IOLA CITY CODE

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Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - Designation and citation of Code.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Iola City Code," and may be so cited. Such Code may also be cited as the "Iola, Kansas Code."

(Code 1988, § 1-101)

Sec. 1-2. - Rules of construction and definitions.

In the construction of this Code, and of all ordinances and resolutions passed by the governing body, the following rules shall be observed and the following definitions shall apply, unless such construction would be inconsistent with the manifest intent of the governing body.

Generally. The provisions of this Code shall be liberally construed to effect the purposes expressed therein or implied from the expressions thereof. In case of doubt or ambiguity in the meaning of such provisions, the general shall yield to the particular. Reference for interpretation and construction shall tend to further the accomplishment of the elimination of the particular mischiefs for which the provisions were enacted. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

City. The word "city" shall mean the City of Iola, Allen County, Kansas.

City officers and departments. References to officers or departments are to officers or departments of the city.

Code. The word "Code" means the Iola City Code as designated in section 1-1.

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

County. The word "county" shall mean Allen County, Kansas.

Gender. Words of one gender include all other genders.

Governing body. The term "governing body" shall mean the mayor and city council members charged with governing the affairs of the city.

Highway. The word "highway" shall include any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass and causeway in the city, dedicated or devoted to public use.

In the city. The phrase "in the city" means any territory within the corporate limits of the city and the police jurisdiction thereof, and any other territory over which regulatory power has been conferred on the city by law.

Joint authority. Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

K.S.A. The abbreviation "K.S.A." means the Kansas Statutes Annotated, as amended.

May. The word "may" is to be construed as being permissive and not mandatory.

Month. The word "month" shall mean a calendar month.

Number. Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Or, and. The word "or" may be read "and," and "and" may be read "or," if the sense requires it.

Owner. The word "owner" as applied to a building or land, shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.

Person. The word "person" shall include any firm, copartnership or corporation, and the plural as well as the singular, and such term shall be construed to include the United States, the State of Kansas or any other municipal, public or private corporation which may lawfully own any property within the city as well as individuals.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Property. The word "property" means real, personal and mixed property.

Real property. The term "real property" includes lands, tenements and hereditaments.

Roadway. The word "roadway" shall mean that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall. The word "shall" is to be construed as being mandatory and not permissive.

Sidewalk. The word "sidewalk" shall mean any portion of the street between the curb, or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians.

Signature or subscription. The word "signature" or "subscription" shall include a mark when a person cannot write.

State. The word "state" shall be construed to mean the State of Kansas.

Street. The word "street" shall include any highway, alley, street, avenue or public place or square, bridge, viaduct, underpass, overpass, tunnel and causeway in the city, dedicated or devoted to public use.

Tenant, occupant. The word "tenant" or "occupant," as applied to a building or land, means any person who occupies the whole or part of such building or land, whether alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Written or in writing. The words "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year.

(Code 1988, § 1-102)

Cross reference— Definitions generally, § 1-2.

Sec. 1-3. - Catchlines of sections, effect of history notes, and references in Code.

(a) The catchlines of the several sections of this Code, printed in boldface type, are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) All references to chapters, articles or sections are to the chapters, articles and sections of this Code, unless otherwise specified.

(Code 1988, §§ 1-103, 1-104)

Sec. 1-4. - Effect of repeals.

(a) The repeal of an ordinance does not revive any previously repealed ordinance.

(b) The repeal of an ordinance does not affect any punishment or penalty incurred before the repeal took effect or any suit, prosecution or proceeding pending when the repeal took effect.

Sec. 1-5. - Amendments or additions to Code.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any section such repealed section may be excluded from the Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the governing body.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section _____ of Iola City Code is hereby amended to read as follows:…." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language should be used: "The Iola City Code is hereby amended by adding a section, to be numbered _____, which section reads as follows:…." The new section shall then be set out in full as desired.

(Code 1988, § 1-105)

Sec. 1-6. - Supplementation of Code—Generally.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the governing body. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings, and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings, and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-7. - Same—Exclusion of special or temporary ordinances.

Ordinances hereafter adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published, and recorded in the book of ordinances, but such ordinances shall not be prepared for insertion in this Code, nor be deemed a part hereof.

Sec. 1-8. - Corporate limits described.

(a) The territorial limits and boundaries of the City of Iola, Kansas are hereby defined as follows:

Beginning at a point 25 feet West and 10 feet South of the Southwest (SW) corner of the Northeast (NE ¼) Quarter Section 22 Township 24 South Range 18 East, Thence North 1,330 feet along the west R-O-W line of Marshmallow Lane, Thence East 2730 feet to a point intersecting with east R-O-W line of State Street, Thence North 1,400 feet along east R-O-W line of State Street to a point intersecting the north R-O-W line of Oregon Road, Thence in an Easterly direction following the north R-O-W line of Oregon Road to a point intersecting east R-O-W line of Kentucky Street (1600th Street), Thence in a Southerly direction following the east R-O-W line of Kentucky Street (1600th Street) to a point intersecting the south R-O-W line of North Dakota Road, Thence East 635 feet to the NE (Northeast) corner of lot 16 Sterling Heights Addition, Thence South 640 feet to a point intersecting the SE (Southeast) corner of lot 13 Sterling Heights Addition, Thence East 982 feet to the NE (Northeast) corner of lot 41 Sterling Heights Addition, Thence South 1,965 feet to a point intersecting with the North R-O-W line of Carpenter Street, Thence East 1,000 feet along North R-O-W line of Carpenter Street to a point intersecting east R-O-W line of Truman Drive, Thence South 690 feet along East R-O-W line of Truman Drive, Thence East 460 feet to a point intersecting U.S. 169 Highway R-O-W, Thence Southwesterly 1,080 feet along U.S. 169 Highway R-O-W, Thence Southwesterly 860 feet along U.S. 169 Highway R-O-W to a point intersecting U.S. 54 Highway R-O-W, Thence Southeasterly 155 feet to a point intersecting U.S. Highway 54 and U.S. Highway 169 R-O-W, Thence South 150 feet, Thence West 55 feet to the NE (Northeast) corner of lot 13 Lincoln Park Addition, Thence South 200 feet to SE (Southeast) corner of lot 16 Lincoln Park Addition, Thence West 136 feet, Thence South 15 feet, Thence West 670 feet to a point intersecting vacated Eleventh Street R-O-W, Thence South 920 feet to a point intersecting the SE (Southeast) corner of Eleventh Street and Neosho Street R-O-W, Thence West 315 feet to the east R-O-W line of Tenth Street, Thence South 470 feet along the east R-O-W line of Tenth Street, Thence West 1,660 feet to a point intersecting the C/L of Kentucky Street, Thence South 830 feet, Thence West 1,310 feet to a point intersecting the west R-O-W line of First Street, Thence North 310 feet, Thence West 1,004.5 feet, Thence South 290 feet, Thence West to a point intersection the NW (northwest) corner of the SE ¼ (southeast quarter) of Section 35, Township 24, Range 18, Thence Southerly along the West Section line to a point intersecting the North high bank of Elm Creek, Thence Northeasterly along the north high bank of Elm Creek to a point intersecting the North section line of the Southeast Quarter of Section 35, Township 24, Range 18,Thence East along said section line to a point intersecting the center line of Elm Creek, Thence South along an extend line south from the intersection of said section line and the center line of Elm Creek to a point intersecting the south line of the Abandoned Missouri Pacific Railroad Right-Of-Way, Thence in a Northeasterly direction along said south right-of-way line of Abandoned Missouri Pacific Railroad to a point 10 feet East of the east high bank of Elm Creek, Thence in a Southeasterly direction along a line 10 feet East of the east high bank of Elm Creek to a point intersecting the East section line of Section 35, Range 18, Township 24, Thence South along said section line to the Southeast corner of Section 35, Range 18, Township 24, Thence East along the north section line of Section 01, Range 18, Township 25 to a point intersecting the west right-of-way line of 1650th Street extend north, Thence South along the west right-of-way line of 1650th Street to a point intersecting the Northeast corner of Lot 8 in Funk's Second Subdivision, Thence West 474.4 feet, Thence South 454 feet, Thence East to a point intersecting the West right-of-way line of 1650th Street, Thence in a Southerly direction along the west right-of-way line of

1650th Street to a point intersecting the north right-of-way line of Montana Road, Thence West along the north right-of-way line of Montana Road to a point 632 feet east and 60 feet north of the southwest corner of the Northeast Quarter of Section 02, Range 18, Township 25, thence North 194 feet, thence Northwesterly to a point 380 feet West and 510 feet North of the southwest corner of the Northwest Quarter of Section 02, Range 18, Township 25, thence West 370 feet, Thence South 320 feet to the north right-of-way line of Montana Road, Thence West 170 feet to the west section line of the Northeast Quarter of Section 02, Range 18, Township 25, Thence South 60 feet to a point intersecting the south right-of-way line of Montana Road, Thence West 2,545 feet to the east right-of-way line of State Street, Thence Northerly along State Street R-O-W to a point 40 feet East and 640 feet North of Southwest corner of the Northwest Quarter of Section 02, Thence East 265 feet, Thence North 397.5 feet to a point intersecting the abandoned A.T.&S.F. Railroad Spur R-O-W, Thence Northeasterly 1,107 feet along said A.T.&.S.F. Railroad Spur R-O-W to a point intersecting the SW (Southwest) corner of Ryan Street R-O-W, Thence Northerly 300 feet along Ryan Street R-O-W to a point intersecting the west R-O-W line of Washington Avenue, Thence Northerly 265 feet along west R-O-W line of Washington Avenue to a point 460 feet South and 1,038 feet East of the Northwest corner of the Northwest Quarter of Section 02, Thence North 1,730 feet along West R-O-W line of Washington Avenue, Thence West 495 feet, Thence North 346 feet, Thence West 145 feet, Thence North 910 feet, Thence West 297.4 feet to a point intersecting the east R-O-W line of State Street, Thence North 160 feet along the east R-O-W line of State Street, Thence West to a point intersecting Section line, Thence North 438 feet, Thence West 445 feet to a point intersecting the east R-O-W line of Abandoned S.K.&O. Railroad, Thence South 438 feet along the east R-O-W line of Abandoned S.K.&O. Railroad, Thence West 100 feet to the west R-O-W line of Abandoned S.K.&O. Railroad, Thence South 590 feet along the west R-O-W line of Abandoned S.K.&O. Railroad, Thence West 1,965 feet to a point intersecting with the C/L (centerline) of the Neosho River, Thence in a Northerly direction following the C/L (centerline) of the Neosho River to a point intersecting the West Section line of the Northeast Quarter of Section 34, Township 24, Range 18, Thence North 280 feet to a point intersecting with the south R-O-W line of Bruner Street, Thence East 1,040 feet to a point intersecting the SW (Southwest) corner of Park Street & Bruner Street R-O-W, Thence North 816 feet, Thence East 150 feet, Thence North 50 feet to a point intersecting the C/L (centerline) of Coon Creek, Thence Northerly along C/L (centerline) of Coon Creek to a point intersecting the south R-O-W line of West Street, Thence East 550 feet, Thence North 66 feet to a point intersecting with the North R-O-W line of West Street, Thence West 150 feet along north R-O-W line of West Street, Thence North 388.2 feet, Thence East 150 feet, Thence North 840.52 feet, Thence East 50 feet, Thence North 100' to a point intersecting the north R-O-W line of Abandoned Missouri Pacific Railroad R-O-W, Thence West along the north R-O-W line of Abandoned Missouri Pacific Railroad R-O-W to the southwest corner of Lot 1 of I.M.P. Addition to Iola, Thence North 937' along the west lot line of said Lot 1 of I.M.P Addition to a point intersecting the south R-O-W line of West Lincoln Road, Thence east along the south R-O-W line of West Lincoln Road to the northwest corner of Lot 2 of I.M.P. Addition to Iola, Thence North 30 feet to a point intersecting the C/L (centerline) of West Lincoln Road, Thence West 910 feet along the C/L (centerline) of West Lincoln Road, Thence North 1,743 feet to the NW (northwest) corner of lot 5 Iola Industrial Tract #1, Thence East 998.7 feet, Thence North 1,300 feet to a point intersecting the south R-O-W line of Patterson Avenue, Thence Westerly along the South R-O-W line of Patterson Avenue to a point intersecting the West right-of-way line of Marshmallow Lane, Thence West 1280 feet along the South section line of Section 22, Township 24, Range 18, Thence North 2,640 feet, Thence East 1,320 feet to the Point of Beginning.

(b) The following tract (Iola Cemetery) is also included within the city limit of Iola, Kansas:

Beginning at a point 911 feet East & 33 feet North of the SE (Southeast) corner of the SE ¼ (Southeast ¼) of Section 27, Township 24, Range 18, Thence 388 feet North, Thence 94 feet East, Thence 905 feet North, Thence 467 feet East, Thence 1,290 feet South, Thence West to the Point of Beginning.

(c) The following tract (City of Bassett) is not included with the city limits of Iola, Kansas:

Beginning at a point 980 feet West & 550 feet North to the NE (Northeast) corner of the SW ¼ (Southwest ¼) of Section 35, Thence North 350 feet to the NE (Northeast) corner of Wheeler Street

R-O-W, Thence West 170 feet, Thence South 50 feet, Thence West 135 feet, Thence South 150 feet, Thence East 135 feet to a point intersecting with the NW (Northwest) corner of Clinker Street R-O-W, Thence South 150 feet, Thence 170 feet East to the Point of Beginning.

(d) The following tract in the SE ¼ (Southeast Quarter) of Section 22, is not included with the City of Iola, Kansas:

Beginning at a point 452.4 feet West and 25 feet North of the SE (Southeast) corner of the SE ¼ (Southeast Quarter) of Section 22, Thence North 420 feet, Thence West 374.5 feet, Thence North 275 feet, Thence West 2 feet, Thence North 1,082 feet, Thence West 151 feet to the southwest corner of Lot 1 of Patterson Retail Plaza Addition to Iola, Thence Northerly along said west lot line of Lot 1 of Patterson Retail Plaza Addition to Iola to a point intersecting the south R-O-W line of Miller Road, Thence West 340 feet along the south R-O-W line of Miller Road to a point 55 feet South and 1,330 feet West of the northeast corner of the Southeast Quarter of Section 22, Thence South 2,610 feet to a point intersecting with the north R-O-W line of Patterson Avenue, Thence East 40 feet along north R-O-W line of Patterson Avenue, Thence North 392.4 feet, Thence East 417.4 feet, Thence South 392.4 feet to a point intersecting the north R-O-W line of Patterson Avenue, Thence East 430 feet to the point of beginning.

(e) The following tract in the SW ¼ (Southwest Quarter) of Section 35, is not included with the City of Iola, Kansas:

Beginning at the Southwest corner of Lot 5, Block 2, Napier's Addition to the City of Iola, Thence East to the Southeast corner of the Jefferson Avenue road right-of-way, Thence North 317.5 feet, Thence East 182.3 feet, Thence South 5 feet, Thence East to the West right-of-way line of South Buckeye Street, Thence South along the West right-of-way line of South Buckeye Street to a point 140 feet West of the East section line of said Southwest Quarter (SW ¼) of Section 35, Thence in a Southwesterly direction to a point 222 feet West of the East section line of said Southwest Quarter (SW ¼) of Section 35, Thence Southeasterly to a point 125 feet West of the East section line of said Southwest Quarter (SW ¼) of Section 35 to a point intersecting the centerline of Elm Creek, Thence in a Westerly direction along the centerline of Elm Creek to a point intersecting the West line of Lot 5, Block 2, Napier's Addition extended South, Thence North to the point of beginning.

(f) The following tract in the SW ¼ (Southwest Quarter) of Section 35, is not included with the City of Iola, Kansas:

Beginning at the point of intersection of the North right-of-way line of Portland Street and the East section line of said Southwest Quarter (SW ¼) of Section 35, Thence West 480 feet along the North right-of-way line of Portland Street, Thence North 296.3 feet, Thence West 17.2 feet, Thence North 97.5 feet, Thence West 20 feet, Thence Northwesterly to a point 537.2 feet West of the East section line of said Southwest Quarter (SW ¼) of Section 35, Thence West 209.7 feet, Thence North approximately 520 feet to a point intersecting the South right-of-way line of vacated Missouri Pacific Railroad Spur, Thence in an Easterly direction along the South right-of-way line of vacated Missouri Pacific Railroad Spur to a point 30 feet East of the East section line of said Southwest Quarter (SW ¼) of Section 35, Thence in a Southwesterly direction to a point 800 feet North of the point of beginning, Thence South to the point of beginning.

(Ord. No. 3197, § 1, 12-30-96; Ord. No. 3212, § 1, 12-9-97; Ord. No. 3230, § 1, 12-22-98; Ord. No. 3281, § 1, 11-27-01; Ord. No. 3299, § 1, 11-12-02; Ord. No. 3428, § 1, 1-27-14; Ord. No. 3430, § 1, 2-24-14)

Sec. 1-9. - Penalty for violations.

(a) In this Code "violation of this Code" means:

(1) Doing an act that is prohibited or made or declared unlawful, a violation, an offense, or a misdemeanor as provided by ordinance or by rule or regulation;

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or

(3) Failure to perform an act if the failure is declared a misdemeanor, a violation, or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this Code "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c) For the purpose of sentencing, unless otherwise specified in this Code, the following classes of violations of this Code and the punishment and terms of confinement authorized for each class are established:

(1) Class A, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one year;

(2) Class B, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed six months;

(3) Class C, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one month; and

(4) Unclassified violations, which shall include all offenses declared to be violations without specification as to class, the sentence for which shall be in accordance with the sentence specified in the section that defines the offense; if no penalty is provided, the sentence shall be the same penalty as provided herein for a class C violation or class C offense.

(d) In addition to or in lieu of any other sentence authorized, whenever there is evidence that the act constituting the violation was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the administrative judge of the 31st judicial district of the state or licensed by the state secretary of social and rehabilitation services.

(e) A person convicted of a violation of this Code may, in addition to, or instead of, the confinement authorized by law, be sentenced to pay a fine which shall be fixed by the court, unless otherwise specified in this Code, as follows:

(1) Class A violation, a sum not exceeding $2,500.00.

(2) Class B violation, a sum not exceeding $1,000.00.

(3) Class C violation, a sum not exceeding $500.00.

(4) Unclassified violation, any sum authorized by the section that defines the offense. If no penalty is provided for same, the fine shall not exceed the fine provided herein for a class C violation or class C offense.

(f) The judge of the municipal court may grant probation or suspended sentence upon a conviction for violation of this Code. As a condition of probation or suspended sentence, the judge of the municipal court shall have the authority to order a person to reimburse the city for all or part of the expenditures by the city to provide counsel or other defense services to the person. In determining the amount or method of payment of such sum, the judge of the municipal court that shall take account of the financial resources of the person and the nature of the burden of payment of such sum will impose. A person who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the judge of the municipal court that the payment of the amount due will impose manifest hardship on the person or the person's immediate family, the judge of the municipal court may waive payment of all or part of the amount due or modify the method of payment.

(g) The judge of the municipal court, in addition to, or in lieu of any of the penalties or dispositions described in this section, may order a person to pay restitution, which shall include, but not be limited to, damage or loss caused by the person's conduct, resulting in damage, personal injury, or loss to another person, unless the judge of the municipal court finds compelling circumstances which would render a plan of restitution unworkable. If the judge of the municipal court finds a plan of restitution unworkable, the judge of the municipal court shall state the reasons therefor, on the written docket of the municipal court.

(h) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.

(i) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

(Code 1988, §§ 1-111, 1-112)

Sec. 1-10. - Ordinances not affected by adoption of Code.

Nothing in this Code or the ordinance adopting this Code shall affect any of the following:

(1) Any ordinance promising or guaranteeing the payment of money by or for the city, or authorizing the issuance of any bonds, notes or other evidence of the city's indebtedness, or the cancellation of such indebtedness.

(2) Any contract or obligation assumed by the city.

(3) Any ordinance relating to the purchase, condemnation, acquisition or dedication of property for public use.

(4) Any ordinance dedicating, establishing, opening, reopening, naming, renaming, widening, narrowing or vacating any street, boulevard, avenue, alley or other public way, including rights-of-way.

(5) Any ordinance approving, amending or vacating any plat.

(6) Any ordinance establishing or changing the grade of any street, avenue, boulevard, trafficway or other public way.

(7) Any ordinance authorizing, directing or otherwise relating to any public improvement.

(8) Any ordinance creating sewer districts or districts for public improvements of any kind or nature.

(9) Any ordinance changing the limits of the city or pertaining to consolidations, annexations or exclusions of territory from the city.

(10) Any appropriation ordinance or ordinance relating to a specific transfer of funds.

(11) Any ordinance levying general or special taxes or special assessments not found in this Code.

(12) Any ordinance granting pensions to retired officers and employees.

(13) Any ordinance granting any right, privilege, easement or franchise to any person or pertaining to cable television.

(14) Any ordinance changing the zoning classification of any property within the city or amending the city's zoning map.

(15) All charter ordinances.

(16) Any ordinance prescribing the number, classification, benefits or compensation of any city officers or city employees.

(17) Any ordinance requiring or providing for the cutting of weeds.

(18) Any ordinance which is temporary, although general in effect.

(19) Any ordinance which is special, although permanent in effect.

(20) Any ordinance the purpose of which has been accomplished.

Sec. 1-11. - Continuation of existing ordinances.

The provisions of this Code, so far as they are the same as ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-12. - Prior acts, obligations or uses unaffected.

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code does not authorize or permit any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

Sec. 1-13. - Severability of parts of Code.

It is hereby declared to be the intention of the governing body that the sections, paragraphs, sentences, clauses and phrases of this Code are severable and, if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the governing body without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1988, § 1-113)

Chapter 2 - ADMINISTRATION

FOOTNOTE(S):

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Cross reference— Administration and enforcement of animal regulations, § 10-46 et seq.; administration and enforcement of electrical code, § 14-96 et seq.; administration and enforcement of plumbing Code, § 14-291 et seq.; administration and enforcement of gas code, § 14-481 et seq.; administration of city cemeteries, § 22-31; courts, ch. 26; elections, ch. 30; fees generally, ch. 34; administrative fees, § 34-31 et seq.; fire department, § 38-31 et seq.; library, ch. 50; taxation, ch. 86; administration and enforcement of traffic regulations, § 90-36 et seq.; utilities, ch. 94; tree board, § 98-31 et seq.

State Law reference— Cities and municipalities, K.S.A. 12-101 et seq.; second class cities, K.S.A. 14-101 et seq.

ARTICLE I. - IN GENERAL

Secs. 2-1—2-30. - Reserved.

ARTICLE II. - GOVERNING BODY

FOOTNOTE(S):

--- (**2**) ---

Cross reference— Elections, ch. 30.

Sec. 2-31. - Meetings.

(a) Regular meetings of the governing body shall be held on the second and fourth Mondays of each month at 6:00 p.m. in the Riverside Park Community Building, 510 Park Avenue, or at such other place as deemed appropriate by the council. When such meeting day shall be on a legal holiday (or any other day observed as a holiday by city officers), the governing body may fix any succeeding day as a regular meeting day.

(b) Special meetings may be called by the mayor or acting mayor on the written request of any three members of the council, specifying the object and purpose of the meeting and entered at length in the journal. (K.S.A. 14-111)

(Code 1988, § 1-108; Ord. No. 3390, § 1, 11-30-10; Ord. No. 3391, § 1, 12-14-10; Ord. No. 3394, § 1, 5-2-11)

Sec. 2-32. - Emergency government.

(a) In the event of a catastrophe in which a majority of the members of the governing body are fatally injured or incapacitated, an interim governing body shall be composed of the surviving member, the city clerk and the city attorney. If all members of the governing body are fatally injured, the governing body would be composed of the city clerk, the city attorney and the city administrator.

(b) Nonelected members of the interim governing body shall continue to hold office until a successor is appointed or elected and qualified as provided by law, or the lawful incumbent is able to assume and discharge the duties of office.

(Code 1988, § 1-207)

State Law reference— Authority to provide for emergency interim successors, K.S.A. 48-1206.

Secs. 2-33—2-65. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES

FOOTNOTE(S):

--- (**3**) ---

Cross reference— Any ordinance granting pensions to retired officers and employees saved from repeal, § 1-10(12); any ordinance prescribing the number, classification, benefits or compensation of any city officers or city employees saved from repeal, § 1-10(16).

Sec. 2-66. - Term of offices.

At the first regular meeting in September 1991, the governing body shall appoint, by majority vote of all members, the following city officers: city administrator, city clerk, city treasurer, city attorney, municipal

judge, police chief and the fire chief. The term of the city administrator shall be for a two-year period commencing on October 1. Subsequent appointments shall take place in odd-numbered years. The city administrator shall serve in that capacity until a successor is appointed and qualified. The terms of the city attorney, city clerk, city treasurer, municipal judge, police chief and fire chief shall be for one year commencing on October 1, 1991. Subsequent reappointments shall be for a period of two years and shall take place October 1 of even-numbered years. All officers, assistants and employees, other than those above-named, shall hold their positions at the pleasure of the governing body and may be suspended or discharged at any time. The officers specifically named in this section may be removed by the governing body for cause at any time. In case of a vacancy, an appointment shall be made to fill such vacancy, and such appointee shall serve for the remainder of the term for which such appointee's predecessor was appointed.

(Ord. No. 3097, § 1, 5-14-91)

State Law reference— Appointed officers, K.S.A. 14-1501.

Sec. 2-67. - Oath of office.

The mayor, city council and all officers, before entering upon the duties of their respective offices, shall take and subscribe an oath or affirmation as follows:

> "I do solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas, and faithfully discharge the duties of _____. So help me God."

(Code 1988, § 1-401)

State Law reference— Authority to require oath, K.S.A. 14-205; form of oath, K.S.A. 54-106.

Sec. 2-68. - Nature of employer-employee relationship.

The nature of the employment relationship between the city and each employee is an "at will" relationship. Either the employee or the city may terminate the employment relationship "at will." Nothing in this Code shall be construed to alter or modify this relationship.

(Ord. No. 3122, § 1, 12-8-92)

Sec. 2-69. - Personnel manual to be adopted.

The governing body shall adopt by resolution a personnel manual which shall incorporate policies, rules and regulations which shall govern the conduct of employees of the city.

(Ord. No. 3122, § 4, 12-8-92)

Sec. 2-70. - City administrator.

(a) The office of city administrator is hereby established.

(b) The duties of the city administrator shall be as provided in the job description for such position.

(c) The salary of the city administrator shall be fixed or adjusted by the governing body, and shall be payable semimonthly.

(Code 1988, § 1-302; Ord. No. 3097, § 2, 5-14-91)

Sec. 2-71. - City attorney.

(a) The city attorney shall have the duties provided in the job description for such position.

(c) The city attorney shall not be considered as counsel for the city planning commission, board of zoning appeals or library board, but shall advise the governing body of the city in all matters coming to it from such bodies and appear as directed by the city governing body at hearings or special meetings resulting from actions of such bodies.

(Code 1988, §§ 1-303—1-305; Ord. 3454, 1-19-16)

Sec. 2-72. - Special counsel.

The governing body is authorized to employ or contract with other counsel to represent the city in cases involving conflict of interest or services above specifically excluded from the duties of the city attorney. The governing body also is authorized to employ additional counsel to assist the city attorney in any matters wherein such governing body deems such assistance appropriate and advisable, and to pay reasonable fees and expenses in connection therewith.

(Code 1988, § 1-306)

Sec. 2-73. - City clerk.

The duties of the city clerk shall be as provided in the job description for such position.

(Code 1988, § 1-307)

Sec. 2-74. - Chief of police.

The duties of the chief of police shall be as provided in the job description for such position.

(Code 1988, § 1-308)

Sec. 2-75. - City treasurer.

The duties of the city treasurer shall be as provided in the job description for such position.

(Code 1988, § 1-309)

Sec. 2-76. - Municipal judge.

The duties of the municipal judge shall be as provided in the job description for such position and/or state law.

(Code 1988, § 1-310)

State Law reference— Municipal judge generally, K.S.A. 12-4105 et seq.

Sec. 2-77. - Fire chief.

The duties of the fire chief shall be as are provided in the job description for such position.

(Code 1988, § 1-311)

Secs. 2-78—2-110. - Reserved.

ARTICLE IV. - FINANCE

FOOTNOTE(S):

--- (**4**) ---

Cross reference— Any ordinance promising or guaranteeing the payment of money by or for the city, or authorizing the issuance of any bonds, notes or other evidence of the city's indebtedness, or the cancellation of such indebtedness saved from repeal, § 1-10(1); any contract or obligation assumed by the city saved from repeal, § 1-10(2); any ordinance relating to the purchase, condemnation, acquisition or dedication of property for public use saved from repeal, § 1-10(3); any appropriation ordinance or ordinance relating to a specific transfer of funds saved from repeal, § 1-10(10); any ordinance levying general or special taxes or special assessments not found in this Code saved from repeal, § 1-10(11); fees, ch. 34; taxation, ch. 86.

Sec. 2-111. - Receiving money belonging to city; payment; record.

All officers and employees and other persons receiving money belonging to the city shall promptly pay the same over to the city clerk, who shall give a receipt therefor, keeping a duplicate of such receipt on file.

(Code 1988, § 1-313)

Sec. 2-112. - Proper expenditures from industrial fund; enumeration.

It is hereby declared to be the policy of the governing body of the city that the following items are proper expenditures from the moneys of the industrial fund of the city:

(1) The purchase of capital stock of any corporation having as its principal purpose the securing of industrial or manufacturing concerns for the city and its environs.

(2) Membership in any for profit or nonprofit certified development corporation.

(3) The necessary expenses, transportation charges and telephone calls connected with industrial promotion in such sums as may from time to time be approved by the governing body of the city.

(4) The expense of extending sewer and utilities to serve areas in the city and its environs where industries or manufacturing concerns can reasonably be expected to locate and hereby become users of such sewers and utilities.

(5) The expense of labor and materials necessary to place a building in which the city has a financial interest in such condition that the rental or other income to the city resulting from leasing such buildings to industries or manufacturing concerns can reasonably be expected to reimburse the city for such expenditure.

(6) Such other purposes as the governing body of the city may from time to time deem to be proper.

(Ord. No. 3052, § 1, 3-14-89; Ord. 3454, 1-19-16)

Sec. 2-113. - removed

(Ord. No. 3122, § 2, 12-8-92; Ord 3454, 1-19-16)

Sec. 2-114. - Employee insurance fund.

The city, in accordance with the provisions of K.S.A. 12-16,102, does hereby establish an employee health insurance fund for the purpose of paying the city's share of employee medical insurance and health care costs.

(Ord. No. 3122, § 3, 12-8-92; Ord. 3454, 1-19-16)

Sec. 2-115. - Municipal equipment reserve fund.

(a) In accordance with the provisions of K.S.A. 12-1,117, there is hereby established a municipal equipment reserve fund, which shall be used by the city to finance acquisition of equipment necessary for all functions and services of the city. For the purpose of this section, the word "equipment" shall mean vehicles and other equipment which has an estimated future purchase or replacement cost in excess of $5,000.00 and a life expectancy of not less than two years.

(b) It is the policy objective of the governing body that such equipment reserve fund shall be used as a financing mechanism to secure the planned and orderly acquisition and replacement of equipment necessary for the efficient and effective operation of the city. It is the further intent of the governing body to annually approve in the future the budgeting of current revenues sufficient to finance the acquisition of new equipment needed in the following year, and to finance needed future replacements and acquisitions by setting aside a reserve amount. It is the planned intent of the governing body that the amount annually reserved shall not be less than the average annual use value of existing city equipment covered by the reserve fund.

(c) The city administrator shall prepare a plan of operation for the implementation of this section and for the achievement of the policy objectives of the governing body. Beginning in the year 1990, the city administrator shall include in the proposed budget for the next year an amount sufficient to cover necessary equipment acquisition costs for that year, plus an amount approximately equal to the estimated average annual expenditures of the city for future anticipated equipment purchases. At the same time each subsequent proposed annual budget is prepared, a proposed equipment acquisition program shall be submitted to the governing body. The proposed budget shall include an amount sufficient to finance proposed acquisitions for the following year, plus an amount to be reserved as set forth in the annually revised and extended equipment acquisition program.

(d) Moneys in the equipment reserve fund shall be invested in accordance with the provisions of K.S.A. 10-131 and amendments thereto, with interest earnings credited to such fund.

(Ord. No. 3076, §§ 1—4, 5-8-90)

Sec. 2-116. - Purchasing policy.

There is hereby incorporated by reference for the purpose of regulating purchases made by or in behalf of the City of Iola, Kansas, that certain policy and practices as were drafted and adopted by the Iola City Council on March 26, 2012. No fewer than three copies of said policy shall be marked or stamped "Official Copy as Adopted by Ordinance 3403," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. All departments of the city charged with enforcement of the ordinance shall

be supplied, at the cost of the city, such number of official copies of such policy, similarly marked, as may be deemed expedient.

(Ord. No. 3403, § 1, 4-9-12; Ord. No. 3411, § 1, 11-13-12; Ord. No. 3412, § 1, 12-20-12)

Sec. 2-117. - Capital Improvement Program (CIP).

The Capital Improvement Program (CIP) will be prepared and reviewed annually during the budgeting process. The CIP will be adopted by reference. Placing items on the CIP does not imply that there are funds available to complete the projects. The list is a projection of what is desired. The plan will be adjusted as funds become available or priorities change.

(Ord. No. 3418, § 2(2-177), 3-25-13)

Editor's note— Ord. No. 3418, § 2, adopted March 25, 2013, set out provisions intended for use as § 2-177. At the editor's discretion, to preserve the style of this Code, these provisions have been included as § 2-117.

Secs. 2-118—2-150. - Reserved.

ARTICLE V. - OPEN RECORDS

FOOTNOTE(S):

--- (**5**) ---

State Law reference— Open records act, K.S.A. 45-215 et seq.

Sec. 2-151. - Purpose of article; review.

It is the purpose of this article to establish reasonable fees and charges for the provision of access to or copies of open public records in the possession of the city to avoid the necessity of using general public funds of the city to subsidize special services and benefits to a record requester. The official record custodian shall periodically recommend to the governing body such changes in this article as may be necessary to secure this purpose.

(Code 1988, § 1-701)

Sec. 2-152. - City records.

The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference as if set out in full in this section.

(Code 1988, § 1-109)

Sec. 2-153. - Inspection fee.

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

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate per hour, per employee established in section 34-31 engaged in the record search.

(Code 1988, § 1-702)

State Law reference— Inspections and inspection fees, K.S.A. 45-218.

Sec. 2-154. - Copying fee.

(a) A fee, as found in section 34-32, shall be charged for photocopying public records. Such fee shall cover the cost of labor, materials and equipment.

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

(Code 1988, § 1-703)

State Law reference— Copying fee, K.S.A. 45-219.

Sec. 2-155. - Prepayment of fees.

(a) A record custodian may demand prepayment of the fees established by this article whenever such custodian believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charge accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record of delivery of the requested copies.

(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed $10.00.

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

(Code 1988, § 1-704)

State Law reference— Authority to require advance payment of fees, K.S.A. 45-218(f), 45-219(a).

Secs. 2-156—2-170. - Reserved.

ARTICLE VI. – Subtitles Division 1 and Division 2 are deleted.

DIVISION 1. - RESERVED

Secs. 2-171—2-190. - Reserved.

DIVISION 2. - HOUSING REHABILITATION AND CITIZENS ADVISORY BOARD

FOOTNOTE(S):

--- (**6**) ---

Editor's note—Ord. No. 3295, §§ 1—5, adopted Aug. 13, 2002, was not specifically amendatory of the Code and has been included as ch. 2, art. VI, div. 2, §§ 2-191—2-195 at the editor's discretion.

Sec. 2-191. – Housing Authority Board.

There is hereby created housing authority board to serve the governing body of the City of Iola, which shall have the functions, duties, and authority prescribed herein. (Authority K.S.A. 17-2340 et.at.)

(Ord. No. 3295, § 1, 8-13-02; Ord 3454, 1-19-16)

Sec. 2-192. – Membership, officers and vacancies.

The board shall consist of five members to be appointed by the mayor with the consent of the governing body. All members shall be residents of the city or live within five miles of the corporate limits. All members of the board shall serve without pay. The board shall annually select a chairman and a vice-chairman. A majority of the board shall constitute a quorum for the transaction of business. The board shall cause a proper record to be kept of its proceedings.

(Ord. No. 3295, § 2, 8-13-02; Ord 3454, 1-19-16)

Sec. 2-193. - Functions, duties, and authority.

The board shall have the following functions, duties, and authority:

(1) Review and approve the business of the housing authority, including payroll, expenditures, approval of contracts, and maintenance of facilities.

(2) Establish policy where otherwise not specified.

(3) Recommend changes in program guidelines.

(Ord. No. 3295, § 3, 8-13-02; Ord 3454, 1-19-16)

Sec. 2-194. – Deleted, no longer applies.

(Ord. No. 3295, § 4, 8-13-02; Ord 3454, 1-19-16)

Sec. 2-195. – Deleted, no longer applies.

(Ord. No. 3295, § 5, 8-13-02; Ord 3454, 1-19-16)

Chapters 3-5 Reserved

Chapter 6 - ALCOHOLIC BEVERAGES

FOOTNOTE(S):

--- (**1**) ---

Cross reference— Businesses, ch. 18; alcoholic beverage fees, § 34-66.

State Law reference— Intoxicating liquors and beverages, K.S.A. ch. 41.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol. Alcoholic liquor means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

Cereal malt beverage means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage, as defined in

K.S.A. 2014 Supp. 41-2729, and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight.

Class A club means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.

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

Club means a class A or class B club or any other operation selling alcoholic liquor under the laws of the State of Kansas.

General retailer means a person who has a license to sell cereal malt beverages at retail.

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

Place of business means any place at which cereal malt beverages or alcoholic beverages, or both, are sold.

Wholesaler or distributor means any individuals, firms, co-partnership, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, co-partnership, corporations and associations authorized by this chapter to sell cereal malt beverages at retail.

(Code 1988, § 3-101; Ord. No. 3261, § 1, 11-28-00; Ord. 3454, 1-19-16)

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar provisions, K.S.A. 41-102, 41-2701.

Sec. 6-2. - Public sale; consumption.

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

(b) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city.

(c) For purposes of this section, the term "public place" shall include: any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of such places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to K.S.A. ch. 27 (K.S.A. 27-101 et seq.).

(Code 1988, § 3-102)

Sec. 6-3. - Identification card.

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

(1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

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

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

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

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

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

(2) Lend any identification card to or knowingly permit the use of any identification card by any person under the legal age for consumption of cereal malt beverage for use in the sale, purchase or consumption of any cereal malt beverage.

(Code 1988, § 3-105)

State Law reference— Similar provisions, K.S.A. 41-727.

Sec. 6-4. - Underage purchaser.

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

(b) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any alcoholic liquor.

(Code 1988, § 3-106; Ord. 3454, 1-19-16)

State Law reference— Purchase or consumption of alcohol by underage persons, K.S.A. 41-727, 41-2615.

Sec. 6-5. - Sale on Sunday and designated holidays.

(a) Cereal malt beverages. Pursuant to ~~2005 Kan. Sess. Laws, Ch. 201~~, K.S.A. 41-2704, the sale of cereal malt beverage in the original package is allowed within the city on any Sunday, except, Easter and Christmas, between the hours of 12:00 noon and 8:00 p.m.

(b) Alcoholic liquors. Pursuant ~~to 2005 Kan. Sess. Laws, Ch. 201~~, K.S.A. 41-2911, the sale at retail of alcoholic liquor in the original package is allowed within the city on any Sunday, except Easter or Christmas, between the hours of 12:00 noon and 8:00 p.m., and on Memorial Day, Independence Day, and Labor Day.

(Ord. No. 3339, §§ 1, 2, 1-24-06; Ord 3454, 1-19-16)

Editor's note— Ord. No. 3339, §§ 1, 2, adopted Jan 24, 2006, amended the Code by adding provisions that were not specifically amendatory. At the editor's discretion, said provisions have been included herein as § 6-5.

Secs. 6-6—6-35. - Reserved.

ARTICLE II. - CEREAL MALT BEVERAGES

FOOTNOTE(S):

--- (**2**) ---

State Law reference— Cereal malt beverages generally, K.S.A. 41-2701 et seq.; local regulation of sale of cereal malt beverages, K.S.A. 41-2704(a).

DIVISION 1. - GENERALLY

Sec. 6-36. - Wholesalers and/or distributors.

It shall be unlawful for any wholesaler and/or distributor, or such wholesaler's or distributor's agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the state authorizing such sales.

(Code 1988, § 3-212)

State Law reference— Licensing of beer distributors, K.S.A. 41-307.

Sec. 6-37. - Occupation tax on beer distributors.

(a) Any licensee holding a license for the purpose of distributing beer containing more than 3.2 percent of alcohol by weight issued by the state director of alcoholic beverage control shall pay an annual occupation tax to the city. For the first and each additional wholesale distributing place of business operated in the city by the same licensee for wholesaling or jobbing beer containing more than 3.2 percent of alcohol by weight, the sum as established in section 34-66 shall be paid annually.

(b) A holder of a license for the distributing, wholesaling and jobbing of alcoholic liquors or beer in the city, issued by the state director of alcoholic beverage control, shall present such license when applying to pay the occupation tax levied in subsection (a) of this section, and the tax shall be received and the receipt issued by the city clerk for the period covered by the state license.

(c) Every licensee shall cause the city alcoholic liquor or beer distributor's, wholesaler's and jobber's occupation tax receipt to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(Code 1988, §§ 3-218—3-219)

Cross reference— Taxation generally, ch. 86.

State Law reference— Authority to levy tax on beer distributors, K.S.A. 41-310(j).

Secs. 6-38—6-60. - Reserved.

DIVISION 2. - RETAILERS

Subdivision I. - In General

Sec. 6-61. - Business regulations.

It shall be the duty of every licensee to observe the following regulations:

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

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

(3) Except as provided by subsection (4) of this section, no cereal malt beverages may be sold or dispensed between the hours of 11:30 p.m. and 6:00 a.m., or consumed between the hours of 11:30 p.m. and 6:00 a.m., or on Sunday. Closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.

(4) Cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2701 et seq., and licensed as a club by the state director of alcoholic beverage control. Additionally, the sale of cereal malt beverages for off the premises consumption and in the original package may be sold on any Sunday, except Easter or Christmas, between the hours of 12:00 noon and 8:00 p.m. and on the

following holidays; Memorial Day, Independence Day and Labor Day between the hours of 6:00 a.m. and 11:30 p.m.

(5) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the state director of alcoholic beverage control shall be open to the police and not to the public.

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

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

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

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

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

(11) No licensee or agent or employee of the licensee shall employ any person under 21 years of age in dispensing cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

(Code 1988, § 3-313; Ord. No. 3161, § 3, 11-22-94; Ord. No. 3333, § 1, 9-6-05)

Sec. 6-62. - Prohibited conduct on premises.

The following conduct by a cereal malt beverage licensee, manager or employee of any licensed cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

(1) Remaining or permitting any person to remain in or upon the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of males' or females' pubic hair, anus, buttocks or genitals.

(2) Permitting any employee on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or any patron.

(3) Encouraging or permitting any patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any employee.

(4) Performing or permitting any person to perform on the licensed premises acts of or acts which simulate:

a. Sexual intercourse, masturbation, sodomy or any other sexual act which is prohibited by law; or

b. Touching, caressing or fondling such person's breasts, buttocks, anus or genitals.

(5) Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by subsection (4) of this section.

(6) Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction or other visual reproduction depicting:

a. Acts or simulated acts of sexual intercourse, masturbation, sodomy or any sexual act which is prohibited by law;

b. The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts; or

c. Scenes in which a person displays the buttocks, anus, genitals or the female breasts.

(7) As used in this section, the term "premises" means the premises licensed by the city as a cereal malt beverage establishment and such other areas, under the control of the licensee or employees of such licensee, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.

(Code 1988, § 3-214)

Sec. 6-63. - Sanitary conditions required.

All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex, easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying the hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing, and toilet paper shall be provided at all times. Easily cleanable receptacles shall be provided for waste material, and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee.

(Code 1988, § 3-215)

Sec. 6-64. - Minors on premises.

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

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

(Code 1988, § 3-216)

Secs. 6-65—6-85. - Reserved.

Subdivision II. - License

Sec. 6-86. - Required.

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

(b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.

(Code 1988, § 3-201)

State Law reference— Local license required, K.S.A. 41-2702.

Sec. 6-87. - Application; contents.

(a) Any person desiring a license shall make an application to the governing body of the city and accompany the application with the required license fee for each place of business for which the person desires the license. The application shall be verified, shall be upon a form prepared by the attorney general of the state, and shall contain the following:

(1) The name and residence of the applicant and how long the applicant has resided within the state.

(2) The particular place for which a license is desired.

(3) The name of the owner of the premises upon which the place of business is located.

(4) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.

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

(6) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that such officer has inspected the premises to be licensed and that the premises comply with the provisions of applicable health laws.

(7) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that the chief has inspected the premises to be licensed and that the premises comply with the provisions of applicable fire prevention standards.

(b) The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether the applicant is qualified as a licensee under the provisions of this division. The chief shall report to the governing body not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.

(Code 1988, § 3-202)

State Law reference— License applications, K.S.A. 41-2702.

Sec. 6-88. - Application procedures.

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

(b) The city clerk's office shall notify the applicant of an existing license 30 days in advance of its expiration.

(c) The clerk's office shall provide copies of all applications to the police department, to the fire department, and to the city-county health department, when they are received. The police department will run a records check on all applicants, and the fire department and health department will inspect the premises in accord with applicable law. The departments will then recommend approval, or disapproval, of applications within five working days of the department's receipt of the application.

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

(e) An applicant who has not had a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.

(Code 1988, § 3-202A)

Sec. 6-89. - Granted; denied.

(a) The journal of the governing body shall show the action taken on the application.

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

(c) No license shall be transferred to another licensee.

(d) If the license shall be denied, the license fee shall be immediately returned to the person who has made application.

(Code 1988, § 3-203)

State Law reference— Cereal malt beverage licenses not transferable, K.S.A. 41-2702(h).

Sec. 6-90. - Disqualification of applicant.

No license shall be issued to the following:

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

(2) A person who is not a citizen of the United States.

(3) A person who is not of good character and reputation in the community in which such person resides.

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

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

(6) A corporation if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residency requirements.

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

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

(9) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection shall not apply in determining eligibility for a renewal license.

(Code 1988, § 3-205)

State Law reference— Persons eligible for retail cereal malt beverage license, K.S.A. 41-2703.

Sec. 6-91. - Restriction upon location.

(a) No license shall be issued for the sale at retail of any cereal malt beverage on premises which are located in areas not zoned for such purpose.

(b) It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within a 200-foot radius of any church or school.

(c) Provisions of this section shall not apply to any establishment holding a private club license issued by the state.

(d) The distance limitation of subsection (b) of this section shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing.

(Code 1988, § 3-206)

Sec. 6-92. - Fee.

(a) The rules and regulations regarding license fees shall be as follows:

(1) General retailer. For each place of business selling cereal malt beverages at retail, the license fee shall be as found in section 34-67.

(2) Limited retailer. For each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, the license fee shall be as found in section 34-67.

(b) Full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

(Code 1988, § 3-207)

State Law reference— Local license fees, K.S.A. 41-2702(d), (g).

Sec. 6-93. - Change of location.

If a licensee desires to change the location of such licensee's place of business, such licensee shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee as found in section 34-68. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee.

(Code 1988, § 3-211)

Sec. 6-94. - Posting.

Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

(Code 1988, § 3-204)

Sec. 6-95. - Suspension.

The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this division or other laws pertaining to cereal malt beverages, which violation does not in the chief's judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order.

(Code 1988, § 3-208)

Sec. 6-96. - Suspension or revocation.

(a) The governing body of the city, upon five days' written notice to a person holding a license to sell cereal malt beverages, shall revoke or suspend such license in accordance with the following procedure and for any of the following reasons:

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

(2) If the licensee has violated any of the provisions of this division or any other ordinance of the city prescribing rules or regulations relating to cereal malt beverages, or if the licensee has violated any law of the state for which violation the city is authorized to revoke or suspend;

(3) If the licensee has become ineligible to obtain a license under this division;

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

(5) The sale of cereal malt beverages to any person under the legal age for consumption;

(6) The nonpayment of any license fees;

(7) Permitting any gambling in or upon such licensed premises;

(8) Permitting any person to mix drinks with materials purchased in such place of business or brought in for such purpose;

(9) Employment of any persons under the age established by the state for employment involving dispensing cereal malt beverages;

(10) Employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;

(11) Sale or possession of or permitting any person to use or consume upon or in such licensed premises alcoholic liquor as defined by the laws of the state relating thereto; provided, however, that the provisions of this subsection (a)(11) and subsection (a)(8) of this section shall not apply if such licensed premises are also licensed by the state director of alcoholic beverage control for the serving and/or consumption of alcoholic liquor; or

(12) If the licensed premises fails to meet the requirements set forth in this division.

(b) For a violation of subsection (a)(5) of this section pertaining to the sale of cereal malt beverages to any person under the legal age for consumption, the following minimum suspension of licenses shall apply:

(1) First violation within a three-year period:

a. Written response by the license holder explaining how the violation occurred and what will be done to prevent a similar occurrence in the future;

b. Three-day suspension of the license, with dates approved by the city;

c. A license reinstatement fee in an amount established in section 34-69; and

d. Offer of diversion to the employee violating the law.

(2) Second violation within a three-year period:

a. Written response by the license holder explaining how the violation occurred and what will be done to prevent a similar occurrence in the future;

b. One-week suspension of the license, dates approved by the city;

c. A license reinstatement fee in an amount established by section 34-69; and

d. Offer of diversion to employee violating the law.

(3) Third violation within a three-year period:

a. Written response by the license holder explaining how the violation occurred and what will be done to prevent a similar occurrence in the future;

b. One-month suspension of the license, dates approved by the city;

c. A license reinstatement fee in an amount established by section 34-69; and

d. Offer of diversion to employee violating the law.

(4) Fourth violation within a three-year period:

a. Written response by the license holder explaining how the violation occurred and what will be done to prevent a similar occurrence in the future;

b. Permanent suspension of the license from individual and a one-year suspension of license as to the premises; and

c. Offer of diversion to employee violating the law.

(5) The governing body may consider a request for reduced penalties where the violation was occasioned by a malicious action of an employee or through subterfuge.

(c) Within 20 days after the order of the governing body revoking or suspending a cereal malt beverage license based upon any of the foregoing reasons, the licensee may appeal to a court of competent jurisdiction in the manner provided by law; provided, however, that any such appeal will not suspend the order of revocation or suspension during the pendency of such appeal.

(d) In the event of revocation of the license of any licensee, no new license shall be issued to any such person or any person acting for or in the licensee's behalf for a period of six months thereafter.

(Code 1988, §§ 3-209, 3-210; Ord. No. 3169, § 1, 5-9-95)

State Law reference— License revocation or suspension, K.S.A. 41-2708.

Secs. 6-97—6-130. - Reserved.

ARTICLE III. - ALCOHOLIC LIQUOR

FOOTNOTE(S):

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State Law reference— Kansas liquor control act, K.S.A. 41-101 et seq.; local regulation of alcoholic liquor, K.S.A. 41-208.

Sec. 6-131. - State license required.

(a) It shall be unlawful for any person to keep for sale, offer for sale or expose for sale or sell any alcoholic liquor without first having obtained a state license to do so.

(b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 6-132, and the tax shall be received and a receipt shall be issued for the period covered by the state license.

(Code 1988, § 3-301)

State Law reference— State licensing of alcoholic liquor sales, K.S.A. 41-301 et seq.

Sec. 6-132. - Occupational tax—Levied.

(a) There is hereby levied an annual occupation tax in an amount established in section 34-70 on any person holding a license issued by the state director of alcoholic beverage control for the retail sale within the city of alcoholic liquors for consumption off the premises. Such tax shall be paid by the retailer to the city clerk before business is begun under an original state license and shall be paid within five days after any renewal of a state license.

(b) There is hereby levied an annual occupation tax on each distributor, wholesaler and jobber of alcoholic liquor, except beer, selling at wholesale to retailers within the state, in the sum established in section 34-70 in the city, who may establish, maintain and operate a liquor distributing, wholesaling and jobbing place of business and who has a distributor's, wholesaler's and jobber's license issued by the state director of alcoholic beverage control, which tax shall be paid before business is begun under an original state license therefor and within ten days after any renewal of such state license. A holder of a license for the distributing, wholesaling and jobbing of alcoholic liquors or beer in the city, issued by the state director of alcoholic beverage control, shall present such license when applying to pay the occupation tax levied in this subsection, and the tax shall be received and receipt issued by the city clerk for the period covered by the state license.

(Code 1988, §§ 3-302, 3-307, 3-308)

Cross reference— Taxation generally, ch. 86.

State Law reference— Authority to levy occupation tax on alcoholic liquor dealers, K.S.A. 41-310(l).

Sec. 6-133. - Same—Displaying receipt.

Every retailer licensee shall cause the city alcoholic liquor or beer distributor's, wholesaler's and jobber's occupation tax receipt to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(Code 1988, §§ 3-303, 3-309)

Sec. 6-134. - Reserved.

Editor's note— Ord. No. 3236, § 1, adopted 6-22-99 repealed § 6-134 which pertained to hours of sale of alcoholic beverages. See the Code Comparative Table.

Sec. 6-135. - Business regulations.

It shall be unlawful for a retailer of alcoholic liquor to:

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

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

(3) Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;

(4) Have in such retailer's possession for sale at retail any bottles, cask or other containers containing alcoholic liquor, except in the original package;

(5) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.

(Code 1988, § 3-305)

State Law reference— Furnishing liquor to minors, K.S.A. 21-3610.

Sec. 6-136. - Restrictions on location.

No person shall knowingly or unknowingly sell, give away, furnish, dispose of, procure, exchange or deliver, or permit the selling, giving away, furnishing, disposing of, procuring, exchanging or delivering of any alcoholic beverage in any building, structure or premises, for consumption in such building or upon such premises if such consumption is within 200 feet from any existing hospital, school, church or library building.

(Code 1988, § 3-306; Ord. No. 3419, § 1, 4-23-13)

State Law reference— Location restrictions, K.S.A. 41-710(c)(1).

Sec. 6-137. - Exemption of certain areas from state law provisions regarding consumption.

The city does hereby exempt itself from the provisions of K.S.A. 41-719(c) regarding the consumption of alcoholic liquor in the interior of those three buildings commonly referred to as the Dr. John Silas Bass North Community Building, 505 N. Buckeye, the Riverside Park Community Recreation Building, 500 Park Avenue, and the Riverside Park Community Building, 510 Park Avenue, the titles of which vested in the City of Iola.

(Ord. No. 3159, § 1, 11-8-94; Ord. No. 3374, § 1, 8-25-09; Ord 3454, 1-19-16)

Secs. 6-138—6-170. - Reserved.

ARTICLE IV. - PRIVATE CLUBS

FOOTNOTE(S):

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State Law reference— Liquor by the drink, K.S.A. 41-2601 et seq.; local regulation of clubs, K.S.A. 41-2631.

Sec. 6-171. - License—Required.

It shall be unlawful for any person granted a private club license by the state to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the city clerk.

(Code 1988, § 3-401)

Sec. 6-172. - Same—Fees.

(a) There is hereby levied an annual license fee on each private club located in the city which has a private club license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license. The city license fee for a class A club shall be an amount established in section 34-71, the city license fee for a class B club shall be an amount established in section 34-71, and the city license fee for any other operation selling alcoholic liquor under the laws of the State of Kansas shall be an amount established in section 34-71.

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

(c) The license period shall extend for a period covered by the state license. The licensee shall be entitled to a refund of the unused portion of the license, if a refund has been granted by the state and if the licensee requests a refund from the city within six months of the date of issuance of the license.

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

(Code 1988, § 3-402; Ord. No. 3128, § 1, 3-3-93; Ord. No. 3262, § 1, 11-28-00)

State Law reference— Authority to levy occupation or license tax on clubs, K.S.A. 41-2622(b); display of state license, K.S.A. 41-2612.

Sec. 6-173. - Business regulations.

(a) No club licensed under this article shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

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

(c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under 21 years of age.

(Code 1988, § 3-403)

State Law reference— Hours of club regulation, K.S.A. 41-2614; possession or consumption of alcohol by underage persons, K.S.A. 41-2615.

Sec. 6-174. - Prohibited conduct on the premises.

The following conduct by private club licensee, manager or employees of any licensed private club establishment is deemed contrary to public welfare and is prohibited:

(1) Remaining or permitting any person to remain in or upon premises who exposes to view any portion of the female breasts below the top of the areola or any portion of a male's or female's pubic hair, anus, buttocks or genitals.

(2) Permitting any employee on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or any patron.

(3) Encouraging or permitting any patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any employee.

(4) Performing or permitting any person to perform on the licensed premises acts of or acts which simulate:

a. Sexual intercourse, masturbation, sodomy or any other sexual act which is prohibited by law; or

b. Touching, caressing or fondling such persons' breasts, buttocks, anus or genitals.

(5) Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by subsection (4) of this section.

(6) Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction, video or other visual reproduction depicting:

a. Acts or simulated acts of sexual intercourse, masturbation, sodomy or any sexual act which is prohibited by law;

b. The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts; or

c. Scenes in which a person displays the buttocks, anus, genitals or the female breasts.

(7) As used in this section, the term "premises" means the premises licensed by the city as a private club establishment and such other areas, under the control of the licensee or the licensee's employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.

(Ord. No. 3110, § 1(3-404), 11-12-91)

Chapters 7-9 Reserved

Chapter 10 - ANIMALS

FOOTNOTE(S):

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Cross reference— Fees for animals, § 34-106 et seq.; health and sanitation, ch. 46.

State Law reference— Livestock and domestic animals, K.S.A. ch. 47.

ARTICLE I. - IN GENERAL

Sec. 10-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means for an owner or keeper to relinquish custody of an animal without the intent to recover or resume such custody. Abandon also includes the leaving of an animal by its owner or keeper for more than twenty-four (24) hours without making effective provisions for its proper care, or turn out or release of an animal for the purpose of causing it to be impounded.

Animal means any live, vertebrate creature, domestic or wild, other than humans, and including all fowl.

Animal control officer means the person duly authorized by the city administrator to perform the duties authorized by this chapter and any police officer who may act through the chief of police to perform a duty under this chapter, unless otherwise specifically stated.

Animal hospital means any facility which has the primary function of providing medical and surgical care for animals and is operated by a currently licensed veterinarian.

Animal shelter means the facility or facilities operated for the purpose of impounding or caring for animals under the authority of this chapter or state law.

At-large means to be: (1) outside of the owner or keeper's property, fence, or other enclosure which restrains the animal to a particular premise, or (2) not under the control, by leash, chain, or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be "At-large".

Bite means any actual abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal.

Cat means any member of the Felis Catus family, male or female, regardless of age.

Catterie means any establishment where more than four purebred or mixed breed cats, registered under any nationally recognized cat fancy group, society or association, are kept as a hobby or profit where the breeding of such animals is for the improvement of the breed, and where such cats are kept in a specific, indoor, enclosed area at all times.

Commercial animal establishment means any pet shop, grooming shop, auction, riding stable, guard dog service, kennel, hobby breeder, catterie, animal shelter, other than that operated by the city, animal hospital, business keeping animals in stock for retail or wholesale trade, or any establishment performing one or more of the principal activities of the aforementioned establishments.

Dog means any member of the Canis Familiaris, male or female, regardless of age.

Fowl means any animal that is included in the zoological class aves.

Hobby breeder means any person who owns more than four purebred or mixed breed dogs over five months of age, where such dogs are habitually lodged or fed within such person's house or premises, for the purpose of improving the breed, and who raises no more than two litters of pups per year.

Household means all persons living in the same dwelling unit.

Humane euthanasia means that proper injection of a substance that quickly and painlessly terminates the life of an animal, or any method approved by the American Veterinary Medical Association of the American Veterinary Medical Association of the American Humane Society or K.S.A. 47-1718.

Humane live animal trap means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

Humane officer means any staff person employed at the city animal shelter.

Inhumane or cruel treatment or manner means any treatment to any animal which deprives the animal of necessary sustenance, including sufficient wholesome food, potable water and protection from weather, or any treatment of any animal such as overloading, overworking, tormenting, beating, mutilating or teasing, or other abnormal treatment that causes suffering to such animal.

Kennel means any premises upon which five or more cats or dogs are kept, boarded, bred, trained for a fee, bought and/or sold, except for commercial establishments otherwise enumerated in this chapter.

Large animal means any swine, bovine, horse, mule, donkey, and other equine, goat, sheep, beast of burden, or any other domestic or wild animal of similar or larger size.

Neutered means any male or female cat or dog that has been permanently rendered sterile.

Own or owner means any person who feeds or shelters any unowned animal for 24 or more consecutive hours or who professes ownership of such animal, shall be deemed to be owning. If a minor owns an animal, then any household head of which such minor is a member shall be deemed the owner of such animal under this chapter and shall be responsible as the owner, whether or not such household head is a minor. If not a member of a household, such minor shall be directly subject to the provisions of this chapter.

Premises means any parcel of land and any structures thereon in which any animal regulated by this chapter is housed and/or confined.

Registration tag means any system of animal identification approved by the city administrator which does not involve alteration or permanent marking of any animal.

Residential structure means a building, all or part of which contains one or more dwelling units, including single-family dwellings, two-family dwellings, multiple-family dwellings, lodginghouses, manufactured home, dormitories, sororities and fraternities.

Small animal means any animal not within the definition of large animal, but including all dogs without reference to size.

Summons means a violation of notice requiring the violator to appear before the municipal judge, or in lieu of such appearance, to pay such fine as is prescribed in this chapter.

Wild animal means any animal which is predominately free roaming as opposed to domesticated.

(Ord. No. 3163, § 1, 12-13-94; Ord 2456, 03-28-16)

Cross reference— Definitions generally, § 1-2.

Sec. 10-2. - Interference with animal control or police officers.

It is unlawful for any person to interfere with the duty of the animal control officer or any police officer by removing, or causing to be removed, the identification tag of any cat or dog without the consent of the owner thereof; to refuse to identify oneself upon the request of the animal control officer or any police officer when such officer has probable cause to believe that such person has violated this chapter; or in any other manner to prevent the lawful discharge of enforcement duties prescribed by this chapter.

(Ord. No. 3163, § 4(f), 12-13-94)

Sec. 10-3. - Owners to comply with regulations issued to protect public health.

Any owner of any animal shall meet any requirements for the reporting of animal bites, the confinement of animals that have bitten persons, or any other duties prescribed by the animal control officer through regulations issued to protect the public health.

(Ord. No. 3163, § 5, 12-13-94)

Sec. 10-4. - Keeping animals near residences of others.

It shall be unlawful for any person to keep on any private premises in the city, or to feed and care for any such animal therein on any lot or in any enclosure or building located within 200 feet of the dwelling house or residence of any person other than the owner or keeper of such animals; except for the keeping and caring for registered domesticated dogs, cats, or other permitted animals. Permitted domesticated animals may be kept in enclosures that abide be existing setback and other requirements.

(Code 1988, § 2-104; Ord. No. 3438, § 2, 9-8-14)

Sec. 10-5. - Unattended animals used for riding or driving.

It shall be unlawful for any person having charge of any animal used for riding or driving to permit the animal to stand unattended upon any street, avenue, alley or public ground or any unenclosed tract of land within the city unless such animal is securely fastened or tied by a rope, chain or leather strap which shall be securely fastened to some object capable of holding such animal.

(Code 1988, § 2-106)

Sec. 10-6. - Keeping of hogs and goats.

It shall be unlawful for any person to keep, harbor or feed any living swine or goats within the corporate limits of the city. The provisions of this article shall not apply to exhibitions authorized to be held in Riverside Park, shippers preparing to ship swine over railroads or the keeping of swine or goats in company stockyards.

(Code 1988, § 2-112)

Sec. 10-7. - Proper maintenance of animal yard structures and pen required.

(a) It shall be unlawful for any person to keep or maintain any animal in any yard structure or area that is not clean, dry and sanitary; free from debris and offensive odors that annoy any neighbor; and devoid of rodents and vermin.

(b) Excrement shall be removed daily from any pen or yard area where animals are kept, and if such excrement is stored on the premises of any animal owner, it shall be stored in adequate containers with flytight lids.

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

(d) All premises on which animals are kept shall be subject to inspection by the animal control officer or police officer. If the animal control officer determines from such inspection that the premises are not being maintained in a clean and sanitary manner, the animal control officer shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on such owner prior to filing a complaint in municipal court. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

(e) Animal pens must be adequately sized. Adequate size shall be based on the length of the animal being held. Space must be three times the length of the animal squared; i.e. a dog measuring three feet in length would require a pen that is at least $(3 \text{ ft.} \times 3)^2 = 81$ sq. ft. Pens must be constructed in a workmanlike manner and must comply with all accessory structure setback requirements.

(f) Animals held in a pen either full-time or for short durations, shall be provided with shade and protection from weather.

(Ord. No. 3163, § 7, 12-13-94; Ord. No. 3438, § 3, 9-8-14)

Sec. 10-8. - Animal nuisance activities.

(a) The owner of any animal shall take all reasonable measures to keep such animal from becoming a nuisance. For the purpose of this section, the term "nuisance" is defined as any animal which:

(1) Molests or interferes with persons in the public right-of-way;

(2) Attacks or injures persons, or other domestic animals;

(3) Damages public or private property by its activities or with its excrement;

(4) Scatters refuse that is bagged or otherwise contained;

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

(6) Bite means any actual abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal.

(b) If a summons is issued charging violation of this section, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.

(Ord. No. 3163, § 11, 12-13-94; Ord 3456, 03-28-16)

Sec. 10-9. - Excessive animal noise.

(a) The following definitions and conditions shall apply to this section:

Excessive noise means any animal noise which is so loud and continuous or untimely as to disturb the sleep or peace of a neighbor.

Neighbor means any person residing in a residence structure which is within 100 yards of the property on which the animal is owned.

(b) It shall be unlawful for the owner of any animal to permit such animal to make excessive noise, including loud, frequent and habitual barking, howling, yelping, meowing, roaring, or screeching, that disturbs a neighbor.

(c) It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the nuisance, and if he or she fails to do so, the city may abate the nuisance by taking up, impounding and/or disposing of the animal at the expense of the owner.

(d) If a summons is issued charging violation of this section, a subpoena shall also be issued to the disturbed neighbor to testify to the disturbance under oath.

(Ord. No. 3163, § 12, 12-13-94; Ord 3456, 03-28-16)

Sec. 10-10. - Running at large.

It shall be unlawful for the owner of any animal to permit such animal to run at large within the city at any time. Any animal shall be deemed running at large when such animal is not inside a residence structure, secure fence or pen, on a leash held by a person capable of controlling such animal or tethered as permitted under section 10-14 of the Iola Municipal Code in such a manner as to prevent its getting onto public rights-of-way or another's property. This section shall not apply to dogs being obedience trained, or to cats, which shall, however, be kept under reasonable restraint to prevent such nuisance activities as prohibited in section 10-8. Any animal found at large, including those that are registered with the City of Iola, may be impounded as provided in Section 10-50.

(Ord. No. 3163, § 10(a), 12-13-94; Ord. No. 3438, § 4, 9-8-14; Ord 3456, 3-28-16)

Sec. 10-11. - Animals in public places.

No animal shall be allowed to enter any theatre, store or other public building in the city, whether accompanied by its owner or person in charge or otherwise, except with the approval of the building's owner or manager. Dogs trained to assist the blind, deaf or other specially trained helper dogs are exempt from this section.

(Ord. No. 3163, § 16, 12-13-94)

State Law reference— Right to use guide dogs, K.S.A. 39-1101 et seq.

Sec. 10-12. - Removal of animal feces required.

The owner of any animal, when such animal is off the owner's property, shall be responsible for the removal of any feces deposited by such animal on public walks, streets, recreation areas or private property, and it shall be a violation of this section for such owner to fail to remove or provide for the removal of such feces before taking such animal from the immediate area where such defecation occurred.

(Ord. No. 3163, § 17, 12-13-94)

Cross reference— Solid waste, ch. 74.

Sec. 10-13. - Keeping of domesticated fowl.

It shall be unlawful for any person to keep, harbor or feed any domesticated fowl within the corporate limits of the city. The provisions of this section shall not apply to exhibitions authorized to be held in Riverside Park or the keeping of domesticated fowl for the immediate purpose of processing.

(Ord. No. 3249, § 1, 5-23-99)

Sec. 10-14. - Tethering of animals.

It shall be unlawful to continuously tether an animal for more than one continuous hour, except that tethering of the same animal may resume after a hiatus of three continuous hours.

(1) For the purpose of tethering an animal, a chain, leash, rope, or tether shall be at least ten feet in length, and not less than three times the length of the animal from tip of nose to base of tail.

(2) A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to tether an animal shall not weigh more than 1/8 of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area tethered.

(3) Animals shall be tethered in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles.

(4) It shall be unlawful to tether an animal without access to shade when sunlight is likely to cause overheating. Appropriate shelter shall be provided to ensure the animal has access to insulation and protection against cold and dampness when the atmospheric temperature falls below 40 degrees Fahrenheit.

(5) It is unlawful to attach chains or other tether restraint implements directly to an animal without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal. Use of a choke or pinch type collar for tethering is prohibited.

(6) Continuous tethering of an animal may be permitted by the animal control officer for a limited period of time, that being 30 days, during special circumstances such as repair or replacement of a fence, or temporary custody of an animal. In addition, after the adoption of this section, any citizen that currently tethers an animal will be given the same 30-day period of time to come into compliance with the requirements of this section.

(Ord. No. 3438, § 1, 9-8-14; Ord 3456, 3-28-16)

Secs. 10-15—10-45. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

FOOTNOTE(S):

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Cross reference— Administration, ch. 2.

Sec. 10-46. - Duties of city administrator.

(a) Except where otherwise provided, it shall be the duty of the city administrator, through the chief of police and the animal control officer, to administer and enforce the provisions of this chapter directly or through assigned staff. The chief of police shall keep a record of all animal shelter transactions and all enforcement and investigative activities.

(b) The city administrator is authorized to develop administrative regulations necessary to implement the provisions of this chapter, including procedures for animal enumerations, contracting with an animal shelter for impoundments and such other fees required by this chapter but not specified in this chapter.

(Ord. No. 3163, § 2, 12-13-94; Ord 3456, 3-28-16)

Sec. 10-47. - Duty of the police department.

It shall be the duty of the police department officers to enforce the provisions of this chapter and any regulations issued by the city administrator, and to assist the animal control officer in enforcing the provisions of this chapter.

(Ord. No. 3163, § 3, 12-13-94)

Sec. 10-48. - Summons issuance; authorization.

The animal control officer and the chief of police are hereby authorized to issue a summons to the owner of any animal in violation of any provision of this chapter. Such person may retain possession of the animal if it is the belief of the officer issuing such summons that such possession is not in conflict with any other provisions of this chapter.

(Ord. No. 3163, § 4(a), 12-13-94)

Sec. 10-49. - Right of entry of private property to investigate animal's condition.

In the interest of animal welfare, any person owning any animal in the city by so doing does thereby authorize the animal control officer or chief of police to enter upon private property, other than within any residence where such animal is kept, if the officer has probable cause to believe the animal is being kept in a cruel or inhumane manner, for the purpose of examining such animal and impounding such animal at the animal shelter when, in such examiner's opinion, it is being kept in an unlawfully cruel or inhumane manner. The animal control officer shall have right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this code.

(Ord. No. 3163, § 4, 12-13-94; Ord 3456, 3-28-16)

Sec. 10-50. - Impoundment of animals in violation of chapter.

(a) The animal control officer and chief of police or their designees are hereby authorized to take up and impound any animal in violation of any provision of this chapter if the person owning such animal cannot be issued a summons because such person is not known or not present. Such animal shall be confined at the animal shelter in a humane manner and shall be released upon satisfactory proof that the party claiming the animal is entitled to possession thereof, and upon payment to the city clerk of all recovery fees established.

(b) Any animal that has bitten a person may be removed from the property of its owner by the animal control officer or any police officer if such animal is in violation of examination or observation requirements prescribed by the article.

(Ord. No. 3163, § 4(b), (d), 12-13-94)

Sec. 10-51. - Tranquilizing gun authorized; killing authorized under certain conditions.

(a) City police officers shall be authorized to use a tranquilizer gun in the enforcement of this chapter. They shall be authorized to kill any dog or cat which is impractical or impossible to catch, capture or tranquilize and which is endangering any person.

(b) City police or animal control officers are hereby authorized to use humane live traps to capture any animal whose presence on private or public property constitutes a nuisance to persons. If there is a threat to the public health or the health of domestic animals, the chief of police may authorize other means to capture or destroy animals deemed to be dangerous.

(Ord. No. 3163, §§ 4(e), 24, 12-13-94; Ord 3456, 3-28-16)

Sec. 10-52. - Collecting, maintaining records and remittance of fees.

The city clerk's office is authorized and empowered to collect the license and impounding fees and penalties described in this article.

The Iola Animal Clinic, 3075 N State St, Iola, Kansas, is also hereby authorized and empowered to collect the license fees and penalties described in this article on behalf of the city, to maintain a record of all such fees collected and to remit all such fees and penalties, along with appropriate reports, to the city clerk on a monthly basis.

(Ord. No. 3163, § 25, 12-13-94; Ord 3456, 3-28-16)

Secs. 10-53—10-85. - Reserved.

ARTICLE III. - CRUELTY AND RELATED OFFENSES

FOOTNOTE(S):

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State Law reference— Animal cruelty, K.S.A. 21-4310 et seq.

Sec. 10-86. - Euthanization of suffering animals; redemption by owner; payment of expenses by owner.

Any animal impounded for being kept in violation of this article may be ordered to be humanely euthanized by a licensed veterinarian if such veterinarian deems it necessary to relieve suffering. The owner of any animal that is not euthanized shall be entitled to regain custody of such animal only after such custody is authorized by the court. All expenses accrued for the treatment or care of such animal shall be paid by the owner, whether or not such owner seeks to regain custody of such animal.

(Ord. No. 3163, § 8(b), 12-13-94; Ord 3456, 3-28-16)

Sec. 10-87. - Care of animals; acts of unlawful cruelty.

It shall be unlawful cruelty to animals for any person to own any animal and:

(1) Fail to provide such sufficient and wholesome food, potable water, shade and protection from the weather, which shall include a structurally sound, accessible, weatherproof enclosure with adequate bedding, opportunity for exercise, veterinary care when needed to treat injury or illness, unless the animal is instead humanely euthanized, or other care as is needed for the health or well-being of such kind of animal. The weatherproof enclosure shall be of sufficient size to allow the animal to turn about freely, stand, sit, and lie in a comfortable, normal position and to walk in a normal manner. The interior height of the enclosure shall be at least six inches higher than the tallest animal housed in the enclosure.

(2) Abandon or leave any animal in any place.

(3) Leave any animal unattended in a vehicle when such vehicle does not have adequate ventilation and temperature to prevent suffering, disability or death to such animal.

(Ord. No. 3163, § 8(a), 12-13-94; Ord. No. 3438, § 5, 9-8-14; Ord 3456, 3-28-16)

Sec. 10-88. - Torment or abuse.

No person shall willfully and wantonly kill, beat, cruelly ill treat, torment, overload, overwork or otherwise abuse any animal, or cause, instigate or permit any dogfight, cockfight or other combat between animals or between animals and humans, nor shall any person attend such unlawful exhibition or be umpire or judge at such.

(Ord. No. 3163, § 8(c), 12-13-94)

Sec. 10-89. - Animals struck by motor vehicles; duties of operator.

The operator of a motor vehicle which strikes any animal shall, as soon as possible, report the accident to the animal control officer or the police department and shall report the accident to the animal's owner, if the owner can be reasonably ascertained.

(Ord. No. 3163, § 8(d), 12-13-94)

Cross reference— Traffic and vehicles, ch. 90.

Sec. 10-90. - Offering of animals as prizes or inducements.

No person shall offer to give any live animal as a prize or as a business inducement.

(Ord. No. 3163, § 8(e), 12-13-94)

Sec. 10-91. - Exposing poisonous substances.

It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health.

(Ord. No. 3163, § 8(f), 12-13-94; Ord 3456, 3-28-16)

Sec. 10-92. - Use of spring steel traps.

It shall be unlawful for any person to use, place, set out, or deploy any animal trap above ground which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap except rat and mice traps. Nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals.

(Ord. No. 3163, § 8(g), 12-13-94; Ord 3456, 3-28-16)

Sec. 10-93. - Killing songbirds or molesting nests of songbirds.

It shall be unlawful for any person to willfully kill any songbird or to molest the nest of such birds.

(Ord. No. 3163, § 8(h), 12-13-94)

Sec. 10-94. - Holding animals belonging to others.

No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which the person is not the owner for more than 24 hours without first reporting the possession of such animal to the animal control officer.

(Ord. No. 3163, § 8(i), 12-13-94)

Sec. 10-95. - Use of devices in animal exhibitions or circuses which cause harm.

No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause physical injury or suffering. All equipment used on a performing animal shall not harm or injure the animal.

(Ord. No. 3163, § 8(j), 12-13-94)

Secs. 10-96—10-125. - Reserved.

ARTICLE IV. - DOGS AND CATS

DIVISION 1. - GENERALLY

Sec. 10-126. - Registration.

(a) It shall be the duty of any person in the city owning any cat or dog over 120 days of age to register such cat or dog with the city clerk or the clerk's designee. In no event shall any person be permitted to have more than four domestic pets registered within the corporate limits of the city pursuant to the terms of this article. The city clerk may delegate authority to the animal control officer to enforce any section of this article requiring registration.

(b) Any other section of this article notwithstanding, the registration provision of this section shall not apply to the nonresident owner of any cat or dog while such person is visiting or temporarily remaining within the city for less than 30 days, provided such cat or dog shall remain on a leash or otherwise effectively restrained while with the city.

(c) All persons owning, keeping or harboring cats and/or dogs in the city shall pay an annual license fee for said cats and/or dogs as established in section 34-106. The fiscal year for unlicensed cats and dogs in the city shall be from January 1 to December 31 of each year, and shall be delinquent and subject to the added penalty as established in section 34-106 on each cat or dog from and after February 1 of each year; and the further sum in an amount established in section 34-106 on each cat or dog from and after the first day of each month thereafter that the same is delinquent; provided, however, that the owner, keeper, or harborer of cats or dogs that are required to be registered under the provisions of this article shall not be subject to the penalty of this section if the owner signs an affidavit that such cats or dogs were born or brought into the city after February 1. It shall be unlawful for any owner, keeper or harborer to fail, refuse or neglect to cause such cat or dog to be registered by the city clerk and every person who is convicted of a violation this section shall be deemed guilty of a misdemeanor.

(d) Registration shall be accomplished at the office of the city clerk, either in person or by mail, at any time during the year that a cat or dog reaches the age required for registration, within 30 days after an owner acquires a cat or dog of required registration age, or within 30 days after a person owning a cat or dog of required registration age moves into the city.

(e) The city clerk shall issue a license to such owner upon presentation of:

(1) A certificate of vaccination issued by a licensed veterinarian or the veterinarian's agent; and

(2) Payment of the prescribed registration fees.

(f) All cats and dogs so owned in any household shall be registered in the name of the same household head.

(g) The receipt issued for the registration shall constitute a certificate of registry and evidence of authorization for the keeping of such dog or cat with the city, until registration is due again.

(h) At the time of the issuance of any certificate of registry the city clerk shall deliver therewith a registration tag bearing the registration number of such certificate. The tag shall be kept on the animal as required by this article. A replacement tag shall be furnished by the city clerk to any registrant upon application satisfactory to the city clerk and payment of a fee in an amount established in section 34-106. Upon change of animal ownership, any person acquiring any cat or dog currently registered with the city shall apply to the city clerk to transfer such registration to such persons name upon payment of a fee in an amount established in section 34-106.

(i) Any veterinarian practicing with the city, upon the examination or treatment of any cat or dog that is required by this article to be registered, but whose owner cannot validate current registration, shall issue to the owner of such animal a registration application and instructions for accomplishing such registration by mail. The clerk shall provide all veterinarians with the aforementioned registration forms upon request by such veterinarian.

(j) The city clerk shall keep on file a copy of all certificates of registry issued, within the preceding 36 months. Such certificates shall include, but not be limited to, the following information:

(1) The owner's name, address, telephone number, and an alternate phone number;

(2) A description of the cat or dog, including name, breed, color, age, weight, sex and neutered or unneutered status; notation of proper microchip information or tattoo marking, if applicable;

(k) The city clerk shall provide duplicate registration records to the animal control officer, which shall include monthly reports of new registrations and reports of licenses issued to commercial animal establishments.

(Ord. No. 3163, § 18, 12-13-94; Ord. No. 3328, § 1, 5-17-05; Ord 3456, 3-28-16)

Sec. 10-127. - License; denial, revocation and reinstatement.

(a) Withholding or falsifying information on an application for a license or registration required by this article shall be grounds for denial or revocation of such license or registration.

(b) Any person having been denied a license or registration may not reapply for a period of 30 days.

(c) No person who has been convicted of cruelty to animals shall be issued a registration or a license.

(d) It shall be a condition of the issuance of any license or registration that the animal control officer shall be permitted to inspect all animals and all premises where animals are kept at any time and shall, if permission for such inspection is refused, revoke the license or registration.

(e) Any person whose license or registration is revoked shall, within ten days thereafter, surrender any animal owned or kept to the animal control officer, who shall determine its disposition, and no part of the license or registration fee shall be refunded.

(f) The animal control officer may revoke any license or registration upon ten days' notice to the licensee or registrant. No license or registration shall be revoked except after a hearing which date and time shall be specified in the notice.

(g) Any person aggrieved by the denial or revocation of a license or registration may appeal to the governing body upon written statements within ten days of such revocation or denial, which the body

may, upon a hearing and reasonable notice to interested parties, either issue, reinstate or affirm the denial of such license or registration.

(Ord. No. 3163, § 19, 12-13-94; Ord 3456, 3-28-16)

Sec. 10-128. - Confinement when in heat.

The owner of any female cat or dog shall, during the period that such animal is in heat, keep it securely confined and enclosed.

Any un-spayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of the enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus and that is not properly confined, or any such animal that is creating a neighborhood nuisance, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. Failure to comply with the order of the animal control officer shall be a violation of this article, and the animal will then be impounded in accordance with this chapter. A violation of this section is a Class C misdemeanor.

(Ord. No. 3163, § 13, 12-13-94; Ord 2456, 3-28-16)

Sec. 10-129. - Proper identification required.

It shall be unlawful for any person owning any cat or dog to permit such animal to be outside the residence structure of such owner without a current city registration tag attached to the collar or harness of such animal or proper tattoo. It shall be unlawful for any person to permit city registration or rabies vaccination tag to be worn by any animal other than the animal for which such tag is issued.

(Ord. No. 3163, § 9, 12-13-94)

Sec. 10-130. - Guard dogs.

(a) Any person owning a trained guard dog (for the purposes of this section such term shall mean a dog used to guard public or private property) in the city shall register such dog with the Code Office who shall verify that such animal is confined in a manner that will not endanger persons not on the premises being guarded.

(b) A conspicuous notice shall be posted on the premises where any guard dog is kept to warn persons of the nature of the dog therein confined.

(c) Any person operating a guard dog service in the city shall register such business with the city clerk's office and shall list all premises to be guarded with the chief of police before such service begins.

(Ord. No. 3163, § 14, 12-13-94; Ord 3456, 3-28-16)

Sec. 10-131. - Rabies vaccination.

Any person owning any cat or dog over 120 days of age shall be required to have such animal currently immunized against rabies. For the purpose of this section, the expression "currently immunized or vaccinated against rabies" shall mean that such dog has been inoculated against rabies by a licensed veterinarian and that the certificate of vaccination is current.

(Ord. No. 3163, § 15, 12-13-94)

Sec. 10-132. - Dangerous animals.

(a) A “Dangerous Animal”, as used in this Article, shall mean:

(1) Any animal which attacks or bites any human being or domestic animal or has attacked or bitten a human being or domestic animal;
(2) Any animal with a known propensity, tendency or disposition to attack, cause injury to, or threaten the safety of human beings or domestic animals;
(3) Any animal which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places, or on private property; or
(4) Any animal which because of its size, physical characteristics and vicious propensities is capable of inflicting serious physical injury or death on a human being.

Notwithstanding anything to the contrary herein, no animal shall be deemed “dangerous” if any proscribed conduct listed herein took place at a time when: (1) the person who was the object of such conduct was committing a willful trespass or other tort upon the premises of the owner or keeper of the animal, or (2) the person who was the object of such conduct was at the time provoking, teasing, tormenting, abusing, or assaulting the animal, or (3) the person who was the object of such conduct was committing or attempting to commit a crime, or (4) the animal who was the object of such conduct was provoking, tormenting, abusing, or assaulting the animal.

Any dog owned by governmental or law enforcement agencies when used in the service of those agencies, shall be exempt from the requirements of this section.

(b) In the event that the Animal Control Officer has probable cause to believe that an animal is dangerous, as defined by Section 10-132 (a), a Notice to Appear in Municipal Court will be issued to the animal’s owner. The Municipal Judge may order the animal to be impounded at a licensed veterinary clinic pending the determination of whether the animal is dangerous. The owner or keeper of the animal shall be liable for the costs of impounding and keeping such animal.
(c) At the hearing in Municipal Court, the City shall have the burden of proof to show by clear and convincing evidence that the animal is dangerous pursuant to Section 10-132 (a) and that the animal is being kept or harbored within the city limits. The parties may present relevant evidence at the hearing as to whether the animal is dangerous and as to the appropriate disposition of the animal.
(d) At the conclusion of the hearing, the Municipal Judge shall determine whether the animal is dangerous pursuant to Section 10-132 (a). If a determination is made that the animal is dangerous, the Municipal Judge shall decide whether: (1) the animal shall be destroyed, (2) the animal shall be removed from the city under appropriate conditions, or (3) the owner or keeper shall be allowed to keep the animal subject to the provisions of Section 10-133.
(e) A vicious animal is defined as any animal that has caused or attempted to cause serious injury to any person or domesticated animal or has maimed or killed any person or domesticated animal. All dangerous animals shall have for identification; city tags and a microchip implant. The owner or keeper of the dangerous animal shall be responsible for all costs associated with the identification requirements. All canines in this category shall obtain these identifiers upon the animal reaching 120 days of age. (For Pit Bull's refer to Ord. No. 3216, section 10-182)
(f) Leash and muzzle. No person shall permit a dangerous dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than three feet in length. No person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all dangerous dogs on a leash

outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(g) Confinement. All dangerous dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in subsection (b) of this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine dangerous dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house dangerous dogs must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(h) Confinement indoors. No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(i) A vicious animal shall be kept as required under Ordinance No. 3216, section 10-184 of this Code. Dangerous animals shall also have "Dangerous Animal" signs posted on the front and rear of the property and if the dangerous animal is being walked outside the home, it must be restrained on a leash of no longer than three feet in length and of sufficient tensile strength to restrain the animal.

(j) Dangerous animal owners shall carry no less than $250,000.00 liability insurance for each dog deemed dangerous. The owner of said animal shall file a copy of said certificate of insurance with the city, with said copy to reflect the amount of coverage and the dates of coverage.

(k) No dangerous animal may be maintained within 400 feet of a school, park or public playground.

(l) A dangerous animal that has caused any serious injury to, or killed any person or domesticated animal shall be impounded by the city. The animal shall then be euthanized and disposed of in a humane manner and if no proof of rabies vaccination is available the head will be sent for proper testing all at the owner's expense.

(m) No person under the age of 18 shall own or possess any dangerous animal within the city limits.

(Ord. No. 3163, § 10(b), (c), 12-13-94; Ord. No. 3319, § 1, 2-10-04; Ord 3456, 3-28-16)

Sec. 10-133 - Vicious animals.

(a) A vicious animal is defined as any animal that has caused or attempted to cause serious injury to any person or domesticated animal or has maimed or killed any person or domesticated animal. All vicious animals shall have for identification; city tags, a microchip implant, and a lip tattoo. All canines in this category shall obtain these identifiers upon the animal reaching 120 days of age. (For Pit Bull's refer to Ord. No. 3216, section 10-182)

(b) A vicious animal shall be kept as required under Ordinance No. 3216, section 10-184 of this Code. Vicious animals shall also have "Dangerous Animal" signs posted on the front and rear of the property and if the vicious animal is being walked outside the home, it must be restrained on a leash of no longer than three feet in length and of sufficient tensile strength to restrain the animal.

(c) Vicious animal owners shall carry no less than $250,000.00 liability insurance for each dog deemed vicious. The owner of said animal shall file a copy of said certificate of insurance with the city, with said copy to reflect the amount of coverage and the dates of coverage.

(d) No vicious animal may be maintained within 400 feet of a school, park or public playground.

(e) A vicious animal that has caused any serious injury to, or killed any person or domesticated animal shall be impounded by the city. The animal shall then be euthanized and disposed of in a humane manner and if no proof of rabies vaccination is available the head will be sent for proper testing all at the owners expense.

(f) No person under the age of 18 shall own or possess any vicious animal within the city limits.

(Ord. No. 3319, § 1, 2-10-04)

Sec. 10-134. - Emergency treatment.

(a) Any sick or injured cat or dog found at large in the city wearing a current city registration or rabies vaccination tag or current microchip shall be taken at once by the animal control officer or the chief of police to a veterinarian for examination and treatment, and the owner of such animal shall be promptly notified. All charges for veterinary services shall be borne by such owner.

(b) Any sick, injured or disabled cat or dog found at large in the city without such identifying tag or microchip shall be disposed of in a humane manner.

(Ord. No. 3163, § 6, 12-13-94; Ord 3456, 3-28-16)

Secs. 10-135—10-155. - Reserved.

DIVISION 2. - IMPOUNDMENT

Sec. 10-156. - Notification of impoundment; breaking into pound.

(a) Upon the taking and impoundment of any cat or dog wearing a current city registration or rabies vaccination tag or current microchip, the animal control officer shall notify the owner of such animal of its impoundment and conditions under which the animal can be recovered. Such notice shall be given by telephone or in writing within 48 hours of the impoundment of such animal.

(b) It shall be unlawful for any person not duly authorized to do so to break open or attempt to break open any enclosure in which dogs or cats are confined or held pursuant to the provisions of this article, or take or attempt to take from an officer of this city any dog or cat taken by the officer in the enforcement of this article.

(Ord. No. 3163, § 20, 12-13-94; Ord 3456, 3-28-16)

Sec. 10-157. - Prosecution for violations authorized.

The owner of any impounded dog or cat who does not recover such animal may still be processed against for violation of any provisions of this article.

(Ord. No. 3163, § 21, 12-13-94)

Sec. 10-158. - Period for holding animals.

(a) The owner of any impounded cat or dog properly identified as prescribed in section 10-56 shall be given three days to recover such animal. The owner of any impounded cat or dog not so identified shall be given three business days to recover such animal. Exemptions to these holding periods shall be authorized when:

(1)Any cat or dog is given to be disposed of by its owner;

(2)Any owner, upon notification of impoundment, declares intention not to recover such animal; or

(3)Any cat or dog not having proper identification arrives at the shelter in such a condition that, in the judgement of the animal control officer, compassion requires that such animal be promptly and humanely euthanized.

(b) The owner of any animal given to the animal control officer to be disposed of shall be required to make payment of a fee established by agreement with the keeper of the city pound.

(c) Any cat or dog not recovered by its owner within the prescribed holding period shall become the property of the city and may be adopted, transferred to a duly incorporated humane society or humanely euthanized.

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(Ord. No. 3163, § 22, 12-13-94; Ord 3456, 3-28-16)

Sec. 10-159. - Procedure and fees for recovery of animals.

(a) Except as provided, any owner of an impounded dog or cat shall be entitled to recover such animal if within the prescribed holding period, such person shall appear to claim such animal and shall make payment of the required fees. An owner redeeming a dog or cat from impoundment shall pay, before release, an impoundment fee in an amount established by section 34-108, plus a boarding fee established by agreement with the keeper of the city pound for each 24 hours or fraction thereof that the dog or cat has been impounded.

(b) If an owner cannot validate current rabies immunization and city license for the animal, then such animal shall be vaccinated and properly licensed prior to being released from the pound.

(Ord. No. 3163, § 23, 12-13-94)

Secs. 10-160—10-180. - Reserved.

Chapters 11-13 Reserved

Chapter 14 - BUILDING AND CONSTRUCTION REGULATIONS

FOOTNOTE(S):

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Editor's note—Ord. No. 3361, § 1, adopted Oct. 16, 2007, amended chapter 14, which pertained to similar subject matter, in its entirety to read as herein set out. See Code Comparative Table for complete derivation.

Cross reference— Fees for buildings and building regulations, § 34, Art. V et seq.; fire prevention and protection, ch. 38; health and sanitation, ch. 46; solid waste, ch. 74; streets, sidewalks and other public places, ch. 78; building material obstructing street, § 78-4; utilities, ch. 94; vegetation, ch. 98.

ARTICLE I. - IN GENERAL

Sec. 14-1. - Penalty for violation of chapter 14 provisions.

Any person who shall fail to comply with the provisions of any article in this chapter shall, upon conviction, be adjudged guilty of a misdemeanor.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-2. - Liability.

This chapter shall not be construed to relieve or lessen the responsibility of any corporation, co-partnership, association, individual or agent thereof, performing any work regulated by this chapter, for damages to any one injured thereby, nor shall the city be held as assuming any liability by reason of the inspections authorized in this chapter, or certificate or permit pursuant to the provisions of this chapter.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-3. - Qualifications for inspectors and enforcement officials.

Qualifications for inspectors and enforcement officials shall be those contained in the most current city job description for a specific position of employment. This section will take precedence over any similar sections in any of the adopted codes.

(Ord. No. 3361, § 1, 10-16-07)

Secs. 14-4—14-29. - Reserved.

ARTICLE II. - BUILDING AND TRADE CODES

Sec. 14-30. - Energy efficiency standards.

(a) [Adoption.] Certain documents, three copies of which are on file and are open for inspection of the public in the office of code services are marked and designated as the International Energy Conservation Code, 2012 edition, published by the International Code Council, be and is hereby adopted as the Energy Conservation Code of the City of Iola, in the State of Kansas for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Energy Conservation Code on file in the office of the City of Iola are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in section 14-30.1 of this article.

(b) Certificate of compliance. No certificate of occupancy will be issued to a new residential dwelling or new commercial building until the code services officer has received a certificate of compliance from the owner that the residential dwelling or commercial building meets the standards set forth in International Energy Conservation Code. Such certificate of compliance shall include supporting statements from the architect and/or contractor, if either or both such persons were employed in the design and construction of the new residential dwelling or new commercial building. Receipt by the city of such certificate of compliance shall be required for permanent utility service.

(Ord. No. 3361, § 1, 10-16-07; Ord. No. 34-31, § 1, 3-24-14)

Sec. 14-30.1. - Same—Amendments.

The following sections are hereby revised:

Section C101.1 and R101.1 Title of the Energy Conservation Code is amended by insertion of City of Iola in the brackets.

Section C108.4 and R108.4 Failure to Comply of the Energy Conservation Code is hereby amended to read as follows: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as provided in Section 1-9 of the City of Iola Code of Ordinances.

(Ord. No. 34-31, § 2, 3-24-14)

Editor's note— Ord. No. 3431, § 2, adopted March 24, 2014, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included as § 14-30.1.

Sec. 14-31. - Building Code adoption.

(a) [International Building Code, 2012 edition.] Certain documents, three copies of which are on file and are open for inspection of the public in the office of code services are marked and designated as the International Building Code, 2012 edition, including Appendix Chapters D, G, and I, published by the International Code Council, be and is hereby adopted as the Building Code of the City of Iola, in the State of Kansas for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City of Iola are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes prescribed in section 14-31.1 of this article.

(b) [International Residential Code, 2012 edition.] Certain documents, three copies of which are on file and are open for inspection of the public in the office of the code services are marked and designated as the International Residential Code, 2012 edition, including Appendix Chapters A, B, C, D, E, G, and H, published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Iola, in the State of Kansas for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the City of Iola are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes prescribed in section 14-31.1 of this ordinance.

(c) [International Existing Building Code, 2012 edition.] Certain documents, three copies of which are on file and are open for inspection of the public in the office of code services are marked and designated as the International Existing Building Code, 2012 edition, published by the International Code Council, be and is hereby adopted as the Existing Building Code of the City of Iola, in the State of Kansas for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Existing Building Code on file in the office of the City of Iola are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in section 14-31.1 of this article.

(Ord. No. 3361, § 1, 10-16-07; Ord. No. 34-31, § 3, 3-24-14)

State Law reference— Adoption by reference authorized, K.S.A. 12-3009 et seq., 12-3301 et seq.

Sec. 14-31.1. - Same—Amendments.

The following sections are hereby revised:

Section 101.1 Title of the Building Code is amended by insertion of City of Iola in the brackets.

Section R101.1 Title of the Residential Code is amended by insertion of City of Iola in the brackets.

Section 101.1 Title of the Existing Building Code is amended by insertion of City of Iola in the brackets.

Section R105.2 Work Exempt from Permit Building Item #1 of the Residential Code is hereby amended to read as follows:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (18.58 sq m).

Section 105.2 Work Exempt from Permit Building Item #1 of the Existing Building Code is amended to read as follows:

1. Sidewalks and driveways not more than 30 inches above the adjacent grade, and not over any basement or story below, and except when located on City right-of-way or within a city easement or when part of an accessible route.

Section 105.2 Work Exempt from Permit Building Item #2 of the Building Code is hereby deleted.

Section R105.2 Work Exempt from Permit Building Item #2 of the Residential Code is hereby deleted.

Section 105.2 Work Exempt from Permit Building Item #6 of the Building Code and Section R105.2 Work Exempt from Permit Building Item #5 of the Residential Code are amended to read as follows: Sidewalks and driveways not more than 30 inches above the adjacent grade, and not over any basement or story below, and except when located on City right-of-way or within a city easement or when part of an accessible route.

Section 109.2 Schedule of Permit Fees of the Building Code and Section R108.2 Schedule of Permit Fees of the Residential Code are hereby amended to read as follows: On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established in Section 34-141 of the City of Iola Code of Ordinances.

Section 109.4 Work Commencing Before Permit Issuance of the Building Code and Section R108.6 Work Commencing Before Permit Issuance of the Residential Code are hereby amended to read as follows: Any person who commences work on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to 100 percent of the usual permit fee in addition to the required permit fees. Where equipment replacements or repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official and the usual permit fees shall apply.

Section 109.6 Fee Refunds of the Building Code and Section R108.5 Fee Refunds of the Residential Code are hereby amended to read as follows: The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.

2. Not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Table 301.2(1) of the Residential Code: Insert the following design criteria:

Ground Snow Load	Wind Design		Seismic Design Category	Subject To Damage From			Winter Design Temp	Ice Barrier Underlayment Required	Flood Hazards	Air Freezing Index	Mean Annual Temp
	Speed (mph)	Topographic Effects		Weathering	Frost Line Depth	Termite					
20 PSF	90	No	A	Severe	24"	Moderate to Heavy	7°	No	FIRM 2011 2001C0170F	699	56.4°

Section R309.5 Fire Sprinklers of the Residential Code is hereby deleted.

Section R313 Automatic Fire Sprinkler Systems of the Residential Code is hereby deleted.

Section R501.3 Fire Protection of Floors of the Residential Code is hereby deleted.

Section N1104.1 (R404.1) Lighting Equipment (Mandatory) of Part IV—Energy Efficiency of the Residential Code is hereby deleted.

Section 1401.2 Applicability of the Existing Building Code is hereby amended to read as follows: Structures existing prior to the adoption of this code, March 24, 2014, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 5 through 13. The provisions of Sections 1401.2.1 through 1401.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Group H or I.

Section 1612.3 Establishment of Flood Hazard Areas of the Building Code is amended by insertion of City of Iola in the brackets for NAME OF JURISDICTION and insertion of July 14, 2009 in the brackets for DATE OF ISSUANCE.

Section P2603.5.1 Sewer Depth of the Residential Code is hereby amended to read as follows: Building sewers shall be installed not less than 24 inches below grade.

(Ord. No. 34-31, § 4, 3-24-14)

Editor's note— Ord. No. 3431, § 4, adopted March 24, 2014, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included as § 14-31.1.

Sec. 14-32. - National Electric Code adoption.

Certain documents, three copies of which are on file and are open for inspection of the public in the office of code services are marked and designated as the National Electric Code, 2011 edition, published by the NFPA, be and is hereby adopted as the Electric Code of the City of Iola, in the State of Kansas for regulating and governing electric installations within the corporate limits of the city; and each and all of the regulations, provisions, penalties, conditions and terms of said Electric Code on file in the office of the City of Iola are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation.

(Ord. No. 3361, § 1, 10-16-07; Ord. No. 34-31, § 5, 3-24-14)

State Law reference— Adoption by reference authorized, K.S.A. 12-3009 et seq., 12-3301 et seq.; authority to adopt electrical standards, K.S.A. 12-1527.

Sec. 14-33. - Incorporating International Plumbing Code.

Certain documents, three copies of which are on file and are open for inspection of the public in the office of code services are marked and designated as the International Plumbing Code, 2012 edition, published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Iola, in the State of Kansas for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code on file in the office of the City of Iola are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in section 14-33.1 of this article.

(Ord. No. 3361, § 1, 10-16-07; Ord. No. 34-31, § 6, 3-24-14)

Sec. 14-33.1. - Same—Amendments.

The following sections are hereby revised:

Section 101.1 Title of the Plumbing Code is amended by insertion of City of Iola in the brackets.

Section 106.6 Fees of the Plumbing Code is hereby amended to read as follows: The permit fees for plumbing work shall be as indicated in Section 34-141 of the City of Iola Code of Ordinances.

106.6.1 Work commencing before permit issuance. Any person who commences work on a plumbing system before obtaining the necessary permits shall be subject to 100 percent of the usual permit fee in addition to the required permit fees. Where equipment replacements or repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official and the usual permit fees shall apply.

106.6.2 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. Not more than 80% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Section 108.4 Violation Penalties of the Plumbing Code is hereby amended to read as follows: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as provided in Section 1-9 of the City of Iola Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop Work Orders of the Plumbing Code is hereby amended to read as follows: Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as provided in Section 1-9 of the City of Iola Code of Ordinances.

Section 305.4.1 Sewer Depth of the Plumbing Code is hereby amended to read as follows: Building sewers shall be installed not less than 24 inches below grade.

(Ord. No. 34-31, § 7, 3-24-14)

Editor's note— Ord. No. 3431, § 7, adopted March 24, 2014, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included as § 14-33.1.

Sec. 14-34. - Incorporating International Fuel Gas Code.

Certain documents, three copies of which are on file and are open for inspection of the public in the office of code services are marked and designated as the International Fuel Gas Code, 2012 edition, published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the City of Iola, in the State of Kansas for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code on file in the office of the City of Iola are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in section 14-34.1 of this article.

(Ord. No. 3361, § 1, 10-16-07; Ord. No. 34-31, § 8, 3-24-14)

Sec. 14-34.1. - Same—Amendments.

The following sections are hereby revised:

Section 101.1 Title of the Fuel Gas Code is amended by insertion of City of Iola in the brackets.

Section 106.6 Fees of the Fuel Gas Code is hereby amended to read as follows: The permit fees for installation work regulated by this code shall be as indicated in Section 34-141 of the City of Iola Code of Ordinances.

106.6.1 Work commencing before permit issuance. Any person who commences installation work regulated by this code before obtaining the necessary permits shall be subject to 100 percent of the usual permit fee in addition to the required permit fees. Where equipment replacements or repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official and the usual permit fees shall apply.

106.6.2 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Section 108.4 Violation Penalties of the Fuel Gas Code is hereby amended to read as follows: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as provided in Section 1-9 of the City of Iola Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop Work Orders of the Fuel Gas Code is hereby amended to read as follows: Upon notice from the code official, work on installation that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as provided in Section 1-9 of the City of Iola Code of Ordinances.

Section 406.4.1 Test Pressure of the Fuel Gas Code is hereby amended to read as follows: The test pressure to be used shall be no less than 1 ½ times the proposed maximum working pressure, but not less than 15 psig for a minimum of 15 minutes for all steel yard lines and 50 psig for a minimum of 30 minutes for all plastic yard lines. Where the text pressure exceeds 125 psig, the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum strength of the pipe.

Section 406.4.2 Test Duration of the Fuel Gas Code is hereby amended to read as follows: Test duration shall be not less than ½ hour for each 500 cubic feet of pipe volume of fraction thereof. When testing a system having a volume less than 10 cubic feet or a system in a single-family dwelling, the test duration shall be not less than 15 minutes. The duration of the test shall not be required to exceed 24 hours.

(Ord. No. 34-31, § 9, 3-24-14)

Editor's note— Ord. No. 3431, § 9, adopted March 24, 2014, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included as § 14-34.1.

Sec. 14-35. - Housing Code adoption.

Certain documents, three copies of which are on file and are open for inspection of the public in the office of code services are marked and designated as the International Property Maintenance Code, 2012 edition, published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Iola, in the State of Kansas for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City of Iola are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in section 14-35.1 of this article.

(Ord. No. 3361, § 1, 10-16-07; Ord. No. 34-31, § 10, 3-24-14)

State Law reference— Adoption by reference authorized, K.S.A. 12-3009 et seq., 12-3301 et seq.

Sec. 14-35.1. - Same—Amendments.

The following sections are hereby revised:

Section 101.1 Title of the Property Maintenance Code is amended by insertion of City of Iola in the brackets.

Section 103.5 Fees of the Property Maintenance Code is hereby deleted.

Section 112.4 Failure to Comply of the Property Maintenance Code is hereby amended to read as follows: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as provided in Section 1-9 of the City of Iola Code of Ordinances.

Section 302.4 Weeds of the Property Maintenance Code is hereby replaced with Chapter 98 Article IV of the City of Iola Code of Ordinances.

Section 304.14 Insect Screens of the Property Maintenance Code is hereby amended to read as follows: Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellant fans, are employed.

Section 309.3 Single Occupant of the Property Maintenance Code is hereby amended to read as follows: The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises after 30 days of occupancy.

Section 602.3 Heat Supply of the Property Maintenance Code is hereby amended to read as follows: Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof

shall supply heat to maintain a temperature of not less than 68° F (20° C) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the City, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30° F (-1° C) a minimum temperature of 65° F (18° C) shall be maintained.

Section 602.4 Occupiable Work Spaces of the Property Maintenance Code is hereby amended to read as follows: Indoor occupiable work spaces shall be supplied with heat to maintain a minimum temperature of 65° F (18° C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

(Ord. No. 34-31, § 11, 3-24-14)

Editor's note— Ord. No. 3431, § 11, adopted March 24, 2014, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included as § 14-35.1.

Sec. 14-36. - Incorporating International Mechanical Code.

Certain documents, three copies of which are on file and are open for inspection of the public in the office of code services are marked and designated as the International Mechanical Code, 2012 edition, published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Iola, in the State of Kansas for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code on file in the office of the City of Iola are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in section 14-36.1 of this article.

(Ord. No. 3361, § 1, 10-16-07; Ord. No. 34-31, § 12, 3-24-14)

Sec. 14-36.1. - Same—Amendments.

The following sections are hereby revised:

Section 101.1 Title of the Mechanical Code is amended by insertion of City of Iola in the brackets.

Section 106.5 Fees of the Mechanical Code is hereby amended to read as follows: The permit fees for mechanical work shall be as indicated in Section 34-141 of the City of Iola Code of Ordinances.

106.5.1 Work commencing before permit issuance. Any person who commences work on a mechanical system before obtaining the necessary permits shall be subject to 100 percent of the usual permit fee in addition to the required permit fees. Where equipment replacements or

repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official and the usual permit fees shall apply.

106.5.2 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Section 108.4 Violation Penalties of the Mechanical Code is hereby amended to read as follows: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as provided in Section 1-9 of the City of Iola Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop Work Orders of the Mechanical Code is hereby amended to read as follows: Upon notice from the code official, work on any mechanical system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping work. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as provided in Section 1-9 of the City of Iola Code of Ordinances.

(Ord. No. 34-31, § 13, 3-24-14)

Editor's note— Ord. No. 3431, § 13, adopted March 24, 2014, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included as § 14-36.1.

Sec. 14-37. - Fire limits established.

The fire limits of the city are hereby established as follows: That territory within and enclosed by a line commencing at the northeast corner of Lot 7, Block 46, thence west along the south line of Monroe Street to the northeast corner of Lot 7, Block 43, thence south along the west side of the alley to the southeast corner of Lot 12, Block 43, thence west to the southwest corner of Lot 12, Block 43, thence south on the east side of Walnut Street to the northwest corner of Lot 9, Block 59, thence west along the south side of Jackson Street to the northwest corner of Lot 3, Block 58, thence south to the southwest corner of Lot 3, Block 58, thence west to the southwest corner of Lot 5, Block 58, thence south along the east side of Chestnut Street to the southwest corner of Lot 6, Block 71, thence east to the southeast corner of Lot 7, Block 71, thence south to the northeast corner of Lot 4, Block 74, thence south to the southeast corner of Lot 4, Block 74, thence south 15 feet across the alley to a point on Lot 7, Block 87, thence east to the northeast corner of Lot 7, Block 87, thence south to the southeast corner of Lot 7, Block 87, thence east to the southwest corner of Lot 6, Block 87, thence east across Walnut Street to a point described as being the southwest corner of Lot 7, Block 86, thence south along the east side of

Walnut Street to the southwest corner of Lot 12, Block 86, thence east to the southeast corner of Lot 12, Block 86, thence south to the northeast corner of Lot 7, Block 91, thence south to the southeast corner of Lot 8, Block 91, thence east to the southeast corner of Lot 5, Block 91, thence north along the west side of Washington Avenue to the southeast corner of Lot 1, Block 86, thence east along the north side of Broadway Street to the southwest corner of Lot 12, Block 84, thence south on the east side of South Street to the southwest corner of Lot 9, Block 93, thence east to the southeast corner of Lot 4, Block 93, thence north along the west side of Jefferson Avenue to the southeast corner of Lot 1, Block 84, thence east along the north side of Broadway to the southwest corner of Lot 1, Block 83, thence north along the east side of the alley to the southwest corner of Lot 4, Block 83, thence east to the southeast corner of Lot 4, Block 83, thence north along the west side of Sycamore Street to the southeast corner of Lot 1, Block 46, thence west to the southeast corner of Lot 12, Block 46, thence north to the northeast corner of Lot 7, Block 46, to point of beginning, as shown by the original plat of the city.

(Ord. No. 3361, § 1, 10-16-07)

Cross reference— Fire prevention and protection, ch. 38.

Sec. 14-38. - Permits and permit fees.

(a) Building and trade permit fees as well as license fees shall be as established by chapter 34, article V of this Code.

(b) Where work for which a permit is required has been started prior to issuance of a permit, unless specifically approved by the code enforcement officer, the first violation would result in a written notice of the violation and doubling the standard permit fee. The second and subsequent violation would result in written notice of the violation and the fee would be three times the standard permit fee. The code enforcement officer shall remit to the city clerk all fees received.

(c) Failure to pay the permit fees due will result in a freeze being placed on the issuing of permits to the person or contractor until the amount due is remitted to the city.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-39. - Public building roofs.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Public building means any church, school, city, county, state or federal owned building.

(b) Removal of roofs over one inch in thickness or certification of safety. Once a public building's built-up roof has reached a thickness of one inch, the roof must be removed or the public entity must secure a certified statement from a structural engineer registered in the state saying that the roof supports will support the additional weight of added layers of roofing materials.

(c) Maximum thickness permitted. In no event shall the maximum thickness of any roof on a public building exceed one and three-fourths inches before removal of the roof is required.

(d) Section not exempt from IBC and/or IRC. Nothing in this section shall be construed to exempt any public building from any other provisions of the International Building Codes, as adopted.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-40. - Fire retardant treated wood.

Exterior walls and its components located inside the fire zone shall be of noncombustible material or fire retardant treated wood throughout with Underwriters' Laboratories, Inc. or other nationally recognized testing laboratory seal of approval stamped in the wood. Any code services official, as authorized, may, at all reasonable hours, enter any building or premises for the purpose of making any inspection or investigation which, under the provisions of this section, such official may deem necessary.

(Ord. No. 3361, § 1, 10-16-07)

Cross reference— Fire prevention and protection, ch. 38.

Sec. 14-41. - Requirements for wiring in fire zone.

All electrical wiring installed in any building or structure within the fire limits within the city shall be in metal conduit or metal mold, except that whenever, in the opinion of the code services officer, it is physically impossible or impracticable to use metal conduit, the use of nonmetallic sheathed cable with ground may be authorized by the code services officer to such extent as the code services officer shall deem necessary and proper.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-42. - Trap and cleanout.

All buildings connected to the sanitary sewer system of the city shall hereafter have installed a house trap and a cleanout.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-43. - Street or alley openings; contractors responsibility.

(a) Street or alley opening, responsibility for maintenance. Whenever any contractor's work necessitates the opening of any street or alley, the maintenance therefore shall be the responsibility of the contractor doing the work. If a contractor desires to repair an opening such contractor is responsible for the work for a period of one year.

(b) Repair of street or alley excavations; costs. The contractor may, at his or her option, request the city to repair any gravel alley or paved street after such contractor has opened the street or alley. The contractor, at the time of obtaining the permit, will upon application, request the street and alley department to repair the alley or street excavation. The charge for this work will be an amount established in section 34-147 for repair and resurfacing of any gravel alley or street. The cost for repair of any seal coated, asphaltic concrete surface or concrete street or alley shall be an amount established in section 34-147. Charges for this work will be paid for by the contractor. If work is to be done by the city the contractor is to replace all material to a depth of 18 inches below the street or alley existing grade. Backfill material shall be dry and properly replaced so that maximum compaction may be obtained. The contractor shall furnish and maintain all lights and barricades around the excavation until the city completes the repairs. Any needed repairs not completed by the contractor in a satisfactory way shall be completed by the city in the above manner and billed to the contractor in accordance with the charges established.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-44. - Transfer of non-compliant real property.

It shall be unlawful for the owner of any dwelling unit or structure who has been served a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of said dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official, and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(Ord. No. 3361, § 1, 10-16-07)

Secs. 14-45—14-70. - Reserved.

ARTICLE III. - CONTRACTOR LICENSING AND REGISTRATION

Sec. 14-71. - Contractor registration; license required.

No permit shall be issued to any person, firm or corporation to do or cause to be done any plumbing, electrical, mechanical or gas fitting work regulated by this Code unless such person, firm or corporation is a registered, licensed contractor.

No permit shall be issued to any person, firm or corporation to do or cause to be done any new construction of a structure, or make structural repairs, remodel, alter or add on to any existing structures unless such person, firm or corporation is a registered, licensed contractor.

(1) Exception. Any permit required by this Code may be issued to an unlicensed, unregistered person to do any work regulated by the Code in a single-family dwelling that is used exclusively for residential purposes, including the usual accessory buildings, providing that the person certifies that he/she is the recorded owner of such dwelling and accessory buildings and the same are occupied by said owner. Further, all work performed by the unlicensed, unregistered person shall be limited to only that work on his/her own property. Any plumbing or electrical work that connects directly to the city owned utility and all gas piping installation or repair shall be specifically excluded.

(2) The following conditions apply to the above exception:

a. All work must comply with the applicable codes, ordinances and policies of the city that are in force at the time the project is started.

b. The permit holder must request all inspections that are required for the work being done.

c. If the code services officer determines that the work is not being performed to meet the minimum standards of the Code in a safe, workman-like manner he/she shall order the work stopped and the permit holder must retain a licensed contractor to complete the project.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-72. - Classification of contractors and license categories.

There is hereby established the following classification of contractors:

License categories:

(1) Electrical contractor is a person, firm or corporation that is engaged in the business of installing or repairing electrical wiring, appliances, fixtures, etc. and who has been issued a certificate of competency as a master electrician or employs personnel who have been issued a certificate of competency as a master electrician from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and who has on file with the code services office a certificate of insurance with the city listed as the certificate holder.

(2) Mechanical contractor is a person, firm or corporation that is engaged in the business of installing, altering, repairing, replacing or maintaining heating, air conditioning, ventilation, duct work, and/or mechanical refrigeration systems and who has been issued a certificate of competency as a mechanical master or employs personnel who have been issued a certificate of competency as a mechanical master from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and who has on file with the code services office a certificate of insurance with the city listed as the certificate holder.

(3) Plumbing contractor is a person, firm or corporation that is engaged in the business of installing, repairing and/or altering plumbing, gas fitting, drainage and sewer systems and associated fixtures and who has been issued a certificate of competency as a master plumber or employs personnel who have been issued a certificate of competency as a master plumber from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and who has on file with the code services office a certificate of insurance with the city listed as the certificate holder.

(4) Building contractor is a person, firm or corporation who has been issued a building contractor license from the code services office and who has on file with the code services office a certificate of insurance, with the city listed as the certificate holder, may conduct or engage in the business of performing new construction of a structure and the making of structural repairs, remodeling, alterations or additions to any existing structures.

(5) Demolition/excavation contractor is any person, firm or corporation who is engaged in the business of demolishing any existing structures or excavation, trenching or other earth moving activities and who has been issued a demolition/excavation contractor license from the code services office and who has on file with the code services office a certificate of insurance, with the city listed as the certificate holder.

(6) Tree service contractor is a person, firm or corporation that has registered with the city and is engaged in business of tree removal and trimming and has a valid certificate of insurance on file with the code services office, with the city listed as the certificate holder.

(7) Sanitation service contractor is a person, firm or corporation that has registered with the city and is engaged in business of trash and garbage removal and has a valid certificate of insurance on file with the code services office, with the city listed as the certificate holder.

(8) Master electrician is a person who has been issued a certificate of competency as a master electrician from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency who may conduct or engage in the business of performing electrical work for an electrical contractor.

(9) Journeyman electrician is a person who has been issued a certificate of competency as a journeyman electrician from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and does work under the insurance of a licensed contractor and is capable of supervising and directing electrical work in the absence of the master electrician.

(10) Master plumber is a person who has been issued a certificate of competency as a master plumber from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency who may conduct or engage in the business of performing plumbing work for a plumbing contractor.

(11) Journeyman plumber is a person who has been issued a certificate of competency as a journeyman plumber from Block/Experior or the International Code Council (ICC) or other

nationally recognized testing agency and does work under the insurance of a licensed contractor and is capable of supervising and directing plumbing work in the absence of the master plumber.

(12) Mechanical master is a person who has been issued a certificate of competency as a mechanical master from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and who has on file with the code services office a certificate of insurance with the city listed as the certificate holder, who may conduct or engage in the business of performing mechanical work for a mechanical contractor.

(13) Mechanical journeyman is a person who has been issued a certificate of competency as a mechanical journeyman from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and does work under the insurance of a licensed contractor and is capable of supervising and directing mechanical work in the absence of the mechanical master.

(14) Master gas pipe fitter is a person who has been issued a certificate of competency as a master gas pipe fitter from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and does work under the insurance of a registered contractor and is capable of supervising and directing gas pipe fitting work.

(15) Journeyman gas pipe fitter is a person who has been issued a certificate of competency as a journeyman gas pipe fitter from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and does work under the insurance of a registered contractor and is capable of supervising and directing gas pipe fitting work in the absence of the master gas pipe fitter.

(16) Apprentice is a person who has not been issued any certificate of competency and who is not qualified to supervise or direct work and who works under the direct supervision of a master or journeyman.

(17) *Residential electrician is a person who has been issued a certificate of competency as a residential electrician from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and does work under the insurance of a registered contractor, may conduct or engage in the business of performing electrical work limited to one and two family residential dwellings and accessory buildings incidental to those dwellings. The holder of this certificate shall perform no commercial or industrial work.

(18) *Residential plumber is a person who has been issued a certificate of competency as a residential plumber from Block/Experior or the International Code Council (ICC) or other nationally recognized testing agency and does work under the insurance of a registered contractor, may conduct or engage in the business of performing plumbing work limited to one- and two-family residential dwellings and accessory buildings incidental to those dwellings. The holder of this certificate shall perform no commercial or industrial work.

*Exception. A person who owns residential property(s) that the person uses as rentals may perform electrical and/or plumbing work on the property(s) if they are licensed with the city as a residential electrician and/or residential plumber. Licensee is responsible for obtaining the required permits and scheduling inspections. The holder of these licenses need not work under a registered contractor as long as they only work on residential property that they are the recorded owner of. Absolutely no commercial or industrial work can be done. The licensee must do all work and no work can be done for hire, trade or any other thing of value. Violating the provisions of this exception will be cause for revocation of the license.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-73. - Insurance requirements.

All contractors are required to have and maintain on file with the city a current certificate of liability insurance, with the city listed as the certificate holder. They must also comply with the workmen's compensation act, if applicable, and provide the city with a certificate on this insurance coverage. Contractors must comply with the State of Kansas laws pertaining to the vehicles they operate in conjunction with their business. In the event that the contractors insurance should lapse, be canceled or allowed to expire the contractor's license shall be void. No permits will be issued to the contractor until the license is reinstated.

Electrical, plumbing, mechanical and demolition contractors must have a minimum of $1,000,000.00 general liability insurance with a completed products rider and must comply with the worker's compensation act.

Building, sanitation service and tree service contractors must have a minimum of $500,000.00 general liability insurance and must comply with the workers compensation act.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-74. - License fees; duration.

All contractor license and registration fees are established in chapter 34, article V of this Code.

All licenses will expire on December 31 of each year. Licenses may be renewed anytime after December 1 through January 10. If not renewed by the end of the business day on January 10 the license will expire and no permits will be issued until the license is reinstated. A $20.00 administrative fee will be added to the renewal fee for reinstatement of an expired license.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-75. - Performance standard.

All work done by licensed contractors and tradesmen within the city limits shall be performed in accordance to the Code. The contractor shall apply for the necessary permits and schedule all inspections that are required.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-76. - Penalty for violation.

Any violation of this article is a class C misdemeanor and is punishable by fine and/or imprisonment or both.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-77. - Suspension of license.

The plumbing, electrical or board of housing appeals is authorized to suspend the license of any licensee for a period of up to 30 days upon satisfactory showing to the appropriate board that the licensee has deliberately and knowing not complied with the ordinances and codes governing the work they are licensed to perform. The appropriate board may revoke the license of a licensee for a period of one year for repeated violations.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-78. - Display on demand.

It shall be the duty of every licensee to show his or her license issued under this article to any city official or law enforcement officer who shall ask to see the same.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-79. - License testing procedure.

Examination to determine competency for all categories that require testing shall be administered by Block/Experior or the International Code Council (ICC), or other nationally recognized contractor testing agency.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-80. - Implementation.

These requirements will become effective and be in full force on January 1, 2008 after they are passed by the city council and are published in the local newspaper. All contractors and tradesmen that are currently licensed with the city would be able to obtain the new license without being required to meet the new certification testing requirements so long as the license they hold at the time these amendments become effective is valid and he/she does not allow it to expire. They must comply with the insurance requirements.

(Ord. No. 3361, § 1, 10-16-07)

Secs. 14-81—14-150. - Reserved.

ARTICLE IV. - BUILDING TRADES BOARD –

Sections 14-151 to 14-156 deleted.

The building trades board has not been in operation for approximately ten years and is no longer considered essential. It is therefore abolished. The function of the board has been replaced by adoption of the International Building Codes and utilizing licensed building trade professionals.

(Ord. No. 3361, § 1, 10-16-07; Ord 3462, 5-25-16; Ord 3465. 8-8-16)

Secs. 14-157—14-610. - Reserved.

ARTICLE V. - UNSAFE OR DANGEROUS STRUCTURES

FOOTNOTE(S):

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Cross reference— Health and sanitation, ch. 46.

Sec. 14-611. - Repair or removal of unsafe or dangerous structures.

(a) Purpose. The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this section.

(b) Definitions. For the purpose of this section, the following words and terms shall have the following meanings:

Enforcing officer means the code services officer's authorized representative.

Last known address includes the address where the property is located, or the address as listed in the tax records.

Parties in interest means any owner or owners of record, judgment creditor, tax purchaser, occupant or other party having any legal or equitable title or interest in the property.

Structure shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.

(c) Enforcing officer; duties. The enforcing officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this section, including the following:

(1) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;

(2) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections, entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the enforcing officer may seek an order for this purpose from a court of competent jurisdiction;

(3) Report all structures which the enforcing officer believes to be dangerous, unsafe or unfit for human habitation to the governing body;

(4) Receive petitions as provided in this section.

(d) Procedure; petition. Whenever a petition is filed with the enforcing officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the enforcing officer on their own motion that any structure is dangerous, unsafe or unfit for human habitation, the enforcing officer shall, if their preliminary investigation discloses a basis for such charges, report such finding to the governing body.

(e) Same; notice. The governing body upon receiving a report as provided in subsection (d) shall by resolution fix a time and place at which the owner, the owner's agent, any lien holder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished.

(f) Same; publication.

(1) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.

(2) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lien holder and occupant at the last known address and shall be marked "deliver to addressee only."

(g) Same; hearing, order. If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact, in support of such determination and shall cause the resolution to be published once in the official city newspaper and a copy mailed to the owners, agents, lien holders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a

statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be razed and removed.

(h) Duty of owner. Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same.

(i) Same; failure to comply.

(1) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the enforcing officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.

(2) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the enforcing officer may cause the structure to be removed and demolished.

(j) Same; make site safe. Upon removal of any structure, the owner shall fill any basement or other excavation(s) located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the enforcing officer may proceed to make the site safe.

(k) Assessment of costs: finance.

(1) The cost of the city of any repairs, alterations, improvements, vacating, removal or demolition by the enforcing officer, including making the site safe, shall be reported to the city clerk.

(2) The city shall give notice to the owner of the structure by certified mail of the cost of removing the structure and making the premises safe and secure and the costs of providing notice. The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice.

(3) If the costs remain unpaid after 30 days following receipt of notice, the city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required recovering such costs and the costs of providing notice shall be paid to the owner to the premises upon which the structure was located.

(4) If the proceeds received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to recover the above stated costs, or if there is no salvage, the balance shall be collected in the manner provided by K.S.A. 12-1, 115, and amendments thereto, or it shall be assessed as special assessments against the lot or parcel of land on which the structure was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs to the county clerk who shall extend the same on the tax roll of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1, 115, and amendments thereto, but only until the full costs and applicable interest has been paid in full.

(5) If there is no salvage material, or if the moneys received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to pay the costs of the work and the costs of providing notice, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid, out of the general fund or by the issuance of no-fund warrants.

(l) Immediate hazard. When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the enforcing officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior

notice to or hearing of the owners, agents, lien holders and occupants. The costs of any action under this section shall be assessed against the property as provided in subsection (k) of this section.

(m) Appeals from order. Any person affected by an order issued by the governing body under this section may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the enforcing officer from carrying out the provisions of the order pending final disposition of the case.

(n) Scope of section. Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to a cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750:1756f.

(Ord. No. 3361, § 1, 10-16-07)

Secs. 14-612—14-640. - Reserved.

ARTICLE VI. - BUILDING MOVING

FOOTNOTE(S):

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Cross reference— Streets, sidewalks and other public places, ch. 78.

State Law reference— Moving of buildings, K.S.A. §§ 17-1914 et seq.

Sec. 14-641. - Penalty for violation of article.

Any person or any officer, agent or employee thereof, violating any of the provisions of this article or failing, refusing or neglecting to comply with any of the provisions of this article shall, upon conviction, be deemed guilty of a misdemeanor.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-642. - Permit—Required.

It shall be unlawful for any person to move any building or other high or heavy or over width structure over any of the streets, avenues or alleys of the city without first securing a permit or license therefore and otherwise complying with the provisions of this article.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-643. - Same—Applicant requirements for issuance.

Any person desiring to move any building or other structure through, over or along any street, avenue or alley in the city shall:

(1) Secure a permit therefore and pay to the city a fee in an amount established in section 34-154 for each building or other structure to be moved.

(2) File with the code services officer, in writing, a statement describing the building or structure, its location and the place to which it is desired to move the building, also giving the proposed route over which it is desired to move the building and shall notify the electric distribution foreman of such filing. The electric distribution foreman shall then inspect the building, the proposed route and the new location and determine as near as may be what wires, posts, poles or other property of the city or others would be damaged by the moving and the probable cost of removing or raising its poles, wires or other property and restoring the same.

(3) Upon such determination by the electric distribution foreman, the applicant shall deposit with the city clerk a sum of money equal to the estimated cost, and also deliver to the city a certificate of liability insurance in the amount established in section 34-154. The permit holder shall be responsible to pay any and all damages which may occur to any pavement, street, sidewalks, electric light poles, wires, bridges, viaducts or other property belonging to the city or to any telephone or telegraph wires, poles or other property belonging to individuals or companies on account of moving of any such buildings or structures through, over or along any street, avenue or alley in the city, whether the damages shall be caused by the person or the person's agents, employees or workmen, and conditioned also that the person will save and indemnify and keep harmless the city against all liability, damages, cost and expense which may in any way, accrue against the city in consequence of the granting of such permit or operating there under. All work shall be at the risk of the holder of the permit.

(4) Upon the completion of the work the electric distribution foreman shall file with the clerk a detailed statement of the cost to the city as referred to in this section and the cost shall be deducted from the money deposited, and the remainder, if any, returned to the applicant. If not sufficient, the applicant shall pay the balance but the return of the money or settlement of the cost shall not in any way release or affect the liability of the permit holder.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-644. - Electric distribution foreman to supervise moving.

All work and operations under the sections of this article shall be under the supervision of the electric distribution foreman, and if the route proposed by the applicant is not deemed practicable by the electric distribution foreman, or is liable to occasion unnecessary damage to the public service or to the streets or alleys, he/she shall designate some other practical route, if any, for the moving. No other route shall be used other than that approved or designated by the electric distribution foreman. The electric distribution foreman shall require the proper protection, if necessary, for all streets, shoring up of bridges and culverts deemed necessary by the electric distribution foreman for the protection thereof, and may prescribe such other regulations as he/she may deem necessary.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-645. - Repair of damages.

If any of the city's poles, wires, pipes or other such property will be disturbed, the removing, repairing and restoring of the same shall be done by city employees. When the work is completed, the person doing the moving shall immediately repair all damages caused to any street, avenue or alley or to any building, bridge or other property belonging to the city or to any individual. Either the city or the individual may, if they so elect, do the repairing at the cost of the person doing the moving.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-646. - Poles and wires.

When any such building or structure is to be moved so that the wires or property of any telephone or telegraph company operating in the city will be disturbed, the person doing such moving shall notify the company at least ten hours before such disturbances will occur. It shall be their duty to raise or remove such wires giving reasonable opportunity to move the building there under which shall be at the expense of the person doing the moving, as provided in this article.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-647. - Prohibited moving.

No building or other structure shall be moved over any street or alley if by doing so material damage would be caused to any other building or structure already located. Wherever practicable, while doing the moving, a passageway shall be left open in the street.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-648. - Injury or destruction of trees.

It shall be unlawful for any person operating under the sections of this article, or the person's agent or employee, to cut, injure or destroy any tree or the limbs or the branches thereof located in any street, alley or avenue, without the consent of the city and the owner of the abutting property, or to injure, cut or destroy any tree or the limbs or branches thereof located on the property of any individual without the consent of the individual.

(Ord. No. 3361, § 1, 10-16-07)

Secs. 14-649—14-680. - Reserved.

ARTICLE VII. - NUMBERING OF BUILDINGS

FOOTNOTE(S):

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Cross reference— Streets, sidewalks and other public places, ch. 78.

Sec. 14-681. - Required.

All buildings fronting on any of the public streets and avenues of the city shall be numbered.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-682. - System of numbering.

(a) The numbering shall be done under and in accordance with the following system:

(1) The center of the public square shall be used as a basis for numbering.

(2) All streets running east and west in the city east of north and south streets shall be numbered, commencing at the northwest corner of the blocks abutting on the streets and numbering thence east on alternate numbers, the odd being placed on the south side of the streets and the even numbers on the north.

(3) All streets running east and west, west of north and south streets shall be numbered commencing at the northeast corners of the blocks abutting on the streets and numbering thence west in alternate numbers, the odd numbers being placed on the south side and the even numbers on the north side of the streets.

(4) All the streets running north and south, south of east and west streets, shall be numbered in a similar manner, commencing at the northwest corner abutting on the street and numbering thence south, the odd numbers being placed on the east side and all even numbers on the west side of such streets.

(5) All streets running north and south, north of east and west streets shall be numbered in a similar manner commencing at the southwest corner of the blocks abutting on the west side of the streets.

(b) However, the numbering shall be arranged so as to make each block receding from the public square number 100 more than the preceding block and allowing each 25 feet to one number.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-683. - Owner's duty.

It shall be the duty of the owners or agents of any house within the city limits not properly numbered to put up and keep upon, and in front of, their house a number corresponding with the number shown upon the plat to be kept on file in the office of the city clerk sufficiently large and plain to be easily read from the opposite side of the street upon which the house is situated.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-684. - New houses.

When any person shall build upon a vacant lot on any of the streets within the city limits the person shall within ten days after the occupancy of the building comply with section 14-683.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-685. - Plat of numbers.

The city clerk shall keep in the city clerk's office a plat of the city showing the number that each 25 feet of ground facing upon any street is entitled to, and shall, upon application by the owner or agent of any building, inform the owner or agent of the number such building is entitled to.

(Ord. No. 3361, § 1, 10-16-07)

Sec. 14-686. - City may number; costs.

If the owner of any building shall have failed to comply with the provisions of this article in causing the building to be properly numbered, the city may cause the numbering to be done and charge the costs to the premises so numbered, and collect the cost of the numbering as other city taxes are collected.

(Ord. No. 3361, § 1, 10-16-07)

Chapters 15-17 Reserved

Chapter 18 - BUSINESSES

FOOTNOTE(S):

--- (1) ---

Cross reference— Alcoholic beverages, ch. 6; commercial uses of cemeteries, § 22-37; fees generally, ch. 34; fees for businesses, § 34-186 et seq.; private collectors of solid waste, § 74-76 et seq.; playing in industrial or commercial areas, § 78-8; taxation, ch. 86; utilities, ch. 94; tree trimmers, § 98-66 et seq.; vehicles for hire, ch. 102.

ARTICLE I. - IN GENERAL

Secs. 18-1—18-30. - Reserved.

ARTICLE II. - TEMPORARY BUSINESSES

DIVISION 1. - GENERALLY

Sec. 18-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Person means any individual, corporation, partnership, association or other entity.

Temporary or transient business means any business conducted for the sale or offer for sale of goods, wares, merchandise or services which is carried on in any building, structure, motor vehicle or railroad car, or on any real estate, for a period of less than six months in each year.

Transient merchant means any person who engages in, does or transacts any temporary or transient business in the state, either in one locality or in traveling from place to place in the state, and includes merchants who, for the purpose of carrying on such business, hire, lease, use or occupy any building, structure, motor vehicle, railroad car or real estate.

(Code 1988, § 8-1102; Ord. No. 3206, § 1(8-1102), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Sec. 18-32. - Allowed.

This article shall allow for temporary businesses, door-to-door sales and for the operation of such businesses and sales through a permit system in the city.

(Code 1988, § 8-1102; Ord. No. 3206, § 1(8-1101), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Sec. 18-33. - Prohibited acts by peddlers and solicitors.

It shall be unlawful for any peddler or solicitor, or any person acting in behalf of either, to:

(1) Use a stationary location in or upon any public street, or operating in any congested area where the operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, executed in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(2) Operate on private property without having first secured a special use permit from the city.

(3) Sell or offer for sale goods, wares or merchandise from any vehicles on any of the public streets of the city; provided, however, that the prohibition contained in this subsection shall not include the peddling from door-to-door or from vehicles of fresh food products of farm or garden, nor bona fide deliveries of goods, wares, merchandise or foods made on a regular route to regular customers, or ice cream vending.

(4) Solicit or peddle from 9:00 p.m. to 9:00 a.m., or at any time when a sign has been posted on a residence or building stating "No solicitors or peddlers," or words to that effect, except that a licensed solicitor or peddler may call upon the occupant of a residence at other times when he has received express permission from such occupant to do so.

(Code 1988, § 8-1109(a)—(d); Ord. No. 3206, § 1(8-1109(a)—(d)), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Sec. 18-34. - Violation and penalties.

Any person who shall fail or refuse to comply with the provisions of this article shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-9, and such person's permit shall be revoked.

(Code 1988, § 8-1110; Ord. No. 3206, § 1(8-1111), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Secs. 18-35—18-55. - Reserved.

DIVISION 2. - PERMIT

Sec. 18-56. - Required; exemptions.

(a) No person shall operate a temporary business within the city without a permit from the city clerk.

(b) No permit or permit fee shall be required of:

(1) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;

(2) Sales or displays at trade shows, expositions or conventions;

(3) Sales of goods, wares or merchandise by sample catalogue or brochure for future delivery;

(4) Sales or displays at fairs, conventions or shows operated primarily for purposes of amusement, entertainment, recreation or education;

(5) Sales or displays at sales, fairs, auctions or bazaars operated by church, religious or charitable organizations;

(6) Garage sales held on premises devoted to residential use;

(7) Sales or displays at sales or shows of crafts or items made by hand and sold, offered for sale or displayed by the individual making such crafts, or handmade items;

(8) Sales of agricultural products, except nursery products and foliage plants, sold or offered for sale by the individual raising or producing such products;

(9) Sales to the owner or legal occupant of residential premises, at such premises pursuant to an invitation issued by such owner or legal occupant;

(10) Sales or displays at sales, bazaars or concessions sponsored or operated by public or private schools or educational institutions;

(11) Sales of paraphernalia used in the celebration of any nationally recognized holiday, except fireworks;

(12) Sales or displays at flea markets or at sales, exchanges or shows of antique or other personal property having an enhanced value by reason of its age or unique characteristics;

(13) Sales or displays at fairs or expositions sponsored by the state, a county or another governmental entity or a convention or tourism committee created pursuant to either K.S.A. 12-1695 or 12-16,101, and amendments thereto;

(14) Sales or displays at sales, exchanges or shows of collectibles or hobby or investment items of personal property, including but not limited to pets, gems and minerals, stamps, coins, photographs and photographic equipment, guns and belt buckles;

(15) Sales or displays in connection with, and at the site of athletic tournaments, events, contests or expositions; or

(16) Events sponsored by a nonprofit organization, and the nonprofit organization is the primary financial beneficiary of the event.

(b) The exemption provided by subsection (a) shall apply regardless of whether the transient merchant is sponsoring or operating the activity giving rise to the exemption or is participating in the activity as a seller or exhibitor.

(c) A transient merchant not otherwise exempted from the provisions of this article shall not be relieved or exempted from the provisions of this article by reason of temporary association with any local dealer, auctioneer, trader, contractor or merchant or by conducting temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

(Code 1988, § 8-1101; Ord. No. 3206, § 1(8-1102), (8-1110), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Sec. 18-57. - Application.

An application for a permit to operate a temporary business under this article shall be made at the city clerk's office upon forms approved by the city. Such applications shall be sworn to and filed with the city clerk at least 72 hours prior to the time in which the permit applied for shall become effective. The application herein required shall contain the following information:

(1) Name, date of birth, address or headquarters of the person applying for the permit;

(2) If the applicant is not an individual, the name and addresses of the applicant's principal officers and management;

(3) The names, dates of birth, driver's license and/or identification card numbers and addresses of all persons who will be in direct charge of conducting the temporary business;

(4) The names, dates of birth and driver's license and/or identification card numbers of all persons who will be working for the business at the location in the city;

(5) The time within which the temporary business will be operated and the location of the business in the city;

(6) At least one banking reference and at least one personal reference within the city;

(7) Any application for permit must also be signed by the party on whose property the temporary business shall be located;

(8) A state tax identification number; and

(9) If in conjunction with a nonprofit entity, a copy of the contract reflecting the financial division between the participants.

(Code 1988, § 8-1103; Ord. No. 3206, § 1(8-1104), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Sec. 18-58. - Investigation by the city.

The city clerk and/or the chief of police shall examine the application filed under this article for a permit and shall make, or cause to be made, such further investigation of the application and the applicant as the city clerk and/or chief of police shall deem necessary. The permit shall be issued once the city clerk and/or chief of police determine the following facts:

(1) That all of the statements made in the application are true; and

(2) That the applicant or employees have not engaged in any fraudulent transaction or enterprise.

(3) That the applicant is not wanted for any crime in any jurisdiction.

(Code 1988, § 8-1105; Ord. No. 3206, § 1(8-1105), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Sec. 18-59. - Fees.

Before a permit is issued, there shall be paid to the city clerk the sum as established in section 34-1896 for a permit which will allow a temporary business to operate as specified in the application within the city.

(Code 1988, § 8-1106; Ord. No. 3206, § 1(8-1106), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Sec. 18-60. - Expiration.

The permit shall remain in force and effect for the period specified therein, and shall be renewed upon the expiration of this period upon filing a new application as provided in this article.

(Code 1988, § 8-1107; Ord. No. 3206, § 1(8-1107), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Sec. 18-61. - Transfer.

Any permit issued under this article shall not be transferable.

(Code 1988, § 8-1108; Ord. No. 3206, § 1(8-1108), 6-10-97; Ord. No. 3213, § 1, 2-10-98)

Sec. 18-62. - Exhibition.

No person issued a permit under this article shall refuse to exhibit the permit at the request of any citizen.

(Code 1988, § 8-1109(f); Ord. No. 3206, § 1(8-1109(e)), 6-10-97)

Secs. 18-63—18-95. - Reserved.

ARTICLE III. - NEW GOODS PUBLIC AUCTIONS

FOOTNOTE(S):

--- (**2**) ---

State Law reference— New goods public auctions, K.S.A. 58-1014 et seq.

Sec. 18-96. - Penalty for violation of article.

Every person, firm, association or corporation who shall in any manner engage in, or conduct a public auction of new goods without having first obtained a license, or who shall knowingly advertise, represent or hold any sale of goods, wares or merchandise to be conducted contrary to the provisions of this article shall be deemed guilty of a misdemeanor. Each day such auction is conducted contrary to the provisions of this article shall constitute a separate offense.

(Code 1988, § 8-204)

Sec. 18-97. - License required.

It shall be unlawful for any person, firm, association or corporation to conduct a public auction of new goods or merchandise without first obtaining a license as provided by K.S.A. ch. 58, art. 10 (K.S.A. 58-1014 et seq.).

(Code 1988, § 8-201)

Sec. 18-98. - Incorporation of state law provisions.

The provisions of K.S.A. ch. 58, art. 10 (K.S.A. 58-1014 et seq.) are hereby adopted and incorporated in this section by reference and made a part of this article as if such state law provisions had been fully set out in this section, excepting on such parts or portions, thereof, which are specifically changed, omitted or added in this article.

(Code 1988, § 8-202)

Sec. 18-99. - Deletion of portion of state law provisions.

The provisions of K.S.A. 58-1022 is hereby expressly deleted.

(Code 1988, § 8-203)

Secs. 18-100—18-130. - Reserved.

ARTICLE IV. - BOWLING ALLEYS

Sec. 18-131. - Penalty for violation of article.

Any person, firm, corporation or association convicted of violating the provisions of this article shall be deemed guilty of a misdemeanor.

(Code 1988, § 8-303)

Sec. 18-132. - Time of closing.

All bowling alleys or premises shall be closed and vacated by all persons except the proprietor or person in the proprietor's employ at 12:00 midnight of each day, and not open to the public before 6:00 a.m. of the following day.

(Code 1988, § 8-301)

Secs. 18-133—18-165. - Reserved.

ARTICLE V. - JUNK DEALERS

FOOTNOTE(S):

--- (**3**) ---

State Law reference— Junk dealers, K.S.A. 50-619 et seq.

Sec. 18-166. - Penalty for violation of article.

Any person violating any of the provisions of this article, or who shall make any false entries in the record, or exhibit false records or authority shall, upon conviction, be guilty of a misdemeanor.

Sec. 18-167. - Records.

All junk dealers or persons buying junk, iron or other metals doing business within the city shall keep at their place of business, in a book provided for that purpose, in a clear and legible manner, a record of every purchase of junk, iron or other metals purchased or received by them, showing plainly the amount purchased; the nature of the junk, iron or other metals purchased; the person from whom purchased; the residences of the person from whom purchased; and the date of such purchase. The record shall be open to the inspection of the public during all business hours, and shall be open to inspection of the peace officers during all business hours and upon emergency for the tracing and apprehension of thieves immediately upon application at all hours, both day and night. Such record shall be kept as above provided for a period of not less than two years after such purchase.

Sec. 18-168. - Purchases from minors.

It shall be unlawful for any dealer in junk, iron or other metals, or any person to buy any junk, iron or other metals from any minor in the city or to receive the same therein knowing the same has been sold by a minor until the dealer shall be furnished by such minor a written authority for such minor to sell the junk, iron or other metals signed by the owner of the junk, or metals and also by the father, mother or guardian of the minor. Such written authority shall describe accurately the articles of junk, iron or other metals so authorized to be sold by such minor. Such person shall not purchase any junk, iron or other metals or receive the same from any minor not described in such written authority. Such person or corporation shall note in the record to be kept by section 18-167 in addition to the matters required by such section, the fact that such junk, iron or other metals was purchased or received from the minor under the written authority and referring to authority. Such written authority shall be kept and exhibited upon demand during all business hours or to the officers as provided in section 18-167, in regard to the record.

(Code 1988, § 18-168)

Secs. 18-169—18-200. - Reserved.

ARTICLE VI. - CIGARETTES AND TOBACCO PRODUCTS

FOOTNOTE(S):

--- (**4**) ---

State Law reference— Cigarettes and tobacco products, K.S.A. 78-3301 et seq.

Sec. 18-201. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cigarette means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco; or a battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

Consumer means a person who comes into possession of cigarettes or cigarette papers for the purpose of consuming them, giving them away or disposing of them in any way other than by sale, barter or exchange.

Retailer means a person who comes into possession of cigarettes or cigarette papers for the purpose of selling them to consumers.

(Code 1988, § 8-1001; Ord. No. 3433, § 1, 6-9-14)

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar provisions, K.S.A. 21-6109 and 79-3301.

Sec. 18-202. - Penalty for violation of article.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor.

(Code 1988, § 8-1009)

Sec. 18-203. - Retailer's license.

It shall be unlawful for any person to sell at retail cigarettes within the city, without a retailer's license obtained in the manner provided by the laws of the state.

(Code 1988, § 8-1002)

State Law reference— Licensing of cigarette dealers, K.S.A. 79-3303 et seq.

Sec. 18-204. - State tax stamps.

All cigarettes sold within the city under the provisions of this article shall be put up in packages, and on each package shall be affixed thereto a suitable stamp denoting payment of the state tax thereon.

Such stamp shall be in the form, and canceled, and otherwise in conformance with the requirements of the laws of the state relating thereto.

(Code 1988, § 8-1003)

State Law reference— Stamps, K.S.A. 79-3311, 79-3312, 79-3321.

Sec. 18-205. - Possession if tax not paid.

Except as authorized by law, it shall be unlawful for any consumer to have in the consumer's possession and to purchase cigarettes, within the city, upon which the tax provided by the laws of the state has not been paid.

(Code 1988, § 8-1004)

State Law reference— Possession of untaxed cigarettes, K.S.A. 79-3321(a).

Sec. 18-206. - Wholesalers to sell only to licensed retailers.

No person handling cigarettes or cigarette papers in a wholesale way within the city shall be permitted to sell cigarettes to any person not holding a state license to retail cigarettes, under the provisions of the laws of the state.

(Code 1988, § 8-1005)

Sec. 18-207. - Sale by dispensing machine; responsibility of owner.

All persons owning or in possession of any premises having dispensing machines therein shall be responsible for preventing the use of such machines for the sale of such merchandise to minors, or any sale which is in violation of the laws of the state.

(Code 1988, § 8-1007)

Sec. 18-208. - Duties of police.

The city police department may make periodic inspections of any such premises containing such vending machines to determine whether they are being used to make illegal sales. The chief of police may require the owner of such premises to move any such machine from any position where observation by the owner, the owner's employees or by the police is difficult.

(Code 1988, § 8-1008)

Secs. 18-209—18-240. - Reserved.

ARTICLE VII. - FORTUNETELLERS AND CLAIRVOYANTS

DIVISION 1. - GENERALLY

Secs. 18-241—18-260. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-261. - Required.

It shall be unlawful for any person to engage in the business of, or to accept any consideration directly or indirectly for, or in connection with, the foretelling of, or pretending to foretell, future events, or the communication, or pretext thereof, with the spirits of the deceased, in any manner, or by any means, without first obtaining a license.

(Code 1988, § 8-1210)

Sec. 18-262. - Application.

To obtain a license as provided by section 18-261, the applicant must file with the city clerk an application and file the same in handwriting which gives the following information:

(1) Name and date of birth;

(2) Address, temporary or permanent residences;

(3) All previous addresses, both personal and business for the past ten years;

(4) Licenses of any vehicles owned by the applicant;

(5) Applicant must furnish photographs and fingerprints of himself and of any persons who will assist in the business;

(6) A description of the arts to be practiced and any devices to be used, together with documentary and scientific proof that applicant can do what the applicant claims in the application, and that he will not defraud any persons;

(7) Bond, the application will be accompanied by a surety bond in the sum established in section 34-187 signed by the applicant and one or more sufficient sureties, to be approved by the governing body, conditioned upon the applicant not defrauding or otherwise damaging any person through practice of the business; and

(8) Furnish ten character references, five of which must be residents of the city.

(Code 1988, § 8-1211)

Secs. 18-263—18-295. - Reserved.

ARTICLE VIII. - PAWNBROKERS

FOOTNOTE(S):

--- (**5**) ---

State Law reference— Pawnbrokers and precious metal dealers, K.S.A. 16-706 et seq.

Sec. 18-296. - Penalty for violation of article.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor.

(Ord. No. 3105, § 3, 8-27-91)

Sec. 18-297. - License requirements.

Any person who shall engage in the business of pawnbroker, which is hereby defined as being a person whose business is to loan money upon security of personal property received in pledge, shall not engage in such business without first obtaining a license from the city clerk which shall be issued to any such person upon filing an application giving the name, present business and residence address and the address of the person for the past three years. Such application shall be accompanied by the amount of the tax provided for by ordinance in advance for the ensuing year, or the remainder thereof.

(Ord. No. 3105, § 1, 8-27-91)

Sec. 18-298. - Recordkeeping.

Pawnbrokers shall at all times give all peace officers any information regarding customers and goods and assist in recovering stolen property. They shall keep accurate detailed records showing the name and address of all persons who pledge or sell personal property to such pawnbroker and a description of each item of personal property, the date it was brought to such pawnbroker and the amount for which it was sold or pledged. Such pawnbroker shall also keep records showing the sale by the pawnbroker of all property taken in the pawnbroker's business, to whom such property was sold, the date and for what price and also showing the dates any property pledged was released.

(Ord. No. 3105, § 2, 8-27-91)

Secs. 18-299—18-310. - Reserved.

ARTICLE IX. - ADULT ENTERTAINMENT ESTABLISHMENTS AND ADULT HOTELS

FOOTNOTE(S):

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Editor's note—Ord. No. 3253, § 1, adopted June 13, 2000, enacted provisions to establish a new chapter 3, §§ 3.1—3.17, adult entertainment establishments and adult hotels. With the permission of the city these provisions were added as art. IX, §§ 18-311—18-327 to read as herein set out.

Sec. 18-311. - Definitions.

For the purpose of this article, the words and phrases used herein shall have the following meanings unless otherwise clearly indicated by the context:

"Adult entertainment establishment" means any commercial establishment which is an adult bookstore, adult motion picture theater, adult hotel or adult motion picture arcade as defined herein.

"Adult bookstore" or "adult video store" means any establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities". A commercial establishment may have other principal business purposes that

do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified material which depict or describe "specified sexual activities" or "specified anatomical areas" (as defined below).

"Adult motion picture theater" means an enclosed building designed for five or more patrons used for presenting any material distinguished or characterized by an emphasis on matters depicting or relating to "specified sexual activities" or "specified anatomical areas" (as defined below) for observation of patrons therein. The term does not include an adult hotel as defined below.

"Adult motion picture arcade" means any place at which slug or coin-operated electronically or mechanically controlled still or motion picture machines, projectors or other image producing devises are maintained to show images to five or fewer persons per machine at any time and which presents material which is distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas" (as defined below) for observation by patrons therein. The term does not include an adult hotel as defined below.

"Adult hotel" means a hotel or motel wherein a substantial or significant portion of the material presented over image-producing devices within individual rooms that are occupied by guests are distinguished or characterized by an emphasis on matters depicting or describing "specified sexual activities" or "specified anatomical areas" (as defined below).

"Employee" means any and all persons, including independent contractors, who work in or at, or in any way render any services directly related to, the operation of an adult entertainment establishment but shall not include independent contractors indirectly related to such operation such as janitorial services, construction, maintenance, pest control and trash removal.

"Specified anatomical areas" means the following:

(1) Less than completely and opaquely covered:

a. Human genitals, pubic region; or

b. Anal cleft or cleavage of the buttocks, and female breasts below a point immediately above the top of the areola; and

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

"Specific sexual activities" means the following:

(1) Human genitals in a state of sexual stimulation or arousal:

(2) Acts of human masturbation, sexual intercourse or sodomy; or

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts with the intent to arouse or gratify the sexual desires of the entertainer, employer or customer.

"Person" means any person, partnership, corporation or joint venture.

"Operator" means any person operating, conducting or maintaining an adult entertainment establishment.

"Morals charge" includes those charges involving prostitution, pimping or promoting prostitution, indecent exposure, illegal use, possession or sale of narcotic or non-narcotic drugs, sodomy, lewd and lascivious behavior, sexual battery, indecent liberties with a child, incest, bigamy and crimes against nature.

"Diversion" or "diversion agreement" means any formal referral of a defendant in a criminal case to a supervised performance program which upon successful completion results in the dismissal of the charges or complaint which is authorized pursuant to the laws of any city, state or of the United States.

(Ord. No. 3253, § 1(3.1), 6-13-00)

Sec. 18-312. - License required.

(a) Except as provided in subsection (e) below, from and after the effective date of this article, no adult entertainment establishment shall be operated or maintained in the city without first obtaining a license to operate issued by the city.

(b) A license may be issued only for one adult entertainment establishment located at a fixed certain place. Any person desiring to operate more than one adult entertainment establishment must have a license for each.

(c) No license or interest in a license may be transferred to any other person.

(d) It is unlawful for any employee or operator to knowingly work in or about, or to knowingly perform any service directly related to, the operating of any unlicensed adult entertainment establishment.

(e) All existing adult entertainment establishments at the time of the passage this chapter must submit an application for a license within 60 days of the date this chapter becomes effective. If an application for such license is not made within a 60 day period, then such existing adult entertainment establishment shall cease operation. Nothing herein shall be constructed to prohibit the city's right to refuse to grant a license to an existing adult entertainment establishment that upon application is not eligible for a license.

(Ord. No. 3253, § 1(3.2), 6-13-00)

Sec. 18-313. - Application for license.

(a) Any person desiring to secure a license shall make application in duplicate to the city clerk's office. The application shall be verified and accompanied by the license fee. Both copies of the application shall be filed with the city clerk's office.

(b) The application for a license shall be on a form provided by the city clerk's office. A partnership application, and the application of any officer or director of a corporation and any stockholders holding more than five percent of the stock of a corporate application shall furnish the following information under oath:

(1) Name and address, including all aliases:

(2) The name of the owner of the premises upon which the adult entertainment establishment is to be located;

(3) The address of the adult entertainment establishment to be operated by the applicant;

(4) A statement by the applicant that he or she is familiar with the provisions of this chapter and is complying with them.

(Ord. No. 3253, § 1(3.3), 6-13-00)

Sec. 18-314. - License fee.

For any adult entertainment establishment, the annual license fee shall be $100.00.

(Ord. No. 3253, § 1(3.4), 6-13-00)

Sec. 18-315. - License—Eligibility requirements.

To receive a license to operate an adult entertainment establishment, applicant must meet the following standards:

(1) If the applicant is an individual;

a. The applicant must be at least 18 years of age;

b. The applicant shall not have been convicted of or pleaded nolo contendere to or participated in a diversion agreement after having been charged with a felony or any morals charge as defined herein in any jurisdiction within the last five years immediately preceding the date of the application.

(2) If the applicant is a partnership, joint venture, corporation or any other type of organization where two or more persons have a financial interest:

a. All persons having a financial interest in the partnership, joint venture or any other type of organization shall be at least 18 years or age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent of the stock of a corporation.

b. No person having a financial interest in the partnership, joint venture, corporation or other type of organization shall have been convicted of or pleaded nolo contendere to or participated in a diversion program after having been charged with a felony or any morals charge within the immediate five years preceding the date of the application.

(Ord. No. 3253, § 1(3.5), 6-13-00)

Sec. 18-316. - Examination of application by city council.

If an application for a license is in proper form and accompanied by the license fee as provided far in section 18-314, the city council shall, after review and recommendation by the city administrator, examine the application. If the applicant is fully qualified pursuant to the guidelines set forth in this article, the city council shall issue a license to the applicant within 30 days of the filing of the application. If the city council fails to act on the application within 30 days after it is filed, it shall be deemed granted. If the city council denies the application within 30 days of the filing of the application, the application is deemed finally denied and the same application may not be made within one year unless there are changed circumstances. If the city council denies the application, the applicant may appeal the denial pursuant to the provisions of K.S.A. 60-2101(d) and amendments thereto within 30 days of the denial. If an application is denied by the city council over 30 days after it is filed, the denial shall be of no effect except that this provision is not intended to limit the liability of the city council to revoke the license for any of the reasons in section 18-314.

(Ord. No. 3253, § 1(3.6), 6-13-00)

Sec. 18-317. - Display of license required.

The license shall be displayed in a conspicuous public place within the premises licensed as an adult entertainment establishment.

(Ord. No. 3253, § 1(3.7), 6-13-00)

Sec. 18-318. - Renewal of licenses.

Every license issued pursuant to this article shall terminate at the expiration of one year from the date of issuance unless sooner terminated, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application for renewal to the city clerk's office. The application for renewal shall be filed in duplicate and dated by the city clerk. An application for renewal license filed after the expiration date of the license shall not be accepted if the premises the renewal license is being sought for does not comply with the distance requirements set forth

in section 18-313. A renewal application shall in all other respects be treated as an application for an initial license.

(Ord. No. 3253, § 1(3.8), 6-13-00)

Sec. 18-319. - General regulations and prohibited conduct.

Every operator or employee of an adult entertainment establishment shall comply with the following regulations, and the failure to comply with the regulations shall be unlawful:

(1) No person under the age of 18 shall be employed in or around an adult entertainment establishment.

(2) No person under the age of 18 shall be permitted to enter or remain in an adult entertainment establishment.

(3) No person shall be knowingly employed in or around an adult entertainment establishment who within one year prior to employment was released from probation from a conviction for a crime of or participated in a diversion agreement after being charged with a morals charge or a felony.

(4) Every adult entertainment establishment and every person employed by the establishment in the conduct of his or her business shall admit to any and every part of the premises designated in the license at any time any law enforcement officer or official of the city or its police department authorized by the chief of police for inspection of the premises to assure compliance with the regulations of the city, except that this provision does not apply to rooms occupied by patrons of an adult hotel during periods of such occupancy.

(5) Every adult entertainment establishment must maintain for inspection a list of all employees providing services directly related to the operation of the establishment, including their date of birth, race, sex and Social Security number.

(Ord. No. 3253, § 1(3.9), 6-13-00)

Sec. 18-320. - Alcoholic beverages.

No alcohol, liquor or cereal malt beverage shall be sold or consumed on the premises of an adult entertainment establishment, except this provision shall not apply to rooms rented and occupied by patrons in an adult hotel.

(Ord. No. 3253, § 1(3.10), 6-13-00)

Sec. 18-321. - Private rooms and closed booths prohibited.

(a) Every adult motion picture arcade shall be physically arranged in such a manner that the interior portion of all viewing areas are visible from a common area of the premises and shall not be obscured by any curtains, drapes, doors or other enclosure except under the following conditions:

(1) The booth is designed for a single occupant;

(2) The booth has a door or curtains which cannot be locked; which may extend downward not closer than 15 inches from the floor and which has an open space at the top so that the top of the door or curtain does not extend upward more than six feet from the floor;

(3) Conspicuous signs stating, "only one occupant per booth";

(4) There are no openings between booths; and

(5) It can readily be determined from outside the booth that there is no more than one occupant inside the booth.

(b) No licensee, manager, employee or agent shall permit or allow two or more occupants to occupy any booth which has been designated as a booth designed for a single occupant.

(c) No person shall enter into or remain in a booth which has been designated with a sign stating "only one occupant per booth" while another occupant is in the booth.

(Ord. No. 3253, § 1(3.11), 6-13-00)

Sec. 18-322. - Compliance with other regulations required.

No licensee shall be granted for an adult entertainment establishment unless the licensee fully complies with the health regulations, building codes, zoning ordinances, fire prevention and safety regulations of the city.

(Ord. No. 3253, § 1(3.12), 6-13-00)

Sec. 18-323. - Distance requirements.

(a) No license shall be granted for an adult entertainment establishment or adult hotel which is located within 500 feet of a church, public or parochial school, public park, residential zoning district, erotic dance studio or any other adult entertainment establishment or adult hotel.

(b) Provided, however, that adult entertainment establishment or adult hotel licenses may be issued for all establishments engaged in the business of adult entertainment establishments or adult hotels as of the date of enactment of this chapter, that are located within 500 feet of a church, public park, public or parochial school, residential zoning district, erotic dance studio or other adult entertainment establishment or adult hotel, so long as the premises are used or held for use as an adult entertainment establishment or adult hotel. This distance is to be measured from the nearest property line of the residential zoning district, church, public or parochial school, public park or other adult entertainment establishment or adult hotel to the nearest property line of the premises on which the adult entertainment establishment or adult hotel is located or of any parking lot designated to be used by the patrons of such an establishment provided, however, that:

(1) Such license, once issued, shall not be renewed to any person or persons not identified in the original license; further, that should such a licensed establishment ceases to be used for such purpose for a period of 60 days or more, then and in that event, no new adult entertainment establishment or adult hotel license shall be issued for the establishment except as specifically provided by this chapter.

(2) Should a licensed establishment cease to be used for such purpose for a period of 60 days or more, then and in that event the existing license shall be deemed to expire at 12:00 noon, on the 61st calendar day of nonuse. In no event shall this provision be construed to extend the term of a license issued under this section. Should a license expire pursuant to this provision, the licensee may make application to the license collector for refund of the portion of license fee attributed to the remaining period of the license. All such applications must be filed at least 30 days prior to the end of the original term of the license. No refunds shall be made for a period of time less than 30 days.

Periods of time during which such establishments are being remodeled or repaired because of normal wear and tear, desire to improve the quality of the premises, or damage caused by fire or natural disaster such as floods or windstorms shall not be included in computing the above 60-day period, provided that any remodeling or repair must be commenced within 60 days after closure of any structure and completed within a reasonable time thereafter. The chief of police shall be notified in writing within 30 days of closing of such establishment for remodeling or repair, such notice to state the date of commencement and estimated or actual completion of remodeling or repair. Any establishment shall not be licensed and shall cease to be used as an adult entertainment establishment or adult hotel if repair is not commenced within 60 days after

such closure, if such repairs are not completed within a reasonable time thereafter and/or if the chief of police is not notified within the 60-day period.

(Ord. No. 3253, § 1(3.13), 6-13-00)

Sec. 18-324. - Suspension and revocation of license.

(a) The chief of police after actual service of ten days' written notice to the person holding a license for an adult entertainment establishment or adult hotel pursuant to this article shall have the authority to suspend such license for a period not to exceed 30 days for any violation of the provisions of this article or other ordinances or statutes regulating conduct in adult entertainment establishments or adult hotels; provided, however, that the licensee may appeal such order of suspension to the city council within seven days from the date of such order.

(b) The city council after actual service of ten days' written notice to the person holding a license for an adult entertainment establishment, pursuant to this title, may cause to be suspended for a period of not more than 30 days or may permanently revoke such license for the following reasons:

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

(2) If the licensee, manager, operator or employee has violated any of the provisions of this article;

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

(4) The nonpayment of any license fees payable hereunder; or

(5) For knowingly employing a person who has been within one year prior to the date of employment or who during the period of employment is adjudged guilty of or participated in a diversion agreement after being charged with a felony or a morals charge, or within one year prior to employment has been released from probation from a felony or morals charge.

Provided that if any of the grounds for revocation herein enumerated are violated by an employee, a manager or agent, then in absence of proof of knowledge by the licensee there shall be no revocation, except as herein provided, but there may be a suspension of not more than 30 days; it being further provided that in the event any licensee is subjected to more than two such suspensions in any 12-month period, his or her license may be revoked on the third such violation.

Upon appeal taken from an order of suspension or revocation, the court may stay the order of suspension or revocation upon a showing by the appellant and a finding by the court that a substantial likelihood exists that the movant will eventually prevail on the merits and that the movant will suffer irreparable injury unless the stay is granted. If there is no stay by the court, then the order of suspension or revocation shall not be suspended during he pendency of any such appeal. In case of the revocation of a license of any licenses, no new license shall be issued to such person or to any person acting for or on his or her behalf for period of six months after the revocation becomes effective.

(Ord. No. 3253, § 1(3.14), 6-13-00)

Sec. 18-325. - Penalty.

Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed $500.00 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

(Ord. No. 3253, § 1(3.15), 6-13-00)

Sec. 18-326. - Injunctions.

Section 18-323 of this article is adopted as part of the zoning laws and regulations of the City of Iola, Kansas, as through said section was fully set forth in chapter 106 of the Code of the City of Iola. The city attorney may bring an action in the district court of the thirty-first judicial district or any other appropriate court having jurisdiction to enjoin the violation of said section.

(Ord. No. 3253, § 1(3.16), 6-13-00)

Sec. 18-327. - Invalidity of part.

Should any court declare any section, clause or provision of this article to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this chapter.

(Ord. No. 3253, § 1(3.17), 6-13-00)

Chapter 22 - CEMETERIES

FOOTNOTE(S):

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Cross reference— Fees for cemeteries, § 34-221 et seq.; streets, sidewalks and other public places, ch. 78.

State Law reference— Municipal cemeteries, K.S.A. 12-1401 et seq.

ARTICLE I. - IN GENERAL

Sec. 22-1. - Burials on private property.

No deceased person shall be buried within the city limits on private property.

(Code 1988, § 12-126; Ord 3462, 5-25-16)

Secs. 22-2—22-30. - Reserved.

ARTICLE II. - CITY CEMETERIES

Sec. 22-31. – Control of Cemeteries.

The cemeteries owned and controlled by the City of Iola, Kansas, known as the Iola Cemetery and Highland Cemetery, or cemeteries that may be hereafter acquired by said City, shall be controlled as hereinafter designated. The general management and control of Iola cemeteries shall be under the supervision of the Cemetery Superintendent of the City of Iola, Kansas with the general daily maintenance and care under the supervision of cemetery staff as assigned. The Cemetery Superintendent shall formulate rules and regulations governing and relating to the operation, maintenance and improvement of such cemeteries, including the fixing of fees for maintenance, interments of remains or parts of remains of deceased persons and other fees to be approved by the

governing body of the City of Iola. The City Administrator and/or Governing body of the City of Iola reserves the right to make any additional rules and regulations for the government and operation of the Iola cemeteries.

(Code 1988, § 12-102; Ord 3462, 5-25-16)

Cross reference— Administration, ch. 2.

Sec. 22-32. Appeals.

Any person aggrieved by the decision of the Cemetery Superintendent is authorized by this article to appeal to the City administrator and / or the governing body of the City of Iola. The city administrator and /or the governing body shall hear and decide appeals when any person is aggrieved by any requirement, decision or determination made by the Cemetery Superintendent in the enforcement or administration of this article. The appeal shall be in writing by the aggrieved person and shall be presented to the city administrator. If the city administrator is not able to resolve the appealed grievance with any individual after discussing the grievance with the Cemetery Superintendent it will then be forwarded to the governing body at the next regularly scheduled commission meeting. The governing body must make a decision on the appeal not later than its next regular scheduled commission meeting after the appeal is presented to them. Decisions by the Governing Body on any appeal shall be final.

(Code 1988, § 12-103; Ord 3462, 5-25-16)

State Law reference— Cemetery boards, K.S.A. 12-1420 et seq.

Sec. 22-33. Fees and Charges.

The Cemetery Superintendent shall establish a schedule of fees and charges for the opening and closing of graves and for performance of other services in Iola cemeteries by city personnel. The schedule of fees shall be approved by the governing body of the City of Iola and a copy thereof kept permanently on file in the office of the city clerk for distribution to all interested persons at such times and in such manner as the city clerk deems appropriate. (See SECTION IV)

(Code 1988, § 12-112; Ord 3462, 5-25-16)

Sec. 22-34. – Sale of lots / issuance and transfer of deeds.

(a) The lots in such cemeteries shall be sold at such price and on such terms as may from time to time be fixed by the Cemetery Superintendent. All lots so sold shall be transferred to the purchaser in writing, signed by the City Clerk and shall bear the seal of the City. The City Clerk shall make a record to be kept for the purpose of each sale and transfer, showing the name of the purchaser, the date of purchase, the consideration, and such other information as the Cemetery Superintendent may require, provided, however, that all such sales and transfers shall be subject to all rules and regulations and ordinances now in force or hereafter adopted, governing, restricting or regulating the use or control of said cemeteries and of the lots therein.

(b) All deeds for cemetery lots or individual burial spaces purchased shall be signed by the City of Iola, City Clerk under the seal of this city and the City Clerk shall keep a record of each and every lot or part of lots sold. No deed shall be delivered until the purchase price is paid in full. No transfer of any lot or part of lot by an individual purchaser, his or her heirs or assigns shall be valid until the city of Iola has been provided with all legal documentation they may deem necessary to prove said person or persons

have acquired lawful claim to said property. All such sales and transfers shall be subject to all rules and regulations and ordinances now in force or hereafter adopted, governing, restricting or regulating the use or control of said cemeteries and of the lots therein.

(Code 1988, § 12-113; Ord 3462, 5-25-16)

Sec. 22-35. – Failure to pay purchase price.

In case any lot or parts of a lot has been sold or conveyed to any purchaser and such purchaser shall fail to pay for a period of thirty days following the date of the agreement to pay the purchase price thereof, such agreement at the option of the city, shall be and remain canceled, void and of no effect. No burials will be permitted on any lot or parts of a lot until a funeral director has notified the City of Iola and agreed that the purchase price be billed to the funeral director's establishment for payment in full otherwise the purchase price must be paid in full and the city clerk must have issued a deed to the purchaser.

(Code 1988, § 12-114; Ord 3462, 5-25-16)

ARTICLE III. LOT SALES

Sec. 22-36. – Superintendent to report sales.

The superintendent of Iola cemeteries shall report all sales and entombment, burials, staking fees, and disinterment charges on a regular monthly report to the City Clerk. The superintendent of Iola cemeteries shall inform the City Clerk of any agreement made by an individual to purchase any lot or parts of a lot in Iola cemeteries and must also maintain records with the pertinent information relative to all of the above.

(Code 1988, § 12-115; Ord 3462; 5-25-16)

Sec. 22-37. – Record of funds.

(a) The City Clerk shall keep suitable records of funds collected and expended, invested funds and various other monies received and disbursed in conjunction with Iola Cemeteries. The City Clerk shall as often as said governing body may direct invest trust funds or other funds accumulating in reserves, etc. of the City of Iola or any portion thereof as designated by the governing body.

(b) The Cemetery Superintendent shall propose annual budget funds needed for cemeteries operations to be approved by the governing body of the city of Iola, Kansas. Following the annual approval by the governing body the Cemetery Superintendent will then have full authority to administer these funds.

(Code 1988, § 12-116; Ord 3462, 5-25-16)

ARTICLE IV. MONUMENTS AND MARKERS

Sec. 22-38. - Monuments and markers.

(a) All monuments and markers at or above the surface of the ground shall be of granite, marble or granite and marble composition of approved standard quality. Rubbing of stones with abrasive materials is prohibited.

(b) Only one family monument shall be erected upon a lot except that where a lot is divided into separate burial plots under separate ownership's, in which case additional monuments may be

erected. All monuments erected and located on burial plots shall be in accordance with the regulations of the City of Iola. A flange six inches wide on markers and monuments, together with a uniform foundation extending to the outside width of the flange, shall be placed on all settings.

(c) Only one above ground monument, marker, mausoleum or ledger permitted per individual burial space. Family lots or parts of lots may use a monument or marker to be designed for an entire family or more than one individual as long as all other markers or monuments for these individuals are placed flush with surface and do not extend above the surface of the ground. All foot markers and markers designating the corners or boundaries of lots shall be placed flush with surface and shall not extend above the surface of the ground. No permanent decorations will be permitted in the front or rear of monuments. Cemetery personnel will pick up all temporary markers placed in Iola cemeteries if markers are left in place after two years from date of placement.

(d) No foundation shall be necessary on a space reserved for future use until the burial is made and the permanent setting made.

(Code 1988, §§ 12-117, 12-118; Ord 3462, 5-25-16)

Sec. 22-39. – Mausoleums, ledgers and foundations.

(a) All individual surface mausoleums and ledgers are required to have a six-inch concrete ribbon along the outer boarders. Where two are placed on burial spaces side by side, the area between the two must be filled with concrete. No individual mausoleums, building mausoleums or ledgers permitted in blocks # 15, 16, 17, 25, 26 and 27 as of July 11, 1985. All other areas within the cemeteries will be at the discretion of the Cemetery Superintendent and must not interfere with access to future burial sites.

(b) Wire or rebar must be used in all concrete foundations with a gravel and sand concrete mixture. No sand caps will be allowed. All footings must be one continuous piece of concrete and concrete may not be added to the end of any existing footings. Cemetery personnel will check all prefabricated concrete slabs used for this purpose with a metal detector to verify that wire or rebar has been installed. Any prefabricated concrete slabs constructed without rebar or wire will not be allowed.

(Code 1988, § 12-119; Ord 3462, 5-25-16)

Sec. 22-40. - Individual vaults.

All individual vaults must comply with the requirements of the laws of Kansas, and shall be placed in the ground so that no part of the vault or attachment thereto shall be above the natural surface of the ground. An individual may use an approved sectional concrete box in place of a vault. No wooden boxes will be allowed for burials as of February 7, 1974.

(Code 1988, § 12-120; Ord 3462, 5-25-16)

Sec. 22-41. – Commercial and other uses prohibited.

No person or persons with refreshments, merchandise for sale, firearms, or dogs not on a leash, shall be permitted to enter any cemetery or to be therein.

(Code 1988, § 12-121; Ord 3462, 5-25-16)

Sec. 22-42. – Staking fees.

Before any monument, marker or foundation for the same shall be placed in any cemetery belonging to the City of Iola, Kansas, all persons are required to pay a staking fee. Individuals must contact the cemetery superintendent or his assistant who will locate the line along which monument or foundation shall be erected, showing the lot where such monument or marker or foundation for the same is to be erected and along what boundary line of such lot such monument or foundation shall be erected. Monuments should be in line with four space lots on the east one-half or the west one-half, but not in the center. No monument or foundation shall be erected without prior approval and at no time may a monument or foundation be erected at a different place on said lot.

(Code 1988, § 12-122; Ord 3462, 5-25-16)

Sec. 22-43. – Planting on lots.

No trees, shrubs, vines or flowers shall be planted on burial lots or any place within the cemeteries of the city and no trees shall be cut down or trimmed except by direction of the Cemetery Superintendent or his assistant.

(Code 1988, § 12-123; Ord 3462, 5-25-16)

Sec. 22-44. - Care of lots.

(a) All graves and lots shall be kept clean and free from rubbish and waste matter and shall as nearly as possible be kept level with the general contour of the ground. Grading up or filling of lots is prohibited. No fence, curb, hedge, flower border or enclosure of any kind will be permitted on burial lots. Boxes, shells, toys, glass items and similar articles placed upon graves or lots are inconsistent with proper keeping of the grounds, and will not be permitted. No wild daisies or other flowers having seed thereon that may become scattered about the cemeteries shall be used for decorative purposes or placed upon any grave or lot.

(b) Urns and vases shall be set on continuous footings with a minimum of four inches of the footing extending past said item in each direction. Shepherd hooks placed on burial plots may not interfere with the ongoing maintenance of the cemetery grounds. Any such urn, vase or shepherd hook installed improperly shall be picked up by cemetery personnel until corrective action has been taken by the owner.

(Code 1988, § 12-124; Ord 3462, 5-25-16)

Sec. 22-45. - Trespassing.

It shall be unlawful for any person other than an officer in the performance of his or her duties, to discharge any firearms or other explosive; or to in any way disturb the peace and quiet; or to mutilate, injure, deface or remove any grave, mound, gravestone or other monument, corner-stone, stake, post, ornament, tree, shrub, plant, flower, enclosure, railing or vault, within any burying ground owned by the City of Iola, Kansas, or to take or carry away therefrom, or from their place therein, any of the things of value left therein, or to dig up and disturb the soil therein, or to break or injure or remove the fence inclosing same or any part thereof. Provided that nothing in this section shall be so construed as to in any way interfere with the officers, or owners of the lots therein or their employees from exercising reasonable care and control over said cemetery or the lots therein, in such a manner as shall not unnecessarily interfere with others or the rights of the public.

(Code 1988, § 12-124; Ord 3462, 5-25-16)

Sec. 22-46. – Immoral practices.

It shall be unlawful for any person, male or female, to resort to said cemetery for any immoral or indecent purposes or practice or to indulge therein in any immoral, indecent or lewd act or practice, or to assume any lewd, immoral or indecent position, or to make any lewd, immoral or indecent exposure of their person or of the person of another therein. Any person violating any of the provisions of this section shall be deemed guilty of a trespass therein.

(Code 1988, § 12-127; Ord 3462, 5-25-16)

Section 22-47. Sunday funerals.

Sunday burials will not be permitted in the Iola Cemetery or the Highland Cemetery of Iola, Kansas, except in cases where a funeral on said day is necessary because of a death from contagious disease or where the deceased person specifically requested a Sunday funeral, or for bodies shipped to the City of Iola for a Sunday burial or funeral. Before approval from the Cemetery Superintendent, all individual requests must be made in writing, under oath, providing the City of Iola with all legal documentation they may deem necessary to prove that such burial comes under the provisions of this section.

Section 22-48. Restricting use of cemetery streets.

No person shall use any road or street in any Iola cemetery except for lawful purposes and uses directly pertaining to said cemetery. All persons are hereby forbidden to ride or drive through either of the said cemeteries or the roads or streets thereof faster than at a rate of fifteen miles per hour. It shall be unlawful to park vehicles on, drive upon, or over, or across any cemetery lot or other place in said cemetery (except by authorized city personnel in the performance of their duties) other than upon the streets and roads laid out and established for that purpose. The Governing body of the City of Iola reserves the right to close any walkway, street or driveway now existing in Iola cemeteries providing sufficient access is left to all lots.

Section 22-49. Penalty for violations.

Any person, firm, or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and shall be fined in a sum not exceeding $100.00 plus costs and confinement in the City jail until such fine and costs are paid and each day's continuance of a violation shall constitute a separate offense hereunder.

(Ord 3462, 5-25-16)

Chapter 26 - COURTS

FOOTNOTE(S):

--- (**1**) ---

Cross reference— Administration, ch. 2; fees for courts, § 34-251 et seq.; offenses and miscellaneous provisions, ch. 62.

ARTICLE I. - IN GENERAL

Secs. 26-1—26-30. - Reserved.

ARTICLE II. - MUNICIPAL COURT

FOOTNOTE(S):

--- (**2**) ---

State Law reference— Municipal courts, K.S.A. 12-4101 et seq.

Sec. 26-31. - Established.

A municipal court of the city is hereby created.

(Code 1988, § 9-101)

Sec. 26-32. - Time and place in session.

The municipal judge shall hold court in city hall, and the court shall commence at 5:00 p.m. on each Wednesday.

(Code 1988, § 9-103)

State Law reference— Authority to prescribe time and place of holding court, K.S.A. 12-4109.

Sec. 26-33. - Record preparation fee.

In all cases brought before the municipal judge of the city, in which an appeal is taken to the district court, there shall be charged a fee in an amount established in section 34-251 for preparation of the record. The fee collected shall be turned into the city treasurer.

(Code 1988, § 9-105)

Sec. 26-34. - Court fines.

(a) Standard fine schedule.

Iola Municipal Court Standard Fine Schedule			
12	8-1507	Disobey traffic control device	$120.00
13	8-1508	Violate traffic control signal	$120.00
14	8-1509	Violate pedestrian control signal	$100.00
15	8-1510	Violate flashing traffic signal	$120.00

16	8-1511	Violate lane control signal	$120.00
17	8-1512	Unauthorized sign, signal, marking or device	$100.00
26	8-1605	Leave scene of accident (non-injury)	$120.00
27	8-1606	Fail to report an accident (non-injury)	$120.00
30.2	8-1012	Refuse a preliminary breath test	$120.00
34	8-1561	Impeding traffic by slow speed	$100.00
35	8-1562	Speeding on motor driven cycle	$120.00
37	8-1565	Drag racing or exhibition of acceleration	$240.00
38	8-1514	Drive on left side of roadway	$120.00
39	8-1515	Fail to keep right to pass oncoming vehicle	$120.00
40	8-1516	Improper passing; increase speed when passing	$120.00
41	8-1517	Improper passing on right	$120.00
42	8-1518	Passing on left with insufficient clearance	$120.00
43	8-1519	Limitations to driving left of center	$120.00
44	8-1520	Drive on left in no passing zone	$120.00
45	8-1521	Drive wrong way on one way road	$120.00
46	8-1522	Improper driving on a laned roadway	$120.00
47	8-1523	Following too close	$120.00
48	8-1524	Improper crossover on divided highway	$100.00
49	8-1545	Improper turn on approach	$120.00
51	8-1546	Improper "U" turn	$120.00

53	8-1547	Unsafe starting of stopped vehicle	$100.00
54	8-1548	Unsafe turning or stopping, fail to give proper signal, etc.	$120.00
55	8-1549	Improper method of giving notice of intention to turn	$100.00
56	8-1550	Improper hand signal	$100.00
57	8-1526	Fail to yield right-of-way at uncontrolled intersection	$120.00
58	8-1527	Fail to yield to approaching vehicle when turning left	$120.00
59	8-1528	Fail to yield at stop or yield sign	$120.00
60	8-1529	Fail to yield from private road or driveway	$120.00
61	8-1530	Fail to yield to emergency vehicle	$240.00
62	8-1531	Fail to yield to pedestrian or vehicle working on road	$100.00
63	8-1532	Disobey pedestrian traffic control device	$100.00
64	8-1533	Fail to yield to pedestrian in crosswalk	$120.00
65	8-1534	Improper pedestrian crossing	$100.00
66	8-1535	Fail to exercise due care in regard to pedestrian	$100.00
67	8-1536	Improper pedestrian movement in crosswalk	$100.00
68	8-1537	Improper use of roadway by pedestrian	$100.00
69	8-1538	Soliciting ride or business on roadway	$100.00
70	8-1539	Drive through safety zone	$100.00
71	8-1540	Fail to yield to pedestrian on sidewalk	$100.00
72	8-1541	Failure of pedestrian to yield to emergency vehicle	$100.00
73	8-1542	Fail to yield to blind pedestrian	$100.00

74	8-1543	Pedestrian under the influence	$240.00
75	8-1544	Pedestrian disobeying bridge or railroad signal	$100.00
76	8-1551	Fail to stop or obey railroad crossing signal	$240.00
77	8-1552	Fail to stop at railroad crossing stop sign	$120.00
78	8-1553	Certain hazardous vehicles failure to stop at railroad crossing	$240.00
79	8-1554	Improper moving of heavy equipment at railroad crossing	$100.00
80	8-1555	Vehicle emerging from alley, private roadway, building or drive	$120.00
81	8-1556	Improper passing of school bus; improper use of bus signal	$350.00
82	8-1556A	Improper passing of church or day-care bus	$240.00
83	8-1569	Improper stopping, standing or parking on roadway	$100.00
85	8-1571	Parking, standing, or stopping in prohibited area	$100.00
86	8-1572	Improper parking	$100.00
88		Parking for certain purposes prohibited	$30.00
89		Stall parking	$30.00
90		Blocking traffic	$80.00
91		Park on narrow street; signs	$80.00
92		Parking in alley	$80.00
96		Parking prohibited at all times in designated places	$80.00
97		Limited time parking zones	$30.00
103	8-1748	TV screen visible to driver	$100.00
104		Inattentive driving	$120.00

107	8-1573	Unattended vehicle	$100.00
108	8-1576	Drive with view or driving mechanism obstructed	$100.00
109	8-1580	Coasting	$100.00
110	8-1581	Following fire apparatus too close	$120.00
111	8-1582	Drive over a fire hose	$100.00
112	8-1583	Putting glass, etc. on highway	$150.00
113	8-1584	Stop when traffic obstructed	$100.00
114	8-1585	Improper operation of snowmobile on highway	$100.00
116	8-1575	Drive on sidewalk	$100.00
117	8-1574	Improper backing	$100.00
118		Avoid traffic control device	$120.00
123	8-1577	Unsafe opening of vehicle door	$100.00
124	8-1578	Riding in house trailer	$100.00
127	8-1586	Parental responsibility of child riding bicycle	$100.00
129	8-1588	Riding on bicycle; seats; riders limited	$100.00
130	8-1589	Clinging to vehicles	$100.00
131	8-1590	Improper riding of bicycle on roadway	$100.00
132	8-1591	Carrying articles on bicycle; one hand on handlebars	$100.00
133	8-1592	Improper bicycle lamps, brakes, or reflectors	$100.00
138	8-1594	Improper operation of motorcycle; seats; passengers, bundles	$100.00
139	8-1595	Improper operation of motorcycle on laned highway	$120.00

140	8-1596	Motorcycle clinging to another vehicle	$100.00
141	8-1597	Improper motorcycle handlebars or passenger equipment	$120.00
142	8-1598	Motorcycle helmet and eye-protection requirements	$100.00
143	8-1701	Equipment offenses that are not misdemeanors	$120.00
144	8-1703	Driving without headlights when required	$120.00
146	8-1705	Defective headlamps	$100.00
147	8-1706	Defective taillamps	$100.00
148	8-1707	Defective reflector	$100.00
149	8-1708	Improper tail lamp or turn signal	$100.00
151	8-1710	Improper lighting equipment on certain vehicles	$100.00
152	8-1711	Improper lamp color on certain vehicles	$100.00
153	8-1712	Improper mounting of reflectors and lamps on certain vehicles	$100.00
154	8-1713	Improper visibility of reflectors and lamps on certain vehicles	$100.00
156	8-1715	No lamp or flag on projecting load	$120.00
157	8-1716	Improper lamps on parked vehicle	$100.00
158	8-1718	Improper lamps and equipment on implements	$100.00
159	8-1719	Unlawful use of spot, fog, or auxiliary lamp	$100.00
160	8-1720	Improper lights or lamps on emergency vehicle	$100.00
161	8-1721	Improper stop or turn signal	$100.00
162	8-1722	Improper vehicle hazard warning lamp	$100.00
163	8-1723	Unauthorized additional lighting equipment	$100.00

164	8-1724	Improper multiple beam lights	$100.00
165	8-1725	Fail to dim headlights	$100.00
166	8-1726	Improper single beam headlight	$120.00
167	8-1727	Improper speed with alternate lighting	$100.00
168	8-1728	Improper number of driving lamps	$100.00
169	8-1729	Unauthorized lights or signals	$100.00
170	8-1730	Improper school bus lighting equip. and warning devices	$100.00
171	8-1730a	Unauthorized lights and devices on church or day-care bus	$100.00
172	8-1731	Improper lights on construction or maintenance vehicle	$100.00
173	8-1734	Defective brakes	$120.00
174	8-1738	Defective or improper use of horn or warning device	$100.00
175	8-1739	Defective muffler	$100.00
176	8-1740	Defective mirror	$100.00
177	8-1741	Defective wiper; obstructed windshield or windows	$100.00
178	8-1742	Improper tires	$100.00
181	8-1749a	Use of one way glass on windshield, windows, or headlamps	$100.00
182	8-1344	Child passenger safety restraint system	$100.00
182.1	8-2503	Fail to use seat belt	$30.00
182.2	8-1578a	Unlawful riding on vehicles	$100.00
183	8-1801	Defective motorcycle headlamp	$100.00
184	8-1802	Defective motorcycle tail lamp	$100.00

185	8-1803	Defective motorcycle reflector	$100.00
186	8-1804	Defective motorcycle stop lamp or turn signal	$100.00
187	8-1805	Defective multiple beam lighting	$100.00
188	8-1806	Improper road lighting equipment on motor driven cycles	$100.00
189	8-1807	Defective motorcycle or motor driven cycle brakes	$120.00
190	8-1808	Improper performance ability of brakes	$100.00
191	8-1810	Defective horn, muffler, mirrors, or tires	$100.00
192	8-235	No driver’s license	$120.00
198	8-142	Illegal or expired registration or tag	$120.00
200	8-3104	No liability insurance	$350.00
5.6	79-3321	Tobacco infractions	$25.00
7-909		Fail to clear property (if corrected before first appearance in court)	$90.00
7-803		Inoperable vehicle (if corrected before first appearance in court)	$90.00
2-101		Dog at large (first offense and corrective actions taken prior to first appearance in court)	$60.00

Fines For Speeding			
[Over Speed Limit]	[Fine]	[Court Cost]	[Total]
10 or below	$80.00	60.00	140.00
11	$86.00	60.00	146.00

12	$92.00	60.00	152.00
13	$98.00	60.00	158.00
14	$104.00	60.00	164.00
15	$110.00	60.00	170.00
16	$116.00	60.00	176.00
17	$122.00	60.00	182.00
18	$128.00	60.00	188.00
19	$134.00	60.00	194.00
20	$140.00	60.00	200.00
21	$149.00	60.00	209.00
22	$158.00	60.00	218.00
23	$167.00	60.00	227.00
24	$176.00	60.00	236.00
25	$185.00	60.00	245.00
26	$194.00	60.00	254.00
27	$203.00	60.00	263.00
28	$212.00	60.00	272.00
29	$221.00	60.00	281.00
30	$230.00	60.00	290.00
Over 30	$230.00 + 15.00 for each mph over, plus court costs		

(b) Court costs of $75.00 shall be added to all misdemeanor code violations, infractions and traffic violation fines, except for parking (88, 89, and 97).

(c) Exceptions to the standard fine schedule:

(1) For a second offense conviction within a 12-month period, the fine shall be doubled.

(2) For a third offense conviction within a 12-month period, the fine shall be tripled.

(3) For a fourth and subsequent offense conviction within a 12-month period, the fine shall be $500.00. In no event shall a traffic infraction conviction exceed $500.00.

(Ord. No. 3388, § 1, 8-24-10, eff. 9-1-10; Ord 3465, 8-8-16)

Chapter 30 - ELECTIONS

FOOTNOTE(S):

--- (1) ---

Cross reference— Administration, ch. 2; governing body, § 2-31 et seq.; fees for elections, § 34-286 et seq.

State Law reference— Elections generally, K.S.A. 25-101 et seq.; municipal elections, K.S.A. 25-2101 et seq.

Sec. 30-1. - Wards; creation and description.

The territory comprised within the corporate limits of the city is hereby divided into four wards, and the wards are hereby created, fixed, constituted, established, bounded and numbered as follows:

(1) First ward: Beginning at the corner of North Street and Jackson Avenue, N on the E side of North Street to Buchanan Street, E on the S side of Buchanan Street to Jefferson Avenue, N on the E side of Jefferson Avenue to the east-west road through Highland Cemetery, E on the S side of east-west Cemetery Road to Cottonwood Street, N on the E side of Cottonwood Street to the N city limits; E on the N city limits to Kentucky Street; S on the W side of Kentucky Street to Carpenter Street, W on the N side of Carpenter Street to First Street, S on the W side of First Street to East Street; W on the N side of East Street to Jefferson Avenue, N on the E side of Jefferson Avenue to Jackson Avenue, W on the N side of Jackson Avenue to the point of beginning.

(2) Second ward: Beginning at the S city limits and US Highway 169, being State Street, N on the W side of State Street to West Street, E on the N side of West Street to Washington Avenue, N on the W side of Washington Avenue to Jackson Avenue, E on the N side of Jackson Avenue to North Street, N on the W side of North Street to Buchanan Street, E on the N side of Buchanan Street to Jefferson Avenue, N on the W side of Jefferson Avenue to the east-west road through Highland Cemetery, E on the N side of said east-west Cemetery Road to Cottonwood Street, N on the W side of Cottonwood Street to N city limits; W on N city limits to W city limits; S along W city limits to S city limits; E on S city limits to the point of beginning.

(3) Third ward: Beginning at the S city limits and First Street, N on the E side of First Street to Carpenter Street. E on the S side of Carpenter Street to Kentucky Street, N on the E side of Kentucky Street to N city limits; E on the N city limits to E city limits; S on E city limits; W on S city limits to the point of beginning.

(4) Fourth ward: Beginning at the S city limits and US Highway 169, being State Street, N on the E side of State Street to West Street; E on the S side of West Street to Washington Avenue, S on

the W side of Washington Avenue to Madison Avenue, E on the S side of Madison Avenue to Jefferson Avenue, N on the E side of Jefferson Avenue to East Street, E on the S side of East Street to First Street; S on the W side of First Street to S city limits; W on S city limits to the point of beginning.

(Code 1988, § 5-201)

State Law reference— Wards, K.S.A. 14-1103.

Chapter 34 - FEES

FOOTNOTE(S):

--- (**1**) ---

Cross reference— Administration, ch. 2; finance, § 2-111 et seq.; businesses, ch. 18; taxation, ch. 86.

ARTICLE I. - IN GENERAL

Secs. 34-1—34-30. - Reserved.

ARTICLE II. - ADMINISTRATION

FOOTNOTE(S):

--- (**2**) ---

Cross reference— Administration generally, ch. 2.

Sec. 34-31. - Record inspection fees.

The fees required by section 2-153 are as follows:

(1) Per hour, per employee $7.00

(2) Minimum fee per request 3.00

(Code 1988, § 1-702)

State Law reference— Record inspection fees, K.S.A. 45-218.

Sec. 34-32. - Copying fee.

The fee required by section 2-154 is $0.25 per page.

(Code 1988, § 1-703; Ord 3454, 1-19-16)

State Law reference— Record copying fee, K.S.A. 45-219.

Secs. 34-33—34-65. - Reserved.

ARTICLE III. - ALCOHOLIC BEVERAGES

Sec. 34-66. - Occupation tax on beer distributors.

The tax required by section 6-37 is $750.00.

(Code 1988, § 3-217)

Cross reference— Alcoholic beverages generally, ch. 6.

State Law reference— Authority to levy tax on beer distributors, K.S.A. 41-310(j).

Sec. 34-67. - Annual cereal malt beverage retailer license fees.

The fees required by section 6-92 are as follows:

(1) General retailers $100.00

(2) Limited retailers $75.00

(Code 1988, § 3-207; Ord 3454, 1-19-16)

Sec. 34-68. - Fee for change of location for cereal malt beverage dealer.

The fee required by section 6-93 is $25.00.

(Code 1988, § 3-211)

Sec. 34-69. - Cereal malt beverage license reinstatement fees.

The fees required by section 6-96 are as follows:

(1) First violation .....$ 250.00

(2) Second violation $500.00

(3) Third violation $1,000.00

(Code 1988, § 3-209; Ord. No. 3169, § 1, 5-9-95)

Sec. 34-70. - Occupational taxes for sales of alcoholic liquors.

The occupation tax required by section 6-132(a) is $300.00. The occupation tax required by section 6-132(b) is $300.00.

(Code 1988, §§ 3-302, 3-307)

State Law reference— Authority to levy occupation tax on alcoholic liquor dealers, K.S.A. 41-310(l).

Sec. 34-71. - License tax for class A and class B private clubs and any other operation selling alcoholic liquor under the laws of the State of Kansas.

The license fee required by section 6-172 are $250.00 for a class A club and $250.00 for a class B club, and $250.00 for any other operation selling alcoholic liquor under the laws of the State of Kansas.

(Code 1988, § 3-402(a); Ord. No. 3263, § 1, 11-28-00)

State Law reference— Authority to levy occupation tax or license tax on clubs, K.S.A. 41-2622(b).

Secs. 34-72—34-105. - Reserved.

ARTICLE IV. - ANIMALS

FOOTNOTE(S):

--- (**3**) ---

Cross reference— Animals generally, ch. 10.

Sec. 34-106. - License fees for dogs and cats.

(a) The fees required by section 10-126 are as follows:
  (1) Unneutered male cats and dogs $8.00
  (2) Neutered male cats and dogs 4.00
  (3) Unspayed female cats and dogs 8.00
  (4) Spayed female cats and dogs 4.00
  (5) Late fee (initial late fee) 0.50
  (6) Late fee (per additional month late) 0.50
(b) The fees required by section 10-126(h) are as follows:
  (1) Replacement of registration tag $1.00
  (2) Transfer of registration 1.00

(Ord. No. 3163, § 18, 12-13-94)

Sec. 34-107. – 10-132 changed and does not reference a bond. - Deleted

(Ord. No. 3163, § 10(b), 12-13-94; Ord 3454, 1-19-16)

Sec. 34-108. - Impoundment fees.

The fee required by section 10-159 is $15.00, plus a boarding fee to be established by the poundkeeper.

(Ord. No. 3163, § 23(a), 12-13-94)

Secs. 34-109—34-140. - Reserved.

ARTICLE V. - BUILDING AND CONSTRUCTION REGULATIONS

FOOTNOTE(S):

--- (**4**) ---

Editor's note—Ord. No. 3362, § 1, adopted Oct. 16, 2007, amended Art. V in its entirety to read as herein set out. Formerly, Art. V pertained to buildings and building regulations. See the Code Comparative Table for complete derivation.

Cross reference— Building and construction regulations generally, ch. 14.

Sec. 34-141. - Building permit fees.

The fees required by section 14-38 are as follows:

(1) New residential structures, including apartments, dormitories and their usual accessory buildings, additions, alterations and repairs (per 100 square feet of area) .....$ 1.50

Minimum fee 15.00

(2) Commercial and industrial structures and all other uses including usual accessory uses, additions, alterations and repairs (per 100 square feet of area) 1.50

Minimum fee 15.00

(3) Sign permit fees 15.00

(4) Fence permit fees 15.00

(5) Commercial, residential and industrial roofing permit fee 15.00

(6) Other permit fees for projects not specifically listed 15.00

(7) Trade permit fees:

a. HVAC/Mechanical 15.00

b. Electrical:

Residential 20.00

Commercial 35.00

c. Plumbing:

Residential 20.00

Commercial 35.00

(Ord. No. 3362, § 1, 10-16-07)

Sec. 34-142. - Reserved.

Sec. 34-143. - New electric service fees.

The fees required for setting new electric services are as follows:

	New Electric Service Charges	100 amp	200 amp	Service over 200 amp
(1)	New residential service	$100.00	$150.00	Time and material cost
(2)	New commercial and industrial service	$125.00	$200.00	Time and material cost
(3)	Service upgrade	$100.00	$200.00	Time and material cost
(4)	Temporary service	$50.00		

(Ord. No. 3362, § 1, 10-16-07)

Secs. 34-144, 34-145. - Reserved.

Sec. 34-146. - Contractor and trade license fees.

The fees required by section 14-74 are as follows:

(1) Contractor license $45.00

(2) Master trade license 30.00

(3) Journeyman trade license 20.00

(4) Apprentice trade license 10.00

(5) Residential electric trade license 25.00

(6) Residential plumbing trade license 25.00

(Ord. No. 3362, § 1, 10-16-07)

Sec. 34-147. - Street or alley openings.

The fees required by section 14-43 are as follows:

Charges for repairs to streets or alleys:

(1) Gravel—Time and material cost.

(2) Concrete or asphalt—Time and material cost.

(Ord. No. 3362, § 1, 10-16-07)

Sec. 34-148. - Reserved.

Sec. 34-149. - Fees for certification examinations for master and journeyman tradesmen.

Trades that require testing for the issuing of a license must individually set up the exam with one of the nationally recognized testing companies and pay all fees associated with the exam directly to them.

(Ord. No. 3362, § 1, 10-16-07)

Sec. 34-150—34-153. - Reserved.

Sec. 34-154. - Building moving permit fee.

The fees required by section 14-643 are as follows:

(1) Permit fee .....$ 50.00

(2) Insurance amount 500,000.00

(Code 1988, § 13-502(c); Ord. No. 3362, § 1, 10-16-07)

Secs. 34-155—34-185. - Reserved.

ARTICLE VI. - BUSINESSES

FOOTNOTE(S):

--- (**5**) ---

Cross reference— Businesses generally, ch. 18.

Sec. 34-186. - Temporary business permit fee.

The fee required by section 18-59 is $250.00.

(Code 1988, § 8-1106; Ord. No. 3206, § 1(8-1106), 6-10-97)

Sec. 34-187. - Bond amount for fortunetellers and clairvoyants.

The bond amount required by section 18-262 is $5,000.00.

(Code 1988, § 8-1211(g))

Sec. 34-188. - Annual license fee—Adult entertainment establishment.

The license fee required by section 18-314 shall be $100.00 annually.

(Ord. No. 3253, 6-13-00)

Secs. 34-189—34-220. - Reserved.

ARTICLE VII. - CEMETERIES

Section 34-221. Cemetery Fees and Charges.

PURCHASE PRICE OF INDIVIDUAL BURIAL SPACES

Individual burial space in the designated Cremation Section at Highland Cemetery	**$100.00**
Individual burial space in the designated Baby Section at Highland Cemetery	**$100.00**
All other individual spaces in Highland and Iola Cemetery	**$300.00**

CHARGES FOR OPENING AND CLOSING OF BURIAL SPACES

All individuals are required to contact the Cemetery Superintendent before scheduling a burial in Iola Cemetery, Highland Cemetery or cemeteries that may be hereafter acquired by the city of Iola, no later than 8:30 A.M. on the calendar day prior to the scheduled burial date.

*Infant to 18 months and Cremation Burials (Excluding urn vault burials)	
Weekday from 8:00 A.M. and graveside service must be concluded by 2:30 P.M.	**$ 110.00**
Saturday from 8:00 A.M and graveside service must be concluded by 11:30 A.M.	**$185.00**
Designated City Holidays and approved Sunday Burials	**$220.00**
*All other burials and Urn Vault burials	
Weekday from 8:00 A.M. and graveside service must be concluded by 2:30 P.M.	**$300.00**
Saturday from 8:00 A.M. and graveside service must be concluded by 11:30 A.M.	**$400.00**
Designated City Holiday Burials and approved Sunday Burials	**$600.00**
Disinterment	**$800.00**
*Late Surcharges	
Late Weekday Surcharge for graveside service concluding or commencing after 2:30 P.M.	$80.00
Late Saturday Surcharge for graveside service concluding or commencing after 11:30 A.M.	$80.00

STAKING FEE FOR MONUMENTS

Staking for placement of each monument **$30.00**

(Ord 3462, 5-25-16)

FOOTNOTE(S):

--- (**6**) ---

Cross reference— Cemeteries generally, ch. 22.

Secs. 34-222—34-250. - Reserved.

ARTICLE VIII. - COURTS

FOOTNOTE(S):

--- (**7**) ---

Cross reference— Courts generally, ch. 26.

Sec. 34-251. - Preparation of court records fee.

The fee required by section 26-33 is $7.50.

(Code 1988, § 9-105)

Secs. 34-252—34-285. - Reserved.

ARTICLE IX. - ELECTIONS

FOOTNOTE(S):

--- (**8**) ---

Cross reference— Elections generally, ch. 30.

Secs. 34-286—34-315. - Reserved.

ARTICLE X. - FIRE PREVENTION AND PROTECTION

FOOTNOTE(S):

--- (**9**) ---

Cross reference— Fire prevention and protection generally, ch. 38.

Secs. 34-316—34-345. - Reserved.

ARTICLE XI. - FLOODS

Secs. 34-346—34-375. - Reserved.

ARTICLE XII. - HEALTH AND SANITATION

FOOTNOTE(S):

--- (**10**) ---

Cross reference— Health and sanitation generally, ch. 46.

Secs. 34-376—34-405. - Reserved.

ARTICLE XIII. - LIBRARY

FOOTNOTE(S):

--- (**11**) ---

Cross reference— Library generally, ch. 50.

Secs. 34-406—34-440. - Reserved.

ARTICLE XIV. - MANUFACTURED HOMES AND TRAILERS

Sec. 34-441. – Chapter 54 was repealed.- Deleted

(Code 1988, § 4-902(a); Ord 3454, 1-19-16)

Sec. 34-442. - Manufactured home park license fees.

The fees required by section 54-81 are as follows:

(1) License fee $100.00

(2) Renewal (per space) 2.00

(3) Maximum fee per year 100.00

(Code 1988, § 4-916)

Secs. 34-443—34-475. - Reserved.

ARTICLE XV. - NATURAL RESOURCES

FOOTNOTE(S):

--- (**12**) ---

Cross reference— Natural resources generally, ch. 58.

Sec. 34-476. - Oil and gas well drilling permit application fee.

The fee required by section 58-56 is $100.00.

(Code 1988, § 4-1202)

Secs. 34-477—34-510. - Reserved.

ARTICLE XVI. - OFFENSES AND MISCELLANEOUS PROVISIONS

FOOTNOTE(S):

--- (**13**) ---

Cross reference— Offenses and miscellaneous provisions generally, ch. 62.

Secs. 34-511—34-540. - Reserved.

ARTICLE XVII. - PARKS AND RECREATION

FOOTNOTE(S):

--- (**14**) ---

Cross reference— Parks and recreation generally, ch. 66.

Secs. 34-541—34-570. - Reserved.

ARTICLE XVIII. - PLANNING

Secs. 34-571—34-600. - Reserved.

ARTICLE XIX. - SOLID WASTE

FOOTNOTE(S):

--- (**15**) ---

Cross reference— Solid waste generally, ch. 74.

Sec. 34-601. - Residential solid waste collection charge.

The rate for residential solid waste collection will be $10.50 per month per unit, based on evidence of residential electrical service, added to the monthly utility bill.

(Code 1988, § 7-315; Ord. No. 3066, § 1, 12-12-89; Ord. No. 3329, § 1, 7-19-05; Ord. No. 3364, § 1, 8-5-08, eff. 1-1-09; Ord 3464, 5-25-16)

Sec. 34-602. - Private collector's license fee.

The fee required by section 74-112 is $45.00.

(Code 1988, § 7-310; Ord. No. 3362, § 1, 10-16-07)

Editor's note— Ord. No. 3362, § 1, adopted Oct. 16, 2007, changed the title of § 34-602 from "Private collector's license application filing fee" to "Private collector's license fee."

Secs. 34-603—34-635. - Reserved.

ARTICLE XX. - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

FOOTNOTE(S):

--- (**16**) ---

Cross reference— Streets, sidewalks and other public places generally, ch. 78.

Secs. 34-636—34-665. - Reserved.

ARTICLE XXI. - SUBDIVISIONS

Sec. 34-666. – Plat Filing Fees - This section is replaced by the UDC, Chapter 106. - Deleted

(Ord. No. 3006, § 16-1732, 3-24-87; Ord. No. 3302, § 1, 2-25-03; Ord 3454, 1-19-16)

Secs. 34-667—34-700. - Reserved.

ARTICLE XXII. - TAXATION

FOOTNOTE(S):

--- (**17**) ---

Cross reference— Taxation generally, ch. 86.

Secs. 34-701—34-730. - Reserved.

ARTICLE XXIII. - TRAFFIC AND VEHICLES

FOOTNOTE(S):

--- (**18**) ---

Cross reference— Traffic and vehicles generally, ch. 90.

Sec. 34-731. - Vehicle removal and storage charges.

The fees required by section 90-37 are as follows:

(1) Removal to city lot $75.00

(2) Storage charge (per day) $5.00

(3) Privately owned garage storage (per day) $5.00

(Code 1988, § 14-319; Ord 3454, 1-19-16)

Sec. 34-732. – Bicycle License Fee - No longer use. - Deleted

(Code 1988, § 14-503; Ord 3454, 1-19-16)

Secs. 34-733—34-765. - Reserved.

ARTICLE XXIV. - UTILITIES

FOOTNOTE(S):

--- (**19**) ---

Cross reference— Utilities generally, ch. 94.

Sec. 34-766. - Water service connection charges.

The fees required by or referenced in section 94-38 are as follows:

(1) Three-quarters-inch water tap (unimproved streets and alleys) $200.00

(2) Water tap to improved (permanent type streets and alleys) $700.00

(3) Oversize taps charge, time and material.

(Code 1988, § 15-105(a); Ord 3454, 1-19-16)

Sec. 34-767. - Existing split water service fees.

The fees required by or referenced in section 94-39 are as follows:

(1) Taps on improved, permanent type streets or alleys $700.00

(2) Oversize taps charge, time and material.

(Code 1988, § 15-106; Ord 3454, 1-19-16)

Sec. 34-768. - Electric meter installation charges.

The fees required by or referenced in section 94-40 are as follows:

(1) Permanent meter installation charge $75.00

(2) Temporary meter installation charge $35.00

(Code 1988, § 15-107)

Sec. 34-769. - Utilities service charge; deposit for each meter of service.

The charge required by or referenced in section 94-46 is $10.00.

(Code 1988, § 15-114)

Sec. 34-770. - Charges for connection and disconnection of utilities.

The fees required by or referenced in section 94-49 are as follows:

(1) Gas and/or water service $55.00

(2) Electric service (outside utilities office hours) $75.00

(3) Emergency disconnection charges:

a. Water $50.00

b. Electric $50.00

(Code 1988, § 15-127; Ord. No. 3304, § 1, 2-25-03; Ord 3454, 1-19-16; Ord 3454, 1-19-16)

Sec. 34-771. - Seasonal utilities service charges.

The charges required by or referenced in section 94-50 are as follows:

(1) Residential charges:

a. Gas $40.00

b. Water 20.00

c. Electric 20.00

(2) Commercial charges:

a. Gas 40.00

b. Water 20.00

c. Electric 25.00

(Code 1988, § 15-131; Ord. No. 3304, § 2, 2-25-03)

Sec. 34-772. - Charge for transfer of utility service for addresses outside city.

The charge required by or referenced in section 94-85 is $5.00.

(Code 1988, § 15-132)

Sec. 34-773. –

(1) Sewer connection charges for addresses inside city limits.
(a.) For saddle…..$50.00

(2) Sewer connection charges for addresses outside city.

The minimum charges required by or referenced in section 94-115 are as follows:

(a.) Housing unit $1,250.00

(b.) Multiple dwelling units (per unit) 1,250.00

(c.) Factories, plants or other commercial or business users 1,250.00

(Code 1988, § 15-206; Ord 3454, 1-19-16)

Sec. 34-774. - Reinstatement of utilities charges.

The charges required by or referenced in section 94-156 are as follows:

(1) Gas and/or water service $75.00

(2) Electric service 75.00

(Code 1988, § 15-130; Ord. No. 3103, § 1, 8-13-91; Ord. No. 3300, § 3, 1-28-03; Ord. No. 3415, § 1B, 3-11-13; Ord 3454, 1-19-16)

Sec. 34-775. - Testing of meter charge – we no longer test meters - Deleted

(Code 1988, § 15-109(b); Ord 3454, 1-19-16)

Sec. 34-776. - Residential electric charges for single-family and individually metered apartments.

The charges required by or referenced in section 94-212 are as follows:

	Inside city	*Outside city*
(1) Monthly customer charge for first 50 KWh	$ 7.50	$ 17.50
(2) Next 100 KWh (per KWh)	$0.0999	$0.1030
(3) Over 150 KWh (per KWh)	$0.0845	$0.0906

No proration shall apply to the customer charge.

(Code 1988, § 15-502; Ord. No. 3119, § 1(15-502), 10-27-92; Ord. No. 3289, § 1, 4-23-02; Ord. No. 3336, § 1, 10-25-05; Ord. 3447, 8-16-15; Ord 3454, 1-19-16; Ord 3457, 4-25-16, eff. 5-1-16)

Sec. 34-777. - Rates for all-electric residential users.

The charges required by or referenced in section 94-213 are as follows:

	Inside city	*Outside city*
(1) Monthly customer charge, per meter	$ 7.50	$ 17.50
(2) Energy charges all KWh (per KWh)	$0.0742	$0.0742

No proration shall apply to the customer charge.

(Code 1988, § 15-503; Ord. No. 3119, § 1(15-503), 10-27-92; Ord. No. 3289, § 2, 4-23-02; Ord. No. 3336, § 2, 10-25-05; Ord. 3447, 8-16-15; Ord 3454, 1-19-16; Ord 3457, 4-5-16, eff. 5-1-16)

Sec. 34-778. - Charges for all-electric commercial users.

The charges required by or referenced in section 94-214 are as follows inside and outside of city limits:

(1) Monthly customer charge, per meter	$ 17.50
(2) Energy charges:	
a. First 5,000 KWh (per KWh) ….	$0.0865
b. In excess of 5,000 KWh (per KWh) ….	$0.0762

No proration shall apply to the customer charge.

(Code 1988, § 15-504; Ord. No. 3119, § 1(15-504), 10-27-92; Ord. No. 3289, § 3, 4-23-02; Ord. No. 3336, § 3, 10-25-05; Ord. 3447, 8-16-15; Ord. 3451, 9-14-15; Ord 3454, 1-19-16; Ord 3457, 4-25-16, eff. 5-1-16)

Sec. 34-779. - Charges for all-electric library users.

The charges required by or referenced in section 94-215 are as follows inside and outside of city limits:

(1) Monthly customer charge, per meter	$ 7.50

(2) Energy charges (all units) $0.0649

No proration shall apply to the customer charge.

(Code 1988, § 15-505; Ord. No. 3119, § 1(15-505), 10-27-92; Ord. No. 3289, § 4, 4-23-02; Ord. No. 3336, § 4, 10-25-05; Ord. 3447, 8-16-15; Ord 3454, 1-19-16; Ord 3457, 4-25-16, eff 5-1-16)

Sec. 34-780. - Charges for commercial lighting and power users.

The charges required by or referenced in section 94-216 are as follows:

	Inside city	*Outside city*
(1) Monthly customer charge (per meter)	$ 17.50	$ 19.00
(2) Energy charges:		
a. First 150 KWh (per KWh)	$0.1061	$0.1092
b. Next 250 KWh (per KWh)	$0.0845	$0.0886
c. Next 1,600 KWh (per KWh)	$0.0773	$0.0773
d. Excess of 2,000 KWh (per KWh)	$0.0762	$0.0762

No proration shall apply to the customer charge.

(Code 1988, § 15-506; Ord. No. 3119, § 1(15-506), 10-27-92; Ord. No. 3289, § 5, 4-23-02; Ord. No. 3336, § 5, 10-25-05; Ord. 3447, 8-16-15; Ord 3454, 1-19-16; Ord 3457, 4-25-16, eff. 5-1-16)

Sec. 34-781. - Charges for small industry power and lighting users.

The charges required by or referenced in section 94-217 are as follows both inside and outside the city limits:

(1) Customer charge	$200.00
(2) Energy charges:	
a. First 150 KWh (per KWh)	$0.0989
b. Next 250 KWh (per KWh)	$0.0779
c. Next 1,600 KWh (per KWh)	$0.0725

d. Excess of 2,000 KWh (per KWh) $0.0715

No proration shall apply to the customer charge.

(Code 1988, § 15-507; Ord. No. 3119, § 1(15-507), 10-27-92; Ord. No. 3289, § 6, 4-23-02; Ord. No. 3336, § 6, 10-25-05; Ord. 3447, 8-16-15; Ord 3454, 1-19-16; Ord 3457, 4-25-16, eff. 5-1-16)

Sec. 34-782. - Electric charges for primary power industrial users.

The charges required by or referenced in section 94-218 are as follows:

(1) Monthly demand rate (per KWh of demand) $5.00

(based on the highest 15 minutes integrated established during the billing month, but not less than 75 percent of the highest demand during the preceding 11 months)

(2) Monthly customer charges (per meter) $200.00

(3) Monthly energy charges:

a. First 400,000 KWh (per KWh) …. $0.0546

b. Excess of 400,000 KWh (per KWh) …. $0.0464

No proration shall apply to the customer charge.

(Code 1988, § 15-508; Ord. No. 3119, § 1(15-508), 10-27-92; Ord. No. 3289, § 7, 4-23-02; Ord. No. 3336, § 7, 10-25-05; Ord. No. 3355, § 1, 12-22-06; Ord. 3447, 8-16-15; Ord 3454, 1-19-16; Ord 3457, 4-25-16 eff. 5-1-16)

Sec. 34-783. - Yard lighting service fee.

The fee required by or referenced in section 94-219 for a 175 watt mercury vapor light shall be $4.50 per month.

(Code 1988, § 15-509)

Sec. 34-784. - Gas service rates inside and outside of city.

The charges required by or referenced in section 94-256 are as follows:

	Inside city	*Outside city*
(1) Monthly customer charge (per meter):		

Residential	$ 7.50	$ 20.00
Commercial	$20.00	$25.00
Industrial	$20.00	$100.00
(2) Commodity charges:		
a. For 1,000 Mcf per month (per Mcf)	$ 5.00	$ 5.00
b. Over 1,000 Mcf per month (per Mcf)	$4.00	$4.00

(3) Large industrial purchase option: Available to any City of Iola industrial customer consuming over 50,000 Mcf in a calendar year. The qualifying industrial customer can request a fixed price to lock in a portion of their annual gas consumption for a 12-month term. The city will determine the fixed price and the industrial customer can decide the volume they would like to secure for the 12-month term. The gas volume will be the same quantity of gas each month for the term. The amount will be in the range of 80 percent of the customer's lowest monthly consumption in a calendar year, but it will be up to the customer to decide since they're locking in a particular volume for the term. The industrial customer will be responsible for all associated costs with losses and their percentage share of the transportation cost for the nominated volume of gas the customer secures. The industrial customer will purchase any additional monthly gas volume under the city's current gas service rate (subsection 34-784(2)) and gas stop loss adjustment (section 94-257). If the industrial customer does not consume the fixed monthly volume, the customer is still responsible for the entire fixed price quantity and the corresponding expenses associated with transportation. The industrial customer will also be responsible for the local distribution charges associated with the monthly volume.

(Code 1988, § 15-701; Ord. No. 3135, § 1, 10-26-93; Ord. No. 3233, § 1, 2-23-99; Ord. No. 3287, § 1, 5-1-02; Ord. No. 3291, § 1, 7-23-02; Ord. No. 3370, § 1, 6-9-09)

Sec. 34-785. - Charges for water usage.

The charges required by or referenced in section 94-281 are as follows:

Regular Rate:

(1) Meter charge $21.05

(2) For each unit $4.027

Wholesale Rate #1: Large commercial, industrial and wholesale water suppliers may purchase water by contract for a flat rate of $3.914 per unit. Eligible customers must enter a contract with the City to pay for minimum of 134 units per month regardless of usage. All units over 134 will be billed at the $3.914 rate and no credits for unused water will be issued.

Wholesale Rate #2: Large commercial, industrial and wholesale water suppliers may purchase water by contract for a flat rate of $3.409 per unit. Eligible customers must enter a contract with the

City to pay for a minimum of 668 units per month regardless of usage. All units over 668 will be billed at the $3.409 rate and no credits for unused water will be issued.

*Units are in 100 cubic feet of water used (100 cubic feet equals 748 gallons).

(Code 1988, § 15-601; Ord. No. 3090, § 1, 3-26-91; Ord. No. 3276, § 1, 8-14-01; Ord. No. 3334, § 1, 9-27-05; Ord. No. 3400, § 1, 10-24-11, eff. 12-1-11; Ord. No. 3406, § 1, 8-13-12, eff. 1-1-13; Ord. No. 3440, § 1, 11-24-14, eff. 1-1-15; Ord. 3446, eff. Aug. 1, 2015; Ord 3454, 1-19-16; Ord 3458, 4-25-16, eff 5-1-16)

Sec. 34-786. - Water charges for fire protection service.

The charges required by or referenced in section 94-282 are as follows:

(1) Four-inch or smaller (monthly) .....$ 3.00

(2) Six-inch (monthly) 5.00

(3) Eight-inch (monthly) 7.00

(4) Ten-inch (monthly) 10.00

(Code 1988, § 15-602)

Sec. 34-787. - Charges for single-family sewer usage.

The charges required by or referenced in section 94-308 are as follows:

(1) Minimum monthly service charge $5.00

(2) Water usage per 100 cubic feet $1.50

The sewer charge shall be established for the average water usage for the months of January, February and March. The charge shall be effective in April of each year through March of the following year. Customers that establish water usage on or after January 1 of each year shall be charged the median usage of 400 cubic feet per month until the average water usage for that customer is established by metered water usage in January, February and March of the following year.

(Code 1988, § 15-607; Ord. No. 3080, § 1, 9-18-90; Ord. No. 3306, § 1, 4-22-03; Ord. No. 3351, § 1, 9-26-06; Ord. No. 3405, § 1, 7-9-12; Ord. No. 3439, § 1, 11-24-14; Ord 3454, 1-19-16)

Editor's note— Section 8 of Ord. No. 3439 states that this section shall take effect and be in force with all billings received after January 1, 2015. Additionally, Section 6 of said ordinance states "The per-unit rates for all users and the extra strength charge will be adjusted annually in January by a factor equal to the Cost-of-Living Adjustment (COLA) released by the U.S. Social Security Administration."

Sec. 34-788. - Charges for commercial and industrial sewer use.

The charges required by or referenced in section 94-309 are as follows:

(1) Minimum monthly service charge $5.00

(2) Water usage per 100 cubic feet $1.50

(Code 1988, § 15-608; Ord. No. 3080, § 2, 9-18-90; Ord. No. 3306, § 2, 4-22-03; Ord. No. 3351, § 2, 9-26-06; Ord. No. 3405, § 2, 7-9-12; Ord. No. 3439, § 2, 11-24-14; Ord 3454, 1-19-16)

Editor's note— Section 8 of Ord. No. 3439 states that this section shall take effect and be in force with all billings received after January 1, 2015. Additionally, Section 6 of said ordinance states "The per-unit rates for all users and the extra strength charge will be adjusted annually in January by a factor equal to the Cost-of-Living Adjustment (COLA) released by the U.S. Social Security Administration."

Sec. 34-789. - Excess strength charge (ESC).

The ESC required by or referenced in section 94-310 for excess strength BOD shall be based on a BOD unit charge of $0.17 per pound to treat BOD and calculated as follows:

Monthly BOD excess strength charge (ESC) = monthly water usage (expressed in 100 cft) × average BOD strength minus 250 (expressed in mg/l) × BOD unit charge × 0.00624 (conversion factor).

(Code 1988, § 15-609; Ord. No. 3351, § 3, 9-26-06)

Editor's note— Ord. No. 3351, § 3, adopted Sept. 26, 2006, changed the title of section 34-789 from "Large users of sewers" to "Excess strength charge (ESC)."

Sec. 34-790. - Charges for commercial and industrial sewer users outside city limits.

The charges required by or referenced in section 94-311 are as follows:

(1) Minimum monthly service charge $6.25

(2) Water usage per 100 cubic feet $2.00

The sewer charge shall be established for the metered water usage for the month preceding the bill date.

(Code 1988, § 15-610; Ord. No. 3080, § 2(15-608), 9-18-90; Ord. No. 3351, § 4, 9-26-06; Ord. No. 3354, § 1, 11-14-06; Ord. No. 3405, § 3, 7-9-12; Ord. No. 3439, § 3, 11-24-14' Ord 3454, 1-19-16)

Editor's note— Section 8 of Ord. No. 3439 states that this section shall take effect and be in force with all billings received after January 1, 2015. Additionally, Section 6 of said ordinance states "The per-unit rates for all users and the extra strength charge will be adjusted annually in January by a factor equal to the Cost-of-Living Adjustment (COLA) released by the U.S. Social Security Administration."

Sec. 34-791. - Charges for residential sewer users outside city limits.

The charges required by or referenced in section 94-312 are as follows:

(1) Minimum monthly service charge $6.25

(2) Water usage per 100 cubic feet $2.00

The sewer charge shall be established for the average water usage for the preceding months of January, February and March. The charge shall be effective in April of each year through March of the following year. Customers that establish water usage on or after January 1 of each year shall be charged

the median usage of 400 cubic feet until the average water usage for that customer is established in the following year.

(Code 1988, § 15-611; Ord. No. 3080, § 4, 9-18-90; Ord. No. 3351, § 5, 9-26-06; Ord. No. 3354, § 2, 11-14-06; Ord. No. 3405, § 4, 7-9-12; Ord. No. 3439, § 4, 11-24-14; Ord 3454, 1-19-16)

Editor's note— Section 8 of Ord. No. 3439 states that this section shall take effect and be in force with all billings received after January 1, 2015. Additionally, Section 6 of said ordinance states "The per-unit rates for all users and the extra strength charge will be adjusted annually in January by a factor equal to the Cost-of-Living Adjustment (COLA) released by the U.S. Social Security Administration."

Sec. 34-792. - Charges for residential sewer use in Country Estates Addition.

The charge required by or referenced in section 94-313 is a flat monthly service charge equivalent to the rate charged for residential users outside the city limits based upon the water usage of the Country Estates Addition for the preceding months of January, February and March as determined by the flow through the RWD #15 meter serving that area. The charge shall be effective in April of each year through March of the following year.

(Code 1988, § 15-612; Ord. No. 3080, § 5, 9-18-90; Ord. No. 3306, § 3, 4-22-03; Ord. No. 3351, § 6, 9-26-06; Ord. No. 3354, § 3, 11-14-06; Ord. No. 3405, § 5, 7-9-12; Ord. No. 3439, § 5, 11-24-14)

Editor's note— Section 8 of Ord. No. 3439 states that this section shall take effect and be in force with all billings received after January 1, 2015. Additionally, Section 6 of said ordinance states "The per-unit rates for all users and the extra strength charge will be adjusted annually in January by a factor equal to the Cost-of-Living Adjustment (COLA) released by the U.S. Social Security Administration."

Sec. 34-793. - Gas tap and meter installation fee.

The fee required by or referenced in section 94-381 is as follows:

(1) Standard tap $200.00

(2) Oversized tap—Time and material.

(Code 1988, § 15-703; Ord. No. 3147, § 1, 4-12-94; Ord 3454, 1-19-16)

Sec. 34-794. - Charge for installation or removal of fire hydrant meter.

The charge required by or referenced in section 94-457 is $25.00.

(Code 1988, § 15-604(d)(2))

Sec. 34-795. - Private sewage disposal system permit fee.

The fee required by or referenced in section 94-525 is $10.00.

(Ord. No. 3099, § 1.5(b), 7-22-91)

Sec. 34-796. - Charge for repair of service to sewer main.

The maximum charge required by or referenced in section 94-526 is $150.00.

(Code 1988, § 7-512; Ord. No. 3120, § 1, 11-24-92; Ord. No. 3251, § 1, 4-11-00)

Sec. 34-797. - Building sewer permit fees.

The fees required by or referenced in section 94-617 are as follows:

(1) Residential permit and inspection fee $10.00

(2) Commercial or industrial building sewer permit 30.00

(Ord. No. 3099, § 1.6(c), 7-22-91; Ord. No. 3351, § 7, 9-26-06)

Sec. 34-798. - Late charge on unpaid utility bills.

There will be a late fee charge of five percent on any and all outstanding utility bills. The late charge will be accessed to all bills deemed not paid by the due date. Delinquent notices will be mailed the day after the due date notifying those customers that if payment is not received within 12 days, the utilities will be disconnected.

(Ord. No. 3315, § 1, 10-28-03)

Editor's note— Section 3 of Ord. No. 3315 provided for an effective date of Jan. 1, 2004.

Sec. 34-799. - Power cost adjustment.

The City of Iola retail electric rates are based on the total cost of all purchased power, coupled with transmission and distribution costs assessed by the power supplier. All of the electrical rates of the city shall be increased in accordance with power cost adjustment formula. The monthly power cost adjustment charge shall be applied to all electric rates schedules of the electric utility of the City of Iola for all sales of electric energy to ultimate consumers.

The annual average power cost included in base rates is equivalent to $.0400 per net kilowatt hour (Kwh). Whenever the monthly average cost of purchased power, distribution and transmission costs assessed by the power supplier exceeds $.0400 per net Kwh, then all of the City of Iola electrical billings shall be increased for the succeeding month to reflect the actual cost as calculated.

The net cost of the average KWh shall be calculated by adding the total cost of purchased power to the distribution and transmission costs assessed by the power supplier. That amount shall then be divided by the power available for sale, which is determined after consideration for line loss and unmetered usage.

(Ord. No. 3343, § 1, 3-28-06)

Sec. 34-800. - Allen County ambulance service.

Section deleted. The additional $5.00 per month fee for ambulance service expired December 31, 2014.

(Ord. No. 3435, § 1, 8-25-14; Ord 3465, 8-8-16)

Secs. 34-801—34-830. - Reserved.

ARTICLE XXV. - VEGETATION

FOOTNOTE(S):

--- (**20**) ---

Cross reference— Vegetation generally, ch. 98.

Sec. 34-831. - Tree trimmers annual license fee.

The fee required by or referenced in section 98-93 is $45.00

(Ord. No. 3137, § 5, 11-9-93; Ord. No. 3362, § 1, 10-16-07)

Secs. 34-832—34-865. - Reserved.

ARTICLE XXVI. - VEHICLES FOR HIRE

FOOTNOTE(S):

--- (**21**) ---

Cross reference— Vehicles for hire generally, ch. 102.

Sec. 34-866. - Driver's certificate of identification application fee.

The fee required by section 102-58 is $50.00.

(Ord. No. 3183, § 1(8-402), 5-28-96)

Sec. 34-867. - Fee for renewal of certificate of identification.

The fee required by section 102-61 is $5.00.

(Ord. No. 3183, § 1(8-404), 5-28-96)

Secs. 34-868—34-900. - Reserved.

ARTICLE XXVII. - ZONING

Sec. 34-901. - Application fees for changes in district boundaries. -Not applicable current UDC. – Deleted.

(Ord. No. 3005, § 16-1201, 3-24-87; Ord. No. 3302, § 2, 2-25-03; Ord 3454, 1-19-16)

Sec. 34-902. - Fee for hearing before board of zoning appeals.

The fee required by section 106-122 is $100.00.

(Ord. No. 3005, § 16-1104, 3-24-87; Ord. No. 3302, § 3, 2-25-03; Ord 3454, 1-19-16)

Chapter 38 - FIRE PREVENTION AND PROTECTION

FOOTNOTE(S):

--- (1) ---

Cross reference— Buildings and building regulations, ch. 14; fire limits, § 14-32; fire alarm systems and smoke detectors, § 14-36; fire retardant treated wood, § 14-37; fees for fire prevention and protection, § 34-316 et seq.; fires on paved areas, § 78-12; water charges for fire protection service, § 94-282.

State Law reference— Fire safety and prevention, K.S.A. ch. 31.

ARTICLE I. - IN GENERAL

Sec. 38-1. - Fireworks—Generally.

(a) Sale of fireworks restricted. The sale of fireworks is allowed only during the fireworks season, defined as the period beginning June 27 and ending on July 5 of each calendar year. Any group or individual desiring to sell fireworks must first obtain a permit from the City, which shall be good for one season only, with a fee specified in Article 34. The location and the facility from which the sales are to be conducted must meet the requirements of the Kansas Administrative Regulations (KAR) and be approved by the Fire Chief. Permits will be issued only for C-2 General Business zoned areas located along Highway 54 and State Street.

(b) Use, firing or discharge of fireworks restricted: exception. The firing or discharging of any of the fireworks designated in subsection (a) of this section within the city is hereby prohibited at all times except: (1) in public celebrations, under the supervision of the fire chief after being expressly authorized by the City Council in writing and (2) during the fireworks season from 9:00 a.m. to 11:00 p.m. each day, except on July 4th until midnight.

(c) Sale; days permitted; fireworks season defined. A seasonal, licensed retailer shall not sell fireworks except during the fireworks season. The fireworks season shall be the period beginning at 9 a.m. June 27 and ending at 5:00 p.m. on July 5th of each calendar year.

(d) Discharge of fireworks.

  (1) It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any person or group of persons, or from, in the direction of or into any vehicle of any kind.

  (2) It shall be unlawful for any person to discharge, ignite or fire any fireworks upon the public streets, alleys or avenues or in any park or public place within the city.

(e) Approved fireworks. Class 1.4g fireworks are permitted for use within the city limits with the exception of sky rockets, bottle rockets, Roman candles and sky rockets/mortars. All fireworks shall be a type that has been tested and approved for sale and use within the state by the state fire marshal.

(f) Violations of this section. A first offense shall be subject to a fine of not less than $100.00 and a second or subsequent offense will be subject to a fine not less than $250.00.

	"Large" Fireworks (used in big shows)	"Small" Fireworks (that you can buy)
Old name:	Special Fireworks	Common Fireworks
Old explosives class:	Class B	Class C
United Nations shipping category:	UN0335	UN0336
New name in U.S.:	Display Fireworks	Consumer Fireworks
New explosives class in U.S.:	1.3G	1.4G

(Ord. No. 6-201A, Art. 8; Ord. No. 3396, § 1, 6-27-11; Ord. No. 3404, § 1, 4-9-12; Ord 3444, 5-26-2015)

Editor's note— Ord. No. 6-210A was not specifically amendatory of the Code and was inadvertently omitted from the original codification, said ordinance being included as § 38-1 at the discretion of the editor.

Secs. 38-2—38-30. - Reserved.

ARTICLE II. - FIRE DEPARTMENT

FOOTNOTE(S):

--- (**2**) ---

Cross reference— Administration, ch. 2.

Sec. 38-31. - Firemen's relief association.

(a) The incorporation of the fire department as the firemen's relief association is hereby approved. The firemen's relief association may adopt such constitution and bylaws as it may deem best, the same being at all times subordinate to the ordinances of the city, and the laws of the state relating thereto.

(b) All moneys received by or for the benefit of the firemen's relief association shall be paid to the treasurer of the firemen's relief association and shall be set apart and used solely and entirely as provided in K.S.A. 40-1707 and amendments thereto. Such funds are to be paid out and distributed by the firemen's relief association, through its duly authorized officers.

(Code 1988, §§ 6-107, 6-108)

State Law reference— Firefighters Relief Act, K.S.A. 40-1701 et seq.

Secs. 38-32—38-65. - Reserved.

ARTICLE III. - FIRE PREVENTION STANDARDS

Sec. 38-66. - Uniform Fire Code adopted.

The 2012 edition of the International Fire Code (IFC) is hereby adopted by reference, excluding sections 603.8, 603.8.1, 903.3.1.3, 903.3.1.2.1, and 903.3.2.

(Code 1988, § 6-201(a); Ord. No. 3325, § 1, 9-28-04; Ord 3462, 5-25-16)

State Law reference— Adoption by reference authorized, K.S.A. 12-3009 et seq., 12-3301 et seq.

Sec. 38-67. - Life Safety Code; adoption.

(a) There is hereby incorporated by reference for the purpose of fire prevention within the corporate limits of the City National Fire Protection Association Pamphlet No. 101 (Life Safety Code), all chapters, including all appendices, 2012 edition, except chapter 24.

(b) The fire department, police department, municipal judge and all administrative departments of the city charged with enforcement of such code shall be supplied, at the cost of the city, such number of official copies of the National Fire Protection Association Pamphlet No. 101, 2012 Edition, similarly marked, as may be deemed expedient.

(Code 1988, § 6-201; Ord. No. 3055, § 1, 6-27-89; Ord. No. 3148, § 1, 4-12-94; Ord. No. 3325, § 1, 9-28-04; Ord 3462, 5-25-16)

State Law reference— Adoption by reference authorized, K.S.A. 12-3009 et seq., 12-3301 et seq.

Sec. 38-68. - Enforcement of article.

This article shall be enforced by the chief of the fire department.

(Code 1988, § 6-202)

Sec. 38-69. - Modifications of article.

The chief of the fire department shall have the power to modify any of the provisions of the standards adopted by reference in this article upon application in writing by the owner or lessee, or the duly authorized agent of the owner or lessee, when there are practical difficulties in the way of carrying out the strict letter of this article. The spirit of this article shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the fire department thereon shall be entered upon the records of the department, and a signed copy shall be furnished to the applicant.

(Code 1988, § 6-203)

Sec. 38-70. - Appeals.

Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of this article do not apply or that the true intent and meaning of this article have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the chief of the fire department to the city council within 30 days from the date of the decision appealed.

(Code 1988, § 6-204)

Sec. 38-71. - Burning within corporate limits.

(a) All open burning or fires are prohibited except as allowed by permit written by the Fire Chief or as defined below. Reference: IFC 105.1 Prohibited Fires IFC 307.1.1 General.

(b) Burning that is offensive or objectionable because of smoke is prohibited. Reference IFC 307.5 Extinguishment and Attendance

(c) All fires shall be constantly attended by a responsible party until the fire is fully extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire extinguishing equipment such as dirt, sand, water barrel, garden hose or water truck shall be available for immediate use.

(d) Prohibited Materials (all types of burning):

(1) Plastics

(2) Garbage & construction waste

(3) Wire insulation

(4) Rubber (tires) etc.

(5) All petroleum based products

(6) Animal waste

(7) Food service & industrial waste

(8) Yard vegetation and debris

(e) Recreational Fires (IFC 307.4.2)

(1) Definition: A recreational fire is an outdoor fire burning materials other than yard debris, rubbish and prohibited materials where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

(2) A Fire Department permit IS NOT required.

(3) Recreational fires shall not be conducted within 25 feet of a structure or combustible material.

(4) Natural untreated wood is allowed for burning. Prohibited materials shall not be used as a fuel. (See paragraph (d))

(5) Recreational fires are permitted after dark.

(6) If a county burn ban is in effect no open burning or fires will be permitted.

(f) Recreational Fires (IFC 307.4.2)

(1) Definition: A portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material.

(2) A Fire Department permit IS NOT required.

(3) Example Units: Gas fired fireplaces, metal or stone chimaneas and commercial fire pits; may be of open top design, may be equipped with a small hearth and may have a short chimney or similar products.

(4) The use of Portable Outdoor Fire Places may be used when the following precautions are taken.

(5) All manufactures' suggestions, instructions and safety precautions are taken to ensure the unit operates as intended.

(6) If equipped, use with a screen to contain sparks and embers.

(7) Portable Outdoor Fireplaces shall not be operated within 15 feet of a structure or combustible material. (Exception: One & two family dwellings).

(8) Natural untreated wood is allowed for burning. Prohibited materials shall not be used as fuel. (See paragraph (d)).

(g) Portable Outdoor Fire Places (Recreational Fires) IFC 307.4.3

(1) Definition: A portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material.

(2) A Fire Department Permit IS NOT Required.

(3) Example Units: Gas fired fireplaces, metal or stone chiminea's and commercial fire pits; may be of open top design, may be equipped with a small hearth, may have a short chimney or similar products.

(4) The use of Portable Outdoor Fire Places may be used when the following precautions are taken.

i. All manufactures' suggestions, instructions and safety precautions are taken to ensure the unit operates as intended.

ii. If equipped, use with a screen to contain sparks and embers.

iii. Portable Outdoor Fireplaces shall not be operated within 15 feet of a structure or combustible material. (Exception: One & two family dwellings).

iv. Natural untreated wood is allowed burning. Prohibited materials shall not be used as fuel. (See paragraph (d)).

v. Fires shall be attended and supervised at all times until fully extinguished.

(h) Open Flame (Outdoors) IFC 308.3

(1) Definition: Open flames such as citronella candles, lanterns, kerosene heaters, tiki torches and gas fired heaters shall not be located on or near decorative material or similar combustible materials. Burning devices shall be attended until extinguished.

(2) A Fire Department Permit IS NOT Required.

(i) Open-Flame Cooking Devices IFC 308.3.1

(1) Definition: Used for cooking food

(2) A Fire Department Permit IS NOT Required

(3) Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or with-in 10 feet of combustible construction.

(4) Exceptions: One- and two family dwellings or where buildings, balconies and decks are protected by an automatic sprinkler system.

(j) Liquefied-Petroleum-Gas-Fueled Cooking Devices IFC 308.3.1.1

(1) Definition: Used for cooking food

(2) A Fire Department Permit IS NOT Required

(3) LP-gas burners having an LP-gas container with a water capacity greater than 2.5 pounds shall not be located on combustible balconies or within 10 feet of combustible construction.

(4) Exception: One- and two family dwellings.

(k) Bonfires IFC 307.4.1

(1) Definition: A Bonfire is an outdoor fire used for ceremonial purposes.

(2) A Fire Department Permit IS Required

(3) Bonfires shall be inspected and approved by the Fire Chief.

(4) A permit from the Fire Chief shall be obtained prior to igniting.

(5) Bonfires shall not be located within 50 feet of a structure or combustible material unless the fire is contained in a barbecue pit.

(6) Natural untreated wood is allowed for burning. Prohibited materials shall not be used as a fuel. (See paragraph (h)).

(7) Bonfires shall be no greater than 3 feet in diameter and 2 feet in height.

(8) Bonfires shall be attended and supervised at all times until fully extinguished.

(l) Barbecue Pits IFC 307.4.1

(1) Definition: Used for cooking food

(2) A Fire Department Permit IS NOT Required.

(3) Barbecue pits outdoors shall be constructed of noncombustible materials or approved in-ground locations.

(4) Barbecue pits shall not be located within 50 feet of combustible structures or combustible material.

(5) Barbecue pits shall be no greater than 3 feet in diameter and 2 feet in height.

(6) Barbecue pits shall be attended and supervised at all times until fully extinguished.

(m) Sky Lanterns (Kongming Lanterns)

(1) Sky lanterns are also known as Kongming lanterns, wish lanterns, Chinese lanterns, sky candles or fire balloons. Sky lanterns are air borne paper lanterns that are a tradition found in some Asian

cultures. They are constructed from oiled rice paper on a bamboo frame, and contain a small candle or fuel cell composed of a waxy flammable material. When lit, the flame heats the air inside the lantern, thus lowering its density causing the lantern to rise into the air. They are known to travel significant distances from the point of release.

(2) These devices meet the definition of recreational fires, such as defined in IFC Section 302.1 of the Fire Code. These devices require constant attendance as required in Section 307.5 of the Fire Code which states “open burning, bon fires, recreational fires and the use of portable outdoor fire places shall be constantly attended until the fire is extinguished…”

(3) There is a serious fire and safety hazard associated with sky lanterns, which includes the potential to start an unattended fire on or off the property from which they are released. A sky lantern cannot be controlled once released. These devises can reach an altitude of 1,500 feet and travel up to 20 miles from the point of release on natural wind currents.

(4) Use of these devices in the city limits of Iola, Kansas is prohibited unless anchored or tethered.

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(Ord. No. 3172, § 1, 6-27-95; Ord. No. 3205, § 1, 5-27-97; Ord 3462, 5-25-16)

Sec. 38-72. - Demolition in case of fire.

Any building or structure or any part thereof may be demolished or removed in case of serious fire, and to prevent the spread thereof, upon the order of the fire chief. Any resident of the city may be called upon to aid in such demolishment and removal, and it shall be the duty of all persons so called to aid and obey the directions of the fire chief.

(Code 1988, § 6-205)

Sec. 38-73. - Fireworks displays.

Any person wishing to put on a public fireworks display within the corporate limits of the city shall, prior to obtaining a permit from the city fire chief, provide to the city:

(1) Adequate proof of insurance.

(2) At least three professional references.

(3) A proposed plan consisting of the time length of the display, the place the display is to be conducted, a list of all personnel involved, and a diagram of the proposed display area.

Such information shall be provided no less than two weeks prior to the time of the proposed display. Such permits shall only be granted for such public displays to celebrate unique occasions and other such dates and events as may be determined appropriate by the city council or its designee.

(Ord. No. 3247, § 1, 11-9-99; Ord. No. 3353, § 1, 10-17-06)

Chapter 42 - RESERVED

FOOTNOTE(S):

--- (**1**) ---

Editor's note—Ord. No. 3338, § 3, adopted Jan. 10, 2006, repealed ch. 42, §§ 42-31—42-40, 42-61—42-65, 42-86—42-90, which pertained to floods and derived from Code 1988, §§ 4-801—4-820; Ord. No. 3078, § 1, adopted Sept. 11, 1990; Ord. No. 3116, §§ 1—6, adopted June 23, 1992. The user's attention is directed to ch. 106, Unified Development Code.

Chapter 46 - HEALTH AND SANITATION

FOOTNOTE(S):

--- (**1**) ---

Cross reference— Animals, ch. 10; buildings and building regulations, ch. 14; unsafe or dangerous structures, § 14-611 et seq.; fees for health and sanitation, § 34-376 et seq.; solid waste, ch. 74; utilities, ch. 94.

State Law reference— Public health, K.S.A. 65-101 et seq.

ARTICLE I. - IN GENERAL

Secs. 46-1—46-30. - Reserved.

ARTICLE II. - NUISANCES

FOOTNOTE(S):

--- (**2**) ---

Cross reference— Cutting of weeds and vegetation, § 98-111 et seq.

State Law reference— Nuisance abatement, K.S.A. 12-1617e.

Sec. 46-31. - Enumeration; penalty for creation or maintenance.

(a) The following are hereby declared and deemed to be health nuisances affecting public health and welfare and shall be abated as set out in this article:

(1) All dead, decaying or putrid carcasses, flesh, fish or vegetables;

(2) All deposits of manure, offal or other unwholesome substances or filth of any kind or description;

(3) All filthy or offensive water slops, when thrown or conducted upon any street, alley or enclosure, so as to be offensive to the sight or smell or wholesomeness;

(4) All privies or slaughterhouses that have become or hereafter may become offensive from use or other cause;

(5) All cellars, stores or other buildings, or places which are not kept free from all filthy and unwholesome substances;

(6) All stock pens, feeding pens or other places that are permitted to become or to be offensive to the sight or smell or injurious to the health of the people;

(7) All deposits or substances that are liable to cause or engender disease;

(8) Any lot or place retaining water until it becomes stagnant;

(9) Any fence, building, erection, thing or substance placed upon or being upon any street, sidewalk, alley or public ground, except as permitted by the ordinances of the city so as to obstruct the same;

(10) Any building, erection or place kept, established or used for any purpose prohibited by any law of the state or ordinances of the city, relating to the sale or keeping of intoxicating liquors;

(11) All standing water and stagnant pools or ponds and grass, weeds, rank vegetation and other unhealthful things;

(12) All awnings, porches, sheds, posts, supports, columns, signs, sheds or buildings, that are or hereafter become in an unsafe condition and likely to endanger or injure the person or property of travelers upon any of the streets or sidewalks of the city; and

(13) Any and all acts, things, circumstances, conditions or places that are declared to be nuisances by the laws of the state, or ordinances of the city.

(b) Whoever shall cause, create, keep or maintain any nuisance, or permit the same to exist in or upon premises owned by such person, or under such person's control, shall, upon conviction, be deemed guilty of a misdemeanor.

(Code 1988, §§ 7-205, 7-901, 7-919)

Sec. 46-32. - Carcasses.

It shall be the duty of all persons to remove and bury beyond the city limits the carcasses of all dead animals, owned by them or within their enclosure, in their possession or under their control. Any person who shall suffer or allow the carcass of any animal belonging to such person which may have died from any cause to be unburied, or draw or deposit the carcass upon any other premises or in or upon any street, alley or other public place within the city, except in removing the carcass from the city limits, shall be deemed guilty of causing a nuisance and, upon conviction, shall be adjudged guilty of a misdemeanor

(Code 1988, §§ 7-904, 7-905; Ord 3462, 5-25-16)

Sec. 46-33. - Maintaining.

Whoever shall so keep any building or premises in such a manner as to be injurious to the health of the people or offensive to the neighborhood or to any private family or person, or to the public health, shall be deemed guilty of causing a nuisance.

(Code 1988, § 7-907)

Sec. 46-34. - Keeping premises clean.

The owner of any premises within the corporate limits of the city, whether the premises is a public building, business house, private residence or unoccupied, is hereby required to keep such premises, together with all buildings, barns, stables, sheds, privies, cellars, caves, sinks and other places thereon or connected therewith, as well as the streets and alleys adjacent thereto, in a good sanitary condition and free from all offensive odors by having removed therefrom all manure, offal, excrement, slops, decaying animals or vegetable matter, and all other filthy and other kind of substances and things before the premises becomes unwholesome or offensive to the sight or smell.

(Code 1988, § 7-909)

Sec. 46-35. - Complaints; inquiry and inspection.

The code enforcement officer shall make inquiry and inspection of premises upon such officer's own initiative or upon complaint that a nuisance exists. Upon making any inquiry and inspection the code enforcement officer shall make a written report of findings.

(Code 1988, § 7-911)

Sec. 46-36. - Right of entry.

It shall be a violation of this article to deny the code enforcement officer the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

(Code 1988, § 7-912)

Sec. 46-37. - Failure to comply; penalty.

Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance or request a hearing, the code enforcement officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association. Upon conviction of any violation of provisions of section 46-31, a person shall be guilty of a class C offense.

(Code 1988, § 7-915)

Sec. 46-38. - Hindering police.

Any person who shall hinder, impede or obstruct the chief of police or other person acting under the direction of the chief of police in the performance of any act or duty enjoined upon such marshal by this article shall be deemed guilty of a misdemeanor.

(Code 1988, § 7-906)

Secs. 46-39—46-70. - Reserved.

ARTICLE III. - ENVIRONMENTAL CODE

FOOTNOTE(S):

--- (**3**) ---

State Law reference— Nuisance abatement, K.S.A. 12-1617e.

Sec. 46-71. - Definitions and rules of construction.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned motor vehicle means any motor vehicle which is: not currently registered or tagged pursuant to K.S.A. 8-126—8-149, as amended; parked in violation of this Code; incapable of moving under its own power; or in a junked or wrecked condition.

Accessory structure means a secondary structure detached from the principal structure but on the same premises including, but not limited to, garages, sheds, barns or outbuildings.

Commercial or industrial means used or intended to be used primarily for other than residential purposes.

Dilapidation, deterioration or disrepair means any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking, peeling or flaking paint, rusting or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.

Exterior means those parts of a structure which are exposed to the weather or subject to contact with the elements, including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.

Garbage means, without limitation, any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage or use of foodstuffs.

Person means any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession.

Premises means any lot, plot or parcel of land including the structures thereon. Premises shall also mean any lot, plot or parcel of land without any structures thereon.

Refuse means garbage and trash.

Residential means used or intended to be used primarily for human habitation.

Structure means anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

Trash means combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings or tree branches and noncombustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

Weathered means deterioration caused by exposure to the elements.

Yard means the area of the premises not occupied by any structure.

(b) Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."

(Code 1988, §§ 7-1104, 7-1105)

Cross reference— Definitions generally, § 1-2.

Sec. 46-72. - Legislative finding of fact.

The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement and regulation of such conditions in the manner hereafter provided.

(Code 1988, § 7-1102)

Sec. 46-73. - Purpose of article.

The purpose of this article is to protect, preserve, upgrade and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are

injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof.

(Code 1988, § 7-1103)

Sec. 46-74. - Enforcement standards.

No person shall be found in violation of this article unless the code enforcement officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under section 46-75 but shall not include conditions which are not readily visible from any public place or from any surrounding private property.

(Code 1988, § 7-1107)

Sec. 46-75. - Prohibited conditions; penalty for violation of section; violations declared nuisance.

(a) It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(1) Exterior conditions (yard). Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

a. Lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;

b. Abandoned motor vehicles;

c. Furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property; and

d. Nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

(2) Exterior conditions (structure). Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated or unsightly:

a. Exteriors of any structure;

b. Exteriors of any accessory structure; or

c. Fences, walls or retaining walls.

(b) The code enforcement officer may file a complaint in the municipal court against any person found to be in violation of subsection (a) of this section; provided however, that such person shall first have been sent a notice as provided by law and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in the notice. Upon such complaint in the municipal court, any person found to be in violation of subsection (a) of this section shall, upon conviction, be guilty of a class C offense.

(c) Violations of this section are a nuisance.

(Code 1988, §§ 7-1108, 7-1110)

Sec. 46-76. - Construction of article.

Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the state constitution, by any other law or by ordinance.

(Code 1988, § 7-1115)

Chapter 50 - LIBRARY

FOOTNOTE(S):

--- (**1**) ---

Cross reference— Administration, ch. 2; fees for library, § 34-406 et seq.; streets, sidewalks and other public places, ch. 78; library fund, § 86-2.

State Law reference— Library, K.S.A. 12-1219 et seq.

Sec. 50-1. - Rules and regulations.

All rules and regulations of the library board of directors shall be obeyed by those using or being in or about the city library.

(Code 1988, § 12-304)

Chapter 54 - RESERVED

FOOTNOTE(S):

--- (**1**) ---

Editor's note—Ord. No. 3338, § 3, adopted Jan. 10, 2006, repealed ch. 54, §§ 54-1—54-3, 54-36—54-41, 54-76—54-81, which pertained to manufactured homes and trailers and derived from Code 1988, §§ 4-901—4-917. The user's attention is directed to ch. 106, Unified Development Code.

Chapters 47-57 Reserved

Chapter 58 - NATURAL RESOURCES

FOOTNOTE(S):

--- (**1**) ---

Cross reference— Fees for natural resources, § 34-476 et seq.; parks and recreation, ch. 66; solid waste, ch. 74; streets, sidewalks and other public places, ch. 78; utilities, ch. 94.

ARTICLE I. - IN GENERAL

Secs. 58-1—58-30. - Reserved.

ARTICLE II. - OIL AND GAS

FOOTNOTE(S):

--- (**2**) ---

State Law reference— Oil and gas, K.S.A. 55-101 et seq.; development of oil and gas within cities, K.S.A. 55-1610 et seq.

DIVISION 1. - GENERALLY

Sec. 58-31. - Drilling oil and gas wells; duty of governing body.

All oil and gas wells commenced or drilled within the city limits of the city shall be drilled as nearly as practicable in the center of a five-acre square geographical location; provided, however, that the governing body of the city, at the time of the granting of the license provided for in division 2 of this article, may permit such variations as may be deemed necessary in the amount of acreage required, and the location of the drill site, depending upon geographical factors, upon the location of houses and other buildings, and the area available which might be attributed to such proposed well.

(Code 1988, § 4-1201)

Sec. 58-32. - Mapping; locations.

The governing body of the city may from time to time and shall, upon the application of any interested person, make a determination of the territory which is to be included in such drilling location within the limits of the city, which determination shall follow the standard five-acre geographical locations as nearly as practicable, but in making such determination the governing body shall not be required to split or divide any platted lot or lots, and the area or territory to be attributed to the wells under a particular lease shall be the territory described in the drilling permit issued therefor.

(Code 1988, § 4-1205)

Sec. 58-33. - Fences.

All producing oil or gas wells within the city, which are equipped with pumping equipment and are located in or near the populated areas of the city, shall have such pumping equipment enclosed or fenced with a substantial mesh wire fence or such other type of enclosure as may be approved by the governing body of the city, sufficient to prevent persons who might be injured thereby from gaining access to such pumping equipment.

(Code 1988, § 4-1206)

Sec. 58-34. - Storage of oil.

It shall be unlawful for any person to place or maintain any tank or tank battery for the storage of oil in the city, except outside of the populated areas of the city. All such tanks or tank batteries shall be protected by dikes of sufficient height to prevent oil from escaping in the event of the leaking or bursting of the tanks.

(Code 1988, § 4-1209)

Sec. 58-35. - Pipelines in streets.

It shall be unlawful for any person to lay or maintain any pipe or pipelines for the transportation of oil or any other substance in the streets, alleys or other public places of the city without having first obtained a franchise ordinance granting permission so to do. All such pipelines shall thereafter be laid, maintained and operated in accordance with the terms of the franchise.

(Code 1988, § 4-1210)

Secs. 58-36—58-55. - Reserved.

DIVISION 2. - DRILLING PERMIT

Sec. 58-56. - Required; fee.

It shall be unlawful for any person to drill or commence operations for the drilling of a well for oil and gas purposes at any place within the city without first having obtained from the governing body of the city a permit for the commencement of such operations, and for the drilling of such well. The applicant for such permit, shall, at the time of making application therefor, deposit with the city clerk a fee in an amount established in section 34-476. If such permit is granted, the fee shall be retained by the city, but if such permit is denied, the fee shall be returned to the applicant.

(Code 1988, §§ 4-1202, 4-1208)

Sec. 58-57. - Evidence to be presented by applicant.

No such permit shall be granted by the governing body until the applicant therefor shall have submitted satisfactory evidence as follows:

(1) The applicant has a valid oil and gas lease, signed by the person owning at least 51 percent of the territory in the area attributable to or which might be attributed to the location where it is proposed to drill the well, which lease shall contain a provision or shall be accompanied by an agreement in writing providing for the pooling of all royalties and rentals arising from the leases or from production on the acreage to be distributed among all of the property owners in the area or territory attributable to the wells which may be drilled under the lease, which distribution shall be made to the respective property owners, including leasing property owners and nonleasing property owners, in accordance with the number of square feet owned by each property owner in the area or territory.

(2) A map or plat of the area covered by the oil and gas lease, showing the proposed location of each well, together with the written consent of the owner of the land on which the well is proposed to be located, consenting to the drilling of the well on the land, which map or plat shall also show the location of all residences, buildings and other structures in the immediate vicinity of such proposed location.

(3) A drilling agreement providing adequate protection to all persons who might be concerned with such drilling operations, including a reasonable and adequate plan for the handling of slush, base sediment and salt water that may be produced in connection with the drilling and operation of the well, together with facilities for the handling of production to the end that it may not be necessary to store oil in any populated area, which agreement shall also provide that if the well is nonproductive, all tools, equipment and machinery used in connection with the drilling of the

well shall be removed within 60 days thereafter, and the premises fully restored to their original condition as nearly as practicable.

(Code 1988, § 4-1203)

Sec. 58-58. - Insurance of operator.

No such permit shall be granted by the governing body and no oil or gas well shall be drilled or operated within the city until the operator shall have filed with the city clerk a certificate of general liability insurance insuring the operator in any amount not less than $1,000,000.00. Evidence of such insurance shall be kept on file with the city continuously so long as any such wells are being drilled or operated within the city.

(Code 1988, § 4-1204)

Sec. 58-59. - Additional requirements.

At the time of the granting of any permit under the provisions of this article, the governing body may make such additional requirements as it may deem necessary for the protection and safety of persons and property in the territory likely to be affected by the drilling of the well.

(Code 1988, § 4-1207)

Chapter 62 - OFFENSES AND MISCELLANEOUS PROVISIONS

FOOTNOTE(S):

--- (**1**) ---

Cross reference— Courts, ch. 26; fees for offenses and miscellaneous provisions, § 34-511 et seq.

ARTICLE I. - IN GENERAL

Sec. 62-1. - Incorporating Uniform Public Offense Ordinance.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Iola, Kansas, that certain code known as the "Uniform Public Offense Code for Kansas Cities," 30th Edition of 2014, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance 3437" with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such Uniform Public Offense Ordinance, similarly marked, as may be deemed expedient.

(Ord. No. 3188, § 1, 8-27-96; Ord. No. 3208, § 1, 8-12-97; Ord. No. 3224, § 1, 8-11-98; Ord. No. 3244, § 1, 9-28-99; Ord. No. 3258, § 1, 8-8-00; Ord. No. 3274, § 1, 7-24-01; Ord. No. 3292, §§ 1, 2, 7-23-02; Ord. No. 3312, § 1, 8-26-03; Ord. No. 3323, § 1, 8-24-04; Ord. No. 3330, § 1,

7-19-05; Ord. No. 3350, § 1, 9-5-06; Ord. No. 3358, § 1, 8-28-07; Ord. No. 3367, § 1, 8-26-08; Ord. No. 3373, § 1, 8-25-09; Ord. No. 3386, § 1, 8-10-10; Ord. No. 3398, § 1, 8-29-11; Ord. No. 3408, § 1, 9-24-12; Ord. No. 3425, § 1, 8-26-13; Ord. No. 3437, § 1, 9-8-14)

State Law reference— Adoption by reference authorized, K.S.A. 12-3009 et seq., 12-3301 et seq.

Sec. 62-2. - Same—Amendments.

(a) Amended and supplemental provisions. The adopted "Uniform Public Offense Code for Kansas Cities," 30th Edition of 2014, is hereby amended and supplemented by adding thereto the following new Article:

ARTICLE 1 shall be amended as follows:

Section 1

1.1 Definitions…

Smoking; Definitions

(a) Access Point means the area with a 20 foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted pursuant to subsection (d) of section 10.24.

ARTICLE 14. ADDITIONAL PROVISIONS and by adding and amending thereunder the following sections:

Section 14.1. Window Peeping. Window peeping is (1) the entry upon private property by any person, other than the lawful occupant of such property, for the purpose of looking or peeping into any window, door, skylight or other opening in a house, room or building upon such property, or (2) to loiter in a public street, alley, parking lot or other public place for the purpose of wrongfully observing the actions of occupants of any house, room or building situated upon private property, when done by a person other than the lawful occupants thereof.

Window peeping is a Class C violation.

Section 14.2. Making Loud and Unnecessary Noise. Making loud and unnecessary noise is causing, or continuing, any unnecessary or unusual noise which annoys, injures or endangers the comfort, repose, health and safety of others, including through the use of a loudspeaker or a sound amplifier, unless the making or continuing of such noise is necessary for the protection and preservation of property or the health and safety of some individual. Nothing in this paragraph shall prevent the playing of bells or chimes by electronic means by any religious organization.

Making loud and unnecessary noise is a Class C violation.

(b) Deleted sections. Sections 3.1.1; 5.5; 6.16; 6.17; 6.19; 10.14; and 10.15 of the Uniform Public Offense Code are hereby omitted and deleted.

(Ord. No. 3188, §§ 2, 3, 8-27-96; Ord. No. 3208, § 2, 8-12-97; Ord. No. 3224, §§ 2, 3, 8-11-98; Ord. No. 3244, § 2, 9-28-99; Ord. No. 3258, § 2, 8-8-00; Ord. No. 3274, §§ 2, 3, 7-23-02; Ord. No. 3312, § 2, 8-26-03; Ord. No. 3323, § 2, 8-24-04; Ord. No. 3330, §§ 2, 3, 7-19-05; Ord. No. 3350, §§ 2, 3, 9-5-06; Ord. No. 3358, §§ 2, 3, 8-28-07; Ord. No. 3367, §§ 2, 3, 8-26-08; Ord. No. 3373, §§ 2, 3, 8-25-09; Ord. No. 3386, §§ 2, 3, 8-10-10; Ord. No. 3398, §§ 2, 3, 8-29-11; Ord. No. 3408, §§ 2, 3, 9-24-12; Ord. No. 3425, §§ 2, 3, 8-26-13; Ord. No. 3437, §§ 2, 3, 9-8-14)

Sec. 62-3. - Curfew for minors.

(a) It shall be unlawful for any child under the age of 18 years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places or public buildings, places of amusement or entertainment, eating places, vacant lot or any other place normally accessible to the general public for public use, whether on foot or in a motor vehicle or by any other means between the hours of 12:00 midnight on any day and 6:00 a.m. of the following day.

(b) The provisions of subsection (a) of this section shall not apply in the following instances:

(1) When a child is accompanied by a parent, guardian or other adult person having the lawful care and custody of the child;

(2) When a child is upon an emergency errand directed by a parent or guardian or other adult person having the lawful care and custody of a child;

(3) When a child is returning directly home by the most direct and efficient route, from a school activity, entertainment, recreational activity or dance;

(4) When a child is returning directly home, by the most direct and efficient route, from lawful employment that makes it necessary to be in the above-referenced places during the prescribed period of time;

(5) When a child is on the sidewalk abutting a child's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police about a child's presence;

(6) When a child is attending or traveling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly or free exercise of religion; and

(7) When a child is in interstate travel through the city.

(c) Except in circumstances set out in subsection (b) of this section, it shall be unlawful for the parent, guardian or other adult person having the care and custody of a child under the age of 18 years to permit, whether knowingly or through ineffective control or supervision, such child to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places or public buildings, places of amusement or entertainment, eating places, vacant lots or any other place normally accessible to the general public for public use, whether on foot or in a motor vehicle or by any other means, between the hours of 12:00 midnight on any day and 6:00 a.m. of the following day.

(d) Any child violating the provisions of this section shall be dealt with in accordance with juvenile court law and procedure. Any police officer finding a child under the age of 18 years violating the provisions of this section shall warn the child to desist from such violation and to immediately return home, and shall cause a written notice to be served upon the parent, guardian or person in charge of a child, setting forth the manner in which the provisions of this section have been violated. For the purposes of this section, notice shall be deemed properly served upon the parent, guardian or person in charge of a child if a copy thereof is served personally or if a copy thereof is sent by certified mail, return receipt requested, to such person's last known address.

(e) Any parent, guardian or person having the care and custody of a child who shall permit, whether knowingly or through ineffective control or supervision, a child to violate the provisions of this section after receiving written notice that such child has previously violated this section shall be guilty of a class C offense.

(Code 1988, §§ 11-208—11-211; Ord 3462, 5-25-16)

Sec. 62-4. - Reserved.

Editor's note— At the request of the city, section 62-4, which pertained to trespass on public grounds, has been deleted.

Sec. 62-5. - Reserved.

Editor's note— At the request of the city, section 62-4, which pertained to false alarm, has been deleted.

Sec. 62-6. - Advertisement on poles.

(a) It shall be unlawful for any person to paste, tack, fasten, attach or post any bill, board or card advertisement or political advertisement or political picture or other thing on any telegraph, telephone, electric light or power pole in the city. This section shall not prevent the attaching to any of the poles of government mailboxes, street or highway markers.

(b) Unlawful posting is a class C misdemeanor.

(Code 1988, § 11-213)

ARTICLE II. - COMMERCIAL VEHICLE SAFETY ACT

Sections 62-7 to 62-15. Sections deleted. Motor carrier inspections are conducted by the Highway Patrol or Sheriff's Department.

(Ord. No. 3320, 5-25-04; Ord 3462, 5-25-16)

ARTICLE III. - TRANSPORTATION OF HAZARDOUS MATERIALS

Sec. 62-16. - Federal Hazardous Materials Transportation Act Incorporated.

The Federal Hazardous Material Transportation Act, 49 CFR parts 171, 172, 173, 177, 178, 179 and 180 of Subchapter C - Hazardous Materials Regulations codified as of October 1, 2001 and prepared and published in book form by Labelmaster, an American Labelmark Company, 5724 N. Pulaski Road, Chicago, IL 60646-6797 is hereby incorporated by reference and made part of this chapter save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed.

(Ord. No. 3320, 5-25-04)

Sec. 62-17. - Marked copies of regulations on file.

There shall not be less than three copies of the standard code adopted by referenced in Chapter 10.26 kept on file in the office of the city clerk, to which shall be attached a copy of the incorporating ordinance, shall be marked or stamped, "Official Copies as Incorporated by Ordinance No. 00-22 [3320]" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the city clerk and open to inspection and available to the public at all reasonable hours. The police department, municipal judges and all administrative departments of the city charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the city, such number of official copies of such standard.

(Ord. No. 3320, 5-25-04)

Sec. 62-18. - Section 171.1 amended—Purpose and scope.

Section 171.1 of the Federal Hazardous Materials Transportation Act entitled "Purpose and Scope" is hereby amended and changed to read as follows:

§ 171.1 Purpose and Scope.

(a) This subchapter prescribes requirements of the Iola Police Department governing:

(1) The offering of hazardous materials for transportation and transportation of hazardous materials in interstate, intrastate, and foreign commerce by motor vehicle.

(2) The representation that a hazardous material is present in a motor vehicle.

(3) The manufacture, fabrication, marking, maintenance, reconditioning, repairing, or testing of a packaging or container which is represented, marked, certified or sold for use in transportation of hazardous materials.

(4) The use of terms and symbols prescribed in this subchapter for the marking, labeling, placarding and description of hazardous materials and packaging used in their transport.

(b) Any person who, under contract with any department, agency or instrumentality of the executive, legislative, or judicial branch of the Federal Government, transports, or causes to be transported or shipped, a hazardous material or manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation of a hazardous material shall be subject to and comply with all provisions of the Federal hazardous materials transportation law, all orders and regulations issued thereunder, and all other substantive and procedural requirements of Federal, State, and local governments and Indian tribes (except any such requirements that have been preempted by the Federal hazardous materials transportation law or any other Federal law), in the same manner and to the same extent as any person engaged in such activities that are in or affect commerce is subject to such provisions, orders, regulations, and requirements.

(Ord. No. 3320, 5-25-04)

Sec. 62-19. - Inspection of motor vehicles in operation.

(a) Personnel authorized to perform inspections. Inspections of motor carriers' vehicles in operation shall be conducted by Commercial Vehicle Safety Alliance (CVSA) certified officers. These certified officers are authorized to enter upon and perform inspections of motor carriers' vehicles in operation.

(b) Prescribed inspection report. A driver/vehicle examination report shall be used to record results of motor vehicle inspections conducted by authorized City of Iola personnel.

(c) Motor vehicles declared "out of service."

(1) Authorized personnel declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An "Out of Service Vehicle" sticker shall be used to mark vehicles "out of service."

(2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out of service" until all repairs required by the "out of service notice" have been satisfactorily completed. The term "operate" as used in this section shall include towing the vehicle, except that vehicles marked "out of service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and an "out of service" vehicle shall not be operated unless such combination meets the performance requirements of this subchapter except for those conditions noted on the driver equipment compliance check.

(3) No person shall remove the "out of service vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out of service notice."

(Ord. No. 3320, 5-25-04)

Sec. 62-20. - Penalties.

(a) It is unlawful for any person to violate any of the provisions of this chapter.

(b) The judge in the municipal court shall in the manner prescribed by K.S.A. § 12-4305 and amendments thereto establish scheduled fines for violation of any section of this ordinance. Such fines shall be imposed upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation and payment of the fine and any court costs.

(c) Any person convicted of a violation of any of the provisions of this ordinance shall be punished, subject to limitations otherwise provided in this adopting ordinance, by a fine not to exceed $500.00 or imprisonment in jail for not more than six months, or be both so fined and imprisoned. Each day during or upon which a violation occurs or continues shall constitute a separate offense and shall be punishable as such hereunder.

(Ord. No. 3320, 5-25-04)

Sec. 62-21. - Severability.

If any provision of this chapter is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the code and the applicability thereof to other persons and circumstances shall not be affected thereby.

(Ord. No. 3320, 5-25-04)

Sec. 62-22. - Savings clause.

Neither the adoption of this ordinance nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution or civil enforcement for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

(Ord. No. 3320, 5-25-04)

Secs. 62-23—62-30. - Reserved.

ARTICLE IV. - METHAMPHETAMINE PRECURSOR DRUGS

FOOTNOTE(S):

--- (**2**) ---

Editor's note—Ord. No. 3432, §§ 1—7, adopted June 17, 2014, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included as §§ 62-31—62-37.

Sec. 62-31. - Findings.

The Governing Body of the City of Iola has found the manufacture, transportation, possession and sale of methamphetamine to be inherently dangerous and that the chemical precursors of methamphetamine and the byproducts and wastes of methamphetamine production are inherently dangerous and injurious to the public health, safety and welfare of the citizens of the city. Regulation of the sale of the chemical precursors to methamphetamine productions, such as ephedrine products and pseudoephedrine products, is necessary to protect the citizens of the city.

(Ord. No. 3432, § 1, 6-17-14)

Sec. 62-32. - Definitions.

For the purposes of the article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Ephedrine. All forms of ephedrine, ephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.

Methamphetamine precursor drug. Any drug or substance used to manufacture methamphetamine that contains pseudoephedrine or ephedrine.

Package. Any number of pills, tablets, capsules, caplets or individual units of a substance held within a container intended for sale.

Person. Any individual, corporation, partnership, trust, limited liability company, firm, association or other entity.

Pseudoephedrine. All forms of pseudoephedrine, pseudoephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.

Sell. To knowingly furnish, give away, exchange, transfer, deliver, surrender, or supply, whether for monetary gain or not.

(Ord. No. 3432, § 2, 6-17-14)

Sec. 62-33. - Prohibition of sale of methamphetamine precursor drugs.

It shall be illegal for any person to sell, deliver or distribute ephedrine, pseudoephedrine, and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or salts of their optical isomers except as set forth in the specific exceptions contained in section 62-34 of this article.

(Ord. No. 3432, § 3, 6-17-14)

Sec. 62-34. - Exceptions.

(a) Ephedrine, pseudoephedrine and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or salts of their optical isomers may be sold by a Kansas licensed pharmacist after being authorized to do so by a prescription from a physician or other healthcare professional licensed by the State of Kansas or any other state to write prescriptions.

(b) Ephedrine, pseudoephedrine and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or salts of their optical isomers may be distributed by a licensed physician within the physician's office, or any clinic, nursing home or other licensed healthcare facility upon the orders of a physician or other healthcare professional licensed by the State of Kansas or other state to write prescriptions.

(c) This section regulating ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing naturally occurring or herbal ephedra or extracts of herbal ephedra.

(Ord. No. 3432, § 4, 6-17-14)

Sec. 62-35. - Prima facie evidence.

It shall be prima facie proof that a substance is regulated by this section if the substance is contained in its original packaging and is labeled as being or containing ephedrine or pseudoephedrine.

(Ord. No. 3432, § 5, 6-17-14)

Sec. 62-36. - Reporting theft of methamphetamine precursor drugs.

(a) All thefts, shortages, disappearances, miscounts or other losses of ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall be reported to the Police Department of the City of Iola within 24 hours of discovery.

(b) Any person selling ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall report any difference between the quantity of the aforementioned drugs shipped and the quantity received to the Police Department of the City of Iola within 24 hours of discovery.

(Ord. No. 3432, § 6, 6-17-14)

Sec. 62-37. - Penalty.

Every act or omission constituting a violation of any of the provisions of this article by any agent or employee of any person shall be deemed and held to be an act of such person, and said person shall be punishable in the same manner as if said act or omission had been done or omitted by him/her or it personally, provided such as act or omission was within the scope of employment or the scope of authority of such agent or employee. Each such violation of this article shall be considered a separate offense. Violation of this article shall be punished by a fine of up to $25.00 and the violation shall be reported to the State Board of Pharmacy.

(Ord. No. 3432, § 7, 6-17-14)

Chapter 66 - PARKS AND RECREATION

FOOTNOTE(S):

--- (1) ---

Cross reference— Fees for parks and recreation, § 34-541 et seq.; natural resources, ch. 58; streets, sidewalks and other public places, ch. 78.

State Law reference— Municipal parks generally, K.S.A. 12-1301 et seq.

Sec. 66-1. - Loitering after certain hours.

It shall be unlawful for any person excepting a public officer in the discharge of the officer's duties to visit, loiter about or be found in Riverside Park between the hours of 11:00 p.m. and 6:00 a.m.; except in cases of public emergency or during the progress of any organized event scheduled and approved through the Parks and Recreation Department.

(Code 1988, § 12-204; Ord 3462, 5-25-16)

Sec. 66-2. - Riverside Park; Shelter House.

The use of the Shelter House in Riverside Park as a practice place for the bands or musical groups is prohibited from May 15 through October 15 each year, as the intended use of this building is for persons using park facilities for picnics and gatherings.

(Code 1988, § 12-206)

Chapter 70 - RESERVED

FOOTNOTE(S):

--- (**1**) ---

Editor's note—Ord. No. 3338, § 3, adopted Jan. 10, 2006, repealed ch. 70, § 1, which pertained to planning and derived from Code 1988, §§ 16-101, 16-102. The user's attention is directed to ch. 106, Unified Development Code.

Chapter 74 - SOLID WASTE

FOOTNOTE(S):

--- (**1**) ---

Cross reference— Removal of animal feces required, § 10-12; buildings and building regulations, ch. 14; fees for solid waste, § 34-601 et seq.; health and sanitation, ch. 46; natural resources, ch. 58; utilities, ch. 94.

State Law reference— Solid and hazardous waste, K.S.A. 65-3401 et seq.; authority to provide for collection of solid waste, K.S.A. 65-3410.

ARTICLE I. - IN GENERAL

Sec. 74-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage means all organic household wastes, offal, animal and vegetable matter, such as has been prepared or intended to be used as food, or which shall have resulted in the preparation of food and like matter from wholesale and retail grocers, mercantile establishments, warehouses, poultry houses, cold storage plants, stores and stands, restaurants, eating houses and apartments.

Other debris means all washrack residue, earth, wastes from building construction and/or remodeling, human and/or animal waste, items longer than four feet and/or heavier than 75 pounds and other objects or substances not defined in this section as refuse.

Rubbish means combustible and noncombustible materials, such as wood, tree branches, not to exceed four feet in length and two inches in diameter, which shall be tied in bundles not to exceed the length, weighing not more than 75 pounds, yard trimmings, wood furniture and bedding, metals, dirt, small quantities of rock and pieces of concrete and ashes contained as residue from fires.

Solid waste means all garbage, trash and rubbish.

Trash means those combustible and noncombustible waste materials from normal household, store and institution use, such as paper, cartons, boxes, excelsior, tin cans, glass and contents of litter receptacles.

(Code 1988, § 7-303)

Cross reference— Definitions generally, § 1-2.

Sec. 74-2. - Duty to maintain premises free of waste; cleanup.

(a) In this section the term "waste" means any dirt, filth, garbage, refuse or litter, except such as is deposited for collection pursuant to this chapter.

(b) The place in the rear of any business lot, house or mercantile establishment, between the rear of the building and the alley lines, shall at all times be kept clean and clear of all waste. The occupants of the ground floor of any such business house or mercantile establishment are hereby charged with the duty of keeping the space clean, except such refuse or filth deposited by other occupants of the building, whose duty it shall be to remove such refuse or filth.

(c) The owner of the ground floor or the occupant, if the building is not occupied by the owner of the ground floor, or the owner or occupant of any dwelling house, shall be charged with the duty of keeping the alley clean and free from waste.

(d) In the months of April and October of each year, owners, or if not occupied by the owners, the occupants of any real property in the city shall cause the premises to be cleaned up of all waste and shall cause the waste to be removed out of the city.

(Code 1988, §§ 7-202—7-204)

Sec. 74-3. - Accumulation of waste matter.

The collection of refuse matter in or in the vicinity of any dwelling or place of business, such as swill, dirty slops, waste of meat, fish, shells, bones, decaying vegetables, dead carcasses, excrement of any kind or any other material that may be decomposed, or any trash, cans, wastepaper or other material that may harbor, hold or conceal insects, or aid in the distribution of dust by blowing about shall be considered a nuisance and dangerous to the health of the inhabitants of the city, and must be removed or disposed of in such manner as not to be offensive or dangerous to public health or safety.

(Code 1988, § 7-206)

Sec. 74-4. - Stables and manure disposal.

All stables, stable yards and feed yards within the city shall be kept clean. No manure shall be allowed to accumulate at any private stable or yard. When necessary to remove such manure it shall be done in the least offensive manner and in such a way that none of it shall be dropped or scattered in any street, alley or passageway within the limits of the city.

(Code 1988, § 7-207)

Secs. 74-5—74-35. - Reserved.

ARTICLE II. - MUNICIPAL COLLECTION AND DISPOSAL SERVICE

Sec. 74-36. - Creation of refuse utility.

The governing body of the city hereby creates a refuse utility for the purpose of:

(1) Collection of solid waste from residential properties within the corporate limits of the city;

(2) The authorizing of charges to be made for such residential solid waste pickup and disposal services;

(3) The payments of certain charges to the county for the operation of a county landfill facility in which city solid waste is disposed;

(4) The charging of certain fees to commercial and industrial customers, as set forth elsewhere in this article, with the charges to be remitted to the county or a portion thereof retained by the city for administrative charges; and

(5) The licensing of commercial trash or solid waste haulers operating within the city shall hereby be authorized.

(Code 1988, § 7-301)

Sec. 74-37. - Mandatory pickup.

(a) It shall be the responsibility of the city refuse department to pick up no less than twice weekly, except in case of a holiday and/or inclement weather, solid waste from each residential property within the city limits.

(b) It shall be the responsibility of each commercial, industrial, school, church, hospital, clinic or similar generators of solid waste to remove all solid waste from their premises no less than twice weekly.

(c) It shall be the duty of the owner and tenant on each lot or parcel of land or ground within the corporate limits of the city to keep such premises free and clear of all classes of refuse, garbage and trash, and other substances dangerous to the public health, sanitation and welfare of the community.

(d) Residential pickup within the fire limits shall be made by commercial hauler unless the resident is a single-family dwelling unit currently being serviced by the city.

(Code 1988, § 7-302)

Sec. 74-38. - Collection by city from residential customers.

Except as provided in section 74-37(d), the city shall collect and dispose of residential refuse as a municipal function, and no person shall engage in the business of collecting and disposing of residential solid waste refuse.

(Code 1988, § 7-308)

Sec. 74-39. - Garbage bags and containers; duty of residential customer.

(a) Every person in possession, charge or control of any place in or from which garbage or trash accumulates shall provide, or cause to be kept or provided, containers specifically designed for the storage of garbage and trash.

(b) No person shall deposit, throw, place or leave any refuse upon any property, public or private, in the city, including the premises which such person may own or be in possession of.

(c) All trash to be deposited by a residential customer for pickup by the city shall only be deposited in plastic bags labeled or otherwise identified as garbage bags and in suitable containers as noted below. Residential customer should furnish for the storage of garbage and trash, separate watertight containers, with tightfitting lids or covers and handles. No single bag or container, when filled with trash and wrapped garbage, shall have an overall weight in excess of 75 pounds, including both container and contents thereof. Containers without handles or lids such as 55-gallon drums are not acceptable due to the difficulty of picking them up and they too often exceed the weight limits.

(d) Each customer shall drain all surplus water from garbage and wrap such garbage in a plastic garbage bag before depositing such garbage for pickup.

(e) All such containers shall be kept clean and sanitary by the owner and user thereof.

(f) All garbage placed for pickup shall be located on the parking area, street or alley as designated by the city, and shall be so located so as to permit the easy removal of contents and be easily accessible to the refuse collector.

(g) For houses with curbside pickup, trash cans should be placed at the curb no earlier than 12 hours before the pickup time, and removed from the curb to a point behind the building line no later than 12 hours after pickup.

(Code 1988, § 7-304; Ord. No. 3254, § 1, 6-27-00; Ord. No. 3414, § 1, 1-14-13; Ord. No. 3453, 10-15-15)

Sec. 74-40. - Disposal of other debris.

All objects or substances defined as other debris shall not be placed in any refuse container, but shall be accumulated, subject to existing city ordinances, in a suitable place on the premises of the owner or occupant for removal at the owner's or occupant's expense, or during the twice yearly pickup provided for by the city during April and October each year for such items.

(Code 1988, § 7-306)

Sec. 74-41. - Duty of commercial and industrial customers.

Commercial, industrial and similar generators of solid waste shall be responsible for tightfitting and adequately sized containers for their premises to prevent the blowing of trash or the creation of unhealthful sanitary conditions.

(Code 1988, § 7-307)

Sec. 74-42. - Collection charges; due date; use of charges.

(a) There shall be a charge for residential solid waste collection of an amount as established in section 34-601 per month, per unit, based on evidence of residential electrical service, added to the monthly utility bill.

(b) The charges for refuse collection and disposal shall be made at the same time and in the same manner as the charges for utility services offered and furnished by the city. Such charges shall be due and payable at the same time and place as charges for utility services are due and payable.

(c) All money collected under subsection (a) of this section shall pay for cost of operation of the refuse collection including, but not limited to, salaries, operations of equipment and to provide funds for the replacement of wornout equipment.

(Code 1988, §§ 7-315, 7-317; Ord. No. 3066, §§ 1, 2, 12-12-89)

Sec. 74-43. - Presumption of having solid waste; exception.

Every residential unit and every business having electric service shall be presumed to have solid waste refuse. Physical occupation of a residential unit shall be sufficient evidence of solid waste being generated and the occupant thereof shall be subject to the charges set forth in this article. Contractors or owners having electric service connected for either a residential or business unit for construction, repair, maintenance between tenants or redecorating shall be charged in accordance with section 74-42. Owners or tenants of residential units who are not physically occupying the units by reason of being in nursing homes or away from their residence for periods of 30 consecutive days or more, shall be deemed to be not generating solid waste and shall not be charged therefor.

(Code 1988, § 7-318)

Secs. 74-44—74-75. - Reserved.

ARTICLE III. - PRIVATE COLLECTORS

FOOTNOTE(S):

--- (**2**) ---

Cross reference— Businesses, ch. 18.

DIVISION 1. - GENERALLY

Sec. 74-76. - Equipment requirements.

Refuse collectors must:

(1) Comply with all applicable city, state and federal laws, pertaining to motor vehicle registration and operation;

(2) Have a properly charged ABC chemical fire extinguisher, having a minimum capacity of ten pounds; and

(3) Be constructed so as to prevent the splashing or spilling of any of the substances therein contained, upon the streets, alleys or public ways.

(Code 1988, § 7-312)

Sec. 74-77. - Maintenance of operation.

A commercial solid waste refuse collection license holder shall maintain all operations and equipment substantially as provided in section 74-76.

(Code 1988, § 7-313)

Secs. 74-78—74-110. - Reserved.

DIVISION 2. - LICENSE

Sec. 74-111. - Required; exception.

(a) Commercial, industrial, hospital, clinic, etc., solid waste pickup and disposal by a private hauler will be done only by a duly authorized licensed hauler. The license shall be issued by the city clerk for permission to operate on the public streets, alleys and right-of-way within the corporate limits.

(b) Those persons not regularly engaged in the operation of a solid waste disposal business will not be required to hold a city license.

(Code 1988, § 7-309)

Sec. 74-112. - Application.

(a) Applications for licenses to collect solid refuse within the city shall be submitted in writing to the city clerk. A nonrefundable filing fee in an amount established in section 34-602 shall accompany each application. Each application shall include the following:

  (1) Name and address of applicant;

  (2) Description of the service to be provided;

  (3) Schedule of charges to be made;

  (4) Inventory and description of all equipment to be used;

  (5) List of all employees who will operate vehicular equipment, with a statement from each such employee that the employee possesses a valid commercial chauffeur's license, issued pursuant to the laws of the state;

  (6) A statement that if the permit is granted by the city, the permit holder will:

    a. Not discriminate against any employee or against any applicant for employment in violation of state or federal law;

    b. Pay wages to all employees at rates not less than the minimum wage as may from time to time be established by legislative bodies of competent jurisdiction;

    c. Comply with all applicable laws, ordinances and codes of the state and the city;

  (7) Provide such other information as may be required, in writing by the city.

(b) The applicant shall furnish to the city clerk the following: Certificate of general liability insurance for the term of the permit in the minimum amount of $500,000.00. Such policy may be written to allow the first $100.00 of property damage to be deductible. Insurance certificates shall provide that they cannot be canceled until ten days after written notice of such cancellation has been filed with the city clerk.

(c) The applicant shall make available all equipment listed under this section for inspection at a time and place designated by the city superintendent at which time the city superintendent or the designated alternate of the city superintendent shall sign application showing fulfillment of provisions of section 74-76.

(Code 1988, § 7-310)

Sec. 74-113. - Issuance.

The city clerk will issue a nontransferable solid waste refuse collection license for the balance of the calendar year, whenever the applicant has furnished the city all acceptable information, data and certificates provided for elsewhere in this article.

(Code 1988, § 7-311)

Sec. 74-114. - Renewal.

Application for license renewals under this division shall be received on or before January 1 each year or within the ten-day grace period. Any license not renewed in the prescribed time shall be void. In no event shall a license be issued until the license fee has been paid and proof of proper insurance is obtained.

Sec. 74-115. - Revocation.

Violation of any city, state or federal laws and/or noncompliance with any requirement of this article shall be considered adequate grounds for revocation of the solid waste refuse collection license granted under this article.

(Code 1988, § 7-314)

Chapter 78 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

FOOTNOTE(S):

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Cross reference— Any ordinance dedicating, establishing, opening, reopening, naming, renaming, widening, narrowing or vacating any street, boulevard, avenue, alley or other public way, including rights-of-way saved from repeal, § 1-10(4); any ordinance establishing or changing the grade of any street, avenue, boulevard, traffic way or other public way saved from repeal, § 1-10(6); any ordinance authorizing, directing or otherwise relating to any public improvement saved from repeal, § 1-10(7); any ordinance creating sewer districts or districts for public improvements of any kind or nature saved from repeal, § 1-10(8); buildings and building regulations, ch. 14; building moving, § 14-641 et seq.; numbering of buildings, § 14-681 et seq.; cemeteries, ch. 22; fees for streets, sidewalks and other public places, § 34-636 et seq.; library, ch. 50; natural resources, ch. 58; parks and recreation, ch. 66; traffic and vehicles, ch. 90; vegetation, ch. 94; vehicles for hire, ch. 102.

ARTICLE I. - IN GENERAL

Sec. 78-1. - Uniform curb and gutter specifications.

All construction of street curbs, gutters or combinations thereof shall be in conformance with the design criteria, material, specifications and inspection procedures set out in a document entitled, "Uniform Curb and Gutter Specifications for the City of Iola, Kansas," at least one copy of which shall be filed in the office of the city administrator, and one copy shall be filed in the office of the city clerk. Such copies shall be open for public inspection during all business hours. Such specifications shall be prepared by the city administrator or other person designated by the governing body to so prepare them. Such specifications, before becoming effective, must be approved by the governing body, and specifications may, from time to time be changed or modified by the city administrator with the approval of the governing body. A certified copy of the resolution approving the specifications or any modifications thereof, shall be filed with the copies thereof in the offices of the city administrator and city clerk.

(Code 1988, § 13-301)

Sec. 78-2. - Grades for streets, alleys and sidewalks.

(a) The point upon which the elevations are based for fixing the grades and profile for the streets, avenues, alleys and sidewalks in the city, now or hereafter established, is declared to be the United States Geodetic Survey Benchmark, located in the Courthouse Park in the city, which benchmark has an established elevation fixed by the United States government of 966.48 feet. The grade elevations of all streets, avenues, alleys and sidewalks in the city established with reference to the basis provided in Ordinance No. 437 are hereby made to conform to the new basis adopted and established by this article, by adding to such elevations the constant of 966.48 to constitute the differential between the base established by Ordinance No. 437 and the new base hereby adopted.

(b) No changes of established grades are intended to be made by this article, but it is intended hereby only to establish an existing, reliable benchmark as the basis for such grades now existing, and for changing such grades and establishing new grades hereafter.

(Code 1988, §§ 13-401, 13-402)

Sec. 78-3. - Sales.

No part of any street or sidewalk shall be used by any person as a place to sell goods, wares or merchandise, and no vehicle or conveyance shall be stopped or let stand upon the right-of-way of any street for that purpose.

(Code 1988, § 8-1205)

Sec. 78-4. - Building material; obstruction of street; permit required; guarding of obstruction; violation of section a misdemeanor.

Hereafter, no person shall occupy any of the streets, avenues, alleys or other public places in the city for the purpose of depositing thereon temporarily any building material for other construction, without first making application to the clerk of the city describing the place where the obstruction is to be placed, for what purpose, and how long a time to remain. Such applicant shall obtain from the clerk a permit therefor. Such applicant shall safely guard the obstruction both night and day so as to prevent accident to those using such public ways and places, by proper barriers or lanterns kept lighted during the night displayed at such places as to be plainly seen by people approaching such obstruction. The permit may be renewed by the clerk before the expiration of the time therein fixed upon proper application and showing. Any person violating any of the provisions of this section or allowing the obstruction or any part thereof to remain after the expiration of the time given in the permit or its extension shall be deemed guilty of a misdemeanor. Every day such obstruction is allowed to remain in such public way or place without having obtained such permit, or after the time limited in such permit or its extension, shall be deemed to be a separate offense.

(Code 1988, § 13-103)

Cross reference— Buildings and building regulations, ch. 14.

Sec. 78-5. - Street improvements; barricades.

Every contractor or other person paving or making other improvements on any street, avenue, alley or other public place within the corporate limits of the city shall place suitable barricades at proper points along such street, made out of such material and so constructed as to be readily observed by any person approaching such points in the street or other public place being improved. In addition to such barricades, such contractor or other person shall display flashing yellow lights at night at all points where barricades are made and at any other point where such lights may be necessary to warn persons traveling the streets or other public places at night that such paving or other improvements are being made.

(Code 1988, § 13-104)

Sec. 78-6. - Use of streets, avenues and alleys under improvement.

All streets, avenues and alleys, or parts thereof, are hereby withdrawn from public use as such streets, avenues and alleys while such improvements are being made. All persons are forbidden to use such areas for travel or to pass over or across such areas while being so paved or improved except at such points where no barricades or flashing yellow lights have been placed, and on the footwalks crossing such streets or public places where no barricades or red lights have been placed.

(Code 1988, § 13-105)

Sec. 78-7. - Clearing of snow from sidewalks.

It shall be the duty of any occupant of any lot or piece of ground abutting upon any streets where there is a sidewalk to keep such sidewalk clean and to remove therefrom all ice and snow within 12 hours after the ice and snowfall thereon, and in case there is no occupant of such lot, then it shall be the duty of the owner to do such clearing. Any person described in this section who shall so fail to comply with the provisions of this section shall, upon conviction, be adjudged guilty of a misdemeanor.

(Code 1988, § 13-111)

Sec. 78-8. - Roller skating and playing in industrial or commercial areas.

Roller skating and playing upon the roadway of any street or alley in any commercial or industrial area is forbidden, and it shall be unlawful for parents, or guardians or other persons having control over children to knowingly allow them to play or roller skate on any street or sidewalk in any industrial or commercial area.

(Code 1988, § 13-113; Ord 3462, 5-25-16)

Cross reference— Businesses generally, ch. 18.

Sec. 78-9. - Erection of banners across streets.

It shall be unlawful for any person to erect, maintain, place or fix any banner, sign, advertising, structure or obstruction across, over or upon any street, avenue or alley of the city. On any holiday or other special occasion, banners, electric lights or other decorations of a general and public nature may be erected across and over any of the streets, avenues and alleys of the city by obtaining a permit from the chief of police therefor, which shall specify the purpose of the decoration, and the time for which the decorations are to remain.

(Code 1988, §§ 13-114, 13-115)

Sec. 78-10. - Use of unimproved portions of streets, avenues or alleys cultivated as lawns.

It shall be unlawful for any person, other than the owner, occupant or agent of the premises adjacent to any public right-of-way, to walk, ride or drive over or upon that unimproved portion of the right-of-way of any street, avenue or alley where such area is curbed or is being cultivated as lawn, or to injure, destroy or remove any grass, plant, shrub or tree planted or cultivated therein or to injure, deface or remove any curb or fence adjacent to or surrounding such area.

(Code 1988, § 11-201)

Sec. 78-11. - Obstruction of public ways.

It shall be unlawful for any person to willfully or negligently obstruct or cause to be obstructed, except when necessary in erecting or repairing buildings, any sidewalk, pavement, street, crosswalk or alley, within the city.

(Code 1988, § 11-206)

Sec. 78-12. - Fires on paved areas.

It shall be unlawful for any person to build any fire of any kind whatever upon the pavement of any paved street in the city, or against the curbing, or so near to the curbing of any street, paved or unpaved, as to cause the curbing to become hot.

(Code 1988, § 11-203)

Cross reference— Fire prevention and protection, ch. 38.

Sec. 78-13. - Oiling of streets.

It shall be unlawful for any person, other than street department employees or authorized street contractors, to apply any asphalt, chip and seal or like material as approved by the city to the public streets of the city.

(Code 1988, § 11-204)

Secs. 78-14—78-45. - Reserved.

ARTICLE II. - SIDEWALKS

Sec. 78-46. - Construction material specifications.

All sidewalks hereafter constructed in the city, along the streets, avenues, alleys and other public places in the city shall be constructed of materials as specified in the sidewalk plans and specifications for the city, on file in the offices of the city administrator and city clerk, which plans and specifications are hereby incorporated and made a part of this section by reference.

(Code 1988, § 13-201; Ord. No. 3093, § 1, 5-14-91)

State Law reference— Adoption by reference authorized, K.S.A. 12-3009 et seq., 12-3301 et seq.

Sec. 78-47. - Repairs; duty of property owner.

It shall be the duty of the owner of real property abutting upon a sidewalk to keep the sidewalk in repair, but if, in the opinion of the governing body or its designee, any sidewalk is in need of repair, the code enforcement officer or the governing body's designee shall give at least 15 days' notice of the

defective sidewalk and its need for repair to the owner, if known. If after 15 days from the giving of the notice the sidewalk is not repaired with the approval of the code enforcement officer, the repairs shall be made by the city, and the cost shall be assessed against the abutting real property as provided by K.S.A. 12-1801 and acts amendatory thereto.

(Code 1988, § 13-207; Ord. No. 3179, § 1(13-207), 2-12-96)

Sec. 78-48. - Obstruction.

It shall be unlawful for any person to encumber or obstruct any sidewalk with any vehicle, merchandise or equipment. The occupancy of three feet of any sidewalk, where the sidewalk is 12 or more feet wide, adjacent to the building occupied by any merchant, shopkeeper or other person, for the display of goods and merchandise during the daytime shall not be deemed an encumbrance or obstruction within the meaning of this section.

(Code 1988, § 11-207)

Sec. 78-49. - Removal.

No sidewalks in the city shall be removed by any person other than the city, from their location until each property owner, owning property in the block whose property abuts upon the sidewalk removed, shall by himself or agent, sign a written agreement with the city to the effect that if the owner does not remove the sidewalk under the supervision of the city within 60 days from the signing of the agreement, the city may proceed to remove the sidewalk, and the property owner will pay the expense of removing the sidewalk, together with the property owner's proportionate part of the expenses of changing the street crossings to meet the walks so changed. If the amount is not paid within 30 days from the completion of the work, the work shall be considered and treated as sidewalk repairs, and the expense shall be taxed against the property as sidewalk repairs are charged against the abutting property and be levied and collected as taxes for repairs are collectible by law.

(Code 1988, § 13-208)

Sec. 78-50. - Damaging.

No person shall dig up, mar, injure, damage or destroy any sidewalk in the city, nor shall any person drive or move any vehicle over any sidewalk, except at a regular driveway or alley, as the weight of the vehicle is enough to depress, break or otherwise damage or injure the sidewalk. If any such sidewalk is so damaged as to become hazardous or unsafe to walk on, the governing body shall cause notice to be sent to the person causing such damage, requesting such person to repair the sidewalk within five days from the given notice. If such sidewalk is not so repaired within five days, the governing body may order the sidewalk repaired by the city and shall proceed to recover the cost of such repair by civil action in a court of competent jurisdiction, or if the damage was caused by the abutting property owner or the agents or employees of the abutting property owner, the cost of repairs may be assessed against the abutting real property as taxes.

(Code 1988, § 13-209)

Chapter 82 - RESERVED

FOOTNOTE(S):

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Editor's note—Ord. No. 3338, § 3, adopted Jan. 10, 2006, repealed ch. 82, §§ 82-1—82-9, 82-41—82-44, 82-66—82-68, 82-91—82-94, 82-126—82-134, 82-166—82-173, which pertained to subdivisions and derived from Ord. No. 3006, §§ 16-1701—16-1737, adopted March 24, 1987; Ord. No. 3301, § 1, adopted Feb. 25, 2003. The user's attention is directed to ch. 106, Unified Development Code.

Chapter 86 - TAXATION

FOOTNOTE(S):

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Cross reference— Any ordinance levying general or special taxes or special assessments not found in this Code saved from repeal, § 1-10(11); administration, ch. 2; finance, § 2-111 et seq.; occupation tax on beer distributors, § 6-37; occupational tax for sale of alcoholic liquor, § 6-132; businesses, ch. 18; fees, ch. 34; fees for taxation, § 34-701 et seq.

Sec. 86-1. - Retailer sales tax; levy; administration, enforcement and collection; duration.

(a) An additional one-half of one percent retailers' sales tax in the city, as authorized by K.S.A. 12-187 et seq., is hereby levied to take effect on January 1, 2010.

(b) Except as may otherwise be provided by law, such tax shall be identical in its application and exemptions therefrom to the Kansas Retailers' Sales Tax Act (K.S.A. 79-3601 et seq.) and all laws and administrative rules and regulations of the state department of revenue relating to the state retailers' sales tax shall apply to such city retailers' sales tax insofar as such laws and regulations may be made applicable. The services of the state department of revenue shall be utilized to administer, enforce and collect such tax.

(c) This section shall be in effect until December 31, 2019.

(Ord. No. 3136, §§ 1—3, 11-9-93; ord. No. 3238, § 1, 7-27-99; Ord. No. 3376, § 1, 10-13-09)

Sec. 86-2. - Library fund; maximum mill levy rate.

The maximum mill levy rate for the city library fund shall be as established at 6.441.

(Ord. No. 3191, § 1, 9-24-96; Ord. No. 3241, § 1, 8-10-99; Ord. No. 3407, § 2, 8-13-12; Ord. No. 3422, § 2, 8-12-13; Ord. No. 3434, § 2, 8-11-14)

Cross reference— Library generally, ch. 50; authority to fix millage by ordinance, App. A, Charter Ord. No. 10, § 3.

Sec. 86-3. - Industrial development fund; maximum mill levy rate.

The maximum mill levy rate for the city's industrial development fund shall be as established by ordinance.

(Ord. No. 3192, § 1, 9-24-96)

Cross reference— Authority to set millage by ordinance, App. A, Charter Ord. No. 10, § 3.

Sec. 86-4. - Tax abatement.

The city does hereby grant a 100 percent tax exemption to Russell Stover Candies, Inc. for real estate and improvements and personal property in an amount not to exceed $32,283,985.00 for tax years 1998 through 2007, and states:

Pursuant to Section 13, Article 11 of the Kansas Constitution, and policies and procedures of the City of Iola:

(1) The city has determined this abatement meets the requirements of Article 11, Section 13 of the Kansas Constitution.

(2) The city has completed the required cost and benefit analysis;

(3) The city has adopted appropriate procedures for monitoring compliance by the business receiving the exemption;

(4) The city has notified all other appropriate taxing districts impacted by said exemption;

(5) The city has conducted a public hearing;

(5.1) All in accordance with K.S.A. 79-251; and

(6) The city has further found that said exemption is required to retain jobs in the State of Kansas as required by K.S.A. 79-252.

(Ord. No. 3214, § 1, 3-10-98)

Sec. 86-5. - Bowlus Fine Arts Center, support.

Support for the Bowlus Fine Arts Center will be established by a mill levy in the amount of 1.0 mills. Use of such funding will be as determined by the Bowlus Center Executive Director under the direction of the Bowlus Trustees.

(Ord. No. 3417, § 2, 3-25-13, eff. 1-1-14)

Chapter 90 - TRAFFIC AND VEHICLES

FOOTNOTE(S):

--- (1) ---

Cross reference— Animals struck by motor vehicles, § 10-89; fees for traffic and vehicles, § 34-731 et seq.; streets, sidewalks and other public places, ch. 78; vehicles for hire, ch. 102.

State Law reference— Uniform act regulating traffic on highways, K.S.A. 8-1401 et seq.; general powers of local authorities, K.S.A. 8-2002.

ARTICLE I. - IN GENERAL

Sec. 90-1. - Careless driving.

No person shall operate or halt any vehicle in such a manner as to indicate a careless or heedless disregard for the rights or safety of others, or in such a manner as to endanger or be likely to endanger any person or property.

(Code 1988, § 14-201)

Sec. 90-2. - Use of sound amplification systems.

(a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle.

(b) The term "sound amplification system" means any radio, tape player, compact disc player, loudspeaker or other electronic device used for the amplification of sound.

(c) The term "plainly audible" means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible, and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on the street, highway, alley, parking lot or driveway.

(d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition.

(2) The vehicle was an emergency or public safety vehicle.

(3) The vehicle was owned and operated by the city or a communications company.

(4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with ordinances of the city.

(5) The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the chief of police.

(e) Violations of this section are a class C offense.

(Ord. No. 3150, §§ 1, 2, 5-10-94)

Secs. 90-3—90-35. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

FOOTNOTE(S):

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Cross reference— Administration, ch. 2.

Sec. 90-36. - Traffic signs, signals, devices and markings ratified.

The location of all traffic control signs, signals, devices and markings as of the adoption date of this Code is ratified and confirmed.

Sec. 90-37. - Removal and impoundment of vehicle.

(a) Members of the police department are hereby authorized to remove a vehicle from any street in the city to a garage or other place of safety, or to property maintained by the city under the circumstances enumerated in this subsection:

(1) When any vehicle is left unattended upon any street, alley or other public way, and is so parked as to constitute a hazard or obstruction to the normal flow of traffic;

(2) When a vehicle upon a street in the city is so disabled as to constitute an obstruction to traffic, and the person in charge of the vehicle is by reason of physical injury, or otherwise, incapacitated to such extent as to be unable to provide for its custody or removal;

(3) When any vehicle has been left unmoved by the owner or person in charge of the vehicle upon any streets of the city for a period of more than 48 hours;

(4) When any vehicle has been left unmoved by the owner or person in charge of the vehicle upon any public parking lot owned or leased by the city for a period of more than 48 hours.

(b) Whenever an officer removing a vehicle from a street, alley or public way, as authorized by this section, knows, or is able to ascertain from the registration records, the name and address of the owner, such officer shall immediately give, or cause to be given, notice in writing to such owner of the fact of such removal and the reasons therefor, and the place to which the vehicle has been removed. If any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage. If such officer is unable to ascertain the name of the owner, or the person who abandoned or left such vehicle so parked, by the means aforesaid, the notice required in this section need not be given.

(c) Whenever, pursuant to the authority of this section, a vehicle is removed and stored by any police officer in a storage lot provided by, and owned or controlled by the city, there shall be assessed and collected from the owner thereof, a removal charge not to exceed an amount established in section 34-731, and a storage charge in an amount as established in section 34-731 per 24-hour day, or part thereof, for each day such vehicle is stored in such city storage lot. There shall likewise be assessed and collected from the owner of such vehicle, in addition to the removal charge, a storage charge of not to exceed an amount established in section 34-731 per 24-hour day, or part thereof, when such vehicle is stored in any privately owned garage. The storage and removal charges provided for in this subsection shall be a lien upon such vehicle, and such vehicle may not be removed from the storage lot or garage by the owner thereof, until the payment of such owner to the city of such storage charges, or by the payment by such owner to the operator of the garage in which such vehicle is stored, of such storage charges.

(d) Whenever any owner or person in charge of a vehicle removed from the streets or public parking lots of this city pursuant to this section, shall fail for 30 days from the giving of the notice provided for in subsection (b) of this section, or from the abandonment of such vehicle in case such notice cannot be given, whichever is later, to appear and claim the vehicle, such vehicle may be advertised and sold at public sale in the manner provided by law for the sale of personal property under chattel mortgage. The proceeds derived in monthly reports to the city clerk for deposit in a special fund. If any such balance shall remain unclaimed for a period of 30 days from the time it is received by the city clerk, the balance shall be paid into the city treasury of the city in a special fund and be used for the upkeep and maintenance of any storage lot of the city. Any funds remaining in the special fund on June 30 of each calendar year, not anticipated as needed for such upkeep, shall be transferred and credited to the general fund of this city.

(Code 1988, §§ 14-317—14-320)

Secs. 90-38—90-70. - Reserved.

ARTICLE III. - STANDARD TRAFFIC ORDINANCE

FOOTNOTE(S):

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Editor's note—Ord. No. 3397, §§ 1—6, adopted August 29, 2011, amended Art. III in its entirety to read as herein set out. Former Art. III, §§ 90-71—90-74, pertained to similar subject matter, and derived from Ord. No. 3189, §§ 1—5, adopted August 27, 1996; Ord. No. 3385, §§ 1—5, adopted August 10, 2010. See the Code Comparative Table for complete derivation.

Sec. 90-71. - Incorporating Standard Traffic Ordinance.

There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Iola, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," 42nd Edition of 2014, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance 3436," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this Ordinance and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

(Ord. No. 3397, § 1, 8-29-11; Ord. No. 3409, § 1, 9-24-12; Ord. No. 3424, § 1, 8-26-13; Ord. No. 3436, § 1, 9-8-14)

Sec. 90-72. - Amendments.

Section 2 of the adopted Standard Traffic Ordinance for Kansas Cities (2014) is hereby amended as follows:

Section 2. Provisions of Ordinance Refer to Vehicles Upon the Streets and Highways and Other Designated Areas; Exceptions.

(a) The provisions of this Ordinance relating to the parking and other operation of vehicles refer exclusively to the parking and operation of vehicles upon streets and highways and upon any publicly owned property within this City except: (i) Where a different place is specifically referred to in a given section; (ii) The provision of Sections 29 to 31, inclusive, of this Ordinance, and the provision of Articles 10 and Chapter 8 of the Kansas Statutes Annotated, and any acts amendatory thereof, shall apply upon streets and highways and elsewhere throughout the City.

(b) As used above in subsection (a), the phrase "publicly owned property" shall mean property owned by the City of Iola or by an agency thereof or by any duly constituted public body within the City of Iola including, but not limited to, U.S.D. #257 School Board, the Iola Public Housing Authority Board, the Iola Library Board and Allen Community College.

Section 114.2 of the adopted Standard Traffic Ordinance for Kansas Cities (2014) is hereby amended as follows:

Section 114.2 Unlawful Operation of a Micro Utility Truck.

(a) It shall be unlawful for any person to operate a micro utility truck on any interstate highway, federal highway, or state highway.

(b) Micro utility trucks may be operated upon any public highways, streets, roads, and alleys, and roadways not considered interstate, federal or state highways within the corporate limits of the city.

(c) No micro utility truck shall be operated on any public highway, street, road, or alley unless such vehicle shall comply with the equipment requirements under the provisions of Article 17, chapter 8 of the Kansas Statutes Annotated..

(d) Every person operating a micro utility truck on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a motor vehicle imposed by law, including section 200 of the Standard Traffic Ordinance, then in effect, which requires liability insurance and which is expressly made applicable herein to micro utility trucks.

(e) No person shall operate a micro utility truck on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Unless the State of Kansas requires all micro utility trucks to be registered with the state, all micro utility trucks shall have prominently displayed a valid permit issued by the City of Iola allowing the operation of that particular vehicle within the city limits. Said permit shall be issued by the City of Iola after inspection by the city to ensure that all equipment and insurance requirements are met upon payment of a $30.00 fee. Said permit shall expire one year from the date of issuance. If the State of Kansas requires all micro utility trucks to be registered with the state, then said trucks shall not be required to obtain permit from the City of Iola.

(f) A violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201 of the Standard Traffic Ordinance, and amendments thereto, or such other or similar provision as the city may then have in effect.

Section 114.3 of the adopted Standard Traffic Ordinance for Kansas Cities (2014) is hereby amended as follows:

Section 114.3 Unlawful Operation of Low-Speed Vehicle.

(a) It shall be unlawful for any person to operate a low-speed vehicle on any street or highway with a posted speed limit greater than 40 miles per hour.

(b) The provisions of subsection (a), shall not prohibit a low-speed vehicle from crossing a posted speed limit in excess of 40 miles per hour.

(c) Owners of low-speed vehicles are required to obtain a permit from City Hall, certifying that the vehicle has been inspected by a police officer for compliance with National Highway and Traffic Safety Administration standards for low-speed vehicles in 49 C.F.R. 571-500, and that the owner carries liability insurance on the vehicle. A license plate will be issued as part of the permit, to be mounted on the vehicle. An annual fee of $30.00 will be charged for the permit.

Section 114.5 of the adopted Standard Traffic Ordinance for Kansas Cities (2014) is hereby amended as follows:

Section 114.5 Operation Of Work-Site Utility Vehicles; Penalty.

(a) Work-site utility vehicles may be operated upon the public highways, streets, roads, and alleys within the corporate limits of the city between sunrise and sunset. After sunset these vehicles will be permitted in a direct route from destination to home.

(b) No person shall operate a work-site utility vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license.

(c) A violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty

imposed shall be in accordance with Section 201, Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.

(d) Work-site utility vehicles shall not exceed 20 mph at any time.

(e) Every vehicle shall be equipped, maintained and operated so as to prevent excessive or unusual noise.

(f) A nuisance will be declared if a complaint has been made with the City of Iola and the operator upon conviction will be fined no less than $100 for each violation and all applicable costs & fees incurred.

(g) Owners of low-speed vehicles are required to obtain a permit from City Hall, certifying that the vehicle has been inspected by a police officer for equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated. and that the owner carries liability insurance on the vehicle. A license plate will be issued as part of the permit, to be mounted on the vehicle. An annual fee of $30.00 will be charged for the permit.

Article 5, Section 23 of the adopted Standard Traffic Ordinance for Kansas Cities (2014) is hereby amended as follows:

Sec. 23. Accident Involving Death or Personal Injuries; Penalties.

(a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to or death of any person or damage to any attended vehicle or property shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of Section 25.

(b) A person who violates subsection (a) when an accident results in:

(1) Total property damages of less than $1,000 shall be punished as provided in Section 201.

(2) Injury to any person or total property damages in excess of $1,000 or more shall be punished by imprisonment for not more than one year or by a fine of not more than $2,500, or by both such fine and imprisonment.

(c) The driver shall comply with the provisions of section 26.1. (K.S.A. Supp. 8-1602)

Article 19, Section 200 of the adopted Standard Traffic Ordinance for Kansas Cities (2014) is hereby amended as follows:

Sec. 200. Motor Vehicle Liability Insurance.

(a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, et seq., for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in K.S.A. 40-3104(f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.

(d) (1) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. Such evidence of financial security which meets the requirements of subsection (e) may be displayed on a cellular phone or any other type of portable electronic device. The law enforcement officer to whom such evidence of financial security is displayed shall view only such evidence of financial responsibility. Such law enforcement officer shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall transmit a copy of the insurance verification form prescribed by the secretary of revenue with the copy of the citation transmitted to court.

(2) No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. Such evidence of financial security may be produced by displaying such information on a cellular phone or any other type of portable electronic device. Any person to whom such evidence of financial security is displayed on a cellular phone or any other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle, and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance.

(f) Any person violating any provision of this section shall be guilty of a violation of this ordinance and subject to a fine of not less than $300 nor more than $1,000 or by imprisonment for a term of not more than six months, or both such fine and imprisonment, except that any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a violation of this ordinance and subject to a fine of not less than $800 nor more than $2,500 or by imprisonment for a term not to exceed one year, or both such fine and imprisonment.
(K.S.A. Supp. 40-3104)

(Ord. No. 3397, § 2, 8-29-11; Ord. No. 3409, § 2, 9-24-12; Ord. No. 3424, § 2, 8-26-13; Ord. No. 3427, § 2, 12-23-13; Ord. No. 3436, § 2, 9-8-14; Ord. No. 3441, §§ 1, 2, 11-24-14)

Sec. 90-73. - Supplemental provisions.

The adopted Standard Traffic Ordinance for Kansas Cities (2014) is hereby supplemented by adding thereto the following article:

ARTICLE 22, ADDITIONAL PROVISIONS, and by adding the following sections:

Section 206. Safety Patrol Drivers' Obedience to Signals Requested, When Speed Limitation.

(a) The Chief of Police shall empower the principals of public or private schools to designate students or other persons to use and operate official traffic control devices for the purpose of regulating and controlling traffic upon the public streets of the City in front of or near public or private schools under such laws or regulations as the Chief of Police may deem advisable.

(b) Where hand signs, signals or other warning devices are being used by persons for the purposes of regulating and controlling traffic as provided for in subsection (a) above, the driver of any motor vehicle upon the streets where such signs, signals or other warning devices are used shall bring the vehicle which he is driving to a complete stop when the signs signals or warning devices are being waived, held over the curb line or otherwise displayed so as to indicate a cessation of movement. The vehicle shall remain stationary while children are crossing the streets. When the signs, signals or other warning device is withdrawn, the driver of such vehicle may proceed at a lawful rate of speed past such school or such intersection.

Section 207. Through Truck Traffic. Through truck traffic is permitted on only those streets within the City of Iola which have been designated as state highways or federal highways. Use of any other streets in the city limits in the City of Iola by through truck traffic is not permitted. Violation of this Section shall be considered an unclassified traffic violation.

Section 208. Motorized vehicles, Horses Prohibited on Recreational Trails.

(a) Unauthorized vehicle are not permitted on any recreational trail. No person shall operate any motorized vehicle on any recreational trail located inside the corporate limits of the city without permission from the city.

(b) Horseback riding is prohibited on any recreational trail located within the corporate limits of the city.

(c) "Recreation Trails" means the Prairie Spirit Trail, Missouri Pacific Trail, Southwind Trail and Lehigh Portland Trail.

(Ord. No. 3397, § 3, 8-29-11; Ord. No. 3409, § 3, 9-24-12; Ord. No. 3424, § 3, 8-26-13; Ord. No. 3436, § 3, 9-8-14)

Sec. 90-74. - Deleted provisions.

The adopted Standard Traffic Ordinance for Kansas Cities (2014) is hereby amended by deleting the following: Article 6, Sections 30 and 30.1.

(Ord. No. 3397, § 4, 8-29-11; Ord. No. 3409, § 4, 9-24-12; Ord. No. 3424, § 4, 8-26-13; Ord. No. 3436, § 4, 9-8-14)

Sec. 90-75. - Traffic infractions and traffic offenses.

(a) An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118, as amended.

(b) All traffic violations which are included within this ordinance, and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

(Ord. No. 3397, § 5, 8-29-11; Ord. No. 3409, § 5, 9-24-12; Ord. No. 3424, § 5, 8-26-13; Ord. No. 3436, § 5, 9-8-14)

Sec. 90-76. - Penalty for scheduled fines.

The fine for violation of an ordinance traffic infraction, or any other traffic offense for which the municipal judge establishes a fine in a fine schedule, shall not be less than $42.50 nor more than $500.00, except for speeding which shall not be less than $76.50 nor more than $500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed $500.00.

(Ord. No. 3397, § 6, 8-29-11; Ord. No. 3409, § 6, 9-24-12; Ord. No. 3424, § 6, 8-26-13; Ord. No. 3436, § 6, 9-8-14)

Secs. 90-77—90-105. - Reserved.

ARTICLE IV. - STOPPING, STANDING AND PARKING

FOOTNOTE(S):

--- (**4**) ---

State Law reference— Authority to regulate or prohibit stopping, standing and parking, K.S.A. 8-2002(1); stopping, standing and parking, K.S.A. 8-1569 et seq.

Sec. 90-106. - Parking more than 72 hours.

No vehicle shall be allowed to be and remain parked on any street or highway in the city for a period longer than 72 hours.

(Code 1988, § 14-313; Ord. No. 3285, § 1, 3-26-02)

Sec. 90-107. - Parking trucks, trailers and other vehicles and equipment.

(a) It shall be unlawful to park a truck larger than what is commonly referred to as a one-ton pickup truck, or a bus, truck tractor, road tractor, farm tractor, farm implements, construction equipment, recreational vehicle, trailer or semi-trailer, regardless of weight, upon any street within a residential zoned area in the city, except parking will be permitted when it is necessary for the loading or unloading of merchandise or goods, provided that the vehicle shall be promptly moved upon completion of the loading or unloading.

(b) It shall be unlawful to park a truck larger than what is commonly referred to as a one-ton pickup truck, or a bus, truck tractor, road tractor, farm tractor, farm implements, construction equipment, semi-trailer, box truck or step-van over 24 feet long and/or 12 feet high, motor homes, travel trailers and buses anywhere in the city that is zoned as a residential area, except as provided in this subsection:

(1) When the vehicles or equipment are being used as part of a construction project.

(2) When it is necessary for the loading or unloading of merchandise or goods.

(3) When an all-weather parking surface (such as packed gravel, asphalt or concrete) is provided for trucks, truck tractors, road tractors, box trucks, step-vans, motor homes, travel trailers and buses. The parking surface cannot be located in the required front yard.

(c) It shall be unlawful for any vehicle that transports a hazardous material in an amount that requires it to have a placard on it, a liquid or solid waste vehicle, or any other vehicle or trailer that its contents would be offensive or a health and safety hazard, to park such vehicle or trailer in the city in any area zoned as residential.

(d) For the purpose of this article, the term farm tractor and farm implement shall not include tractors and equipment that are primarily used for landscaping, gardening, utility mowing and lawn care.

(e) For the purpose of this article, the term "residential area" shall include all streets, alleys and property, both public and private, within the city that are zoned for residential use.

(f) Subsections (a) and (b) of this article shall not apply to public, church or private parking lots to which the public has access.

(Code 1988, § 14-207; Ord. No. 3285, § 2, 3-26-02)

Secs. 90-108—90-140. - Reserved.

ARTICLE V. - BICYCLES

FOOTNOTE(S):

--- (**5**) ---

State Law reference— Authority to regulate bicycles, K.S.A. 8-2002(21); bicycles and play vehicles, K.S.A. 8-1586 et seq.

Sec. 90-141. - Surrender for violations.

(a) Any person violating the provisions of this article shall be punished by being required to surrender the person's bicycles, if the person owns more than one, to the chief of police and shall not operate any vehicle within the city for a period of one week.

(b) Any person using or operating a bicycle within the city in violation of any ordinance of the city relating to traffic may be punished therefor, in lieu of or in addition to, other penalties provided, by being required to surrender the bicycles, if the person owns more than one, to the chief of police, and shall not operate any vehicle within the city for one week.

(Code 1988, § 14-505)

Sec. 90-142. - Registration.

Any resident of the City of Iola can register their bicycle with the Iola Police Department during normal business hours. Registration is not required but is highly recommended. There are no fees for bicycle registration.

(Code 1988, §§ 14-501—14-504; Ord. No. 3413, § 1, 1-14-13)

Sec. 90-143. - Bicycles and human-powered vehicles on sidewalks.

(a) A person operating a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(b) A person operating a vehicle by human power upon and along a sidewalk or across a roadway upon and along a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances.

(c) Bicycles may be ridden upon sidewalks in the central business district. Riders should exercise special caution to prevent conflicts, avoid areas close to store entrances, yield to pedestrians, and walk bicycles in congested areas.

(Code 1988, § 14-506; Ord. No. 3413, § 1, 1-14-13)

Sec. 90-144. - Parking of bicycles.

It is unlawful for any person to park or leave a bicycle on public property where such bicycle blocks pedestrian travel or presents a traffic hazard.

(Ord. No. 3413, § 1, 1-14-13)

Sec. 90-145. - Impounding bicycles.

(a) Bicycles shall be impounded to the police department or to any other place of safety:

  (1) When such bicycle is abandoned;

  (2) When such bicycle is reported or determined to be stolen and is recovered; or

  (3) When such bicycle is left parked on public property where that bicycle blocks pedestrian travel or presents a traffic hazard.

(b) A bicycle impounded by the police department shall not be released until the bicycle has been investigated and the rightful owner is found and shows proof of ownership.

(Ord. No. 3413, § 1, 1-14-13)

Sec. 90-146. - Sale of unclaimed or impounded bicycles.

Whenever a bicycle has been impounded for a period of 30 days and no claim of ownership or the right to possession thereof has been made and established to the satisfaction of the police department, such bicycle shall be sold at public auction, after legal publication of the time, date and location of such sale.

(Ord. No. 3413, § 1, 1-14-13)

Secs. 90-147—90-160. - Reserved.

ARTICLE VI. - TRUCKS

FOOTNOTE(S):

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Editor's note—Ord. No. 3369, § 2, adopted Jan. 27, 2009, did not specifically amend the Code; hence, inclusion herein as Art. VI, Div. 2, §§ 90-181, 90-182, was at the discretion of the editor. See also the Code Comparative Table.

DIVISION 1. - GENERALLY

Secs. 90-161—90-180. - Reserved.

DIVISION 2. - MICRO UTILITY TRUCKS

Sec. 90-181. - Definition.

Micro utility truck means any motor vehicle which is not less than 42 inches in width, has an overall length, including the bumper, of not more than 144 inches, has an unlade weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab.

(Ord. No. 3369, § 2, 1-27-09)

Sec. 90-182. - Operation of micro utility trucks; penalty.

(a) Micro utility trucks maybe operated upon the public highways, streets, roads, and alleys within the corporate limits of the city.

(b) No micro utility truck shall be operated on any public highway, street road, or alley unless such vehicle shall comply with the equipment requirements under the provisions of K.S.A. Article 17, Chapter [8].

(c) Every person operating a micro utility truck on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a motor vehicle imposed by law, including Section 200 of the Standard Traffic Ordinance, then in effect, which requires liability insurance and which is expressly made applicable herein to micro utility trucks.

(d) No person shall operate a micro utility truck on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Unless the State of Kansas requires all micro utility trucks to be registered with the state, all micro utility trucks shall have prominently displayed a valid permit issued by the City of Iola allowing the operation of that particular vehicle within the city limits. Said permit shall be issued by the City of Iola after inspection by the city to ensure that all equipment and insurance requirements of this section are met and upon the payment of a $50.00 fee. Said permit shall expire one year from the date of issuance. If the State of Kansas requires all micro utility trucks to be registered with the state, then said trucks shall not be required to obtain a permit from the City of Iola.

(e) A violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2007 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.

(Ord. No. 3369, § 1, 1-27-09)

Chapter 94 - UTILITIES

FOOTNOTE(S):

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Cross reference— Administration, ch. 2; buildings and building regulations, ch. 14; businesses, ch. 18; fees for utilities, § 34-766 et seq.; health and sanitation, ch. 46; natural resources, ch. 58; solid waste, ch. 74; streets, sidewalks and other public places, ch. 78.

ARTICLE I. - IN GENERAL

Sec. 94-1. - Furnishing of utilities to be governed by chapter provisions.

The furnishing of gas, water and electricity to consumers by the city, through its gas distribution system, waterworks and electric light plant and distributing systems shall be governed by the regulations set out in the following sections of this chapter in addition to other regulations now in force relating thereto.

(Code 1988, § 15-101)

Sec. 94-2. - Additional regulations; compliance required; enumeration.

(a) The governing body may make and enforce such additional rules and regulations as may be deemed by them advisable, and it shall be the duty of all persons to obey and comply with such rules and regulations, and service may be discontinued and refused on failure to comply with any of the provisions of this section or any of the rules and regulations of this chapter.

(b) In case of fire all lawn sprinklers and all heavy uses of water for other than in fighting the fire shall cease during the time the fire is being put out.

(c) The meters shall be read at such times as may be ordered by the governing body.

(d) The city administrator, city clerk, or the department head in charge of the specific utility service (gas, water or electric), is authorized to shut off gas, water or electric service to an individual customer and/or group of customers if it is deemed necessary and in the best interest of all other utility users.

(Code 1988, § 15-119)

Secs. 94-3—94-35. - Reserved.

ARTICLE II. - CONNECTIONS, SERVICE APPLICATIONS AND DISCONTINUANCE OF SERVICE

Sec. 94-36. - Permit required; compliance with article.

(a) Anyone wishing to connect or disconnect or make any change in the service of utilities must first get a permit from the office of the city clerk authorizing the same.

(b) Any person connecting, disconnecting, turning on or off any service of utilities without fully complying with this article shall be deemed guilty of a misdemeanor.

(Code 1988, § 15-116)

Sec. 94-37. - Application for service; location.

Application for requests for connection and disconnection of any utility shall be made at the office of the city clerk or such other office as may be designated by the governing body. Such office shall be open for business between 8:00 a.m. and 5:00 p.m., Monday through Friday of each week.

(Code 1988, § 15-126)

Sec. 94-38. - Water connection charge and specifications.

(a) A service connection charge in the amount established in section 34-760 shall be paid in advance for each new water tap installation. Such charge shall include the cost of a 5/8 of an inch meter, ¾ of an inch corporation stop, type K copper from the corporation stop to the meter yoke, the meter yoke, the meter tile, ring and lid. Copper service shall extend to the stop in the area between the rear of the curb and the sidewalk on the public right-of-way, unless the same is deemed impractical, in which case the location shall be selected by the city administrator or designee.

(b) Taps in excess of ¾ of an inch will be installed with the actual cost of material and labor in the installation of same, to be billed to the property owner.

(c) For the installation of taps outside the city limits, the actual cost of the labor and material shall be billed to the property owner. In no case shall charges be less than the minimum charge set forth for city water taps of a similar nature within the city limits.

(d) All 5/8-inch meters installed within the city will be furnished and maintained by the city. Larger size meters will be purchased by the owners, and will be maintained by the city.

(e) Meters installed outside the city limits shall be purchased by the owner from the city, or a city-approved make furnished from other sources. The maintenance of such meters shall be the owner's responsibility.

(f) All service connections and meters installed within the city limits will remain the property of the city. All meter replacements within the city limits will be made at the cost and expense of the city, and the title to any meters so replaced will remain in the city.

(Code 1988, § 15-105)

Sec. 94-39. - Split water service.

Wherever there exists the need for the elimination of a split water service as provided for elsewhere in city ordinances, the tap charges therefor shall be in an amount established in section 34-767.

(Code 1988, § 15-106)

Sec. 94-40. - Electricity; meter changes.

All new customers for electricity requiring meter changes shall be charged an amount established in section 34-768 for each permanent meter installation and an amount established in section 34-768 for each temporary installation. All meters for electric service shall be maintained by the city.

(Code 1988, § 15-107)

Sec. 94-41. - New and existing taps.

Where no serviceable tap is existing, the applicant must pay for a new tap. Where a serviceable gas or water tap exists and the customer desires another in a more favorable location, the customer may

obtain such location by applying for a new gas or water tap and paying the appropriate tap charge, and also paying the cost of time and materials to plug the old existing gas or water tap serving the property.

(Code 1988, § 15-108(b))

Sec. 94-42. - Duties of city in regard to normal water and gas service.

The city will bring normal water and gas service to the lot or curbline, there install and maintain a stop, and bring the electric service to the building or place of delivery, at such place as may be designated by the city, through its electrician or other proper officer. The meter shall be on the consumer's side of the delivery point, with a cutoff at the delivery point, or between it and the meter.

(Code 1988, § 15-110)

Sec. 94-43. - Residential service.

(a) Each premises on which is located a building used for dwelling purposes, or each building used for dwelling purposes, shall have its own tap or service connection and meter. This section will not require the readjustment of any service now installed in any building, except on being reconstructed. When any two or more premises or buildings shall become separately owned by more than one person, a separate tap or service connection and meter must be installed for each of the premises or buildings so separately owned.

(b) For the purpose of this article, a building used for dwelling purposes shall include any building used for residential occupation, including single-family and multiple-family dwellings, but excluding a hotel or tourist court, home or motel, which is principally occupied by transient guests.

(c) Where any building is owned by two or more owners, each owning separate parts of the building, each part shall be considered for the purpose of this article to be a separate premises.

(Code 1988, § 15-111)

Sec. 94-44. - Multiple occupancy.

In all buildings occupied by more than one tenant or occupant, service connections may be made as follows:

(1) By separate tap for each tenant or occupant; or

(2) By the owner, upon approval of the city administrator or the governing body, installing at the owner's own expense, as many meters as such owner desires, but all service shall be measured through one master meter and charged to the owner. Such owner shall read the owner's own meters and collect from the owner's tenants. The city will furnish the submeters and charge the cost of the meters to the owner at store cost.

(3) Where electric service is furnished to trailer courts and where the city has furnished the meter loop and master meter and the trailer court owner has furnished individual wiring, poles, services and electric meters for each trailer space, the billing charges shall be as follows: The city meter reader will read the master meter and each individual meter. The trailer court owner shall be billed, at the commercial rate, for the consumption on the master meter, less the combined total of consumption on the individual meters at domestic rates. An initial service charge, as described in section 94-46, shall be required for each master meter and each of the individual meters.

(Code 1988, § 15-112)

Sec. 94-45. - Making of taps and connections; permit required.

All taps in the city's mains or wires within the city limits and the laying and installing of service lines shall be by the city, except that licensed plumbers and electricians, upon permit granted therefor, make such taps and connections. All persons desiring any such service shall cause an application to be made in the office of the city clerk by a licensed electrician or plumber employed by such person. Such application shall be made on forms furnished by the city clerk, and applicants shall get a permit therefor which shall be issued by the city clerk. A permit for temporary service during the construction of a building or other structure may be made upon the application of the contractor or the land owner.

(Code 1988, § 15-113)

Sec. 94-46. - Service charge deposit for each meter.

At the time of application for service, the applicant shall pay to the city clerk an initial service charge in an amount established in section 34-769 for each meter for service, which is a deposit and is not refundable.

(Code 1988, § 15-114)

Sec. 94-47. - Interrupted service.

Owners of rental property, having paid the application fees one time, shall be entitled to utilities service from time to time for purposes of repair or cleanup without payment of additional fees. Similarly, contractors engaged in construction or remodeling projects, having once paid the application fees, shall not be required to pay the application fees for utilities service at subsequent construction or remodeling project locations.

(Code 1988, § 15-115)

Sec. 94-48. - Delinquent accounts.

No person shall be entitled to service from the city for gas, water or electricity so long as such person is in arrears for any such service. Being in arrears on any one of the services shall deprive such person, company or corporation of the right to that or any other service from the city so long as such delinquency remains.

(Code 1988, § 15-118)

Sec. 94-49. - Charges for connection or disconnection.

(a) A charge in an amount established in section 34-770 will be made and paid for the connection or disconnection of gas and/or water service, and a charge in an amount established in section 34-770 for connection or disconnection of electric service shall be made and paid during the hours when the utilities office of the city is not open for business. For new customers, these charges shall be in addition to the initial service charge provided for in section 94-38.

(b) A charge in an amount established in section 34-770 for disconnection of gas and/or water service and in an amount established in section 34-770 for electric service shall be made in cases of emergency due to gas or water leaks or defective electric systems. Orders for connection or disconnection of utilities taken at the utility office after 4:00 p.m. will be processed prior to 5:00 p.m. if the work load of service personnel will permit sufficient time to complete the order. Orders not processed due to work load will be completed as soon as possible the next working day. Office

personnel are to make it clear to the customer that orders taken after 4:00 p.m. are taken on a no guarantee basis.

(Code 1988, § 15-127; Ord. No. 3303, § 1, 2-25-03)

Sec. 94-50. - Seasonal and occasional service.

(a) Any gas, water or electric customers requesting reconnection of service which has been disconnected during the off-season for a period of more than 30 days, shall be charged an amount established in section 34-771. This section shall apply, but not be limited to, seasonal shutoffs for gardens, air conditioners, furnaces, extended vacations and owners disconnecting for seasonal savings.

(b) Any gas, water or electric customers requesting reconnection of service, when the service in question shall be reconnected and disconnected for a period of 30 days or less shall be charged in amounts established in section 34-771.

(Code 1988, § 15-131)

Secs. 94-51—94-80. - Reserved.

ARTICLE III. - SERVICE OUTSIDE CITY

DIVISION 1. - GENERALLY

Sec. 94-81. - Permit for extension required; payment of costs; installation of lines and pipe; tap approval.

(a) The city will, upon the approval of the governing body, issue a permit for the extension of water and gas lines to the city limits which shall be at the city's expense. The city will furnish at the city limits a head meter and will furnish a tap at the city limits for an individual user, an association or a water district user. The user will pay to the city for such tap the actual cost of the labor and materials in making such tap, and the consumer will pay the city for the cost of any meters and appurtenances which are used beyond the head meter outside the city limits.

(b) All lines and pipe installed beyond the city limits shall be installed by the consumer at the consumer's expense, and such lines and pipe shall belong to the consumer. The service lines and pipe installed one mile outside the city limits must meet the specifications set out by the superintendent of utilities. If the area through which any such lines or pipe is installed shall at any time be taken into the city limits, the title to such lines and pipe shall pass to the city, and shall thereafter be maintained and repaired at city expense. Before any such connections are made, the user and the city shall execute a contract so providing.

(c) If the city has a water main located outside the city limits and circumstances exist which are deemed by the city to be of benefit to the city, a tap may be approved by the city. The city will make all taps on city mains, and all expenses for taps, vaults, backflow prevention units, meters, etc., will be the responsibility of the customer, unless agreed upon by the city. All other city codes and policies will remain in effect.

(Code 1988, § 15-120; Ord. No. 3198, § 1, 2-11-97)

Sec. 94-82. - Water districts.

Water will not be sold to group users outside the corporate limits unless in compliance with all the following requirements:

(1) Formation. A district shall be formed by submission of a petition to the city.

(2) Group representative. The group representative shall be the authorized agent and the alternate of the authorized agent appointed by the group to conduct all transactions between the group user and the city. The vacancy shall be promptly filled.

(3) Agreement. The written agreement shall be prepared by the city for the group user's approval.

(4) Master meter. The master meter shall be paid for and maintained by the user, unless otherwise previously provided for by contract between the user and the city, and shall be located as nearly as possible to the existing city water line.

(5) Master meter valves and valve box. The master meter valves and valve box shall be paid for and maintained by the group user.

(6) Water line. The water line shall be built and maintained by the group user at no cost to the city.

(7) Individual house meters and services. Individual house meters and services shall be installed and maintained by the individual customer.

(8) Periodic water meter tests. Individual house meters shall be tested at the same frequency that city meters are tested unless need indicates more frequent tests. Repair charges are to be billed to individuals for time and materials as authorized by the signature card.

(9) Outside sources of water. No wells or other water supply shall be connected in any manner to cause cross connection to the city supply.

(10) Group user main repair. The group user representative or the alternate of the group user representative shall cause repairs to the mains to be made by the plumber chosen by the group user representative or the alternate of the group user representative. The city shall repair only on application and on emergency basis only with time and material charges therefor.

(Code 1988, § 15-121)

Sec. 94-83. - Electric service.

The city shall, upon approval of the governing body, extend its electric lines outside the city limits to the user's property line at city expense, and the city will furnish, own and maintain the meter and appurtenances and the lines to the consumer's property line. The electric department will place the meter on the pole, and the user shall run a line from the house or business establishment to the city meter. No electrical inspection will be required as to wiring, etc., in the house or establishment as the city's responsibility will only be to the meter.

(Code 1988, § 15-122)

Sec. 94-84. - Plat and voluntary annexation required.

All sewer, water and gas extensions outside city limits will be extended only if land serviced is platted, recorded and annexed. Land not platted shall apply in writing to such extension to the city governing body for consideration of an exception to this policy. The letter of application should show the following:

(1) Type of service requested;

(2) Quantity of gas, water or sewer desired based on monthly usage;

(3) Type of business or size of house to be served; and

(4) Willingness to request voluntary annexation.

(Code 1988, § 15-123; Ord. No. 3426, § 1, 9-23-13)

Sec. 94-85. - Charges for transfer of records (moving).

Consumers desiring to transfer utility service from one address to another shall pay, in advance, a charge in an amount established in section 34-772 per service, which such charge shall be for the purpose of paying the cost of transferring the records of the consumer and to cover the cost of reading the meters and connecting and disconnecting services; provided, however, that no such transfer of records shall be made until all utility billings in excess of ten days old shall have been paid in full.

(Code 1988, § 15-132)

Secs. 94-86—94-110. - Reserved.

DIVISION 2. - SEWER SERVICE

Sec. 94-111. - Unlawful acts.

It shall be unlawful for any person to make any connections of the sewers of the city to any property outside an organized sewer district unless such connections are made in full compliance with the provisions of this article, including the payment of the connection charges. Any person committing such unlawful act shall be guilty of a misdemeanor.

(Code 1988, § 15-208)

Sec. 94-112. - Sewers outside sewer district.

(a) Owners of property outside the city limits who desire to connect to the sanitary sewer system of the city will be required to voluntarily annex prior to being allowed to connect to the sanitary sewer system.

(b) No sewer connection will be permitted outside the city limits until the developer plats the area and presents a voluntary annexation application to the planning commission and the governing body and obtains their approval. The plat, once approved by the governing body, must be recorded with the county register of deed's office. Any sewer lines needed to connect with existing city sewer mains and laterals must conform to city and state specifications for such lines. In order to obtain sewer service the city reserves the privilege of furnishing, at their option, any or all other utilities, namely gas, water or electricity.

(Code 1988, § 15-203; Ord. No. 3426, § 1, 9-23-13)

Sec. 94-113. - Application outside sewer district.

Any person desiring to make a connection with the sewer and drains of the city and coming within the provisions of this article, shall make an application for voluntary annexation, in writing, to the code services office. The application shall state:

(1) The name and address of the applicant;

(2) A description of the property upon which a connection is intended to be made;

(3) The name of the contractor or plumber who will do the work; and

(4) The amount of servitude intended to be placed on the connection (servitude being described as the number of outlets intended to be made on the sewer line), or an estimate of the volume of sewage to be discharged into the sewer or drain.

(Code 1988, § 15-204; Ord. No. 3426, § 1, 9-23-13)

Sec. 94-114. - Fees for sewer use.

The following fees shall be charged for the privilege of using the city sewer, for properties connected to the sanitary sewer system prior to September 2013, by persons outside the city or outside a sewer benefit district if not originally assessed as part of that benefit sewer district:

(1) For each sanitary sewer connection made for the use of a housing unit utilizing a sewer connection no greater in size than four inches the charge shall be a sum equal to the average cost to each of the other benefit district properties assessed for such service. Should records be unavailable to accurately determine such cost, the charges shall be as set by the governing body but in no case shall such amount be less than that established in section 34-773.

(2) Should multiple dwelling units be constructed outside a regularly assessed benefit sewer district so that each dwelling unit should be served separately, the charges shall be as set by the governing body but in no case shall such amount be less than that established in section 34-773.

(3) For each such connection for each factory, plant or other commercial or business user, the fee shall be between the city and such user, but in no case in an amount less than that established in section 34-773.

(Code 1988, § 15-206; Ord. No. 3426, § 1, 9-23-13)

Editor's note— Ord. No. 3426, § 1, adopted Sept. 23, 2013, repealed § 94-114, which pertained to city administrator; duties and derived from Code 1988, § 15-205. Said ordinance subsequently renumbered § 94-115 as § 94-114.

Secs. 94-115—94-150. - Reserved.

ARTICLE IV. - RATES AND CHARGES AND BILLING AND COLLECTION PROCEDURES

DIVISION 1. - GENERALLY

Sec. 94-151. - Billing notice; hearing.

As soon as reasonably possible after the reading of the utility meters, the city clerk is directed to send notices to all customers informing them the amount owned to the city. All utility bills shall be due within 28 days of the meter reading date. If the utility bill is not paid in full within the 28-day period, the city clerk is directed to send a delinquent notice to the customer informing them that their bill is delinquent and advising them that if the bill is not paid in full within 12 days of the date of the notice, the utility service will be disconnected without further notice. Any consumer receiving such notice shall have the right to appear and be heard concerning such bills or the deadline for payment of the bills. The hearing shall be before the governing body or its designated representative prior to the time designated as the deadline for payment of such bills. A hearing should be requested by contacting the utilities office in City Hall.

(Code 1988, §§ 15-117(b), 15-128; Ord. No. 3109, § 1, 10-8-91; Ord. No. 3300, § 1, 1-28-03)

Sec. 94-152. - Rates for service generally.

Rates to be charged for the service rendered by the public utilities of the city shall be as established by the city. Any change in rates shall be made by ordinance or resolution and be published in the official paper of the city at least one time.

(Code 1988, § 15-117(a))

Sec. 94-153. - Delinquency in payment; service not to be connected or extended.

Whenever the owner of any property served by utilities from the city shall be in arrears in the payment of utility bills and shall have been served a notice of such delinquency, and a deadline for payment of such bills is set, utility service shall not be connected or extended to any other person until such bills, and applicable reconnect fees shall have been paid in full.

(Ord. No. 3109, § 2, 10-8-91)

Sec. 94-154. - Discontinuance or interruption of utilities.

The city reserves the right to determine what utility should be discontinued or interrupted.

(Ord. No. 3109, § 3, 10-8-91)

Sec. 94-155. - Discontinuance of service for nonpayment.

If the total amount due for utilities and other services provided by the city are not paid on or before the deadline established, and the billing determined to be proper according to the ordinance of the city and records show that the customer has had due notice of such billings and of the right to be heard concerning the billings, then the city clerk shall cause such services to be discontinued. The city reserves the right to terminate utilities at a second location even if the customer's bill and charges are current at the second location.

(Code 1988, § 15-129; Ord. No. 3121, § 1, 11-24-92)

Sec. 94-156. - Delinquency fee.

(a) When any utility service or services have been discontinued as provided in section 94-155, such service or services may be reinstated after payment in full of all bills for utility service due the city, but before any such services are reinstated, there first must be paid to the city clerk's office, in addition to the bills due, the following charges:

  (1) For reinstating gas and/or water service an amount established in section 34-774. For reinstating electric service an amount established in section 34-774.

  (2) Payment must be made prior to 4:00 p.m. for service to be reinstated on the same day. For payments 4:00 p.m., service will not be reinstated until after 8:00 a.m. on the next working day, unless an afterhours surcharge is paid according to section 34, Fees.

(b) No utilities service disconnected under the provisions of section 94-155 shall be reinstated after normal working hours or on weekends or holidays, unless an afterhours surcharge is paid.

(Code 1988, § 15-130; Ord. No. 3103, § 1, 8-13-91; Ord. No. 3300, § 2, 1-28-03; Ord. No. 3415, § 1A, 3-11-13)

Secs. 94-157—94-180. - Reserved.

DIVISION 2. - METERS

Sec. 94-181. - Use required; customer responsibilities.

(a) All gas, water and electricity furnished to consumers, except in a level payment method administered by the city clerk's office, shall be measured through a suitable meter or meters, and no service will be furnished on a flat rate.

(b) Due to the liability risk involved, no replacing of fuses or other work on the customer's side of the meter will be performed by the city personnel. The city's responsibility stops at the meter, and any work necessary past the meter should be done by a licensed electrician or plumber of the owner's choice.

(Code 1988, § 15-102)

Sec. 94-182. - Accessibility; removal.

(a) All meters installed shall be set in such places as to be easily accessible for reading, and all meters heretofore set that are not in accordance with this section shall be reset so as to comply herewith.

(b) Upon enlargement of any building where the improvement will cause the electric meter to be enclosed within the building, including a porch, the meter shall be moved to the outside of the building by the electric department at no charge to the customer. All necessary wiring from old meter location to the new location shall be at the expense of the customer.

(c) Gas and water meters shall be removed from within all buildings, at the expense of the customer, when any of the following conditions exist:

    (1) Nonaccessible location;

    (2) Building enlarged;

    (3) Leak developing at any point from the stop into the building, including leakage on any piping within any building; or

    (4) Any alteration or changing of existing piping with any building.

(d) Water meter lids, rings and barrels will be furnished without cost to the owners of the city.

(Code 1988, § 15-103)

Sec. 94-183. - Location.

(a) Meters will be placed as near to the respective gas or water stop as practicable. Whenever possible, gas meters will be placed in the alley and water meters on the parking area.

(b) The city assumes responsibility for the maintenance of all portions of gas or water service lines from the stop to the meter if the meter location is on the public right-of-way. Determination of property lines shall be made by owner. If the stake is lacking, it is to be assumed that all streets are constructed in the center of the dedicated public right-of-way, and a measurement from the center of the street one-half of the distance of the platted right-of-way will be assumed to be the property line.

(c) No inspection charge will be made by the city for any meter change made for any of the reasons described in this section.

(Code 1988, § 15-104)

Sec. 94-184. - Checking and testing.

(a) The city will reread and check (not test) utility meters free of charge, at the customer's request, on a one-time or two-time basis, for all customers within and outside the city limits. The city will reserve the right, if normal and reasonable efforts have been made to determine that the meters are measuring correctly, to discontinue any further checking unless the customer requests the meters to be tested.

(b) Meters shall be tested before being set and at any other time thereafter when they appear to be measuring incorrectly, or on the application of the consumer. If on application the meter is tested and found correct, a charge in an amount established in section 34-775 will be made to the consumer. If tested other than on the consumer's application, it shall be at the city's expense except that the consumer shall pay for the service during the time the meter is out for test, and when, on such test, the meter is found to be measuring incorrectly, an adjustment shall be made for the service during the preceding month, but no further. If the meter is within two percent of being accurate, the meter will be deemed correct. No meter, whether owned by the city or consumer, shall be removed or repaired, except by the employees of the city.

(Code 1988, § 15-109)

Sec. 94-185. - Size.

No meters for electric, gas or water service shall be installed unless the size of service lines and meters have been approved by the department head for the utilities to be connected. Advance approval of size of the line and meter may be obtained from the specific department head overseeing the utility at the time of obtaining a permit for new installations or a renewal of old installations.

(Code 1988, § 15-125)

Secs. 94-186—94-210. - Reserved.

DIVISION 3. - ELECTRICITY

Sec. 94-211. - Rates and conditions generally.

Beginning with the June 1, 2002 billing, for usage consumed in May, the rates and conditions set out in this division are to be applied to electrical service both inside and outside the corporate limits of the city. All meters shall be read and billed monthly.

(Code 1988, § 15-501; Ord. No. 3119, § 1(15-501), 10-27-92; Ord. No. 3288, § 1, 4-23-02)

Sec. 94-212. - Residential charges for single-family residences and individually metered apartments.

Electric service for domestic purposes in single-family residences and individually metered apartments shall, when supplied at one point of delivery, not be applicable to resale or shared service.

The current supplied shall be alternating current at approximately 60 cycles with a single phase and at the voltage the city may have available for the service required. The rates for this classification are as provided in section 34-776.

(Code 1988, § 15-502; Ord. No. 3119, § 1(15-502), 10-27-92)

Sec. 94-213. - Rates for all-electric residential users.

The rates in this section are available to residential customers, either within city limits or outside city limits, who use electricity exclusively as the sole source of energy in the home. All customers shall be individually metered at one point of delivery with no resale or shared service allowed. Woodburning fireplaces and utilization of gas air conditioning are exempted from the sole energy requirements of this section. The current supplied shall be alternating current at approximately 60 cycles and at such phase and voltage as the city may have available for the service required. The rates for this classification are as provided in section 34-777.

(Code 1988, § 15-503; Ord. No. 3119, § 1(15-503), 10-27-92)

Sec. 94-214. - Rates for all-electric commercial users.

All-electric commercial rates shall be available to all commercial customers, either within or without the city limits, who use electricity exclusively as the sole source of energy in the commercial establishment. All customers shall be individually metered at one point of delivery with no resale of shared service allowed. Woodburning fireplaces are exempted from the sole energy requirements of this section. The current supplied shall be alternating current at approximately 60 cycles and at such phase and voltage as the city may have available for the service required. The rates for this classification are as provided in section 34-778.

(Code 1988, § 15-504; Ord. No. 3119, § 1(15-504), 10-27-92)

Sec. 94-215. - Rates for all-electric library users.

All-electric library rates shall be available to all public libraries that use electricity as the sole source of energy. The current supplied shall be alternating current at approximately 60 cycles and at the phase and voltage the city may have available for the service required. The rates for this classification are as provided in section 34-779.

(Code 1988, § 15-505; Ord. No. 3119, § 1(15-505), 10-27-92)

Sec. 94-216. - Rates for commercial lighting and power users.

Commercial lighting and power rates shall be available to all commercial accounts and/or temporary construction meters at one delivery point and not applicable for resale or shared service. The current supplied shall be alternating current at approximately 60 cycles and at such phase and voltage as the city may have available for the service required. The rates for this classification are as provided in section 34-780.

(Code 1988, § 15-506; Ord. No. 3119, § 1(15-506), 10-27-92)

Sec. 94-217. - Rates for small industrial power and lighting users.

Small industries power and lighting rates shall be available to all manufacturing or processing enterprises having an electrical load of less than 300 kw, 50 percent or more of whose gross income is derived from sales for resale or business use as distinguished from retail or commercial consumption. This rate is also applicable for public hospitals. All service shall be provided at one delivery point and not applicable for resale or shared service. The current supplied shall be alternating current at approximately 60 cycles and at such phase and voltage as the city may have available for the service required. The rates for this classification are as provided in section 34-781.

(Code 1988, § 15-507; Ord. No. 3119, § 1(15-507), 10-27-92)

Sec. 94-218. - Rates for primary power industrial users.

Primary power industrial user rates shall be available to all manufacturing or processing enterprises having an electrical demand of 300 kw or more. All service shall be provided at a single location and not applicable for resale or shared service. The current supplied shall be alternating current at approximately 60 cycles and at such phase and voltage as the city may have available for the service required. The rates for this classification are as provided in section 34-782.

(Code 1988, § 15-508; Ord. No. 3119, § 1(15-508), 10-27-92)

Sec. 94-219. - Yard lighting service.

Yard lighting service shall be applicable to all electrical customers of the city. Outdoor dusk to dawn lights may be placed on existing owner poles or existing city power poles, with all energy and maintenance to be provided by the city. Should existing city poles not be available, the customer shall be billed for time and material charges to install a customer-owned pole. The customer shall sign a request for service, guaranteeing one year's service usage. Lighting fixtures, poles (unless customer-owned) and hardware shall remain the property of the city. The rates for this classification are as provided in section 34-783.

(Code 1988, § 15-509)

Sec. 94-220. - Reading of electric meters.

Each city-owned electric meter shall be billed separately for the readings thereon, and no accumulative readings from several meters located on the same premises shall be used for billing purposes.

(Code 1988, § 15-511)

Sec. 94-221. - Temporary electricity for construction purposes.

(a) As prescribed by city ordinance, all temporary construction electric meters will be billed at the commercial rate prescribed by the ordinance covering such usage. If the construction project is being constructed in such a manner as to qualify for future all-electric service, the kwh charges for temporary construction electric power may be removed, and the all-electric rate applied when the project is constructed to a point where, in the opinion of the code enforcement officer, the project is substantially completed and ready for occupancy.

(b) The contractor desiring such an all-electric kwh charge shall have the responsibility of notification of the code enforcement officer to determine the change in applicable rate schedule, and, upon receipt of approval, the contractor shall notify the utility office of the desired change.

(Code 1988, § 15-512)

Secs. 94-222—94-255. - Reserved.

DIVISION 4. - NATURAL GAS

Sec. 94-256. - Gas service rates.

Beginning with the June 1, 2002 billing, for usage consumed in May, rates for inside and outside the city are established in section 34-784. All gas sales to consumers are subject to stop loss adjustment described in section 94-257.

(Code 1988, § 15-701; Ord. No. 3135, § 1, 10-26-93; Ord. No. 3286, § 1, 4-23-02)

Sec. 94-257. - Stop loss adjustment.

Stop loss adjustments, if applicable, shall commence with the June billing. Depending on wholesale supply cost to the city, the city shall use the following formula to calculate an adjustment to be charged to the consumer for reimbursement of actual supply cost over the adopted rate as specified in section 34-784. The formula to be used in calculating this adjustment is as follows:

$$(A + B)/C = D$$

$$D + E = F$$

$$F - G = H$$

A = Gas commodity cost for preceding month (invoice plus applicable storage gas).

B = Transportation cost for preceding month (invoice).

C = City gate delivery volume for preceding month (delivery statement [includes storage]).

D = Average delivered commodity cost per Mcf.

E = The average priced per Mcf of the city's non-gas cost. This non-gas cost is to be reviewed annually following adoption of the budget for the next year. Adjustments to match average cost per unit shall be effective January 1.

F = City's total estimated cost for month per Mcf.

G = City's adopted natural gas service rate as specified in section 34-768.

H = Adjustment cost charged to customer per Mcf.

(Code 1988, § 15-702; Ord. No. 3135, § 2, 10-26-93; Ord. No. 3286, § 2, 4-23-02)

Secs. 94-258—94-280. - Reserved.

DIVISION 5. - WATER

Sec. 94-281. - Water rates.

Beginning with the meter readings of April 1, 1991, the rates to be charged for water service shall be as established in section 34-785 for the users and purchasers of water both within and outside the city limits.

(Code 1988, § 15-601; Ord. No. 3090, § 1, 3-26-91)

Sec. 94-282. - Charges for fire protection service.

Charges for each unmetered water fire protection service are hereby established in section 34-786. There shall be no water use to premises on any basis other than for the use in fighting fires or testing fire lines.

(Code 1988, § 15-602)

Cross reference— Fire prevention and protection generally, ch. 38.

Secs. 94-283—94-305. - Reserved.

DIVISION 6. - SEWER

Sec. 94-306. - Establishment of monthly sewer charge.

There is hereby established a monthly service charge for sewer services rendered and to be rendered by the sewer system of the city, to be charged and collected monthly from the parties responsible for each sewer connection, for the services rendered by the sewage disposal system of the city, being a part of the water and sewer system of the city.

(Code 1988, § 15-606)

Sec. 94-307. - Applicability of sewer service charges.

On unimproved lots that have no sewer connection, no sewer service charges will be applicable even though water taps do exist on the property.

(Code 1988, § 15-612)

Sec. 94-308. - Rates for single-family residences.

The monthly charges for sewers for single-family residences within the city shall be as established in section 34-787. The sewer service charge shall be established for the average water usage for the preceding months of January, February and March. If a user has not established an average water usage in the preceding months of January, February and March, they shall be charged based on the city's average water usage per user in those months.

(Code 1988, § 15-607; Ord. No. 3080, § 1, 9-18-90)

Sec. 94-309. - Rates for commercial and small industrial users.

The monthly sewer charges for commercial and small industrial users shall be as established in section 94-309.

(Code 1988, § 15-608; Ord. No. 3080, § 2(15-608), 9-18-90)

Sec. 94-310. - Large users.

The BOD surcharge is as established in section 34-789.

(Code 1988, § 15-609)

Sec. 94-311. - Rates for commercial and small industrial users outside the city limits.

Monthly sewer rates for commercial and small industrial users outside the city limits shall be as established in section 34-790.

(Code 1988, § 15-610; Ord. No. 3080, § 3, 9-18-90)

Sec. 94-312. - Rates for residential users outside the city limits.

Monthly charges for sewer use for customers located outside the city limits shall be in an amount established in section 34-791. Such charges are based on the average water usage for the preceding months of January, February and March in the case of usage of cubic feet in excess of those covered by the monthly service charge. If a user has not established an average water usage in the preceding months of January, February and March, the user shall be charged based on the city's average water usage per user in those months.

(Code 1988, § 15-611; Ord. No. 3080, § 4, 9-18-90)

Sec. 94-313. - Sewer rates for residential users in Country Estates Addition.

The monthly fee to be paid for sewer service by residential users in the Country Estates Addition shall be as established in section 34-792.

(Code 1988, § 15-612; Ord. No. 3080, § 5, 9-18-90)

Sec. 94-314. - Additional charges.

In addition to the charges in this division a monthly charge may be made as determined by requirements set forth by the United States Environmental Protection Agency for any repayment of federal grants made to the city for sewer improvements that may be directly attributable to the large industrial sewer user. Such charges shall be proportioned on the cost of such improvements over the estimated life of the improvements so made.

(Code 1988, § 15-613)

DIVISION 7. - STORMWATER DRAINAGE

Sec. 94-315. - Creation and purpose of a drainage utility fund.

(a) The city shall, as a part of the city utility services, provide the resources and infrastructure to control the flow of ground and surface water within the city limits.

(b) Such resources and infrastructure shall be funded by a drainage utility fund which is hereby established.

(Ord. No. 3384, § 1, 4-13-10, eff. 5-1-10)

Sec. 94-316. - Regulations.

The administration and control by the city of ground and surface water drainage services shall be governed by the regulations set forth in this article.

(Ord. No. 3384, § 1, 4-13-10, eff. 5-1-10)

Sec. 94-317. - Costs.

To provide the resources necessary to fund such ground and surface water drainage services, a fee shall be assessed as follows:

(1) A monthly fee of $2.00 shall be assessed to each city water utility customer, by assessing each electric meter for a residential or commercial use. Any additional meter at a residential location that is not for commercial or residential use shall not be assessed.

(2) Such fee shall be included on the city's monthly utility billing statement as a line item fee and shall be clearly identified as stormwater.

(3) Such fee shall be added to all other utility charges set forth on the utility billing statement, and shall be billed and collected through the city's utility billing office.

(4) All stormwater fees collected shall be deposited to the general fund.

(5) The assessment of the stormwater fee provided for herein shall not preclude the city from utilizing other revenue sources as may be deemed appropriate to adequately provide such ground and surface water drainage services.

(Ord. No. 3384, § 1, 4-13-10, eff. 5-1-10)

Sec. 94-318. - Special assessments.

The city shall be authorized to assess the costs associated with providing adequate and proper ground and surface water drainage services necessitated as a result of new developments or new construction within the city. The costs for such shall be assessed proportionately against the property owners directly benefitting from such new ground and surface water drainage services.

(Ord. No. 3384, § 1, 4-13-10, eff. 5-1-10)

Sec. 94-319. - Flood control and damages.

The city may, from time to time, hold public meetings to discuss and publicize designated flood plain or flood control areas within or adjacent to the city which, under federal regulations, may require certain types of flood insurance. The city shall have no responsibility or liability for any damage or loss to any property resulting from flooding caused by the accumulation of ground or surface water or from a flood event which has been declared by the State of Kansas as a natural disaster.

(Ord. No. 3384, § 1, 4-13-10, eff. 5-1-10)

Secs. 94-320—94-345. - Reserved.

ARTICLE V. - ELECTRIC SERVICE

Sec. 94-346. - During disasters.

(a) In the event of a disaster when there is a request for assistance with electric distribution repairs, if the city can provide assistance without unduly jeopardizing the protection of its own community, then this section hereby authorizes the city administrator or mayor, or the designee of the city administrator or mayor, to provide such assistance as may be required under authority granted in K.S.A. 12-16,117, with all the privileges and immunities provided therein.

(b) Nothing in this section is intended to conflict or circumvent any existing interlocal agreement, any automatic aid, intergovernmental or mutual aid agreement, or any authority to enter into those in the future.

(c) It is the intent of this section to provide assistance in the form of electrical distribution repairs during times of disaster as defined in K.S.A. 12-16,117 with all the privileges and immunities described therein.

(Ord. No. 3173, §§ 1—3, 6-27-95)

Secs. 94-347—94-380. - Reserved.

ARTICLE VI. - NATURAL GAS SERVICE

Sec. 94-381. - Tap and meter installation; costs.

Hereafter, all standard one-inch taps equipped with a 175 cfm meter for gas service within the city shall be installed at a cost in the amount established in section 34-793 to the customer. All other taps within the corporate limits shall be installed by the city, and the cost of labor and materials furnished in making such tap shall be charged to the customer. All gas meters hereafter installed shall be installed and owned by the city and shall be maintained by the city at the city's expense.

(Code 1988, § 15-703; Ord. No. 3147, § 1, 4-12-94)

Sec. 94-382. - Removal of taps; reinstatement.

(a) The city municipal gas will remove all taps from property not utilizing gas consumption within a two-year period.

(b) Service to the property so affected will be reinstated upon request, and the payment therefor of the then current gas tap charges.

(Code 1988, § 15-704; Ord. No. 3305, § 1, 2-25-03)

Secs. 94-383—94-415. - Reserved.

ARTICLE VII. - CROSS CONNECTION CONTROL

Sec. 94-416. - Purpose of article.

The purpose of this article is to:

(1) Protect the public potable water supply of the city from pollution or contamination due to cross connection;

(2) Eliminate all cross connections within the potable water supply system; and

(3) Provide for the maintenance of a continuing effective cross connection control program and thus protect the public health.

(Ord. No. 3074, § 1(1), 3-13-90)

Sec. 94-417. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency means the department of the municipal government or water purveyor invested with the responsibility for enforcement of this article.

Air gap means the unobstructed vertical distance at least twice the diameter of the supply line and no less than one inch, through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device, and the flood level rim of the receptacle.

Approved device means devices tested and accepted by a recognized testing laboratory, approved by the state department of health and environment and the city.

Backflow means the flow of water or other substances into the distribution system of a potable supply of water from any source other than its intended source. Backsiphonage is one type of backflow.

Backflow preventer means a device or means to prevent backflow.

Backsiphonage means the flowing back of contaminated or polluted substances from a plumbing fixture or any vessel or source into the potable water supply system due to negative pressure in such system.

Contaminant means any substance that upon entering the potable water supply would render it a danger to the health or life of the customer.

Cross connection means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other of water or any substance of unknown or questionable quality whereby there may be flow from one system to the other.

Double check valve assembly means a device consisting of two internally loaded soft seated check valves with positive shutoff valves on both upstream and downstream ends, and properly located test ports.

Flood level rim means the edge of the receptacle from which water overflows.

Free water surface means a water surface at atmospheric pressure.

Frostproof closet means a hopper with no water in the bowl and with the trap and water supply control valve located below the frostline.

Plumbing means the practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping fixtures, appliances and appurtenances.

Pollution means the presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely affect the water.

Reduced pressure zone backflow preventer means an assembly of two independently acting soft approved check valves together with a hydraulically operating mechanically independent differential pressure relief valve located between the check valves and at the same time below the first check valve. The unit shall contain properly located test cocks and resilient seated shutoff valves at each end of the assembly. To be approved these assemblies must be accessible for inspection and testing and be installed where no part of the assembly will be submerged.

Tester means a trained technician certified in the testing and repair of backflow preventers.

Vacuum means any absolute pressure less than that exerted by the atmosphere.

Vacuum breaker means a device that permits air into the water supply distribution line to prevent backsiphonage.

Water, nonpotable means water that is not safe for human consumption or that is of questionable potability.

Water, potable means water free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its quality shall conform to state department of health and environment requirements for public water supplies.

(Ord. No. 3074, § 2, 3-13-90)

Cross reference— Definitions generally, § 1-2.

Sec. 94-418. - Enforcement of article.

The water superintendent shall be responsible for effectively conducting the cross connection control program of the city public water supply. If in the judgment of the backflow prevention technician an approved backflow prevention device is required, the code enforcement officer or the agent of the code enforcement officer will give notice in writing to the customer to install the proper device. The customer shall immediately install the proper device at the customer's expense. Failure to comply shall be grounds for discontinuing water service to such customer until the device is properly installed.

(Ord. No. 3074, § 1(2), 3-13-90)

Sec. 94-419. - Requirements.

(a) General. A potable water supply system shall be designed, installed and maintained in such a manner as to prevent contamination from nonpotable sources through cross connections or any piping connection to the system.

(b) Cross connections. Cross connections between the potable water supply system and other systems or equipment containing water or other substances of unknown quality are prohibited except when and where, as approved by the code enforcement officer, suitable backflow preventers are properly installed, tested and maintained to ensure proper operation on a continuing basis.

(c) Interconnections. Interconnection between two or more public water supplies shall be permitted only with the approval of the state department of health and environment. (K.S.A. 65-163a)

(d) Individual water supplies. Connections between a private water supply and the public potable water shall be prohibited. (K.S.A. 65-163a)

(e) Connections to boilers. Potable water connections to boiler feed water systems in which boiler water conditioning chemicals are or can be introduced shall be made through an air gap or through a reduced pressure zone principle backflow preventer located in the potable water line before the point where such chemicals may be introduced.

(f) Prohibited connections. Connection to the public potable water supply system for the following is prohibited unless properly protected by the appropriate backflow prevention device:

(1) Bidets;

(2) Operating, dissecting, embalming, and mortuary tables or similar equipment in such installations the hose used for water supply shall terminate at least 12 inches away from every point of the table or attachments;

(3) Pumps for nonpotable substances; priming only through an air gap;

(4) Building drains, sewer or vent systems;

(5) Commercial buildings or industrial plants manufacturing, or otherwise using polluting or contaminating substances; and

(6) Any fixture of similar hazard.

(g) Refrigeration unit condensers and cooling jackets. Except when potable water provided for a refrigeration condenser or cooling jacket is entirely outside the piping or tank containing a toxic refrigerant, the inlet connection shall be provided with an approved backflow preventer. Heat exchangers used to heat water for potable use shall be of the double wall type.

(h) Protective devices required. The type of protective device required under this article shall be determined by the degree of hazard which exists as follows:

(1) Premises having an auxiliary water supply shall protect the public system by either an approved air gap or an approved reduced pressure principle back prevention assembly.

(2) Premises having water or substances which would be nonhazardous to the health and well-being of the consumers shall protect the public system with no less than an approved double check valve assembly.

(3) Premises where material dangerous to health is handled in such a manner as to create an actual or potential hazard shall protect the public system by an approved air gap or an approved reduced pressure principle backflow prevention assembly.

(4) Premises where cross connections are uncontrolled shall protect the public water supply by installing an approved air gap or an approved reduced pressure principle backflow prevention device at the service connection.

(5) Premises where because of security requirements or other prohibitions it is impossible to complete an in plant inspection cross connection inspection, the public system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly.

Premises which may fall into one or more of the above-mentioned categories may be, but are not limited to, the following:

a. Beverage bottling plants;

b. Buildings: Hotels, apartments, public or private buildings, or other structures having actual or potential cross connections;

c. Car wash facilities;

d. Chemical manufacturing, handling or processing plants;

e. Chemically contaminated water;

f. Dairies and cold storage facilities;

g. Film or photography processing laboratories;

h. Fire systems;

i. Hospitals, medical centers, morgues, mortuaries, autopsy facilities, clinics, or nursing and convalescent homes;

j. Irrigation systems;

k. Laundries;

l. Metal cleaning, processing or fabricating plants;

m. Oil and gas production, storage or transmission facilities;

n. Packing or food processing plants;

o. Paper and paper products plants;

p. Power plants;

q. Radioactive materials, plants or handling facilities;

r. Restricted or classified facilities;

s. Rubber plants;

t. Sand, gravel or asphalt plants;

u. Schools or colleges;

v. Sewage and storm drainage facilities and reclaimed water systems;

w. Solar heating systems;

x. Temporary service; fire hydrants, air valves, blowoffs and other outlets; and

y. Waterfront marinas.

(Ord. No. 3074, § 3, 3-13-90)

Sec. 94-420. - Installation of approved devices.

(a) General requirements. Approved devices shall be installed at all fixtures and equipment where backflow or backsiphonage may occur and where a minimum air gap between the potable water outlet and the fixture or equipment flood level rim cannot be maintained. Backflow and backsiphonage devices of all types shall be accessibly located. Installation in pits or any other location not properly drained shall be prohibited, except that dual check valves may be installed in the meter box.

(b) Connections not subject to back pressure. Where a water connection is not subject to back pressure, a vacuum breaker shall be installed on the discharge side of the last valve on the line serving the fixture or equipment. A list of some conditions requiring protective devices of this kind are given in the following table:

CROSS CONNECTIONS WHERE PROTECTIVE DEVICES ARE REQUIRED
AND CRITICAL LEVEL (C-L) SETTINGS FOR VACUUM BREAKERS,
OR AS DEEMED NECESSARY BY THE AGENCY

Fixtures or equipment followed by method of installation:

Aspirators and ejectors: C-L at least six inches above flood level of receptacle served.

Dental units: On models without built-in vacuum breakers C-L at least six inches above flood level rim of bowl.

Commercial dish washing machine: C-L at least six inches above flood level of machine. Installed on both hot and cold supply lines.

Garbage can cleaning machines: C-L at least six inches above flood level of machine. Installed on both hot and cold water supply lines.

Hose outlets: C-L at least six inches above highest point on hose line.

Commercial laundry machines: C-L at least six inches above flood level of machine. Installed on both hot and cold supply lines.

Lawn sprinklers: C-L at least six inches above highest sprinkler head or discharge outlet.

Steam tables: C-L at least six inches above flood level rim.

Tanks and vats: C-L at least six inches above flood level rim or line.

Through urinals: C-L at least 30 inches above perforated flush pipe.

Flush tanks: Equipment with approved ball cock, installed according to manufacturer's instructions. Hose bibs: C-L at least six inches above flood level of receptacle served.

(c) Connections subject to back pressure. Where a potable water connection is made to a line, fixture, tank, vat, pump or other equipment with a hazard of backflow or back pressure, and an air gap cannot be installed, the city may require the use of an approved reduced pressure principle backflow preventer. A partial list of such connections is shown in the following table:

PARTIAL LIST OF CROSS CONNECTIONS SUBJECT TO BACK PRESSURE	
Chemical lines	Pumps
Dock water outlets	Steam lines
Individual water supplies	Swimming pools
Industrial process water lines	Pressure tanks
Tanks and vats: Bottom inlets	Hose bibs

(d) Barometric loop. Water connections where an actual or potential backsiphonage hazard exists may, in lieu of devices specified above, be provided with a barometric loop. Barometric loops shall precede the point of connection.

(e) Dual check valve. Dual check valves may be installed at the meter. These valves shall be inspected and repaired not less frequent than every third year. These valves shall be installed only in situations where the city is assured that only noncontaminating substances are subject to backflow into the potable system.

(f) Vacuum breakers. Atmospheric vacuum breakers shall be installed with the critical level at least six inches above the flood rim of the fixture they serve and on the discharge side of the last control valve to the fixture. No shutoff valve or faucet shall be installed beyond the atmospheric vacuum breakers. Pressure vacuum breakers shall be installed with the critical level at least 12 inches above the flood rim, but may have control valves downstream from the vacuum breaker. For closed equipment or

vessels, such as pressure sterilizers, the top of the vessel shall be considered the flood level rim, and a check valve shall be installed on the discharge side of the pressure vacuum breaker.

(Ord. No. 3074, § 4, 3-13-90)

Sec. 94-421. - Maintenance and repair of backflow preventers and vacuum breakers.

(a) It shall be the responsibility of building and premises owners to maintain all backflow preventers and vacuum breakers within the building or on the premises in good working order and to make sure no piping or other arrangements have been installed for the purpose of bypassing the backflow devices. Testing and repair of these devices should be made by trained technicians, certified by the state department of health and environment. The backflow prevention technicians shall determine the proper installation of all backflow preventers and will set appropriate testing and overhaul schedules for devices. Testing intervals shall not exceed one year, and overhaul intervals shall not exceed five years.

(b) All certified tester/repair technicians shall be recertified at no less than three-year intervals.

(Ord. No. 3074, § 5, 3-13-90)

Sec. 94-422. - Time limit for correction of violations.

The code enforcement officer or his designee shall notify the owner, or authorized agent of the owner, of a building or premises in which there is found a violation of this article, of such violation. The code enforcement officer or his designee shall set a reasonable time for the owner to have the violation corrected. If the owner fails to correct the violation within the specified time, the city shall cease delivery of water to the building or premises until the violation shall be satisfactorily corrected.

(Ord. No. 3074, § 6, 3-13-90)

Secs. 94-423—94-455. - Reserved.

ARTICLE VIII. - WATER SERVICE

DIVISION 1. - GENERALLY

Sec. 94-456. - Sales to contractors for public works projects.

When there is available water, contractors working on public works projects may, with the permission of the city administrator or designee, obtain such supply of water from public fire hydrants. Contractors are to furnish 2½-inch streamer fittings and valves so that the hydrant is not opened and closed with each load. The charges for the water shall be that being charged other users by ordinance. The contractor shall chain and padlock the water valve at all times that it is not in use. An air gap or proper backflow device must be used.

(Code 1988, § 15-603)

Sec. 94-457. - Charges for new installation.

(a) A service connection charge payable in advance for each new water tap installation hereafter of a ¾-inch water tap will be an amount established in section 34-766 for taps to be made on unimproved

streets or alleys and an amount established in section 34-766 for taps to be made on improved, permanent type streets or alleys. Such charge shall include the cost of a 5/8-inch meter, tap, ¾-inch corporation stop, type K copper from corporation stop to meter yoke, meter yoke, meter tile, ring and lid. The city shall make the tap, and the property owner shall install the city-furnished meter and meter tile at the owner's expense. A meter box and lid of a nonstandard type, normally furnished by the city, shall be furnished by the owner at such owner's expense. The box shall be built to city specifications and approval. Copper service shall extend to stop in area between rear of curb and sidewalk, on the public right-of-way, unless such arrangement is deemed impractical, then the location shall be selected by the water superintendent or city administrator.

(b) Taps in excess of ¾ of an inch will be installed, with the actual cost of material and labor in the installation of such taps to be billed to the property owner. The installation of taps outside the city limits, ¾ of an inch and/or larger, the actual cost of the labor and material shall be billed to the property owner. In no case shall charges be less than the minimum charge set forth for city water taps of a similar nature. All 5/8-inch meters installed with the city will be furnished and maintained by the city. Larger size meters will be purchased by owners and will be maintained by the city. Meters installed outside the city limits purchased by the owner from the city or an approved makes furnished from other sources, and maintenance thereof, shall be the owner's responsibility.

(c) All service connections and meters hereafter installed within the city limits will remain the property of the city. All meter replacements within the city limits will be made at the cost and expense of the city, and the title to any meters so replaced will remain in the city.

(d) The city will rent, install and remove a fire hydrant meter for those persons desiring such service upon the following conditions:

(1) City personnel shall install and remove the meter and allied fittings.

(2) Payment to the city of an amount established in section 34-794 for the installation and removal of the meter.

(3) All water consumed shall be paid for at prevailing water rates.

(4) Failure of the city to provide such service shall be limited to the availability of meter equipment.

(5) Proper backflow devices must be used.

(Code 1988, § 15-604)

Sec. 94-458. - Charges for split services.

Wherever there exists a need for the elimination of a split water service, as provided for in section 94-39 the charges therefor shall be in an amount established in section 34-767 for taps to be made on unimproved streets and/or alleys, and in an amount established in section 34-767 for taps to be made on improved, permanent type streets or alleys.

(Code 1988, § 15-605)

Secs. 94-459—94-480. - Reserved.

DIVISION 2. - WATER SUPPLY EMERGENCIES

Sec. 94-481. - Purpose of division.

The purpose of this division is to provide for the declaration of a water supply emergency and the implementation of voluntary and mandatory water conservation measures throughout the city if such an emergency is declared, and to set forth penalties for noncompliance with this division.

(Ord. No. 3051, § 1, 2-14-89)

Sec. 94-482. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Designation of stages means the three incremental stages of the Drought Response Plan as adopted, each of which stages shall be designated by the appropriate person or entity, and upon designation, the city shall cause the publication of a notice of implementation of such stage, by publication in the official city newspaper and/or by broadcast via any radio and/or television station having general coverage in the city.

Odd/even rationing means, when applicable, those customers with odd-numbered residential addresses will be allowed outdoor water use on odd-numbered days while customers with even-numbered residential addresses will be allowed outdoor watering on even-numbered days.

Outdoor water times means outdoor watering for any purpose, in addition to other restrictions contained in this division, shall be prohibited between the hours of 10:00 a.m. and 9:00 p.m.

Outdoor water use means the use of water for growing, raising or maintaining plants, shrubs and trees as a business, for the purpose of sale and/or resale, and shall include the practices of those commercial enterprises and businesses which require the use of outdoor watering as an integral part of the business; provided, however, that in no event shall commercial watering include any outdoor watering for personal or private purposes. Outdoor water use shall also include residential private use for the irrigation of lawns, shrubs, flowers, trees, vegetable gardens, washing down of sidewalks and driveways and the filling or adding of water to swimming pools, and other similar practices and acts.

Wholesale customer means any rural water districts, wholesale water supplies or other entities which may purchase or receive water from the city for the purpose of resale or redistribution to their customers.

(Ord. No. 3051, § 2, 2-14-89; Ord. No. 3410, § 1, 9-24-12)

Cross reference— Definitions generally, § 1-2.

Sec. 94-483. - Declaration of a water emergency.

Whenever the governing body or city administrator of the city finds that an emergency exists by reason of a shortage of water or because of deteriorating water quality, it shall be empowered to declare that a water supply emergency exists and that it will impose, by stages, restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by the governing body or city administrator to have ended. The declaration of the existence and or end of a water supply emergency shall be effective upon publication in the official city newspaper. The City of Iola will notify wholesale customers to implement their individual water emergency plans.

(Ord. No. 3051, § 3, 2-14-89; Ord. No. 3410, § 1, 9-24-12)

Sec. 94-484. - Stages.

(a) Stage I. Stage I Water Watch shall be implemented when the city's storage has fallen below 85 percent capacity and will not recover or the Cottonwood/Neosho Water Assurance District #3 has issued a Stage I Water Watch.

Stage I Water Watch regulation actions shall be as follows:

(1) During Stage I Water Watch the public will be asked to curtail some outdoor water use and to make efficient use of indoor water, i.e. wash full loads, take short showers, don't let faucets run, etc.

(2) During Stage I the city will publish, in the official city newspaper, a list of water conservation measures designed to assist customers in the conservation of water.

(b) Stage II. Stage II Water Warning will be triggered if the city's storage has fallen below 70 percent and will not recover or the Cottonwood/Neosho Water Assurance District #3 has issued a Stage II Water Warning.

Stage II Water Warning shall have the following regulation actions:

(1) An odd/even lawn watering system will be imposed on city residents. Residents with odd-numbered addresses will water on odd days; even addresses will water on even days.

(2) Outdoor water use, including lawn watering and residential car washing, will be restricted to before 10:00 a.m. and after 9:00 p.m.

(3) Refilling of swimming pools will be allowed one day a week, after sunset.

(4) Waste of water will be prohibited.

(c) Stage III. Stage III Water Emergency will be triggered if the city's storage has fallen below 50 percent capacity or the Cottonwood/Neosho Water Assurance District #3 has issued a Stage III Water Emergency.

Stage III Water Emergency shall have the following regulation actions:

(1) Outdoor water use will be banned.

(2) Waste of water will be prohibited.

(Ord. No. 3051, § 4, 2-14-89; Ord. No. 3410, § 1, 9-24-12)

Sec. 94-485. - Odd/even rationing.

In the event of voluntary or mandatory restrictions the odd/even system, as described in section 94-482, will be employed.

(Ord. No. 3051, § 2, 2-14-89)

Sec. 94-486. - Penalties for violations of division.

Any person accused of violating any of the provisions of this division shall be notified in writing that such accusation has been made, and the accused party may request a hearing before the governing body, and may present evidence in defense of such accusation. If a request for hearing is not served on the governing body within three business days following the service of the written accusation, or if the governing body finds the allegations are true, the following penalties shall be imposed:

(1) First violation: The accused party shall be issued a formal warning.

(2) Second violation: Termination of water service and a resumption of services fee in the sum of $50.00 shall be paid before water service resumes.

(3) Third or any subsequent violation: Resumption of services fee of $200.00.

(Ord. No. 3051, § 5, 2-14-89)

Sec. 94-487. - Emergency termination.

Nothing in this division shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public.

(Ord. No. 3051, § 6, 2-14-89)

Secs. 94-488—94-520. - Reserved.

ARTICLE IX. - SEWERS AND SEWAGE DISPOSAL

FOOTNOTE(S):

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Cross reference— Any ordinance creating sewer districts saved from repeal, § 1-10(8).

DIVISION 1. - GENERALLY

Sec. 94-521. - Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

(b) Unless the context of usage indicates otherwise, terms of this article that are not defined, shall be defined in the latest addition of the Glossary: Water and Wastewater Control Engineering, prepared by the joint editorial board of American Public Health Association, American Society of Civil Engineers, American Water Works Association and Water Pollution Control Association.

Act or the act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended.

Approval authority means the director of the division of environment, of the state department of health and environment or the regional administrator of the EPA. If the pretreatment program has been formally delegated to the KDHE, it shall mean the director of the division of environment of KDHE.

ASTM means the American Society of Testing Materials, or their publications.

Authorized representative of industrial user means:

(1) A responsible corporate officer, if the industrial user is a corporation. For the purpose of this subsection, a responsible corporate officer means a president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or the manager of one or more manufacturing, production or operations facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000.00 in second-quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively.

(3) A duly authorized representative of the individual designated in subsection (1) or subsection (2) of this definition if:

a. The authorization is made in writing by the individual described in subsection (1) or (2) of this definition;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

c. The written authorization is submitted to the control authority.

(4) A government owned or operated industrial user.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees Celsius, expressed in terms of weight and concentration (milligrams per liter (mg/l)).

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means a sewer conveying wastewater from the premises of a user to the POTW.

Bypass means the intentional diversion of wastestream from any portion of a discharge treatment facility.

Categorical standards means federal categorical pretreatment standards or pretreatment standard.

COD (chemical oxygen demand) means a measure of the amount of oxygen required to oxidize organic and oxidizable inorganic compounds in water.

Combined sewer means a sewer receiving both surface runoff and wastewater.

Composite sample means a combination of individual samples taken at selected time intervals for some specified period, to minimize the effect of the variability of the individual sample. Samples may be of equal volume or proportional to flow at the time of sampling.

Control authority means the approval authority, or the city administrator (if the city has an approved pretreatment program under the provisions of 40 CFR 403.11), or the city.

Cooling water means the water discharge from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Dilution means potable or wastewaters from nonregulated process wastewater streams that contain nonregulated pollutants subject to the national categorical pretreatment standard.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Discharge means (when used without qualification) the causing or permitting of wastewater to enter either directly or indirectly into waters of the state.

Environmental Protection Agency (EPA) means the U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time. A single sample which reflects only the condition of the wastewater at the instant of sampling at a particular location.

Hauled waste means any industrial wastewater or substance transported from outside of incorporated city limits.

Health officer means a person having public health responsibility by the state, or by the county in the state.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the act (33 USC 1317), into the POTW (including holding tank waste discharged into the system).

Industrial discharge means the introduction of pollutants into a publicly owned treatment works from any nondomestic source.

Industrial user means a source of discharge which does not constitute a discharge of pollutants under regulations issued pursuant to section 402 of the act (33 USC 1342).

Industrial wastes means the liquid, solid or semisolid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

Interference means a discharge which, alone or in conjunction with discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Therefore, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the clean water act, the solid waste disposal act (SWDA) (including title II), more commonly referred to as the resource conservation and recovery act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the (SWDA), the clean air act, the toxic substances control act, and the marine protection, research and sanctuaries act.

National categorical pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the act (33 USC 1317) which applies to a specific category of industrial users and which appear in 40 CFR, chapter I, subchapter N, parts 405-471.

National Pollutant Discharge Elimination System or NPDES permit means a permit issued pursuant to section 402 of the act (33 USC 1342).

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of 307(b) of the act and 40 CFR 403.5.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(1) The building, structure, facility or installation is constructed at the site at which no other source is located;

(2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent. Factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

pH means the negative logarithm of the hydrogen ion concentration measured in grams per liter of a solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a sewer system. The reduction and alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a federal pretreatment standard imposed on an industrial user.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sanitary sewers, with no particle greater than ½ of an inch (1.27 centimeters) in any dimension.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the act (33 USC 1292), which is owned in this instance by the city and shall also be defined as those facilities which pump and treat wastewater. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this article, the term "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contractor agreement with the city, users of the city's POTW.

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water, and groundwater are not intentionally admitted.

Sewage treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Shall is mandatory; may is permissive.

Significant industrial user means any industrial user of the city's POTW who:

(1) Has a discharge flow of 25,000 gallons or more per average workday;

(2) Has a flow greater than five percent of the flow in the POTW;

(3) Has toxic pollutants in the wastes of the industrial user as defined pursuant to section 307 of the act or state statutes and rules; or

(4) Is found by the city, state department of health and environment or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's

effluent quality, or air emissions generated by the system or an industrial user subject to national categorical pretreatment standards.

Significant noncompliance means any industrial user violations which meet one or more of the following criteria:

(1) Violations of wastewater discharge limits. Violations of wastewater discharge limits are as follows:

a. Chronic violations. Sixty-six percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six-month period (any magnitude of exceedance).

b. Technical review criteria (TRC) violations. Thirty-three percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six-month period. There are two groups of TRCs:

1. Group I for conventional pollutants (BOD, TSS, fats, oil and grease) TRC equals 1.4.

2. Group II for all other pollutants TRC equals 1.2.

c. Any other violations of an effluent limit (average or daily maximum) that the control authority believes has caused, along or in combination with other discharges, interference (e.g., slug loads) or pass through, or endangered the health of the sewage treatment personnel or the public.

d. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(2) Violations of compliance schedule milestones. Violations of compliance schedule milestones are contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.

(3) Reports. Failure to provide reports for compliance schedules, self-monitoring data or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.

(4) Noncompliance reporting. Failure to accurately report noncompliance.

(5) Other violations. Any other violation or group of violations that the control authority considers to be significant.

Slug means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

Sludge means the construction of solids removed from sewage during wastewater treatment.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm sewer (storm drain) means a sewer which carries stormwater and surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Superintendent means the superintendent of utilities or the person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and

responsibilities by this article, or the duly authorized deputy, agent or representative of the superintendent.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other acts.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user.

User means any person who contributes, causes or permits the contribution of wastewater into the POTW.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Wastewater discharge permit means as set forth in division 2, subdivision II of this article.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

WPCF means the Water Pollution Control Federation or their publications.

(Ord. No. 3099, § 1.2, 7-22-91)

Cross reference— Definitions generally, § 1-2.

Sec. 94-522. - Abbreviations.

The following abbreviations shall have the designated meanings:

BOD means biochemical oxygen demand.

CFR means Code of Federal Regulations.

COD means chemical oxygen demand.

EPA means Environmental Protection Agency.

KDHE means the state department of health and environment.

l means liter.

mg means milligrams.

mg/l means milligrams per liter.

NPDES means National Pollutant Discharge Elimination System.

O & M means operation and maintenance.

POTW means publicly owned treatment works.

ppm means parts per million.

SIC means standard industrial classification.

SWDA means Solid Waste Disposal Act, 42 USC 6901 et seq.

USC means United States Code.

TSS means total suspended solids.

(Ord. No. 3099, § 1.3, 7-22-91)

Sec. 94-523. - Purpose and policy of article.

(a) This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city, and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the general pretreatment regulations (40 CFR 403).

(b) The objectives of this article are to:

(1) Prevent the introduction of pollutants into the POTW which will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(4) Provide for equitable distribution of the cost of the POTW.

(c) This article provides for the regulation of direct contributors to the POTW through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that the existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article.

(d) This article shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. This article incorporates and replaces Ordinance No. 3003, as amended. Except as otherwise provided in this section, the city administrator shall administer, implement and enforce the provisions of this article.

(Ord. No. 3099, § 1.1, 7-22-91)

Sec. 94-524. - Use of public sewers required.

(a) Deposits. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

(b) Discharges. Unless approved by KDHE, it shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(c) Facilities. Except as otherwise provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(d) Owner's responsibility. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting any street, alley or right-of-way in which there is now located, or may in the future be, located a sanitary sewer of the city, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper sanitary sewer in accordance with the provisions of this article, within 60 days after the date of official notice to do so, provided the public sanitary sewer is within 100 feet of the property line.

(e) Areas outside limits. As a condition of permitting sewer service for areas outside the city limits, the owners of property served must agree to voluntary annexation prior to extension of utilities.

(Ord. No. 3099, § 1.4, 7-22-91; Ord. No. 3426, § 1, 9-23-13)

Sec. 94-525. - Private sewage disposal.

(a) System use. Where a public sanitary sewer is not available under the provisions of section 94-524, the building sewer shall be connected to a private sewage disposal system complying with the provisions of subsections (b)—(g) of this section.

(b) Permit; construction. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the city administrator. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement any plans, specifications, and other information as is deemed necessary by the city administrator. A permit and inspection fee in an amount established in section 34-795 shall be paid to the city at the time the application is filed.

(c) Inspection. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the city administrator. The city administrator shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the city administrator when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 96 hours of the receipt of notice by the city administrator or the representative of the city administrator.

(d) Compliance with state recommendations. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state department of health and environment. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet, when a public water supply is used. In case of a private water supply, the minimum lot size will be 40,000 square feet. No septic tank or cesspool system shall be permitted to discharge to any natural outlet.

(e) Direct connection with public sanitary sewer upon availability. At such time as a public sanitary sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sanitary sewer in compliance with this article, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned and filled in accordance with this article.

(f) Private disposal facilities kept sanitary. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(g) Additional requirements by health officer. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

(Ord. No. 3099, § 1.5, 7-22-91)

Sec. 94-526. - Responsibility for repairs.

Property owners will be responsible for all repairs, including excavation, which are required to replace and reconnect a broken or collapsed lateral or service line emptying into any city sewer main. For the purpose of this article, the word "broken" shall include clogged or any other deficiency causing the service line to act in any manner not originally intended. If the hub portion of the wye which connects the customer service to the main is damaged or broken, the city shall pay for the necessary fittings and labor in an amount not to exceed that established in section 34-796, to reconnect the customer service line to the main.

(Code 1988, § 7-512; Ord. No. 3120, § 1, 11-24-92)

Secs. 94-527—94-550. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Subdivision I. - In General

Sec. 94-551. - Wastewater discharge; permits required.

It shall be unlawful to discharge any wastewater without a state NPDES permit to any natural outlet within the city, or without a city wastewater discharge permit in any area under the jurisdiction of the city, or to the POTW (except as authorized by the city in accordance with the provisions of this article).

(Ord. No. 3099, § 4.1, 7-22-91)

Sec. 94-552. - Monitoring facilities.

(a) The city shall require to be provided and operated, at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(Ord. No. 3099, § 4.4, 7-22-91)

Sec. 94-553. - Inspection and sampling.

The city shall inspect the facilities of any user to ascertain whether the purpose and requirements of this article are being met. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The city shall have the right to copy any records relevant to sampling, monitoring activity, analytical results or any other phase of pretreatment compliance. KDHE and/or the EPA shall have the right to copy any and all city records and shall have equal access to the user's facilities. The city, KDHE and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, KDHE and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. While performing the necessary work on private properties, the city administrator or authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees. The city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property

damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(Ord. No. 3099, § 4.5, 7-22-91)

Sec. 94-554. - Measurements; test analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be conducted as per 40 CFR 136 and be determined at the control manhole provided, or upon suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sanitary sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the POTW and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's and heavy metals are determined from periodic grab samples.

(Ord. No. 3099, § 4.6, 7-22-91)

Sec. 94-555. - Pretreatment.

(a) Where preliminary treatment or flow-equalizing facilities are provided for any water wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense. Users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce a discharge acceptable to the city under the provisions of this article. Any subsequent change in the pretreatment facilities or method of operation shall be reported to, and be acceptable to, the city prior to the user's initiation of the changes.

(b) The city shall publish annually, in the official daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or KDHE upon request.

(Ord. No. 3099, § 4.7, 7-22-91)

Sec. 94-556. - Confidential information.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this article, the National Pollutant Discharge Elimination System (NPDES) permit, or the pretreatment programs; provided, however, that such portions or a report shall be available for use by the KDHE or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(c) Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user.

(Ord. No. 3099, § 4.8, 7-22-91)

Sec. 94-557. - Recordkeeping.

(a) Any industrial user subject to the reporting requirements established in this article shall maintain records of all information resulting from any monitoring activities required by this article. Such records shall include for all samples:

(1) The date, exact place, method and time of sampling, and the names of the person taking the samples;

(2) The dates analyses were performed;

(3) Who performed the analyses;

(4) The analytical techniques and methods used; and

(5) The results of such analyses.

(b) Any industrial user subject to the reporting requirements established in this article shall be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the director and the regional administrator. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or the POTW or when requested by the director or the regional administrator.

(Ord. No. 3099, § 5, 7-22-91)

Sec. 94-558. - Harmful contributions.

(a) The city may suspend the wastewater treatment service and the wastewater discharge permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes interference to the POTW for any violation of pretreatment standards or requirements.

(b) Any person notified of a suspension of the wastewater treatment service or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including, but not limited to, immediate severance of the sewer connection to prevent or minimize damage to the POTW or endangerment to any individuals. The city shall reinstate the wastewater discharge permit and the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(c) Any person who shall continue any violation beyond the time limit provided for in this section shall be guilty of a misdemeanor. Each day in which any such violation shall continue shall be deemed a separate offense.

(d) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation, including such fines, penalties and other costs which may be assessed to the city for violation of sewage treatment plant effluent requirements, where such violation is created by a user of the POTW who, in turn, is in violation of city, state or federal regulations.

(Ord. No. 3099, § 6.0, 7-22-91)

Sec. 94-559. - Notification of violation.

Whenever the city finds that any user has violated or is violating this article, wastewater discharge permit, conditions or any prohibition or limitation of requirements contained in this article, the city may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

(Ord. No. 3099, § 6.2, 7-22-91)

Sec. 94-560. - Show cause hearing.

(a) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the governing body why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the governing body regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the city why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(b) The governing body may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the city. The city may:

(1) Issue in the name of the governing body notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence; and

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the governing body for action thereon.

(c) At any hearing held pursuant to this article, testimony taken must be under oath and recorded stenographically. The transcript, so recorded will be made available to any member of the public or to any party to the hearing upon payment of the usual charges.

(d) After the governing body has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service is discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Ord. No. 3099, §§ 6.3.1—6.3.4, 7-22-91)

Sec. 94-561. - Legal action.

If any person discharges wastewater, industrial wastes or other wastes into the POTW contrary to the provisions of this article, or any order of the city, the city attorney may commence an action for appropriate legal and equitable relief in the county district court.

(Ord. No. 3099, § 6.4, 7-22-91)

Sec. 94-562. - Civil/criminal penalties.

Pursuant to the requirements of 40 CFR 403.8(f)(1)(vi)(A), the city shall have the authority to seek or assess civil or criminal penalties in at least the amount of $1,000.00 per day for each violation by industrial users of pretreatment standards and requirements. Further, if any person discharges sewage in addition to the penalties provided in this section, the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules, regulations and permits issued under this article.

(Ord. No. 3099, § 7.1, 7-22-91)

Sec. 94-563. – Sewer Lagoon Capacity and Loading Limits.

The Kansas Department of Health and Environment and the United States Environmental Protection Agency have established the sewer lagoon capacity and loading limits as indicated in the charts below. The BOD (biochemical oxygen demand) limits are based on a design daily average of 3,388 pounds per day and daily maximum of 4,404 pounds per day.

The following tables summarize the Maximum Allowable Headworks Loadings (MAHL) and Maximum Allowable Industrial Loadings (MAIL) for the pollutants analyzed.

METALS

Pollutant	MAHL , lbs/d	MAIL, lbs/d
Arsenic, As, total	0.624	0.608
Cadmium, Cd, total	0.251	0.235
Cyanide, CN	0.855	0.818
Chromium, Cr, total	8.546	8.286
Copper, Cu, total	6.447	6.286
Lead, Pb, total	0.617	0.363
Mercury, Hg, total	0.002	0.001
Molybdenum, Mo, total	1.504	1.4
Nickel, Ni, total	7.254	7.192
Selenium, Se, total	2.884	2.78
Silver, Ag, total	0.036	0.010
Zinc, Zn, total	8.546	7.120

CONVENTIONAL POLLUTANTS

Pollutant	MAHL avg, lbs/d	MAHL max, lbs/d	MAIL avg, lbs/d	MAIL dmax, lbs/d
BOD	3388	4404	2418	3434
TSS	1626	2439	485	1298
TKN	340	510	152	322

(Ord. 3459, 4-25-16_

Secs. 94-564—94-585. - Reserved.

Subdivision II. - Wastewater Discharge Permits

Sec. 94-586. - Required.

All significant industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a wastewater discharge permit within 180 days after the effective date of Ord. No. 3099.

(Ord. No. 3099, § 4.2, 7-22-91)

Sec. 94-587. - Application.

(a) Users required to obtain a wastewater discharge permit shall complete and file with the city, an application in the form prescribed by the city, and accompanied by a fee determined by the city. Existing users shall apply for a wastewater discharge permit within 90 days after the effective date of Ord. No. 3099, the proposed new users shall apply 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address and location (if different from the address).

(2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.

(3) Wastewater constituents and characteristics, as determined by a KDHE certified analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended.

(4) Time and duration of contribution.

(5) Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any.

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation.

(7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged.

(8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction and completion of construction).

b. No increment referred to in subsection (a)(9)a. of this section shall exceed nine months.

c. No later than 24 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city administrator including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the city administrator.

(10) Each product produced by type, amount, process and rate of production.

(11) Type and amount of raw materials processed (average and maximum per day).

(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

(13) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(b) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided in this section.

(Ord. No. 3099, § 4.2.2, 7-22-91)

Sec. 94-588. - Modifications.

Within 90 days of the promulgation of a federal categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a federal categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit within 180 days after the promulgation of the applicable federal categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the city administrator, within 180 days after the promulgation of an applicable federal categorical pretreatment standard, the information required by section 94-587(a)(8) and (a)(9).

(Ord. No. 3099, § 4.2.3, 7-22-91)

Sec. 94-589. - Conditions; contents.

(a) Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city.

(b) Permits may contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the POTW.

(2) Limits on the average and maximum wastewater constituents and characteristics.

(3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalizations.

(4) Requirements for installation and maintenance of inspection and sampling facilities.

(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.

(6) Compliance schedules.

(7) Requirements for submission of technical reports or discharge reports (see the reporting requirements of this subdivision).

(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording city access thereto.

(9) Requirements for notification of the city must receive prior notice of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system. The city will approve or deny any new changes in discharges.

(10) Requirements for notification of slug discharges.

(11) Other conditions as deemed appropriate by the city to ensure compliance with this article.

(Ord. No. 3099, § 4.2.4, 7-22-91)

Sec. 94-590. - Duration.

Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 90 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements as identified in division 4 of this article are modified or other just cause exists. The user shall be informed of any proposed changes in the user's permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(Ord. No. 3099, § 4.2.5, 7-22-91; Ord. No. 3371, § 1, 8-25-09)

Sec. 94-591. - Transfer.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned, transferred or sold to a new owner, new user, different premises or a new or changed operation, without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(Ord. No. 3099, § 4.2.6, 7-22-91)

Sec. 94-592. - Compliance date report.

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the city

administrator a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis. If additional pretreatment and/or O&M are required to meet the pretreatment standards, the user will submit to the city a compliance schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard; and, in addition, the following conditions shall apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., selecting a consulting engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, plant start-up, etc.).

(2) The total time allowed for completing of all increments of progress in the schedule shall not exceed 30 months.

(3) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director including, as a minimum whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and the steps being taken by the user to return the construction to the schedule established.

(b) Pursuant to the requirements of 40 CFR 403.12, the industrial user shall submit to the city all required reports, including baseline monitoring reports, compliance schedules, progress reports, permit application, 90-day compliance reports, self-monitoring reports or any other technical or discharge reports as directed by the city. If sampling performed by the industrial user indicates a violation, the user shall notify the control authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and submit the results to the control authority within 30 days after becoming aware of violations.

(c) All reports specified in 40 CFR 403.12(1), including those listed in subsection (b) of this section shall include the certification statement as set forth below and in 40 CFR 403.6(1)(2)(ii), and shall be signed by an authorized representative of the industrial user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(Ord. No. 3099, § 4.3.1, 7-22-91)

Sec. 94-593. - Periodic compliance reports.

(a) Any significant industrial user subject to pretreatment standards shall, at a frequency determined by the city administrator but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with this subdivision.

(b) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in

good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(c) If an industrial user subject to the reporting requirement in and of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in this article the results of this monitoring shall be included in the report.

(Ord. No. 3099, § 4.3.2, 7-22-91)

Sec. 94-594. - Revocation.

Any user who violates this article, or applicable state and federal regulations, is subject to having the user's permit revoked in accordance with the procedures in this article.

(1) Failure of a user to factually report the wastewater constituents and characteristics of the user's discharge;

(2) Failure of the user to report any and all significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(4) Violation of conditions of the permit.

(Ord. No. 3099, § 6.1, 7-22-91)

Secs. 94-595—94-615. - Reserved.

DIVISION 3. - BUILDING SEWERS AND CONNECTIONS

Sec. 94-616. - Time limit on connection with public sewer.

When a public sanitary sewer shall become available, the building sewer shall be connected to the sewer within 60 days, and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Ord. No. 3099, § 1.6(a), 7-22-91)

Sec. 94-617. - Permit required; application.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the city administrator.

(b) There shall be two classes of building sewer permits:

(1) Residential and commercial service;

(2) Service to establishments producing industrial wastes;

For either permit, the owner or the owner's agent shall make applications on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the city administrator. A permit and inspection fee in an amount established in section 34-797 for a residential or commercial building sewer permit and an amount

established in section 34-797 for an industrial building sewer permit shall be paid to the city at the time the application is filed.

(Ord. No. 3099, § 1.6(b), (c), 7-22-91)

Sec. 94-618. - Costs and expenses borne by owner.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. No. 3099, § 1.6(d), 7-22-91)

Sec. 94-619. - Separate building sewer required; exception.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Ord. No. 3099, § 1.6(e), 7-22-91)

Sec. 94-620. - Old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the code enforcement officer, to meet all requirements of this article.

(Ord. No. 3099, § 1.6(f), 7-22-91)

Sec. 94-621. - Conformance to city codes.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and W.P.C.F. Manual of Practice No. 9 shall apply.

(Ord. No. 3099, § 1.6(g), 7-22-91)

Sec. 94-622. - Elevation of building sewer; lifting of wastewater.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sanitary sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. No. 3099, § 1.6(h), 7-22-91)

Sec. 94-623. - Surface drains.

No person shall make connection of roof downspouts, exterior foundation, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(Ord. No. 3099, § 1.6(i), 7-22-91)

Sec. 94-624. - Building connections.

The connection of the building sewer into the public sanitary sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the code enforcement officer before installation.

(Ord. No. 3099, § 1.6(j), 7-22-91)

Sec. 94-625. - Inspection.

The applicant for the building sewer permit shall notify the code enforcement officer when the building sewer is ready for inspection and connection to the public sanitary sewer. The connection shall be made under the supervision of the code enforcement officer or a representative of the code enforcement officer, within 96 hours of the receipt of the notice to the code enforcement officer.

(Ord. No. 3099, § 1.6(k), 7-22-91)

Sec. 94-626. - Excavation; barricades and lights.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 3099, § 1.6(l), 7-22-91)

Sec. 94-627. - Fees.

(a) Purpose. It is the purpose of this section to provide for the recovery of costs from users of the POTW for the implementation of the program established in this article. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.

(b) Charges and fees. The city may adopt charges and fees which may include:

  (1) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;

  (2) Fees for monitoring, inspections and surveillance procedures;

  (3) Fees for reviewing accidental discharge procedures and construction;

  (4) Fees for permit applications;

  (5) Fees for filing appeals; and

  (6) Other fees as the city may deem necessary to carry out the requirements contained in this article.

These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the city.

(Ord. No. 3099, §§ 3.1, 3.2, 7-22-91)

Secs. 94-628—94-650. - Reserved.

DIVISION 4. - DISCHARGE RESTRICTIONS AND REQUIREMENTS

Sec. 94-651. - General discharge prohibitions.

(a) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to federal categorical pretreatment standards or any other federal, state or local pretreatment standards or requirements. A user may not contribute the following substances to the POTW:

(1) Any liquid, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Stream waste with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) are prohibited. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, fuel oil, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the city, KDHE or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than ½ of an inch in any dimension, animal guts or tissues, paunch manure, bones, hair hides or flashings [fleshings], entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or greater than 10.0 unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the act.

(5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Any substances which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the

Toxic Substances Control Act or state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its NPDES and/or the receiving water quality standards.

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).

(10) Any pollutants, including oxygen demanding pollutants (BOD and COD), released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities or flow during normal operation.

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city administrator in compliance with applicable state or federal regulations.

(12) Any wastewater which causes a hazard to human life or creates a public nuisance.

(b) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process wastewaters to any sanitary sewer without approval from the city administrator.

(c) Stormwater and all other unpolluted drainage shall be discharged to such sewers specifically designed as storm sewers, as approved by the city administrator and the state department of health and environment (KDHE). Industrial cooling water or unpolluted process waters may be discharged, on approval of the city administrator and KDHE, to a storm sewer, combined sewer or natural outlet. Such flows may be subject to federal and state regulations.

(d) No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state.

(e) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the city administrator, that such wastes can harm either the sewers, wastewater treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the city administrator will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials or construction of the sewers, nature of the wastewater treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors.

(1) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 120 degrees Fahrenheit (zero and 49 degrees Celsius).

(2) Any garbage that has not been properly shredded: The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city administrator.

(3) Any waters or wastes containing strong acid pickling wastes or concentrated plating solutions exceeding federal or local standards, whether neutralized or not.

(4) Any waters or wastes containing heavy metals exerting an excessive chlorine requirement, to such a degree that any such material received in the composite sewage at the sewage

treatment works exceeds the limits established by the city administrator for such materials, or pretreatment requirements established by state, federal or other public agencies of jurisdiction for such discharge.

(5) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the city administrator, as necessary, after treatment of the composite wastewater, to meet the requirements of the state, federal or other public agencies jurisdiction for such discharge.

(6) Any waters or wastes containing dissolved sulfide in excess of five mg/l at the point of discharge into the municipal sewer system.

(7) Unusual concentrations of inert suspended solids (such as, but not limited to fuller's earth, lime slurries and live residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(8) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(9) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(f) If any waters or wastes are discharged, or are proposed to be discharged to the public sanitary sewers, which waters contain the substances or possess the characteristics enumerated in subsection (e) of this section, and which in the judgment of the city administrator, may have a deleterious effect upon the POTW, processes, equipment or receiving waters, or would otherwise create a hazard to life or constitute a public nuisance, the city administrator may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sanitary sewers;

(3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

If the city administrator permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city administrator, and subject to the requirements of all applicable codes, ordinances and laws.

(g) Any industrial user requesting sewer service shall establish, or cause to be established, its hydraulic and organic wastewater loading characteristics and shall present this information to the city administrator in such a manner that a rate can be established. For each industrial user an average daily flow and average BOD loading must be established by the following method: An estimate of flow will be determined by the city administrator or the representative of the city administrator for an industrial user's premises and shall be based upon the aggregate quantity of water received from the city and all other sources. All water use records must be current and open to inspection by the city administrator or the representative of the city administrator. Grab and/or composite samples will be taken by the city administrator or the representative of the city administrator to establish organic parameters. Sampling frequency and techniques may be established by the city administrator in the industrial wastewater discharge permit.

(h) Hauled wastes may not be discharged into the municipal sanitary sewer without the expressed written approval of the city administrator. No hauled waste may be discharged to the sanitary sewer at any point other than designated by the city administrator. When the city administrator determines that a user is contributing to the POTW, any of the above-enumerated substances in such amounts as to interfere with the operation of the POTW, the city administrator shall:

(1) Advise the user of the impact of the contribution on the POTW; and

(2) Develop discharge limitations for such user to correct the interference with the POTW.

(Ord. No. 3099, § 2.1, 7-22-91; Ord. No. 3371, § 2, 8-25-09)

Sec. 94-652. - Federal categorical pretreatment standards—Generally.

Upon the promulgation of any and all new federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The city administrator shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12 and modifying all affected wastewater permits accordingly.

(Ord. No. 3099, § 2.2, 7-22-91)

Sec. 94-653. - Same—Modifications.

Where the city's POTW achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. The term "consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the POTW to a less toxic or harmless state in the effluent which is achieved by the system 95 percent of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) of 40 CFR 403, "General Pretreatment Regulations for Existing and New Sources of Pollution," promulgated pursuant to the act. The city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR 403.7, are fulfilled and prior approval from the approval authority is obtained.

(Ord. No. 3099, § 2.3, 7-22-91)

Sec. 94-654. - Specific pollutant limitations.

No person shall discharge wastewater containing in excess of the levels of specific pollutants contained in their wastewater discharge permit.

(Ord. No. 3099, § 2.4, 7-22-91)

Sec. 94-655. - State requirements.

State requirements and limitation on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

(Ord. No. 3099, § 2.5, 7-22-91)

Sec. 94-656. - City's right of revision.

The city reserves the right to establish by ordinance more stringent limitations or requirements including the adoption of local pretreatment limits pursuant to 40 CFR 403.5(d) on discharges to the POTW if deemed necessary to comply with the objectives in section 94-523. All local limits are to meet with approval by KDHE and EPA.

(Ord. No. 3099, § 2.6, 7-22-91)

Sec. 94-657. - Excessive discharge.

(a) Dilution. No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state.

(b) Grease, oil and sand interceptors. Grease, oil and sand interceptors shall be provided when, in the opinion of the city administrator, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city administrator and shall be located as to be readily and easily accessible for cleaning and inspection.

(Ord. No. 3099, § 2.7, 7-22-91)

Sec. 94-658. - Accidental discharge; slug control plans.

The city administrator may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years the city administrator shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement as accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges.

(2) Description of stored chemicals.

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in section 94-651.

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

a. Written notice. Within five days following an accidental discharge; the user shall submit a detailed written report to the city administrator describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by the ordinance or other applicable law.

b. Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous accidental or intentional discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 3099, § 2.8, 7-22-91)

Sec. 94-659. - Notification of the discharge of hazardous waste.

(a) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities in writing

of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notifications must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than ten kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notification of changed discharges must be submitted. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of this article.

(b) Dischargers are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes, as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(Ord. No. 3099, § 2.9, 7-22-91)

Sec. 94-660. - False statements, representations or certifications.

No person shall knowingly make any false statements, representation or certification in any application, record report, plan or other document filed or required to be maintained pursuant to this article, or wastewater discharge permit, or falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this article.

(Ord. No. 3099, § 7.2, 7-22-91)

Chapter 98 - VEGETATION

FOOTNOTE(S):

--- (1) ---

Cross reference— Any ordinance requiring or providing for the cutting of weeds saved from repeal, § 1-10(17); buildings and building regulations, ch. 14; fees for vegetation, § 34-831 et seq.

ARTICLE I. - IN GENERAL

Sec. 98-1. - Hedges and trees at intersections.

No trees, shrubs, brush or other growing thing shall hereafter be permitted to grow to a height in excess of 3½ feet above the nearest curb intersection point, measured from the top of the curb within a triangle composed of such nearest curb intersection point and points 90 feet therefrom back along the curbs used in determining such curb intersection point. In the absence of a curb on either of two intersecting streets, the nearest outside street surface intersection point within a triangle composed of such outside street surface intersection point and points 90 feet therefrom back along the edges of the streets shall be used in determining such outside street surface intersection point. No structure which would interfere with the intervisibility of users of intersecting streets shall be erected within either of such triangles. This shall not be construed to affect presently existing structures, nor structures hereafter erected in accordance with properly issued building permits which have been specifically approved by the governing body of this city. All trees and other growing things presently within any of such triangles shall be kept trimmed so that only their trunks or stems appear between a height of 3½ feet and six feet above the nearest curb or street surface intersection point.

(Code 1988, § 13-705)

Sec. 98-2. - Dead trees.

(a) Declared nuisance; notice to remove. All dead trees adjacent to right-of-way utility lines or electric wires, sidewalks and areas which people frequent are declared to be a public nuisance and shall be removed by the property owner at the property owner's own expense. The notice shall be sent to the last known address by certified mail. If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the city shall proceed to have the designated tree removed, and report the cost thereof to the city clerk, and the cost of such removal shall be paid by the owner of the property or shall be assessed and charged against the lot or parcel of ground on which the tree was located. The city clerk shall at the time of certifying other city taxes to the county clerk certify the unpaid costs, and the county clerk shall extend such costs on the tax roll of the county against the lot or parcel of ground.

(b) Removal by city. If the property owner shall not remove the dead trees as provided for in subsection (a) of this section, then the city administrator shall cause notice to be given as provided in subsection (a) of this section; and if not removed, as provided in subsection (a) of this section, then the city shall remove the tree and shall certify the cost thereof to the county clerk as provided in subsection (a) of this section.

(Ord. No. 3199, § 1, 2-25-97)

Secs. 98-3—98-30. - Reserved.

ARTICLE II. - TREE BOARD

FOOTNOTE(S):

--- (**2**) ---

Cross reference— Administration, ch. 2.

Sec. 98-31. - Creation and establishment.

(a) The governing board believes that:

(1) A healthy and appealing community is one which maintains and manages its natural resources;

(2) Trees, bushes and other flora are deemed to add substantially to the quality of life and attractiveness of a community, and the well-being of its citizens;

(3) Development of a city board which specifically focuses attention on adding, replacing and managing such flora is in the public's interest; and

(4) Efforts towards beautification of our community benefit the entire community, helping to instill a sense of pride and motivating other citizens and groups to maintain their property.

Therefore the governing board hereby creates and establishes a tree board for the city. Such tree board shall have at least five members consisting of the parks superintendent and four citizens at-large, with at least one of these citizen board member positions being filled with a person educated or engaged in a trade with emphasis on horticulture, arbor-related work, gardening, landscaping, greenhouse-work or other similar focus. The governing board shall endeavor to place persons on the tree board who reside in and around different sections of the community in an effort to provide fair and equal representation of all areas of town.

(Ord. No. 3184, § 1, 5-28-96; Ord. No. 3290, § 1, 5-28-02)

Sec. 98-32. - Terms of office.

The terms for all tree board members shall be three years, with the exception of the parks superintendent, who shall serve on the tree board as long as employed by the city in the capacity of parks and recreation department manager.

(Ord. No. 3184, § 2, 5-28-96; Ord. No. 3290, § 2, 5-28-02)

Sec. 98-33. - Compensation.

Members of the tree board shall serve without compensation for all work performed in their capacity as tree board members.

(Ord. No. 3184, § 3, 5-28-96; Ord. No. 3290, § 3, 5-28-02)

Sec. 98-34. - Duties and responsibilities.

It shall be the responsibility of the tree board to study, investigate, counsel, develop and implement a plan for the preservation of trees and shrubs in parks, along streets, on public property and along other public rights-of-way, and to assist in the design and/or maintenance of city entrances.

(Ord. No. 3184, § 4, 5-28-96; Ord. No. 3290, § 4, 5-28-02)

Sec. 98-35. - Operation.

The tree board from time to time may delegate the everyday functions of the tree board to the city administrator and/or his/her representative.

(Ord. No. 3184, § 5, 5-28-96; Ord. No. 3290, § 5, 5-28-02)

Secs. 98-36—98-65. - Reserved.

ARTICLE III. - TREE TRIMMERS

FOOTNOTE(S):

--- (**3**) ---

Cross reference— Businesses, ch. 18.

DIVISION 1. - GENERALLY

Sec. 98-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Person means any individual, partnership, association of persons or corporation who engage in the business or trade of trimming, removal of and pruning of trees.

Tree means a woody perennial plant having an upright stem with many branches, and upon maturity being over ten feet in height.

(Ord. No. 3137, § 1, 11-9-93)

Cross reference— Definitions generally, § 1-2.

Sec. 98-67. - Penalty for violation of article.

Any person convicted of a violation of any provision of this article shall be guilty of a class B offense.

(Ord. No. 3137, § 10, 11-9-93)

Sec. 98-68. - Exemptions.

This article shall not apply to any person working at the person's own residence or established place of business or to employees of such person working thereon. This article shall not apply to officials or employees of the federal, state, county or city governments engaged in the performance of their official duties, not to any company or corporation with a valid franchise agreement.

(Ord. No. 3137, § 2, 11-9-93)

Secs. 98-69—98-90. - Reserved.

DIVISION 2. - LICENSE

Sec. 98-91. - Required.

No person, partnership, association or corporation shall engage in the business or trade of trimming, removing and pruning of trees within the city without first having obtained a license therefor.

(Ord. No. 3137, § 3, 11-9-93)

Sec. 98-92. - Application.

An application for a license for the trimming, removal and pruning of trees shall be obtained from the city clerk. Such application shall meet the following requirements.

(1) Name, business address and phone number of applicant.

(2) Filing of certificate of liability insurance.

(3) Payment of the required license fee.

(Ord. No. 3137, § 4, 11-9-93)

Sec. 98-93. - Fee.

The city clerk shall collect an annual license fee in an amount established in section 34-831 from applicants.

(Ord. No. 3137, § 5, 11-9-93)

Sec. 98-94. - Insurance.

Each person who makes application for a license or renewal thereof under this article shall furnish a certificate of liability insurance covering the work in which they are engaged and upon the terms and conditions set out in this section. Such certificate of insurance shall show that the applicant is covered by an effective general liability insurance policy issued by a solvent corporation authorized to do business within the state and shall be issued with minimum limits of $500,000.00, indemnifying and holding harmless the city and naming it as an additional insured on such liability policy. Such insurance policy shall not be cancelled or terminated until at least 20 days after a notice of cancellation of such insurance policy is received by the city clerk.

(Ord. No. 3137, § 6, 11-9-93)

Sec. 98-95. - Refusal to grant; vocation.

The city clerk may at any time revoke a license or decline to grant a license under the following circumstances:

(1) Such licensee shall fail to furnish an acceptable written certificate of public liability insurance within 20 days from the date notice is received from the city that the insurance policy previously furnished by such licensee is to be cancelled or terminated.

(2) The licensee or any employee, solicitor, agent or representative of such licensee has made any material misrepresentations for the purpose of defrauding any member of the public.

(Ord. No. 3137, § 7, 11-9-93)

Sec. 98-96. - Expiration.

Licenses issued under this article shall expire on December 31 of the year for which the licenses are issued.

(Ord. No. 3137, § 9, 11-9-93)

Secs. 98-97—98-110. - Reserved.

ARTICLE IV. - WEEDS AND VEGETATION

FOOTNOTE(S):

--- (**4**) ---

Cross reference— Nuisances, § 46-31 et seq.

Sec. 98-111. - Weeds to be removed.

It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

(Ord. No. 3219, § 1, 5-26-98; Ord. No. 3383, § 1, 3-9-10)

Sec. 98-112. - Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Weeds as used herein, means any of the following:

(1) Brush and woody vines shall be classified as weeds;

(2) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(3) Weeds which bear or may bear seeds of a downy or wingy nature;

(4) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;

(5) Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

(Ord. No. 3219, § 2, 5-26-98; Ord. No. 3383, § 1, 3-9-10)

Sec. 98-113. - Public officer; notice to remove.

(a) The city administrator shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or authorized assistant shall give written notice to the owner, occupant or agent of such property by mail, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent to the last known address of the owner. Such notice shall only be given once per calendar year.

(b) The notice to be given hereunder shall state:

(1) That the owner, occupant or agent in charge of the property is in violation of the city weed control law;

(2) That the owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within ten days of the receipt of the notice;

(3) That the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within five days of the receipt of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, ten days after notice has been published by the city clerk in the official city newspaper;

(4) That if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;

(5) That the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

(6) That no further notice will be given during the current calendar year prior to the removal of weeds from the property; and

(7) That the public officer should be contacted if there are questions regarding the order.

(c) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section.

(Ord. No. 3219, § 3, 5-26-98; Ord. No. 3363, § 1, 5-1-08; Ord. No. 3383, § 1, 3-9-10)

Sec. 98-114. - Abatement; assessment of costs.

(a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified in section 98-113, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

(b) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by mail of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.

(c) The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (K.S.A. 12-1617f)

(Ord. No. 3219, § 4, 5-26-98; Ord. No. 3363, § 1, 5-1-08; Ord. No. 3383, § 1, 3-9-10)

Sec. 98-115. - Right of entry.

The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable

hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article.

(Ord. No. 3219, § 5, 5-26-98; Ord. No. 3363, § 1, 5-1-08; Ord. No. 3383, § 1, 3-9-10)

Sec. 98-116. - Unlawful interference.

It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute an ordinance violation.

(Ord. No. 3219, § 6, 5-26-98; Ord. No. 3363, § 1, 5-1-08; Ord. No. 3383, § 1, 3-9-10)

Sec. 98-117. - Noxious weeds.

(a) Nothing in this article shall affect or impair the rights of the city under the provisions of K.S.A. ch. 2, art. 13, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (Pueraria lobata), field bindweed (Convolvulus arvensis), Russian knapweed (Centaurea picris), hoary cress (Lepidium draba), Canada thistle (Cirsium arvense), quackgrass (Agropyron repens), leafy spurge (Euphorbia esula), burragweed (Franseria tomentosa and discolor), pignut (Hoffmannseggia densiflora), musk (nodding) thistle (Carduus nutans L.), and Johnson grass (Sorghum halepense). (K.S.A. 2-1314)

(Ord. No. 3219, § 7, 5-26-98; Ord. No. 3383, § 1, 3-9-10)

Chapter 102 - VEHICLES FOR HIRE

FOOTNOTE(S):

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Cross reference— Businesses, ch. 18; fees for vehicles for hire, § 34-866 et seq.; streets, sidewalks and other public places, ch. 78; traffic and vehicles, ch. 90.

ARTICLE I. - IN GENERAL

Secs. 102-1—102-30. - Reserved.

ARTICLE II. - TAXICABS

DIVISION 1. - GENERALLY

Sec. 102-31. - Violation of article a misdemeanor.

Any person who violates or fails to comply with any of the provisions of this article or any persons, firm or corporation, who either directly or by agents or employees violates or fails to comply with any of the provisions of this article shall, upon conviction, be guilty of a class C offense. The certificate of any person, firm or corporation may be revoked by the governing body upon any violation or failure to comply with any of the laws of the state or at any time when it shall be determined by the governing body that the

statements made in the application for the certificate are not being faithfully complied with by the licensee or are not true.

(Ord. No. 3183, § 1(8-411), 5-28-96)

Sec. 102-32. - Qualifications of operators of taxicabs.

It shall be unlawful for any taxicab owner, the taxicab owner's agent or employee to allow any person to operate a taxicab within the city who does not meet the following qualifications:

(1) Such operator shall have a valid chauffeur's license as required by state statute.

(2) Such person shall have obtained and display a certificate of identification as required by this article.

(3) Such operator shall not have been convicted of, or forfeited a bond on, any of the following offenses within the past two years.

(4) Any felony under the laws of the state, any other state or of the United States.

(5) Driving while intoxicated or under the influence of a controlled substance.

(6) Leaving the scene of a vehicular accident.

(7) Failing to file an accident report.

(8) Any conduct which shall include, but not be limited to, the following: soliciting for prostitution, illegal sale of liquor or cereal malt beverage, gambling or any other misdemeanor opposed to decency or morality.

(Ord. No. 3183, § 1(8-407), 5-28-96)

Secs. 102-33—102-55. - Reserved.

DIVISION 2. - DRIVER'S CERTIFICATE OF IDENTIFICATION

Sec. 102-56. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Driver's certificate of identification means the permission granted by the city administrator to a person to drive a taxicab upon the streets of the city.

Taxicab means a motor vehicle regularly engaged in the business of carrying passengers for hire.

(Ord. No. 3183, § 1(8-401), 5-28-96)

Cross reference— Definitions generally, § 1-2.

Sec. 102-57. - Required.

No person shall operate a taxicab within the city without having first obtained a certificate of identification as set forth in this section.

(Ord. No. 3183, § 1, 5-28-96)

Sec. 102-58. - Application.

Upon such form as the city clerk may prescribe and furnish, application for such certificate of identification shall be made in writing and shall include:

(1) Name, age, gender, weight, height, color of eyes and hair, and residence address in the city.

(2) Whether or not the applicant has heretofore been licensed as a chauffeur or taxicab driver and if so, when and by what state and whether such license has ever been revoked or suspended and if so, the date of such revocation and suspension.

(3) The name of the person, firm or corporation by whom the applicant is employed.

(4) Whether or not the applicant has ever been convicted of a felony or misdemeanor, giving particulars of each such conviction.

(5) Each applicant shall furnish two good, clear photographs of himself. Such photographs shall be similar to passport-type, full face, front portrait, and not smaller than 2¼ inches by 2¾ inches nor larger than 2½ inches by three inches. One of the photographs shall be attached to the copy of the application filed with the city police department, and one copy shall be permanently attached to the certificate of identification issued to the individual. The applicant shall also allow fingerprints of the applicant to be taken by the police department.

(6) Such application shall be accompanied by the payment of a fee in an amount established in section 34-866. If the applicant is refused a certificate of identification, such fee shall be retained by the city.

(Ord. No. 3183, § 1(8-402), 5-28-96)

Sec. 102-59. - Issuance.

Such certificate shall be issued by the city clerk, upon approval by the city administrator, on a form that shall include the date of issuance, age, height, weight, gender, race and color of eyes and hair of the applicant, and shall bear the signature of the chief of police, city administrator and city clerk.

(Ord. No. 3183, § 1(8-403), 5-28-96)

Sec. 102-60. - Insurance.

Before a certificate of identification shall be issued as provided by this division, the applicant shall, as a condition precedent to obtaining such certificate, obtain public liability insurance with an insurance company permitted to issue such policies by the commissioner of insurance of the state covering each vehicle, with limits of:

(1) Two hundred fifty thousand dollars for bodily injury for each person, $500,000.00 bodily injury for each accident, and $100,000.00 property damage each accident; or

(2) $500,000.00 combined single limit.

(3) Such insurance policy shall first be inspected and approved by the city attorney before a certificate shall be issued. Such insurance shall be kept in force at all times while the certificate is in force, and failure to carry such insurance renders the certificate void.

(Ord. No. 3183, § 1(8-412), 5-28-96)

Sec. 102-61. - Expiration date.

All certificates of identification shall be valid until December 31 of each year and may be renewed without a new application upon payment of a fee in an amount established in section 34-867, provided that if, in the opinion of the chief of police, more recent information is needed for proper identification, a new application shall be required.

(Ord. No. 3183, § 1(8-404), 5-28-96)

Sec. 102-62. - Display.

Such certificate of identification shall be conspicuously displayed in such a manner that the entire certificate of identification is visible from the rear seat of the taxicab which the driver is operating, and the only certificate of identification so displayed shall be the one belonging to the driver on duty at that time. Such certificate of identification shall be enclosed in a frame with glass or other transparent front so that the certificate may be clearly discernible to and easily read by a passenger in the rear seat. No driver shall operate a taxicab unless such driver shall have the driver's certificate of identification displayed as required in this section, and the driver shall be responsible for keeping the certificate of identification in good condition so as to be legible at all times.

(Ord. No. 3183, § 1(8-405), 5-28-96)

Sec. 102-63. - Revocation.

The governing body may revoke any certificate granted by it upon the terms of this division, or any violation of the terms of this division, but before any such certificate is revoked the certificate holder shall have been given at least seven days' notice in writing of the governing body's intention to revoke the certificate. During this seven-day period, the certificate holder may request in writing a hearing before the governing body, and if such request is filed with the city clerk before the expiration of the seven-day period, the governing body shall fix a time and place for such a hearing. At this hearing the certificate holder may produce evidence to show why the certificate should not be revoked, and after the hearing, the governing body shall notify the certificate holder of its decision relative to revocation of the certificate. In case of revocation of the certificate, no new certificate shall be issued to such person or in such person's behalf, for a period of one year from the date of such revocation.

(Ord. No. 3183, § 1(8-409), 5-28-96)

Sec. 102-64. - Responsible person.

Each group of individual certificate holders operating under a single tradename shall designate one person as the responsible party for the operation of all of the taxicabs operating under such tradename, provided that written evidence of such designation, together with acceptance of such responsibility by such party so designated, shall be placed on file in the office of the city clerk immediately upon the issuance of certificates under this division, and no change in such designation shall thereafter be made without having first filed notification of intention of such change in the office of the city clerk 30 days prior to such change.

(Ord. No. 3183, § 1(8-410), 5-28-96)

Chapter 106 - UNIFIED DEVELOPMENT CODE

FOOTNOTE(S):

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Editor's note—Ord. No. 3338, § 1, adopted Jan. 10, 2006, effective April 1, 2006, repealed the former ch. 106, §§ 106-1—106-12, 106-46—106-48, 106-71—106-74, 106-96—106-100, 106-121—106-126, 106-191—106-194, 106-226—106-237, 106-261—106-269, 106-301—106-314, 106-336—106-341, 106-376—106-382, and enacted a new ch. 106 as set out herein. The former ch. 106 pertained to zoning and derived from Ord. No. 3005, §§ 16-201, 16-301, 16-401—16-408, 16-501—16-504, 16-601—16-613, 16-701—16-714, 16-801—16-806, 16-901—16-906, 16-1001—16-1005, 16-1101—16-1105, 16-1201—16-1204, 16-1301—16-1309, 16-1401, 16-1501, 16-1601, adopted March 24, 1987; Ord. No. 3031, §§ 1, 2, adopted May 24, 1988; Ord. No. 3127, § 1, adopted Feb. 23, 1993; Ord. No. 3164, § 1, adopted Dec. 19, 1994; Ord. No. 3248, § 1, adopted Nov. 9, 1999; Ord. No. 3255, § 1, adopted June 27, 2000; Ord. No. 3265, § 1, adopted March 27, 2001.

Cross reference— Buildings and building regulations, ch. 14; natural resources, ch. 58; streets, sidewalks and other public places, ch. 78; utilities, ch. 94.

ARTICLE I. - GENERAL PROVISIONS

Sec. 106-1. - Title.

This Code, including the zoning district maps, shall be known, and may be citied and referred to as the Unified Development Code, and may be cited and abbreviated as Code or UDC.

Sec. 106-2. - Purpose and intent.

This Unified Development Code is intended to serve the following purposes.

A. Promote the health, safety, morals, comfort and general welfare of the city.

B. Preserve and protect property values throughout the city.

C. Restrict and regulate the height, number of stories, and size of buildings; the percentage of lot coverage; the size of yards, courts and other open space; the density of population.

D. Divide the city into zones and districts.

E. Regulate and restrict the location and use of buildings and land, and within each district or zone, create a comprehensive and stable pattern of land uses to plan for transportation, water supply, sewage, schools, parks, public facilities and other facilities.

F. Regulate the subdivision of land within the city.

Sec. 106-3. - Authority.

This Unified Development Code is adopted pursuant to the authority contained in Article 7 of Chapter 12 of the Kansas Statutes Annotated, and amendments thereto, and Article 12, Section 5 of the Kansas Constitution.

Sec. 106-4. - Jurisdictional area.

The provisions of this Unified Development Code shall apply to all structures and land in the incorporated area of the City of Iola, Kansas. Provided, however, that nothing herein shall be construed to preclude the city from engaging in extraterritorial planning activities pursuant to K.S.A. 12-743, and amendments thereto.

Sec. 106-5. - Establishment of districts.

The jurisdictional area is hereby divided into nine zoning districts which are designated as follows:

A-L	Agricultural District
R-1	Single-Family Residential District
R-2	Two-Family Residential District
R-3	Multi-Family Residential District
C-O	Neighborhood Business District
C-1	Central Business District
C-2	General Business District
I	Industrial District
PD	Planned Development District

Sec. 106-6. - Zoning district maps.

The boundaries of the districts are shown on the official zoning district map, which is filed in the office of the city clerk. Each of the said zoning maps, with all notations, references, and other information shown thereon, is hereby made as much a part of the zoning regulations as if the same were specifically set forth herein.

Sec. 106-7. - Rules where uncertainly may arise.

Where uncertainty exists with the boundaries of the various districts as shown on the official zoning district map, incorporated herein, the following rules apply:

A. The district boundaries are the centerlines of streets, alleys, waterways and railroad rights-of-way, unless otherwise indicated; and where the designation of a boundary line on the zoning map coincides with the location of a street, alley, waterway or railroad right-of-way, the centerline of such street, alley waterway or railroad right-of-way shall be construed to be the boundary line of such district.

B. Where the district boundaries do not coincide with the location of streets, alleys, waterways or railroad rights-of-way but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.

C. Where the district boundaries do not coincide with the location of streets, alleys, waterways, railroad rights-of-way or lot lines, the district boundaries shall be determined by the use of the scale shown on the zoning map.

Sec. 106-8. - Applications of district regulations.

The following general requirements shall apply to all zoning districts:

A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with the use regulations herein specified for the district that it is located within.

B. No building or structure shall hereafter be erected or altered:

1. To exceed height and area regulations.

2. To occupy a greater percentage of lot area than permitted.

3. To have a narrower or smaller front, rear and/or side yard or other open space than required in the zoning district regulations.

Sec. 106-9. - Annexed land.

All land which may hereinafter be annexed to the city shall be classified as R-1 Single-Family Residential until otherwise changed by ordinance.

Sec. 106-10. - Exemptions.

The following structures and uses shall be exempt from the provisions of this Unified Development Code:

A. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas or water, or the collection of sewage or surface water operated or maintained by a public utility but not including substations located on or above the surface of the ground.

B. Railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.

C. Retaining walls on public property.

D. Public signs, such as traffic control devices (stop or yield signs) or street names.

Sec. 106-11. - Relationship to other provisions of the Code.

A. The use of buildings and land within the city shall be subject to all other applicable provisions of the Iola Municipal Code and other ordinances, as well as this Unified Development Code, whether or not such other provisions of the Iola Municipal Code are specifically cross-referenced in this Unified Development Code. Cross-references to other provisions of the Iola Municipal in this Unified Development Code are for the convenience of the reader; lack of a cross-reference should not be construed as an indication that other provisions of the Iola Municipal Code do not apply.

B. In interpreting and applying the provisions of this Unified Development Code, they shall be construed to be the minimum requirements necessary for the promotion of public health, safety or the general welfare. Where comparable provisions between this Unified Development Code and any other ordinance or regulation exist, the more restrictive standards or requirements shall govern.

Sec. 106-12. - Relationship to the comprehensive plan and other policies.

It is the intention of the city that this Unified Development Code implements the goals, objectives and policies adopted for the city, as reflected in the comprehensive plan and other planning documents. While the city reaffirms its commitment that this Unified Development Code and any amendment made to it be in conformity with adopted planning policies, the city hereby expresses its intent that neither this Unified Development Code nor any amendment thereto may be challenged merely on the basis of an alleged nonconformity with the comprehensive plan or other planning policy.

Sec. 106-13. - Relationship to private restrictions.

The provisions of this Unified Development Code are not intended to abrogate any deed restriction, easement, covenant, or other private agreement or restriction on the use of land. Provided, that where the provisions of this Unified Development Code are more restrictive or impose higher standards than any such private restriction, the requirements of this Unified Development Code shall control. Where the provisions of any private restriction are more restrictive or impose higher standards than the provisions of this Unified Development Code, such private restrictions shall control if properly enforced by a person having the legal right to enforce such restriction; private restrictions shall not be enforced by the city.

Sec. 106-14. - Severability.

It is the intention of the city that these regulations are separable; therefore the invalidity of any section, clause, provision or other portion of this Unified Development Code or its applicability shall not affect the validity of any other portion of this Unified Development Code and its applicability.

Secs. 106-15—106-20. - Reserved.

ARTICLE II. - INTERPRETATION AND DEFINITIONS

Sec. 106-21. - Rules of interpretation.

For purposes of interpreting this Unified Development Code, the following rules of construction shall apply:

A. The singular number includes the plural, and the plural includes the singular.

B. The present tense includes the future tenses and the future tense includes the present.

C. The word "person" included individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.

D. The masculine gender includes the feminine and neuter.

E. The words "shall" and "must" are mandatory, the words "may" and "should" are permissive.

F. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

Sec. 106-22. - Definitions.

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

100-year flood. See "Base flood."

Accessory structure. A structure that:

1. Is subordinate to and serves a principal structure;
2. Is subordinate in area, extent or purpose to the principal structure served;
3. Contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal structure; and
4. Is located on the same lot as the principal structure served.

Accessory use. A use of land or of a building or portion thereof that:

1. Is subordinate to and serves a principal use;
2. Is subordinate in area, extent or purpose to the principal use served;

3. Contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal use; and

4. Is located on the same lots as the principal use served.

Actuarial rates. See "Risk premium rates."

Administrator (floodplain). The Federal Insurance Administrator.

Agency. The Federal Emergency Management Agency (FEMA).

Agricultural processing. The initial processing of crop-based agricultural products that is reasonably required to take place in close proximity to the site where such products are produced. Typical uses include grain mills.

Agricultural sales and service. A use primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products and farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but includes food sales and farm machinery repair services that are accessory to the principal use.

Agricultural uses. The use of a tract of land of not less than ten acres for the growing of crops, pasturage or nursery, including the structures necessary for carrying out farming operations and the dwellings of these owning or operating the premises, member of the family thereof, or persons employed thereon, and the family thereof.

Agriculture, general. The use of land for the production of crops or animal and poultry husbandry.

Airport or airstrip. Any public or privately owned or operated ground facility designed to accommodate landing and take off operations of aircraft, including all taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

Alley. A dedicated public right-of-way, other than a street, which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

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

Animal care, general. A use providing animal care, boarding or veterinary services with outdoor animal runs.

Animal care, limited. A use providing animal care, boarding or veterinary services for household pets, with no outdoor animal runs.

Appurtenant structure. See "Accessory structure".

Area of shallow flooding. 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 to three 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. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Assisted living. Multi-family dwelling units used or designed to be used by older persons, persons with disabilities or other persons needing or desiring assistance with day-to-day living matters, but not including group homes, group residential, hospitals or convalescent care facilities. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents.

Awning. A rooflike structure, often made of canvas or plastic, that serves as a shelter, as over a storefront, window, door, or deck.

Base blood. The flood having a one percent chance of being equaled or exceeded in any given year.

Basement. Any area of the structure having its floor subgrade (below ground level) on all sides.

Boardinghouse or lodginghouse. A building other than a hotel or motel where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for four or more persons, but not exceeding 20 persons. Individual cooking facilities are not provided.

Building. Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property.

Building, height. See Figure 1 below.

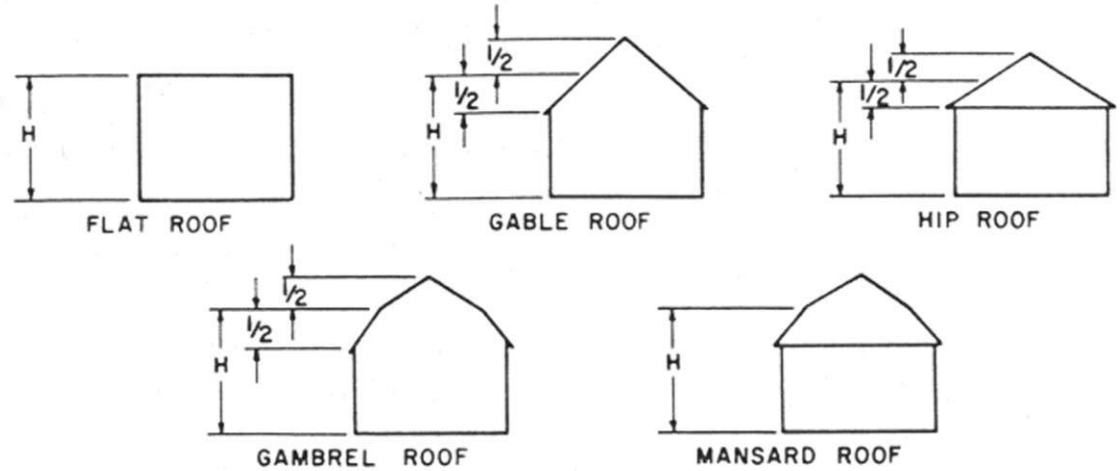

Figure 1. Building Height

Campground. Land used or intended to be used for occupancy by tents and recreational vehicles for transient living purposes.

Canopy. A protective rooflike covering mounted on a frame. (Often constructed over gas pumps.)

Chief engineer. The Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture.

Chief executive officer or chief elected official. The official of the city who is charged with the authority to implement and administer laws, ordinances, and regulations for the community.

Common open space. An area of land or water, or combination thereof, planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the areas of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

Compost facility. A commercial or public solid waste processing facility where yard or garden waste is transformed into soil or fertilizer by biological decomposition.

Condominium. A single dwelling unit under individual ownership within a two-family or multiple dwelling unit structure.

Construction sales and service. A use engaged in the retail or wholesale of materials used in the construction of buildings or other structures, and the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses include lumberyards, home improvement centers, lawn and garden supply stores, electrical, plumbing, air conditioning, and heating supply stores, swimming pool sales, construction contractors' storage yards and construction equipment rental establishments.

Convalescent care. A use providing bed care and in-patient services for persons needing regular medical attention, but excluding facilities for the care and treatment of mental illness, alcoholism, narcotics addiction, emergency medical services or communicable disease; nursing home.

Cultural service. A facility providing cultural and educational services to the public.

Day care, commercial. A daycare conducted in a structure other than a private residence.

Day care, limited. A daycare establishment conducted in a private residence that provides care for up to ten individuals at any one time, excluding those persons related to and residing in the home of the day care provider. Babysitting service for four or less individuals shall be considered a day care.

Development. 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.

Dwelling. Any building or portion thereof, not including manufactured homes, but including modular homes, which is designed and used exclusively for residential purposes.

Dwelling for the elderly and/or handicapped. A two-family or multiple-family residential building having accommodations for and occupied exclusively by elderly or handicapped residents and necessary maintenance personnel. Elderly residents are people who are at least 62 years of age. Handicapped persons are those people having an impairment which is expected to be of long, continuous and indefinite duration, and is a substantial limitation to their ability to live independently.

Dwelling, multiple. A residential building having accommodations for and occupied exclusively by more than two families, independently.

Dwelling, single-family. A residential building having accommodations for and occupied exclusively by one family.

Dwelling, single-family attached or townhouse. A portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions.

Dwelling, two-family. A residential building having accommodations for and occupied exclusively by two families, independently.

Earth-sheltered residence. A residence designed as a complete structure below or partially below the ground level, and which was not intended to serve as a substructure or foundation for a building.

Easement. A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose and within which the owner of the property shall not erect any permanent structure.

Elevated building. For flood 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. A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Existing construction. For the purposes of determining flood insurance 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 manufactured home park or subdivision. 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.

Existing structures. See "Existing construction".

Family. The following living arrangements shall constitute a family:

1. One or more persons related by blood, marriage, adoption or custodial relationship living as a single housekeeping unit;
2. Three or less persons living as a single housekeeping unit; and
3. Two unrelated persons, plus their biological, adopted or foster children or other minors for whom they have legally established custodial responsibility living as a single housekeeping unit.

   Domestic servants, employed on the premises, may be housed on the premises without being counted as part of the family. The term family shall not be construed to mean a fraternity, sorority, club or institutional group.

Flextech. A use combining office and warehousing; office and light assembly; or office, warehousing and light assembly activities within the same building. Flextech buildings typically have office storefronts on one side of the structure and loading docks or roll-up doors on the other side. Loading and service areas are screened from view of public right-of-way, public recreation facilities and lower intensity zoning districts. Flextech uses may involve retail sales of merchandise as an accessory use.

Flood or flooding. 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). 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. 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. An examination, evaluation and determination of flood hazards.

Flood fringe. The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood hazard boundary map (FHBM). 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. 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). 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). An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any source (see "flooding").

Floodplain management. 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. Unified development codes, 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. 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. 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. The lines marking the limits of floodways on federal, state and local floodplain maps.

Floor area. The gross area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include the following areas:

1. The basement floor area;
2. The area of each floor of the structure.

Food/bakery product manufacturing. A use engaged in the manufacture of food and food products, including non-retail bakeries, canning facilities and creameries.

Foster home. A residence or building in which more than 12-hour care is provided to no more than five children, two or more of which are unrelated to the foster parents. Foster homes shall be permitted in all residential structures, the same as would a family.

Freeboard. 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.

Frontage. That part of a lot or premise immediately adjacent to a street or streets without regard to access to, or elevation of, the street or streets.

Functionally dependent use. 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.

Gasoline service station. A building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced, self-service pumps without buildings shall also be included. Such service shall not include tire recapping, body repairs or major overhaul.

Group home, limited. A facility providing 24-hour care in a protected living environment for no more than eight persons with physical or mental disabilities and up to 2 house parents or caregivers.

Group home, general. A facility providing 24-hour care in a protected living environment for more than eight persons with physical or mental disabilities and any number of caregivers.

Group residential. The use of a site for occupancy by groups of more than five persons, not defined as a family, on a weekly or longer basis. Typical uses included fraternity or sorority houses, dormitories, residence halls and boarding or lodging houses. The term "group residential" does not include "group homes".

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. 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;
3. Individually listed on the state's inventory of historic places; or
4. 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.

Home occupation. A business, profession, service or trade conducted for gain or support entirely within a residential building or its accessory structures.

Hotel or motel. A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designation.

Institution. A building occupied by a nonprofit organization for public use.

Kennel. A facility housing dogs, cats or other household pets and where grooming, breeding, boarding, training or selling of animals is conducted as a business.

Laundry service. A use that is primarily engaged in the large-scale washing or cleaning of laundry, rugs and similar materials. This definition does not include Laundromat or dry cleaning facilities.

Lot. A parcel of land.

Lot, corner. A lot abutting upon two or more streets at their intersection.

Lot depth. The mean horizontal distance between the front and rear lot lines.

Lot, double frontage. A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot line. A property boundary line of any lot.

Lot line, front. The lot boundary line between the lot and the street on which it fronts.

Lot line, rear. The lot boundary line which is opposite and most distant from and is, or is approximately, parallel to the front lot line.

Lot line, side. Any lot boundary line which is not a front or rear lot line.

Lot of record. A lot which is a part of a subdivision, the plat of which has been recorded in the office of the register of deeds or a lot described by metes and bounds, the description of which was recorded in the office of the register of deeds.

Lowest floor. 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 Unified Development Code.

Manufactured home. A transportable, factory-built structure that is manufactured in accordance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5403) and that is designed to be used as a single dwelling unit. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park, subdivision, or development. A site with required improvements and utilities for the long-term placement of manufactured homes for dwelling purposes. Services and facilities for residents of the development may also be included on the site.

Manufactured home space. A plot of ground within a manufactured home park or subdivision which can accommodate one manufactured home and which provides the necessary utility services for water, sewerage and electricity.

Market value or fair market value. An estimate of what is fair, economic, just and equitable value under normal local market conditions.

Marquee. A rooflike structure, often bearing a signboard, projecting over an entrance, as to a theater or hotel.

Mean sea level. 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.

Medical service. A use providing therapeutic, preventive, or corrective personal treatment services on an out-patient basis by physicians, dentists, and other practitioners of the medical or healing arts, and the provision of medical testing and analysis services.

Mini-warehouse or mini storage. A building or group of buildings that contains individual, compartmentalized and controlled-access cubicles, stalls, bays or lockers for the dead storage of a customer's goods or wares.

Mobile home. A transportable, factory built structure that was manufactured prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5403) and that is designed to be used as a single dwelling unit.

Mobile home park, subdivision, or development. See "Manufactured home park, subdivision, or development".

Modular home. A factory built transportable structure that is certified by its manufacturer as being constructed in accordance with a nationally recognized building code and which does not have its own running gear and is designed to be used as a dwelling with a permanent foundation; also as may be defined by K.S.A. 12-742.

Multi-family. The use of a site for three or more dwelling units within a single building. Typical uses include triplexes, four-plexes, apartments and residential condominiums.

New construction. For the purposes of determining flood 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.

(NFIP). The National Flood Insurance Program (NFIP).

Nonconforming sign. Any sign which was lawfully erected and displayed prior to the effective date of this Unified Development Code, but does not conform to the applicable regulations, as set forth herein.

Nonconforming structure. Any structure which was lawfully established prior to the effective date of this Unified Development Code which does not comply with all of the applicable regulations, as set forth herein.

Nonconforming use. Any use of a building or premises which was lawfully established prior to the effective date of this Unified Development Code which does not comply with all of the applicable use regulations, as set forth herein, for the zoning district in which that building or premises is located.

Nursing home or convalescent home. An institution or agency licensed by the state for the reception, board, care or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

Parking space. An area established for the purpose of storing one parked automobile.

Parks and recreation. A park, playground or community facility, owned by or under the control of a public agency or property owner's association that provides opportunities for active or passive recreational activities.

Participating community. Also known as an "eligible community," a community in which the administrator has authorized the sale of flood insurance.

Principally above ground. At least 51 percent of the actual cash value of the structure, less land value, is above ground.

Private club. A use providing meeting, recreational, or social facilities for a private association, primarily for use by members and guests. Typical uses include private social clubs, lodges and fraternal organizations.

Recreational vehicle. A vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motive power or is mounted or drawn by another vehicle.

Repair service. A use primarily engaged in the provision of repair services to individuals and households, but excluding vehicle repair services. Typical uses include appliance repair shops.

Residential-design manufactured home. See "Modular home".

Restaurant. A public eating establishment at which the primary function is the preparation and serving of food.

Retail sales and service. A use engaged in the sale or rental of goods and services, excluding uses more specifically defined.

Risk premium rates. 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.

Safety service. A facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

Salvage or junkyard. A building or premises where junk, waste, inoperable motor vehicles or discarded and salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, crushed, handled or prepared for recycling, which shall include auto wrecking yards, but shall not include

retail secondhand furniture stores or the purchase and storage of used or salvaged materials as a part of a manufacturing operation.

Sight triangle. A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorist entering or leaving the intersection.

Sign. Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation, that is used, or intended to be used, to attract attention for identification, announcement or advertising purposes, but shall not include any display of official notice or official flag.

Sign, area. The area of the face of the sign within a perimeter that forms the outside shape, but excluding the necessary supports or uprights that the sign may be placed unless these supports or uprights are designed as part of the sign. If the sign consists of more than once section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface. In the case of an irregularly shaped sign or a sign with letters and/or symbols directly affixed to or painted on the wall of a building or a window, the area of the sign shall be the entire area within a single continuous rectilinear perimeter of not more than eight straight lines enclosing the extreme limits of writing, representation, emblem or any figure or similar character, together with any logo material or color forming an integral part or backdrop of the display or used to differentiate such sign from the backdrop or structure.

Sign, attached. Any sign substantially and permanent attached to, applied on, structurally connected to, painted to, engraved on, etched on or supported by any part of a building.

Sign, back to back. A sign with copy on two parallel faces that are facing in opposite directions not separated by more than 12 inches. The area of a back to back sign is calculated on one face only.

Sign, billboard. Any sign with a sign area in excess of 350 square feet that advertised or directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premise that the sign is located.

Sign, monument. A freestanding sign mounted on an enclosed, structural base which base length is equal to or greater than the length of the sign face and which base depth is not narrower than the structure containing the sign face or 12 inches, whichever is greater.

Sign, pole. A sign supported by a structure in the ground that is wholly independent of any building for support. A sign on a fence shall be considered a pole sign.

Sign, portable. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported by means of wheels.

Sign, projecting. Any sign attached to any part of a building or structure and that extends outward more than six inches. Canopies and awnings shall not be considered projecting signs if they do not contain signage information. However, when they do provide signage information, canopies and awnings shall constitute projecting signs.

Sign, special event. A sign that carries a message regarding a special event or function that is of general interest to the community and does not include for-profit business promotional activities that are strictly commercial in nature. Such signs may include banners or seasonal decorations and may be placed within the right-of-way.

Sign, temporary. A sign which either:

1. Is not permanently attached to any structure, building, motor vehicle, or the ground;
2. Is intended for a limited display period covering a special event; or
3. Is designed and constructed to be moveable from one location to another.

Special flood hazard area. See "Area of special flood hazard."

Special hazard area. 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. 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.

Stockyard. A non-farm based facility used or intended to be used for selling or holding livestock.

Street. A public or private way used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform as follows:

1. Arterial streets provide for through traffic movement between and around areas with direct access to abutting property, subject to necessary control of entrances, exits, and curb uses.
2. Collector streets provide for traffic movement between arterials and local streets, with direct access to abutting property.
3. Local streets provide direct access to abutting and local traffic movement whether in business, industrial or residential areas.

Structural alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this chapter, the following shall not be considered a structural alteration:

1. Attachment of a new front where structural supports are not changed;
2. New windows where lintels and support walls are not materially changed; and
3. Repair or replacement of nonstructural members.

Structure. Anything constructed or erected, the use of which requires a permanent or temporary location on the ground or attachment to something having a permanent location on the ground. 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.

Substantial-damage. 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. 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."

Tavern. An establishment in which the primary function is the public sale and serving of alcoholic and cereal malt beverages for consumption on the premises, including establishments, commonly known as key clubs, which are open, and in which alcoholic and cereal malt beverages are served only to members and their guests.

Transitional living center. State licensed group care homes for juvenile delinquents, halfway houses providing residence, rehabilitation and counseling to persons on release from a more restrictive custodial confinement, and residential rehabilitation treatment centers which also may provide out-patient rehabilitation for alcohol and other drug abuse.

Use. The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.

Utility, major. Generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and similar facilities of agencies that under public franchise or ownership to provide the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term "utility" shall not be construed to include corporate or general offices; gas and oil processing; manufacturing facilities; postal facilities or other uses defined in this article.

Utility, minor. Services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as poles and lines.

Water surface elevation. 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.

Variance (floodplain). A grant of relief by the city from the terms of the floodplain management regulations. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the city.

Vehicle and equipment sale. A used engaged in the retail or wholesale sale or rental, from the premises, of motorized vehicles or equipment, along with incidental service or maintenance activities. Typical uses include new and used automobile and truck sales, automobile rental, boat sales, motorcycle sales, moving trailer rental, and farm equipment and machinery sales and rental.

Vehicle and equipment storage yard. An outdoor area used or intended to be used for long-term storage of vehicles and equipment or than accessory parking for a principal use.

Vehicle repair. A use providing automobile repair or maintenance services.

Yard. A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground upward.

Yard, front. An open space extending the full width of the lot between the nearest principal building and the front lot line, and measured perpendicular to the front lot line.

Yard, rear. An open space extending the full width of the lot between the nearest principal building and the rear lot line, and measured perpendicular to the rear building line.

Yard, side. An open space extending from the front yard to the rear year between the nearest principal building and the side lot line, and measured perpendicular from the side lot line.

Zero lot line. The location of a building on a lot in such a manner that one or more of the building's sides is directly on the lot line.

Secs. 106-23—106-28. - Reserved.

ARTICLE III. - ADMINISTRATION

Sec. 106-29. - General.

All departments, officials and public employees of the city that are authorized to issue permits or licenses shall do so in full compliance with the provisions of this Unified Development Code. No permits or licenses for use, building or other purpose shall be issued in conflict with the provisions of this Unified Development Code. Any permit or license issued in conflict with the provisions of this Unified Development Code shall be null and void.

Sec. 106-30. - City council.

A. Authority. The city council shall have the responsibilities and authorities assigned to it by the Kansas State Statues, the Municipal Code and this Unified Development Code. In considering proposed amendments to the comprehensive plan, the zoning map or other decisions related to this Unified Development Code, it shall be presumed that the city council is acting in its legislative capacity.

B. Rules of procedure.

1. Conflicts of interest. When a city council member has a financial interest or stands to profit directly from any decision made by the city council under this Unified Development Code, that member shall promptly declare a conflict of interest upon the opening of the item for public consideration and shall not thereafter engage in the discussion of the issues or vote on any motion related to the decision.

2. Ex-parte contacts. When a city council member has been contacted either in person, by phone, mail or any other way outside of an official city council meeting by any person who has a financial interest or stands to profit directly from any decision to be made by the city council, that member shall be obligated to promptly disclose the nature of the ex-parte contact and all information received. Such disclosure shall promptly be made upon the opening of the item for consideration so that each city council member and all interested parties will be fully informed regarding the factors being considered in any city council decision.

C. Powers and duties. The city council shall have the following powers and duties in relation to this Unified Development Code and other planning regulations and items:

1. Appointments. The city council shall have the responsibility of appointing and removing any member of the planning commission and the board of zoning appeals.

2. Final action. The city council is authorized to hear and take final action on the following:

a. Comprehensive plan amendments;

b. Zoning map amendments (rezoning);

c. Text amendments to this Unified Development Code;

d. Special use permits;

e. Preliminary plats;

f. Final plats including dedications of streets, alleys and other public ways and sites shown on the plat, and written agreements with subdividers as required for the construction of public improvements;

g. Site plans;

h. Vacating and dedicating easements and rights-of-way.

Sec. 106-31. - Planning commission.

A. Continuation. The planning commission is continued in accordance with the authority of KSA 12-744 and amendments thereto.

B. Membership, terms and vacancies.

1. Appointments. The planning commission shall consist of seven members, each of whom shall be a resident of the city, except that up to two members may reside outside the city limits

provided they reside within three miles of the city limits. Members shall be appointed by the governing body and shall serve without compensation.

2. Terms. Members of the planning commission shall be appointed for terms of three years, which shall overlap based on the expiration dates of the original terms of appointment.

3. Vacancies. Vacancies shall be filled for the unexpired term by appointment by the governing body.

C. Rules of procedures.

1. Officers: The planning commission shall elect one of its members as chairperson, one as vice-chairperson, and one as secretary. The procedure for choosing each officer and the terms of each office shall be in accordance with the planning commission's by-laws.

2. Meetings: The planning commission shall hold regular meetings and special meetings in accordance with the planning commission's by-laws and shall adopt rules for the transaction of business. All meetings of the planning commission shall be open to the public, and notice shall be given thereof as provided by law.

3. Records: The planning commission shall keep a record of its proceedings. This record shall be a public record.

4. Conflicts of interest: When a planning commission member has a financial interest or stands to profit directly from any decision or recommendation made by the planning commission, that member shall promptly declare a conflict of interest upon the opening of the item for public consideration and shall not thereafter engage in the discussion of the issues or vote on any motion related to the decision.

5. Ex-parte contacts: When a planning commission member has been contacted in person, by phone, mail or any other way outside of an official meeting by any person who has a financial interest or stands to profit directly from any decision to be made by the planning commission, that member shall be obligated to promptly disclose the nature of the ex-parte contact and all information received. Such disclosure shall promptly be made upon the opening of the item for consideration so that each planning commission member and all interested parties will be fully informed regarding the factors being considered in any planning commission decision.

D. Powers and duties. The powers and duties of the planning commission shall be those authorized by Kansas State Statues, as amended. More specifically, the planning commission shall have the following powers and duties unless otherwise directed by the governing body:

1. Comprehensive plan: The planning commission shall prepare and recommend to the governing body a comprehensive plan for the future development and growth of the community. The planning commission shall periodically review such plan and make recommendations to the governing bodyfor such revisions as deemed necessary and appropriate.

2. Recommendations: The planning commission shall review and make recommendations of approval, approval with conditions or disapproval to the governing body on the following:

a. Comprehensive plan amendments;

b. Zoning map amendments (rezoning);

c. Text amendments to this Unified Development Code;

d. Special use permits;

e. Preliminary plats;

f. Final plats;

g. Site plans.

3. Final action: The planning commission shall hear and take final action on the following:

a. Appeals from decisions of the planning director.

4. Make such other determinations and decisions as may be required of the planning commission from time to time.

5. In general, have the power necessary to enable it to perform its functions and promote municipal planning.

6. Make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the city.

7. Comment on the development of the city to public officials and agencies, public utility companies, civic, educational, professional and other organizations, and citizens.

8. Contract with planners and other consultants for services the commission may require.

Sec. 106-32. - Board of zoning appeals.

A. Continuation. The board of zoning appeals is continued in accordance with the authority of KSA 12-759 and amendments thereto.

B. Membership, terms and vacancies.

1. Appointments: The board of zoning appeals shall consist of five members who shall be residents of the city. Members shall be appointed by the governing body and shall serve without compensation. One member may be a member of the planning commission.

2. Terms: Members of the board of zoning appeals shall be appointed for terms of three years, which shall overlap based on the expiration dates of the original terms of appointment.

3. Vacancies: Vacancies shall be filled for the unexpired term by appointment by the governing body.

C. Rules of procedures.

1. Officers: The board of zoning appeals shall elect one of its members as chairperson, one as vice-chairperson, and one as secretary. The procedure for choosing each officer and the terms of each office shall be in accordance with the board of zoning appeals' by-laws.

2. Meetings: The board of zoning appeals shall hold regular meetings and special meetings in accordance with the board of zoning appeals' by-laws and shall adopt rules for the transaction of business. All meetings of the board of zoning appeals shall be open to the public, and notice shall be given thereof as provided by law.

3. Records: The board of zoning appeals shall keep a record of its proceedings. This record shall be a public record.

4. Conflicts of interest: When a board of zoning appeals member has a financial interest or stands to profit directly from any decision to made by the board of zoning appeals, that member shall promptly declare a conflict of interest upon the opening of the item for public consideration, shall excuse him or her self, and not thereafter engage in the discussion of the issues or vote on any motion related to the decision.

5. Ex-parte contacts: When a board of zoning appeals member has been contacted in person, by phone, mail or any other way outside of an official meeting by any person who has a financial interest or stands to profit directly from any decision to be made by the board of zoning appeals, that member shall be obligated to promptly disclose the nature of the ex-parte contact and all information received. Such disclosure shall promptly be made upon the opening of the item for consideration so that each board of zoning appeals member and all interested parties will be fully informed regarding the factors being considered in any board of zoning appeals decision.

D. Powers and duties. The powers and duties of the board of zoning appeals shall be those authorized by Kansas State Statues, as amended. More specifically, the board of zoning appeals shall have the following powers and duties:

1. Appeals: Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the administrative official in the enforcement of this Unified Development Code.
2. Variances: To authorize in specific cases a variance from the specific terms of this Unified Development Code that will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of this Unified Development Code will, in an individual case, result in unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. The board of zoning appeals shall not have authority to grant a variance which will allow a non-permitted use, as outlined by the zoning regulations, to be permitted in the specified zoning district.

Sec. 106-33. - Planning director.

A. Designation. The governing body shall appoint a planning director who shall be responsible for the administration of this Unified Development Code.

B. Powers and duties. The planning director shall have the following powers and duties unless otherwise directed by the city council:

1. Administrative official: The planning director shall be charged with interpreting and enforcing the provisions of this Unified Development Code. Where this Unified Development Code assigns a responsibility, power or duty to the planning director, the planning director may delegate that responsibility to any other agent or employee of the city whom the planning director may reasonably determine.
2. Maintain permanent and current records of this Unified Development Code and the zoning map.
3. Receive, file and forward all appropriate applications to the planning commission and the board of zoning appeals.
4. Discuss with applicants the procedural requirements for applications related to this Unified Development Code and the compliance of the application with the regulations of this Unified Development Code and the comprehensive plan.
5. Provide such clerical, technical and consultative assistance as may be reasonably required by the planning commission, board of zoning appeals and other boards, commissions and officials in the exercise of their duties relating to this Unified Development Code.
6. Take final action on all lot split applications.
7. Approve and issue all building and occupancy certificates and make and maintain records thereof.
8. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Unified Development Code.

Secs. 106-34—106-39. - Reserved.

ARTICLE IV. - APPLICATIONS AND PROCEDURES

Sec. 106-40. - General requirements and procedures for all applications.

A. Authority to file applications.

1. An application for an amendment to the text of this Unified Development Code may only be filed by the governing body, the planning commission or the planning director.

2. An application for a comprehensive plan amendment or zoning map amendment (rezoning) may only be filed by the landowner, the landowner's agent, the governing body, or planning commission.

3. An application for a special use permit, site plan, or plat may only be filed by the landowner or authorized agent of the landowner.

4. An application for vacation or dedication of easements or right-of-way may be filed by the city, a utility company, or landowner or authorized agent of the landowner.

B. Pre-application conference. A pre-application conference with the planning director is required prior to the submission of any application. The purpose of the pre-application conference is to:

1. Acquaint the applicant with the procedural requirements of this Unified Development Code and general procedural policies.

2. Provide for an exchange of information regarding applicant's proposed development and the regulations, restrictions and requirements of this Unified Development Code, the comprehensive plan and other development requirements.

3. Advise the applicant of any public sources of information that may aid the applicant; identify policies and regulations that create opportunities or pose significant restraints for the proposed development.

4. Review proposed conceptual plans and provide the applicant with opportunities to enrich the plan in order to mitigate any undesirable project consequences.

5. Review the compatibility with adjacent land uses, either proposed or existing.

6. Provide general assistance by city staff on the overall design of the proposed development.

C. Completeness, accuracy and sufficiency of applications.

1. All applications required under this Unified Development Code shall be submitted to the planning director in a form and in such numbers as required by the planning director. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information and is accompanied by the required filing fee.

2. All applications filed on behalf of a property owner shall require the signature of the property owner on the application form or an affidavit authorizing an agent to file such application on the property owner's behalf. Applications without proper signatures shall be deemed incomplete.

3. The planning director shall determine whether the application includes all information required by this Unified Development Code. If an application includes all of the required information it will be deemed complete. If an application does not include all of the required information it will be deemed incomplete. If the application is deemed incomplete, the planning director shall notify the applicant and outline the application's deficiencies.

4. No further processing of incomplete applications will occur and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next processing cycle. If the deficiencies are not corrected by the applicant within 60 days of the planning director's notice, the application will be considered withdrawn. If an application is deemed withdrawn because of failure to correct application deficiencies, notice of withdrawal shall be sent to the applicant.

5. Applications deemed complete will be considered to be in the processing cycle and will be reviewed by staff and other review and decision-making bodies in accordance with the procedures of this article.

D. General requirements for applications. Unless otherwise indicated by the planning director, all applications shall contain the following items.

1. Completed application.

2. Application fee.
3. Name, address and telephone number of the applicant and the name, address and telephone number of the landowner if different than the applicant.
4. Name, address and telephone number of all persons preparing any technical studies, maps, drawings and documents submitted with the application.
5. An accurate legal description of the property for which the application is submitted.
6. Tax certificates.
7. Any technical studies that may be required by the planning director pursuant to section 106-40.H., Submission of technical studies.

E. Plan submission requirements. Unless otherwise specified in this Unified Development Code, plans accompanying applications shall be provided in the form and quantities required by the planning director. As a minimum, plans shall include the following, however, the planning director may waive any or all of these requirements based on the complexity and nature of the application.

1. Date prepared
2. Name, address and telephone number of the person who prepared, or person responsible for preparing the plan
3. Graphic, engineering scale not to exceed 1:100.
4. North arrow
5. Location of property lines of the subject property
6. Existing land uses, current zoning districts, structures and public and private streets within 200 feet of the site.
7. A small key map with north arrow indicating the location of the property within the city.

F. Adequate public facilities and services. In order to prevent the premature development of land which might pose a threat to the health, safety or general welfare of the community at large, or the occupants of land in the particular area of the city, it shall be the policy of the city that no application for rezoning, special use permit, site plan or preliminary or final plat shall be approved unless public facilities and services, including streets, and sewer and water services are available, or will be available prior to the development or use of the site, which are adequate to serve the development.

In the event that an application does not establish adequacy of facilities and services and the applicant does not propose to provide the adequate facilities and service, approval of the application may occur only upon express findings that, due to the nature of the proposed development, the occupants of the development will not be endangered and the inadequacy of a particular facility or service will not pose a threat to the health, safety or general welfare of nearby properties or the community at large.

G. Fees. Applications shall be accompanied by a non-refundable fee established by the city council to defray the costs of processing applications. Any application that is not accompanied by the required fee shall be returned to the applicant as incomplete and no further processing of the application shall occur. Fees shall not be required with applications initiated by the governing body and planning commission.

H. Submission of technical studies. The planning director may require applicants to submit such technical studies as may be necessary to enable the planning commission or governing body to evaluate the application. Examples of technical studies that may be required include, but are not limited to: traffic studies, engineering studies, geologic or hydrogeologic studies, flood studies, environmental impact assessments, noise studies, photometric plans or surface water management/drainage studies. The persons or firms preparing the studies shall be technically qualified to conduct the study and licensed to do work in the State of Kansas. The decision by the planning director to require a special study may be appealed to the planning commission where such determination shall be final. Provided the planning director did not require submission of a technical

study in support of an application, either the planning commission or governing body may require the submission of a technical study prior to taking action on the application. The costs of all studies shall be borne by the applicant.

I. Public notice. Notice shall be required for all applications to amend this Unified Development Code, the official zoning map (rezoning) or the comprehensive plan, to obtain a special use permit, to obtain a variance or to vacate an easement or right-of-way. All required public notices shall be accomplished in accordance with the following requirements:

1. Published notice: All publication notices for public hearings shall be published in one issue of a local newspaper of general circulation in the city at least 20 days prior to the date of the hearing. The notice shall state the time and place of the public hearing and the substance of the public hearing agenda items which are to be considered.

2. Mailed notice: For all applications involving specific property and requiring a public hearing, the applicant shall provided a list of the last known record owners of all property within 200 feet of the proposal property. The city shall mail such notice at least 20 days before the public hearing and shall state the time and place of the hearing, and include a general description of the proposal. Failure to receive mailed notice shall not invalidate any action take on the application.

J. Public hearings.

1. General procedures: When the consideration of an application requires a public hearing, the following provisions shall apply:

a. The purpose of a public hearing is to provide the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application, and to rebut evidence presented by others.

b. Rules of procedure may be adopted by the hearing body.

c. A written summary of the proceedings shall be made for all public hearings.

2. Continuances: A public hearing may be continued under the following circumstances:

a. An applicant or authorized agent shall have the right to one continuance of a required public hearing provided that a written request therefore is filed with the planning director at least three business days prior to the date of the scheduled hearing. The applicant shall make every reasonable effort to notify interested parties of the request.

b. The hearing body may grant a continuance on its own initiative or other circumstances the body deems appropriate. A majority vote of the members of the hearing body present at the meeting shall be required to grant a continuance. The record shall indicate the reason for the continuance and any stipulations or conditions placed upon the continuance.

c. If an item that is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing has been opened, the public hearing shall not be deemed concluded until the date on which the hearing is formally closed. If a continuance provides the date on which the matter will be heard, re-publication of notice is not required. If a continuance does not specify a date on which the matter will be heard, public notice, as provided for in this article, shall be provided prior to the date on which the matter is heard.

K. Action by review bodies. Action by review bodies is limited as follows:

1. The review body's action may include recommending approval of the application, recommending approval with modifications or conditions, or recommending disapproval of the application.

2. The review body may recommend conditions, modifications or amendments if the effect of the conditions, modification or amendment is to allow a less intensive use or zoning district than indicated in the application, reduce the impact of the development, or reduce the amount of land area included in the application.

3. Review bodies may not recommend a greater density of development; a more intensive use, or a more intensive zoning district than was indicated in the public notice.

L. Action by decision-makers. Decision-makers may take any action on an application that is consistent with any notice given, including, but not limited to, approving such application, approving the application with modifications, denying the application, or remanding the application back to the recommending body. The decision-making body may impose conditions on the application or allow amendments to the application if the effect of the conditions or amendments is to allow a less intensive use or zoning district than indicated in the application, or to reduce the impact of the development, or to reduce the amount of land area included in the application.

M. Inaction by applicant. Should any application remain inactive for a period of six months, it shall be considered withdrawn unless the applicant provides written reason why the application has remained inactive and a schedule indicating when the application will again be active.

N. Appeals.

1. Standing to appeal. Appeals may be filed by the following.

   a. The applicant.

   b. The property owner.

   c. In the case of applications requiring a public hearing, any person entitled to receive written notice of the public hearing as provided in section 106-40.I., Public notice.

   d. The city.

2. Appeals of the decision of the planning director. The planning commission shall have the authority to hear and decide appeals of decisions of the planning director. Appeals shall be filed with the planning director within ten business days of the planning director's decision. The planning commission shall consider the appeal as a new matter and act to affirm, modify, remand or reverse the planning director's decision. The planning commission's decision may be appealed to the governing body.

3. Appeals of the decision of the planning commission. The governing body shall have the authority to hear and decide appeals of decisions of the planning commission. Appeals shall be filed with the planning director within ten business days of the planning commission's decision. The governing body shall consider the appeal as a new matter and act to affirm, modify, remand or reverse the planning commission's decision. The governing body’s decision is final for the purpose of judicial review. The requirements for hearings, notices, and approval criteria shall be the same as required of the original action before the planning commission.

4. Appeals of the decision of the governing body. Appeals of the governing body’s decisions shall be made in District Court within 30 days of the governing body’s final action. If no appeal is filed in writing within 30 days, the decision shall be considered final.

5. Effect of filing. Once an appeal has been received by the planning director, no other development approvals or permits will be issued for the subject property pending a decision on the appeal, unless it is determined that such a "hold" on permits and approvals would cause immediate peril to life or property.

O. Protests petition.

1. Timing. A protest petition against any rezoning or special use permit application must be filed in the city clerk's office no later than 14 days following the date of the conclusion of the public hearing before the planning commission. For the purpose of calculating the 14 day period, weekends and holidays shall be counted.

2. Validity. In order to be considered a valid protest petition, the petition must be timely filed and bear the notarized signatures of the owners of 20 percent or more of any property included in the application or any property within an area determined by lines drawn parallel with and 200 feet from the boundaries of the subject property, excluding streets and public ways.

3. Approval. Where a valid protest petition has been filed, such application shall not be approved except by the favorable vote of ¾ of all the members of the governing body.

Sec. 106-41. - Comprehensive plan amendment applications.

A. Comprehensive plan amendment process.

1. Notice of hearing. All proposed amendments to the comprehensive plan shall be prepared by the planning director in the form of an ordinance and notice of a hearing to consider such amendment shall be given as provided in section 106-40.I., Public notice.

2. Review and report by planning director. The planning director shall prepare a report that evaluates the proposed amendment in relation to the comprehensive plan and the general requirements of this Unified Development Code. The planning director shall provide a copy of the draft amendment and report to the planning commission prior to the scheduled planning commission hearing.

3. Review and recommendation by planning commission. The planning commission will hold a public hearing on the proposed amendment. At the close of the hearing, the planning commission shall recommend approval, modified approval or denial of the amendment. The planning commission's recommendation shall be submitted to the governing body for action, accompanied by an accurate written summary of the hearing proceedings.

4. Review and final action by the governing body. Following the final action by the planning commission the governing body will hold a public hearing on the proposed amendment. Upon its review of the record and close of the public hearing, the governing body may: (1) adopt, modify or deny the proposed amendment; or (2) remand, with instructions, the same to the planning commission for further consideration. A 2/3 majority vote of the membership of the governing body shall be required to override the planning commission's recommendation.

B. Review criteria. In reviewing and making decisions on proposed amendments, review and decision-making bodies shall consider at least the following criteria:

1. The proposed amendment corrects an error or inconsistency in the comprehensive plan or meets the challenge of a changing condition.

2. The proposed amendment is consistent with the overall goal of the comprehensive plan and the stated purpose of this Unified Development Code.

Sec. 106-42. - Code text amendment applications.

A. Text amendment process.

1. Notice of hearing. All proposed amendments to the text of this Unified Development Code shall be prepared by the planning director in the form of an ordinance and notice of a hearing to consider such amendment shall be given as provided in section 106-40.I., Public notice;.

2. Review and report by planning director. The planning director shall prepare a report that evaluates the proposed amendment in relation to the comprehensive plan and the general requirements of this Unified Development Code. The planning director shall provide a copy of the draft amendment and report to the planning commission prior to the scheduled planning commission hearing.

3. Review and recommendation by planning commission. The planning commission will hold a public hearing on the proposed text amendment. At the close of the hearing, the planning commission shall recommend approval, modified approval or denial of the amendment. The planning commission's recommendation shall be submitted to the governing body for action, accompanied by an accurate written summary of the hearing proceedings.

4. Review and final action by the governing body. Following the final action by the planning commission the governing body will hold a public hearing on the proposed text amendment. Upon its review of the record and close of the public hearing, the governing body may: (1)

adopt, modify or deny the proposed amendment; or (2) remand, with instructions, the same to the planning commission for further consideration. A 2/3 majority vote of the membership of the governing body shall be required to override the planning commission's recommendation.

B. Review criteria. In reviewing and making decisions on proposed text amendments, review and decision-making bodies shall consider at least the following criteria:

1. The proposed text amendment corrects an error or inconsistency in the Unified Development Code or meets the challenge of a changing condition.

2. The proposed text amendment is consistent with the comprehensive plan and the stated purpose of this Unified Development Code.

Sec. 106-43. - Zoning map amendment applications (rezonings).

A. Rezoning application process.

1. Pre-application conference. Prior to the submission of an application for a rezoning, all potential applicants or agents shall attend a pre-application conference as set forth in section 106-40.B., Pre-application conference.

2. Application submittal. All rezoning applications shall include all general application submittal requirements and the following.

a. A vicinity map, which shall show the location of the property in relation to at least one intersection of two streets.

b. A certified list of all property owners within the 200 feet notification area.

c. If the requested zoning designation is for a Planned Development District a detailed plan shall be submitted. The requirements of section 106-49, Site plan applications, should be used as a guide in developing the plan; however, the planning director may require additional information and plans.

3. Notice of hearing. Upon receipt of a complete application, the required public notices shall be issued as set forth in section 106-40.I., Public notice.

4. Review and report by planning director. The planning director shall review the proposed rezoning in relation to the comprehensive plan and the general requirements of this Unified Development Code and prepare a report for the planning commission.

5. Review and recommendation by planning commission. The planning commission will hold a public hearing on the proposed rezoning. At the close of the hearing, the planning commission shall recommend approval, modified approval or denial of the rezoning. The planning commission's recommendation shall be submitted to the governing body for action, accompanied by an accurate written summary of the hearing proceedings.

6. Review and final action by the governing body. Following the final action by the planning commission the governing body will hold a public hearing on the proposed rezoning. Upon its review of the record and close of the public hearing, the governing body may: (1) adopt, modify or deny the proposed rezoning; or (2) remand, with instructions, the same to the planning commission for further consideration. A 2/3 majority vote of the membership of the governing body shall be required to override the planning commission's recommendation.

B. Rezoning review criteria. In reviewing and making decisions on proposed rezonings, review and decision-making bodies shall consider at least the following criteria:

1. Conformance of the requested zoning with the comprehensive plan and other adopted plans and policies.

2. The compatibility of the proposed zoning with the zoning and use of nearby property, including any overlay zoning.

3. The compatibility of the proposed zoning and allowed uses with the character of the neighborhood.
4. The suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations.
5. The length of time the subject property has remained vacant as zoned.
6. The impact the proposed rezoning will have on properties in the area.
7. The gain, if any, to the public health, safety and welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

C. Limitation on reapplication. If the governing body denies an application for a rezoning, an application for the same or more intensive zoning district on substantially the same property may not be accepted for 12 months from the date that the governing body took action to deny, unless the applicant is able to demonstrate that a material, physical, economic or land use changes have taken place on the subject tract or within the immediate vicinity or a significant Unified Development Code text amendment has been adopted.

Sec. 106-44. - Special use permit applications.

A. Purpose. The special use permit review and approval procedure provides a discretionary approval process for uses with unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed special uses will not have a significant adverse impact on surrounding uses or on the community-at-large.

B. Special use permit application process.

1. Pre-application conference: Prior to the submission of an application for a special use permit, all potential applicants or agents shall attend a pre-application conference as set forth in section 106-40.B., Pre-application conference.
2. Application submittal: All special use permit applications shall include all general application submittal requirements and the following:
   a. A vicinity map, which shall show the location of the property in relation to at least one intersection of two streets.
   b. A certified list of all property owners within the 200 feet notification area.
3. Notice of hearing: Upon receipt of a complete application, the required public notices shall be issued as set forth in section 106-40.I., Public notice.
4. Review and report by planning director: The planning director shall review the proposed special use permit in relation to the comprehensive plan and the general requirements of this Unified Development Code and prepare a report for the planning commission.
5. Review and recommendation by planning commission: The planning commission will hold a public hearing on the proposed special use permit. At the close of the hearing, the planning commission shall recommend approval, modified approval or denial of the special use permit. The planning commission's recommendation shall be submitted to the governing body for action, accompanied by an accurate written summary of the hearing proceedings.
6. Review and final action by the governing body: Following the final action by the planning commission the governing body will hold a public hearing on the proposed special use permit. Upon its review of the record and close of the public hearing, the governing body may: (1) adopt, modify or deny the special use permit; or (2) remand, with instructions, the same to the planning commission for further consideration. A 2/3 majority vote of the membership of the governing body shall be required to override the planning commission's recommendation.

C. Review criteria. In reviewing and making decisions on proposed special use permits, review and decision-making bodies shall consider at least the following criteria:

1. The proposed special use complies with all applicable provisions of this Unified Development Code.
2. The proposed special use conforms with the comprehensive plan and other adopted plans and policies.
3. The compatibility of the proposed use with the character and zoning of the neighborhood.
4. The impact the proposed use will have on the subject property and neighboring properties.
5. The impact of the proposed use will have on public facilities.
6. The extent to which public facilities and services are available and adequate to meet the demand for facilities and services generated by the proposed use.
7. The suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations.
8. The extent to which the use will impact sustainability or revitalization of a given area.

D. Additional conditions. In recommending and approving a special use permit, the planning commission and governing body may impose conditions, safeguards and restrictions upon the subject property as may be necessary to reduce or minimize any potentially adverse impacts on other property in the neighborhood and to carry out the general purpose and intent of the comprehensive plan and this Unified Development Code.

E. Expiration. Approval of a special use permit shall expire and the special use permit shall be null and void should any of the following circumstances occur:

1. The applicant fails to obtain a building permit or business license as may be required within 12 months from the date of approval of the special use permit or an issued building permit expires.
2. The approved special use ceases operation for a period of 12 consecutive months.
3. The approved use changes site location.

The 12 month time period may be extended by up to six months if the applicant submits a written request to the planning director for extension prior to the expiration of approval.

F. Amendment, suspension, transfer and revocation. The governing body is authorized to establish a public hearing to consider a proposed amendment, suspension, transfer or revocation of an approved special use permit if upon its own initiative or upon the recommendation of the planning director or planning commission it is believed that a condition of the special use permit has been violated or there is a violation of this Unified Development Code, building codes, or any other applicable city Code. Notice of the public hearing shall be provided in accordance with section 106-40.I., Notice of hearing.

G. Limitation on reapplication. If the governing body denies an application for a special use permit, an application for the same or substantially the same special use on the same or substantially same property may not be accepted for 12 months from the date that the governing body took action to deny, unless the applicant is able to demonstrate that a material, physical, economic or land use changes have taken place on the subject tract or within the immediate vicinity or a significant Unified Development Code text amendment has been adopted.

Sec. 106-45. - Platting applications in general.

A. Purpose. The purpose of a plat is to provide a process for the orderly development and division of land within the city and to ensure that the layout of a proposed subdivision conforms to the comprehensive plan, this Unified Development Code and other adopted plans and policies.

B. Applicability. Except as otherwise noted the regulations contained herein apply to the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land, including the re-subdivision and re-platting of land or lots.

C. Exemptions. A platting application shall not be required in the following instances.

1. A change in the boundary between adjoining lands which does not create an additional or substandard lot.

2. Land used for street or railroad right-of-way, a drainage easement or other public utilities subject to local, state or federal regulations, where no new street or easement of access is involved.

3. Any transfer by operation of law.

D. Application type.

1. Lot split. Any application to subdivide or reconfigure two or fewer lots where all lots are served by adequate public facilities.

2. Plat (preliminary and final). Any application to subdivide or reconfigure land which either involves the subdivision or reconfiguration of three or more lots or requires the extension of public facilities.

Sec. 106-46. - Lot split application.

A. Lot split application purpose. The purpose of a lot split application is to provide for the subdivision or reconfiguration of two or fewer lots without having to replat such lot(s).

B. Lot split application process.

1. Pre-application conference: Prior to the submission of a lot split application, all potential applicants or agents shall attend a pre-application conference as set forth in section 106-40.B., Pre-application conference.

2. Application submittal: All lot split applications shall include all general application submittal requirements and a lot split survey containing the following information:

a. Name of subdivision;

b. Location by section, township, range, county, and state;

c. North arrow and scale;

d. Location of existing and proposed property lines of all tracts and lots involved in the lot split;

e. Location of streets, easements, rights-of-way, utilities, and other public grounds;

f. Names of abutting streets;

g. Building setback lines;

h. Location of existing structures and physical improvements;

i. Name and address of applicant;

j. Preparer's stamp and signature; and

k. The appropriate city signature block.

3. Review and final action by the planning director: The planning director shall review the proposed lot split in relation to the comprehensive plan and the general requirements of this Unified Development Code and either approve, modify or deny the proposed lot split.

4. Recordation: Upon approval of the lot split, the applicant shall be responsible for obtaining all appropriate signatures and certificates of approval in order to record the approved lot split

survey with the Recorder of Deeds. Upon recordation of the lot split survey, the applicant shall be responsible for returning the required copies to the planning director. If the approved lot split is not recorded within 90 days of the date of approval, such approval shall lapse and be of no further effect.

C. Lot split review criteria. In reviewing and making decisions on proposed lot splits, review and decision-making bodies shall consider at least the following criteria:

1. The lot split complies with the provisions of this Unified Development Code.
2. Conformance of the requested lot split with the comprehensive plan and other adopted plans and policies.
3. No public improvements are required.
4. All appropriate easements, dedications, and vacations are completed prior to the recordation of the lot split survey.
5. The split will not result in a tract without direct access to a street.
6. A substandard size lot or parcel will not be created.
7. The lot shall not have been previously split in accordance with this Unified Development Code.

Sec. 106-47. - Preliminary plat application.

A. Preliminary plat purpose. The purpose of a preliminary plat application is to provide for the general subdivision of land and to ensure that development occurs in a manner that allows the areas to be served by public infrastructure and services.

B. Preliminary plat application process.

1. Pre-application conference: Prior to the submission of a preliminary plat application, all potential applicants or agents shall attend a pre-application conference as set forth in section 106-40.B., Pre-application conference.
2. Application submittal: All preliminary plat applications shall include all general application submittal requirements and a preliminary plat containing the following information.
   a. Proposed name of the subdivision, which does not duplicate or closely approximate the name of any existing subdivision;
   b. Vicinity or general location map;
   c. Location by section, township, range, county, and state;
   d. Names and addresses of owner or subdivider having control of the tract; name and seal of the registered engineer, surveyor, or landscape architect who prepared the plat;
   e. North arrow;
   f. Graphic (engineering) scale not smaller than one inch to 100 feet;
   g. Date of preparation;
   h. Existing conditions on the proposed subdivision site and adjacent to the site within 100 feet of the property to include:
      (1) Boundary line of proposed subdivision;
      (2) Total acreage within the subdivision;
      (3) Existing zoning districts and type of uses and ownership;
      (4) Location, widths and names of all existing or platted streets or other rights-of-way, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines;

(5) Location and size of existing sewers, water mains, culverts or other underground facilities also indicating such data as grades, invert elevations, and locations of catch basins, manholes and hydrants;

(6) Special features, such as ponds, dams, marshes, steep slopes or unusual geology or unusual historical features, such as former dumps, fill areas or lagoons;

(7) Locations of, or reference to, locations of existing monuments or survey markers used in preparation of survey and grade elevation of each monument and marker; and

(8) Topography with contour intervals at vertical intervals of not more than one foot except in extreme topographical conditions, as determined by the planning director. Such vertical intervals in steep areas may not be more than five feet and in flat areas spot elevations will be required. Topographic data shall refer to USGS mean sea level datum.

i. Design features of the proposed subdivision site to include:

(1) Layout of streets showing right-of-way widths and street names and showing proposed through streets extended to the boundaries of the subdivision. Street names shall not duplicate or closely resemble the name of any existing street unless the street is an extension of or in line with an already names street;

(2) Location and width of alleys, pedestrian ways and sidewalks;

(3) Easements showing width and purpose;

(4) Building setback lines with dimensions;

(5) Typical cross sections of streets;

(6) The general location, size and character of all proposed and existing adjacent public utility lines, including stormwater and sanitary sewer lines, water lines, and stormwater management facilities;

(7) Layout, number and typical dimensions of lots, approximate lot areas, setback requirements and proposed land use for each lot, parcel or tract;

(8) Location and size of areas intended to be dedicated or reserved for public use, indicating in each the approximate area.

j. An outline of the proposed protective covenants;

k. Access control - in the interest of public safety and for the preservation of the traffic-carrying capacity of the street system, the planning commission shall have the right to restrict and regulate points of access to all property form the public street system. Such restrictions shall be indicated on the preliminary plat.

l. If the development area is to be platted in more than one phase, a phasing schedule for the entire project shall accompany the preliminary plat. The phasing schedule shall include, but is not limited to, clearly defined areas for phasing, estimated dates for completed phases and utility design.

m. When a subdivision is a portion of a larger area planned as a phased and related development, a master development plan (sketch plan) of the entire development shall be submitted with the preliminary plat of the portion first to be subdivided.

3. Review and report by planning director: The planning director shall review the proposed preliminary plat in relation to the comprehensive plan and the general requirements of this Unified Development Code and prepare a report for the planning commission.

4. Review and recommendation by the planning commission: The planning commission shall review and consider whether the preliminary plat meets the design standards and requirements of this Unified Development Code, comprehensive plan and other applicable provisions of the

policies and standards of the city. The planning commission may then recommend approval, approval with conditions or denial of the preliminary plat.

5. Review and final action by the governing body: Following the final action by the planning commission the governing body will review the preliminary plat application and planning commission record. The governing body may then: (1) approve, modify or deny the preliminary plat; or (2) remand, with instructions, the same to the planning commission for further consideration. Approval of the preliminary plat shall not constitute acceptance of the subdivision by the governing body, but shall be considered permission to prepare and submit a final plat.

C. Preliminary plat review criteria. In reviewing and making decisions on proposed preliminary plats, review and decision-making bodies shall consider at least the following criteria:

1. The preliminary plat complies with the provisions of this Unified Development Code.
2. Conformance of the preliminary with the comprehensive plan and other adopted plans and policies.
3. Compliance with environmental and health laws and regulations concerning water and air pollution, solid waste disposal, water supply facilities, community or public sewage disposal, and, where applicable, individual systems for sewage disposal.
4. Availability of water that meets applicable fire flow requirements and is sufficient for the reasonably foreseeable needs of the subdivision.
5. Availability and accessibility of utilities.
6. Availability and accessibility of public services such as schools, police and fire protection, transportation, recreation facilities, and parks.
7. Effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision.
8. Physical land characteristics, such as floodplain, slope, soil and elevation differentials with abutting properties.

D. Lapse of approval. If a final plat application for the subdivision or a portion of the subdivision approved with the preliminary plat is not submitted within two years from the date of approval by the governing body the approved preliminary plat shall be null and void. If the preliminary plat approval expires, the preliminary plat shall be re-submitted, with all necessary fees, as if no such plat had ever been approved. Upon the request of the subdivider, the governing body may grant an extension provided the request was made before the approval expired.

Sec. 106-48. - Final plat application.

A. Final plat purpose. The purpose of a final plat application is to provide a complete and exact subdivision plat, prepared for the official public record to define property boundaries and public improvements.

B. Final plat application process.

1. Pre-application conference: Prior to the submission of a final plat application, all potential applicants or agents shall attend a pre-application conference as set forth in section 106-40.B., Pre-application conference.
2. Application submittal: All final plat application shall include all general application requirements and the following information.
   a. A final plat containing the following information:
      (1) Name of subdivision, which does not duplicate or closely approximate the name of any existing subdivision;
      (2) Vicinity sketch;

(3) North arrow;

(4) Graphic (engineering) scale not smaller than one inch to 100 feet;

(5) Date of preparation;

(6) Accurate legal description;

(7) Total acreage of the subdivision;

(8) Accurate angular and lineal dimensions for all lines, angles and curvatures with functions used to describe all boundaries including perimeter survey of tracts, streets, alleys, easements, areas to be reserved for public use, and other important features. Error of closure of boundary line survey shall not exceed one in 10,000 (one foot each 10,000 feet of perimeter survey) and one foot for each 5,000 feet of interior boundaries. Lot lines shall show dimensions in feet and hundredths, and when an angle occurs in any lot line between lot corners, the measurement of the angle shall be shown in degrees, minutes and seconds.

(9) An identification system for all lots and blocks;

(10) Building setback lines with dimensions;

(11) True angles and distance to the nearest established street lines and official monuments (not less than three) which shall be accurately tied to the lines of the subdivision by distance and angles;

(12) Municipal, township, county or sections lines, accurately tied to the lines of the subdivision by distance and angles;

(13) Accurate location of all monuments which shall be Portland cement concrete four inches by six inches by 24 inches, or approved equal, with iron pipe case in center. Permanent stone or concrete monuments shall be set at each corner or angle on the outside boundary, and reference to at least three reference objects or reference points. Pipes three-fourths of an inch in diameter or steel rods one-half of an inch in diameter by 18 inches in length placed at corners of each lot and block; at each intersection of street centerlines; at angle points and at the ends; and at suitable interval along curves. All U.S., state, county, city or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position;

(14) Accurate outlines and legal description of any areas to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision, with the purposes indicated thereon;

(15) Location, widths and names of all streets or other rights-of-way to be dedicated;

(16) Location and widths of alleys, pedestrian ways and sidewalks;

(17) Location, widths and purpose of all easements to be dedicated;

(18) Protective covenants shall be lettered on the final plat or appropriately referenced thereon;

(19) Statement dedicating all easements, streets, sidewalks, alleys, rights-of-way and other public area, properly signed and acknowledged by appropriate persons;

(20) The preparer's stamp and signature;

(21) The names and address of the developer, surveyor and/or professional engineer preparing the plat;

(22) Special features, such as ponds, dams, marshes, steep slopes or unusual geology or unusual historical features, such as former dumps, fill areas or lagoons; and

(23) The appropriate signature block with the necessary certificates as follows:

A certificate signed and acknowledged by all parties having any record, title, or interest in the land subdivided and consenting to the preparation and recording of said subdivision map.

A certificate signed and acknowledged as above, dedicating or reserving all parcels of land shown on the final plat and intended for any public or private use including easements and those parcels which are intended for the exclusive use of the lot owners of the subdivision, their licensees, visitors, tenants, and servants.

The acknowledgement of a notary in the following form:

State of	)
	) SS
County of	)

Be it remembered that on this _____day of _____, 20_____, before me, a notary public in and for said county and state, came _____, to me, personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notorial seal the day and year above written.

(Seal)	_____
	Notary Public

My Commission Expires: _____

The certificate of the Planning Commission in the following form:

This plat of _____ addition has been submitted to and a recommendation forwarded to the Governing body by the Iola Planning Commission this _____/_____/_____ day of _____/_____/_____, 20_____.

_____
Chairman, (with actual name)

The approval of the plat and acceptance of easements and rights-of-way by the Governing body in the following form:

This plat of _____ addition, including easements and rights-of-way accepted by the Governing body has been submitted to and approved by the Iola

Governing body by Ordinance No. _____, duly passed and approved by the Mayor of Iola, Kansas, on the _____/_____/_____ day of _____/_____/_____, 20_____.

(Seal)	_____
	Mayor, (with actual name)

ATTEST:	
_____	_____
City Clerk, (with actual name)	Planning Director, (with actual name)

A blank space for noting entry on the transfer record in the following form:

Entered on transfer record this _____/_____/_____ day of _____/_____/_____, 20_____.

_____
Deputy County Recorder of Deeds

b. The final plat shall be accompanied by a statement signed by the owner or subdivider setting forth that:

(1) The plans and specifications for the required public improvements have been completed and such plans approved by the planning director;

(2) The required improvements will be installed in accordance with such plans and specifications. The governing body may grant the subdivider the privilege of improving a new subdivision in portions, any portion of which except the final portion shall be not less than ten acres in the area.

(3) A completion bond has been posted or cash deposited with the city clerk in the amount of 100 percent of the cost as estimated by the city administrator for the completion of the required public improvements for the portion of the plat to be improved. If a completion bond is posted, there shall be good and sufficient security thereon, approved by the city administrator and conditioned upon the installation of the required public improvements on the first section to be improved, within two years of the approval of the final plat, any subsequent sections that are improved shall be completed within two years from the date of posting of the bond for the section being improved. If cash is deposited, it is to be used insofar as it is sufficient to defray the cost of making such public improvements. Any unused balance will be returned to the depositor. There shall be no reduction in the amount of that portion of the bond applying to a particular improvement unless and until that improvement is complete and accepted or approved by the city administrator, except that upon the completion of the subgrade, base course, and one-half of the thickness of the wearing surface

course of a street, alley or parking area, the governing body may reduce the amount of that portion of the bond covering such public improvements, but such reduction shall be not more than an amount equal to 100 percent of the estimated cost of installation of the subgrade and base course.

3. Review and report by planning director: The planning director shall review the final plat in relation to the comprehensive plan and the general requirements of this Unified Development Code and prepare a report for presentation to the planning commission. No final plat shall be approved without the planning director certifying that the improvements described in the subdividers plans and specifications meet the minimum requirements and provisions of this Unified Development Code and other applicable codes.

4. Review and recommendation by the planning commission: The planning commission will review the final plat and make a recommendation for approval, approval with conditions or denial. The planning commission shall make such recommendation within 60 days after the first meeting of the planning commission following the date of the submission of the final plat application. If a recommendation is not made within the required time frame the final plat shall be deemed to have received a recommendation of approval. The planning commission's recommendation shall be submitted to the governing body for action, accompanied by an accurate written summary of the proceedings.

5. Review and final action by the governing body: Following the final action by the planning commission the governing body will review the final plat application and planning commission record. The governing body may then: (1) approve, modify or deny the final plat; or (2) remand, with instructions, the same to the planning commission for further consideration. The governing body shall accept or refuse the dedication of land for public purposes within 30 days after the first meeting of the governing body following the date of the submission of the final plat to the clerk of the governing body. The governing body may defer action for an additional 30 days for the purpose of allowing for modification to comply with the requirements established by the governing body.

6. Recordation: Upon approval of the final plat, the applicant shall be responsible for obtaining all appropriate signatures and certificates of approval in order to record the approved final plat in the office of the county register of deeds. Upon recordation of the final plat, the applicant shall be responsible for returning the required copies to the planning director. If the approved final plat is not recorded within 90 days of the date of approval, the final plat shall be null and void. No building permits or occupancy certificates shall be issued for a building or structure on any lot, tract or parcel of the approved subdivision until copies of the recorded plat, supplied in the requested number and form, are provided to the planning director.

7. Building permits: Building permits will not be issued until all public improvements are installed and accepted by the city.

C. Final plat review criteria. In reviewing and making decisions on final plats, review and decision-making bodies shall consider at least the following criteria:

1. The final plat complies with the provisions of this Unified Development Code.

2. The final plat substantially conforms to the approved preliminary plat.

3. Conformance of the final plat with the comprehensive plan and other adopted plans and policies.

4. Compliance with environmental and health laws and regulations concerning water and air pollution, solid waste disposal, water supply facilities, community or public sewage disposal, and, where applicable, individual systems for sewage disposal.

5. Availability of water that meets applicable fire flow requirements and is sufficient for the reasonably foreseeable needs of the subdivision.

6. Availability and accessibility of utilities.

7. Availability and accessibility of public services such as schools, police and fire protection, transportation, recreation facilities, and parks.
8. Effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision.
9. Physical land characteristics, such as floodplain, slope, soil and elevation differentials with abutting properties.

Sec. 106-49. - Site plan applications.

A. Purpose. The purpose of requiring site plan applications is to ensure compliance with the standards of this Unified Development Code prior to the commencement of development activity, to promote safety and convenience for the public, to preserve property values of surrounding properties, and to encourage the compatible arrangement of buildings, off-street parking, lighting, landscaping, pedestrian walkways and sidewalks, ingress and egress, and drainage on the site.

B. Applicability. A site plan shall be required for the following:

1. New construction or expansion of mixed-used, commercial and industrial properties;
2. New construction or expansion of multi-family development and attached single-family dwelling units with more than two units;
3. Any drive-thru facility;
4. Any gasoline and fuel sales use;
5. Any vehicle sales and service use;
6. New parking lot or parking lot expansions;
7. Special use permit involving new construction or expansion;
8. Wireless communication facilities;

C. Site plan application process.

1. Pre-application conference: Prior to the submission of a site plan application, all potential applicants or agents shall attend a pre-application conference as set forth in section 106-40.B., Pre-application conference.
2. Application submittal: All site plan applications shall include all general application requirements and a site plan containing the following information:
   a. Name and address of preparer of the site plan;
   b. North arrow and scale;
   c. Boundaries and dimensions;
   d. Present and proposed topography of the area;
   e. Location of property lines of all tracts and lots involved in the development;
   f. Location of streets, easements, rights-of-way, utilities, and other public grounds;
   g. Names of abutting streets;
   h. Building setback lines;
   i. Location of existing and proposed structures and indicate the number of stories, gross floor area and entrances to all structures;
   j. Location and dimensions of existing and proposed curb cuts, access aisles, off-street parking, loading zones and walkways;
   k. Location, height, and material for screening walls and fences;

l. Location and size for all perimeter and interior landscaping, including a landscape schedule;

3. Review and report by planning director: The planning director shall review the site plan in relation to the comprehensive plan and the general requirements of this Unified Development Code and prepare a report for the planning commission.

4. Review and recommendation by planning commission: The planning commission will review the site plan and make a recommendation for approval, modified approval or denial. The planning commission's recommendation shall be submitted to the governing body for action, accompanied by an accurate written summary of the proceedings.

5. Review and final action by the governing body: Following the review by the planning commission the governing body will review the site plan and meeting summary. Upon its review, the governing body may: (1) adopt, modify or deny the proposed lot split; or (2) remand, with instructions, the same to the planning commission for further consideration.

D. Site plan review criteria. In reviewing and making decisions on site plans, review and decision-making bodies shall consider at least the following criteria:

1. The site plan complies with the provisions of this Unified Development Code.

2. Conformance of the site plan with the comprehensive plan and other adopted plans and policies.

3. Conformance and effect of the proposed site changes with the surrounding area.

Sec. 106-50. - Vacate and dedicate easements or right-of-way.

A. Vacate and dedicate application process.

1. Pre-application conference: Prior to the submission of an application to vacate or dedicate, all potential applicants or agents shall attend a pre-application conference as set forth in section 106-40.B., Pre-application conference.

2. Applicants and affected property owners: If the application is not submitted by all affected property owners that fact shall be noted on the application along with the names and addresses of all adjoining owners who are not party to the application.

3. Application submittal: All applications to vacate and dedicate shall include all general application requirements and a site plan containing the following information:

a. A vicinity map, which shall show the location of the affected property in relation to at least one intersection of two streets.

b. A certified list of all property owners within the 200 feet notification area.

4. Notice of hearing: Upon receipt of a complete application, the required public notices shall be issued as set forth in section 106-40.I., Public notice.

5. Review and report by planning director: The planning director shall review the proposed vacation or dedication in relation to the comprehensive plan and the general requirements of this Unified Development Code and prepare a report for the planning commission.

6. Review and recommendation by planning commission: The planning commission will review the proposed vacation or dedication and shall recommend approval, modified approval or denial. The planning commission's recommendation shall be submitted to the governing body for action, accompanied by an accurate written summary of the hearing proceedings.

7. Review and final action by the governing body: Following the final action by the planning commission the governing body will review the proposed vacation or dedication and the meeting summary. The governing body may the: (1) approve, modify or deny the vacation or dedication; or (2) remand, with instructions, the same to the planning commission for further consideration.

The governing body may require easements to be provided if deemed necessary for the public good or welfare.

[B]E. Vacate and dedicate review criteria. In reviewing and making decisions on applications to vacate and dedicate, review and decision-making bodies shall consider at least the following criteria:

1. No private rights will be injured or endangered by the vacation or dedication;
2. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.

Sec. 106-51. - Appeals to the board of zoning appeals.

A. Procedure. The procedure for requesting a hearing before the board shall be as follows:

1. All applications to the board shall be in writing on forms provided by the city and filed with the planning director.
2. All applications shall be accompanied by an ownership list obtained from county records, listing the legal description and the name and address of the owners of all property located within 200 feet of the boundaries of the property included in the application.
3. The board shall fix a reasonable time for the hearing of an application, and notice of the time, place and subject of each hearing shall be published in the official city newspaper at least 20 days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest, each person on the ownership list, and each board member at least 15 days prior to the date of the public hearing.
4. An application shall be accompanied by the appropriate filing fee as established by the schedule of fees.

B. Additional requirements. In addition to the above requirements, certain applications may require additional information as follows:

1. An application for an appeal shall be filed within 30 days after a ruling has been made by the planning director.
2. A copy of the order, requirement, decision or determination of the planning director, which the applicant believes to be in error, shall be submitted.
3. A clear and accurate, written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
4. Where necessary, a plot plan, drawn to scale, in duplicate, showing existing and proposed plans for the area in question shall be submitted.

C. Performance. In making any decision varying or modifying any provision of the zoning regulations or in granting a variance from the district regulations, the board shall impose such restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property. The board may require a performance bond to guarantee the installation of improvements, such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost of the improvements as determined by the board and shall be enforceable by or payable to the city in the sum equal to the cost of constructing the required improvements. In lieu of the performance bond requirement, the board may specify a time limit for the completion of such required improvements and, in the event the improvements are not completed within the specified time, the board may declare the granting of the application null and void after reconsideration. Appeals to the board may be taken by any person aggrieved, or by any officer, department or bureau of the government affected by any decision of the planning director. Such appeal shall be filed with the planning director within 30 days after the date of the decision. The planning director shall forthwith transmit to the secretary of the board all papers constituting the record upon which the action appealed from is taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the planning director certifies to the board, after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the planning director, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board, or by a court of record on application or notice to the planning director on good cause shown.

Sec. 106-52. - Variances, board of zoning appeals.

A. Application submittals.

1. The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the development regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five conditions as set out in this section.
2. The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application, the structures existing thereon, and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information that would be helpful to the board in consideration of the application should be included.

B. Proof of hardship. The applicant must show that the property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the district zoning regulations, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of this Unified Development Code actually prohibit the use of this property in the manner similar to that of other property in the zoning district where it is located.

C. Conditions for approval. A request for a variance may be granted, upon a finding of the board that all of the following conditions have been met. The board shall make a determination on each condition, and the finding shall be entered in the record.

1. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. The strict application of the provisions of this Unified Development Code of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
5. The granting of the variance desired will not be opposed to the general spirit and intent of this Unified Development Code.

D. Conditions. In granting a variance, the board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of this Unified Development Code. The granting of a variance shall not permit any use not permitted by the zoning regulations in such district.

Secs. 106-53—106-58. - Reserved.

ARTICLE V. - ZONING DISTRICTS

Sec. 106-59. - A-L Agricultural District regulations.

A. Purpose. The A-L Agricultural District is intended to provide a location for land situated on the fringe of the developed area of the city and used for agricultural purposes, but that may become developed in the future. Generally, A-L Agricultural Districts, will be near development; therefore, the agricultural activities conducted in the A-L Agricultural District, should not be detrimental to urban land uses. The types of uses and the area and intensity of uses permitted in this district shall encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made.

B. Uses. Uses shall be allowed in the A-L District in accordance with section 106-69, Use table.

C. Property development standards. Each lot in the A-L District shall be subject to the following property development standards:

Minimum Lot Size	3 acres
Minimum Lot Width	200 feet
Minimum Front Setback	25 feet
Minimum Side Setback	15 feet
Minimum Rear Setback	20 feet
Maximum Building Coverage	25% of the lot
Maximum Structure Height	35 feet, except bars and silos may be of any height

Sec. 106-60. - R-1 Single-Family Residential District regulations.

A. Purpose. The purpose of the R-1 Single-Family Residential District is intended to accommodate and protect low density single-family residential development.

B. Uses. Uses shall be allowed in the R-1 District in accordance with section 106-69, Use table.

C. Property development standards. Each lot in the R-1 District shall be subject to the following property development standards:

Minimum Lot Size	7,500 square feet
Minimum Lot Width	70 feet
Minimum Front Setback	25 feet
Minimum Side Setback	5 feet

Minimum Rear Setback	20 feet
Maximum Building Coverage	35% of the lot
Maximum Structure Height	35 feet

Sec. 106-61. - R-2 Two-Family Residential District.

A. Purpose. The R-2 Two-Family Residential District is intended to accommodate moderate density residential development, including duplexes and higher density single-family dwellings, in a manner which will encourage a strong residential neighborhood.

B. Uses. Uses shall be allowed in the R-2 District in accordance with section 106-69, Use table.

C. Property development standards. Each site in the R-2 District shall be subject to the following property development standards, provided that the standards shall not be interpreted as precluding zero lot line development:

Minimum Lot Size	
Single-family detached	5,000 square feet
Single-family attached	3,000 square feet per unit
Two-family/duplex	6,000 square feet (3,000 square feet per unit)
Other uses	7,500 square feet
Minimum Lot Width	50 feet
Minimum Front Setback	25 feet
Minimum Side Setback	5 feet
Minimum Rear Setback	20 feet
Maximum Building Coverage	35% of the lot
Maximum Structure Height	35 feet

Sec. 106-62. - R-3 Multiple-Family Dwelling District.

A. Purpose. The R-3 Multiple-Family District is intended primarily to accommodate low-rise residential development at moderate densities. The R-3 District can be an appropriate classification within established neighborhood areas, including those containing two-family and single-family dwellings provided sound site planning techniques are used and the basic residential quality of the neighborhood is retained.

B. Uses. Uses shall be allowed in the R-3 District in accordance with section 106-69, Use table.

C. Property development standards. Each site in the R-3 District shall be subject to the following property development standards, provided that the standards shall not be interpreted as precluding zero lot line development or individual duplex and single-family dwellings:

Minimum Lot Size	
Single-family detached	5,000 square feet
Single-family attached	3,000 square feet per unit
Two-family/duplex	5,000 square feet (2,500 square feet per unit)
Multi-family	1,500 square feet per dwelling unit, but not less than 6,000 square feet of lot area
Dwellings for the elderly	1,000 square feet per dwelling unit, but not less than 6,000 square feet of lot area
Other uses	7,500 square feet
Minimum Lot Width	50 feet
Minimum Front Setback	25 feet
Minimum Side Setback	5 feet
Minimum Rear Setback	20 feet
Maximum Building Coverage	40% of the lot
Maximum Structure Height	45 feet

D. Design and performance standards. The following design and performance standards shall apply in the R-3 District:

1. Adjacent properties. Sites shall be integrated with adjacent developments and designed to minimize potential adverse effects from lighting and traffic on adjacent properties.
2. Screening. Appropriate screening shall be provided along any lot line adjoining an A-L, R-1 or R-2 zoned property. Such screening shall include landscaping which incorporates a mix of shade trees, ornamental trees, evergreen trees, and shrubs. A berm or semisolid fence or hedge not more than six feet high may also be included as part of the screening. All screening shall be maintained in good condition by the owner or owners of the property.
3. Pedestrian design. Sites should be designed with an emphasis on promoting a pedestrian friendly environment.
4. Utilitarian areas. Utilitarian areas, such as mechanical equipment and trash enclosures shall be located in inconspicuous areas and be screened.

Sec. 106-63. - C-O Neighborhood Business District.

A. Purpose. The C-O Neighborhood Business District is intended to provide for areas of professional services and convenience shopping facilities that are integrated into the surrounding residential neighborhoods. Such commercial areas will often occupy a small area, frequently at an intersection or on a major street, in an area that is otherwise wholly residential.

B. Uses. Uses shall be allowed in the C-O District in accordance with section 106-69, Use table.

C. Property development standards. Each site in the C-O District shall be subject to the following property development standards:

Minimum Lot Size	6,000 square feet
Minimum Lot Width	50 feet
Minimum Front Setback	25 feet
Minimum Side Setback	5 feet, except that when the property adjoins a residentially zoned lot the minimum side setback shall be 15 feet
Minimum Rear Setback	20 feet
Maximum Building Coverage	65% of the lot
Maximum Structure Height	45 feet

D. Design and performance standards. The following design and performance standards shall apply in the C-O District:

1. Adjacent properties. Sites shall be integrated with adjacent developments and designed to minimize potential adverse effects from lighting and traffic on adjacent properties.

2. Screening. Appropriate screening shall be provided along any lot line adjoining a residentially zoned property. Such screening shall include landscaping which incorporates a mix of shade trees, ornamental trees, evergreen trees, and shrubs. A berm and a solid or semisolid fence or hedge not more than six feet high may also be included as part of the screening. All screening shall be maintained in good condition by the owner or owners of the property.
3. Pedestrian design. Sites should be designed with an emphasis on promoting a pedestrian friendly environment.
4. Utilitarian areas. Utilitarian areas, such as loading docks, mechanical equipment, and trash enclosures shall be located at the rear of the building and be screened.
5. Drive-through services. Drive-in or drive-through service windows, such as those sometimes associated with banks or fast-food restaurants, are not permitted in the C-O District.
6. Outdoor storage and display. No outdoor display or storage of merchandise shall be allowed within the C-O District, except that daily displays and temporary displays and storage of seasonal merchandise shall be allowed in accordance with the standards of section 106-101. In no event may the outdoor storage or display of materials be located on public right-of-way.
7. Gasoline sales. No gasoline sales shall be allowed in the C-O District.
8. Hours of operation. All businesses shall limit their hours of operation to the period between 6:00 a.m. and 11:00 p.m.

Sec. 106-64. - C-1 Central Business District.

A. Purpose. The C-1 Central Business District is intended primarily to accommodate the broad range of service, office, and retail business activity related to the core area of the city. Limited residential uses shall also be permitted.

B. Uses. Uses shall be allowed in the C-1 District in accordance with section 106-69, Use table.

C. Property development standards. Each site in the C-1 District shall be subject to the following property development standards.

Minimum Lot Size	None
Minimum Lot Width	None
Minimum Front Setback	None
Minimum Side Setback	None
Minimum Rear Setback	None
Maximum Building Coverage	None
Maximum Structure Height	45 feet

D. Design and performance standards. The following design and performance standards shall apply in the C-1 District.

1. Adjacent properties. Sites shall be integrated with adjacent developments and designed to minimize potential adverse effects from lighting on adjacent properties.
2. Pedestrian design. Sites should be designed with an emphasis on promoting a pedestrian friendly environment.
3. Utilitarian areas. Utilitarian areas, such as loading docks, mechanical equipment, and trash enclosures shall be located at the rear of the building and be screened.
4. Drive-through services. Drive-in or drive-through service windows associated with fast-food restaurants are not permitted.
5. Outdoor storage and display. No outdoor display or storage of merchandise shall be allowed within the C-1 District, except that daily displays and temporary displays and storage of seasonal merchandise shall be allowed in accordance with the standards of section 106-101.
6. Gasoline sales. No gasoline sales shall be allowed in the C-1 District.
7. Projections in right-of-way. Marquees and awnings may project over public right-of-way but shall not project beyond the back-of-curb line and shall not interfere with the use of the public right-of-way.

Sec. 106-65. - C-2 General Business District.

A. Purpose. The C-2 General Business District is intended to accommodate general office, service, and commercial uses at specific points on arterial roadways outside central or neighborhood business districts. The C-2 District is particularly appropriate adjoining a highway as the uses and site designs of the C-2 district tend to be auto-oriented.

B. Uses. Uses shall be allowed in the C-2 District in accordance with section 106-69, Use table.

C. Property development standards. Each site in the C-2 District shall be subject to the following property development standards.

Minimum Lot Size	None
Minimum Lot Width	None
Minimum Front Setback	25 feet
Minimum Side Setback	5 feet, except that when the property adjoins a residentially zoned lot the minimum side setback shall be 15 feet
Minimum Rear Setback	20 feet
Maximum Building Coverage	75% of the lot
Maximum Structure Height	45 feet

D. Design and performance standards. The following design and performance standards shall apply in the C-2 District:

1. Outdoor storage and display. Outdoor display and outdoor storage of merchandise shall be allowed in accordance with the standards of section 106-101. In no event may the outdoor storage or display of materials be located on public right-of-way.

2. Adjacent properties. Sites shall be integrated with adjacent developments and designed to minimize potential adverse effects from lighting and traffic on adjacent properties.

3. Screening. Appropriate screening shall be provided along any lot line adjoining a residentially zoned property. Such screening shall include landscaping which incorporates a mix of shade trees, ornamental trees, evergreen trees, and shrubs. A berm and a solid or semisolid fence or hedge not more than six feet high may also be included as part of the screening. All screening shall be maintained in good condition by the owner or owners of the property.

4. Automobile service stations. Gasoline pumps, air and water service and other fixtures used in connection with automobile service stations, may be located within the front yard, but not less than 12 feet from any front or side property line.

Sec. 106-66. - I Industrial District.

A. Purpose. The I Industrial District is intended primarily to accommodate basic manufacturing industries and related industrial activities, which have limited land use, environmental, and traffic impacts.

B. Uses. Uses shall be allowed in the I District in accordance with section 106-69, Use table.

C. Property development standards. Each site in the I District shall be subject to the following property development standards.

Minimum Lot Size	10,000 square feet
Minimum Lot Width	100 feet
Minimum Front Setback	25 feet
Minimum Side Setback	15 feet
Minimum Rear Setback	20 feet
Maximum Building Coverage	85% of the lot
Maximum Structure Height	45 feet, unless the structure is located more than 150 feet from a residential district then the maximum height shall be 75 feet

D. Supplemental standards. The following supplemental standards shall apply in the I District.

1. Outdoor storage and display. No outdoor storage shall be allowed unless it is completely screened from view of rights-of-way and more restrictive zoning districts. In no event may the outdoor storage or display of materials be located on public right-of-way.
2. Screening. Appropriate screening shall be provided along any lot line adjoining a residentially zoned property. Such screening shall include landscaping which incorporates a mix of shade trees, ornamental trees, evergreen trees, and shrubs. A berm and a solid or semisolid fence or hedge not more than six feet high may also be included as part of the screening. All screening shall be maintained in good condition by the owner or owners of the property.
3. Adjacent properties. Sites shall be integrated with adjacent developments and designed to minimize potential adverse effects from lighting and traffic on adjacent properties.

Sec. 106-67. - PD Planned Development District.

A. Purpose. The purpose of the PD Planned Development District is to encourage innovative design of residential, commercial, institutional, and/or industrial developments by providing for greater flexibility in the design and layout of buildings and sites then is provided by other districts.

B. Uses. Uses shall be allowed in the PD District in accordance with section 106-69, Use table. However, each use must be listed on the development plan and approved by the planning commission and the governing body.

C. Development standards. Minimum standards for developments in the PD District are set forth as follows. Although the specific conditions within the PD District are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met. A plan for the PD shall be submitted by the applicant at the time the PD zoning is requested.

D. General provisions.

1. The PD shall be in conformance with the provisions of the comprehensive plan.
2. The PD shall not have a substantially adverse effect on the neighboring area.
3. The PD may be established exclusively for residential, commercial or industrial development or any combination of those types of development.
4. PD districts are generally used to accommodate unique developments that will occupy a large area. To help accomplish this the following minimum sizes are recommended:
   a. Residential: Two acres.
   b. Commercial: Two acres.
   c. Industrial: Ten acres.
   d. Combination of types of uses: The sum of the minimum land area required for each type of use within the PD.
5. Setback, building coverage, and height requirements may be varied in order to promote an efficient and creative PD.

Sec. 106-68. - Use regulations.

A. Permitted (by-right). Uses identified in a zoning district column of the use table with a "P" are "permitted by right" and shall be permitted in such zoning district, subject to any additional regulations as may be indicated in the "conditions" column and all other requirements of this Unified Development Code.

B. Special uses. Uses identified in a zoning district column of the use table with an "S" are "special uses" and shall be permitted in such zoning district if reviewed and approved in accordance with the standards of section 106-44, Special use permit applications. Special uses shall be subject to any additional regulations as may be indicated in the "conditions" column and all other requirements of this Unified Development Code.

C. Not permitted. Uses identified in a zoning district column of the use table with a shaded box are "not permitted" and are not allowed in such zoning district unless otherwise expressly permitted by other regulations of this Unified Development Code.

D. Conditions. A letter in the "conditions" column of the use table refers to additional regulations that are applicable to a particular use in one or more of the districts that such use are allowed. The specific regulations of each "condition" appear in article VI, Additional Regulations ("Conditions").

E. Uses not listed (temporary special use permit). Uses not listed in the use table may be allowed provided a temporary special use permit is received. The procedure for obtaining a temporary special use permit shall be the same as outlined in section 106-44, Special use permit applications.

Sec. 106-69. - Use table.

Residential Uses in Agricultural, Residential and Planned Districts						
	A-L	R-1	R-2	R-3	PD	Conditions
Day Care, Ltd (1—10)	P	P	P	P	P	A
Duplex			P	P	P	
Group Home, Ltd. (1—8)	P	P	P	P	P	B
Group Residential			S	S	P	
Manufactured Home Dev.			S	S	S	C
Modular Home		P	P	P	P	
Mobile Home Dev.			S	S	S	C
Multi-Family			P	P	P	D
Single-Family, Attached			P	P	P	E
Single-Family, Detached	P	P	P	P	P	

P	=	Permitted
S	=	Special Use Permit required
Shaded boxes	=	Non-permitted uses or no condition

A-L	=	Agricultural
R-1	=	Single-Family Residential
R-2	=	Two-Family Residential
R-3	=	Multi-Family Residential
PD	=	Planned District
C-O	=	Neighborhood Business
C-1	=	Central Business
C-2	=	General Business
I	=	Industrial

Non-Residential Uses in Agricultural, Business and Planned Districts							
	A-L	C-O	C-1	C-2	I	PD	Conditions
Accessory Residential			P			P	A
Adult Entertainment Establishment				S	S	S	B
Agricultural Processing	P				S		
Agricultural Sales/Service	P		P	P	P	P	
Agriculture, General	P				S	P	C
Airport or Airstrip					S	P	
Animal Care, General				P	P	P	D
Animal Care, Ltd.		P	P	P	P	P	D
Asphalt or Concrete Plant	S				S		

Bank/Financial Institution		P	P	P		P	
Bar or Tavern			P	P		P	
Basic Industry					P		
Cabinet/Carpentry Shop			S	P	P	P	
Campground	S				P	P	
Car Wash				P	P	P	
Charitable Institutions		S	S	P	P	P	E
Club, Private		P	P	P	P	P	
College or University			P	P	P	P	
Communication Tower	S	S	S	S	S	S	F
Compost Facility					S	P	G
Construction Sales/Service			S	P	P	P	
Correctional Facility					S	P	
Cultural Service		P	P	P	P	P	
Flextech				P	P	P	
Food/Bakery Product Manufacturing					P	P	
Freight Terminal					P	P	
Funeral Home			S	P	P	P	
Gas and Fuel Storage				S	S		
Government Service		P	P	P	P	P	
Hazardous Operation					S	S	

Health Club		P	P	P	P	P	
Heliport or Helipad					P	P	
Hospital		S	S	P	P	P	E
Hotel or Motel			S	P	P	P	
Kennel	S			P	P	P	D
Landfill						S	H
Laundry Service					P	P	
Manufacturing Assembly					P	P	
Medical Service		S	P	P	P	P	
Mining and Quarrying	S				S		H
Mobile Homes Sales					P	P	
Office, General		P	P	P	P	P	
Oil or Gas Drilling/Refining					S		
Printing and Publishing			P	P	P	P	
Post Office			P	P	P	P	
Repair Service		S	P	P	P	P	
Restaurant		P	P	P	P	P	
Retail Sales and Service		P	P	P	P	P	
Salvage Yard					S		I
Service Station, Automotive				P	P	P	J
Service Station, Truck Stop				P	S	P	

Shooting Range (outdoor)						P	
Solid Waste Collection and Processing					S		K
Stockyard					S		
Transitional Living Center					P	P	L
Vehicle/Equipment Sales				P	P	P	M
Vehicle/Equipment Storage Yard				S	P	P	M
Vehicle Repair		S		P	P	P	J, M
Vocational School			S	P	P	P	
Warehousing/Residential Storage (mini-storage)				P	P	P	
Warehousing/Wholesale				S	P	P	
Welding/Machine Shop				P	P	S	

Uses allowed in Agricultural, Residential, Business Districts and Planned Districts										
	A-L	R-1	R-2	R-3	C-O	C-1	C-2	I	PD	Conditions
Assisted Living			S	P	P	S	P		P	
Cemetery	S	S	S	S	S	S	S	S	P	A
Convalescent Care		S	S	P	P	S	P		P	B
Day Care, Commercial				S	P	S	P	P	P	C
Golf Course	P	S	S	S	S	S	S	S	P	D
Group Home, General (9+)				S	S	S	P	P	P	E
Group Residential			S	S	S	S	P	P	P	

Parks and Recreation	P	P	P	P	P	P	P	P	P	
Religious Assembly	P	P	P	P	P	P	P	P	P	
Safety Service	P	P	P	P	P	P	P	P	P	
Schools - Elementary, Middle or High	P	P	P	P	S	S	S	S	P	
Utility, Major		S	S	S	S	S	S	S	S	
Utility, Minor		P	P	P	P	P	P	P	P	

P	=	Permitted
S	=	Special Use Permit required
Shaded boxes	=	Non-permitted uses or no condition
A-L	=	Agricultural
R-1	=	Single-Family Residential
R-2	=	Two-Family Residential
R-3	=	Multi-Family Residential
PD	=	Planned District
C-O	=	Neighborhood Business
C-1	=	Central Business
C-2	=	General Business
I	=	Industrial

Secs. 106-70—106-75. - Reserved.

ARTICLE VI. - ADDITIONAL REGULATIONS ("CONDITIONS")

Sec. 106-76. - Additional regulations ("conditions") for residential uses allowed in agricultural, residential and planned districts.

The additional regulations ("conditions") of this section shall apply to permitted, special use and accessory uses as noted.

A. Day care, limited (1—10 children). Limited day care uses shall be conducted in a dwelling unit that is occupied as a permanent residence by the day care provider. The use will be considered a Home Occupation and be subject to the provisions of section 106-87.D., Home occupations.

B. Group home, limited (1—8 people). Group homes shall be subject to the following standards only when located in a residentially zoned district.

1. Spacing. A group home shall not be located within 1,320 feet of another group home, measured as the shortest distance between any portion of the structure where persons reside.

2. Exterior appearance. There shall be no alteration of the exterior of the group home that shall change the character thereof as a single-family residence if it is in an R-2 or more restrictive zoning district. There shall be no alteration of the property where the group home is located that will change the character thereof as property within a single-family dwelling district if it is in an R-2 or more restrictive zoning district.

3. Neighborhood character. A group home constructed in an A-1, R-1 or R-2 District shall be constructed to be compatible with the architectural character of the neighborhood that it is located.

C. Manufactured home development and mobile home development. Manufactured and mobile homes shall be located only in manufactured or mobile home parks that comply with the following standards.

1. Property development standards:

a. Minimum park area: Five acres;

b. Maximum density: Seven dwelling units per acre; and,

c. Minimum perimeter setbacks: 20 feet, expect when adjacent to rights-of-way and residentially zoned districts then 30 feet.

2. Streets. Private streets shall be permitted within parks, provided that they comply with the design standards of the city. Street signs that comply with all applicable city standards shall be provided by the developer.

3. Parking. A minimum of two exterior off-street parking spaces shall be provided for each home space within the park. All common parking areas shall be paved in accordance with city standards, including parking spaces on individual home spaces.

4. Recreational and open space. Unless otherwise approved by the planning commission, at least 500 square feet of common recreational and open space shall be provided for each home space. Such recreation and open space areas should be located no further than 500 feet from any home space served. Streets, sidewalks, parking areas and accessory buildings are not to be included as recreational and open space in computing the necessary area.

5. Walkways. Walkways shall be required on both sides of all interior streets and accessways and shall provide connections between home spaces and common areas such as

recreational areas and laundry facilities. Walkways shall not be less than four feet in width and shall meet the design and construction requirements of the city.

6. Water supply. All parks shall be connected to a public water supply. The individual water service connections shall be provided at each home space and the size, location and installation of water lines shall be in accordance with the requirements of the adopted city's Plumbing Code and any other applicable codes.

7. Sewage disposal. Individual sewer connections shall be provided for each park and shall be installed in accordance with the adopted city's Plumbing Code and any other applicable laws. All parks shall be connected to a public sewer system.

8. Storm drainage facilities. Drainage facilities shall be so constructed as to protect those that will reside in the park, as well as the property owners adjacent to the park. Such facilities shall be of such capacity to insure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park and shall comply with all applicable city standards.

9. Underground utilities. All electric, telephone and other lines within or to each home space shall be underground.

10. Fire protection. Parks shall be equipped at all times with fire extinguishing equipment in good working order of such type, size and number and so located within the park to satisfy regulations of the state fire marshal and the district fire chief.

11. Flammable liquid storage. The use of individual fuel, oil or propane gas storage tanks to supply each home space separately shall be prohibited. All fuel lines leading to the park and to home spaces shall be underground and so designed as to conform to the City Building Code, City Codes, and any state Codes that are applicable.

12. Solid waste. All garbage and trash containers shall be placed inside similarly designed and enclosed structures and be conveniently located. The removal of trash shall take place not less than once a week. Individual incinerators shall be prohibited.

13. Landscaping, fencing and screening. A landscape screen that complies with the standards of section 106-97, Landscaping and screening, shall be provided and maintained along all boundaries of a park except at established entrances and exits.

14. Storm shelters. Any park with more than 12 units must provide a storm shelter designed to national standards and with a capacity equal to at least 75 percent of the mobile home spaces within the park.

15. Licensing. All manufactured or mobile home parks shall obtain an annual license from the governing body. Prior to the issuance or renewal of the license the park must be in compliance with this Unified Development Code and all other codes and ordinances of the city. A license fee in the amount established by the Iola Municipal Code (Section 34-442) shall be paid in full prior to the issuance or renewal of the license.

16. Home spaces and homes within manufactured or mobile home parks. Individual mobile homes within mobile home parks shall comply with the standards in this section.

    a. Minimum size of a home space. Each home space within a park shall be a minimum of 3,000 square feet, and be a minimum of 40 feet in width.

    b. Access. Each space shall have access to a paved interior roadway. In no case shall access to home spaces be provided from abutting property.

    c. Clearance. Each home space shall be located so that at least ten feet of clearance will be maintained between homes and other structures in the park.

    d. Setbacks. Homes shall be located at least 50 feet away from the centerline of interior streets and accessways. Homes shall be setback a minimum of 20 feet from the property line.

e. Skirting. Uniform skirting of each home base shall be required within 30 days of placement of the home. Such skirting shall match the predominant color of the home and be of 26-gauge solid sheet metal, aluminum or other non-corrosive metal or material of equal strength and so constructed and attached to the home so as to deter and prevent entry of rodents and insects.

f. Stands. Each home space shall be provided with a stand consisting of a solid concrete pad not less than four inches thick, and not more or less than the length and width of the mobile home to be placed upon it. This pad shall be so constructed, graded and placed to be durable and adequate for the support of the maximum anticipated load during all seasons.

g. Tie-downs. Each home shall be supported on uniform jacks or locks and tied down as required by the city Code and state law.

h. Outdoor patio. An all-weather hard surfaced outdoor patio area of not less than 150 square feet shall be provided at each home space, conveniently located to the entrance of the home and appropriately related to open areas of the lot and other facilities to provide suitable outdoor living space to supplement the limited interior spaces of a home. This area shall not be used for the parking of vehicles or as a substitute for required parking areas.

i. Canopies and awnings. Canopies and awnings may be attached to any home. If enclosed and used for recreation, living or storage purposes, such use shall be considered as part of the home and a permit issued by the planning director required.

j. Utility hookup. Each space shall have hookup facilities for water, sewer, electricity, telephone and cable TV service. All occupied homes shall have and use sanitary facilities contained wholly within the home.

D. Multi-family. Multi-family development shall be subject to the following design guidelines and standards.

1. Site plan and design review. New or expanding multi-family developments shall receive site plan approval in accordance with the procedures of section 106-49, Site plan applications.

2. Natural features and environment. Each site should be designed to preserve natural features and environmental resources, such as:

a. Floodplains and drainage ways;

b. Bodies of water;

c. Prominent ridges and rock ledges; and,

d. Existing tree cover including tree masses, window rows and significant individual trees.

3. Cut and fill. Excessive cut and fill are unacceptable. The site plan should preserve the natural topography of the site.

4. Storm drainage facilities. Drainage facilities shall be so constructed as to protect those that will reside in the multi-family development, as well as the property owners adjacent to the multi-family development. Such facilities shall be of such capacity to insure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the development and shall comply with all applicable city standards.

5. Building separation. All buildings shall be separated by a minimum distance of 15 feet.

6. Lot coverage. Each site shall be designed to reflect unique site characteristics and strong neighborhood environments without overcrowding the site.

7. Access. Collector, arterial or higher classification streets should be used to access to multi-family residential developments and the use of local streets which causes traffic to travel through low-density single-family neighborhoods should be avoided.

8. Open space. Open space shall be provided to meet active and passive use requirements of the neighborhood. At least ten percent of the total site area shall be set aside as common open space. The common open space area shall be suitable for active or passive recreational use. Common open space areas should be centrally placed within the development. Common open space may include pools, tennis courts and tot lots. Common open space may not be counted toward nor located in required zoning district setbacks.

9. Building clustering. Unusable and unassigned open space surrounding buildings should be reduced by clustering buildings. Buildings should be clustered around a central common area and not have the primary orientation directed toward the parking area.

10. Building orientation.

    a. Individual buildings. Individual buildings should be oriented in a way that establishes neighborhoods and sub-neighborhoods.

    b. Reduction of unusable open space. Unusable open space should be reduced through building orientation, the use of low walls, fencing, landscaping and entry design.

11. Vehicular circulation and parking.

    a. Street layout. The layout of streets should provide for safe operation of vehicles within the neighborhood. Excessively straight and wide streets encourage high speed traffic and should be avoided. Curvilinear designs, reduced street widths and culs-de-sac create stronger neighborhood environments.

    b. Parking area layout. Double loaded parking areas along private streets or drives are generally not acceptable. Parking areas should be clustered and separated from the street.

    c. Parking enclosures. Parking enclosures should be designed and sited so as to complement the primary structures and to provide visual relief from extensive pavement areas.

12. Pedestrian circulation.

    a. Pedestrian linkages. Pedestrian circulation systems (sidewalks, walkways and paths) shall be located and designed to provide physical separation from vehicles along all public and private streets and within any parking area.

       Pedestrian access should be designed to provide reasonable linkages of dwelling units to neighborhood facilities such as recreation, services, mail and parking.

    b. Landscaping details. Pedestrian systems should incorporate landscaping details to increase the visual interest and character of the neighborhood.

13. Landscaping. Landscaping should be designed in sufficient form, quantity and location to reduce, to the greatest extent possible, negative impacts affecting the site and adjacent properties and to increase the sense of neighborhood scale, character and identity. All landscape and buffer areas must conform to the requirements of section 106-97, Landscaping and screening.

14. Architectural design. The architecture of multi-family housing is a key element in determining the character of a neighborhood. The architecture should create a strong feeling of identity through design principles of scale, harmony, rhythm and balance.

    a. Elongated sites with rectangular, double-loaded building footprints should be avoided. These designs typically lack interest and fail to create a strong sense of neighborhood.

b. The architectural design of each unit or building should impart a feeling of neighborhood scale. Units should be designed with vertical and horizontal offsets to break up roof lines, define private outdoor areas, allow greater views and admit light and air to unit interiors. Large, blank wall surfaces should be avoided. Windows and projecting wall surfaces should be used to break up larger wall surfaces and establish visual interest

c. The same level of architectural design and quality of materials should be applied to all sides of the building. The side and rear elevations, garages, carports and all accessory structures should maintain the same level of design, aesthetic quality and architectural compatibility.

d. Screening from the street of all outdoor refuse areas, ground mounted mechanical equipment, utilities and banks of meters shall be provided. The screening of these items is to be architecturally compatible with major building components and should include landscaping.

E. Single-family attached. Single-family attached development shall be subject to the standards of the underlying zoning district, as modified by the following standards.

1. Lot width. Each single-family attached dwelling unit shall be located on an individual lot having a minimum width of 50 feet.

2. Building coverage. Single-family attached dwelling units shall be exempt from the building coverage standards of the underlying zoning district.

3. Setbacks. No interior side setback shall be required on the "attached" side of a lot containing a single-family attached dwelling unit. The interior setback standards of the underlying zoning district shall apply to "end" units in a single-family attached development. End units are those that are attached to other dwelling units only on one side.

Sec. 106-77. - Additional regulations ("conditions") for non-residential uses allowed in agricultural, business and planned districts.

A. Accessory residential. Accessory residential shall be subject to the standards of the underlying zoning district, as modified by the following standards.

1. Residential uses shall be clearly incidental to the principal use.

2. Residential uses shall be located on the second floor or above.

3. There shall be a separate outside entrance for the residential use.

B. Adult entertainment establishment.

1. Separation from other uses. No adult entertainment establishment shall be permitted within 1,250 feet of any residentially zoned lot, religious assembly, school, park or recreation use, or child care center. This separation distance shall be measured as a straight line without regard to intervening properties, from the nearest exterior wall of the adult entertainment establishment to the nearest lot line of the lot that is zoned residential or that contains the religious assembly, school, park or recreation use, or child care center.

2. Separation from other adult entertainment establishments. No adult entertainment establishment shall be allowed to locate or expand within 1,250 feet of any other adult entertainment use.

3. Frontage and access. Adult entertainment establishments shall have at least 100 feet of street frontage on an arterial street. All vehicle access shall be taken from an arterial street.

4. Screening. Appropriate screening shall be provided along all non-street facing lot lines. Such screening shall include landscaping which incorporates a mix of shade trees, ornamental trees, evergreen trees, and shrubs. A berm and a solid or semisolid fence or hedge not more than six

feet high may also be included as part of the screening. All screening shall be maintained in good condition by the owner or owners of the property.

5. Building and parking area setbacks. The minimum setback for the building that the establishment is located and the off-street parking serving the establishment shall be 20 feet from the front property line and all property lines abutting a street right-of-way. The minimum setback for the building that the establishment is located and the off-street parking serving the establishment shall be ten feet for all other property lines.

6. Windows and doors. The building that the adult entertainment is located within shall be designated in such a fashion that all openings, entries and windows prevent views into such establishments from any sidewalk, walkway, street or other public area. Further, no merchandise or pictures or products or entertainment on the premises shall be displayed in window areas or any area where such merchandise or pictures can be viewed from the sidewalk in front of the building. No adult entertainment activity shall take place outside the building.

7. Signs. Adult entertainment establishments shall be limited to one wall-mounted sign no greater than one square foot of sign per linear foot of wall length, not to exceed a total of fifty square feet. Signs must meet all requirements of article IX, Signs.

C. Agriculture, general. General agriculture shall require a minimum site area of three acres.

D. Animal care, general and limited, and kennels. When an animal care or kennel facility abuts a residentially zoned property, no outdoor runs, pens or enclosures shall be allowed. All outdoor animal runs, pens or enclosures shall be located at least 75 feet from lot lines abutting commercially zoned districts. A minimum lot size of 5 acres shall be required for kennels.

E. Charitable institutions and hospitals. Ingress and egress for charitable institutions and hospitals shall be designed so as to minimize traffic congestion.

F. Communication towers. Communication towers shall be subject to the following standards:

1. Principal use. Communication towers shall always be considered a principal use. They may be located on lots occupied by another principal use.

2. Setbacks.

a. The minimum setback between communication towers and all property lines shall be equal to 20 percent of the height of the tower.

b. Communication towers shall be set back a minimum of 50 feet from any existing or planned right-of-way.

c. Communication towers shall be set back a minimum of 100 feet from any lot line abutting a residentially zoned district.

d. Peripheral supports and guy anchors for communication towers may be located within required setbacks, provided that they shall be located entirely within the boundaries of the property that the tower is located and shall be located a minimum of five feet from any lot line, and a minimum of ten feet from any lot line abutting a residentially zoned property.

3. Height. The principal support structure for communication towers shall be permitted to exceed the height limit of the zoning district that it is located within, provided that the setback standards of this section shall apply.

4. Security fences and walls. A fence or wall not less than six feet but not more than eight [feet] in height shall be constructed around each communication tower, around each guy anchor or peripheral support and around any associated accessory building. The fence or wall shall comply with the following standards.

a. Access to the tower shall be through a locked gate in the required fence or wall.

b. If the communications tower is adjacent to a residentially zoned property occupied by a residential dwelling unit, the required fencing shall consist of a masonry wall or solid fence with trees and shrubs planted along the exterior of the fence or wall. At least one tree and one shrub shall be required for each 30 linear feet of fence line.

5. Airport approach paths. Communication towers shall not encroach into or through any established public or private airport approach as established by the Federal Aviation Administration (FAA).

6. Removal of obsolete towers. All obsolete or unused communication towers shall be removed within six months of cessation of use.

7. Electromagnetic radiation. Communication towers shall comply with all applicable Federal Communication Commission (FCC) standards for non-ionizing electromagnetic radiation (NIER).

G. Compost facility. The following standards shall apply to all compost facilities.

1. Screening. Compost facilities shall be subject to the landscape and screening standards of section 106-97, Landscaping and screening, provided that the governing body may require additional landscaping or a greater screen to protect adjacent property from adverse visual and/or other impacts associated with a specific compost facility.

2. Traffic circulation. Ingress and egress for the operation shall be designed so as to minimize traffic congestion. No more than one vehicle entrance shall be allowed for each 660 feet of lot frontage on a public street. There shall be enough room on-site to accommodate peak traffic volume and company vehicles.

3. Storage bins. Storage bins or trailers will be allowed to be stored on-site as an ancillary use, providing they are durable, covered and meet the same setbacks required for the structure on the site. The bins shall be completely screened from view from off-site.

4. Setbacks. Structures shall be set back at least 100 feet from all lot lines and at least 300 feet from all lot lines abutting a residentially zoned property.

5. Hours of operation. Uses shall not operate before sunrise or after sunset if located within 1,000 feet of a residentially zoned district.

6. Paving. All roads, driveways, parking lots and loading/unloading areas shall be graded and paved with an approved concrete or asphalt/concrete surface.

7. Stormwater management. A stormwater management plan may be required at the discretion of the planning director.

8. Litter control. The operation shall be continually attended by the owner/operator on days of operation to maintain the property in a clean, litter-free condition.

9. Hazardous material. Operations shall not involve the on-site holding, storage, or disposal of hazardous substances, except substances used for the operation of the facility such as fuel.

10. Material. No food scraps (except for vegetable scraps) or other vermin-attracting materials shall be processed, stored or disposed of on the site of a compost facility. Only yard/garden wastes are allowed as compost material.

H. Landfills and mining and quarrying. Landfills and mining and quarrying uses shall be subject to the following standards:

1. Minimum site area. In the A-L District, the uses shall require a minimum site area of 35 acres.

2. Entrances. There shall be no more than one entranceway from a public street for each 660 feet of street frontage.

3. Hours of operation. Uses shall not operate before sunrise or after sunset if located within 1,000 feet of a residentially zoned property.

4. Separation from residential. No digging or excavating shall occur within 100 feet of any lot line or within 300 feet of any lot line abutting a residentially zoned property.

5. Paving. All roads, driveways, parking lots and loading and unloading areas within 500 feet of any lot line shall be graded and paved with an approved concrete or asphalt/concrete surface as to limit the nuisance caused by wind-borne dust.

6. Slopes. The slope of material in any excavation shall not exceed the normal angle of repose or 55 degrees, whichever is less.

7. Screening and fences. When any open excavation will have a depth of ten feet or more and create a slope of more than 30 degrees, there shall be erected a fence of not less than six feet in height with suitable gates where necessary, effectively blocking access to the area that such excavation is located. Fences shall be adequate to prevent trespass and shall contain warning signs spaced no more than 100 feet apart to be visible along the entire length of said fences. Landscaping and screening shall be provided around the site in accordance with the standards of section 106-97, Landscaping and screening.

8. Stormwater management. A stormwater management plan shall be required.

9. Site restoration. The following restoration requirements shall apply to all excavation uses, provided that landfills shall, instead be subject to state and federal requirements.

    a. Restoration plan. A detailed restoration plan for the site shall be submitted as part of the special use permit application and must be approved in conjunction with the special use permit. The plan shall include information on the anticipated future use of the restored land, the location of future roads, drives, drainage courses or other improvements contemplated. The plan shall be prepared by a soil or geological engineer.

    b. Bonds. Before issuance of any special use permit, the owner shall execute a bond sufficient to ensure restoration of the site in accordance with the approved restoration plan. Such bonds shall also be approved by the governing body as to form, sufficiency and manner of execution, and shall run for the same term as the term of the special use permit and any renewals.

    c. Water quality. In restoration, no filling operations shall be permitted that will likely result in contamination of ground or surface water, or soils, through seepage of liquid or solid waste or that will likely result in the seepage of gases into surface or sub-surface water or into the atmosphere.

    d. Appearance. The restoration plan shall provide that all areas within any single development be rehabilitated progressively as they are worked out or abandoned. The areas shall be rehabilitated to a condition of being entirely lacking in hazards, and be inconspicuous and blended with the general surrounding ground form so as to appear reasonably natural or they shall be restored pursuant to an approved restoration plan.

    e. Top soil and fills. Where topsoil is removed, sufficient arable soil shall be set aside for reclamation of the premises and shall be re-spread over the premises after the operation. The area shall be brought to final grade by a layer of earth that is either two feet thick or equal to the original thickness, whichever is less, but still capable of supporting vegetation. The area shall be seeded or sodded in accordance with approved city standards. Fill shall be of a suitable material approved by the planning director.

    f. City, county, state and federal standards. All operations shall be licensed if required, have proper permits from the Kansas Department of Natural Resources and shall meet all city, county and Federal Health Department requirements pertaining to facilities, equipment and other features.

I. Salvage yards. The following standards shall apply to salvage yards, scrap and waste material storage yards, auto wrecking and junk yards:

1. Separation from residential. No salvage yard shall be located within 500 feet of a residentially zoned property.

2. Screening and fencing. The operation shall be conducted wholly within a non-combustible building or within an area surrounded on all sides by a fence or wall at least six feet, but not to exceed eight feet in height. The fence or wall shall be of a uniform height, uniform texture and color, and shall be so maintained by the proprietor as to ensure maximum safety to the public, obscure the materials from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in a way that retains all scrap, junk or other materials within the yard. No scrap, junk or other salvaged materials may exceed the height of this enclosing fence or wall. Fences or walls shall not be required in those instances where complete visual screening of the operation is already in place by way of natural or human-made features. Landscaping shall be provided around the site in accordance with the standards of section 106-97, Landscaping and screening.

3. Loading/unloading. No material shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public right-of-way.

J. Service station, automotive and vehicle repair. The following regulations shall apply to all automotive service stations, vehicle repair uses, and other businesses that sell gasoline or diesel fuel and are not a "Truck Stop Service Station":

1. Traffic study. A traffic study shall be required for all automotive service stations that derive access from an arterial street or a collector where the nearest driveway is within 500 feet of an arterial street. The person preparing the report must be a Registered Engineer qualified to do traffic analyses. The cost of the study shall be borne by the applicant. The traffic study shall address potential external and internal concerns. All traffic concerns must be adequately addressed to promote safety and reasonable traffic flow.

2. Screening. Appropriate screening shall be provided along all lot lines abutting a residentially zoned property. Such screening shall include landscaping which incorporates a mix of shade trees, ornamental trees, evergreen trees, and shrubs. A berm and a solid or semisolid fence or hedge not more than six feet high may also be included as part of the screening. All screening shall be maintained in good condition by the owner or owners of the property.

3. Design. The design location, colors and screening of the gas pumps shall be such that they are compatible with the design of the building.

K. Solid waste collection/processing facilities. The following standards shall apply to solid waste collection/processing facilities:

1. Screening. The operation shall be conducted wholly within a non-combustible building or within an area surrounded on all sides by a fence or wall at least six feet in height but not to exceed eight feet in height. The fence or wall shall be of uniform height, uniform texture and color and shall be so maintained by the proprietor as to ensure maximum safety to the public, obscure the materials from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in a way that retains all waste or other materials within the yard. No waste or other materials may exceed the height of this enclosing fence or wall. Fences or walls shall not be required in those instances where complete visual screening of the operation is already in place by way of natural or human-made features. Landscaping shall be provided around the site in accordance with the standards of section 106-97, Landscaping and screening.

2. Traffic circulation. The operation shall provide entrances on arterial or collector streets only with ingress and egress so designed as to minimize traffic congestion. There shall be enough room on-site to accommodate peak traffic volume and company vehicles. A traffic analysis shall be required.

3. Storage bins. Storage bins or trailers will be allowed to be stored on-site as ancillary use, provided they are durable, covered and meet the same setbacks required for the structure on the site. The bins shall be screened from view off-site.

4. Loading/unloading. No solid waste or other materials shall be loaded, unloaded or otherwise placed either temporarily or permanently outside an enclosed building, fence or visually screened area or within the public right-of-way, except the use of storage bins placed on the outside of an enclosed building for recycling. The operation shall be attended on days of operation to maintain the property in a clean, litter-free condition.
5. Separation from residential. No structures shall be located within 500 feet of a residentially zoned property.
6. Hours of operation. Uses shall not operate before sunrise or after sunset if located within 1,000 feet of a residentially zoned property.
7. Paving. All roads, driveways, parking lots and loading/unloading areas shall be graded and paved with an approved concrete or asphalt/concrete surface.
8. Stormwater management. A stormwater management plan may be required at the discretion of the planning director.
9. Other regulations. All operations shall be licensed, if required, have proper permits from the Kansas Department of Natural Resources and shall meet all city, county, state and Federal Health Department requirements pertaining to facilities, equipment and other features.
10. Time limit and renewal of special use permit. The special use permit shall be effective for one year, at that time it may be renewed in accordance with procedures applicable to the original approval. If renewed, a new time limit on the special use permit shall be established at the public hearing. The special use permit shall be revoked if it is determined by the planning director that the use is creating a nuisance for nearby residents or businesses or is failing to comply with the conditions imposed on the operation.

L. Transitional living centers. Transitional living centers shall be subject to the following standards.

1. Size. A maximum of ten persons, including staff, shall reside in the center at one time.
2. Separation. No transitional living center shall be located within 1,500 feet of any other transitional living center or substance abuse treatment facility, nor shall a transitional living center be located within 300 feet of any religious assembly, school, park, licensed child care facility, or residentially zoned property.

M. Vehicle/equipment sales, vehicle/equipment storage yard and vehicle repair. All vehicle and equipment storage areas and parking areas must be hard-surfaced (with asphalt or concrete), dust-free and landscaped in accordance with section 106-97, Landscaping and screening.

Sec. 106-78. - Additional regulations ("conditions") for uses allowed in agricultural, residential, business and planned districts.

A. Cemeteries. The following standards shall apply to cemeteries, crematories and mausoleums:

1. Entrances. All ingress and egress areas shall be designed to minimize traffic congestion.
2. Screening. Appropriate screening shall be provided along all lot lines abutting a residentially zoned property. Such screening shall include landscaping which incorporates a mix of shade trees, ornamental trees, evergreen trees, and shrubs. A berm and a solid or semisolid fence or hedge not more than six feet high may also be included as part of the screening. All screening shall be maintained in good condition by the owner or owners of the property.

B. Convalescent care. A minimum of 70 square feet of usable outdoor open space shall be provided for each patient bed. This required open space may be designed to provide outdoor space for recreational activities or landscaped outdoor sitting areas.

C. Day care (commercial).

1. Day care, commercial:

a. State licensing. Commercial day care uses shall be licensed by the State of Kansas and shall meet all city, county and state health department requirements pertaining to facilities, equipment and other features.

b. Occupational license. An occupational license shall be required prior to the establishment of a commercial day care.

c. Vehicle drop-off area. A loading zone capable of holding one car per ten licensed occupants shall be provided in addition to the required parking area, in order to provide for easy pickup and discharge of passengers.

D. Golf courses.

1. Location of restaurants. Facilities such as restaurants and bars shall be allowed when an integral part of a principal clubhouse building, provided that restaurant signage not exceed six feet in height and is not illuminated.

2. Location of recreation facilities. Buildings, swimming pools, tennis courts and similar recreational facilities shall be set back at least 25 feet from any property line abutting a residentially zoned property.

E. Group home, general. Group homes shall be subject to the following standards when located in an R-3 district.

1. Spacing. A group home to be located within an R-3 district shall not be located within 1,320 feet of another group home, measured as the shortest distance between any portion of the structure where persons reside.

Secs. 106-79—106-84. - Reserved.

ARTICLE VII. - ACCESSORY USES AND STRUCTURES

Sec. 106-85. - Residential accessory uses and structures.

Permitted residential uses and approved special uses shall be deemed to include accessory uses, activities, and structures that are necessarily and customarily associated with, and appropriate, incidental and subordinate to the principal residential uses and structures allowed in zoning districts. Residential accessory uses, activities, and structures shall be subject to the same regulations as apply to principal uses and structures in each district, unless otherwise stated in this Unified Development Code. Residential accessory uses and structures shall include, but not be limited to, the following:

A. Fences and walls subject to section 106-87.B., Fences in residential districts;

B. Garages, carports and off-street parking and loading areas;

C. Gardens;

D. Gates and guard houses;

E. Guest house or guest rooms, neither may include kitchen facilities, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units;

F. Home occupations subject to section 106-87.D., Home occupations;

G. Playhouses, patios, cabanas, porches, gazebos and incidental household storage buildings;

H. Pools;

I. Radio and television receiving antennas, non-commercial broadcast radio towers, and support structures, subject to section 106-96.F.2., Exemptions from height standards;

J. Recreational and play facilities for residents;

K. Recycling enclosures;

L. Storage of recreational equipment such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, provided that storage shall be limited to private garages, side or rear yards of private homes and in the driveways of private homes. All parking areas for recreational vehicles or equipment shall be asphalt or concrete. Stored vehicles or equipment shall not protrude onto public property or obstruct any sidewalks. Recreational vehicles or equipment shall not be stored within required off-street parking spaces. No recreational vehicle shall be used for living or sleeping purposes while on the premises for a period exceeding 14 days in a calendar year.

M. Storm shelters and fallout shelters; and,

N. Other necessary and customary uses and structures determined by the planning director to be appropriate, incidental and subordinate to the principal use or structure on the lot, subject to compliance with any development and performance standards imposed by the planning director to ensure land use compatibility.

Sec. 106-86. - Nonresidential accessory uses and structures.

Permitted nonresidential uses and approved special uses shall be deemed to include accessory uses, activities and structures that are necessarily and customarily associated with, and appropriate, incidental and subordinate to the principal nonresidential uses and structures allowed in zoning districts. Nonresidential accessory uses, activities and structures shall be subject to the same regulations as apply to principal uses and structures in each district, unless otherwise stated in this Unified Development Code. Nonresidential accessory uses and structures shall include, but not be limited to, the following:

A. Cafeterias, dining halls and similar food services when operated primarily for the convenience of employees, residents, clients or visitors to the principal use;

B. Dwelling units, other than mobile homes, when used or intended to be used for security or maintenance personnel;

C. Fences and walls, subject to section 106-87.C., Fences in nonresidential districts;

D. Gates and guard houses;

E. Offices for allowed businesses and industrial uses when the office is located on the same site as the principal use;

F. Parking garages and off-street parking areas;

G. Radio and television receiving antennas, non-commercial broadcast radio towers, and support structures subject to section 106-96.F.2., Exemptions from height standards;

H. Recycling enclosures;

I. Restaurants, newsstands, gift shops, swimming pools, tennis courts, clubs and lounges when in a permitted hotel, motel or office building;

J. Sales of goods produced as part of allowed industrial activities when on the same site as the principal industrial use;

K. The storage of merchandise when located within the same building as the principal business; and,

L. Other necessary and customary uses and structures determined by the planning director to be appropriate, incidental and subordinate to the principal use or structure on the lot, subject to compliance with any development and performance standards imposed by the planning director to ensure land use compatibility.

Sec. 106-87. - Accessory use and structure development and operational standards.

The following standards shall apply to all accessory uses and structures unless otherwise specifically provided:

A. All accessory uses and structures.

1. Yard location. All accessory structures, unless otherwise specifically provided, shall be located in the rear yard. A fence or wall may be located in the front yard. A fence, wall or detached garage may be located in the side yard.

2. Front setback. No accessory structure, other than a fence or wall, shall be located within a required front setback.

3. Rear setback. Accessory structures shall not be required to comply with the rear setback standard that applies to principal uses. Accessory structures, other than fences or walls, shall, however, be setback a minimum of five feet from rear lot lines and side lot lines.

4. Side setback. No accessory structure, other than a fence or wall, shall be located within a required side setback.

5. Setbacks from easements. No accessory structure-shall be located within any platted or recorded easement, or over any known utility. The property owner assumes all liability for the placement of any structure or building in an easement or over a known utility.

6. Height. No accessory structure shall exceed the maximum height standards of the underlying district unless specifically authorized.

7. Building separation. Unless attached to the principal structure, accessory structures shall be located at least five feet from any other structure.

8. Building coverage or building size. In residentially zoned districts the maximum combined size for all accessory structures on a lot shall be 900 square feet total. The maximum wall height for an accessory structure in a residentially zoned district shall be nine feet.

9. Number of buildings. A maximum of two detached accessory buildings shall be permitted per lot in residentially zoned district. This calculation shall include buildings such as, garages, carports, pool houses, and tool sheds, but shall not include buildings like gazebos and children's play structures.

10. Permits required. No accessory structures or buildings shall be erected, placed or constructed until an accessory structure permit application has been reviewed and approved by the planning director. Such application shall include: (1) the type of structure or building to be erected, placed or constructed; (2) a plot plan drawn to scale.

    The plot plan shall be drawn to scale and include: (1) lot lines with dimensions; (2) location of easements, rights of way, and utilities; (3) existing structures, buildings, fences and walls with dimensions; (4) the location of the proposed accessory structure showing dimensions and set-backs.

B. Fences in residential districts. Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to all fences in residential zoning districts.

1. Fences in front yards. Fences located in a front yard shall not exceed four feet in height and shall have a maximum density of 50 percent. Examples include picket, wrought iron, and chain link fences.

2. Maximum height. Fences located in side yards and rear yards shall not exceed six feet in height. Fencing around public or parochial school grounds, tennis courts and other recreational amenities shall be exempt from a maximum height limit.

3. Corner visibility. On corner lots, fences shall not impede vision between a height of two feet and eight feet within the triangular area formed by imaginary lines that begin at the corner, follow street pavement edges for 25 feet and are then connected by a line crossing the yard.

4. Setbacks. There shall be no minimum setbacks for fences. Fences shall not be erected in recorded easements, public rights of way, or over known utilities.

5. Construction and materials. Fences shall be constructed in a workmanship-like manner so that the horizontal and vertical support posts are inside the fenced area or otherwise hidden from view when outside the fenced area. This requirement shall not apply to fences that abut nonresidential zoning districts or in situations where the owner of the lot adjacent to the fence agrees to a plan for placing support posts on the "outside" of the fence. All exposed steel except galvanized metal shall have a color finish coat applied to them and be preserved against rust and corrosion.

6. Swimming pools. Fences enclosing swimming pools are required and shall meet the requirements of this section, as well as all other applicable regulations.

7. Design and maintenance. All fences shall be maintained in their original upright condition. Fences designed to be painted or have other surface finishes shall be maintained in their original condition as designed. Missing boards, pickets or posts shall be replaced in a timely manner with material of the same type and quality.

8. Prohibited. The following fences shall be prohibited in all residential zoning districts:

   a. Fences constructed in whole or in part of barbed wire;

   b. Fences constructed of more than two different types of fencing material;

   c. Fences constructed in whole or in part of cloth, canvas or other like material;

   d. Fences used as signs;

   e. Fences constructed solely of a single wire or of two wires between posts or supports;

   f. Welded wire fences;

   g. Electrified fences; and

   h. Fences constructed of agricultural type fencing (i.e. cattle wire, welded wire, chicken wire).

9. Permits required. No fence shall be erected, modified or changed in any manner until a fence permit application has been reviewed and approved by the planning director. Such application shall include: (1) the type of fence to be erected, modified or changed; (2) the material to be used; (3) the height of the fence; (4) a plot plan drawn to scale. The plot plan shall be drawn to scale and include: (1) lot lines with dimensions; (2) locations of easements, public rights of way, and utilities; (3) existing structures, buildings and fences with dimensions; (4) location of gates or other openings; (5) height of the fence.

C. Fences in nonresidential districts. Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of all fences in nonresidential zoning districts.

1. Maximum height. Fences shall not exceed eight feet in height. Fencing around public or parochial school grounds, tennis courts and other recreational amenities shall be exempt from a maximum height limit.

2. Corner visibility. On corner lots, fences shall not impede vision between a height of two feet and eight feet within the triangular area formed by imaginary lines that begin at the corner, follow street pavement edges for 25 feet and are then connected by a line crossing the lot.

3. Setbacks. There shall be no minimum setbacks. Fences shall not be erected in recorded easements, public rights of way, or over known utilities.

4. Construction and materials. Fences shall be constructed in a workmanship-like manner so that the horizontal and vertical support posts are inside the fenced area or otherwise hidden from view when outside the fenced area. This requirement shall not apply to fences

that abut nonresidential zoning districts or in situations where the owner of the lot adjacent to the fence agrees to a plan for placing support posts on the "outside" of the fence. All exposed steel except galvanized metal shall have a color finish coat applied to them and be preserved against rust and corrosion.

5. Swimming pools. Fences enclosing swimming pools are required and shall meet the requirements of this section, as well as all other applicable regulations.

6. Design and maintenance. All fences shall be maintained in their original upright condition. Fences designed to be painted or have other surface finishes shall be maintained in their original condition as designed. Missing boards, pickets or posts shall be replaced in a timely manner with material of the same type and quality.

7. Prohibited. The following fences shall be prohibited in all nonresidential zoning districts:

   a. Fences constructed in whole or in part of barbed wire unless the barbed wire is at least six feet above ground and at least one foot inside the property line of a lot located within a C-2 or 1 Zoning District;

   b. Fences constructed of more than two different types of fencing material;

   c. Fences constructed in whole or in part of cloth, canvas or other like material;

   d. Fences used as signs;

   e. Fences constructed solely of a single wire or of two wires between posts or supports; and

   f. Electrical fences.

8. Permits required. No fence shall be erected, modified or changed in any manner until a fence permit application has been reviewed and approved by the planning director. Such application shall include: (1) the type of fence to be erected, modified or changed; (2) the material to be used; (3) the height of the fence; (4) a plot plan drawn to scale. The plot plan shall be drawn to scale and include: (1) lot lines with dimensions; (2) locations of easements, public rights of way, and utilities; (3) existing structures, buildings and fences with dimensions; (4) location of gates or other openings; (5) height of the fence.

D. Home occupations. Home occupations shall be allowed as an accessory use in any residential zoning district, subject to the standards of this section.

1. Location and size. Home occupations shall be operated entirely within the principal residential building and shall not occupy more than 25 percent of the total floor area of the principal residential building.

2. Outdoor storage and exterior appearance. There shall be no visible exterior evidence of the conduct of a home occupation. Specifically, no outdoor storage of materials or equipment shall be permitted in conjunction with a home occupation.

3. Employees. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as their residence, provided that in the case of a limited day care facility, one assistant not residing in the home shall be allowed.

4. Operational standards. Home occupations shall be subject to section 106-98, Operational performance standards.

5. Parking. Parking to serve a home occupation shall be provided off-street, and no such parking shall be permitted within a residential setback, other than in a driveway. In no event shall required setbacks be used for off-street parking to serve a home occupation.

6. On-site product sales. No products shall be sold directly to customers from the premises.

7. Prohibited home occupations. In no event shall any of the following uses or activities be conducted as a home occupation. (This list is for emphasis only and does not constitute and exhaustive list of prohibited activities):
   a. Funeral services;
   b. Hotel/motel;
   c. Medical offices;
   d. Meat or animal processing;
   e. Retail sales that involves direct product sales to customers from the premises;
   f. Tourist homes; and
   g. Vehicle or equipment sales, rental or repair.

(Ord. No. 3387, § 1, 8-10-10, eff. 1-1-11)

Secs. 106-88—106-93. - Reserved.

ARTICLE VIII. - GENERAL DEVELOPMENT STANDARDS

Sec. 106-94. - Off-street parking and loading.

A. Applicability. Off-street parking and loading shall be provided in accordance with the regulations of this section for all new development and for any existing development that is altered in a way that enlarges or increases capacity by adding or creating dwelling units, guest rooms, floor area or seats. Off-street parking and loading shall also be provided for any change of use or manner of operation that would, based on section 106-94.C., Off-street parking Schedule A, or section 106-94.O., Off-street loading, result in a requirement for more parking or loading spaces than the existing use.

B. Exemptions. There shall be no minimum off-street parking requirements for uses located in the C-1 Central Business District.

C. Off-street parking Schedule A. Off-street parking spaces shall be provided in accordance with the following off-street parking Schedule A. In some cases, the applicable off-street parking space requirement in Schedule A refers to Schedule B or Schedule C. These schedules can be found following Schedule A.

Schedule A	
Use Type	Number of Spaces Required
RESIDENTIAL USES	
Assisted Living	1 per dwelling unit
Duplex	2 exterior per dwelling unit
Group Home	1 per employee, plus 1 per 4 residents

Group Residential	1 per 2 residents
Manufactured Housing Unit	2 exterior per dwelling unit
Mobile Home	2 exterior per dwelling unit
Multi-Family	1 per efficiency unit, plus 1.5 per one-bedroom unit, plus 2 spaces per two-bedroom and larger units. All required spaces shall be exterior unless approved by plan
Single-Family, Attached	1 per efficiency unit, plus 1.5 per one bedroom unit, plus 2 spaces per two-bedroom and larger units. All required spaces shall be exterior unless approved by plan
Single-Family, Detached	2 exterior per dwelling unit
PUBLIC, QUASI-PUBLIC AND COMMERCIAL USE	
Adult Entertainment Establishment	1 per 75 square feet
Animal Care, General	1 per 400 square feet
Animal Care, Limited	1 per 300 square feet
Auditorium or Stadium	1 per 4 seats
Bank or Financial Institution	1 per 200 square feet plus stacking spaces per section 106-94.N.1 as may be applicable
Bar or Tavern	1 per 75 square feet
Car Wash	Stacking spaces per section 106-94.N.1
Club, Private	1 per 4 persons capacity
Construction Sales and Service	Spaces to be provided pursuant to Schedule B
Convalescent Care	1 per 4 beds patient capacity, plus 1 per 2 employees

Cultural Service	1 per 500 square feet
Day Care (Limited, Commercial)	1 per employee, plus 1 per 10 pupils at maximum occupancy
Funeral Home	1 per 4-person capacity
Golf Course	4 per hole, plus spaces required for restaurant and bar area
Government Service	1 per 300 square feet
Health Club	1 per 200 square feet
Hospital	1 per 4 beds patient capacity, plus 1 per 2 employees
Hotel or Motel	1 per guest room, plus 1 per 10 guest rooms, plus required spaces for restaurant, assembly and other uses within hotel/motel.
Library	1 per 500 square feet
Marina	1 per boat slip
Medical Service	1 per 200 square feet
Military Service	Spaces to be provided pursuant to Schedule C
Mobile Home Sales	Spaces to be provided pursuant to Schedule B
Office, General	1 per 200 square feet
Post Office	1 per 200 square feet
Recreational Vehicle Park	1 per camping space
Religious Assembly	1 per 4 seats
Repair Service	1 per 400 square feet
Research Service	1 per 300 square feet
Restaurant, Fast Food	1 per 75 square ft. of customer service or dining area, 1 per 200 square ft. if no customer service or dining area, plus stacking spaces

	per section 106-94.N.1 as may be applicable
Restaurant, General	1 per 150 square feet for first 2,500 square ft., plus 1 per 100 square feet over 2,500 square feet
Retail Sales and Service	1—25,000 square feet = 1 per 200 square feet
	25,001—40,000 sq. ft. = 1 per 250 square feet
	40,001—60,000 sq. ft. = 1 per 225 square feet
	60,001 + square feet = 1 per 200 square feet
School, Elementary, Middle or High	Spaces to be provided pursuant to Schedule C
Service Stations	1 per service bay, plus 0.5 per pump
Shooting Range	Spaces to be provided pursuant to Schedule C
Studio, Television or Film	1 per 200 square feet
Vehicle and Equipment Sales	Spaces to be provided pursuant to Schedule B
Vehicle/Equipment Storage Yard	Spaces to be provided pursuant to Schedule B
Vehicle Repair	5 per service bay
Vocational School	1 per 3 students, plus 0.5 per faculty member at maximum occupancy
Warehouse, Residential Storage	1 per 10 storage bays or 1 per 500 square feet, whichever produces more spaces
MANUFACTURING, INDUSTRY AND EXTRACTIVE USE	
Asphalt Concrete Plant	1 per employee
Basic Industry	Spaces to be provided pursuant to Schedule B

Compost Facility	Spaces to be provided pursuant to Schedule B
Food/Bakery Product Manufacturing	1 per 1,000 square feet or 1 per employee, whichever results in more spaces
Freight Terminal	Spaces to be provided pursuant to Schedule B
Gas and Fuel Sales	Spaces to be provided pursuant to Schedule B
Gas and Fuel Storage	1 per employee
Hazardous Operation	Spaces to be provided pursuant to Schedule B
Laundry Service	1 per 500 square feet or 1 per employee, whichever results in more spaces
Manufacturing and Assembly	Spaces to be provided pursuant to Schedule B
Mining or Quarrying	1 per employee
Oil or Gas Drilling	1 per employee
Oil Refining	1 per employee
Printing and Publishing	1 per 1,000 square feet or 1 per employee
Salvage Yard	Spaces to be provided pursuant to Schedule B
Solid Waste Collection/Processing	1 per 1,000 square feet
Stockyard	1 per employee
Utility, Major	Spaces to be provided pursuant to Schedule B
Utility, Minor	None
Warehousing and Wholesale	Spaces to be provided pursuant to Schedule B
Welding or Machine Shop	1 per 1,000 square feet or 1 per employee, whichever results in more

	spaces
AGRICULTURAL USES	
Agricultural Processing	Spaces to be provided pursuant to Schedule B
Agricultural Sales and Service	Spaces to be provided pursuant to Schedule B
Agriculture, General	None

D. Off-street parking Schedule B. Uses required to provide off-street parking spaces in accordance with Schedule B shall utilize the following table. Parking is required for each of the component activities located on the lot.

Schedule B	
Activity	Number of Spaces Required
Office or administrative area	1 per 300 square feet
Indoor sales, service or display area	1 per 500 square feet
Outdoor sales, service or display area (3,000 square feet in area or less)	1 per 750 square feet
Outdoor sales, service or display area (over 3,000 square feet in area):	
Motor Vehicles and Heavy Equipment Sales/Storage	1 per 2,000 square feet
Other Sales/Service/Display	1 per 1,000 square feet
Indoor storage, warehousing, equipment servicing or manufacturing area	1 per 500 square feet

E. Schedule C. Uses required to provide off-street parking spaces in accordance with Schedule C; have widely varying parking demand characteristics, making it impossible to specify a single off-street parking standard. The minimum off-street parking standard for such uses shall be determined by a

parking study or the planning director may approve a minimum standard proposed by the developer/user provided justification for proposing such a standard is included.

F. Computing off-street parking and loading requirements.

1. Multiple uses. Except as otherwise specifically provided, lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses.

2. Fractions. When measurements of the number of required spaces result in fractions, the required parking spaces shall be rounded up to the next whole number.

3. Area. Unless otherwise noted in the provisions, all square footage-based parking and loading standards shall be computed on the basis of gross floor area.

4. Employees, students and occupant-based standards. For the purpose of computing parking requirements based on the number of employees, students, residents or occupants, calculations shall be based on the largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated capacity, that is applicable and that results in the greater number of spaces.

5. Unlisted uses. Upon receiving a development application for a use not specifically listed in an off-street parking schedule, the planning director shall apply the off-street parking standard specified for the listed use that is deemed most similar to the use proposed in the application or require a parking study in accordance with Schedule C.

G. Off-street parking for persons with disabilities. Off-street parking facilities shall be designed and constructed in accordance with all requirements of the American with Disabilities Act and the Uniform Federal Accessibility Standards.

H. Location and setbacks of off-street parking spaces.

1. On-site. Except as otherwise specifically provided, required off-street parking spaces shall be located on the same lot as the principal use.

2. Residential districts. In residential districts, there shall be no parking or paving within the required front yard, except as permitted in customary driveways.

3. Nonresidential districts. In commercial and industrial zoning districts, off-street parking spaces shall be setback a minimum of ten feet from public street right-of-way and lot lines that abut residentially zoned properties.

I. Parking in excess of minimum standards. Off-street parking spaces provided in excess of minimum standards shall comply with all standards of this section.

J. Off-street parking in residential districts.

1. The paved area of driveways serving single-family or duplex uses shall not exceed 35 feet in width.

2. On-street parking of vehicles with a gross vehicle weight greater than one ton or containing more than two axles shall be prohibited in residential districts. This provision shall not prohibit temporary parking of vehicles making pickups or deliveries.

K. Use of off-street parking spaces. Required off-street parking areas shall be used solely for the parking of licensed motor vehicles in operating condition and shall not be used for the storage of boats, motor homes, campers, mobile homes or materials.

L. Shared and off-site parking. Required off-street parking spaces shall be located on the same lot as the use it is intended to serve, provided that the planning director shall be authorized to allow all or a portion of required off-street parking spaces to be fulfilled through shared or off-site parking provided the shared or off-site parking complies with the following standards.

1. Ineligible activities. Off-site parking shall not be used to satisfy the off-street parking standards for residential uses, bars, convenience stores, or convenience-oriented uses. Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking facility.
2. Location. No off-site parking space shall be located more than 500 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. Off-site parking spaces shall not be separated from the use by a street right-of-way with a width of more than 80 feet unless a grade-separated pedestrian walkway is provided.
3. Zoning classification. Off-site parking areas shall require the same or a more intensive zoning classification than that required for the use served.
4. Peak occupancy. For shared parking, the uses to share the space shall not have the same peak occupancy time period.
5. Agreement for share or off-site parking. In the event that a parking area is not under the same ownership as the principal use served, a written agreement shall be required. An attested copy of the agreement between the owners of record shall be submitted to the planning director. Such agreement shall take place before issuance of a building permit for any use to be served by the off-site parking area.

M. Off-street parking and loading area design standards.

1. Surfacing. All off-street parking and loading areas shall be graded and paved in accordance with city standards.
2. Lighting. Sufficient lighting shall be provided for any off-street parking areas with five or more vehicle spaces that are used after dark. Off-street parking areas in I Industrial Districts shall be exempt from the minimum lighting standards of this subsection. Parking lot lighting shall be subject to the section 106-100, Outdoor lighting standards.
3. Drainage. All off-street parking and loading areas shall be designed to not increase the rate of stormwater runoff onto adjoining properties or streets. Drainage plans for off-street parking and loading areas shall be reviewed by the city.
4. Curbing. The perimeter of all off-street parking and loading areas and their access drives shall be curbed, with the exception of driveways for single-family and duplex residences. Landscaped islands and other interior parking features shall also be protected by curbs.
5. Striping. Off-street parking areas containing five or more spaces shall be delineated by pavement striping.
6. Parking space dimensions. Required off-street parking spaces shall be designed in accordance with the minimum standards shown below in the parking area design table. In the event that proposed parking angles are not shown in the table, required parking shape dimensions shall be interpolated from the table below:

Parking Area Design Table	
Parking	Dimensions (Feet)
90 Angle Parking:	
Stall Width (A)	9
Stall Length (B)	18

Aisle Width (C)	26
45 Angle Parking:	
Stall Width (A)	9
Stall Length (B)	18
Aisle Width (C)	12
Curb Length (D)	12.7
Stall Depth (E)	17.5

7. Loading space dimensions. Off-street loading spaces shall be at least 14 feet by 50 feet in size, with a minimum 18-foot height clearance.
8. Timing of construction. Parking and loading spaces, driving aisles and accessways must be constructed before issuance of occupancy certificates.

N. Stacking spaces for drive-throughs. In addition to meeting the off-street parking requirements of this section, drive-through facilities shall comply with the following minimum stacking space standards:

1. Stacking space schedule. The minimum number of stacking spaces required shall be as follows:

Use Type	Minimum Spaces	Measured From
Bank teller lane	4	Teller or Window
Automated teller machine	3	Teller
Restaurant drive-through	8	Order Box
Car wash stall, automatic	6	Entrance
Car wash stall, self-service	3	Entrance
Other	To be determined by traffic study	
Gas Pump Island	Thirty (30) feet from each end of pump island	

2. Design and layout. Stacking spaces shall be subject to the following design and layout standards.
   a. Stacking shapes shall be a minimum of eight feet by 20 feet in size;
   b. Stacking spaces shall comply with the parking setback standards of section 106-94.H., Location and setbacks of off-street parking spaces;
   c. Stacking spaces shall be designed so as not to impede on- and off- site traffic movements or movements into or out of parking spaces; and,
   d. Stacking spaces shall be separated from other internal driveways with raised medians, as deemed necessary by the planning director for traffic movement or safety.

O. Off-street loading. Off-street loading spaces shall be provided in accordance with the following minimum standards:

Floor Area	Minimum Off-Street Loading Requirement
3,000 to 25,000 sq. ft.	1
25,001 to 100,000 sq. ft.	2
100,001 to 250,000 sq. ft.	3
250,001 to 500,000 sq. ft.	5
500,001 to 750,000 sq. ft.	7
750,001 to 1,000,000 sq. ft.	9
1,000,001 + sq. ft.	10 + one per each 250,000 sq. ft. above 1,000,000

P. Off-street parking and loading plans. Plans showing the layout and design of all required off-street parking and loading areas shall be submitted to the city and approved before issuance of a building permit. All required off-street parking spaces shall be clearly marked on the plan.

Sec. 106-95. - Driveways and roadway access.

The following standards shall apply to all driveways providing access to multi-family or nonresidential uses.

A. General standards.
   1. Off-street parking spaces shall be arranged so that no vehicle will back directly onto a street. All private parking areas and circulation drives shall be located off of the street right-of-way.
   2. Access to property shall be allowed only by way of driveways, and no other portion of the lot frontage shall be used for ingress or egress.

3. Any driveway design must allow an entering vehicle turning speed of 15 miles per hour to help reduce interference with through street traffic. Radii of driveway shall be sufficient to achieve this standard for the types of vehicles that the driveway is intended to serve.
4. There must be sufficient on-site vehicle storage to accommodate queued vehicles waiting to park or exit, without interfering with street traffic.
5. Provisions for circulations between adjacent parcels should be provided through coordinated or joint parking systems.
6. Driveway placement should be such that loading and unloading activities will in no way hinder vehicle ingress or egress.
7. Driveway design must be such that vehicles entering the driveway from the street will not encroach upon the exit lane of a two-way driveway. Also, a right-turning exiting vehicle will be able to use only the first through-traffic lane available without encroaching into the adjacent through-lane.

B. Right turn lanes and tapers. Right turn lanes and taper shall be required when:

1. Expected right-turn ingress movements meet or exceed 50 vehicles per hour during a typical weekday peak traffic period.
2. Driveway volumes are expected to meet or exceed 1,000 vehicles per day calculated using the Institute of Transportation Engineers site generated traffic standards for closest matching land use category as set forth in the most recent edition of the ITE Trip Generation Manual.
3. The planning director can document through traffic analysis that such treatment is necessary to avoid congestion and/or unsafe conditions on the public arterial.

C. Driveway grade. The grade of a two-way, one-way or divided driveway shall not exceed two percent for a minimum distance of 25 feet from the edge of the pavement.

D. Sight distance. Direct-access driveways shall be located to allow the following minimum sight distance:

Design Speed of Street (MPH)	Minimum Sight Distance (Feet)
30	200
35	225
40	275
45	325
50	350

E. Driveway spacing.

1. Arterial streets. Direct access to an arterial street shall be permitted only when the subject property has no other reasonable access to the street system and only if the governing body with the recommendation of the planning director determines that the proposed

access point onto the arterial street can be accommodated safely. When direct access to an arterial street is approved, the following standards shall apply.

a. Spacing from signalized intersections. All driveways providing access to arterial streets shall be constructed so that the point of tangency of the curb return radius closest to a signalized or stop sign-controlled intersection is at least 250 feet from the perpendicular curb face of the intersecting street. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, the governing body with the recommendation of the planning director may reduce the spacing so long as the reduction does not result in an unsafe traffic condition.

b. Spacing from other (nonsignalized) access points. All driveways providing access to Arterial streets shall be constructed so that the point of tangency of the curb return radius closest to all nonsignalized street or driveway intersections is at least 200 feet from the perpendicular curb face of the intersecting street or driveway. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, the governing body may reduce the spacing so long as the reduction does not result in an unsafe traffic condition.

2. Waivers. Waivers for these access standards may be approved by the governing body with the recommendation of the planning director if he determines that the requested waiver will not create a serious detriment to the safety or operation of traffic on the street or roadway. The governing body with the recommendation of the planning director may require that the applicant for a waiver submit a traffic analysis if it is determined that such an analysis is necessary in order to render a competent decision on the requested waiver.

F. Driveways per lot.

1. Unless otherwise specifically restricted, one driveway opening shall be allowed per 200 feet of continuous street frontage. At least one driveway shall be permitted for any one lot.

2. Lots with 200 feet of frontage or less may apply for a secondary driveway if shared with an adjoining lot, provided that the required minimum spacing is maintained. In such cases, only one shared driveway will be permitted.

G. Driveway width. Except for dual driveways approved by the governing body, the width of the driveway throat shall not exceed 35 feet.

H. Right-of-way work permit. No construction, grading, excavation, repair or reconstruction of any street, curb or gutter; or any sidewalk or driveway between the street and property line shall be commenced without first obtaining a right-of-way work permit from the planning director.

Sec. 106-96. - Zoning district property development standards and measurements and computations.

The zoning district standards of article V establish many property development standards that apply within individual zoning districts. The rules governing exemptions, computations and measurements related to zoning district property development standards are established in this section.

A. Summary of residential property development standards. The following residential property development standards table provides a summary of the property development standards that apply within residential zoning districts. In the event of conflict between the standards of this table and the standards listed within the text of article V, the standards listed in article V shall control.

Residential Property Development Standards Table				
Development Standards	A-L	R-1	R-2	R-3

Minimum Lot Size:				
Single-Family Detached	3 acres	7,500 sq. ft.	5,000 sq. ft.	5,000 sq. ft.
Single-Family Attached (square feet per dwelling unit)	NA	NA	3,000 sq. ft./unit	3,000 sq. ft.
Duplex	NA	NA	3,000 sq. ft./unit	2,500 sq. ft./unit
Multi-family	NA	NA	NA	1,500 sq. ft./unit (min 6,000)
Other Uses	NA	NA	7,500 sq. ft.	7,500 sq. ft.
Minimum Lot Width	200 ft.	70 ft.	50 ft.	50 ft.
Minimum Front Setback	25 ft.	25 ft.	25 ft.	25 ft.
Minimum Side Setback	15 ft.	5 ft.	5 ft.	5 ft.
Minimum Rear Setback	20 ft.	20 ft.	20 ft.	20 ft.
Maximum Building Coverage (percent of lot area)	25%	35%	35%	40%
Maximum Height	35 ft.	35 ft.	35 ft.	45 ft.

B. Summary of nonresidential property development standards. The following nonresidential property development standards table provides a summary of the property development standards that apply within residential zoning districts. In the event of conflict between the standards of this table and the standards listed within the text of article V, the standards listed in article V shall control.

Nonresidential Property Development Standards				
Development Standards	C-0	C-1	C-2	I
Minimum Lot Size (square feet)	6,000	None	None	10,000

Minimum Lot Width (feet)	50	None	None	100
Minimum Front Setback (feet)	25	0	25	25
Minimum Side Setback (feet)	5—15[1]	0	5—15[1]	15
Minimum Rear Setback (feet)	20	0	20	20
Maximum Building Coverage (% of lot area)	65	100	75	85
Maximum Height (feet)	45	45	45	45—75[2]

Notes:

[1] The minimum side setback shall be 15 feet if abutting a residentially zoned property.

[2] The maximum height may be increased to 75 feet if the structure is more than 150 feet from a residential district.

C. Lot size.

1. Reduction of public purpose. When an existing lot is reduced because of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 75 percent of the required minimum lot size for the district that it is located, then that remaining lot shall be deemed to comply with the minimum lot size standards of this Unified Development Code.

2. Utilities. Utilities (major or minor) using land or an unoccupied building requiring less than 1,000 square feet of site area are exempt from the minimum lot size standards of all zoning districts.

3. Single-family dwelling exemptions. The minimum lot size standards of this Unified Development Code shall not be interpreted as prohibiting the construction of a single-family dwelling unit, in accordance with all other applicable regulations, on a lot that was legally platted or recorded before the adoption of this Unified Development Code.

D. Residential densities. The zoning district regulations of this Unified Development Code express maximum residential densities in terms of lot area requirements per dwelling unit. The maximum number of dwelling units allowed on a lot shall be determined by dividing the subject lot's total lot area by the applicable lot area (per dwelling unit) requirement of the district. The number of dwelling units permitted in a mixed-use building (one containing residential and nonresidential uses) shall not be affected by virtue of the building's mixed-use status. As with non-mixed-use projects, the maximum number of dwelling units allowed shall be calculated by dividing the subject lot's total lot area by the applicable lot area requirement of the district.

E. Setbacks.

1. Features allowed within setbacks. The following features may be located within setbacks:

a. Trees, shrubbery or other landscape features;

b. Fences and walls, subject to section 106-87, Accessory use and structure development and operational standards;

c. Driveways and sidewalks;

d. Signs, where permitted;

e. Steps to the principal entrance, walks and balustrades;

f. Bay windows, architectural features, cantilevered floors, chimneys and other ornamental features of buildings that do not project more than two feet into the required setbacks;

g. Fire escapes that do not extend into a setback by more than 30 percent of the required setback dimension; and,

h. Utility lines, wires and associated structures, such a power poles.

2. Side or rear setback exemptions in I Industrial Districts. No side or rear setback shall be required for a lot within an I Industrial District if the lot adjoins a railway right-of-way or has a rear railway track connection, provided that sufficient access for firefighting equipment is available. Such access shall be approved by the fire chief before issuance of any permit.

3. Setback averaging. If the existing front setbacks of lots within the same block, with the same zoning classification and fronting on the same side of the street are less than the required front setback of the underlying zoning district, applicants shall be allowed to use the "average" front setback on that block. In such cases, the "average setback" shall be the mean (average) setback of all lots on the same side of the street within the same block as the subject property. In no event shall lots with different zoning classifications or undeveloped lots be included in the calculation. This provision shall not be interpreted as requiring a greater front setback than imposed by the underlying zoning district, and it shall not be interpreted as allowing setbacks to be reduced to a level that results in right-of way widths dropping below established minimums.

4. Setback reduced for public purpose. When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose and the remaining setback is at least 75 percent of the required minimum setback for the district that it is locate, then that remaining setback shall be deemed to satisfy the minimum setback standards of this Unified Development Code.

F. Height.

1. Fences or walls. In the case of fences or walls, height shall be measured on the side with the least vertical exposure above finished grade to the top of the fence or wall.

2. Exemptions from height standards. The following structures and features shall be exempt from the height requirements of this Unified Development Code:

a. Chimneys, smokestacks or flues;

b. Cooling towers and ventilators;

c. Elevators bulkheads and stairway enclosures;

d. Grain elevators and silos;

e. Flagpoles, radio and television receiving antennas and support structures, provided that they shall not exceed 150 percent of the maximum height permitted within the zoning district that they are located, measured from average finished grade at the base of the support structure or building that it is located;

f. Communication towers;

g. Utility poles, water towers and support structures;

h. Belfries, spires and steeples; and,

i. Monuments and ornamental towers.

Sec. 106-97. - Landscaping and screening.

A. Purpose. The purpose of landscaping and screening requirements is to provide greenery to visually soften paved areas and buildings, provide shade, give maximum absorption of surface water, provide a buffer between incompatible uses, and generally enhance the quality and appearance over the enter area of the project.

B. Applicability. The standards of this section shall apply to all development except those specifically exempted in section 106-97.C., Exemptions.

C. Exemptions. The following shall be exempt from the standards of this section:

1. Single-family dwellings and duplexes;
2. Development in the C-1 Central Business District;
3. General agriculture uses in the A-L District; and
4. Improvements or repairs to existing development that do not result in an increase in floor area and changes in use that do not result in an increase in intensity of use.

D. General requirements.

1. A landscaping and screening plan shall be submitted in support of all applicable development.
2. All land areas which are to be unpaved or not covered by buildings shall be brought to finished grade, planted with grass or other ground cover and trees and shrubs in reasonable quantity and size.
3. Plant material shall be generally native to the area and shall consist, for the most part, of living plant material. (Artificial plant material may be used, but only in limited quantities.)
4. Vegetation, plants or trees that exist on the site prior to its development may be used to satisfy the landscaping requirements of this section provided it is properly protected during the construction process, is healthy and meets the requirements of this section.

E. Planting requirements.

1. Shade trees shall be planted on all projects and shall include such species as ash, sycamore, maple, oak or comparable trees suitable to the growing environment, which prevails.
2. Shade trees shall be of two-inch trunk diameter or greater, measured one foot above the ground.
3. Unless otherwise permitted by the planning commission, shade trees shall be planted in not less than the following quantities:
   a. One shade tree per 10,000 square feet of lot area which shall be planted in lawn areas or landscaped open spaces.
   b. In or adjacent to parking lots, one tree for each 20 parking spaces. If islands are provided for landscaping each island shall be sized sufficiently to ensure proper growth (not less than the size of one parking space), contain one or more shade trees, shrubs and ground cover and be protected by raised curbs or wheel stops to prevent damage by vehicles.
4. In addition to the above minimum shade tree requirements, reasonable quantities of ornamental trees, shrubs and foundation plantings shall be included.

F. Screen requirements.

1. Landscaping plans for all multi-family residential, commercial, office and industrial projects, shall include a detailed drawing of enclosure and screening methods to be used in connection with trash bins, storage yard, parking lots and equipment areas on the property.
2. A permanent masonry or frame enclosure shall be provided for each trash bin, unless the trash dumpsters or bins are not visible from any street and abutting residential property.

G. Landscaping in place prior to occupancy permits. All landscaping and screening shall be in place prior to the issuance of a final occupancy permit; however, a temporary certificate may be issued without the installation of landscaping if seasonal limitations prevent its planting, provided assurances are given that the planting will take place when the season arrives.

H. Maintenance.

1. The trees, shrubs and other landscaping materials depicted on plans approved by the city shall be considered as elements of the project, the same as parking areas, building materials and other plan details.

2. Should such plantings not be installed, maintained and replaced as is needed to comply with the approved plan, the owner shall be considered to be in violation of the terms of the building or occupancy permit and appropriate action may be taken.

3. Properly located hose connections and other watering facilities shall be provided to allow the required maintenance without undue difficulty or hardship on the tenant.

I. Plan approval.

1. Plans shall include complete and accurate scientific or common names of each plant material, the number of trees or plants to be planted, the size at planting, and areas to receive seed or sod.

2. All landscaping and screening plans shall be reviewed in terms of adequacy and suitability to the site and be approved by the governing body in conjunction with a site plan.

Sec. 106-98. - Operational performance standards.

A. General. No parcel, lot, building, or structure in any zoning district shall be used or occupied in a manner so as to create any dangerous, harmful, noxious, or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises, provided that any use that is allowed by the underlying zoning district regulations, may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance standards.

B. Fire hazards. Any activity regulated by the National Fire Protection Association and any other city, state or federal fire regulation shall be protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material. Such fire hazards shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.

C. Vibration. No vibration shall be permitted that is detectable without instruments on any adjoining lot or property.

D. Noise. Noise that is objectionable due to volume, frequency, duration or beat shall be muffled or otherwise controlled so that there is no production of sound discernible at lot lines in excess of the average intensity of street and traffic noise at the lot lines. Tornado sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

E. Air pollution. All uses shall be so operated that no smoke, odor, dust or other form of particulate matter shall be emitted that exceeds the regulations established by the State of Kansas Department of Natural Resources. Such uses shall be located so that prevailing winds will carry such air pollution away from areas of greatest concentration of persons. Also, such shall be kept removed from adjacent activities to a distance that is compatible with the potential nuisance or hazard involved.

F. Water pollution. All uses shall conform to the requirements and regulations established by the State of Kansas Department of Natural Resources pertaining to the pollution of streams and other bodies of water.

G. Toxic materials. Every use shall be so operated that there is no emission of toxic, noxious, or corrosive fumes, gases or materials. The storage of toxic materials shall be in compliance with all local, state and federal regulations.

Sec. 106-99. - Number of principal uses and structures per lot.

Where a lot is used for other than a single-family dwelling, more than one principal use and structure may be located upon the lot provided the lot and structures comply with all applicable standards of this Unified Development Code.

Sec. 106-100. - Outdoor lighting standards.

A. Purpose. The purpose of outdoor lighting standards is to regulate the spill over of light and glare on adjoining property.

B. Applicability. The following standards shall apply to all exterior lighting except public street lighting and other lighting that is specifically exempted.

C. Exemptions. Because of their unique requirements for nighttime visibility and their limited hours of operation, ball diamonds, playing fields, and tennis courts shall be exempt from the outdoor lighting standards of this section, provided that lights used for such activities shall not exceed a maximum post height of 80 feet and that steps are taken to limit light and glare spill over to adjacent property zoned R-3 or less intensive.

D. General regulations.

1. The height and style of lighting fixtures shall be in character with the building and streetscape design.
2. Site lighting, including freestanding, bollard, or lights attached to a building or canopy shall not be placed or directed to create excessive glare or light spill over on neighboring property or streets.
3. Lots abutting residential zoned property shall use low-level lighting and a maximum pole height of 18 feet to minimize glare and light spill over.
4. No flickering or flashing lights shall be permitted.

Sec. 106-101. - Outdoor storage and display standards.

A. Standards for outdoor storage and display in C-O and C-1. Outdoor daily display of merchandise and the storage and display of seasonal merchandise shall be permitted in the C-O and C-1 districts provided:

1. Only merchandise which may be appropriately displayed or stored outside a building and is for sale to the public shall be displayed or stored outdoors.
2. Outdoor storage and display shall not reduce the capacity of off-street parking below what is required by this Unified Development Code.
3. The merchandise shall not impede pedestrian or vehicular access to the building or the site.
4. The merchandise shall be well-kept.
5. Temporary or permanent storage of merchandise is prohibited in trucks, cargo carriers, shipping containers or other similar vehicles, containers or structures.
6. Outdoor daily displays shall be temporary in nature and shall be moved inside the business after business hours.

B. Standards for outdoor storage and display in C-2 and I. The outdoor storage and display of merchandise shall be permitted in the C-2 and I districts provided:

1. Only merchandise which may be appropriately displayed or stored outside a building and is for sale to the public shall be displayed or stored outdoors.
2. Outdoor storage and display shall not reduce the capacity of off-street parking below what is required by this Unified Development Code.
3. The merchandise shall not impede pedestrian or vehicular access to the building or the site.
4. The merchandise shall be well-kept.
5. Temporary or permanent storage of merchandise is prohibited in trucks, cargo carriers, shipping containers or other similar vehicles, containers or structures.
6. Outdoor storage and display of automobiles, trucks, and other motor vehicles are subject to the following:
    a. Storage and display areas must be a minimum of 15 feet from street rights-of-way and six feet from all side or rear lot lines.
    b. Motor vehicle parking areas where inoperable vehicles and damaged vehicles awaiting repair or sale or salvaged vehicles, or the storage of junk or salvage shall be screened from view of all public rights-of-way and all residential zoned property.

Sec. 106-102. - Nonresidential design standards.

A. Applicability. The design standards of this section shall apply in C-O and more intensive zoning districts to any new development, building addition or exterior renovation that requires a building permit.

B. Prohibited materials. The following materials shall not be used as exterior building materials and shall be prohibited on all exterior walls:
    1. Metal panels in the C-O and C-1 districts; and,
    2. Mirrored glass or opaque windows in the C-1 district.

C. Preferred materials. The use of substantial amounts of masonry materials (face brick, stucco, stone) is encouraged. Evaluation of building materials shall be based on the quality of its design and relationship and compatibility to building materials in the immediate neighborhood.

D. Form, scale and proportion. The form and proportion of buildings shall be consistent with the scale, form and proportion of existing development in the immediate area.

E. Masses and voids. The pattern of structural mass to voids, such as windows and glass doors, of a front facade shall relate to the patterns established in adjacent buildings.

F. Front and street side exterior walls. Front and street side exterior walls shall possess visual interest through variations in building plane, materials, colors, entrance canopies and other design features. Street side exterior walls in the I Industrial district are exempt from this provision.

G. Visual interest. Monotony of design in single or multiple building projects shall be avoided. Variation of detail and form shall be used to provide visual interest. The use of different textures, complementary colors, shadow lines and contrasting shapes may also be used to provide visual interest.

H. Screening of equipment. Roof mounted equipment, including ventilators and satellite dishes shall be completely screened from view or isolated so as not to be visible from any public right-of-way or residential zoning district within 300 feet of the subject lot. Such screens and enclosures, when used, shall be coordinated with the building to maintain a unified appearance.

Sec. 106-103. - Corner visibility.

On corner lots, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two feet and eight feet above grade within the triangular

area formed by two lines drawn from the corner, following street pavement edges for 25 feet, then connecting the two lines with a line running across the lot. This sight triangle standard may be increased by the planning commission with a recommendation from the planning director, when deemed necessary for traffic safety.

Sec. 106-104. - Underground utilities.

All newly constructed, modified or upgraded lines for telephone, electrical, television and other services distributed by conduit, wire or cable shall be placed underground. The provision shall not be construed to prohibit the construction of above ground or surface equipment associated with an underground distribution system, such as, but not limited to, surface mounted transformers, power terminal pedestals, meters and meter boxes, concealed wires, street lights and street light poles.

Secs. 106-105—106-110. - Reserved.

ARTICLE IX. - SIGNS

Sec. 106-111. - Purpose and intent.

The purpose of this article is to provide standards to regulate the design, area, number, construction, location and installation of signs in order to help preserve and enhance the community. To carry out this general purpose, the regulations set forth herein are intended to:

A. Encourage well-maintained and attractive sign displays that meet the need for adequate business identification, advertising and communication.

B. Protect the public from hazards that result from signs that are structurally unsafe, obscure the vision of motorists and/or compete or conflict with necessary traffic signals and warning signs.

C. Limit the proliferation of those signs that are accessory or carry messages other than the name or principal product or service located on the premises.

D. Encourage signs that are well designed and compatible with the surroundings and with the buildings that they are attached to or mounted on.

Sec. 106-112. - Permit requirements.

A. Sign permit required. No sign shall hereafter be erected without first obtaining a sign permit. Applicants for a sign permit shall provide the information necessary (i.e. - plot plan, drawings, color sketch, etc., the planning director may require scaled structural plans) for a proper determination that the proposed sign conforms to the requirements of this Unified Development Code.

B. Procedure and fee. The applicant shall submit the sign permit application to the planning director to determine if the sign meets the requirements of this Unified Development Code. The planning director may than issue a permit for the sign upon payment of the appropriate fee.

C. Permit void for failure to erect. If a sign for which a permit is granted is not erected within 90 days from the date of issuance of the permit, said permit, unless renewed, shall be deemed void.

D. Signs not requiring permits. Permits shall not be required for a change of copy on a changeable copy sign, repainting, cleaning and other normal maintenance and repair of any sign and its structure provided no structural changes are made. A permit shall not be required for temporary signs, construction, real estate, and political signs and sign outlines in section 106-113, Exemptions.

Sec. 106-113. - Exemptions.

The following signs are exempt from the regulations of this article.

A. Public information sign. Municipal signs, legal notices, trespassing signs or signs to aid safety.

B. Information or direction signs. Such signs shall not contain any advertising copy and shall not exceed three square feet in area.

C. [Flags or emblems.] Flags or emblems of a governmental or of a political, civic, philanthropic, educational or religious organization.

D. Inside sign and vehicle sign. Any sign placed or painted on the inside of a building or outside of any vehicle.

E. Name plates and professional sign. Any name plate or professional sign attached directly to a wall of a building or other structure.

F. Commemorative sign. Memorial signs and tablets provided such signs only bear information relative to the commemorative building, person or event.

Sec. 106-114. - Measurement standards.

A. Sign area. Sign area shall be calculated by including the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of the sign is utilized as a sign, then only the largest side shall be computed. For computing the area of a wall sign, a rectangular figure which encompasses all of the sign copy shall be used.

B. Sign height. Sign height shall be measured from the ground at the base of the sign to the highest element of the sign.

Sec. 106-115. - General standards.

A. Height and setback requirements. No part of any sign shall extend over the property line, except in district C-1 a sign attached to the building may project a maximum of four feet over the abutting public sidewalk or established street grade. Any signs projecting over sidewalks shall have a minimum of eight feet of clearance, including awnings.

B. Illuminated signs. Illuminated signs shall be designed to reflect or direct light away from any residentially zoned property and to reduce glares or shines into the eyes of motorists or pedestrians.

C. Accessway or windows. No sign shall block any required accessway or window.

D. Electrically energized signs. Each illuminated sign shall comply with the Electrical Code of the city.

E. Sight triangle. No private sign or its supporting structure shall interfere with the line of vision between vehicular and pedestrian traffic and any official traffic sign or signal.

F. Right-of-way and easements. No sign shall be located within any right-of-way or public easement.

G. Sign design. All signs should be designed to fit the zoning and status character of the surrounding area. Any sign affixed to a building should be dimensioned and located in such a manner that it fits the building's architectural features and proportions. Signs in or abutting residential properties should be designed and located so as not to create a residential nuisance.

H. Landscaping. Landscape features are encouraged as part of all ground mounted signs. Landscape plantings or other landscape materials will not be counted as part of the allowable signage.

Sec. 106-116. - Signs permitted in all districts.

A. Signs for religious, institutional or educational facilities.

1. Each facility shall be allowed two monument signs.
2. Signs shall be located at least ten feet from all property lines.
3. The maximum sign height shall be eight feet.
4. The maximum sign area shall be 100 square feet.

5. Signs located in or abutting residentially zoned districts shall be illuminated by indirect incandescent or fluorescent lighting only.

Sec. 106-117. - Signs permitted in districts A-L, R-1, R-2 and R-3.

A. Home occupation sign.

1. Each home occupation shall be allowed one sign.
2. The sign shall not exceed two square feet in area.

B. Subdivision or development sign.

1. Each residential subdivision or development shall be allowed two monument signs denoting the name of the subdivision or development.
2. Such signs shall be located at a principle entrance to the development and shall not be place in any right-of-way.
3. The maximum sign height shall be eight feet.
4. The maximum sign area shall be 100 square feet.

C. Apartment development sign.

1. Each apartment development shall be allowed one monument sign.
2. The maximum sign height shall be eight feet.
3. The maximum sign area shall be 100 square feet.
4. The sign shall be located at least ten feet from all property lines.

Sec. 106-118. - Signs permitted in districts C-O and C-1.

Each freestanding commercial building shall be allowed a total of two signs from the following. Each shopping or office center shall be allowed one monument denoting the name of the center, in accordance with the following regulations. Each business within the center shall be allowed one wall and one awning, canopy or marquee sign in accordance with the following regulations.

A. Wall sign.

1. The maximum sign coverage of one facade shall be 40 square feet.

B. Awning, canopy or marquee sign.

1. No sign shall project above, below or beyond the awning, canopy or marquee.

C. Monument sign.

1. Signs shall be located at least ten feet from all property lines.
2. The maximum sign height shall be eight feet.
3. The maximum sign area shall be 100 square feet.

D. Pole sign.

1. Signs shall be located at least ten feet from all property lines.
2. The maximum sign height shall be 30 feet.
3. The maximum sign area shall be 100 square feet.
4. The minimum clearance from the bottom of the sign shall be at least 15 feet above ground.
5. Prior to installing a pole sign the planning director may require the submission of plans prepared by a registered engineer which indicate wind tolerance, base construction and load capacity, etc.

Sec. 106-119. - Signs permitted in districts C-2 and I.

Each freestanding commercial building shall be allowed a total of three signs from the following. Each shopping or office center shall be allowed one monument or one pole sign denoting the name of the center, in accordance with the following regulations. Each business within the center shall be allowed one wall and one awning, canopy or marquee sign in accordance with the following regulations.

A. Wall sign.

1. The size of the sign shall not exceed ten percent of the wall area.

B. Awning, canopy or marquee sign.

1. No sign shall project above, below or beyond the awning, canopy or marquee

C. Monument sign.

1. Signs shall be located at least ten feet from all property lines.
2. The maximum sign height shall be eight feet.
3. The maximum sign area shall be 100 square feet

D. Pole sign.

1. Signs shall be located at least ten feet from all property lines.
2. The maximum sign height shall be 30 feet.
3. The maximum sign area shall be 150 square feet.
4. The minimum clearance from the bottom of the sign shall be at least 15 feet above ground.
5. Prior to installing a pole sign the planning director may require the submission of plans prepared by a registered engineer which indicate wind tolerance, base construction and load capacity, etc.

Sec. 106-120. - Signs permitted in district PD.

Signs shall be allowed in accordance with the approved development plan.

Sec. 106-121. - Billboards.

A. Special use permit. Billboards shall be allowed only if reviewed and approved with a special use permit pursuant to section 106-44, Special use permit applications, and in compliance with the following standards:

1. Billboards may be located only on lots contiguous to the right-of-way of Highway 54, Highway 169 and State Street (Old Highway 169) provided the sign is located within 100 feet of the nearest edge of the right-of-way and is visible from the highway.
2. Billboards shall only be located on lots zoned C-2 or I.
3. Billboards shall be located a minimum of 1,000 feet from any property lines abutting a residentially zoned district.
4. Billboards shall not be erected within 1,000 feet of any other billboard located on the same side of the highway. Such minimum spacing distance shall be measured along the centerline of the highway from a point opposite any edge of a billboard and perpendicular to the centerline of the highway.
5. Billboards shall not be erected within 1,000 feet of any highway interchange as measured from the centerline of the intersecting street along the centerline of the highway.
6. Billboards shall not be erected within a 500 foot radius of any billboard located on the opposite side of the highway right-of-way.

B. Size. The maximum gross area of the signboard face of any billboard shall not exceed 700 square feet and the height of any part of the signboard face shall not exceed 25 feet in height measured vertically from the lowest part of the signboard face.

C. Location. No billboard shall be attached to the roof or wall of any building.

D. Face. No new billboard shall be erected having more than one viewable sign face that is directed toward the same lane of traffic.

E. Illumination. Billboards may be illuminated by electrical lighting of the surface of the sign face; however, no flashing, blinking, or intermittent lighting of billboard sign faces shall be allowed.

F. Structure. A billboard is a structure for the purposes of this Unified Development Code, and all intensity, setback, and other zoning district regulations shall apply to the structure. The maximum height of the sign structure may not exceed 45 feet above the elevation of the highway as measured from the nearest point of the sign to the highway.

G. Service drives. All billboards must be accessible by a paved access drive that is internal to the lot or parcel on which the sign is located.

H. Permits. All billboard applications shall be accompanied by a permit for the proposed sign from the Kansas Department of Transportation.

I. Certifications. All billboards must have the certification of a professional engineer stating that the soil and subsurface is capable of accepting the projected load of the sign, that the electrical components are constructed pursuant to all codes, and that the structural strength of the sign is sufficient. All applications for billboards will be accompanied by a certified boundary survey prepared by a registered land surveyor that identifies the location of the proposed billboard and establishes that it complies with all required setbacks and distance requirements.

Sec. 106-122. - Temporary signs.

A. General requirements for temporary signs. The following standards shall apply to all temporary signs unless otherwise stated.

1. Time. A temporary sign shall be displayed for a maximum of 21 days.
2. Size. A temporary sign shall be a maximum of 50 square feet in area.
3. Quality. All temporary signs shall be of professional quality.
4. Exceptions. Garage sale, yard sale, moving sale, auction signs, direction signs for parties, reunions, weddings, etc. do not need to comply with the temporary sign provisions provided the following:
   a. All such signs are located on private property.
   b. All such signs do not pose a health or safety hazard.
   c. All such signs shall not be erected more than three days prior to said event.
   d. All such signs shall be removed within three days after such event.

B. Construction sign. Signs announcing the name of the architect, engineer, contractors, or other involved parties of a building under construction, alteration or repair and signs announcing the character of the building enterprise or the purpose for which the building is intended shall be allowed in any district with the following conditions.

1. The sign shall not exceed 32 square feet.
2. The sign shall be lit by exterior illumination only.
3. The sign shall not be located within the right-of-way.
4. The sign shall be removed within 30 days after the building is constructed.

C. Political sign.

1. Political signs shall not be erected more than 45 days prior to the election date.
2. The sign shall not exceed six square feet.
3. The sign shall not be illuminated.
4. The sign shall not be located within the right-of-way.
5. The sign shall be removed within 7 days after the election is held.

D. Real estate sign. A sign advertising the sale, rental or lease of an individual premise shall be allowed in any district with the following conditions:

1. The sign shall not exceed six square feet.
2. The sign shall not be illuminated.
3. The sign shall not be located within the right-of-way.
4. The sign shall be removed within 7 days after the sale or rental of the premises.

One development real estate sign announcing the sale of lots/houses in a subdivision shall be permitted with the following conditions:

1. The sign shall not exceed 100 square feet.
2. The sign shall be located on the development advertised.
3. The sign shall be removed at the end of three years or when 75 percent of the lots/houses have been sold, whichever occurs first.

Sec. 106-123. - Prohibited signs.

A. Attention attracting devices (banners, balloons). The use of any banner, pennant, flag, balloons, (hot air or cold air), streamers, propeller, inflatable sign, bunting or similar articles for advertising of a product, service, show, property or carnival is prohibited except by approval from the planning director.

B. Flashing or moving signs. Any revolving, rotating, moving, or animated signs with moving lights or parts, which create the illusion of movement shall be prohibited. Any flashing, alternating, rotating or swinging flood, spot, strobe or beacon light shall be prohibited. This shall not apply to electronic changeable copy or messenger center signs. Such sign shall not exceed 32 square feet in area.

C. Off-premise signs. Any sign, except billboards approved pursuant to section 106-121, Billboards, advertising or announcing any place, product, goods, services, idea or statement or whose subject is not available or located at or on the lot where the sign is erected or placed.

D. Signs on trees, utility poles, fences, etc. No sign shall be attached to a tree, utility pole, fence, or other item not specifically intended to support a sign, whether on public or private property.

E. Portable (freestanding) signs.

Sec. 106-124. - Maintenance and removal.

A. Maintenance. All signs and supports shall be maintained in good repair and structural condition, be in compliance with all building and electrical codes, and be in conformance with this article.

B. Removal. Signs and sign structures that no longer serve the purpose for which they are intended, or that are not maintained, or that have been abandoned, or that are located illegally shall be removed by the owner, or the owner of the premises after notice by the planning director. Such owner, or owner of the premises, shall complete the removal within 30 days after the noticed is mailed. In the event that such sign is not removed within the time provided, the city shall cause the sign to be removed and the cost thereof assessed to the owner or the owner of the premises. Failure to

reimburse the city within 30 days shall cause the cost to be entered on the tax roll as a special charge against the real estate. Signs located illegally on public property shall be removed by the planning director without prior notice.

Secs. 106-125—106-130. - Reserved.

ARTICLE X. - SUBDIVISION REGULATIONS

Sec. 106-131. - Purpose.

The requirements and recommendations set forth herein are designed to encourage orderly growth for the City of Iola through responsible land subdivision. Responsible land subdivision is the initial step in the process of orderly community development. Once land has been divided into streets, lots and blocks and publicly recorded, the correction of defects is difficult and costly.

The purpose of this document is to set forth rules and regulations for the division of real property so that each subdivision shall be properly coordinated with existing streets, utilities and public facilities, and for the future development of these entities. These subdivision regulations will be helpful to city officials and private developers by clarifying requirements and by assuring more uniform application of city standards for new subdivisions. For plat application requirements see article IV, sections 106-45 through 106-48.

Sec. 106-132. - Applicability.

The requirements of these subdivision regulations shall apply to any owner desiring to:

A. Divide or further divide land; or,

B. Otherwise alter the boundaries of lots or parcels of land; or,

C. Dedicate land for use as streets, alleys, and sidewalks or for other public or private purposes.

Sec. 106-133. - Exemptions.

The following instances or transactions shall be exempt from the provisions of this article.

A. The division or further division of land into lots or parcels, each of which contains more than 40 acres, where such subdivision does not involve the creation of any new streets or easements of access.

B. A transaction between owners of adjoining land that involves only a change in the boundary between the land owned by such persons and does not create an additional lot or non-conformity.

C. A conveyance of land or interest therein for use as right-of-way or other public utilities subject to state or federal regulation, where no new street or easement of access is created.

D. A conveyance made to correct a description in a prior conveyance.

E. Any transfer by operation of law.

Sec. 106-134. - Conditions.

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is in the public interest and an exercise of valid police power delegated by the state to the city. The subdivision of land is a privilege conferred upon the developer by the laws of the State of Kansas and through these subdivision regulations. It is the developer who is seeking to acquire the advantages of lot subdivision and upon him/her rests the duty of compliance with the requirements of this article, all other applicable provisions of the Iola Municipal Code, and reasonable conditions imposed by the planning

commission and/or the governing body in order to ensure that the city's public health, safety and general welfare are provided for and protected.

Sec. 106-135. - Design standards.

A. Scope. All subdivisions of land subject to these subdivision regulations shall conform to the design standards of this article.

B. Conformance to applicable rules and regulations.

1. In addition to the regulations established herein, all subdivision plats shall comply with the following laws, rules and regulations:

   a. All applicable provisions of the Kansas Statutes.

   b. Any design criteria and specifications that may be adopted by the City of Iola.

   c. The comprehensive plan.

   d. Any adopted policies and rules of the Department of Natural Resources of the State of Kansas.

   e. The rules of the Kansas Department of Transportation if the subdivision of any lot contained therein abuts a state highway or connecting street.

   f. The standards and regulations adopted by the planning director, and all boards, Commissions, Departments, Agencies and officials of the city adopted pursuant to any law or ordinance.

2. Plat approval may be withheld if a subdivision is not in conformance with the intention, purpose and guidelines of these subdivision regulations.

C. Access. All lots located in any subdivision shall be served directly by a public street except that private streets may be permitted as a part of a Planned Development.

D. Streets.

1. In all new subdivisions, streets shall conform to the functional classification as specified in the comprehensive plan. Streets shall be designed and located in proper relation to existing and proposed streets, to the terrain, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land served by such streets, and to the most advantageous development of the adjoining area. Each lot within the subdivision shall provide access to a dedicated public street. Proposed streets shall extend to the boundary line of the tract being subdivided unless prevented by topography or other physical conditions; or unless the opinion of the planning commission and governing body is that such extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of the adjacent tracts.

2. The standards within these subdivision regulations recognize and reference subdivision streets by functional classification.

3. Whenever the proposed subdivision contains or is adjacent to a limited access highway, or where lots back onto a public street, the subdivision shall provide the following treatment:

   a. In residential districts a buffer strip at least 50 feet in depth shall be provided in addition to the normal lot depth required. The strip shall be a part of the platted lots and shall have the following restriction letter on the face of the plat:

      "This strip reserved for the planting of trees or shrubs by the owner or developer: the building of structures heron is prohibited."

   b. In commercial and industrial districts adjacent to limited access highways, no parallel street shall be less than 150 feet from said right-of-way or limited access highway.

4. Streets shall intersect each other at right angles unless otherwise dictated by topography or other factors of good design.

   a. The number of intersections along major streets shall be held to a minimum. Wherever practical the distance between such intersections shall not be less than 1,200 feet.

   b. Property lines at street intersections shall be rounded with a minimum radius of 15 feet. The planning director may require a greater radius where anticipated traffic justifies such a requirement.

   c. Streets parallel to a limited access highway shall, when intersecting a major street, highway or a collector street shall be located at a minimum distance of 250 feet from said right-of-way, highway or collector street. Such distance, when desirable and practical, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.

   d. Local streets need not continue across major or collector streets, however, the planning director may require an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities.

5. Half streets. Where an existing dedicated or platted half street is adjacent to the tract being subdivided, the other half of the street right-of-way shall be dedicated by the subdivider. Half-street dedications for minor streets are not permitted, unless there is satisfactory agreement with the city that both adjacent developers agree to dedicate and construct one-half of the street.

6. Street names. Street names shall be suggested by the developer and approved by the governing body at the time of the final plat approval.

7. Sight distance triangle. Minimum sight distance shall be provided at each intersection by not erecting, placing, or planting an item in such a manner as to materially impede vision between a height of two feet and eight feet above curb grade within the triangular area formed by imaginary lines that begin at the intersection and follow street pavement edges for 25 feet and are connected by a line drawn across the lot.

8. Cul-de-sac streets. Cul-de-sac streets shall be not more than 500 feet in length measured from the centerline of the cul-de-sac to the centerline of the connecting street. Exceptions may be made where topographic or other unusual existing conditions so require. Culs-de-sac shall terminate with a minimum outside property line turnaround radius of 50 feet and a minimum curb line radius of 39 feet. The use of a "T" design for the culs-de-sac terminus may be considered for culs-de-sac of short length (less than 300 feet) when specifically approved by the governing body with the recommendation of the planning commission and planning director.

9. Decorative islands. When specifically reviewed by the planning commission and approved by the governing body, islands to be used for landscaping, statuary or other decorative purposes may be constructed by a developer in a dedicated reserve in the center of a cul-de-sac or other roadway pavement section. Decorative islands shall not be approved if it is possible that their installation would in any way impede traffic or create unsafe condition, as directed by the planning director.

   If decorative islands are approved, the developer shall, as condition of such approval, assign full responsibility for maintenance of such islands to the homeowners' association created by the developer for the subdivision.

10. Private streets. Private streets are generally unacceptable in subdivisions in which any of the streets are dedicated to the public. Exceptions will be considered in commercial and industrial subdivisions if they are constructed to the standards of this Section and in planned developments. A homeowner's association or business district association shall be formed to maintain any private street.

11. Street names and signs. Street names shall not duplicate names of any existing street in the city and adjacent communities except where a new street is a continuation of an existing street. Street names that are spelled differently but sound the same shall be avoided. Generally no street should change direction by more than 90 degrees without a change in street name. The street name pattern established by the city shall be continued. Night glowing street signs, approved by the planning director, will be purchased and installed at all street intersections by the developer at the developer's expense.

12. Standard street sections and details. The subsections, which follow, set forth standard street sections and details which are to be used for future residential, collector, and thoroughfare streets constructed within the city. For items not addressed within this article see Appendix A, APWA Design Criteria—Streets.

    a. Design for persons with disabilities. Access ramps for disabled persons shall be installed whenever new curbing or sidewalks are constructed or reconstructed in the city. Such ramps shall conform to Americans with Disabilities Act (ADA) standards subject to review and approval by the planning director. These standards shall apply to any city street or connecting street that curbs and sidewalks are required by this article or on curbs and sidewalks that have been prescribed by the governing body.

    b. Approval of grades. Profiles of streets shall be submitted to and approved by the planning director. Submittal information required for review of the preliminary plat shall include preliminary street profiles. Final calculated street profiles will be required in submittal of construction plans required during review of the final plat.

    c. Compaction requirements for cut and fill areas. All fill areas within the street right-of-way shall be compacted to 95 percent of standard maximum density. Layers shall be placed in depths not to exceed ten inches of loose material. All embankment materials and compaction methods shall be subject to approval of the planning director. In cut areas, the top of the subgrade under areas to be paved shall be scarified and compacted to a minimum depth of six inches to not less than 95 percent of standard maximum density at optimum moisture. Maximum density shall be determined in accordance with requirements of the Standard Compaction Test.

    d. Approval of subgrade. The city engineer shall approve the subgrade before any base course or surface is placed thereon. The subgrade shall be constructed so that it will be uniform in density throughout. The entire width and length shall conform to line, grade, and typical cross-section shown on the plans or as established by the planning director. If any settling or washing occurs, or where hauling results in ruts or other objectionable irregularities, the contractor shall re-shape and re-roll the subgrade before the base or surfacing is placed.

    e. Sewer and water work before base construction. No base course work may proceed on any street until all trenching for storm and sanitary sewers and for water lines within an area extending one foot behind curbs has been properly backfilled satisfactory to the planning director. Wherever possible, the developer shall schedule installation of gas or buried electric utility lines so that the trenches for such lines can be properly backfilled before street base course construction.

    f. Storm sewer and inlets. Manholes, storm sewers, inlets and utility valves shall be adjusted to meet the proper grade of street or yard areas to the satisfaction of the planning director.

13. Supplement design criteria. The standards set out in Appendix A, APWA Design Criteria—Streets, shall be utilized as supplemental design criteria for items not addressed within this article.

14. Exceptions for existing improvements.

    a. Where the proposed subdivision is a re-subdivision or concerns an area presently having any or all required improvements as previously set out and where such improvements meet the requirements of this section and are in good condition as determined by the

planning director, no further provisions need to be made by the subdivider to duplicate such improvements. However, where such existing improvements do not meet said requirements as determined by the planning director, the subdivider shall provide for the repair, correction, or replacement of such improvements so that all final improvements will then meet said requirements as determined by the planning director.

b. Where the proposed subdivision is a re-subdivision or concerns an area presently abutting or continuing any existing public street of less than the minimum required right-of-way width or roadway width, land shall be dedicated so as to provide a minimum street right-of-way width established by these subdivision regulations or by the policy of the governing body; and the subdivider of such proposed subdivision shall provide an additional roadway pavement meeting the minimum standards set by these subdivision regulations. The governing body shall determine what adjustment to make where the aforesaid widening merges with existing streets, which are of smaller width at the boundary of such proposed subdivision. The governing body may reduce the minimum roadway system in the proposed subdivision if the extension of such roadway is already improved at each end of such roadway in the subdivision and the roadway in the proposed subdivision is two blocks or less in length.

E. Block and lot design. The lengths, widths, and shape of lots shall be suited for the planned use of the land, zoning requirements, and need for convenient access, control and safety of street traffic and the limitations and opportunities of the terrain. Block lengths in residential areas shall not, as a general rule, be greater than 600 feet in length between street lines unless dictated by exceptional terrain or other limiting factors of good design. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth. Sidewalks and crosswalks shall be provided to ensure adequate pedestrian circulation and access to schools, shopping center, churches, parks or other facilities.

F. Lot design. The lot size, width, depth, shape and orientation, and the minimum setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

1. Lot dimensions shall conform to the requirements of the zoning regulations unless established in accordance with this section.

2. Residential lots fronting or backing on major streets shall be platted with extra depth to permit increased distances between the buildings and traffic-ways.

3. The slope of a residential lot shall not exceed a ratio of 3:1. On lots that exceed this ratio, vertical walls with appropriate safety devices shall be required.

4. Where lots front upon a cul-de-sac or curved street having a radius of 200 feet or less, the minimum lot widths, shall be measured at the building setback line along an arc parallel to the right-of-way of such cul-de-sac or curved street. Such lots shall also be laid out so that their lot frontage, as measured on the arc of such right-of-way line, is not less than 50 percent of the required lot width measured at the building setback line.

5. The area of the street right-of-way shall not be included and calculated in the area of the lot with respect to minimum lot area requirements of these subdivision regulations or of the Unified Development Code applicable to the property.

6. Double frontage and reverse frontage lots may be approved at the time of preliminary plat approval where necessary to provide separation of residential development from through-traffic or overcome specific disadvantages of terrain and orientation.

7. The depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

8. Corner lots for residential use shall have extra width to permit appropriate building setback from, and orientation to, both streets.

9. Lot elevation relative to sewer line elevation.

Minimum basement floor elevations (MBF) shall be shown on each sewerable lot of the recorded plat. Minimum low opening elevations (MLO) shall be shown on each lot adjacent to a waterway on the recorded plat. MBF's and MLO's may need to be revised in the event the "as-built" engineering plans show a significant change in the elevation of the sanitary sewer main or in the elevation of the 100-year flood plain.

G. Dams, retention basins and siltation control.

1. Where dams are proposed in any subdivision, they shall be designed by a professional engineer registered in the State of Kansas. A preliminary engineering report including soil investigations and design procedures shall be submitted to the planning director for review. When a dam is planned on private property, the engineer shall certify that the dam is constructed in accordance with the approved plans and specifications.

2. When the proposed development of a subdivision would increase the runoff of stormwater onto adjoining properties above that normally expected for residential development typical for the city, retention basins may be required on-site to control the rate of runoff except as otherwise permitted by the planning director on the basis of an individual subdivision design and approval on the preliminary plat.

3. Downstream property owners shall be protected from adverse flooding and siltation by such methods as are approved by the planning director.

Sec. 106-136. - Public improvements.

A. Minimum improvements. The developer shall submit to the city a firm contract providing for the construction and completion, within a reasonable time frame of the public improvements as specified by the engineer's plans and specifications.

1. The following are considered minimum public improvements:

a. Installation of eight inch sewer line and service connection to all adjacent lots;

b. Extension of eight inch water distribution mains and service connections to all adjacent lots in accordance with the city's minimum specification;

c. Installation of curb and gutter and backfill;

d. Installation of paving in accordance with Appendix A, APWA Design Criteria—Streets;

e. Installation of storm sewers or surface drainage where required by the city;

f. Installation of sidewalks according to the city's minimum specifications; and,

g. Installation of street lights according to Appendix A, APWA Design Criteria—Streets.

2. All of the above improvements shall be extended to the boundary of the subdivision, unless otherwise approved by the governing body.

3. All public improvements shall be completed in accordance with the plans and specifications approved by the planning director and "as built" plans shall be filed in the planning director's office at the completion of improvement.

B. Easements.

1. The planning director may require general utility easements of adequate width along lot lines where necessary or advisable for poles, wires, conduits, sanitary sewers, gas, water, power and other utility lines as dictated by the plans of the developer to provide utility connections. The following are established as minimum width for any general utility easements:

a. Front line easements: Ten feet on one side of the public street only.

b. Side line easements: Five feet.

c. Rear line easements: Seven and one-half feet if adjacent to a general utility easement of at least five feet in width otherwise, ten feet.

2. Suitable drainage easements, as required by the planning director, shall be dedicated on the subdivision plat to provide for the natural drainage of stormwater through the plat and in consideration of proposed improvements. The minimum width for drainage easements shall be 15 feet for closed conduits and 20 feet for open channels, but, in any case, shall provide for conveyance of a 50 year storm flow with additional width of no less than ten feet for construction and maintenance equipment and operations. These drainage-ways shall be improved to the extent necessary to properly accommodate storm flows in a manner to eliminate erosion and possible loss and damage to life, land and property. Any variation to these standards (such as location, width and alignment) should be noted on the final plat certified and approved of the planning director.

C. Required improvements.

1. The subdivider shall cause a registered land surveyor to install permanent reference points on all perimeter corners of the property.

2. The subdivision survey shall conform to the procedures as defined by the Kansas Society of Land Surveyors Standards.

3. All required improvements shall be designed and built in accordance with the latest edition of the A.W.P.A. criteria unless otherwise noted in the city's public improvement standards.

a. Offsite road improvements. When an area to be subdivided contains lots adjacent to an existing road, said road shall be suitably improved as required by the street construction standards for the city based on its functional classification.

b. Grading. All streets shall be graded to their full right-of-way width as approved by the planning director.

c. Paving. Road base and paving shall be installed in accordance with the specifications and standards adopted by the city.

d. Curbs and gutters. Vertical face curbs and gutters shall be installed in accordance with the specifications and standards adopted by the city.

4. Bridges and culverts shall be constructed only at locations approved by the city in accordance with plans and specifications approved by the planning director.

5. Sidewalks shall be constructed on both sides of all streets in all zoning districts except for A-L. However, in the interest of a better arrangement of pedestrian circulation and to accommodate special design features of the developments, this requirement may be waived with conditions, if the development is part of a plan approved by the governing body. Also, sidewalks may be required exceeding the above standards if they are necessary to complete pedestrian ways across a lower density development. Sidewalks in residential development shall be constructed prior to the issuance of certification of occupancy. The design and installation of sidewalks shall meet all state and federal requirements.

6. Storm drainage and sanitary sewers shall be designed by applicant's registered professional engineer, approved by the city and installed by the subdivider.

7. Water distribution system, including the number and location of fire hydrants, shall be designed by a registered professional engineer and approved by the city and installed by the subdivider.

8. Street name signs and traffic control signs shall be provided by the developer in accordance with the standards and specifications of the city. The city shall replace and maintain said signs after the initial installation by the developer.

9. Sewage treatment plants and pumping stations, if approved, shall be constructed in accordance with the specifications and standards of the Kansas Department of Natural Resources.

10. A street light plan shall be designed by applicant's registered professional engineer and approved by the city. The subdivider shall agree to pay all costs of installation and all costs incurred by the city for said streetlights of a period of five years. A bond or other financial assurance in a form acceptable to the city may be required to ensure payment.

11. All public utilities must be installed underground. Plans for underground facilities shall be prepared by, or at the direction of, the agency involved.

D. Recommended improvements.

1. Tree planting. The planting of street trees by the subdivider is strong recommended. The subdivider should discuss with the planning director to ensure appropriate placement and species.

2. Subdivision identification signs. Subdivision identification signs, if desired, shall be places at entrances to the subdivision and shall be within an easement or private property. The developer or homeowners association is responsible for the maintenance and upkeep of the identification signs. Location of signs shall be subject to the provisions of the subdivision regulations as well as other applicable regulations.

3. Limited access. Whenever the proposed subdivision contains or is adjacent to a major street or highway, adequate protection of residential properties and limitations of access shall be provided.

E. Agreement for the installation of improvements. Prior to the approval of a final plat by the governing body for any subdivision located in the city or in any area where improvements are required to be installed to city standards, the subdivider shall enter into a written agreement with the city, in which all required improvements are specified, together with method of construction and provisions for payment of the cost thereof.

F. Inspection of improvements. The subdivider shall contract with a professional engineer registered in the State of Kansas qualified to perform surveying, staking, inspection and testing services, and "as-built" construction plans, and furnish to the city, a copy of said contract. Upon inspection, if any of the required improvements have not been completed in accordance with the city's construction standards and specifications, the subdivider shall be responsible for completing said improvements. Building permits shall not be issued until an affidavit, signed and sealed by a registered professional engineer, has been delivered to the city stating all the required improvements have been in accordance with the approved plans, standards and specifications.

G. Vacate undeveloped subdivision. When no lots on a subdivision plat have been sold, the subdivider may request the plat be vacated prior to the time that the improvements covered by the bond are installed, and when such plat is vacated, all fiscal sureties shall be returned to the subdivider.

Sec. 106-137. - Improvements procedures.

A. Final construction plans. The subdivider or developer shall have plans and engineering drawings, complete with other engineering information prepared for required improvements by a registered engineer. The complete plans, drawings and other engineering information shall be submitted to the planning director at least 30 days prior to the final plat being reviewed by the planning commission. Failure to submit these plans, drawings, and other information shall cause the final plat to be pulled from the application processing cycle.

B. Content of engineering drawings. Engineering plans, drawings and other engineering information shall contain the following data and information and shall conform to the following requirements. For items not addressed within this article see Appendix A, APWA Design Criteria—Streets.

1. All plans, profiles and details of proposed improvements shall be on standard plan and profile sheets or other appropriate sheets. Each sheet of the drawings shall be on 24 inches by 36 inches sheets with an appropriate border and a title block in the lower right hand corner. The title block shall contain at least the name of the subdivision, a brief description of the information shown on the individual sheet, the name and address of the developer, the name, address and

professional seal of the engineer, the date of the original drawing and the date of any revisions to the drawing. A vicinity map shall be shown on the cover sheet. Plans and profiles shall be shown to a horizontal scale of one inch equals 100 feet and a vertical scale of one inch equals ten feet, or a horizontal scale of one inch equals 50 feet and a vertical scale of one inch equals five feet. The scale and north point shall be clearly indicated on each sheet. If the drawings consist of three or more sheets there shall also be an appropriate cover or title sheet showing the entire subdivision at a suitable scale, the subdivision name, a brief description of the nature of the drawings, an index to the drawings and other applicable information.

2. Plans, profiles and details for roadway and sidewalk construction shall show profiles of the existing topography elevations, profiles of proposed sidewalks, curb and street centerline elevations, intersection control elevations, paving geometrics, typical cross-sections and other data required for staking and construction. Construction specifications and cost estimates shall be submitted with the plans.

3. Plans, profiles and details of storm sewer and storm drainage improvements shall show existing profiles, proposed flow-line profiles, grades and elevations, manhole details, drainage structure details and inlet details, plus any other data necessary for staking and construction. Construction specifications and cost estimates shall be submitted with the plans. Copies of engineering calculations may also be required submittals for review.

4. Plans and details of the proposed water distribution system and water supply facilities shall show all information necessary for review and construction of the systems, including line sizes, fire hydrant locations and valve locations. Construction specifications and cost estimates shall be submitted with the plans. Copies of engineering calculations may also be required submittals for review.

5. Plans, profile and details for sanitary sewer systems and sewage treatment facilities shall show line sizes, grades flow-line elevations and other information necessary for plan review and construction. Construction specifications and cost estimates shall be submitted with the plans. Copies of engineering calculations may also be required for submission and review.

6. Grading plans for all lots and tracts in the subdivision requiring fill or more that 30 inches showing the existing ground contours, proposed finish ground contours, and drainage shall be submitted. Construction specifications and cost estimates shall be submitted with the plans.

7. When unusual site conditions exist, the planning director may require additional plans, drawings and specifications as may be necessary for adequate review of the proposed improvements.

8. All plans shall be based on USGS datum. Benchmark descriptions and elevations shall be shown on the plan sheets.

9. All plans for underground wiring shall be prepared by or at the direction of the agency involved.

C. Review of engineering drawings. The planning director shall review all engineering drawings in order to determine whether such drawings are consistent with the approved preliminary plat and comply with the design standards. In the event that the drawings do not conform and comply, the planning director shall notify the subdivider in writing of the specific manner in which such drawings do not comply, and the subdivider may then correct such drawings.

D. Recommendation by planning commission. The planning commission shall not consider a final plat until the planning director has approved the engineering drawings and any other required plans. The governing body shall not consider a final plat until the planning commission has made a recommendation on it.

E. Construction permits. No improvements shall be constructed nor shall any preliminary work be done until such time as the engineering drawings have been approved and a construction permit issued. Permits shall have a required time limit for completion of the work, with a provision that would include any authorized time extension. Preliminary grading may take place if a grading plan has been approved by the planning director and a grading permit has been issued.

F. Certificate of insurance. The contractors shall indemnify the city, with Certificate of Insurance with the city named as certificate holder. The contractor shall secure and maintain throughout the duration of construction, insurance of types and in amounts as may be necessary to protect himself/herself and the interest of the city against all hazards or risk of loss. The form and limits of such insurance together with each underwriter, shall be the responsibility of the contractor. It shall be the responsibility of the contractor to maintain adequate insurance coverage at all times.

The contractor may satisfy the liability limits required for each type of insurance by securing and maintaining an umbrella excess liability type policy. Satisfactory Certificates of Insurance shall be filed with the city before a construction permit will be issued. The liability limits shall not be less than:

Workers Compensation	Statutory
Automobile Liability—Bodily Injury	$500,000.00 each person
Bodily Injury	$1,000,000.00 each occurrence
Property	$100,000.00 each occurrence
Combined Single Limit	$1,000,000.00 each occurrence
Comprehensive General Liability	$500,000.00 each occurrence
(including products and completed operations) $1,000,000.00 aggregate	

G. Performance bonds.

1. The contractor shall furnish a performance bond before a construction permit will be issued as security for the faithful performance of all his/her obligations under section 106-136.E., Agreement for the installation of improvements. Each bond shall be in the amount at least equal to the contract price, and in such form and with such sureties as acceptable to the city.

2. No person, firm or corporation shall dump or deposit or cause to be dumped or deposited any dirt, gravel, rubbish, leaves or other debris, including, but not limited to lumber, paper, trash, concrete or metal in any street right-of-way, gutter, storm sewer, waterway or drainage-way. Erosion of soil which flows onto any street, right-of-way, gutter, storm sewer, waterway or drainage way, from property before or during construction shall be considered as depositing dirt, gravel or other construction debris.

   If upon inspection by the city, it is determined that dirt, gravel, rubbish, leaves or other debris has been dumped or deposited in any street, right-of-way, gutter, storm sewer, waterway or drainage-way in violation of the provisions of this section, he/she shall then notify the responsible permittee or permittees and establish a 24-hour period to make the affected area free of said dirt, gravel or debris. If within the 24-hour period the said area is not clear, the city may take necessary action to clean up the said area and assess all charges at an established

hourly rate, but in no case will the charges be less than two hours for labor, materials and equipment.

H. Final inspection.

1. All improvements constructed or erected shall be subject to inspection by the city. The cost attributable to all inspections required by this article shall be set forth in the schedule of fees and charged to and paid by the subdivider. The following improvements shall be subject to inspection.

   a. All phases of roadway and sidewalk construction.

   b. All phases of construction including, but not limited to, water lines, sanitary sewer lines, storm sewer, underground wiring and other required improvements.

2. Construction of any public improvement, or grading of land in conjunction with approved plans, shall be limited over weekends and/or holidays. If said improvement is to be inspected by the city, such construction must be left uncovered, lined with safety fence and stabilized, until inspection of that portion of construction has been conducted. If improvements have been constructed and covered without inspection thereto, the city may require that particular section be uncovered, at the sole expense of the contractor, and inspected.

3. Upon completion of all improvements within the area covered by the final plat, the subdivider shall notify the planning director who shall thereupon conduct a final inspection of all improvements installed. If such final inspection indicates that there are any defects or deficiencies in any such improvements as installed, or if there are any deviations in such improvements as installed from the final engineering plans and specifications, he/she shall notify the subdivider of such defects, deficiencies or deviations and the subdivider shall, at his/her sole expense correct such defects or deviations. When such defects, deficiencies or deviations have been corrected, the subdivider shall notify the planning director that the improvements are ready for inspection.

I. Report to the city. If a final inspection indicates that all improvements as installed contain no defects, deficiencies or deviations, the planning director shall certify that all improvements have been installed in reasonable conformity with the engineering plans and specifications accompanying the plat.

J. As built drawings. Upon completion of the work, or any phases thereof, the developer shall furnish permanent, reproducible "as built" drawings of the work to the city.

K. Survey monuments. All required survey monuments disturbed, destroyed, obliterated or lost during construction shall be replaced upon completion of the work by the developer or his/her contractors at the cost of the developer.

L. Maintenance bond and maintenance of improvements.

1. When all or parts of required improvements in a subdivision are installed, and the required inspections have been made, the developer shall furnish to the city a maintenance bond equal to 50 percent of the construction cost of said improvements. Said maintenance bond shall be conditioned that improvements shall endure without need of repairs for a period of two years.

2. Within the time period prescribed by the bond, the contractor, as ordered by the planning director, shall repair, replace or rebuild such portions of the work which are found to be faulty because of material or workmanship. The contractor shall begin the remedial work not later than five days after the order from the planning director. In case the contractor does not start the remedial work within the above time limit, or in case of an emergency condition caused by faulty workmanship, the city may take the remedial action and charge the cost thereof against the contractor and his/her surety.

3. Prior to the expiration of the maintenance bond, an inspection of the bonded improvements shall be made by the city and if improvements are without need of repairs, the city shall release the maintenance bond and assume the responsibility of maintenance of the improvements.

M. Acceptance of improvements. Upon determining that all improvements have been installed in reasonable conformity with the approved engineering drawings and in reasonable conformity with the requirements of this article and all other applicable statutes, ordinances and regulations, that all "as built" drawings have been furnished as required and that all survey monuments are in place, the city will thereupon formally accept such improvements. The improvements shall become the property of the city. This acceptance does not relieve the developer of any obligation to maintain these facilities as may be required by the maintenance bond.

Sec. 106-138. - Adoption of administrative guidelines.

The planning director is authorized, as deemed necessary, to prepare administrative guidelines to augment, implement and provide further details and examples of methods and manners of complying with the minimum design standards of this article, and to assist city staff, the planning commission and the governing body in evaluating whether a proposed subdivision complies with the minimum design standards.

Sec. 106-139. - Appeals, waivers and variances.

A. Appeals generally. The subdivider of a proposed subdivision may appeal decisions made in the enforcement of these subdivision regulations by the planning director to the planning commission and by the planning commission to the governing body.

B. Appeals on improvement standards. Any appeal as to the approval of standards, or plans and engineering drawings in connection with required improvements shall be directed to the governing body, and that action shall be final.

C. Waiver of required improvements. Any waiver of the required improvements may be made only by the governing body on a showing that such improvement is technically not feasible.

D. Variances. In cases in which there is unwarranted hardship in carrying out the literal provisions of these subdivision regulations as to design criteria, e.g., lot width, lot depth, block length, etc., the governing body may approve a variance from such provision provided:

   1. The strict application of these subdivision regulations will create an unwarranted hardship.

   2. The proposed variance is in harmony with the intended purpose of these subdivision regulations and that the public safety and welfare will be protected.

E. Variances—Planned development. When a plat or subdivision is prepared in connection with a planned development, the governing body may vary the design standards contained in this article to such extent as may be necessary to permit the preparation of a planned development plan provided the variance and the planned development are in harmony with the intended purpose of this Unified Development Code and the public safety and welfare are protected.

Secs. 106-140—106-145. - Reserved.

ARTICLE XI. - FLOODPLAIN REGULATIONS

Sec. 106-146. - Statutory authorization, findings of fact, and purposes.

A. Statutory authorization.

   1. Approval of draft article 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 December 28, 2005.

   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 Governing body of Iola, Kansas, ordains as follows:

B. Findings of fact.

1. Flood losses resulting from periodic inundation. The special flood hazard areas of Iola, 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 article 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 article is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated July 18, 2011, 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 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.

C. Statement of purpose. It is the purpose of this article to promote the public health, safety, and general welfare; to minimize those losses described in section 106-146.B.1., Flood losses resulting from periodic inundation; 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 article 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.

(Ord. No. 3393, § 1, 4-4-11)

Sec. 106-147. - General provisions.

A. Lands to which article applies. This article shall apply to all lands within the jurisdiction of Iola, Kansas identified as numbered and unnumbered A zones, AE, AO, and AH zones, on the index map dated July 18, 2011, of the flood insurance rate map (FIRM) and any future revisions thereto. In all areas covered by the article, no development shall be permitted except thereto. In all areas covered by this article, no development shall be permitted except through the issuance of a floodplain development permit, granted by the governing body or its duly designated representative under such safeguards and restrictions as the governing body 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 section 106-149 "Provisions for flood hazard reduction."

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 article and other applicable regulations.

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

D. Interpretation. In their interpretation and application, the provisions of this article 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.

E. Warning and disclaimer of liability. The degree of flood protection required by this article 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 article 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 article shall not create a liability on the part of the city, any officer or employee thereof, for any flood damages that may result from reliance on this article or any administrative decision lawfully made there under.

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

(Ord. No. 3393, § 1, 4-4-11)

Sec. 106-148. - Administration.

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 section 106-147.A., Lands to which article applies. 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.

B. Designation of floodplain administrator. The planning director is hereby appointed to administer and implement the provisions of this article.

C. Duties and responsibility 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 article 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.

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.

Sec. 106-149. - Provisions for flood hazard reduction.

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 article. 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; 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 acres or 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.

B. Specific standards. 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 section 106-149.A.2., Provisions for flood hazard reduction, the following provisions are required:

1. 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 foot above base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor.

2. 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 foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation 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. 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. Such certifications shall be provided to the floodplain administrator.

3. 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:

   a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and

   b. The bottom of all opening shall be no higher than one 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.

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.

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 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.

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 section 106-149.C.2., Provisions for flood hazard reduction, manufactured homes, be elevated so that either:

   a. The lowest floor of the manufactured home is a minimum of one 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 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.

D. Areas of shallow flooding (AO and AH zones). Located within the areas of special flood hazard as described in section 106-147.A., Lands to which article applies, are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one to three 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 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 feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that 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 section 106-149.B., Specific standards.

b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

E. Floodway. Located within areas of special flood hazard established in section 106-147.A., Lands to which article applies, 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 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 section 106-149.E.2., Provisions for flood hazard reduction, floodway, is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of section 106-149, Provisions for flood hazard reduction.

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 section 106-149.A.2., Provisions for flood hazard reduction, general standards.

F. Recreational vehicles. Recreational vehicles placed on sites within all unnumbered and numbered A zones, AE, AH, and AO zones on the community's FIRM shall 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 article.

   * 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.

Sec. 106-150. - Floodplain management variance procedures.

A. Establishment of appeal board. The board of zoning appeals, referred to as the appeal board, as established by the city shall hear and decide appeals and requests for variances from the floodplain management requirements of this Unified Development Code.

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 section 106-150, Floodplain management variance procedures.

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 article.

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.

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 article, 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.

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 level, provided items 2 through 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, 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.
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 article.

Sec. 106-151. - Penalties for violation.

Penalties and civic remedies for violations to this article shall be as set forth in article XIII, Violations and Enforcement.

Sec. 106-152. - Amendments.

The regulations, restrictions, and boundaries set forth in this article 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. At least 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 article are in compliance with the NFIP regulations.

Sec. 106-153. - Certificate of adoption.

These Floodplain Management Regulations for the community of Iola, Kansas.

PASSED AND ADOPTED by the Governing Body of Iola, Kansas.

This 10th day of January, 2006.

Chief Engineer Draft Approval Seal Here:

Community Approval Seal Here:

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).

Secs. 106-154—106-159. - Reserved.

ARTICLE XII. - NONCONFORMITIES

Sec. 106-160. - General provisions.

A. Purpose. Within the zoning districts established by this Unified Development Code or previously existing regulations, there are uses, structures, lots, signs and other current circumstances that were lawful prior to the effective date of this Unified Development Code that would now be prohibited, regulated or restricted under the provisions of this Unified Development Code. These instances are considered nonconformities. The purpose of this article is to establish regulations that govern these nonconforming uses, structures, lots, signs and other current circumstances.

B. Applicability. The regulations of this article shall apply to the following types of nonconformities:

1. Nonconforming uses. Uses legally established prior to the effective date of this Unified Development Code that do not conform with the use regulations of the district that the use is located are referred to as "nonconforming uses." Temporary uses shall not qualify as "nonconforming uses."

2. Nonconforming structures. Buildings and structures, not including signs, legally established prior to the effective date of this Unified Development Code that do not conform with the property development standards of the zoning district that the use is located in, are referred to as "nonconforming structures." Temporary structures shall not qualify as "nonconforming structures."

3. Nonconforming lots. Any lot having insufficient area, width, or depth for the zoning district in which it is located, which was legally platted and recorded prior to the effective date of this Unified Development Code is referred to as a "nonconforming lot."

4. Nonconforming signs. Signs legally established prior to the effective date of this Unified Development Code that do not conform to the sign regulations are referred to as "nonconforming signs." Temporary signs shall not qualify as "nonconforming signs."

5. Other nonconformities. Other situations which were legally established prior to the effective date of this Unified Development Code, but do not conform to the regulations of this Unified Development Code, including but not limited to: (1) fence height or location; (2) lack of or inadequate landscape buffers; (3) lack of or inadequate landscaping; lack of or inadequate off-street parking; and (4) other nonconformities not involving zoning district use or property development standards are referred to as "other nonconformities".

C. Policy. It is the general policy of the city to allow uses, structures, lots, signs and other situations that came into existence legally and in conformance with then-applicable requirements but that do not conform to all of the applicable requirements of this Unified Development Code to continue to exist and be put to productive use, but to bring as many aspects of such circumstance into conformance with this Unified Development Code as is reasonably practicable, all subject to the limitations of this article. The limitations of this article are intended to recognize the interests of the property owner in continuing to use the property but to control the expansion of the nonconformity and to control reestablishment of abandoned uses and limit re-establishment of buildings and structures that have been substantially destroyed.

D. Authority to continue. Nonconformities shall be allowed to continue in accordance with the regulations of this article.

E. Determination of nonconformity status. The burden of establishing that a nonconformity lawfully exists is to the owner and not the city.

F. Repair and maintenance. Repairs and normal maintenance required to keep nonconforming structures and nonconforming signs in a safe condition shall be permitted, provided that no alterations shall be made except those allowed by this article or required by law or ordinance.

G. Change of tenancy or ownership. Changes of tenancy, ownership or management of an existing nonconformity shall be permitted, provided there is no change in the nature or character, extent or intensity of such nonconformity.

Sec. 106-161. - Nonconforming uses.

Nonconforming uses shall be subject to the following standards:

A. Enlargement. No nonconforming use shall be enlarged, expanded or extended to occupy a greater area of land or floor areas than was occupied on the effective date of this Unified Development Code and no additional accessory use, building or structure shall be established on the site of a nonconforming use. This provision notwithstanding, uses may be extended throughout any part of a building or other structure that was lawfully and manifestly designed or arranged for such use prior to the effective date of this Unified Development Code.

B. Relocation. No nonconforming use shall be moved in whole or part to any other portion of such parcel or to another lot unless the use will be in conformance with the use regulations of the district into which it is moved.

C. Discontinuance and abandonment. If a nonconforming use ceases for any reason for a period of more than six consecutive months (except where Government action causes such cessation), the subsequent use of such parcel or lot shall conform to the regulations and provisions set by this Unified Development Code for the district that such parcel or lot is located.

When a nonconforming use is superseded by a permitted use, the nonconforming use shall not be resumed.

D. Damage or destruction. In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value prior to such destruction, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations, of the zoning district that it is located. The city shall make the determination of such reduced structural valuation.

When such damage or destruction is 50 percent or less, no repair or restoration shall be made unless a building permit is obtained within six months of the damage or destruction and restoration is completed within one year after the date that such permit is issued. The time limit may be extended upon the recommendation of the planning commission and the approval of governing body.

E. Change in use. A nonconforming use may be changed to a new use, provided that the new use shall be of the same general character or of a character less intensive (and thus more closely conforming) than the existing, nonconforming use. The planning director shall make the initial determination of whether a proposed use is a conforming use or is less intense, with an appeal to the board of zoning appeals. A nonconforming use may not thereafter be changed back to a less conforming use than what it was changed from.

F. Residential uses in nonresidential districts. The other provisions of this section notwithstanding, any structure that is devoted to a nonconforming residential use and that is located in a C-O or more intensive district may be remodeled, extended, expanded and enlarged; provided that after any such remodeling, extension, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.

A structure being used for a nonconforming residential use may be rebuilt for residential purposes in the event of damage or destruction as defined in section 160-161.D., Damage or destruction, regardless of the percent of the damage or destruction, provided a building permit is obtained within one year of the damage or destruction

G. Accessory uses. No use that is an accessory to a principal nonconforming use shall continue after such principal use ceases or terminates.

Sec. 106-162. - Nonconforming structures.

Nonconforming structures shall be subject to the following standards.

A. Enlargement. Any expansion of a nonconforming structure that increases the degree of nonconformance shall be prohibited. Other expansions of the structure shall be permitted and shall not require a variance. The planning director shall make the initial determination of whether a proposed expansion increases the degree of nonconformity, with an appeal to the board of zoning appeals.

B. Relocation. Nonconforming structures shall not be moved unless the movement or relocation will bring the structure into compliance with all applicable zoning district regulations.

C. Damage or destruction. In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value prior to such destruction, such structure shall not be restored except in conformance with the regulations for the zoning district that it is located. When a structure is damaged to the extent of 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained within six months of the damage or destruction, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion. The city shall make the determination of such reduced structural valuation.

Sec. 106-163. - Nonconforming lots.

Nonconforming lots shall be subject to the following standards.

A. Alteration. No nonconforming lot, or any portion thereof, shall be altered, used or sold in a manner that would increase its degree of nonconformity.

B. Single-family residential construction. The planning director may issue a building permit for a single-family residential home on any nonconforming lot provided the following:

1. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of such a lot would have been permitted.

2. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited.

3. All yard setback and zoning requirements for the district in which is located can be met.

4. All minimum standards for providing access to streets, water service and sanitary sewer can be met.

Sec. 106-164. - Nonconforming signs.

Nonconforming signs may continue to be displayed, subject to the following standards:

A. Whenever a non-conforming sign is damaged by fire, flood, explosion, earthquake, war, riot or act of nature, it may be reconstructed and used as before provided it is reconstructed within three months after such calamity, unless the damage to the sign is 50 percent or more of its replacement value, in this case the reconstructed sign shall comply with the provisions of article IX, Signs.

B. Whenever it is desired to change or alter the structural elements of an existing non-conforming sign, such as the supports, size of the sign area, shape of the sign area or lighting, such alteration shall constitute a major change and the sign shall be made to conform and comply with the provisions of article IX, Signs, within six months after the application for a permit to alter the sign has been filed with the planning director. Changes in the size or shape of an existing non-conforming sign in excess of ten percent shall constitute a major change and the sign shall be made to conform and comply with the provisions of this Unified Development Code. A change in shape from one corporate logo to another or one shape to another shall not constitute a major change and is not required to come into conformance with the provisions of the Unified Development Code as long as the change does not increase the overall size of the sign in excess of ten percent.

Sec. 106-165. - Other nonconformities.

A. Enlargement or change in use. Where an addition, enlargement or change in use is proposed to an extent in excess of 25 percent of the floor area of the existing buildings or structures, the entire lot shall be brought into conformance with presently existing requirements of this Unified Development Code as to landscaping, buffering, off-street parking and other non-use and non-property development regulations of this Unified Development Code.

Sec. 106-166. - Nonconformities created by public action.

When lot area or setbacks are reduced as a result of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 75 percent of the required minimum standard for the district that it is located, then that lot shall be deemed to be in compliance with the minimum lot size and setback standards of this Unified Development Code without resort to the board of zoning appeals.

Secs. 106-167—106-172. - Reserved.

ARTICLE XIII. - VIOLATIONS AND ENFORCEMENT

Sec. 106-173. - Types of violations.

Any of the following shall be a violation of this Unified Development Code and of law and shall be subject to the remedies and penalties provided in this Unified Development Code, the Iola Municipal Code or the general police powers granted by Kansas law:

A. Subdivision, development, use or sign without permit. To engage in any subdividing, development, use, construction, remodeling or other activity of any nature upon the land and improvements thereon subject to the jurisdiction of this Unified Development Code without all of the required permits, approvals, certificates and other forms of authorization required by this Unified Development Code in order to conduct or engage in such activity.

B. Subdivision, development, use or sign inconsistent with permit. To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to engage in such activity.

C. Subdivision, development, use or sign inconsistent with conditions. To violate, by act of omission, any term, conditions or qualification placed by the planning commission, governing body or board of zoning appeals, as applicable, upon a required permit, certificate or other form of authorization granted by the planning commission, governing body or board of zoning appeals to allow the use, development, sign, or other activity upon land or improvements thereon.

D. Subdivision, development, use or sign inconsistent with this Unified Development Code. To erect, construct, reconstruct, remodel, alter, maintain, move or use any building, structure or sign or use any land in violation or contravention of any zoning, subdivision, sign or general regulation of this Unified Development Code.

E. Making lots or setbacks nonconforming. To reduce or diminish any lot area so that the setbacks or open spaces shall be smaller than prescribed by this Unified Development Code and the final plat or site plan.

F. Increasing intensity of use. To increase the intensity of use of any land or structure, except in accordance with the procedural and substantive requirements of this Unified Development Code.

G. Continuing violations. To continue any of the violations of this article, each day that a violation continues shall be considered a separate offense.

H. Removing, defacing or obscuring notice. To remove, deface, obscure or otherwise interfere with any notice required by this Unified Development Code.

I. Failure to remove signs. To fail to remove any sign installed, created, erected or maintained in violation of this article for which the sign permit has lapsed.

Sec. 106-174. - Remedies and enforcement powers.

The city shall have the following remedies and enforcement powers.

A. Withhold permits. The city may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements thereon upon that there is an uncorrected violation of a provision of this Unified Development Code or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. Instead of withholding or denying an authorization, the city may grant such authorization subject to the condition that the violation be corrected. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.

B. Revoke permits. Any permit may be revoked if the planning director determines any of the following:

1. There is departure from the plans, specifications or conditions as required under terms of the permit.

2. The permit was procured by false representation.

3. The permit was issued by mistake.

4. Any of the provisions of this Unified Development Code are being violated.

Such revocation may also include certificates to occupy or conduct business. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor or upon any person employed on the building or structure that such permit was issued, or shall be posted in a prominent location; and, thereafter, no such construction shall proceed. Such revocation may include certificate to occupy or conduct business.

C. Stop work. With or without revoking permits, the city may stop work on any development, building or structure on any land that there is an uncorrected violation of a provision of this Unified Development Code or of a permit of other form of authorization issued hereunder, in accordance with its power to stop work under its building codes.

D. Revoke plan or other approval. Where a violation of this Unified Development Code involves a failure to comply with approved plans or conditions that the approval of such plans was made subject, the governing body may, upon notice to the applicant and other known parties in interest (including any holder of building permits affected) and after a public hearing, revoke the plan or other approval or condition its continuance on strict compliance, the provision of security of such other conditions as the governing body may reasonably impose.

E. Injunctive relief. The city may seek an injunction or other equitable relief in court to stop any violation of this Unified Development Code or of a permit, certificate or other form of authorization granted hereunder.

F. Abatement. The city may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition that they existed prior to the violation.

G. Penalties. The penalty for a violation of this Unified Development Code shall be governed by Iola Municipal Code and the city may seek such criminal or civil penalties as are provided by Kansas law or municipal code.

H. Other remedies. The city shall have such other remedies as are and as may be from time to time provided by Kansas law and the Iola Municipal Code for the violation of zoning, subdivision, sign or related Unified Development Code provisions.

Sec. 106-175. - Remedies cumulative.

The remedies and enforcement powers established in this article shall be cumulative.

Sec. 106-176. - Enforcement procedures.

A. Non-emergency matters. In the case of violations of this Unified Development Code that do not constitute an emergency or require immediate attention, the planning director shall give written notice of the violation to the property owners or to any other person who is party to the agreement or to any applicant for any relevant permit. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected. Notice shall be given in person, by United States Mail or by posting notice on the premises.

B. Emergency matters. In the case of violations of this Unified Development Code that constitute an emergency situation as a result of safety or public concerns or violations that will create increased problems or costs if not remedied immediately, the city may use the enforcement powers available under this article without prior notice. However, the planning director shall attempt to give notice to the property owner, any other person who is party to the agreement and applicants for any relevant permit simultaneous with beginning enforcement action.

Sec. 106-177. - Other enforcement matters.

A. Other powers. In addition to the enforcement powers specified in this article, the city may exercise any and all enforcement powers granted to them by Kansas law.

B. Continuation. Nothing in this Unified Development Code shall prohibit the continuation of previous enforcement actions, undertaken by the city pursuant to previous and valid ordinances and laws.

Sec. 106-178. - Violations of prior regulations.

All violations under the previously existing regulations shall continue to be violations and shall not be considered to be legal, nonconforming situations under this Unified Development Code. The city shall

have the authority to secure remedies for violations of those regulations to the same extent that it may secure similar remedies for violations of this Unified Development Code pursuant to this section.

APPENDIX A. - APWA DESIGN CRITERIA—STREETS

DIVISION V
DESIGN CRITERIA
SECTION 5200 STREETS

Approved and Adopted this 17th day of April, 1996

Kansas City Metropolitan Chapter
Of the American Public Works Association

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DIVISION V
DESIGN CRITERIA
SECTION 5200 STREETS

SECTION 5201. GENERAL.

5201.1 Introduction: The purpose of these criteria is to provide uniform procedures for designing and checking the design of streets in Iola, KS. Specific criteria have been developed and are applicable to the types of conditions ordinarily encountered in local urban and suburban areas. Other special situations may be encountered that require added criteria or more complex design than included herein.

In addition to these criteria, street improvements shall be designed to conform to applicable codes, regulations, and ordinances as established by the City. Streets shall be designed in accordance with the classifications determined by the City and shall conform to APWA Standard Drawing Typical Sections, unless otherwise approved. Plans for said improvements shall be submitted to the City for approval and shall include all information as may be required or described hereinafter.

5201.2 Definitions:

City Engineer: The term City Engineer, as used in these criteria, shall represent the state, county, city or other governmental body's representative responsible for technical decisions concerning the project. Such person may be the Director of Public Works, City or County Engineer, Administrator or any other person empowered by the governing agency to make such decisions.

Engineer: The term Engineer, as used in these criteria, shall represent the Engineer or Designed who performs the actual design work. The design shall be accomplished under the direction of a Registered Professional Engineer. Nothing in these criteria is intended to alter or circumvent local, state or federal laws or regulations regarding liability and/or responsibility for such designs.

5201.3 Abbreviations:

AASHTO	American Association of State Highway and Transportation Officials
ADT	Average Daily Traffic
APWA	American Public Works Association
ASTM	American Society of Testing and Materials
FHWA	U.S. Department of Transportation/Federal Highway Administration

MUTCD	Manual of Uniform Traffic Control Devices
NGVD	National Geodetic Vertical Datum
ITE	Institute of Transportation Engineers
R/W	Right-of-Way

5201.4 Governing Specifications: Design shall be in accordance with the latest edition of the following specifications and the current interim supplements thereto except as modified herein or modified for the specific project:

A. A Policy on Geometric Designs of Highways and Streets, AASHTO.

B. Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA.

C. Roadside Design Guide, AASHTO.

D. Design of Pavement Structures, AASHTO.

SECTION 5202. FUNCTIONAL CLASSIFICAITON OF STREETS.

5202.1 Major Arterial Streets (or Primary Arterial, or Urban Principal Arterial): Streets that serve the highest traffic volume corridors and the longest trip. Provides travel between business districts and outlying residential areas, between major inner city communities and between major suburban centers, and connects communities to major state and interstate highways. No or limited access is allowed from residential streets. Access is usually partially controlled. Spacing of major arterial streets is generally from one mile to 5 miles.

5202.2 Minor Arterial Streets (or Secondary Arterial, or Urban Minor Arterial): Streets that interconnect and augment the major arterial streets. No or limited access is allowed from residential lots. Accommodate trips of moderate length at a lower level of travel mobility than major arterial streets. Spacing of minor arterial streets is generally from one-half mile to 3 miles.

5202.3 Industrial/Commercial Collector (or Collector, or Urban Collector): Streets that collect traffic to and from commercial or industrial areas and distribute it to arterial streets.

5202.4 Residential Collector Streets (or Collector, or Urban Collector): Streets that collect traffic to and from residential areas and distribute it to arterial streets. Limited access is allowed from residential lots. Desirable maximum ADT = 3,000 for residential collector streets.

5202.5 Residential Local Streets (or Local, or Urban Local): Streets that only carry traffic having its origin or destination within the immediate neighborhood. Desirable maximum ADT = 1,000 for local streets. (ADT = 10 trips per day per typical single-family residence.)

5202.6 Residential Access Streets: Streets that carry traffic between residential lots and residential local streets or residential collector streets. Residential access streets usually carry no through traffic and include short loop streets, culs-de-sac, and courts. Desirable maximum ADT = 200 for culs-de-sac and 400 for loop streets. Maximum length of culs-de-sac = 500 feet and 1,000 feet for loop streets (ADT = ten trips per day per typical single-family residence.)

SECTION 5203. GENERAL STREET DESIGN CRITERIA.

5203.1 Design Criteria: This section governs the general design requirements for the following street classifications (see notes on following page):

	Major Arterial	Minor Arterial	Industrial/ Commercial Collector	Residential[4] Collector	Residential[4] Local	Residential[4] Access
Number of Through Traffic Lanes[2]	4—6	3—4	2—4	3	2	2
Minimum Width of Traffic Lanes (Excluding curb and gutter)	12 ft.	12 ft.	12 ft.	11 ft.	12 ft.	10.5—12 ft.
Number of Parking Lanes	0—2	0—2	0	0—2	0—2	0—1
Width of Parking Lanes	8 ft.	8 ft.	0	8 ft.	8 ft.	8 ft.
Width of Median	16 ft.	0—16 ft.	0	0	0	0
Minimum R/W Width[5]	100—150 ft.	80 ft.	60—80 ft.	60 ft.	50 ft.[2] 45 ft.[1]	40 ft.
Minimum Design Speed mph[8]	50	40	35	30	25	20
Minimum Stopping Sight Distance	400—475 ft.	275—325 ft.	225—250 ft.	200 ft.	150 ft.	125 ft.
Minimum K Crest Vertical Curve[3]	110—160	60—80	40—50	30	20	10
Minimum K	90—110	60—70	50	40	30	20

Sag Vertical Curve[3]	(55 w/lighting)	(35 w/lighting)	(27 w/lighting)	(20 w/lighting)	(14 w/lighting)	(9 w/lighting)
Minimum Radii Horizontal Curves[9]	1,091 ft. (2% Super elevation)	700 ft.	500 ft.	300 ft.	185 ft.	100 ft.
Minimum Horizontal Sight Distance	(Per AASHTO Requirements)					
Sidewalks	2	2	2 Commercial 1 Industrial	2	1—2	0—1
Maximum Grade[6]	6%	7%	6%	8%	10%	12%
Minimum Grade[7]	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
Curb Return Radius	35—50 ft.	35 ft.	30 ft. Commercial 50 ft. Industrial	25 ft. 35 ft. Desirable	20 ft. 25 ft. Desirable	20 ft. 25 ft. Desirable
Minimum Distance from Intersection of R/W to Driveway Curb-cut	250 ft.	200 ft.	150 ft.	100 ft.	25 ft.	25 ft.
Intersection Sight Distance	(See Article 5203.9)					
Maximum Grade at Intersection with Stop	—	—	—	3% (within 75 ft.)	5% (within 50 ft.)	5% (within 25 ft.)

Minimum Spacing of Similar Roadways	(See Section 5202)	¼ mile	200 ft.	175 ft.

Notes:

1. At end of cul-de-sac, minimum design speed = 10 mph; with corresponding minimum horizontal radius = 25 ft.; minimum stopping sight distance = 75 ft.; minimum K Crest = 3; and minimum K Sag = 5 (2 with lighting).

2. All street design is subject to local governing agency approval.

3. K values for crest and sag vertical curves may be determined using the chart on figure 1 or 2, or in accordance with AASHTO - A Policy on Geometric Design of Highways and Streets. Figure III-41 and III-43. The upper range K value shown on page 52-3 [the above table] shall be used unless otherwise approved by the local governing agency.

4. See figure 4 for typical residential street layout.

5. Consideration should be given to providing a 15 ft. minimum wide utility easement along each side of the right-of-way for residential access streets and 10 ft. wide utility easements for all other streets.

6. Absolute maximum grade = 10% for residential collectors, 13% for residential local streets, and 15% for residential access streets.

7. Absolute minimum grade = 0.8% and should only be used for relatively short distances.

8. The 10.5 ft. lane width for residential access streets shall only be used in a planned development where a minimum of four off-street parking spaces are provided for each dwelling unit.

9. 30 mph design speed with corresponding horizontal and vertical curve design criteria may be used for industrial commercial collector streets under special conditions when approved by the City Engineer.

10. The minimum radii shown is based on the AASHTO design for low-speed urban streets with no super elevation except for major arterials. The minimum radii for major arterials is based on 2% super elevation.

5203.2 Maximum and Minimum Gradient: The maximum and minimum gradient for streets as noted in Section 5203.1 may be exceeded only upon written approval of the City.

5203.3 Shoulder Gradients: The finished grade within the limits of the right-of-way shall slope from 2% one-quarter (¼) inch vertical to one foot horizontal minimum, to 4% one-half (½) inch vertical to one foot horizontal maximum measured above the back of the curb. The grading gradients may be varied only upon written approval of the City. Back slopes beyond the R/W line shall be 3:1 maximum, 4:1 desirable.

5203.4 Tangent Length: No tangent length shall be required between reverse curves for residential access and local streets. The minimum tangent length between reverse curves shall be 100 feet for

collector/industrial streets. Major and minor arterial streets shall comply with current AASHTO guidelines.

5203.5 Off-Center Street Intersections: Off-center street intersections shall be separated as shown on Figure 3(M).

5203.6 Intersection Angle: It is desirable for all intersections to meet at approximately a 90 degree angle. Skewed intersections should be avoided and in no case should the angle be less than 75 degrees.

5203.7 Intersecting Minor/Major Arterial Streets: Where any minor or major arterial streets intersect each other, the crowns of both streets shall be uniformly transitioned into a plane at the intersection unless otherwise approved. Changes from one cross slope to another should be gradual.

5203.8 Curb Radii: When 2 streets of different classification intersect, the higher classification street shall govern the curb radii dimension listed in 5203.1. Equivalent three-center compound curves may be used in lieu of a single radius curve. Curb ends facing the flow of traffic shall have a 5-foot taper from full height to zero.

5203.9 Sight Distance at Intersecting Streets: Sight distance triangles at intersecting side streets shall be in accordance with the current edition of A Policy on Geometric Design of Highways and Streets, AASHTO. Every effort shall be made to select intersection locations so that the maximum sight distance is possible.

5203.10 Considerations for Connection to Existing and Future Streets: Consideration shall be given to the horizontal and vertical alignment of roadways where they connect to existing streets or where roadways may be extended in the future. Where a new street is to connect to an existing street, all deteriorated or cracked asphalt within 5 feet of the connection point shall be removed to a point where sound material is found. Existing pavement is to be saw cut for the entire width of the street to a minimum depth of 6 inches. If full-depth pavement removal is required, the subgrade shall be re-compacted to 95% of standard density.

5203.11 Pavement Section: Pavement shall be constructed upon compacted subgrade and of materials and the minimum thickness as shown on the standard drawings for the applicable street classification.

5203.12 Pavement Transition: Reduction in pavement width in the direction of traffic flow shall be accomplished by a taper. The minimum desirable length for merging taper shall be determined by the formula L = WS2/60 where posted speeds are 45 mph or less. The formula L = W x S should be used for roadways having a posted speed limit greater than 45 mph. Under either formula, L = taper length in feet, W = width of the closed lane in feet, and S = design speed in mph.

5203.13 Culs-de-Sac: At locations where streets are to be terminated and a vehicular connection between adjacent streets is not required, the termination shall be a cul-de-sac. Such cul-de-sac shall be constructed with a minimum radius of 39 feet to the back of the curb if there are no islands located in the cul-de-sac.

5203.14 Temporary Turn-Arounds: At locations where streets will be temporarily terminated and which will be extended at a later date, and said street extends beyond the intersection of an adjacent street more than 150 feet, a temporary cul-de-sac shall be constructed with a minimum radius of 35 feet. The temporary cul-de-sac shall be constructed of asphaltic concrete with a minimum depth of 8 inches. Curb and gutter will not be required. The cul-de-sac shall be constructed within the limits of temporary easement.

Temporary turn-arounds shall be located so that they do not interfere with permanent development. They should normally be located on property adjacent to the property to be served. For new subdivision plats, they should be located on property beyond the limits of the plat.

5203.15 Driveway Grades: Driveway grades shall conform to the typical section of the street within the right-of-way. Any deviations shall be approved by the local government official with the following limitations: Driveways shall attain a minimum elevation of 6 inches above the gutter elevation within the right-of-way with a maximum grade of 8%. The algebraic difference in grades at the right-of-way on crest drives shall be 8% maximum and on sag drives shall be 12% maximum. The maximum driveway grade outside the right-of-way shall be 15%.

5203.16 Access for the Disabled: Ramps shall be required at all planned sidewalk-curb intersections in accordance with standard practice and approved by the City. Non-standard driveways and alleys will also be designed to accommodate the handicapped.

5203.17 Street Lighting: All street lighting shall be designed in accordance with Section 5800 of the APWA design criteria unless otherwise directed or approved by the City.

5203.18 Storm Drainage: All storm drainage shall be designed in accordance with Section 5600 of the APWA design criteria unless otherwise directed or approved by the City.

5203.19 Underdrains: In areas that have known subsurface moisture problems, underdrains or drainage blankets shall be designed.

5203.20 Erosion Control within R/W Limits: As a minimum, all grass areas in the R/W shall be seeded and mulched to control erosion on to the roadway. All construction projects that have exposed grading require temporary erosion control measures. Temporary erosion control must be approved by the City Engineer.

5203.21 Survey Monument Boxes: Monument boxes conforming to Figure 5 shall be installed at all quarter section corners involved in the street construction. The monument boxes shall be set by a Registered Land Surveyor licensed in the state the monumentation work is performed.

5203.22 Traffic Impact Studies: Required where developments have adverse impact on existing traffic conditions.

5203.23 Obstructions: Rigid structures such as poles and hydrants shall be placed a minimum horizontal distance of 1.5 feet from the face of curb to edge of obstruction. When required, guardrail and barricades shall be installed in accordance with the AASHTO Roadside Design Guide or local policies. Vertical clearance of a minimum 14.5 feet shall be provided. Along sidewalks, a minimum vertical clearance of 7 feet shall be provided.

5203.24 Other Design Criteria: Design criteria not covered by this document shall be in accordance with the most current edition of A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) or other applicable AASHTO design guides.

SECTION 5204. GENERAL PLAN REQUIREMENTS.

5204.1 Scope: This section governs the preparation of plans for street projects.

5204.2 General: The plans shall include all information necessary to build and check the design of streets and related appurtenances. The plans shall be arranged as required by the City Engineer of Iola. Applicable standard plans of the City may be included by reference to standard plan number and title. Plans shall be sealed by a Registered Professional Engineer in the state of Kansas and shall be submitted to the City for review and approval.

5204.3 Scales: Plans shall be drawn at the following minimum scales. Larger scales may be needed to clearly present the design. Bar scales shall be shown on each sheet for each scale.

Plan:	1 inch = 50 feet	Suburban
	1 inch = 20 feet	Urban
Profile:		
Vertical:	1 inch = 10 feet	Suburban
	1 inch = 5 feet	Urban
Horizontal:	1 inch = 50 feet	Suburban
	1 inch = 20 feet	Urban
Drainage Area Map:		
On site:	1 inch = 200 feet	
Off site:	1 inch = 1,000 feet	
Structural Plans:	1 inch = 1 foot	
Graphic Drawings:	Varies	

5204.4 Sheet Sizes: The suggested plan sheet size is 22 inches × 36 inches, 22 inches × 34 inches, or 24 inches × 36 inches with all sheets in a given set of plans being of the same size. Plan and profile shall be drawn on combined or separate plan and profile sheets to minimum scales shown above.

5204.5 Types of Sheets in Plans: The plans shall consist of:

1. Title sheet.
2. General layout sheets.
3. Plan and profile sheets.
4. Cross-section sheets.
5. Drainage area map.
6. Standard and special detail sheets.
7. Lighting plans (if required).
8. Traffic control plans (if required).
9. Temporary erosion control plans (if required).

Each sheet should contain a sheet number, including the individual sheet number and the total number of sheets, proper project identification and date. Where feasible, storm sewer construction details should be incorporated into the street plans. The engineer's seal shall appear on the title sheet.

5204.6 Required Information for Title Sheet:

1. Name of project.
2. Project number (where applicable).
3. Index of sheets included in plans.
4. A location map adequately showing project location in relation to major streets, with north arrow and scale.
5. Signature block for City approval.
6. The project control bench marks shall be identified as to location and elevation: NGVD datum or as required by the City. A minimum of 2 bench marks are required for any project.
7. Name, address and telephone number of the consulting engineer and owner/developer as well as signature block for the owner/developer.
8. List containing name and telephone number of each utility company and the state One-Call System.
9. A legend of symbols shall be shown that shall apply to all sheets.
10. Design speed plus other traffic information as required by the city.
11. Engineer's seal, signed and dated.

5204.7 Required Information for General Layout Sheet:

1. General Notes: Minor construction notes shall appear on the proper plan and profile sheet.
2. North arrow and bar scale. Scale of the general layout map shall be one inch equals 100 feet.
3. Layout shall include name of subdivision, block designation if any, lot designation or proposed block and lots, all street names, street alignment with back of curb lines, and an accurate tie to at least one quarter section corner. An unplatted tract shall have an accurate tie to at least 2 quarter section corners.
4. Boundary line of project area.
5. Schematic layout of all proposed sidewalks and utility improvements including storm drainage, sanitary sewers, water lines, street lights, traffic signals, etc. shall be shown.
6. A list of materials and quantities if not provided on a separate sheet.
7. Typical street sections and curb and gutter details.

5204.8 Required Information for Plan and Profile Sheets:

1. North arrows and bar scale.
2. Elevation and location of all applicable benchmarks; NGVD datum or as required by the City.
3. Existing and proposed streets with names and pavement widths.
4. Property lines properly identified as to existing or proposed lot, block and subdivision. Survey base line with adequate ties to land lines.

5. All existing and proposed utilities such as power, gas, oil, water, telephone, sewer, and other items shall be properly located in conformance with the best information available in the records of the owner of such facilities, or field location, and identified as to size and material.
6. All existing and known proposed improvements within 50 feet each side of right-of-way and 200 feet beyond the project limits shall be shown at their proper locations unless otherwise approved or required by the City. This shall include such existing items as paved streets, curb and gutters, driveways, culverts, fire hydrants, utility poles, trees, shrubs, fences, walls, houses, and other such items and shall be identified as to type, size, material, etc. as may be applicable.
7. All existing and proposed easements and right-of-way information.
8. Locations and widths of existing and proposed sidewalks.
9. Horizontal curve data and vertical curve data (K value, stopping sight distance, and middle ordinate).
10. Center line stations shall be marked at 100-foot intervals and at other pertinent points.
11. Top of curb elevations shall be shown at maximum increments of 15 feet along the curb returns at street intersections.
12. Profile shall show existing grade as a dashed line, proposed finish grades or established street grades by solid lines.
13. Storm sewer criteria shall be in accordance with Section V.
14. Elevations shall be shown at a minimum interval of 50 feet for tangents and 25 feet for curves.
15. Approximate grading limits.
16. Location of test borings if taken.

5204.9 Required Information for Cross-Section Sheets:

1. Street cross section at each station showing existing grade by dashed lines and proposed grade by a solid line. Cross sections to show existing grade lines a minimum of 10 feet beyond right-of-way lines or grading limit, whichever is further. The center line and location right-of-way shall be shown.
2. Center line elevation of top of pavement.
3. Center line cross sections shall be at all intersecting streets and driveways.
4. Additional cross sections shall be shown as required to clearly describe the extent of the grading operations.
5. In lieu of cross sections for residential development, 3 or 5 line profiles may be used if approved by the city. The 3 line profiles shall consist of a profile of the existing ground at each right-of-way line and existing and finished profile at the center line of the street. The other 2 profiles shall show the final grade at the building setback line. A grading plan may be required for residential development.

5204.10 Required Information for Standard and Special Detail Sheets: Detail sheets shall be included to show all details of appurtenances, materials, and construction. Details shall conform to the requirements of the City and are to be drawn clearly and neatly with proper identifications, dimensions, materials and other information necessary to insure the desired construction.

5204.11 Required Information for Lighting Plans: Street lighting plans shall be prepared in accordance with Section 5800 of the APWA design criteria and included in addition to the street

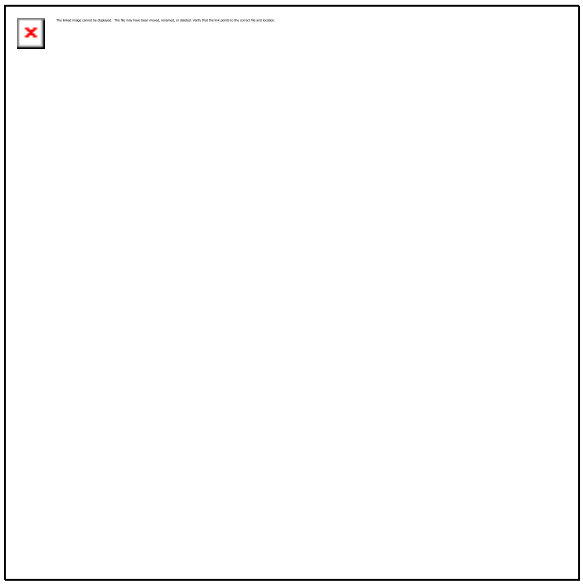
improvement plans for approval. The plan shall be at 1 inch = 50 feet (minimum) scale with the streets and adjacent plats labeled.

5204.12 Required Information for Traffic Control Plan Sheets:

1. Limits of any road closures shall be shown along with the traffic control devices used to affect the closure. Length of time of road closure shall be indicated.
2. Detour plan shall be designed for traffic affected by road closures. Detour signing used to direct motorist over the detour route shall be included in the detour plan.
3. Typical lane closure or lane shift plans including taper lengths and spacing of all channelizer devices. Types and spacing of all construction signs shall be shown.
4. All traffic control shall be designed using the traffic control devices and application principles contained in the MUTCD.

5204.13 Required Information for Temporary Erosion Control Plan Sheets:

1. Each temporary erosion control feature designation shall be shown at its proper location on the plans.
2. Temporary erosion control devices details as required, such as standard temporary beams, temporary slope drains, types of ditch checks, and sediment basins.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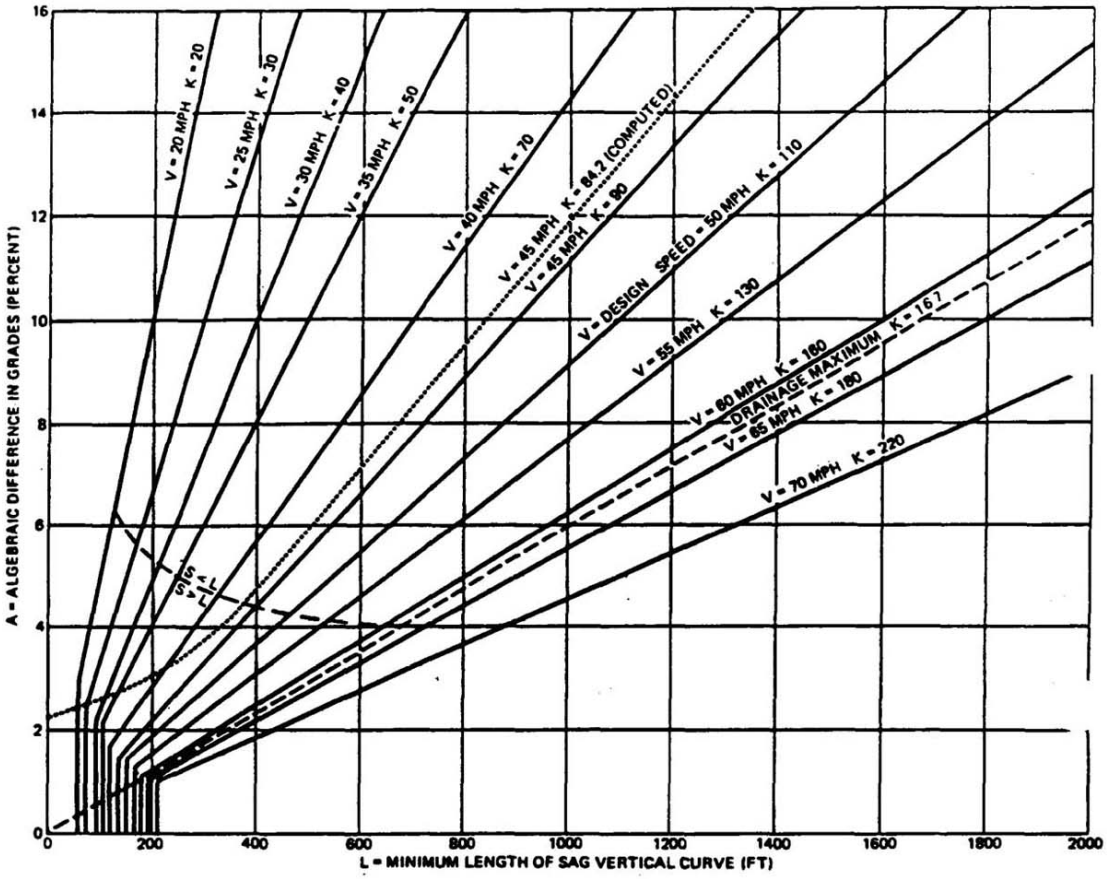
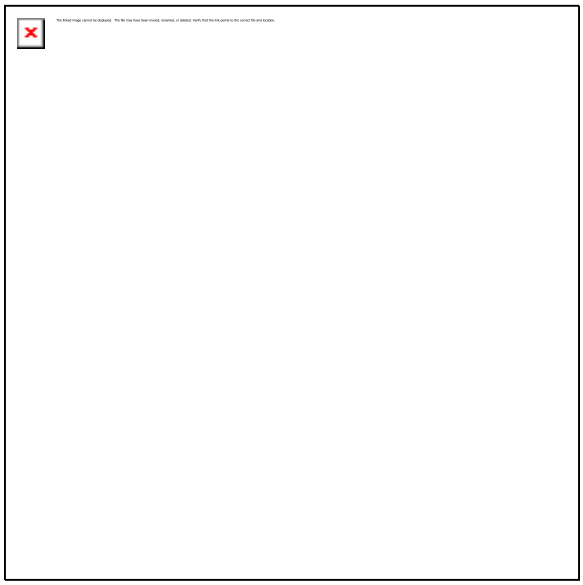
SECTION 5205 FIGURES



DESIGN CONTROLS FOR SAG VERTICAL CURVES
OPEN ROAD CONDITIONS
UPPER RANGE

Source: 1990 AASHTO
A Policy on Geometric Design of Highways and Streets

FIGURE 1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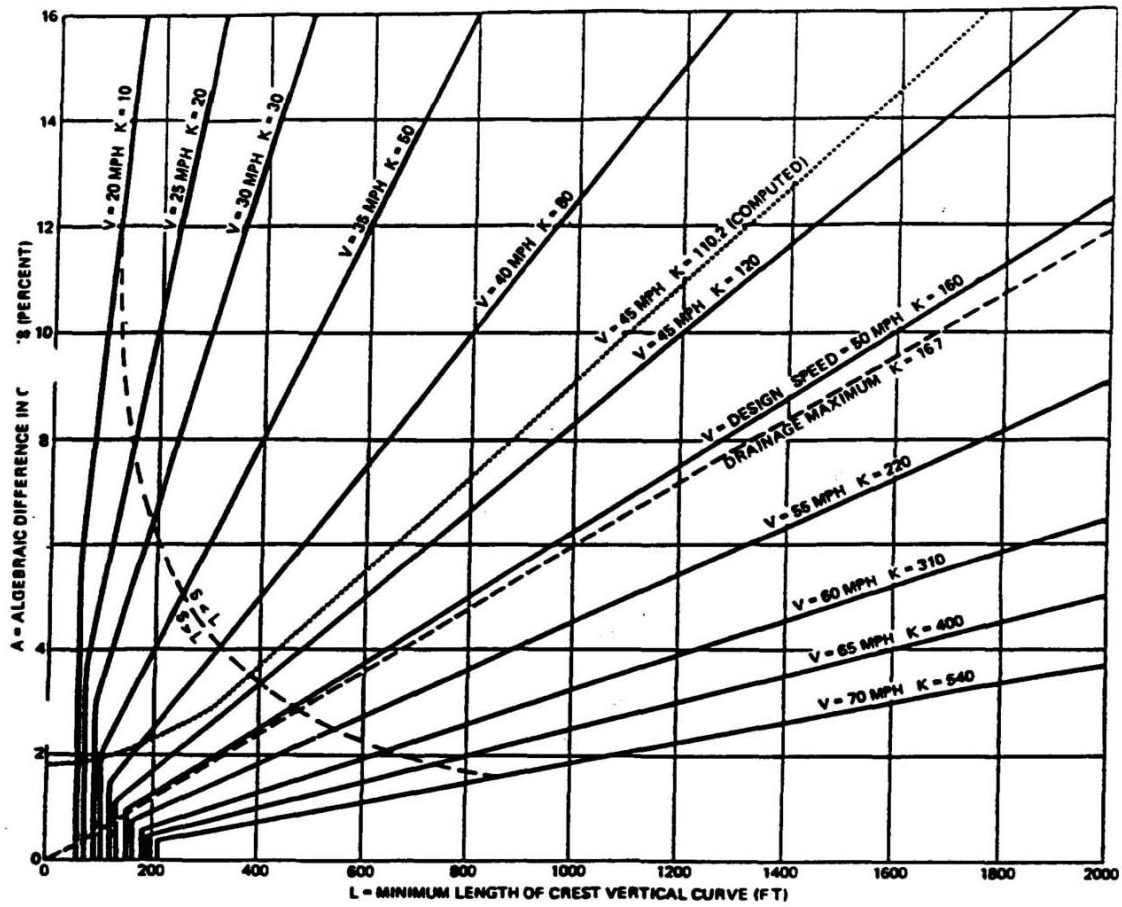
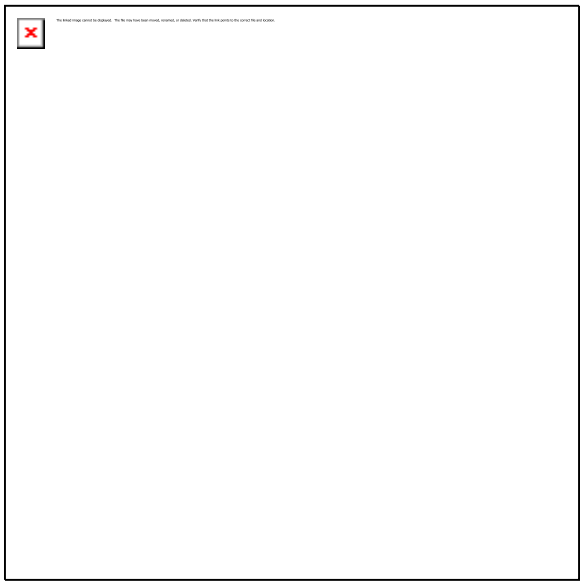


DESIGN CONTROLS FOR CREST VERTICAL CURVES FOR STOPPING SIGHT DISTANCE AND OPEN ROAD CONDITIONS UPPER RANGE

Source: 1990 AASHTO
A Policy on Geometric Design of Highways and Streets

FIGURE 2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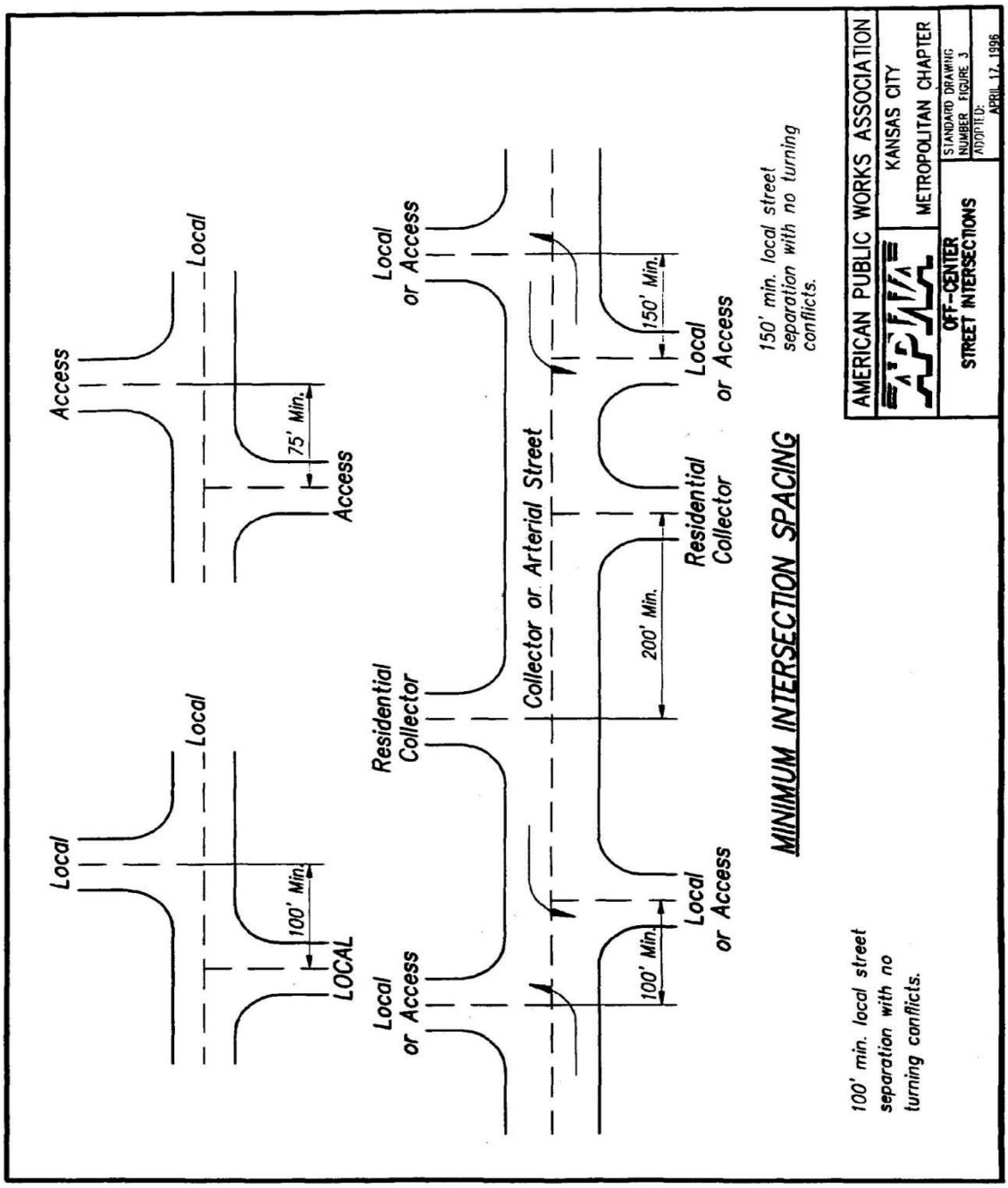
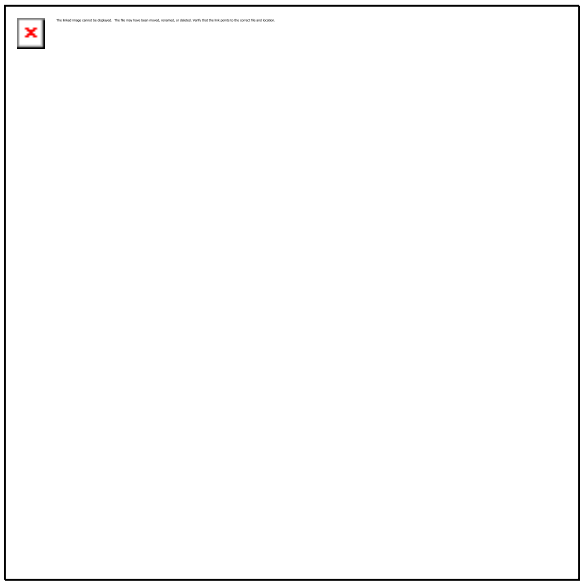

Local
Local
Access
Local
Access
100' Min.
75' Min.
LOCAL
Local
or Access
Residential
Collector
Collector or Arterial Street
Local
or Access
Residential
Collector
Local
or Access
Local
or Access
100' Min.
200' Min.
150' Min.
MINIMUM INTERSECTION SPACING
100' min. local street separation with no turning conflicts.
150' min. local street separation with no turning conflicts.
AMERICAN PUBLIC WORKS ASSOCIATION
KANSAS CITY
METROPOLITAN CHAPTER
APWA
OFF-CENTER
STREET INTERSECTIONS
STANDARD DRAWING
NUMBER FIGURE 3
ADOPTED:
APRIL 17, 1996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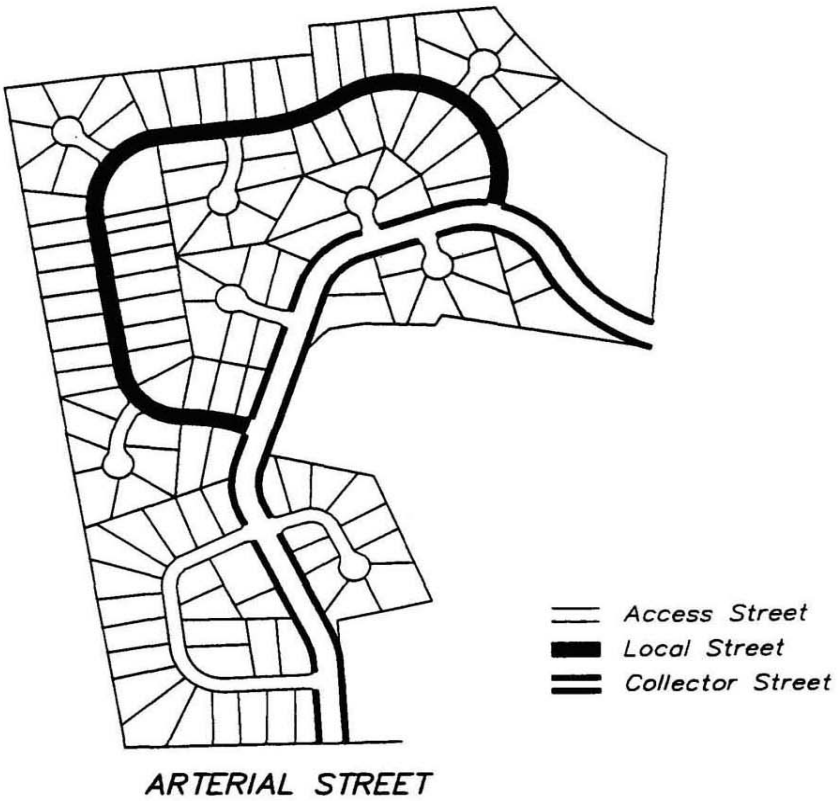
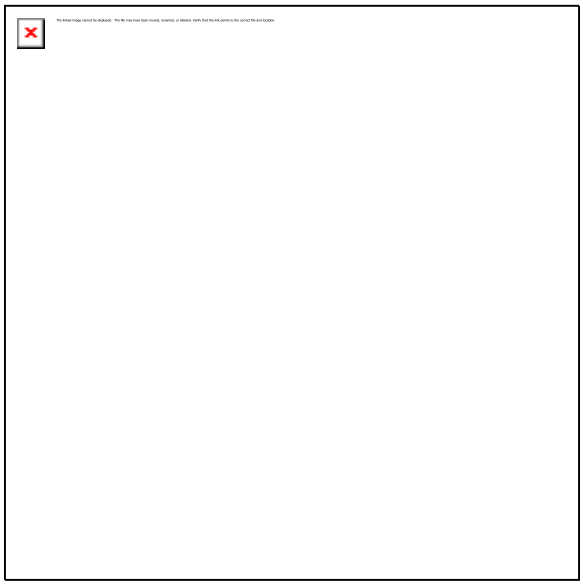


TYPICAL RESIDENTIAL STREET LAYOUT

AMERICAN PUBLIC WORKS ASSOCIATION	
APWA	KANSAS CITY METROPOLITAN CHAPTER
TYPICAL RESIDENTIAL STREET LAYOUT	STANDARD DRAWING NUMBER FIGURE 4 ADOPTED: APRIL 17, 1996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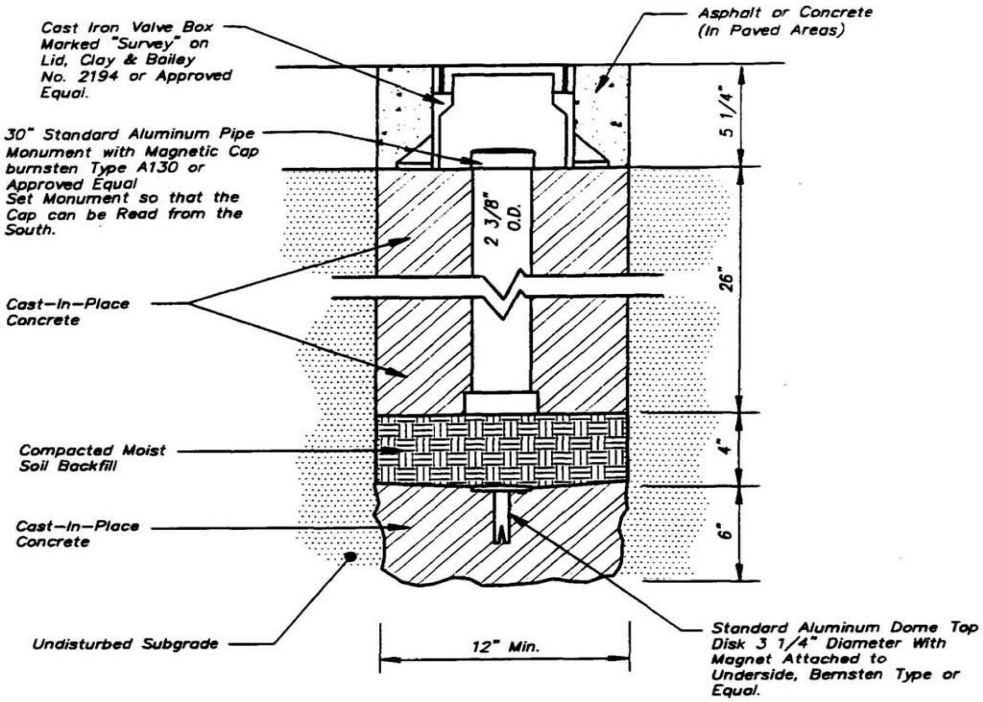
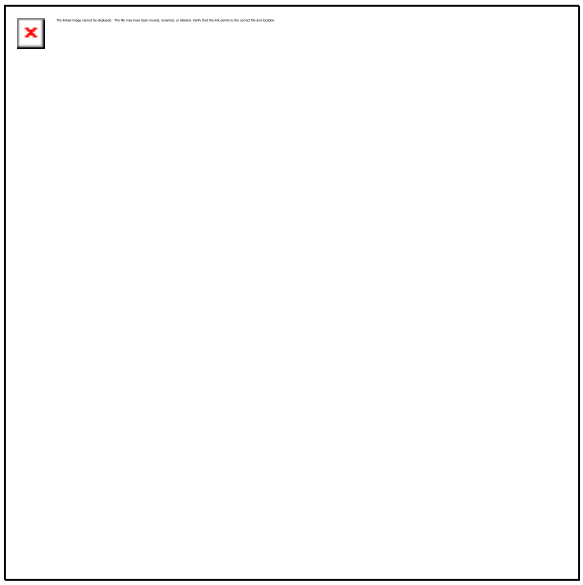


STANDARD LAND CORNER MONUMENT

(No Scale)

Note:
Disk marking for section corners shall comply with Missouri DNR Land Survey Division Standards of Practice 10CSR30-3.060 for monument markings in Missouri and with Kansas Society of Land Surveyors Standards of Practice #1 for monuments in Kansas.

AMERICAN PUBLIC WORKS ASSOCIATION	
APWA	KANSAS CITY METROPOLITAN CHAPTER
SURVEY MONUMENT BOX	STANDARD DRAWING NUMBER FIGURE SMB
	ADOPTED: APRIL 17, 1996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STREET CLASSIFICATION	PAVEMENT TYPES	
	OPTION 1	OPTION 2
Major Arterial	9" min. portland cement concrete pavement 6" min. compacted subgrade 95% of standard max. density	2" Type 3 asphaltic concrete surface 10" min. Type 1 asphaltic concrete base course 6" min. compacted subgrade 95% of standard max. density
Industrial Collector and Minor Arterial	8" min. portland cement concrete pavement 6" min. compacted subgrade 95% of standard max. density	2" Type 3 asphaltic concrete surface 9" min. Type 1 asphaltic concrete base course 6" min. compacted subgrade 95% of standard max. density
Commercial Collector	7" min. portland cement concrete pavement 6" min. compacted subgrade 95% of standard max. density	2" Type 3 asphaltic concrete surface 7" min. Type 1 asphaltic concrete base course 6" min. compacted subgrade 95% of standard max. density
Residential Access, Residential Local, and Residential Collector	6" min. portland cement concrete pavement 6" min. compacted subgrade 95% of standard max. density	2" Type 3 asphaltic concrete surface 6" min. Type 1 asphaltic concrete base course 6" min. compacted subgrade 95% of standard max. density

General Notes:
1. The pavement thicknesses shown are minimums and the actual pavement design thickness should be determined by an engineering analysis of the traffic and local subgrade conditions.
2. Other pavement type options to be considered shall be submitted to the local government for approval.
3. Concrete pavement joint detail shall be submitted to the local government for approval.

AMERICAN PUBLIC WORKS ASSOCIATION
KANSAS CITY
METROPOLITAN CHAPTER
STREET
PAVEMENT TYPES
STANDARD DRAWING NUMBER TABLE 1
ADOPTED APRIL 17, 1996

APPENDIX A - CHARTER ORDINANCES

FOOTNOTE(S):

--- (**1**) ---

Editor's note—Printed herein are the charter ordinances of the city. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Enacting clauses, publication clauses and signatures have been omitted. The date of adoption is shown in parenthesis at the end of the text. Obvious

misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

Cross reference— All charter ordinances saved from repeal, § 1-10(15).

CHARTER ORDINANCE NO. 1 [OCCUPATION TAX]

An ordinance levying and imposing taxes upon the privilege of engaging in any business, trade, occupation or profession herein described within the City of Iola, Kansas, to provide revenue to defray a portion of the expenses of said city, and not for the purpose [of] regulation, and prescribing licensing and administrative procedure and penalties and repealing article I, chapter VII of the revised ordinances of 1946.

Section 1. - Purpose.

This ordinance is solely for the purpose of providing revenue to defray a portion of the expenses of the City of Iola and is not for the purpose of regulation.

Section 2. - Definitions.

(a) Person, as used in this ordinance means individual partnership, corporation, firm, organization, association, joint stock companies or syndicate who are, or which is, engaged in any business, trade, occupation or profession, or rendering or furnishing any service for profit or livelihood and subject to the provisions of this ordinance; provided that any individual in the direct employ of any person licensed under the provisions of this ordinance is not a person unless such individual operates as a subcontractor, but if such individual practices his skill or performs any service for compensation for any person other than his licensed employer, he is a person and must pay the tax and obtain a license as provided by the terms of this ordinance.

(b) Tax, as used in this ordinance, means an occupation tax or license fee for the city revenue, without regulations upon, and for the privilege of engaging in the business as herein defined within the City of Iola.

(c) Business, as used in this ordinance, includes businesses, trades, occupations, professions and rendering or furnishing of services.

(d) License, as used in this ordinance, means the document issued by the City acknowledging the payment of the tax and stating the name of the licensee, the kind of business and where located, the period which the tax covers, and such other matter as may be required and signed by the City Clerk or other person authorized by the City Council to sign such documents.

Section 3. - Exemptions.

Nothing in this ordinance shall be construed as applying to or taxing, (a) the interstate portion of any business, (b) any business or portion thereof which is prohibited by the statute of the State of Kansas, (c) instrumentalities of the government of the United States unless authorized to so tax it by the laws of the United States, (d) organizations wholly for charitable, religious, benevolent, fraternal, civic, educational or municipal purposes, and from which profit is not derived, either directly or indirectly, by any individual, (e) any public utility which is paying the City of Iola a charge for a franchise as provided by a franchise contract, (f) any business, the taxing of which is prohibited by the Statutes of the State of Kansas. The determination of whether any person is exempt from the payment of any tax under the provisions of this section shall be made by the City Council of the City of Iola, and the decision made by such Board shall be final.

Section 4. - Taxes levied.

There are hereby levied taxes in the amount and for the periods herein stated upon the businesses herein described as follows:

(a) Agents. All agents and canvassers who sell goods or merchandise or take orders therefor at the residences of the City of Iola, and who have no fixed place of business, or are not employed by any person who does have, within the City of Iola, shall be taxed at the rate of $25.00 per year,

(b) Bowling alleys. All bowling alleys located within the City of Iola shall be taxed at the annual rate of $5.00 for each installed alley,

(c) Circuses and menageries. All circuses and menageries exhibiting or showing within the City of Iola shall be taxed at the rate of $50.00 for each week, or portion thereof, during which such circus or menagerie shall exhibit or show within the City of Iola,

(d) Carnivals. All persons operating a carnival shall be taxed at the rate of $5.00 for each week or portion thereof during which such carnival shall be operated within the City of Iola,

(e) Exhibitions, plays and shows. Persons in charge of any exhibitions, shows, musical or otherwise, plays or other similar entertainment are hereby taxed at the rate of $10.00 for each day or $50.00 for each week in which such play or show is performed within the City of Iola; provided, that this section does not apply to any motion picture theatre or other place within the City of Iola, regularly showing motion pictures for profit or otherwise,

(f) Express companies. Express companies or other persons who carry packages or property of others from one place to another within the State of Kansas and deliver them to customers within the City of Iola, for a profit and who maintain an agent or office or both within the City of Iola are hereby taxed at the rate of $25.00 per year,

(g) Fortunetellers. Any persons who for pay or for gifts or for any remuneration of any nature, direct or indirect, foretell or pretend to foretell the future, or read palms or practice the profession or calling of clairvoyants, phrenologists, palmist, crystal gazer or who for pay or for any remuneration of any nature, direct or indirect, commune with or pretend to commune with the spirits of deceased persons or practices or pretend to practice other supernatural arts, practices, professions or callings are hereby taxed at the rate of $500.00 for each day of such activity within the City of Iola,

(h) Hawkers, hucksters. Persons who peddle or sell either from the street or from a truck or wagon or temporary stand, such produce or other merchandise as are sold in stores or shops within the City of Iola and who do not have any such store or shop or permanent or fixed place of business within the City of Iola are hereby taxed at the rate of $200.00 per year for each truck, wagon, other conveyance or stand used for selling, storing or delivering goods,

(i) Merry-go-rounds. Persons operating merry-go-rounds, ferris wheels and other machines or contraptions used to give rides or otherwise amuse or entertain children or other persons shall be taxed at the rate of $2.00 per day for each such machines or contraptions operated within the City of Iola, provided, that the operation of such machines or contraptions shall be exempt if they are a part of a carnival or circus which has paid the tax herein provided and a license for which has been issued,

(j) Museum exhibits. Persons in charge of any museum or other similar exhibits for the viewing of which a fee is charged are hereby taxed at the rate of $5.00 per day,

(k) Pawnbrokers. Persons engaging in the business of pawnbroker within the City of Iola are hereby taxed at the rate of $40.00 per year, provided, that no license shall be issued until the applicant has first complied with any regulatory ordinance of the City of Iola or laws of the State of Kansas,

(l) Railroads. All companies, corporations and other persons carrying passengers or property by rail from point to point within the State of Kansas and within the City of Iola and maintaining an office or station and agents within the City of Iola for the purpose of selling tickets for such transportation or for loading and unloading freight and cargo, shall be taxed at the rate of $100.00 per year,

(m) Shooting galleries. Any person maintaining a shooting gallery within the City of Iola shall be taxed at the rate of $1.00 per day or $2.50 per week or $25.00 per year,

(n) Telegraph companies. Telegraph companies or other persons transmitting messages from one place to another within the State of Kansas and maintaining an office or operator or agent within the City of Iola shall be taxed at the rate of $25.00 per year,

(o) Pinball machines. Persons maintaining any coin operated machine or devise as a game of skill or amusement, or any such game of skill or amusement where a consideration of any kind, nature, or amount is charged, such charge being paid by placing a coin in a slot, or otherwise, shall be taxed at the rate of $30.00 per machine for each six months period, payable in advance by the person on whose premises within the City of Iola the machine or device or game, subject to said tax, is located,

(p) Taxis. All persons owning and operating taxicabs or taxis for hire shall be taxed at the rate of $5.00 per year per cab for each year during which such cab is operated within the City of Iola, provided, that before any license shall be issued the applicant shall first show that he, if he drives a taxi himself, and all drivers employed by him have a chauffeur's license issued by the State of Kansas and taxi driver's permits issued by the City of Iola and have complied with all regulatory ordinances of the City of Iola and laws of the State of Kansas applicable thereto,

(q) Taxi drivers. All persons who shall engage in driving or operating any taxicab shall be taxed at the rate of $2.50 per year. Before any license is issued such person must show that he has a valid chauffeur's license issued by the State of Kansas and has a license or permit issued by the City of Iola under the provisions of section 7-304 of these ordinances [sic],

(r) Music machines. Persons having or operating a "music box" or machine playing records or dispensing or playing music, by any means or in any manner, for the public for hire either by use of a coin-operated machine or device or otherwise shall be taxed for each such machine or device at the annual rate of $12.00 per year payable in advance by the person on whose premises within the City of Iola, such "music box" or machine, subject to said tax, is located,

(s) Skating rinks. Any person operating a skating rink for profit within the City of Iola shall be taxed at the rate of $100.00 per year or $50.00 for six months, provided, that any person operating such business must also comply with the provisions of any regulatory ordinances of the City of Iola, Kansas or laws of the State of Kansas which are applicable,

(t) Dancehalls. Any person operating a dance or dancehall as defined by section 7-1001 of the Revised Ordinances of the City of Iola, 1946, shall be taxed at the rate of $5.00 per day, $600.00 for six months or $1,000.00 per year or for any single dance $5.00, provided, any such person must also comply with any regulatory ordinances of the City of Iola or laws of the State of Kansas which are applicable.

Section 5. - Application.

Any person before engaging in any business or before continuing such business after a license has expired shall make a written application for a license and pay the proper tax. Such application shall be made to the City Clerk upon forms furnished by the City. Said application shall include the name, residence address of the person making the application, the kind of business, the location of the business and such other information as is necessary to determine the amount to be paid. The City Clerk may, at his discretion, make such investigation as necessary to verify the accuracy of the information given in said application and the Police Department of the City of Iola shall, upon request of City Clerk, assist him in making such investigation.

Section 6. - Receipt and licenses.

The City Clerk shall, when satisfied of the accuracy of the information contained in the application, issue a receipt which shall be known as a license stating the name of the person, the kind of business, its location, the date of issue, the amount paid, and the period for which issued giving the expiration date, provided, that if the business licensed is controlled by any regulatory ordinance of the City of Iola, no

license shall be issued until the City Clerk is satisfied that the provisions of such regulatory ordinance have been as fully complied with as is possible at the time the application is made.

Section 7. - Method and period of payment.

All taxes shall be paid in advance of the period for which the tax is levied and the license for all taxes levied for a period of less than six months shall expire at the expiration of the period for which the tax was paid. All licenses for which annual or semiannual taxes have been paid shall expire December 31 and June 30, respectively, of the year for which the license was issued, provided that when a business for which an annual or semiannual tax is levied begins operation after the first day of the term for which the tax is levied the amount paid shall be the product of the number of months to the expiration date times 1/12 the annual tax or times one-sixth the semiannual tax. In computing such pro rata tax the month in which the license is issued shall be counted as a full month.

Section 8. - Payment by check.

Whenever a license is issued by the City Clerk upon the payment of the tax by check such license shall be null and void and of no force and effect if the check is not duly paid upon presentation and any person who shall conduct a business for which a license has been obtained by the giving of such no-fund check after so obtaining such license shall be guilty of an unlawful act and shall be subject to the penalties provided for in Sections 11 and 12 of this ordinance in the same manner as though said business were conducted without first paying such tax and obtaining a license therefor.

Section 9. - Refunds.

No refunds shall be made, except as provided by this section. The city council of the City of Iola shall, upon notification of the City Clerk, order a refund of taxes paid under this ordinance for the following reasons:

(a) When the tax was collected through error,

(b) The excess where the amount collected exceeded the amount required,

(c) Where the licensee has entered the armed services of the United States through induction or enlistment and is thereby rendered unable to conduct such business and the business in fact is discontinued. The refund shall be based upon the number of full months remaining in the period for which the tax was paid, but no such refund shall be made when the license will expire in less than 60 days or the refund will be less than $5.00.

Section 10. - Transfers.

There shall be no transfers of licenses from one person to another, except that, where a business, including the stock of merchandise, if any is sold to a new owner who continues the business at the same location and under the same name, the license shall continue until its expiration date. If the holder of a license moves said business to another location within said City, he may return said license and obtain a substitute license applicable to the new location for the unexpired period of the surrendered license upon payment to the City Clerk of a fee of $1.00, provided that this section shall not apply to any cereal malt beverage license or alcoholic liquor license.

Section 11. - Penalties.

Any person who under the provisions of this ordinance is required to pay a tax, and who does not pay the tax within 30 days from the time when it becomes due, in case of an annual or semiannual tax, shall pay in addition to the tax ten percent of the annual tax, and ten percent of the annual tax shall be added for each subsequent thirty days delinquency, provided that if a tax is levied for a period of less than six months and a license can be issued for a period of less than six months, a penalty, equal to the amount of the tax, for the period in which said person operates said business without a license, shall be added to the tax due and such person shall be required to pay an amount equal to double the amount of the tax due.

Section 12. - Criminal penalties.

Any person as defined in this ordinance who shall conduct or operate within the City of Iola any business defined and described herein, and any individual who shall assist in so doing, after a tax should have been paid and has not, in fact, been paid, shall be deemed guilty of a misdemeanor and upon conviction in the Police Court shall be punished by a fine of not more than $100.00 or by imprisonment for a period not exceeding 60 days or by both such fine and imprisonment. A separate offense shall be deemed to have been committed for each day or a portion thereof during which said business has been conducted without the payment of the tax. The penalties provided for in this ordinance are in addition to the penalty taxes for late payment provided for in Section 11 of this ordinance and payment of any such penalty taxes for late payment does not in any way exempt a person from the penalties herein provided.

Section 13. - Execution of penalties does not pay tax; civil action.

The payment of a fine or the serving of a jail sentence for failure to pay any tax herein levied shall not constitute a payment of the tax or of the penalty tax for late payment provided for in Section 11, nor does the payment of such fine or serving of such jail sentence excuse the person from paying such tax or penalty tax, and the City may proceed by Civil action in a court of competent jurisdiction against the person liable to pay such tax or his estate to collect the tax and the penalty tax regardless of whether the City has or has not prosecuted said person as provided by Section 12 of this ordinance.

Section 14. - Disposition of revenue.

The revenue received under the provisions of this ordinance shall be credited to the General Fund of the City of Iola.

Section 15. - License to be displayed.

All persons subject to this ordinance shall display the license issued in accordance with the provisions of this ordinance in a conspicuous place upon the premises where such business is located, but if such business is not operated on or from a permanent location such person or persons are required to carry their license with them when they are engaged in carrying on the business so taxed, and such licensee shall present his license for inspection when required to do so by any officer of the City.

Section 16. - Saving clause.

Should any section or provision of this ordinance be for any reason held void, or invalid or unconstitutional, it shall not affect the validity of any other section or provision hereof which is in itself not void, invalid or unconstitutional.

Section 17. - Ordinances repealed.

All of Article 1 of Chapter VII of the Revised Ordinances of the City of Iola, 1946, is hereby repealed. That portion of Section 7-1001 of the Revised Ordinances of the City of Iola, 1946, which provides for license fees for skating rinks and dancehalls and any ordinances or portions of ordinances which are in conflict with this ordinance, are hereby repealed.

(4-2-63)

CHARTER ORDINANCE NO. 2 [MEETINGS AND QUORUM]

A charter ordinance exempting the City of Iola, Kansas from the provisions of K.S.A. 14-1308 relating to meetings of the city council of a city of the second class, and providing substitute and additional provisions on the same subject.

Section 1. - [City exempted from K.S.A. 14-1308.]

The City of Iola, Kansas, under the authority of Article XII, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and to make inapplicable to K.S.A. 14-1308, which applies to said city, but the provisions of which do not apply uniformly to all cities and to provide substitute and additional provisions on the same subject.

Section 2. - [Regular meetings of governing body.]

The governing body of the City of Iola, Kansas shall meet on each and every 2nd and 4th Tuesday of each month in regular meeting in the City Hall of said City, at such times as shall be fixed by said governing body and take under advisement and act upon such business as may come before them.

Section 3. - [Quorum of governing body.]

The majority of said board shall consist of a quorum for the transaction of business but no final action shall be taken in any manner respecting the department of any absent city council, unless such business has been made a special order with notice to such city council member of such contemplated action or unless such action is taken at a regular meeting of the board.

(6-2-64)

CHARTER ORDINANCE NO. 3 [PROCEEDS FROM SALE OF AIRPORT PROPERTY]

A charter ordinance exempting the City of Iola, Kansas from the provisions of K.S.A. 3-1440 relating to disposition of proceeds from the sale of airport property or any part thereof and providing substitute and additional provisions on the same subject.

Section 1. - [City exempted from K.S.A. 3-1440.]

The City of Iola, Kansas, under the authority of Article XII, Section 5 of the Constitution of the State of Kansas hereby elects to exempt itself from and to make inapplicable to it K.S.A. 3-1440 which applies to said City but the provisions of which do not apply uniformly to all cities and to provide substitute and additional provisions on the same subject.

Section 2. - [Use of proceeds from sale of airport property.]

The proceeds from any sale of airport property or any part thereof shall be deposited in a special fund to be known as "Industrial Progress Fund" to be created within the general fund of the City of Iola. Monies to be credited to said fund may come from: sale of surplus land at the airport, or any part thereof not needed for said purpose: sale of any industrial property purchased with this fund or any other source which the governing body shall deem appropriate. Appropriations from this fund shall be limited to purchase of land for industrial promotional purposes or for extending utilities to and other improving industrial property make it more attractive for industries. Any portion of said "Industrial Progress Fund" not currently needed may be invested in direct obligations of the United States maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest thereof is guaranteed by the government of the United States.

(4-11-67)

CHARTER ORDINANCE NO. 4 [Deleted]

A charter ordinance exempting the City of Iola, Kansas from K.S.A. 12-1640, relating to demand deposits of public moneys and certain duties of the city treasurer.

Editor's note— Charter Ordinance No. 4 has been deleted due to the repeal of K.S.A. 12-1640.

CHARTER ORDINANCE NO. 5 [GOVERNING BODY]

A charter ordinance exempting the City of Iola, Kansas, from section 38, chapter 274, 1968 Session Laws of Kansas, which section amended K.S.A. 14-1204; providing substitute and additional provisions on the same subject, relating to the election of the mayor and commissioners, their terms of office and the presiding officer.

Section 1. - [City exempted from Acts 1968, ch. 274, § 38.]

The City of Iola, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it Section 38, Chapter 274, 1968 Session Laws of Kansas and provide substitute and additional provisions as hereinafter set forth in this ordinance. Such statutory section is applicable to this city but is not applicable uniformly to all cities.

Section 2. - [Election of governing body; terms.]

The mayor, one commissioner of finance and revenue and one commissioner of streets and public utilities shall constitute the board of commissioners and governing body of the city, and the mayor shall be presiding officer. They shall be elected for terms of three years and shall hold their offices until their successors are qualified. The governing body member elected in the year 1966 shall have a term expiring in 1969. The governing body member elected in the year 1967 shall have a term expiring in 1970. The governing body member elected in the year 1968 shall have term expiring in 1971.

(9-25-68)

CHARTER ORDINANCE NO. 6 [OBSOLETE]

A charter ordinance exempting the City of Iola, Allen County, Kansas from the provisions of K.S.A. 79-5001—79-5017, and any amendments thereto.

Editor's note— Charter Ordinance No. 6 has been deleted due to the repeal of K.S.A. 79-5001—79-5017.

CHARTER ORDINANCE NO. 7 [DEFEATED AT REFERENDUM]

A charter ordinance exempting the City of Iola, Kansas, from K.S.A. 25-2107, K.S.A. 14-1204, K.S.A. 12-1208 and K.S.A. 14-1307 of the Kansas Statutes, Annotated and providing substitute and additional provisions on the same subjects providing for the election of a mayor and four commissioners, terms of office, qualify, failure to qualify or accept office, filling vacancies and providing for certification of election and providing further for the internal organization of the commission and repealing Charter Ordinance No. 5.

Editor's note— Charter Ordinance No. 7 is deleted due to its defeat at referendum on December 13, 1988.

CHARTER ORDINANCE NO. 8 [TRANSIENT GUEST TAX]

A charter ordinance exempting the City of Iola, Kansas, from the provisions of K.S.A. 12-1696 to 12-16,101, inclusive, and providing substitute and additional provisions on the same subject, relating to the levy of a transient guest tax for tourism and conventions.

Whereas, K.S.A. 12-1696 to 12-16,101, inclusive, authorizes a levy by cities of a transient guest tax, which provisions are not uniformly applicable to all cities; and

Whereas, pursuant to Article 12, Section 5 of the Constitution of the State of Kansas, cities may exempt themselves from such provisions and provide substitute and additional provisions, therefor.

Section 1. - [City exempted from K.S.A. 12-1696—12-16,101.]

The City of Iola, Kansas, a city of the second class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it the provisions of K.S.A. 12-1696 to 12-16,101, inclusive, and to provide substitute and additional provisions as hereinafter set forth in this Ordinance. The referenced provisions are either enactments or parts thereof which are applicable to this city, but are not applicable uniformly to all cities.

(Charter Ord. No. 12, § 1(1), 10-22-96)

Section 2. - [Definitions.]

As used in this Ordinance, the following words and phrases shall be defined as follows:

(a) "Person" means an individual, firm, partnership, corporation, joint venture or other association of persons;

(b) "Hotel or motel" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests;

(c) "Transient guest" means a person who occupies a room in a hotel or motel for not more than 28 consecutive days;

(d) "Hotel or motel business" means any person engaged in the business of renting, leasing or letting quarters, sleeping accommodations, rooms or a part thereof in connection with any hotel or motel;

(e) "Tourism" means the practice of touring or traveling for recreation, business or education; and

(f) "Touring" means a trip, excursion or circular journey for business, recreation or education.

(Charter Ord. No. 12, § 1(2), 10-22-96)

Section 3. - [Tax imposed.]

A transient guest tax shall be levied in the City of Iola, Kansas at a rate not to exceed five percent upon the gross rental receipts derived from or paid by transient guests for lodging or sleeping accommodations, exclusive of charges for incidental services or facilities in any hotel or motel. The percentage and effective date of such tax shall be determined by the Governing Body and shall be specified in a resolution authorizing the same.

(Charter Ord. No. 12, § 1(3), 10-22-96)

Section 4. - [Basis of tax.]

The transient guest tax levied pursuant to this Ordinance shall be based upon the gross rental receipts collected by any hotel or motel business.

(Charter Ord. No. 12, § 1(4), 10-22-96)

Section 5. - [Payment.]

The tax levied pursuant to this Ordinance shall be paid by the consumer or user to the hotel or motel business and it shall be the duty of each and every such business to collect from the consumer or user the full payment of any such tax, or an amount equal as nearly possible or practicable to the average equivalent thereto. Each hotel or motel business collecting the tax levied hereunder shall be responsible for paying it over to the State Department of Revenue in the manner prescribed by K.S.A. 12-1698, and any amendments thereto, and the State Department of Revenue shall administer and enforce the collection of such tax as provided therein.

(Charter Ord. No. 12, § 1(5), 10-22-96)

Section 6. - [Due date.]

The tax levied and collected pursuant to Section 3 of this Ordinance shall become due and payable in a manner prescribed by K.S.A. 12-1698, and amendments thereto, except that all taxes remaining after the two percent deduction for expenses of the Department of Revenue in administration and enforcement of the collection thereof shall be remitted to the City of Iola, and shall be credited to the "Tourism and Convention Fund" hereinafter established and shall only be expended out of said fund as hereinafter provided.

(Charter Ord. No. 12, § 1(6), 10-22-96)

Section 7. - [Tourist and convention fund.]

A "Tourism and Convention Fund" is hereby established to receive disbursements of money from the Secretary of Revenue of the State of Kansas, as provided in subsection (d) of K.S.A. 12-1698.

(Charter Ord. No. 12, § 1(7), 10-22-96)

Section 8. - [Use of funds.]

Moneys in the Tourism and Convention Fund shall only be expended as follows:

(a) The Convention and Tourism Committee hereinafter established shall annually consider all requests for expenditure of transient guest tax funds, and shall prepare a budget of expenditures for each year to be submitted to the Governing Body for its approval and action.

(b) The Governing Body shall consider the expenditures proposed from the Tourism and Convention Fund by the Convention and Tourism Committee, and shall adopt a budget of such expenditures which may vary from the proposal of the Convention and Tourism Committee in the discretion of the Governing Body. The Governing Body may at any time seek further advice and recommendations from the Convention and Tourism Committee regarding such expenditures, but reserves the exclusive authority to make final decisions on them.

(c) Such funds may be used:

(1) To contract with any agency, organization or group of firms to promote conventions and tourism within the City and its environs;

(2) To provide for the operation, maintenance, expansion or development or City facilities connected with convention and tourism;

(3) To defray the cost of providing municipal service to convention and tourism functions, including police, fire, street department or park and recreation department functions;

(4) To create innovative projects and activities promoting conventions and tourism.

(5) To promote the general economic welfare of the City and its environs, including the attraction of industry.

(Charter Ord. No. 12, § 1(8), 10-22-96)

Section 9. - [Convention and tourism committee.]

The Governing Body shall establish a "Convention and Tourism Committee" consisting of at least five but not more than nine members. Said committee shall consist of the following members:

(a) At least one representative of the Governing Body or City staff;

(b) At least one representative of the Iola Chamber of Commerce;

(c) At least one representative of the hotel and motel industry; and

(d) At least two citizens at large.

Two members of the Convention and Tourism Committee may reside outside of the City of Iola. All other members shall be residents of the City of Iola. Members of the Convention and Tourism Committee shall be appointed by the Mayor with the consent of the Governing Body.

Two of the members of the Convention and Tourism Committee shall be appointed for a term of one year, and three members shall be appointed for a term of two years; and thereafter, all members shall be appointed for a term of two years. All terms are to begin on September 15 of each year.

In case of death, incapacity, resignation or disqualification of any member, the person appointed to such vacancy shall be appointed for only the unexpired term of the person leaving the Convention and Tourism Committee.

(Charter Ord. No. 12, § 1(9), 10-22-96)

Section 10. - [Contracts.]

The City of Iola, Kansas, upon adoption of a resolution authorizing the levy of a transient guest tax, shall have authority to contract for the expenditure of moneys from the Tourism and Convention Fund.

(Charter Ord. No. 12, § 1(10), 10-22-96) (6-27-89)

CHARTER ORDINANCE NO. 9 [NATURAL GAS PIPELINES]

A charter ordinance exempting the City of Iola, Kansas, from the provisions of section 2 of 1989 House Bill 2454, relating to natural gas pipeline inspection and maintenance and providing substitute and additional provisions on the same subject.

Section 1. - [City exempted from K.S.A. 66-1,157a.]

The City of Iola, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby elects to exempt itself and make inapplicable to it Section 2 of 1989 House Bill 2454 [K.S.A. 66-1,157a] which applies to this city, but is part of an enactment that does not apply uniformly to all cities.

Section 2. - [Ordinance provisions authority.]

The Governing Body may provide by ordinary ordinance for the means of repairing gas pipelines, and for the methods of requiring payment of the costs thereof, whether performed by the city or otherwise.

(7-3-89)

CHARTER ORDINANCE NO. 10 [USE OF FUNDS; MILL RATE LIMITS FOR LIBRARY AND INDUSTRIAL DEVELOPMENT FUNDS]

A charter ordinance exempting the City of Iola, Kansas, from the provisions of K.S.A. 79-5028, and K.S.A. 79-1952 amended by 1990 House Bill No. 2700, and providing substitute and additional provisions on the same subject.

Section 1. - [City exempted from K.S.A. 79-5028.]

The City of Iola, Kansas by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas and as provided by K.S.A. 79-5036(a) and K.S.A. 79-1952, as amended by 1990 House Bill 2700, hereby elects to exempt itself from the provisions of K.S.A. 79-5028, as amended by 1990 House Bill 2700. K.S.A. 79-5028, as so amended, is part of an enactment which is applicable to this city but does not apply uniformly to all cities.

Section 2. - [Use of funds.]

The following is hereby substituted for the provisions of K.S.A. 79-5028, as amended: The provisions of K.S.A. 79-5021 to 79-5035, inclusive, and amendments thereto, shall not apply to nor limit the levy of taxes by the City of Iola for the payment of:

(a) Principal and interest upon state infrastructure loans, bonds, temporary notes, no-fund warrants and payments made to a public building commission;

(b) Judgments, settlements and expenses for protection against liability to the extent such expenses are authorized by K.S.A. ch. 75, art. 61 (K.S.A. 75-6101 et seq.) and amendments thereto;

(c) Employer contributions for social security, workers compensation, unemployment insurance, health care costs, employee benefit plans, and employee retirement and pension programs;

(d) Library and Industrial Development Fund.

Section 3. - [Mill levy rate for library and industrial development funds.]

The City of Iola shall establish by simple ordinance mill levy rate limits for both the Library and Industrial Development Funds.

(6-12-90)

Cross reference— Library fund mill rate set by ordinance, § 86-2; industrial development fund mill rate set by ordinance, § 86-3.

CHARTER ORDINANCE NO. 11 [EXEMPTION FROM K.S.A. 25-2303, 25-2309, 25-2709]

A charter ordinance exempting the City of Iola, Kansas, from the provisions of K.S.A. 25-2303, 25-2309 and 25-2709 and amendments thereto.

Whereas, House Bill No. 2079 was enacted by the 1996 legislature, is a nonuniform enactment, and places significant mandates on cities of the first and second class in Kansas.

Section 1. - Exemption.

The City of Iola, Kansas, by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and does exempt itself and make inapplicable to it K.S.A. 25-2303, 25-2309 and 25-2709 and amendments thereto, which apply to this city but do not apply uniformly to all cities.

CHARTER ORDINANCE NO. 12 [SEE CHARTER ORD. NO. 8]

Editor's note— Charter Ordinance No. 12 amended Charter Ordinance No. 8 and has been incorporated into Charter Ordinance No. 8.