

# **CITY COMMISSION AGENDA**

City Hall Commission Chambers

Tuesday, September 8, 2009

7:00 p.m.

MEETING #4775

## **CALL TO ORDER**

## **ROLL CALL**

**INVOCATION:** Reverend Dennis Zimmerman, St. Cornelius Episcopal Church

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

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

## **CONSENT CALENDAR**

1. Approval of Joint City/County Commission Meeting minutes, August 17, 2009
2. Approval of City Commission Meeting minutes, August 17, 2009
3. Appropriation Ordinance No. 17, September 7, 2009
4. Cereal Malt Beverage License
  - a. Dillon Stores, 1700 North 14<sup>th</sup>
5. Approval of Pepsi Pouring Rights Contract
6. Approval for Bids for Police Department and City Hall Air Conditioning Systems
7. Approval for Vehicle Hail Damage Repair

## **ORDINANCES & RESOLUTIONS**

Ordinance No. 3477: Flood Plain Management Ordinance. Presented by Dennis Veatch, Director of Development Services.

Ordinance No. 3478: An Ordinance Annexing to the City of Dodge City the described property, in accordance with K.S.A. 12-520 et. seq; providing for the zoning thereof; and placing the property in a voting ward. Presented by Dennis Veatch, Director of Development Services.

Resolution No. 2009-19: A Resolution making certain findings and determinations as to the need for housing within the City of Dodge City, Kansas and setting forth the legal description of real property proposed to be designated as a Rural Housing Incentive District within the City. Presented by Cherise Tieben, Assistant City Manager.

Resolution No. 2009-20: A Resolution making certain findings and determinations as to the need for a Housing Incentive Policy within the City of Dodge City, Kansas and setting forth such Policy to Incentivize Housing Developments. Presented by Cherise Tieben, Assistant City Manager.

**UNFINISHED BUSINESS**

**NEW BUSINESS**

1. Approval of Legends North Subdivision Plan. Presented by Dennis Veatch, Director of Development Services.
2. Appointment of League of Kansas Municipalities Voting Delegates. Presented by Nannette Pogue, City Clerk.
3. Approval of Bid for Slope Mower. Presented by Paul Lewis, Director of Parks and Recreation.

**OTHER BUSINESS**

**ADJOURNMENT**

# **JOINT CITY/COUNTY COMMISSION MINUTES**

City Hall Commission Chambers

Monday, August 17, 2009

6:00 p.m.

MEETING #4772

## **CALL TO ORDER**

**ROLL CALL:** Mayor Rick Sowers, Commissioners Kent Smoll, Jim Sherer, Monte Broeckelman, and Brian Weber.

Ford County Commission: Commissioners Kim Goodnight and Terry Williams. Commissioner John Swayze was reported absent.

## **NEW BUSINESS**

Commissioner Smoll moved to approve the purchase of three (3) LED signs: one for Dodge City Civic Center in the amount of \$96,286.00, one for Dodge City Raceway Park in the amount of \$101,891.00, and one for Legends Park in the amount of \$68,290.00 for a total of \$266,467.00 from Luminous Neon, Commissioner Sherer seconded the motion. The motion carried 4-1 with Commissioner Broeckelman voting no.

Ford County: Commissioner Goodnight moved to approve the purchase, seconded by Commissioner Williams. Motion carried 2-0.

**ADJOURNMENT:** Commissioner Sherer moved to adjourn the meeting, seconded by Commissioner Weber. Motion carried 5-0.

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Rick Sowers, Mayor

ATTEST:

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Nannette Pogue, City Clerk

# **CITY COMMISSION MINUTES**

City Hall Commission Chambers

Monday, August 17, 2009

7:00 p.m.

MEETING #4773

## **CALL TO ORDER**

**ROLL CALL:** Mayor Rick Sowers, Commissioners Kent Smoll, Jim Sherer, Monte Broeckelman, and Brian Weber

**INVOCATION:** Pastor Yansk, Church of the Nazarene

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATION**

**PUBLIC HEARING:** 2010 City of Dodge City Budget

Vernon Bogart-Tax Payer in Dodge City, commented about using Lottery money as Revenue

Commissioner Sherer moved to close Public Hearing, seconded by Commissioner Broeckelman. The motion carried unanimously.

**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 from August 3, 2009
2. Approval of City Commission Special Meeting minutes from August 12, 2009
3. Appropriation Ordinance No. 16, August 17, 2009

Commissioner Smoll moved to approve the Consent Calendar as presented, seconded by Commissioner Weber. The motion carried unanimously.

## **ORDINANCES & RESOLUTIONS**

Ordinance No. 3475: An Ordinance Regulating Public Offenses within the Corporate Limits of the City of Dodge City, Kansas; Public Offense Code for Kansas Cities, Edition 2009 and Repealing Ordinance No. 3461 was approved on a motion by Commissioner Sherer, seconded by Commissioner Weber. The motion carried unanimously.

Ordinance No. 3476: An Ordinance Regulating Traffic within the Corporate Limits of the City of Dodge City, Kansas; Incorporating by Reference the "Standard Traffic Ordinance for Kansas Cities, Edition 2009" and Repealing Ordinance No. 3462 was approved on a motion by Commission Sherer, seconded by Commissioner Weber. The motion carried unanimously.

## **UNFINISHED BUSINESS**

## **NEW BUSINESS**

1. The 2010 Budget for the City of Dodge City was approved on a motion by Commissioner Smoll, seconded by Commissioner Weber. The motion carried unanimously.
2. Commissioner Sherer moved to approve the bid from SPS VAR in the amount of \$41,629.00 for an IBM Power System server, seconded by Commissioner Broeckelman. The motion carried unanimously.
3. Appointment of Larry Daniels to the Board of Zoning Appeals Board and Ryan Rabe to the Building Board of Appeals Board was approved on a motion by Commissioner Broeckelman, seconded by Commissioner Smoll. Motion carried unanimously.

## **OTHER BUSINESS**

Ken Strobel, City Manager:

- Representatives of Global, BHC and others will be in town this week
- August 18<sup>th</sup>, Ford County Public Officials Exchange at Ford
- August 19<sup>th</sup>, Southwest Kansas Coalition meeting at Liberal
- Congratulations to staff at Library for computers at Library Ribbon Cutting

Commissioner Weber:

- Congratulations to the Economic Development staff for the grant received for Housing
- Pole Banners showing this Wednesday at the Hoover Pavilion

Commissioner Broeckelman:

- Attended Dodge City Raceway Park last Saturday night and the attendance and show was outstanding

Commissioner Smoll:

- Great crowd at races
- Thanked staff for budget work. Need growth in City to spread tax base out
- Asked about street projects Wyatt Earp, 14<sup>th</sup>, and the By Pass by Casino

Mayor Sowers:

- Thanked staff for time and effort of 2010 budget
- Thanked the County for meeting earlier in the evening

**ADJOURNMENT:** Commissioner Sherer moved to adjourn the meeting, seconded by Commissioner Broeckelman. The motion carried unanimously.

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Rick Sowers, Mayor

ATTEST:

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Nannette Pogue, City Clerk

(This form prepared by the Attorney General's offices)

(Corporate Application Form)

APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES

Hutchinson, Reno, COUNTY, KANSAS, August 20, 2009

TO THE GOVERNING BODY OF THE CITY OF Dodge City, KANSAS,

or

THE BOARD OF COUNTY COMMISSIONERS OF Ford, COUNTY, KANSAS

GENTLEMEN—On Behalf of the Dillon Stores, Div. of Dillon Co., Inc. (a wholly owned subsidiary of the Kroger Co)

corporation whose principal place of business is 2700 E. 4<sup>th</sup>, Hutchinson, Ks. 67501

and under authority of the resolution of the Board of Directors of said corporation. I hereby apply for a license to retail cereal beverages in conformity with the laws of the State of Kansas and the rules and regulations prescribed and hereafter to be prescribed by you relating to the sale or distribution of cereal malt beverages on behalf of said corporation; for the purpose of securing such license, I make the following statements under oath:

Dillon Stores

upon which the place of business is located is \_\_\_\_\_

1. The proposed licensee is Div. of Dillon Co., Inc.

Dillon Real Estate, 2700 E. 4<sup>th</sup>

corporation with principal place of business at \_\_\_\_\_

Hutchinson, Ks. 67501

2700 E. 4<sup>th</sup>, Hutchinson, Ks. 67501

The resident agent is C. T. Corporation Sys.

with offices at 515 S. Kansas, Topeka, Ks. 66603

Said corporation was incorporated on 5/13/21

A copy of the Articles of Incorporation are presently on file with the Register of Deeds of this count.

Yes (XX). No ( ).

5. I hereby certify with regard to each of the persons named in number 2 above the following statements are true:

(a) None of them has within the last two years from this date been convicted of

- (1) A felony
- (2) A crime involving moral turpitude
- (3) Drunkenness
- (4) Driving a motor vehicle while under the influence of intoxicating liquor
- (5) Violation of any state or federal intoxicating liquor law

If any of the above have been convicted of any of the above specified offenses, the details are set out hereinafter.

(b) No manager, officer or director or any stockholder owning in the aggregate more than 25% of the stock of the corporation has been an officer, manager or director, or a stockholder owning in the aggregate more than 25% of the stock of a corporation which:

(A) has had a retailer's license revoked under K.S.A. 412708 and amendments thereto; or

(B) has been convicted of a violation of The Drinking Establishment Act or the Cereal Malt Beverage Laws of the State.

2. The following are the full and complete list of officers, directors, stockholders owning in the aggregate more than 25 percent of corporate stock, and managers of said corporation together with their position and address, age, date of birth, place of birth, method of acquiring United States citizenship—if acquired by naturalization, date and place of naturalization, and the length of residence in the State of Kansas.

See attached list

6. The place of business will be conducted by the following manager or agent:

Name Moe Lang

Address 1700 North 14<sup>th</sup>, Dodge City, Ks 67801

Residence 2702 Hennessey Court, Dodge City, KS 67801

Length of residence within this city or county in which the application is being made since May 2002.

Method of obtaining U. S. citizenship together with date of naturalization if such is the method birth

Date and place of birth 6-15-53 WaKeeney KS

I hereby certify that with regard to this above-named manager the statement contained in number 5 above is in every respect true. If not, the details are set out hereinafter.

3. The premises for which the license is desired are located at 1700 North 14th,

Dodge City, Ks 67801

(a) The legal description of the premises is \_\_\_\_\_

4.96 A in Section 26-26-25

(b) The street number is 1700 North 14<sup>th</sup>

(c) The building is described as \_\_\_\_\_

Concrete Block

(d) The corporate business under the license will be conducted in the name of the corporation or in the following name:

Dillon Stores, Division of Dillon Co., Inc.

Dillon Store # 1

7. This application is for a license to retail cereal malt beverages for consumption on the premises. ( ). For a license to retail cereal malt beverages in original and unopened containers and not to be consumption on the premises. (XX).

4 The name and address of the owner or owners of the premises

A license fee of \$ 75.00 is enclosed herewith

## Memorandum

To: City Manager  
Assistant City Manager  
City Commissioners

From: Paul Lewis

Date: September 3, 2009

Subject: Pouring Rights Contract

Agenda Item: Consent Calendar



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**Recommendation:** Staff recommends authorizing the Mayor to execute the contract with Pepsi Bottling Company for pouring rights at city facilities subject to review by the City attorney and execution by Pepsi Bottling Company.

**Background:** In May staff brought before the Commission a recommendation to approve a proposal from Pepsi Bottling Company for exclusive pouring rights at various City facilities. In exchange for those rights, the City receives \$37,500 in sponsorship funds and certain price guarantees. Over the last few months staff, along with representatives from Pepsi, have worked out terms of a contract that is being presented here for Commission consideration.

**Justification:** Pouring rights contracts provide the City the opportunity to capitalize on corporate advertising dollars and bring additional revenues into the system. In this instance, the City is receiving \$37,500 in corporate sponsorship funds by providing a vendor with exclusive rights to serve in City facilities.

The exclusive contract also helps staff with logistical and operational issues by consolidating services to only one vendor. Product can be moved from location to location as needed and stocking space can be minimized.

**Financial Considerations:** This contract enhances the revenue stream generated through concession operations by providing an additional \$37,500 that outside of an exclusive contract would not be obtainable. Additionally, the pricing guarantees contained in the contract insure the City receives the best possible prices for the products we purchase for those facilities.

**Purpose/Mission:** This contract represents an effort to achieve high standards by working to maximize revenue in concession operations in order to best serve the community.

**Legal Considerations:** The City routinely enters into exclusive beverage rights contracts and approving this agreement does not present any legal issues. The City's attorney will review and approve this agreement as to form prior to execution.

**Attachments:** Facility Pouring Rights Contract

## **AGREEMENT FOR EXCLUSIVE BEVERAGE RIGHTS**

THIS AGREEMENT is made and entered into by and between the City of Dodge City, Kansas (City) and Bottling Group, LLC, d/b/a The Pepsi Bottling Group, a Delaware limited liability company with an office located at 811 E Wyatt Earp, Dodge City, KS 67801 ("PBG") relating to the purchase by the City from PBG of Postmix Products (as defined below) and B & C Products (as defined below). The support described below is in lieu of any other discounts, allowances or rebates to which the City might otherwise be entitled from time to time.

WHEREAS, the City is willing to grant to PBG exclusive beverage rights for certain City facilities owned and operated by the City, as specifically described herein, for the purpose of selling or dispensing Pepsi beverage products, and

WHEREAS, PBG is willing to provide certain financial benefits to the City in return for such exclusive beverage rights, and

WHEREAS, the parties have reached an agreement concerning the exclusive beverage rights to be granted and the financial benefits to be received;

NOW, THEREFORE, in consideration of the monies to be paid hereunder and the mutual promises of the parties, it is agreed as follows:

**1. DEFINITION OF TERMS:** As used in this Agreement, the following capitalized terms shall have the respective meanings assigned thereto below.

"Beverage Products" shall mean Postmix Products and B & C Products.

"B & C Products" shall mean all carbonated and noncarbonated, nonalcoholic beverages, including, but not limited to, carbonated soft drinks, ready-to-drink teas, ready-to-drink coffees, isotonic (sports drinks), juices and juice drinks, energy drinks and water as listed in Attachment B which may be amended by PBG from time to time.

"Cases" shall mean the number of cases of B & C Products purchased by the City from PBG.

"Gallons" shall mean the number of gallons of the Postmix Products purchased by the City from PBG.

"Postmix Products" shall mean carbonated soft drinks, teas, energy drinks, and juice products as listed in Attachment A which may be amended by PBG from time to time.

"Concessionaires" shall mean any person or entity under contract with the City for the purpose of the operation of concession services at City facilities.

"City Facilities" shall mean all locations included under this agreement which are owned, operated, or managed by the City at any time during the Term, including, but not limited to, ball fields, recreation facilities and parks, and with regard to each location, the grounds, parking lots, buildings, food service areas, concessions, and vending locations. A list of City Facilities is set forth on Attachment C.

"Year" shall mean each 12-month period during the Term commencing on the first day of the Term or an anniversary thereof.

**2. GRANT OF EXCLUSIVE BEVERAGE RIGHTS:** Subject to the terms and conditions of this agreement, the City hereby grants to PBG and PBG hereby accepts, the exclusive Beverage Products rights during the term of this agreement at the City Facilities described herein. Throughout the term of this agreement, the City shall not grant to any other person or entity the right to sell or dispense Beverage Products within such City Facilities. In addition, no person or entity other than PBG shall be allowed to advertise its Beverage Products in said City Facilities during the term of this agreement;

provided however, beverage advertisement other than Pepsi may appear in printed programs distributed in City Facilities by event sponsors other than the City and may appear upon team uniforms.

Nothing contained herein shall prevent the sale or dispensing by the City or others of the following permitted exceptions, hot coffee, hot chocolate, beer, alcoholic beverages, and ice cream products. Paper or plastic cups from another source must be used for non-Pepsi products.

Nothing contained herein shall prevent the installation of water drinking fountains in the City Facilities.

**3. TERM of AGREEMENT:** The term of this Agreement shall be the five (5) year period commencing on June 1, 2009 and expiring on May 31, 2014 (the "Term"). When fully executed, this Agreement will constitute a binding obligation of both parties until expiration or termination.

During the Term, City shall purchase Postmix Products for use in preparing fountain beverage products (the "Fountain Products") and B & C Products from PBG sold under the trademarks of PepsiCo, Inc. or other third party licensor to be sold at the Outlets.

**4. PERFORMANCE:** This Agreement, including all of PBG's support to the City as described below, is contingent upon City complying with all of the following performance criteria:

- (1) The Beverage Products shall be the exclusive beverage products of their respective types sold, dispensed or otherwise made available, or in any way advertised, displayed, represented or promoted at or in connection with the City Facilities by any method or through any medium whatsoever (including without limitation print, broadcast, direct mail, coupons, handbills, displays and signage), whether public or private.
- (2) The City shall have brand identification for each Fountain Product served on all menu boards and postmix dispensing valves at each of the City Facilities throughout the Term.
- (3) The City shall only use the Postmix Products for use in preparing the Fountain Products (i) in accordance with the standards established by Pepsi-Cola Company; and (ii) only for immediate or imminent consumption and shall not resell the Postmix Products either to nonaffiliated outlets or to consumers in any form other than the Fountain Products.
- (4) The City shall purchase, and shall require all concessionaires operating at the City Facilities to purchase, all Beverage Products directly from PBG at the prices established pursuant to this Agreement. The City and concessionaires will purchase cups and lids either directly from PBG or from an approved supplier.

**5. BENEFITS TO PBG:** In return for the performance of the obligations incumbent on PBG under the terms of this Agreement, the City will provide the following:

- (1) At the City facilities, PBG shall be permitted to display Pepsi-identified banners and other signage the number, size, and location of which will be subject to City approval. PBG will be responsible for providing such banners and signs and will pay any costs of placement or installation.
- (2) PBG will be allowed to display its advertising logo on all scoreboards at the City facilities, the size and design of which shall be subject to City approval. PBG shall be solely responsible for all costs and expense related to such signage and shall maintain and/or replace as necessary during the term of this Agreement.

6. **CONSIDERATION:** In consideration of the exclusive rights granted to PBG by City over the Term of this Agreement, PBG shall provide City with the following funding:

(1) Annual support funds as follows (the “Annual Support Funds”):

Year	Applicable Time Period	Amount	Due Date: within 45 days after:
1	June 1, 2009 – May 31, 2010	\$5,833	Signing of this Agreement by parties
2	June 1, 2010 – May 31, 2011	\$7,500	June 1, 2010
3	June 1, 2011 – May 31, 2012	\$7,500	June 1, 2011
4	June 1, 2012 – May 31, 2013	\$7,500	June 1, 2012
5	June 1, 2013 – May 31, 2014	\$7,500	June 1, 2013

The Annual Support Funds are earned by the City throughout the Year in which they are paid. In the event PBG terminates this Agreement due to the City’s failure to cure a breach hereof, the unearned Annual Support Funds will be repaid to PBG pursuant to the Terms of Section 14(b)(1) herein.

(2) Each Year throughout the Term, PBG will accrue marketing funds on behalf of the City at the rate of \$1.00 per 24-unit case of 20 oz. carbonated soft drinks and 20 oz. Gatorade; \$2.00 per case of 16 oz. energy drinks; and \$4.00 per 24-unit case of 20 oz. Aquafina purchased by the City directly from PBG (the "Marketing Funds"). The Marketing Funds will be paid to the City within forty-five (45) days after the end of each Year during the Term.

(3) Commission, as a percentage of the actual cash (“cash in bag” or “CIB”) collected by PBG from the Vending Machines placed at the Facilities, less any applicable fees or deposits (“Commissions”). Such Commissions shall be at the rate(s) set forth below (the “Commission Rate”) and shall be calculated as follows:

**(CIB – applicable fees/deposits) \* Commission Rate = Commission due**

Product	Minimum Vend Price	Commission Rate*
All Vended Products	Varies by Product as determined by PBG	25%
*Commission Rate stated above shall only apply to Products sold by PBG through its Vending Machines at the beginning of the Term. If PBG proposes any new products to the City during the Term, then PBG shall have the right to apply a different Commission Rate and/or Minimum Vend Price for such new product.		

**Commission Payment.** Commissions shall be remitted by PBG to the City within 30 days of the end of each 4-week accounting period established by PBG. PBG shall make all pertinent revenue and sales records respecting the Vending Machines available to City. City agrees that it is responsible for reviewing such records and that any claim or dispute relating to the Commissions must be brought by City in writing within one year of the date such Commissions payment is due. City further acknowledges and agrees that it shall not receive any commission payment from PBG if Commissions fail to reach a certain threshold amount per period or quarter. The applicable threshold amounts vary based on the payment period and will be established and communicated pursuant to PBG’s policies and procedures related to its Full

Service Vending business, as may be revised by PBG from time to time. **Change to Commission Rate.** City acknowledges and agrees that PBG established the Commission Rate based on any applicable sales tax associated with the sale of the Products through the Vending Machines as of the commencement date of this Agreement. If, during the Term, sales taxes should increase by more than five percent (5%), then PBG shall have the right to automatically reduce the Commission Rate by the same percentage amount.

**7. AVAILABILITY OF PRODUCTS:** PBG agrees that throughout the term of this agreement, PBG will make available to the City or its concessionaires an adequate supply of all PBG Products to fill all City orders, which are placed at least 48 hours in advance. In the event an adequate supply of PBG Products is not available to fill orders placed at least 48 hours in advance, the City or its concessionaires shall be free to acquire Beverages distributed by any other supplier provided the City first contacts PBG. The City will provide PBG with the quantity and type of products that will be purchased outside the contract and must be PBG products. Three failures by PBG to timely fill City orders during any one calendar year shall constitute a breach of this Agreement.

**8. EQUIPMENT:** PBG will loan each City Facility, at no charge, appropriate equipment for dispensing the Beverage Products during the Term ("Equipment"). City agrees that the Equipment shall be exclusively used to display and merchandise the Beverage Products, and the City shall not use the Equipment to display, stock, advertise, sell, or maintain any other products or beverages (including on the exterior of the Equipment). PBG will also provide, at no charge to the City, service to the Equipment.

Title to such Equipment will remain vested in PBG or its affiliate and all such Equipment will be returned to PBG upon expiration or earlier termination of this Agreement. Each Year during the Term or at PBG's request, City shall provide PBG with a written Equipment verification list indicating the asset number, Equipment type and location of the Equipment loaned to the City pursuant to this Agreement. Failure to provide such verification list to PBG shall be deemed a material breach of this Agreement.

Upon expiration of this Agreement, if City has not entered into a further agreement with PBG for the purchase of Beverage Products, Customer shall surrender to PBG all Equipment installed in City Facilities, whether leased, loaned, or otherwise made available by PBG

**9. SERVICE AND MAINTENANCE OF EQUIPMENT:** PBG shall provide at its sole cost and expense throughout the term of this agreement all necessary repairs, service and maintenance for the equipment it is providing under this agreement.

Service technicians shall be available on a daily basis and all requests for service shall be answered the same day as the request; provided however, if an equipment malfunction occurs immediately preceding or during an event a service technician will respond within two hours of the service request.

Three (3) or more violations of the above service requirements during any one contract year of the agreement shall constitute a breach of this agreement and the city may exercise its rights accordance with the provisions of paragraph 14 (A) below. If the agreement is terminated as provided in paragraph 14(A), the City shall be relieved of any further obligations under this agreement.

**10. VENDING MACHINES:** No beverage product vending machines will be placed at any of the City facilities unless such placement, the location, product mix, and hours of operation of such machines is approved by the City, such approval not to be unreasonably withheld. In the event such

vending machines are allowed, PBG will be solely responsible for all repairs, replacement, and maintenance and servicing of such machines. Such machines shall remain the property of PBG who will be solely responsible therefore.

The City shall not be responsible for any damage to or theft or vandalism of such machines and PBG does hereby release the City from any such liability or responsibility except to the extent of the willful and intentional acts or omissions of the City, its employees, agents or contractors.

PBG shall be solely responsible for payment of any and all taxes (including sales tax), assessments, permit or license fees associated with such vending machines and shall pay to the City a 25% commission on all products dispensed through such vending machines placed at City Facilities as more fully described in Section 6(3) herein.

**11. PRICING:** The Postmix Products, which are produced or sold by PBG, shall be purchased by the City from PBG at the prices established by PBG from time to time. The current prices are as set forth on Attachment A hereto. Such pricing is subject to change in accordance with changes to National Postmix Pricing.

The B & C Products, which are produced or sold by PBG, shall be purchased by the City from PBG at the prices established by PBG from time to time. The current prices are as set forth on Attachment B hereto. Such pricing is subject to change in accordance with changes to PBG's Recreation and Amusement Pricing.

**12. NON-ASSIGNABILITY:** PBG shall not assign this agreement or any rights, obligations or privileges hereunder, to any other person or entity without the prior written approval of the City. The City shall not assign this agreement or any rights, obligations or privileges hereunder, to any other person or entity without the prior written consent of PBG.

**13. DISPUTE RESOLUTION:** In the event of a disagreement between the parties as to the meaning and intent of any provisions of this Agreement, both parties will make a good faith effort to resolve the matter in a mutually acceptable manner. In the event of litigation between the parties arising out of the terms and conditions of this agreement, the same shall be filed in the Ford County, Kansas District Court and both parties do hereby submit to the exclusive jurisdiction of said court.

**14. TERMINATION:** This Agreement may be terminated prior to its expiration in accordance with the following provision:

- A. **Termination upon default or breach by PBG:** In the event of any default in or breach by PBG of any terms or conditions of this Agreement, the City may terminate this Agreement by providing written notice to PBG identifying the default or breach which if not corrected by PBG within 30 days of the date of such notice, shall result in immediate termination of this Agreement. In the event of such termination resulting from default or breach by PBG, any payments due and unpaid for the year during which the termination occurs, or any prior year shall become immediately due and payable. In addition, the City shall retain all consideration previously paid by PBG and earned by the City. Upon such termination the City shall be released from any further responsibilities or obligations hereunder.
- B. **Termination upon default or breach by City:** In the event of any default in or breach by City of any terms or conditions of this Agreement, PBG may terminate this Agreement by providing written notice to the City identifying the default or breach which if not corrected by the City within 30 days of the date of such notice, shall result in immediate termination of this Agreement. In the event of such termination resulting from default or breach by the City,

the city shall make the following refunds to PBG, without prejudice to any other rights or remedies available to PBG in law or equity.

- (1) A payment reflecting reimbursement for all funding previously advanced by PBG but not earned by the Customer pursuant to the terms of this Agreement. With regard to the Annual Support Funds, the amount of such reimbursement shall be determined by multiplying Annual Support Funds by a fraction, the numerator of which is the number of months remaining in the Year in which the Agreement is terminated at the time such termination occurs and the denominator of which is 12;
- (2) The City shall surrender to PBG all equipment installed in the City Facilities whether leased, loaned, or otherwise made available by PBG.

C. Notwithstanding the other provisions of this Agreement, if any federal, state or local law, rule, regulation or order prohibits, or substantially restricts the sale or advertising of Beverages at any time during the Term of this Agreement at the City Facilities, then PBG may terminate this Agreement and City shall pay to PBG within sixty (60) days, the amounts provided under section (B) above.

D. City represents and warrants that it has full right and authority to enter into this Agreement and to grant and convey to PBG the rights set forth herein. Upon expiration or revocation of such authority, then PBG may terminate this Agreement and city shall pay to PBG, within sixty (60) days, the amounts provided under section (B) above.

E. PBG shall have the right to withhold and not pay further Sponsorship Fees or other amounts which may become payable to City pursuant to this Agreement if City (i) has failed to perform its obligations hereunder, (ii) PBG's rights hereunder have been lost, limited or restricted as provided in paragraphs (C) and (D) above, or (iii) there exists a bona fide dispute between the parties.

**15. WAIVER OF DEFAULT OR BREACH:** Any waiver by either party of any default or breach of any terms or conditions of this Agreement by the other party shall not be deemed a waiver or acceptance of any subsequent default or breach.

**16. NOTICES:** Other than product orders and service requests all notices, demands, consents or other communications required or permitted hereunder shall be in writing and shall be deemed to have been given when personally delivered or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

To The City  
City of Dodge City  
c/o City Manager  
P. O. Box 880  
Dodge City, KS 67801

To PBG  
Bottling Group, LLC  
d/b/a The PBG Bottling Group  
811 E Wyatt Earp  
Dodge City, KS 67801

**Or**

To such other addresses as may hereafter be furnished in writing by the requesting party if given in the manner required above. Any notice, demand, consent or communication given hereunder in the manner required above shall be deemed to have been effected and received as of the date personally delivered, or if mailed, three days after the date so mailed.

**17. POWER AND AUTHORITY TO EXECUTE AGREEMENT: NO CONFLICTS:**

Each party hereto represents and warrants that: (a) the execution, delivery and performance of this agreement by such party has been duly authorized by such party and will not violate any other agreements in effect as of this date, and that this agreement has been duly executed and delivered by such party and is enforceable against such party in accordance with its terms and conditions.

**18. BINDER**

This Agreement shall extend to, shall inure to the benefit of, and shall be binding upon each of the parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF** the parties have executed this Agreement on the dates set forth below.

CITY OF DODGE CITY,  
A MUNICIPAL CORPORATION

By: \_\_\_\_\_  
Rick Sowers, Mayor

ATTEST:

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009

Bottling Group, LLC. d/b/a  
THE PBG BOTTLING GROUP

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

Dated this \_\_\_ day of \_\_\_\_\_, 2009

**Attachment A**  
Postmix Products and Prices

<b>Package</b>	<b>Brand/Product Group</b>	<b>Net Price</b>
1.44L BIB	NCB_Bag_BIB 1.44L_Lipton TM_All Brands	\$46.50
3G BIB	CSD_Bag_BIB 3G_Pepsi TM_All Brands	\$12.00
3G BIB	CSD_Bag_BIB 3G_Tropicana TM_All Brands	\$12.00
3G BIB	Inven: GENRC/PATIO TONIC	\$13.50
3G BIB	Inven: SEASONS HRVST ORNG	\$26.00
3G BIB	Inven: SEASONS HRVST X ORNG	\$24.00
3G BIB	NCB_Bag_BIB 3G_Gatorade TM_All Brands	\$14.50
3G BIB	NCB_Bag_BIB 3G_Lipton TM_All Brands	\$12.00
3G BIB	NCB_Bag_BIB 3G_SoBe TM_All Brands	\$13.00
3G BIB	NCB_Bag_BIB 3G_Tropicana TM_All Brands	\$13.00
5G BIB	CSD_Bag_BIB 5G_All Other TM_All Brands	\$13.50
5G BIB	CSD_Bag_BIB 5G_Crush TM_All Brands	\$12.00
5G BIB	CSD_Bag_BIB 5G_Dr Pepper TM_All Brands	\$13.00
5G BIB	CSD_Bag_BIB 5G_Jogue TM_All Brands	\$13.50
5G BIB	CSD_Bag_BIB 5G_Mt Dew TM_All Brands	\$12.00
5G BIB	CSD_Bag_BIB 5G_Mug TM_All Brands	\$12.00
5G BIB	CSD_Bag_BIB 5G_Patio TM_All Brands	\$13.50
5G BIB	CSD_Bag_BIB 5G_Pepsi TM_All Brands	\$12.00
5G BIB	CSD_Bag_BIB 5G_Sierra Mist TM_All Brands	\$12.00
5G BIB	CSD_Bag_BIB 5G_Squirt TM_All Brands	\$13.00
5G BIB	CSD_Bag_BIB 5G_Tropicana TM_All Brands	\$12.00
5G BIB	NCB_Bag_BIB 5G_Lipton TM_All Brands	\$12.00
5G BIB	NCB_Bag_BIB 5G_Tropicana TM_All Brands	\$13.00
CO2	Inven: CO2 20LB FULL TANK	\$20.00

Attachment B  
Bottle & Can Products and Prices

<b>Package</b>	<b>Brand/Product Group</b>	<b>Net Price</b>
1.5L PL 1/12	NCB_PET_1.5 Liter 12L_Lipton TM_All Brands	\$15.25
12OZ CN 12/2 FM	CSD_Aluminum_Can 12oz 12P FM_All TMs_All Brands	\$9.00
12OZ CN 12/2 FM	NCB_Aluminum_Can 12oz 12P FM_Hawaiian Punch TM_All Brands	\$9.00
12OZ CN 12/2 FM	NCB_Aluminum_Can 12oz 12P FM_Lipton TM_All Brands	\$9.00
12OZ CN 12/2 FM	NCB_Aluminum_Can 12oz 12P FM_Tropicana TM_All Brands	\$9.00
12OZ CN 24/1 CB	CSD_Aluminum_Can 12oz 24P Cube_All TMs_All Brands	\$9.00
12OZ CN 24/1 CB	NCB_Aluminum_Can 12oz 24P Cube_Lipton TM_All Brands	\$9.00
12OZ CN 6/4	CSD_Aluminum_Can 12oz 6P_All TMs_All Brands	\$9.00
12OZ PL 1/24	NCB_PET_12oz 24L_Gatorade TM_All Brands	\$16.00
12OZ PL 12/2HC	NCB_PET_12oz 12P_Gatorade TM_All Brands	\$16.00
12OZ PL 4/6	Water_PET_12oz 4P_SoBe TM_All Brands	\$18.00
12OZ PL JR 12/2S	Water_PET_12oz 12P_Aquafina TM_All Brands	\$10.50
12OZ PL PK 12/2	CSD_PET_12oz 12P_All TMs_All Brands	\$10.50
12OZ PL PK 12/2	Water_PET_12oz 12P_Aquafina TM_All Brands	\$10.50
12OZ PL PK 12/2FM	CSD_PET_12oz 12P FM_All TMs_All Brands	\$10.50
13.7OZ NR 1/12	NCB_Glass_13.7oz 12L_Starbucks TM_All Brands	\$19.70
13.8OZ NR 1/12	*NCB_Glass_13.8oz 12L_Tazo TM_All Brands - APG BU 13	\$12.75
14OZ PL 1/12	NCB_PET_14oz 12L_Muscle Milk TM_All Brands	\$29.00
15.2OZ PL 1/12	NCB_PET_15.2oz 12L_Dole TM_All Brands	\$12.00
15.2OZ PL 1/12	NCB_PET_15.2oz 12L_Ocean Spray TM_All Brands	\$12.00
15OZ CN 1/12	NCB_Aluminum_Can 15oz 12L_Starbucks TM_All Brands	\$19.70
16.9OZ PL 1/24	Water_PET_16.9oz 24L_Ethos TM_All Brands	\$22.00
16.9OZ PL PK6/4SW	Water_PET_16.9oz 6P_Ethos TM_All Brands	\$22.00
16OZ CN 1/12	NCB_Aluminum_Can 16oz 12L_Energy TM_All Brands	\$19.70
16OZ CN 4/6	NCB_Aluminum_Can 16oz 4P_Energy TM_All Brands	\$39.40
16OZ WMNR1/12	NCB_Glass_16oz 12L_Lipton TM_All Brands	\$12.00
16OZ WMNRPK6/2	NCB_Glass_16oz 6P_Lipton TM_All Brands	\$12.00
1G PL 1/6	NCB_PET_Bottle 1G_Lipton TM_All Brands	\$16.00
1L PL 1/12	Water_PET_1 Liter 12L_Aquafina TM_All Brands	\$15.25
1L PL 1/12S	NCB_PET_1 Liter 12L_Lipton TM_All Brands	\$15.25

1L PL 1/12S	Water_PET_1 Liter 12L_Aquafina TM_All Brands	\$15.25
1L PL 1/16	Water_PET_1 Liter 16L_Ethos TM_All Brands	\$20.00
1L PL 4/4	Water_PET_1 Liter 4P_Ethos TM_All Brands	\$20.00
1L PL BS 1/12S	CSD_PET_1 Liter 12L_All TMs_All Brands	\$15.25
1L PL BS 1/12S	NCB_PET_1 Liter 12L_Lipton TM_All Brands	\$15.25
2 OZ PL 1/24	NCB_PET_2oz 24L_Energy TM_All Brands	\$36.00
2 OZ PL 1/24	NCB_PET_2oz 24L_Energy TM_All Brands	\$28.00
20OZ NR 1/12	NCB_Glass_20oz 12L_SoBe TM_All Brands	\$15.00
20OZ PL 1/12	Water_PET_20oz 12L_SoBe TM_All Brands	\$13.50
20OZ PL 1/24	CSD_PET_20oz 24L_All TMs_All Brands	\$18.00
20OZ PL 1/24	Water_PET_20oz 24L_Aquafina TM_Aquafina	\$17.00
	Base Total	
20OZ PL 1/24	Water_PET_20oz 24L_Gatorade TM_All Brands	\$23.60
20OZ PL 1/24S	CSD_PET_20oz 24L_All TMs_All Brands	\$18.00
20OZ PL 1/24S	NCB_PET_20oz 24L_Hawaiian Punch TM_All	\$18.00
	Brands	
20OZ PL 1/24S	NCB_PET_20oz 24L_Lipton TM_All Brands	\$18.00
20OZ PL 1/24S	NCB_PET_20oz 24L_Tropicana TM_All Brands	\$18.00
20OZ PL 1/24S	Water_PET_20oz 24L_Aquafina TM_Aquafina	\$18.00
	Alive Total	
20OZ PL 1/24S	Water_PET_20oz 24L_Aquafina TM_Aquafina	\$17.00
	Base Total	
20OZ PL 1/24S	Water_PET_20oz 24L_Aquafina TM_Aquafina	\$18.00
	Splash Total	
20OZ WM PL 1/24	NCB_PET_20oz 24L_Gatorade TM_All Brands	\$22.00
20OZ WM PL 1/24	Water_PET_20oz 24L_Gatorade TM_All Brands	\$23.60
2L PL 1/8S	CSD_PET_2 Liter 8L_All TMs_All Brands	\$12.00
2L PL 1/8S	NCB_PET_2 Liter 8L_Hawaiian Punch TM_All	\$12.00
	Brands	
2L PL 1/8S	NCB_PET_2 Liter 8L_Lipton TM_All Brands	\$12.00
2L PL 1/8S	NCB_PET_2 Liter 8L_Tropicana TM_All Brands	\$12.00
32OZ PL 1/15	NCB_PET_32oz 15L_Gatorade TM_All Brands	\$19.25
6.5OZ CN 1/12	NCB_Aluminum_Can 6.5oz 12L_Starbucks	\$18.00
	TM_All Brands	
6.5OZ CN PK 4/6	NCB_Aluminum_Can 6.5oz 4P_Starbucks TM_All	\$36.00
	Brands	
9.5OZ NR 1/12	NCB_Glass_9.5oz 12L_Starbucks TM_All Brands	\$14.30
9.5OZ NR 4/6	NCB_Glass_9.5oz 4P_Starbucks TM_All Brands	\$28.60

**Attachment C**  
City Facilities

Dodge City Civic Center cof#7396322

Legends Park cof#7042958

St. Mary Soccer Complex cof#7042956

Cavalier Field cof#7396320

Municipal Outdoor Pool cof#7396304

Sheridan Activity Center cof#7396339

Mariah Hills Golf Course cof#7396340

Youth Complex/Thurrow Park cof#7396319

All-4-Fun cof#7230011

Wright Park & Airport cof#465758

## Memorandum

*To: City Manager  
Assistant City Manager  
City Commissioners*

*From: Corey Keller*

*Date: 9/02/09*

*Subject: Roof Top AC/ Heat Units*

*Agenda Item: Consent Calendar*

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**Recommendation:** On September 1, 2009 three bids were received and opened for the purchase of three new roof top AC/ Heat units. Based on the bids received staff would recommend that the commission accept the bid from Stewart's Plumbing and Heating in the amount of \$17,067.00.

**Background:** The 3 ton AC/Heating unit at City Hall and a 7 ½ ton unit at the Police Department are inoperable. The costs to repair both units out weigh the cost to replace them. In addition, a 3 ton AC/Heating unit will be added to the Police Department. This unit will provide a room that currently houses expensive computer equipment, climate control. The room has very poor air circulation and currently has no air conditioning plumbed to it. Due to the size of the room and the constant operation of the equipment it was deemed necessary to provide the room with its own AC/Heating unit.

**Justification:** The location of the AC/ Heating units at both buildings provide climate control to rooms that house the City's servers and other computer related equipment. It is very important to keep this type of equipment cool to prevent failure. At this time there is insufficient climate control in these rooms which causes some concern. Based on the condition of these units replacement is the most feasible option. Service repair men have looked at the units and deemed them a lost cause. By purchasing the units new it will guarantee them for five years with warranty.

**Financial Considerations:** These items were not budgeted. However due to the emergency situation there are funds available in the Building Fund for the purchase of these items. Also \$4,050.00 is available from an insurance claim for damage to the AC/Heating units from a 2007 hail storm.

The Bids Received were

**Stewarts Plumbing and Heating  
Dodge City, Ks.**

<b>Police Dept.</b>	<b>7.5 ton Roof Top Unit</b>	Carrier Model 48TFE008	\$5,766.00
<b>Police Dept.</b>	<b>3 ton Roof Top Unit</b>	Carrier Model 48HJE004	\$6,876.00
<b>City Hall</b>	<b>3 ton Roof Top Unit</b>	Carrier Model 48TJE004	<u>\$4,425.00</u>
<b>Total Bid</b>			<b>\$17,067.00</b>

**Ray Omo, Inc.  
Dodge City, Ks**

<b>Police Dept.</b>	<b>7.5 ton Roof Top Unit</b>	Carrier Model 48TFE008	\$6,000.00
<b>Police Dept.</b>	<b>3 ton Roof Top Unit</b>	Carrier Model 48HJE004	\$8,075.00
<b>City Hall</b>	<b>3 ton Roof Top Unit</b>	Carrier Model 48TJE004	<u>\$3,825.00</u>
<b>Total Bid</b>			<b>\$17,900.00</b>

**Weber Refrigeration & Heating  
Dodge City, Ks**

<b>Police Dept.</b>	<b>7.5 ton Roof Top Unit</b>	Carrier Model 48TFE008	\$6,680.00
<b>Police Dept.</b>	<b>3 ton Roof Top Unit</b>	Carrier Model 48HJE004	\$11,800.00
<b>City Hall</b>	<b>3 ton Roof Top Unit</b>	Carrier Model 48TJE004	<u>\$4,593.00</u>
<b>Total Bid</b>			<b>\$23,073.00</b>

**Purpose/Mission:** To provide City employees with comfortable working conditions, also to protect City equipment. So we can provide the citizens of Dodge City a quality service.

**Legal Considerations:** None

**Attachments:** None

# Memorandum

*To: City Manager  
Assistant City Manager  
City Commissioners*

*From: Corey Keller*

*Date: 9/03/09*

*Subject: Vehicle Hail Damage Repair*

*Agenda Item: Consent Calendar*

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**Recommendation:** On September 1, 2009 two bids were received and opened for the repairs of City vehicles damaged by the hail storms this summer. Based on the bids received staff would ask the Commission to accept the bid from Quality Auto Body in the amount of \$17,130.00

**Background:** This Summer numerous City Vehicles were damaged in the recent hail storms. Of the vehicles damaged twelve of them were new enough or the damage was so severe that repairs are needed. The vehicles that were not selected for repairs were either late model or the damages were to minor to repair. Of the vehicles needing repairs nine are Police vehicles, one Street Dept. vehicle, one Administration vehicle, and one Airport vehicle.

**Justification:** Staff feels both body shops are more than capable of making these types of repairs. Of the bids received Quality Auto Body is the low bid. Staff would recommend that the Commission accept the bid from Quality Auto Body.

**Financial Considerations:** We have received a check from our insurance company in the amount of \$37,991.92. Funds to repair the selected vehicles will be taken from this amount.

The Bids received were:

**Quality Auto body  
Dodge City, Ks**

Total for all twelve vehicles **\$17,130.00**

**Baileys Body Shop  
Dodge City, Ks**

Total for all twelve vehicles **\$20,445.00**

**Purpose/Mission:** To insure the longevity of City vehicles and protect the City's Image in the public eye.

**Legal Considerations:** None

**Attachments:** None

# City of Dodge City

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## *Memorandum*

To: City Manager  
Assistant City Manager  
City Commissioners  
From: Dennis Veatch  
Date: August 29, 2009  
Subject: Floodplain Management Ord.  
Agenda Item: Ordinances and Resolutions

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**Recommendation:** It is recommended that Ordinance No. 3477 be approved.

**Background:** The Federal Emergency Management Agency has notified us of the final flood hazard determination for our community in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulations. On September 30, 1995, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs) subject to inundation by the base (1-percent-annual-chance) flood in the City of Dodge City, Ford County, Kansas. FEMA recently completed a re-evaluation of flood hazards in our community and provided preliminary copies of the Flood Insurance Study (FIS) and FIRM that identify existing flood hazards in Dodge City. No significant changes have been made to the flood hazard data on copies of the FIRM for the City of Dodge City. Final printed copies of the FIRM for the City of Dodge City have been submitted.

**Justification:** The City of Dodge City must adopt floodplain management measures that meet or exceed the minimum NFIP requirements by September 25, 2009, to avoid suspension from the NFIP. If suspended, our community becomes ineligible for flood insurance through the NFIP, new insurance policies cannot be sold, and existing policies cannot be renewed. Suspension would prohibit mortgage loans guaranteed by the Department of Veterans Affairs, insured by the Federal Housing Administration, or secured by the Rural Economic and Community Development Services.

**Financial Considerations:** None

**Purpose/Mission:** To maintain the most current standards and regulations in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulations.

**Legal Consideration:** All standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This ordinance adopts the City of Dodge City Floodplain Management Ordinance by reference.

**Attachments:** Floodplain Management Ordinance No. 3477

**FLOODPLAIN MANAGEMENT ORDINANCE**  
**60.3 (d) Regulatory Floodway Identified**

ORDINANCE No. \_\_\_\_\_

**ARTICLE 1            STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES**

SECTION A. STATUTORY AUTHORIZATION

1.     *Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption*

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on July 31, 2009.

2.     *Kansas Statutory Authorization*

The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the City Council of Dodge City, Kansas, ordains as follows:

SECTION B. FINDINGS OF FACT

1.     *Flood Losses Resulting from Periodic Inundation*

The special flood hazard areas of City of Dodge City, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

2.     *General Causes of the Flood Losses*

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3.     *Methods Used To Analyze Flood Hazards*

The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

- a. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated September 25, 2009 as amended, and any future revisions thereto.
- b. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of floodway encroachment lines within which no development is permitted that would cause **any** increase in flood height.
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

## SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B(1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

## ARTICLE 2 GENERAL PROVISIONS

### SECTION A. LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of City of Dodge City identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Index Map

dated September 25, 2009 of the Flood Insurance Rate Map (FIRM) as amended and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City of Dodge City or its duly designated representative under such safeguards and restrictions as the City of Dodge City or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.

#### SECTION B. COMPLIANCE

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

#### SECTION C. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

#### SECTION D. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

#### SECTION E. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of the city of Dodge City, or any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

#### SECTION F. SEVERABILITY

If any section; clause; provision; or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

## ARTICLE 3 ADMINISTRATION

### SECTION A. FLOODPLAIN DEVELOPMENT PERMIT

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Article 2, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

### SECTION B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Development Services Director is hereby appointed to administer and implement the provisions of this ordinance.

### SECTION C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
9. When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

## SECTION D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the floodplain administrator;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

## ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

### SECTION A. GENERAL STANDARDS

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
  - a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. Construction with materials resistant to flood damage;
  - c. Utilization of methods and practices that minimize flood damages;
  - d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination from them during flooding; and
  - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
    - (1) All such proposals are consistent with the need to minimize flood damage;
    - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
    - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
    - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
5. *Storage, Material, and Equipment*
  - a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
  - b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation or if readily removable from the area within the time available after a flood warning.
6. *Nonconforming Use*

A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

- a. If such structure, use, or utility service is discontinued for 12 consecutive months, any future use of the building shall conform to this ordinance.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

7. *Agricultural Structures*

Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

8. *Accessory Structures*

Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

9. *Critical Facilities*

- a. All new or substantially improved critical nonresidential facilities including, but not limited, to governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the .2 percent annual chance flood event, also referred to as the 500-year flood level or together with attendant utility and sanitary facilities, be floodproofed so that below the 500-year flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in Article 3, Section C (7)(8)(9).

- b. All critical facilities shall have access routes that are above the elevation of the 500-year flood.
- c. No critical facilities shall be constructed in any designated floodway.

10. *Hazardous Materials*

All hazardous material storage and handling sites shall be located out of the special flood hazard area.

*Cumulative Improvements*

A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five calendar years does not exceed fifty (50) percent of the structure's current market value. If the cumulative value of the improvement exceeds fifty (50) percent of the structure's current market value, the structure must be brought into compliance with Article 4, Section B(1) which requires elevation of residential structures to one (1) foot above the base flood elevation or the elevation/floodproofing of non-residential structures to one (1) foot above the base flood elevation.

SECTION B. SPECIFIC STANDARDS

- 1. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Article 4, Section A(2), the following provisions are required:

- a. *Residential Construction*

New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

- b. *Non-Residential Construction*

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed to a minimum of one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.** Such certification shall be provided to the floodplain administrator as set forth in Article 3, Section C (7)(8)(9).

- c. Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding, shall be designed to automatically

equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
- (2) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

#### SECTION C. MANUFACTURED HOMES

1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
  - a. Outside of a manufactured home park or subdivision;
  - b. In a new manufactured home park or subdivision;
  - c. In an expansion to and existing manufactured home park or subdivision; or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**
3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Article 4, Section C(2) of this ordinance, be elevated so that either:
  - a. The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or

- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

#### SECTION D. AREAS OF SHALLOW FLOODING (AO and AH zones)

Located within the areas of special flood hazard as described in Article 2, Section A are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

##### 1. *AO Zones*

- a. All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
- b. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that level so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

##### 2. *AH Zones*

- a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Article 4, Section B.
- b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

## SECTION E. FLOODWAY

Located within areas of special flood hazard established in Article 2, Section A, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.
3. If Article 4, Section E (2), is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
4. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Article 4, Section A (2).

## SECTION F. RECREATIONAL VEHICLES

Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days, *or*
2. Be fully licensed and ready for highway use\*; *or*
3. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this ordinance.

\*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

## ARTICLE 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

### SECTION A. ESTABLISHMENT OF APPEAL BOARD

The Board of Zoning Appeals, as established by City of Dodge City shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

### SECTION B. RESPONSIBILITY OF APPEAL BOARD

Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Article 5, Section A.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

#### SECTION C. FURTHER APPEALS

Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

#### SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. Danger to life and property due to flood damage;
2. Danger that materials may be swept onto other lands to the injury of others;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

#### SECTION E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with

existing structures constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, repair, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

#### SECTION F. CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed:

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
2. Use of the varied structures must be limited to agricultural purposes in Zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.
4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.
6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Article 4, Section B (1)(c) of this ordinance.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section E (2) of this ordinance. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the one percent annual chance flood event, also referred to as the 100-year flood.
8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
10. A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
11. Wet-floodproofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

#### SECTION G. CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES

Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed:

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.
5. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Article 4, Section B (1)(c) of this ordinance.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section E (2) of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

## SECTION H. CONDITIONS FOR APPROVING VARIANCES FOR TEMPORARY STRUCTURES

Any variance granted for a temporary structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

1. A temporary structure may be considered for location within the one percent annual chance flood event, also referred to as the 100-year floodplain only when all of the following criteria are met:
  - a. Use of the temporary structure is unique to the land to be developed and cannot be located outside of the floodplain nor meet the NFIP design standards;
  - b. Denial of the temporary structure permit will create an undue hardship on the property owner;
  - c. Community has adopted up-to-date NFIP and building regulations to direct placement and removal of the temporary structure; and,
  - d. Community has sufficient staff to monitor the placement, use, and removal of the temporary structure throughout the duration of the permit.
  
2. Once all of the above conditions are met, an application for a special use permit must be made to the City Council. The City Council shall consider all applications for special use permits for a temporary structure based on the following criteria:
  - a. The placement of any temporary structure within the special flood hazard areas as shown on the community's adopted FEMA/NFIP map shall require an approved special use permit. The special use permit shall be valid for a period not to exceed 180 days.
  - b. Special use permits applications, for a temporary structure to be located in special flood hazard areas, shall conform to the standard public hearing process prior to any community action on the permit request.
  - c. An emergency plan for the removal of the temporary structure that includes specific removal criteria and time frames from the agency or firm responsible for providing the manpower, equipment, and the relocation and disconnection of all utilities shall be required as part of the special use permit application for the placement of any temporary structure.
  - d. On or before the expiration of the end of the 180 day special use permit period, the temporary structure shall be removed from the site. All utilities, including water, sewer, communication, and electrical services shall be disconnected.

- e. To ensure the continuous mobility of the temporary structure for the duration of the permit, the temporary structure shall retain its wheels and tires, licenses, and towing appurtenance on the structures at all times.
- f. Under emergency flooding conditions, the temporary structure shall be removed immediately or as directed by the community and as specified in the emergency removal plan.
- g. Location of any temporary structure within the regulatory floodway requires the provision of a "no-rise" certificate by a registered professional engineer.
- h. Violation of or non-compliance with any of the stated conditions of the special use permit during the term thereof, shall make the permit subject to revocation by resolution of the governing body of the community. Issuance of permit revocation notice shall be made to the landowner, the occupant of the land, and to the general public.
- i. Any deviation from the approved site plan shall be deemed a violation of the special use permit approval and the uses allowed shall automatically be revoked. The subsequent use of the land shall be as it was prior to the special permit approval. In event of any violation, all permitted special uses shall be deemed a violation of this ordinance and shall be illegal, non-conforming uses and shall be summarily removed and abated.
- j. If the temporary structure is to be returned to its previously occupied site, the process for issuing a special use permit must be repeated in full. Any subsequent permit shall be valid for 180 days only.

## **ARTICLE 6 PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent the (community name) or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

## ARTICLE 7 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Dodge City. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this ordinance are in compliance with the NFIP regulations.

## ARTICLE 8 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

"**100-year Flood**" *see "base flood."*

"**Accessory Structure**" means the same as *"appurtenant structure."*

"**Actuarial Rates**" *see "risk premium rates."*

"**Administrator**" means the Federal Insurance Administrator.

"**Agency**" means the Federal Emergency Management Agency (FEMA).

"**Appeal**" means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

"**Agricultural Commodities**" means agricultural products and livestock.

"**Agricultural Structure**" means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

"**Appurtenant Structure**" means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

"**Area of Shallow Flooding**" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"**Area of Special Flood Hazard**" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"**Base Flood**" means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the structure having its floor sub grade (below ground level) on all sides.

**"Building"** *sees "structure."*

**"Chief Engineer"** means the chief engineer of the division of water resources, Kansas Department of Agriculture.

**"Chief Executive Officer" or "Chief Elected Official"** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

**"Community"** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"Elevated Building"** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**"Eligible Community" or "Participating Community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**"Existing Construction"** means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"existing construction"* may also be referred to as *"existing structures."*

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high

water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

**"Flood Boundary and Floodway Map (FBFM)"** means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

**"Flood Elevation Determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.

**"Flood Fringe"** means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

**"Flood Hazard Map"** means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**"Flood Insurance Study (FIS)"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**"Floodplain" or "Flood-prone Area"** means any land area susceptible to being inundated by water from any source (*see "flooding"*).

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**"Floodway" or "Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Floodway Encroachment Lines"** means the lines marking the limits of floodways on Federal, State and local floodplain maps.

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

**"Functionally Dependent Use"** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* **does not include** a *"recreational vehicle."*

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

**"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

**"Mean Sea Level"** means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

**"New Construction"** means, for the purposes of determining insurance rates, structures for which the *"start of construction"* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

**"(NFIP)"** means the National Flood Insurance Program (NFIP).

**"Participating Community"** also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

**"Permit"** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

**"Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**"Reasonably Safe From Flooding"** means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

**"Recreational Vehicle"** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Remedy A Violation"** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

**"Risk Premium Rates"** means those rates established by the Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.

**"Special Flood Hazard Area"** *see "area of special flood hazard."*

**"Special Hazard Area"** means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

**"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"State Coordinating Agency"** means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

**"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation, or a travel trailer, without wheels on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial-Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before *"start of construction"* of the improvement. This term includes structures, which have incurred *"substantial-damage,"* regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any

alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**"Temporary Structure"** means a structure permitted in a district for a period not to exceed 180 days and is required to be removed upon the expiration of the permit period. Temporary structures may include recreational vehicles, temporary construction offices, or temporary business facilities used until permanent facilities can be constructed, **but at no time shall it include manufactured homes used as residences.**

**"Variance"** means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain riverine areas.

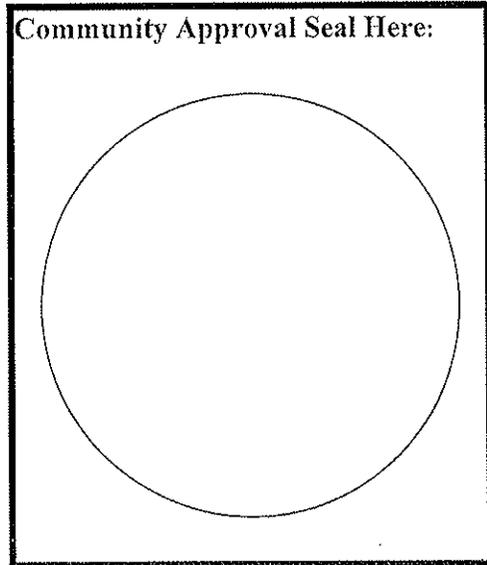
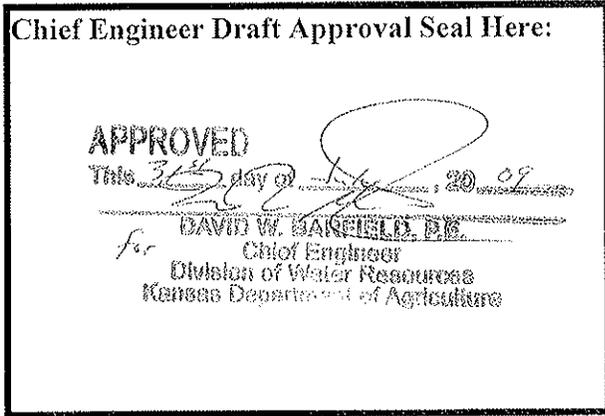
APPROVED  
MAY 28 2004  
CITY OF DALLAS

**ARTICLE 9 CERTIFICATE OF ADOPTION**

This Floodplain Management Ordinance for the community of City of Dodge City, Kansas.

PASSED AND ADOPTED by the Governing Body of Dodge City, Kansas.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.



**APPROVED:**

\_\_\_\_\_  
Signature of Chief Executive Officer/Chief Elected Official Date

\_\_\_\_\_  
Chief Executive Officer/Chief Elected Official Name (Typed/printed) Title

**ATTEST:**

\_\_\_\_\_  
Signature of Recording Clerk Date

\_\_\_\_\_  
Recording Clerk Name (Typed/printed) Title

Published in Official News publication \_\_\_\_\_ (name of Publication).

WATER RESOURCES  
DIVISION  
JUL 30 2009  
KANSAS DEPARTMENT OF AGRICULTURE

# City of Dodge City

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## *Memorandum*

To: City Manager  
Assistant City Manager  
City Commissioners  
From: Dennis Veatch  
Date: August 31, 2009  
Subject: Annexation Ord.  
Gunsmoke L.L.C.  
Agenda Item: Ordinances & Resolutions

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**Recommendation:** It is recommended that Ordinance No. 3478 be approved.

**Background:** Timothy Volz, on behalf of Gunsmoke, L.L.C. has submitted a petition to annex certain property located in the SW ¼ of Section 13, T.26S., R.25W. of the 6<sup>th</sup> P.M. in Ford County, Kansas. This is a voluntary annexation of property owned by Gunsmoke, L.L.C. This property is adjacent to the existing city boundary. No resolution, notice and public hearing are required as a prerequisite to the annexation of this land.

**Justification:** Gunsmoke, L.L.C. proposes to develop this property for Residential High Density uses. The Ford County Comprehensive Plan requires that any multi-family development adjacent to the city limits shall be served by municipal infrastructure, and for that reason this property must be annexed into the city and conform to all city codes and regulations. This proposed development does conform to the Dodge City Zoning Regulations and the City Comprehensive Plan. With the construction of the Casino and Event Center, demand for additional acreage for housing developments will increase. Existing subdivisions in north Dodge City will continue to develop.

**Financial Considerations:** No financial considerations at this time but this development will be included in the Rural Housing Incentive District if approved by the City Commission.

**Purpose/Mission:** To promote and develop new growth

**Legal Consideration:** None

**Attachments:** Petition to annex, Ordinance No. 3478 and map showing area to be annexed.

Ordinance No. 3478

AN ORDINANCE ANNEXING TO THE CITY OF DODGE CITY THE DESCRIBED PROPERTY, IN ACCORDANCE WITH K.S.A. 12-520 ET. SEQ; PROVIDING FOR THE ZONING THEROF; AND PLACING THE PROPERTY IN A VOTING WARD.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KS. :

SECTION 1: By the virtue of the authority granted by K.S.A. 12-520 and by one or more of the conditions listed therein being fulfilled, the following described real property located in Ford County, Ks. is hereby annexed to, and made part of the City of Dodge City:

A tract of land located in the SW1/4 of Section 13, T. 26 S., R. 25 W. of the 6<sup>th</sup> P.M. in Ford County, Kansas more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section 13; thence North 00 degrees 27 minutes 11 seconds East along the West line of said Southwest Quarter a distance of 435.00 feet to the Point of Beginning; thence North 00 degrees 27 minutes 11 seconds East a distance of 643.5 feet; thence South 88 degrees 48 minutes 35 seconds East a distance of 511.5 feet; thence South 00 degrees 27 minutes 11 seconds West a distance of 643.5 feet; thence North 88 degrees 48 minutes 35 seconds West a distance of 511.50 feet to the point of beginning.

SECTION 2: The property annexed is currently zoned A, "Agricultural" and will be designated R3, "Residential High Density", in accordance with the Dodge City Zoning Regulations.

SECTION 3: The property annexed is placed in the Precinct 6 voting ward.

SECTION 4: The City Clerk shall file a certified copy of this ordinance with the County Clerk and Register of Deeds of Ford County, pursuant to K.S.A. 12-522.

SECTION 5: This ordinance shall take effect, from and following its publication in the official City paper, as provided for by law.

PASSED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, IN REGULAR SESSION AND APPROVED BY THE MAYOR THIS EIGHTH DAY OF SEPTEMBER, 2009.

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RICK SOWERS, MAYOR

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NANNETTE POGUE, CITY CLERK





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# Memorandum

*To: City Manager  
City Commissioners*  
*From: Cherise Tieben, Asst. City  
Manager*  
*Date: September 3, 2009*  
*Subject: Resolution 2009-19*  
*Agenda Item: Ordinances and Resolutions*

---

**Recommendation:** Staff in coordination with the Dodge City /Ford County Development Corporation recommends the *acceptance of the CHAT report and approval of Resolution 2009-19 which permits staff to submit multiple proposed Rural Housing Incentive Districts to the Kansas Secretary of Commerce for approval.*

**Background:** In April of 2008 the City and County received the CHAT report which provided our community with a housing needs analysis. The report showed that our community housing needs were substantial and provided guidance to the areas which the needs should be focused. In light of this need, staff has done substantial research as to the cause of the shortage and efforts which can be made to correct the issue. The establishment of a Rural Housing Incentive District (RHID) is the first step towards providing an incentive which will entice developers to our community.

**Justification:** Numerous developers have reviewed their opportunities to pursue housing projects in our community. These projects, according to developers, will not cash flow and have not come to fruition due to infrastructure costs, high cost of building supplies, property taxes, low market/rent rates and other issues. Establishing a RHID will encourage the developers through incentives to pursue housing opportunities in our community. It is our hope that the resulting housing developments, will allow more families to join our community in order to fulfill the employment needs of our local businesses.

**Financial Considerations:** None at this time. However, if utilized, the financial consideration would be dependent upon each independent development agreement.

**Purpose/Mission:** This Resolution assists staff by taking the first step to improving housing opportunities and therefore, improving the quality of life for our citizens.

**Legal Considerations:** None

**Attachments:** CHAT Report

**Resolution 2009- 19**

**A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS AS TO THE NEED FOR HOUSING WITHIN THE CITY OF DODGE CITY, KANSAS AND SETTING FORTH THE LEGAL DESCRIPTION OF REAL PROPERTY PROPOSED TO BE DESIGNATED AS A RURAL HOUSING INCENTIVE DISTRICT WITHIN THE CITY.**

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**WHEREAS**, K.S.A. 12-5241 et seq. (the “Act”) authorizes any city incorporated in accordance with the laws of the state of Kansas (the “State”) with a population of less than 40,000 located in a county with a population of less than 60,000, to designate rural housing incentive districts within such city; and

**WHEREAS**, prior to such designation the governing body of such city shall conduct a housing needs analysis to determine what, if any, housing needs exist within its community; and

**WHEREAS**, after conducting such analysis, the governing body of such city may adopt a resolution making certain findings regarding the establishment of a rural housing incentive district and providing the legal description of property to be contained therein; and

**WHEREAS**, after publishing such resolution, the governing body of such city shall send a copy thereof to the Secretary of Commerce of the State (the “Secretary”) requesting that the Secretary agree with the finding contained in such resolution; and

**WHEREAS**, if the Secretary agrees with such findings, such city may proceed with the establishment of a rural housing incentive district within such city and adopt a plan for the development or redevelopment of housing and public facilities in the proposed district; and

**WHEREAS**, the City of Dodge City, Kansas (the “City”) has an estimated population of 26,101, is located in Ford County, Kansas, which has an estimated population of 32,458 and therefore constitutes a city as said term is defined in the Act; and

**WHEREAS**, the Governing Body of the City has performed a Housing Needs Analysis dated April 23, 2008 (the “Needs Analysis”), a copy of which is on file in the office of the City Clerk; and

**WHEREAS**, based on the Needs Analysis, the Governing Body of the City proposes to commence proceedings necessary to create a Rural Housing Incentive District, in accordance with the provisions of the Act.

**THEREFORE, BE IT RESOLVED** by the Governing Body of the City of Dodge City, Kansas, as follows:

**Section 1.** The Governing Body hereby adopts and incorporates by this reference as part of this Resolution the Needs Analysis, a copy of which is on file in the

office of the City Clerk, and based on a review of said Needs Analysis makes the following findings and determinations.

**Section 2.** The Governing Body hereby finds and determines that there is a shortage of quality housing of various price ranges in the City despite the best efforts of public and private housing developers.

**Section 3.** The Governing Body hereby finds and determines that the shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the City.

**Section 4.** The Governing Body hereby finds and determines that the shortage of quality housing is a substantial deterrent to the future economic growth and development of the City.

**Section 5.** The Governing Body hereby finds and determines that the future economic wellbeing of the City depends on the Governing Body providing additional incentives for the construction or renovation of quality housing in the City.

**Section 6.** Based on the findings and determinations contained in *Sections 2* through *5* of this Resolution, the Governing Body proposes to establish a Rural Housing Incentive District pursuant to the Act, within boundaries of the real estate legally described in *Exhibit A-1 through A-7* attached hereto, and shown on the maps depicting the existing parcels of land attached hereto as *Exhibit B-1 through B-7* (the "District").

**Section 7.** The City Clerk is hereby directed to publish this Resolution one time in the official City newspaper, and to send a certified copy of this Resolution to the Secretary for the Secretary's review and approval.

**Section 8.** This Resolution shall take effect after its adoption and publication once in the official City newspaper.

**Approved** this 8<sup>th</sup> day of September 2009 and signed by the Mayor.

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Rick Sowers, Mayor

ATTEST:

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Nannette Pogue, City Clerk

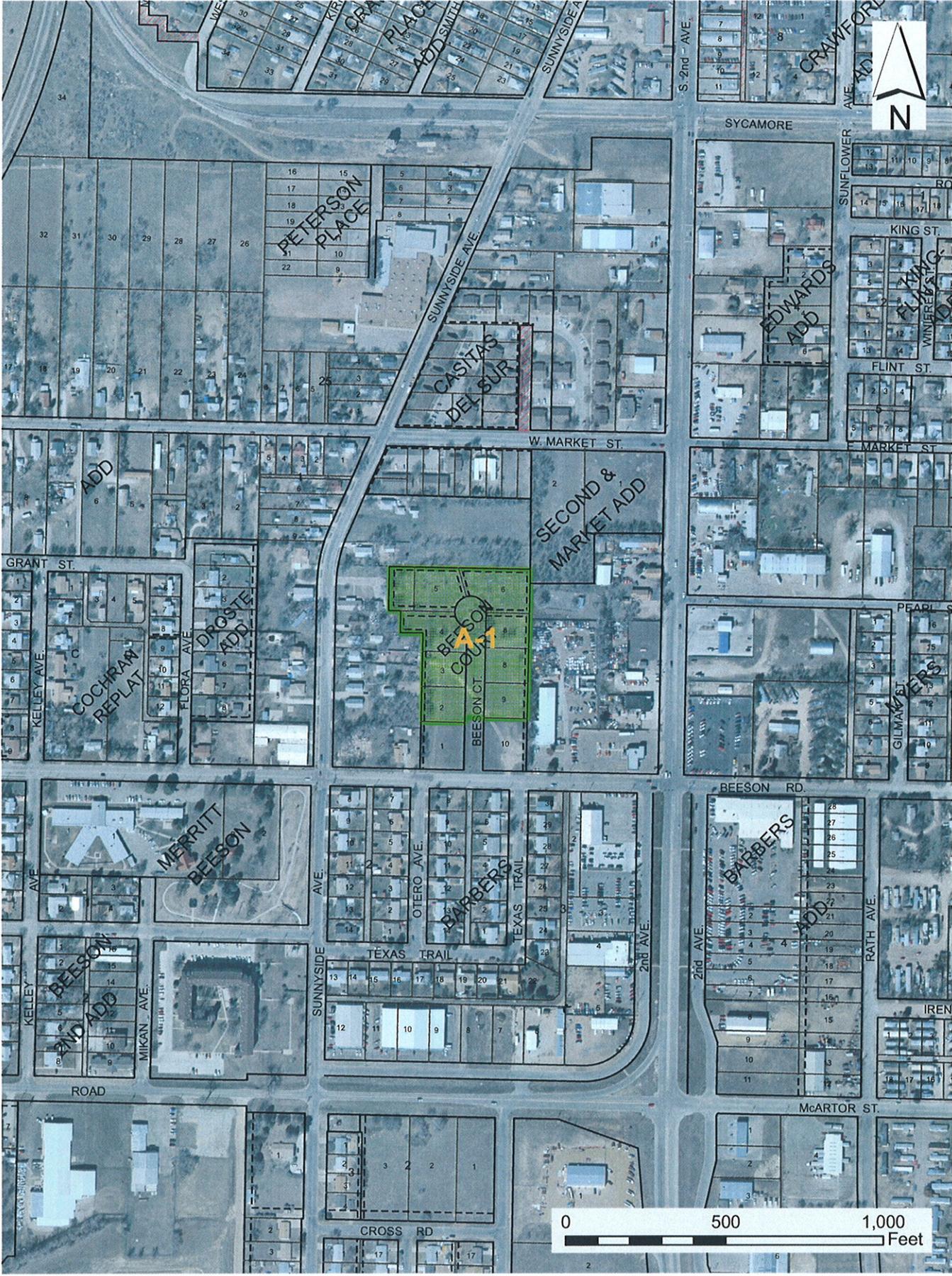
Resolution 2009-18  
Exhibit A

- A-1 Lots 2 - 9, Beeson Court Subdivision
- A-2 Lots 10 – 13, Block 1 – Boley Morgison Subdivision  
Lots 1 – 8, Block 4 – Boley Morgison Subdivision  
Lots 1 – 8, Block 3 – Boley Morgison Subdivision  
Lots 10 – 13, Block 2 – Boley Morgison Subdivision
- A-3 Lot 2, Block 1 – Legends North Subdivision
- A-4 Lots 2 & 3, Block 10 – Country Acres Subdivision  
Lots 1 – 4, Block 9 – Country Acres Subdivision  
Lots 5 – 8, Block 13 – Scottsdale Subdivision  
Lots 1 – 8, Block 14 – Scottsdale Subdivision  
Lots 1 – 14, Block 15 – Scottsdale Subdivision  
Lots 8 – 13, Block 16 – Scottsdale Subdivision
- A-5 Tract 2, Kliesen Subdivision – Commencing at the Southwest corner of the Southwest Quarter of said Section 13; Thence North 00°27'11" East along the West line of said Southwest Quarter a distance of 435.00 feet to the Point of Beginning;  
Thence continuing North 00°27'11" East along said West line a distance of 643.50 feet;  
Thence South 88°48'35" East a distance of 511.50 feet;  
Thence South 00°27'11" West a distance of 643.50 feet;  
Thence North 88°48'35" West a distance of 511.50 feet to the Point of Beginning.  
The above described tract of land contains 7.56 acres more or less and is subject to easements and rights-of-way of record. This boundary survey does not certify to ownership.
- A-6 All of Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, Block 7, Ross Addition to the City of Dodge City, Ford County, Kansas; and all of the West half of vacated North Bend Avenue lying immediately East of and fronting on said Lots; AND  
All of Lots 9, 10, 11, 12, 13, 14 and 15, Block 6, Ross Addition to the City of Dodge City, Ford County, Kansas; and all of the East half of vacated North Bend Avenue lying immediately West of and fronting on said Lots; AND  
All of the South half of vacated Plains Street lying immediately North of Lots 1, 2, 3, and 4, Block 7, and immediately North of Lot 15, Block 6, including that part of the vacated intersection of North Bend Avenue and the South half of Plains Street, all in Ross Addition to the City of Dodge City, Ford County, Kansas; AND  
A tract of land lying South of Lots 1, 2 and 3, and West of Lots 6, 7, 8 and 9, Block 7, Ross Addition to the City of Dodge City, Ford County, Kansas, more fully described as follows; Commencing at the Southwest corner of Lot 1, Block 7, of said Ross Addition,

thence South 89°27'26" East, (Bearings based on the original Plat of said Ross Addition) along the South line of Lots 1, 2 and 3, Block 7, of said Ross Addition for a distance of 320.00 feet; thence South 0°28'13" East along the West line of Lots 6, 7, 8 and 9, Block 7 of said Ross Addition for a distance of 393.94 feet, to the Southwest corner of Lot 9, Block 7, of said Ross Addition; thence at right angles to the previous course South 89°31'47" West for a distance of 319.95 feet to the East Right of Way line of Sixth Avenue; thence North 0°28'13" West along the East Right of Way line of Sixth Avenue for a distance of 399.60 feet to the point of beginning, said descriptive tract containing 2.91 acres, more or less.

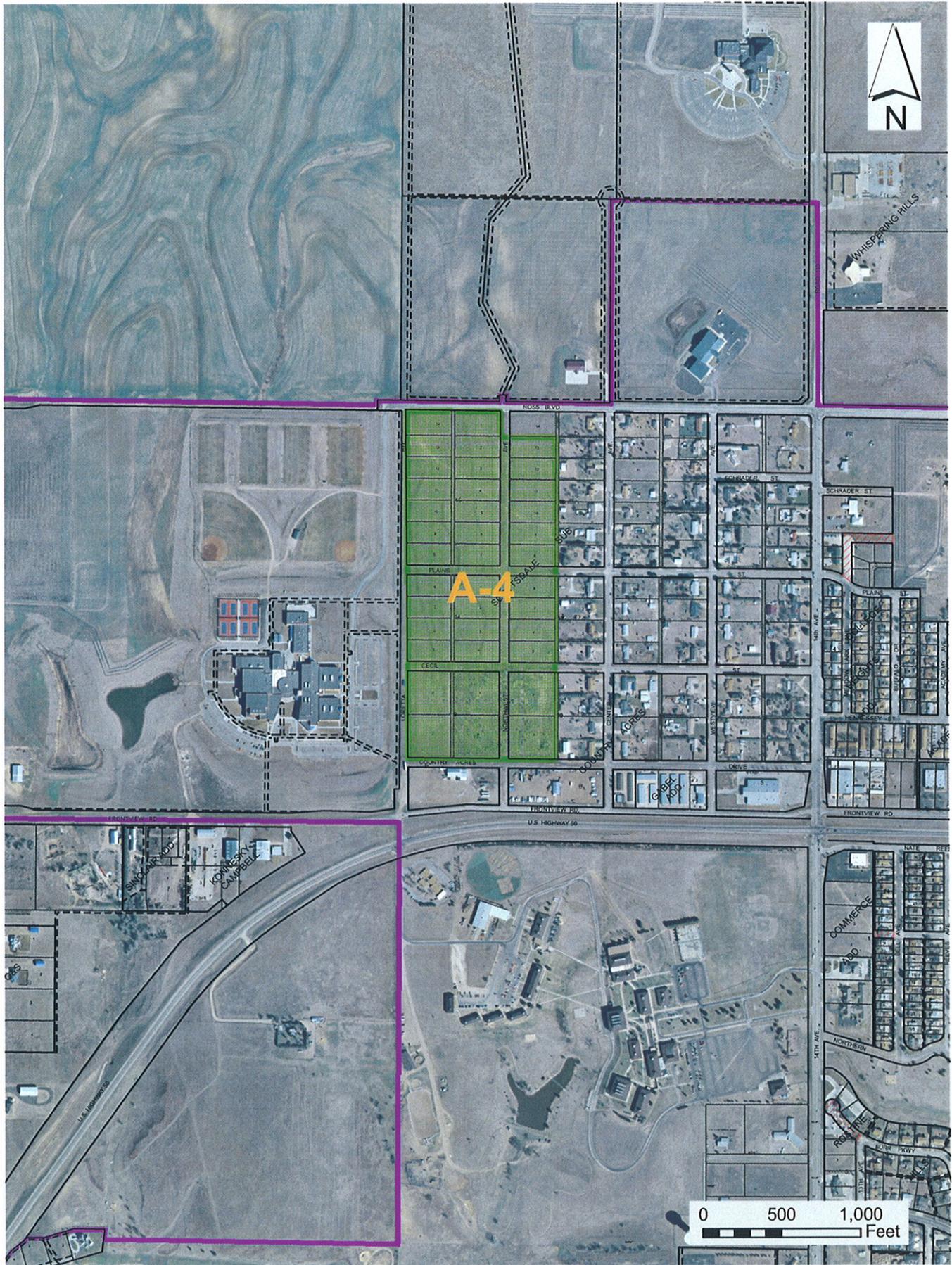
A-7 A tract of land located in the North Half of Section 27, Township 26 South, Range 25 West of the Sixth Principal Meridian, Dodge City, Ford County, Kansas, more fully described as follows:

Commencing at the Northeast corner of Section 27, Township 26 South, Range 25 West of the Sixth Principal Meridian, Dodge City, Ford County, Kansas, as re-established in a 1914 court ordered survey; thence North 89°45'45" West, bearing basis assumed, along the North line of said Section 27 for a distance of 650.54 feet, to the West line of Walter Heights Addition to Dodge City, Ford County, Kansas; thence South 0°16'57" West along the West line of said Walter Heights Addition for a distance of 700.00 feet to the **Point of Beginning**; thence continuing South 0°16'57" West along the West line of said Walter Heights Addition for a distance of 628.04 feet to the Southwest corner of said Walter Heights Addition, the same being on the North line of Indian Hills Addition to Dodge City, Ford County, Kansas, and subsequent Replats of said Indian Hills Addition; thence North 89°33'39" West along the North line of said Indian Hills Addition and subsequent Replats for a distance of 2008.26 feet to the Northwest corner of said Indian Hills Addition, thence North 89°49'34" West along the North line of Milstock Addition to Dodge City, Ford County, Kansas, for a distance of 1320.38 feet, thence South 88°09'29" West to the Southeast corner of a tract previously conveyed to the City of Dodge City for cemetery purposes, thence North 0°01'51" East along the East line of said cemetery tract for a distance of 623.50 feet; thence South 89°45'45" East, parallel with the North line of said Section 27 for a distance of 3360.57 feet to the point of beginning, said tract containing 48.26 acres, more or less.















## Memorandum

*To: City Manager  
City Commissioners*  
*From: Cherise Tieben, Asst. City  
Manager*  
*Date: September 4, 2009*  
*Subject: Resolution 2009-20*  
*Agenda Item: Ordinances and Resolutions*

---

**Recommendation:** Staff recommends the approval of Resolution 2009-20 which provides a Housing Incentive Policy.

**Background:** In April of 2008, the City and County received the CHAT report which provided our community with a housing needs analysis. In an effort to correct, the documented housing shortage, staff has developed a policy which offers multiple forms of housing incentives and the applicable guidelines for administrative use in an effort to entice housing developers to our community.

**Justification:** By placing these incentives into a policy, all staff will have consistent knowledge on the wishes of the Commission.

**Financial Considerations:** None at this time. Financial consideration will be involved in the future, as each development agreement is considered.

**Purpose/Mission:** By establishing this policy, we are expressing our efforts to encourage housing development and therefore are preparing for our communities future.

**Legal Considerations:** None

**Attachments:** None

## Resolution 2009-20

### **A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS AS TO THE NEED FOR A HOUSING INCENTIVE POLICY WITHIN THE CITY OF DODGE CITY, KANSAS AND SETTING FORTH SUCH POLICY TO INCENTIVIZE HOUSING DEVELOPMENTS.**

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**WHEREAS** in April of 2008 the Dodge City/Ford County Development Corporation and Aquila funded a Community Housing Assessment Team (“CHAT”) report for Ford County in order to document what the specific housing needs were in our County.

**WHEREAS** the CHAT report indicated that Dodge City will need to build approximately 189 units annually from 2008-2013 and 175 units annually from 2014-2020 in order to properly house our growing population.

**WHEREAS** the following will be utilized to guide staff in developing opportunities to incentivize the development of housing in Dodge City, KS.

Standard for Incentives: Incentives offered by the City of Dodge City should meet all of the following three standards:

1. Utilization of an innovative program which assists in financing the cost of infrastructure or qualified development costs with minimal risk to the City at large;
2. Create a sense of partnership with developers in order to work through building code regulations;
3. Creates an environment for the development community that offers a predictable development process associated with fair and cost effective incentives.

Prohibited Incentives: Incentives which do not fulfill the following standards will not be considered:

1. Assures taxpayers that the City is not financing an unreasonably high profit margin for developers;
2. Assure taxpayers that the development has offered the City safeguards that will commit the developer to complete the project.

Incentives:

1. **Maintain a single point of contact for developers.** The City will assign an individual to work with developers as a facilitator in order to navigate the development process. A single contact for all questions involving procedural, code and development requirements should relieve frustration currently being felt by developers. The facilitator will in turn work with all other departments to assure that issues involving overlapping authority are resolved prior to proceeding with the project. The process should assure the consistent interpretation of city

codes, ordinances and technical standards and will work to identify compliance alternatives for developments facing unanticipated challenges.

By providing facilitation, certainty and clarity throughout the development review process, the average completion time for a subdivision and site plan review will be reduced significantly from conventional reviews. The process will be especially attractive to developers concerned with market pressures and seasonal building constraints. The speed of this review period, however, depends on how staff and the applicant perform *together*. Providing corrections, responding to comments, and ultimately securing an approval in a timely manner is a responsibility that staff and the applicants design team share.

To assist in this expedited process, Development Services will establish a checklist of documents and requirements to be fulfilled for any development. The developer on this same form will make all requests for consideration of any variance from code and/or development requirements. The developer will provide justification for the request and suggested alternatives. The same form will be utilized to document the response of staff.

The expedited process made available through this incentive program does not mean that projects are allowed to bypass any requirements of the development process or applicable building codes. On the contrary, staff will perform the same rigorous review of all developments for consistency with code requirements.

**2. Establish fee waivers (full or partial) based upon income/rent/price ranges and or accessibility.**

- a. Builder provide % of units to low income families or reasonably priced for a low income family or accessible units for the disabled or elderly and the City will waive a certain level of fees

<u>Builder Provides</u>	<u>City Waives</u>
10% Low Rent/Price Units	25% of fees
20%	50%
30%	75%
40%	100%

*Fees waived: Development/Review/Inspection fees (zoning, subdivision, permits) and Public Works Construction Inspection*

**3. Utilize state provided incentive programs for both low and moderate income homes and multifamily developments.**

- a. The *Rural Housing Incentive District* appears to be the incentive that is the best fit for moderate income homes and multifamily developments. The District alleviates the need for special assessments, by allowing the incremental property tax (e.g. tax on improved property less the tax on the vacant property) to be applied to the cost of the infrastructure for the

development. All taxing entities participate; the school and the county may veto the project.

- b. The *Neighborhood Revitalization District* incentive is available in either a blighted area or an area that should be preserved because of its history or architecture. The City can designate the specific area that this incentive is applicable too. A revitalization plan must be adopted by the City. The increased increment is rebated directly to the property owner. The rebate years would be determined by the revitalization plan.
- c. The *Downtown Redevelopment Act* incentive offers a property tax rebate to properties that make significant improvements which will increase the properties value by not less than 25%. The owner has 12 months to make the improvements. The property tax rebate is based on the value added above the base and rebated as follows:

Years 1-5	100%
Year 6	80%
Year 7	60%
Year 8	40%
Year 9	20%

- 4. **Offer City owned surplus property** at fair market value to developers of moderate and higher rental units and homes, whom are seeking other incentives. The City reserves the right to offer the land as a sole incentive to developers of the preceding ranges. The City does not want to be perceived as undermining the available land opportunities. Developers must agree to a continuation of the City's master plan for property located in Legends North.
- 5. **Nothing shall prohibit the City from utilizing traditional incentives** for public improvements within the City of Dodge City as outlined in the current resolution adopted by the City Commission. Examples include special assessments and/or special benefit districts.
- 6. **Sponsoring or co-sponsoring grant request to state and/or federal agencies.** Examples may include Community Development Block Grants, U.S.D.A. grants or similar type programs which may provide assistance with infrastructure, housing or housing related programs.

Reservations:

The City of Dodge City reserves the right to not allow the use of incentives or the right to vary the percentage of City participation when unusual circumstances so warrant or whenever, in the opinion of the City Commission sufficient properties are already available for the type of development being considered.

Housing Incentive Committee:

Establish a Housing Incentive Committee comprised of the City Manager, Director of Finance, USD 443 Finance Director, Ford County Finance Director and the Director of the Dodge City/Ford County Development Corporation. The Committee shall conduct a thorough review and evaluation of any housing incentive application brought forward for the Governing Body's consideration, which includes incentive requests which will result in a property tax deferral or rebate. The Committee shall

gather and review any additional information deemed necessary to determine if the applicant meets the objectives and criteria of this and any applicable incentive, conduct preliminary discussions with the applicant/development advocate, discuss terms of a development agreement to be drafted by City staff and to recommend to the Governing Body whether the proposal should be favorably considered.

The Committee may use the services of outside professional consultants and advisors as part of the review, as necessary. Committee records, including proposals submitted, may be withheld from public disclosure as provided under the Kansas Open Records Act. Any inaccuracy, misstatement of, or error in fact may render the proposal null and void and may cause a repeal of any development assistance rendered through any housing incentive granted by the City in reliance upon said information.

Annual Renewal:

The incentive program must be renewed annually in order for the incentive program to continue. The annual review and consideration reflects an effort to protect the City in case of an economic downturn.

Termination of the Program:

The program should be monitored closely to insure that overbuilding that has occurred in other communities is prevented. The incentive package should cease per classification once the following need has been fulfilled:

Owner Occupied\*

Affordable Low (60-100,000)	115
Affordable Moderate (100-130,000)	142
Moderate Market (130-200,000)	162

Renter Occupied\*

Low (less than 450 per month)	123
Affordable (450-700 per month)	122
Market (over 700 per month)	134

\*as established in the CHAT report (Exhibit A)

Approved this 8<sup>th</sup> day of September 2009 and signed by the Mayor.

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Rick Sowers, Mayor

ATTEST:

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Nannette Pogue, City Clerk

# City of Dodge City

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## *Memorandum*

To: City Manager  
Assistant City Manager  
City Commissioners  
From: Dennis Veatch  
Date: August 29, 2009  
Subject: Legends North Subdivision  
Agenda Item: New Business

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**Recommendation:** The Dodge City Zoning Board met August 18, 2009 to review the Final Plat of Legends North Subdivision. They are recommending that this plat be approved. City staff also concurs with this recommendation.

**Background:** The City of Dodge City purchased this property to acquire additional water rights and to construct a proposed Water Reclamation Facility. Ordinance No. 3471 annexing this property to the City of Dodge City was passed by the Governing Body in regular session and approved by the Mayor on April 20, 2009. Steve Chucovich with Architecture Denver was hired to prepare a Master Plan of this property showing a mixture of residential and commercial uses. The Water Reclamation Facility will blend in and be compatible with these mixed uses.

**Justification:** This plat conforms to the Dodge City Subdivision Regulations and the City Comprehensive Plan. With the construction of the Casino and Event Center, demand for additional acreage for housing developments will increase and sewer service will be needed. Existing subdivisions in north Dodge City will continue to develop.

**Financial Considerations:** The filing fee for recording this plat with the Ford County Register of Deeds will be \$40.00.

**Purpose/Mission:** To promote and develop new growth

**Legal Consideration:** None

**Attachments:** The Final Plat of Legends North Subdivision

**FINAL PLAT**  
**LEGENDS NORTH SUBDIVISION**  
 WEST HALF OF SECTION 11  
 TOWNSHIP 26 SOUTH, RANGE 25 WEST OF THE 6TH PRINCIPAL MERIDIAN  
 DOGUE COUNTY, KANSAS  
 OWNER: CITY OF DOGUE CITY, KANSAS  
 ADDRESS: 806 N. 2ND AVE., DOGUE CITY, KANSAS 67801  
 PHONE: 620-225-8100

**OWNERS CERTIFICATE**

THE UNDERSIGNED, RICK SOWERS, HEREBY CERTIFIES THAT HE IS THE EXECUTOR FOR THE CITY OF DOGUE CITY, KANSAS, AND HAS CAUSED TO BE Laid OUT AND PLATTED A TRACT OF LAND TO BE CALLED "LEGENDS NORTH SUBDIVISION" LOCATED IN THE WEST HALF OF SECTION 11, TOWNSHIP 26 SOUTH, RANGE 25 WEST OF THE 6TH P.M., DOGUE COUNTY, KANSAS, AND HAS CAUSED THE MOST PARTICULAR DESCRIBED AS FOLLOWS:

THE WEST HALF OF SECTION EIGHTEN (11), TOWNSHIP TWENTY SIX (26) SOUTH, RANGE TWENTY FIVE (25) WEST OF THE 6TH P.M., DOGUE COUNTY, KANSAS.

**EXCEPT**

PART OF NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION ELEVEN DESCRIBED AS, BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION EIGHT, TOWNSHIP 26 SOUTH, RANGE 25 WEST OF THE 6TH P.M., DOGUE COUNTY, KANSAS; THENCE NORTH ALONG THE WEST BOUNDARY LINE OF SAID SECTION ELEVEN FOR 5291.85 FEET TO THE NORTHWEST CORNER OF THE NORTH BOUNDARY LINE OF SAID SECTION ELEVEN; THENCE EAST ALONG THE NORTH BOUNDARY LINE OF SAID SECTION ELEVEN, 5291.85 FEET TO THE WEST BOUNDARY LINE OF SAID SECTION ELEVEN; THENCE WEST ALONG THE WEST BOUNDARY LINE OF SAID SECTION ELEVEN, 5291.85 FEET TO THE POINT OF BEGINNING. THIS CONVEYANCE IS FOR ROAD PURPOSES, IF THE PROPERTY CONNECTED OR ANY PART THEREOF, IS NOT USED AS A PUBLIC ROAD, THE TITLE TO SUCH PART AS IS NOT USED FOR PUBLIC ROAD SHALL REVERT TO SAID GRANTEE, THEIR HEIRS AND ASSIGNS.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 310.88 ACRES MORE OR LESS.

I HAVE CAUSED THE ABOVE DESCRIBED TRACT TO BE SURVEYED, STAKED AND PLATTED INTO LOTS, A BLOCK, AND CASSEMENTS, AND HAVE CAUSED THE SAME TO BE RECORDED AND DESIGNATED AS "LEGENDS NORTH SUBDIVISION" AND IT WAS DESIGNATED FOR PUBLIC USE ALL OF THE EASEMENTS, UTILITIES, AND ROAD RIGHT-OF-WAYS AS SHOWN ON THE PLAT.

RICK SOWERS, EXECUTOR  
 CITY OF DOGUE CITY, KANSAS

**SURVEYOR CERTIFICATE**

STATE OF KANSAS )  
 )  
 COUNTY OF DOGUE ) SS

WE, PROFESSIONAL ENGINEERING CONSULTANTS, P.A. ENGINEERS AND SURVEYORS IN FORESAID STATE AND COUNTY, DO HEREBY CERTIFY THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009, WE HAVE SURVEYED AND PLATTED LEGENDS NORTH SUBDIVISION, DOGUE CITY, DOGUE COUNTY, KANSAS, INTO LOTS, AND A BLOCK, THE SAME BEING DESCRIBED AS FOLLOWS:

THE WEST HALF OF SECTION EIGHTEN (11), TOWNSHIP TWENTY SIX (26) SOUTH, RANGE TWENTY FIVE (25) WEST OF THE 6TH P.M., DOGUE COUNTY, KANSAS.

**EXCEPT**

PART OF NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION ELEVEN DESCRIBED AS, BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION EIGHT, TOWNSHIP 26 SOUTH, RANGE 25 WEST OF THE 6TH P.M., DOGUE COUNTY, KANSAS; THENCE NORTH ALONG THE WEST BOUNDARY LINE OF SAID SECTION ELEVEN FOR 5291.85 FEET TO THE NORTHWEST CORNER OF THE NORTH BOUNDARY LINE OF SAID SECTION ELEVEN; THENCE EAST ALONG THE NORTH BOUNDARY LINE OF SAID SECTION ELEVEN, 5291.85 FEET TO THE WEST BOUNDARY LINE OF SAID SECTION ELEVEN; THENCE WEST ALONG THE WEST BOUNDARY LINE OF SAID SECTION ELEVEN, 5291.85 FEET TO THE POINT OF BEGINNING. THIS CONVEYANCE IS FOR ROAD PURPOSES, IF THE PROPERTY CONNECTED OR ANY PART THEREOF, IS NOT USED AS A PUBLIC ROAD, THE TITLE TO SUCH PART AS IS NOT USED FOR PUBLIC ROAD SHALL REVERT TO SAID GRANTEE, THEIR HEIRS AND ASSIGNS.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 310.88 ACRES MORE OR LESS.

JAMES R. RICCI, R.L.S. NO. 812  
 PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

**CITY APPROVAL**

STATE OF KANSAS )  
 )  
 CITY OF DOGUE CITY ) SS

THE ABOVE AND FOREGOING DOCUMENT KNOWN AS A PLAT OF "LEGENDS NORTH SUBDIVISION" TO THE CITY OF DOGUE CITY, DOGUE COUNTY, KANSAS, HAVING BEEN SUBMITTED TO THE GOVERNING BODY OF THE CITY OF DOGUE CITY, DOGUE COUNTY, KANSAS AT THE REGULAR MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009 HAS BEEN EXAMINED AND CONSIDERED AND THE SAME IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

THE CITY OF DOGUE CITY, KANSAS

RICK SOWERS, MAYOR  
 NANETTE ROGIE, CITY CLERK

STATE OF KANSAS )  
 )  
 COUNTY OF DOGUE ) SS

BEFORE ME, A NOTARY PUBLIC, WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY TO ME KNOWN TO BE THE LEGAL OWNER WHO EXECUTED THE ABOVE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT SAID INSTRUMENT WAS HIS OWN AND THAT HE WAS SIGNING AND EXECUTING THE SAME FOR THE PURPOSES SET FORTH.

IN WITNESS WHEREOF, I HAVE HEREUNTO PUT MY HAND AND SEAL, THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES \_\_\_\_\_

NOTARY PUBLIC

**CERTIFICATION BY COUNTY SURVEYOR**

STATE OF KANSAS )  
 )  
 COUNTY OF DOGUE ) SS

THIS PLAT HAS BEEN EXAMINED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009 FOR COMPLIANCE WITH THE REQUIREMENTS OF THE ACT CONCERNING LAND SURVEYS IN THE STATE OF KANSAS, (K.S.A. 26-205).

EDWARD W. CLUM, COUNTY SURVEYOR, DOGUE COUNTY, KANSAS

DOGUE CITY ZONING BOARD

THIS PLAT OF "LEGENDS NORTH SUBDIVISION" HAS BEEN SUBMITTED TO AND APPROVED BY THE DOGUE CITY ZONING BOARD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

CHRISTOPHER B. BARNING, PHD

SECRETARY, DOGUE CITY ZONING BOARD

REGISTER OF DEEDS

STATE OF KANSAS )  
 )  
 COUNTY OF DOGUE ) SS

THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE OFFICE OF DOGUE COUNTY REGISTER OF DEEDS ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009 IN PLAT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, AND IS DULY RECORDED.

BRENDA ROGIE, DOGUE COUNTY REGISTER OF DEEDS

**TRANSFER RECORD CERTIFICATE**

THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS ENTERED INTO THE TRANSFER RECORD ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

SWANSON SEBEL, DOGUE COUNTY CLERK







300 SW 8th Avenue  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

August 18, 2009

Dear City Clerks or City Managers/City Administrators:

We are pleased the League's 101<sup>th</sup> Annual Conference in Topeka, October 3-6, 2009 is shaping up to be an exciting experience. We have an outstanding program of speakers, panel discussions and workshops planned which are highlighted in the July issue of the *Kansas Government Journal*.

I am writing to invite your city governing body to register its League voting delegates. State law provides that the governing body of each member city of the League may elect city delegates from among the city's officers to represent the city in the conduct and management of the affairs of the League. League bylaws provide that a city voting delegate or alternate delegate qualifies by having his or her name, city title and address registered with the executive director.

Each member city needs to file new registration forms with the **League of Kansas Municipalities, 300 SW 8th Avenue, Topeka, KS 66603, by Friday, September 11<sup>th</sup>**.

Article 4, Sec. 5 of the League Bylaws prescribes the total number of votes provided to each member city based on population. The number of delegate registration forms enclosed is based on the following table:

City Population	No. Votes	No. Delegate Forms	No. Alternate Forms
1 - 2,500	1	1	1
2,501 - 7,500	2	2	2
7,501 - 17,500	3	3	3
17,501 - 37,500	4	4	4
37,501 - 77,500	5	5	5
77,501 - 117,500	6	6	6
117,501 - 157,500	7	7	7
157,501 - 197,500	8	8	8
197,501 - 237,500	9	9	9
237,501 - 277,500	10	10	10
277,501 - 355,500	11	11	11
355,501 - 395,500	12	12	12

A business and policy session of city voting delegates will be held on Tuesday morning, October 6<sup>th</sup> at the conference in Topeka.

I look forward to hearing from you.

Sincerely,

Don Moler  
Executive Director

Enclosures

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# Memorandum

To: City Manager  
Assistant City Manager  
City Commissioners

From: Paul Lewis 

Date: September 3, 2009

Subject: Slope Mower Purchase

Agenda Item: New Business

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**Recommendation:** Staff recommends purchase of a DewEze ATM 72LC slope mower from Harper Industries in the amount of \$39,535.

**Background:** This purchase replaces an existing ATM 72LC that was put into service in 2003 and has over 3,000 hours on it. The current machine was rolled in an accident earlier this summer when it slid into a washout in a drainage ditch and suffered extensive damage.

The 2009 MERF anticipated replacing the existing machine and \$38,000 is included in this year's MERF for that purpose.

**Justification:** This machine is used to mow drainage ditches and right-of-way drains where a normal mower can not operate. Presently there are over 100 acres of ditches and drains where this mower is slated to work and it runs five days a week, eight hours a day during the mowing season.

The recommendation for this mower is based on a sole source purchase. The City has utilized the ATM model for over 16 years and it is the only machine that operates effectively in the environment we require. The ATM 72LC has a split/floating mowing deck that allows better coverage of v-ditches and over crowns of embankments.

There's only one other mower available in the market with similar capabilities. That mower is not sold or supported in the region and the construction of the cutting deck does not function in the types of situations we have to maintain.

**Financial Considerations:** In order to continue to maintain the areas we're required to mow, the City is presently renting the machine we're recommending for purchase at a rate of \$50 per hour. All rental fees apply to the purchase price.

The purchase price for this machine is over the amount budgeted in the 2009 MERF. Recently other purchases from the MERF have come in under budget and there is money available to cover the additional funds necessary.

**Purpose/Mission:** This purchase is necessary in order to continue to meet the service levels we have set and the expectations of the community. Without proper equipment we will not be able to continue mowing and maintaining the significant amount of public drains and ditches assigned to the department and the aesthetics of the community will be reduced.

**Legal Considerations:** None

**Attachments:** Harper Industries Quote

## Quote

July 8, 2009

To: City of Dodge City, KS  
Attn: Paul Lewis

<u>Model</u>	<u>Description</u>	<u>Quantity</u>	<u>Price</u>
ATM72LC	All Terrain Mower	1	\$39,285
	Shipping		<u>\$ 250</u>
	<b>Total Purchase Price:</b>		<b>\$39,535</b>

**Rental Agreement:** The unit can be rented to the City of Dodge City for the amount of \$50 per hour of use. If the machine is subsequently purchased, the rental payments may be applied to the purchase price of the new unit.

The renter is responsible for any repair costs resulting from damage or wear items that do not fall within the normal machine warranty.

Quote valid for 90 days