are subject to approval from the City. Smaller tables are encouraged, as they provide more layout flexibility. Square or rectangular tables can be combined to create a larger table if necessary. Table edges and corners should be safe for customers and passing pedestrians.

Encouraged Table Materials: Finished metals, finish grade woods, sturdy recycled materials.

Prohibited Table Materials: Plastic resin, unfinished lumber, bare metals.



Images 20-23: Examples of acceptable sidewalk café tables and chairs, which may be in a variety of shapes, materials and colors.

8.3 Chairs

Durability: Chairs should be able to withstand weather conditions such as sun, rain, and wind and remain in good condition. Chairs should be of sturdy construction. Chairs should not show evidence of deterioration or damage to structures or finishes.

Fabrication: Chairs may be fabricated of metal, finish grade wood, or composite material. Chairs may incorporate fabric elements or may be upholstered but must be maintained in clean condition. For upholstered chairs, water resistant textiles are required.

Color: The color of the chairs is the owner's choice, and subject to the approval of the City. Chairs may be painted, stained or unpainted in color, but must have surfaces that are properly finished such that there is no rust, splintering, or other deterioration.

8.4 Umbrellas

Functional and aesthetically pleasing umbrellas provide shade and enclosure for patrons of sidewalk cafés. Umbrellas must be contained within the defined sidewalk café area. Square or rectangular market-style umbrellas are recommended for space-efficient design. No lettering is permitted on sidewalk café umbrellas.

Height: When open, umbrella canopies should be between 7' and 10' tall.

Materials & Design: Umbrellas should be suitable for outdoor patio use. Canvas is preferred. Umbrella colors are the owner's choice and should be compatible with the approved sidewalk café furniture.

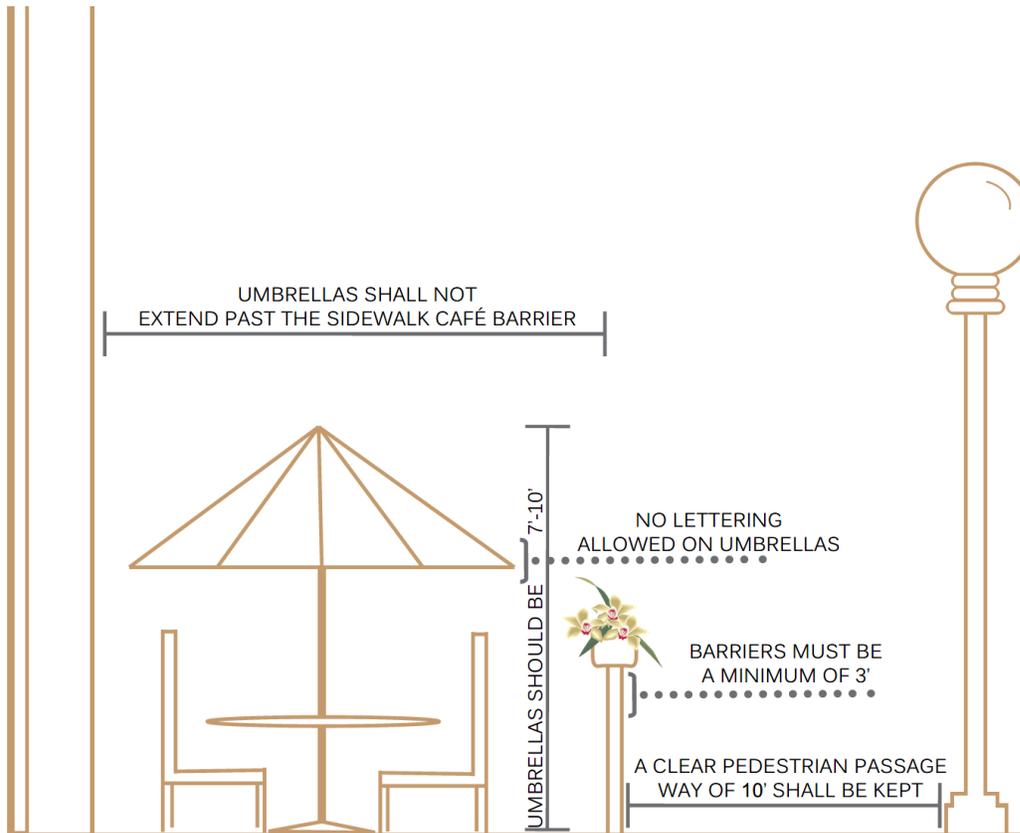


Diagram 4: Sidewalk café section, with height restrictions, and pedestrian passage requirements.

Drawing is not to scale.

Section 9: Sidewalk Coverings

No alterations or coverings shall be made to sidewalks or placed over the sidewalk café space. Platforms, artificial turf, paint, or carpet in sidewalk café areas are prohibited.



Images 30: Example of a platform in the sidewalk café area, that is prohibited.

Section 10: Displays

All menu displays must be located within the sidewalk café area enclosure.



Images 31-32: Examples of freestanding menu displays that are acceptable sidewalk café signage.

Section 11: Sidewalk Café Area

Sidewalk café barriers will be placed 10' parallel to the building. No element of the sidewalk café, including umbrellas, plants, or barriers, may extend past 10'. Sidewalk cafés are only allowed in front of the restaurant.

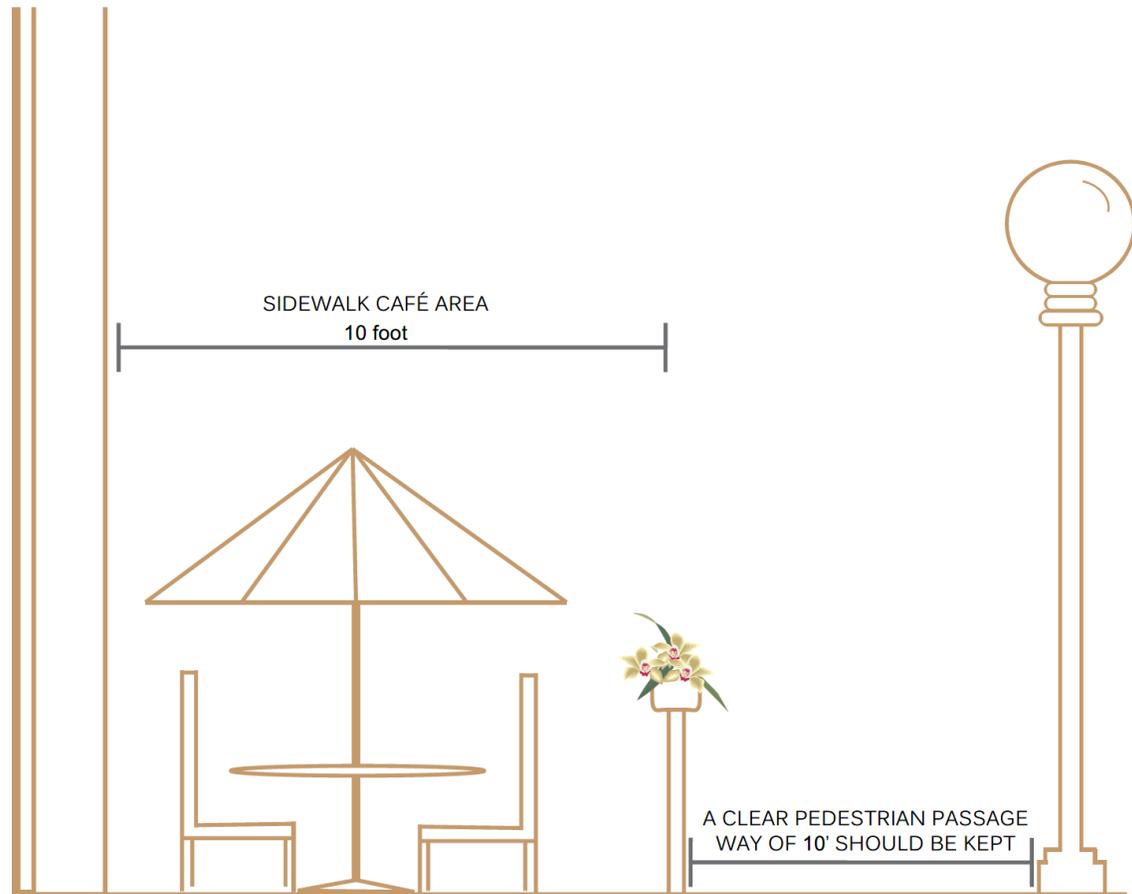


Diagram 5: Sidewalk café section and pedestrian passage way unobstructed from the edge of the café to permanent objects on the sidewalk or the back of the curb, to include light poles and other permanent items.

Drawing is not to scale.

Section 12: Site Plan

A site plan indicating the layout of the sidewalk café is required with submittal of the application. Site plans must be clearly drawn and include the following:

- (a) Building wall and any entrance(s) to/from the building
- (b) Boundary and dimensions of the proposed dining area
- (c) Illustration or pictures of elements that will be used with the sidewalk café (tables, chairs, planters, umbrellas, barriers, etc.).

Sample: Site Plan

Public Right-of-Way or City Owned Property

Site plans for public right-of-way or City owned property must include the following:

- Building wall and any entrance(s) to/from the building
- Boundary and dimensions of the proposed dining area
- Distance from the dining area to street edge
- Distance from the dining area to any fixed sidewalk element (light poles, planters, etc.)
- Illustration of elements that will be used within the sidewalk café (tables, planters, barriers, etc.)
- Drawing scale
- North arrow
- Dimensions of sidewalk café elements (barrier height, planter height, etc.)

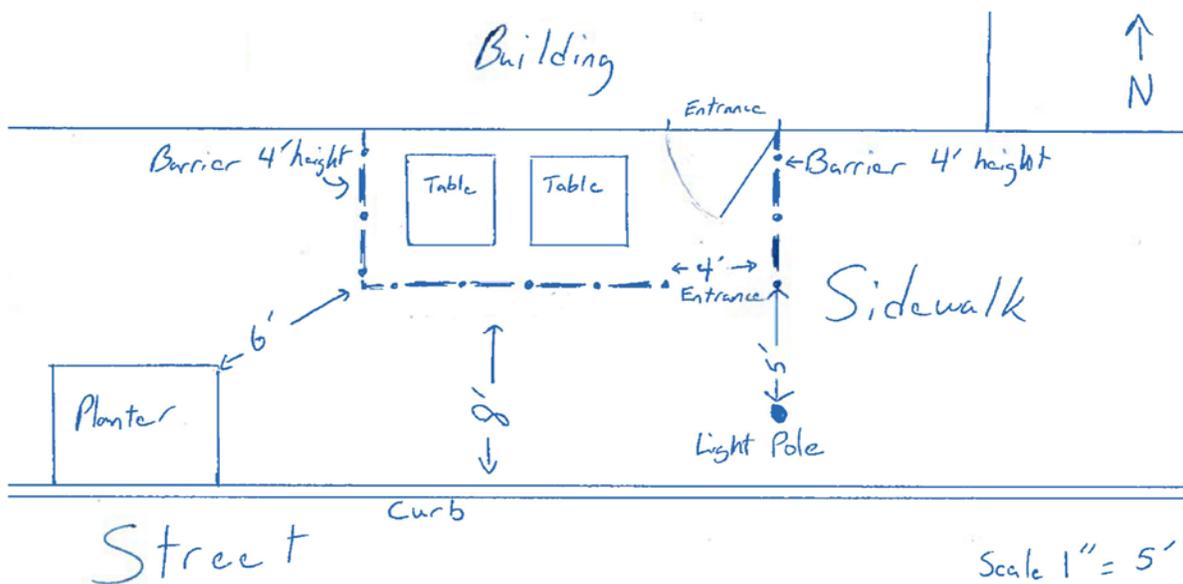


Diagram 9: Basic hand drawn site plan illustrating dimensions, proposed dining area, element dimensions, distances from dining area to fixed sidewalk elements, and dimensions of entrance opening.

This Resolution shall take effect and be in full force from and after its publication in the official city newspaper.

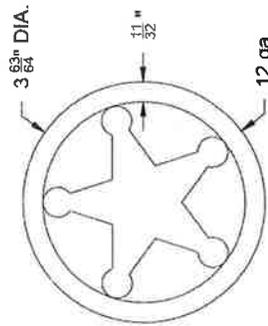
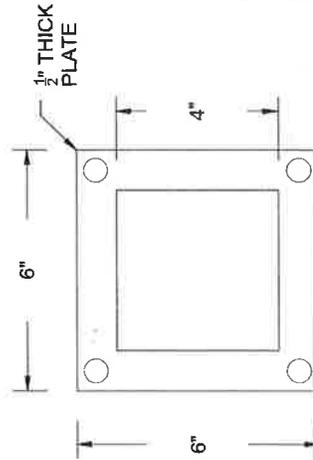
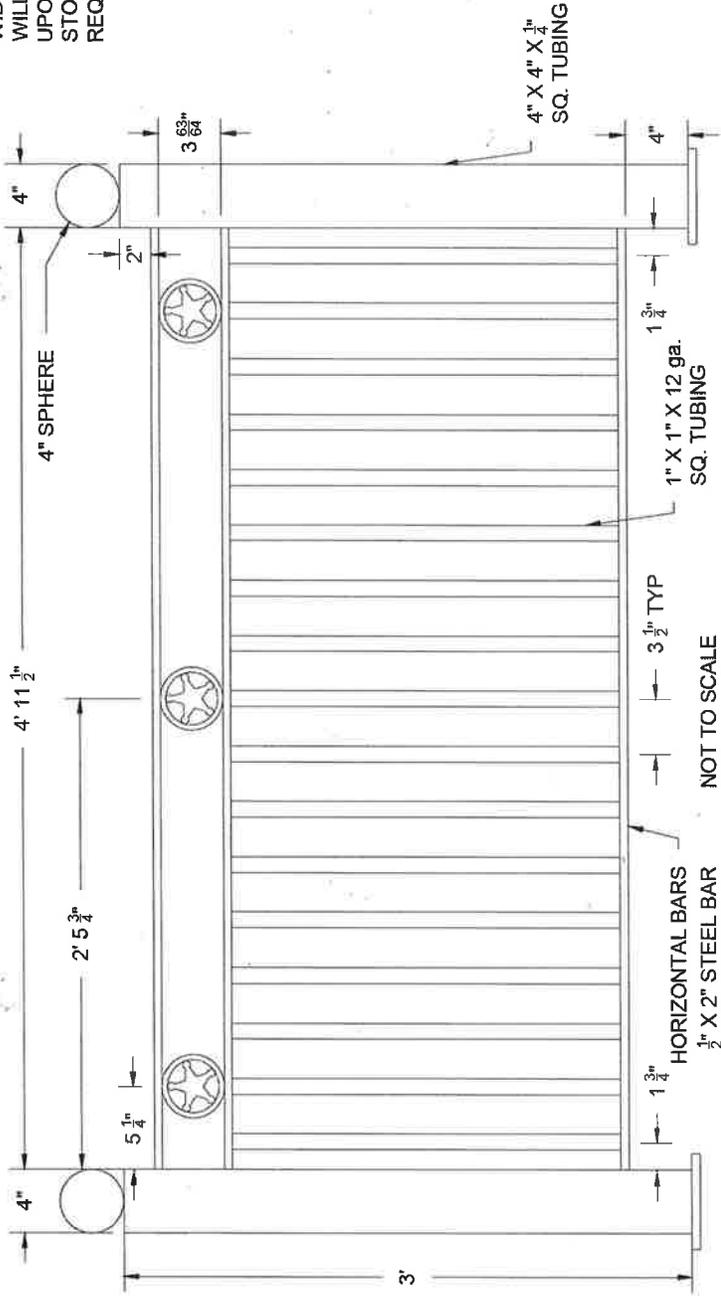
Passed by the Governing Body and Approved by the Mayor on this 15th day of July, 2024.

Chuck Taylor, Mayor

ATTEST:

Connie Marquez
City Clerk

* WIDTH OF FENCE PANEL
WILL VARY DEPENDING
UPON LOCATION TO MATCH
STORE FRONT WIDTH &
REQUIRED GATE.



DRAWN BY JR	PROJECT NO
CHECKED BY	CITY OF DODGE CITY, KANSAS CITY HALL ENGINEERING DEPARTMENT . (820) 256-5108
DATE 5/24	SHEET OF 1 1
	REVISIONS

FENCE DETAIL



Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Nicole May, Finance Director
Date: July 11, 2024
Subject: Notice of Revenue Neutral Rate Intent
Agenda Item: New Business

Purpose: The City is anticipating exceeding the Revenue Neutral Rate (RNR). The County Clerk must be notified by July 20th if the municipality intends to exceed the Revenue Neutral Rate. The RNR for the 2025 budget is 36.226. The total mill levy for the 2024 budget was 38.227.

Recommendation: City staff recommends approving the Notice of Revenue Neutral Rate Intent to exceed the RNR.

Background: In March 2021, the Legislature approved Senate Bill 13 requiring any taxing subdivision that intends to exceed their Revenue Neutral Rate to give additional notice. The County Clerk must be notified by July 20th. The City will be required to have a public hearing before the budget is adopted. The County Clerk is required to notify all taxpayer's of the revenue neutral rate hearings and levy changes.

The Revenue Neutral Rate for the City of Dodge City calculated by the Ford County Clerk is 36.226. The anticipated rate needed for the 2025 budget is 37.227. The City may adopt a budget with a mill levy less than this anticipated mill levy but the final budget cannot exceed this mill levy.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: None

Legal Considerations: Legal consideration will be satisfied upon notification to the County Clerk.

Mission/Values: We value progress and growth for the community's future.

Attachments: Notice of Revenue Neutral Rate Intent.

Approved for the Agenda by:

Nicole May, Finance Director